# NATIONAL RISK ASSESSMENT ON MONEY LAUNDERING AND TERRORIST FINANCING

REPUBLIC OF GHANA

## CONTENTS


ACRONYMS ..... iv

INTRODUCTION ..... 1

OBJECTIVES ..... 1

METHODOLGY ..... 2

LIMITATIONS ..... 4

EXECUTIVE SUMMARY ..... 5

CONCLUSION ..... 8

SECTION 1- MONEY LAUNDERING (ML) RISK ASSESSMENT ..... 9

1.1 THREAT ASSESSMENT ..... 9

1.2 NATIONAL VULNERABILTY ASSESSMENT ..... 19

1.3 BANKING SECTOR ASSESSMENT ..... 60

1.4 SECURITIES ..... 77

1.5 INSURANCE SECTOR ..... 109

1.6 OTHER FINANCIAL INSTITUTIONS ..... 128

1.7 DESIGNATED NON- FINANCIAL BUSINESSES AND PROFESSIONS (DNFPBs) ..... 139

1.8 FINANCIAL INCLUSION ASSESSMENT ..... 153

SECTION 2- TERRORIST FINANCING (TF) RISK SUMMARY ..... 166

2.1 INTRODUCTION ..... 166

2.2 CONCLUSION- TERRORIST FINANCING ASSESSMENT ..... 175

2.3 RECOMMENDATIONS- TERRORIST FINANCING ASSESSMENT ..... 176

3. CONCLUSION- NATIONAL RISK ASSESSMENT ON M/L & T/F ..... 177

4. MAIN RECOMMENDATIONS- NATIONAL RISK ASSESSMENT ON M/L & T/F ..... 179

5. BIBLIOGRAPHY ..... 181

The World Bank role was limited to the deployment of the excel template, provision of technical assistance and guidance in the effective use of the excel template. Data was collected and populated into the template. Findings, interpretations, and judgments of the exercise was solely the work of the Working Groups and do not reflect the views of the World Bank

## ACRONYMS

| | | |
|---|---|---|
| AIs | _ | **"ACCOUNTABLE INSTITUTION"** |
| AML | _ | **ANTI MONEY LAUNDERING** |
| AMLRO | _ | **ANTI MONEY LAUNDERING REPORTING OFFICER** |
| BOG | _ | **BANK OF GHANA** |
| CDD | _ | **CUSTOMER DUE DILIGENCE** |
| CEO | _ | **CHIEF EXECUTIVE OFFICER** |
| CFT | _ | **COUNTERING/COMBATTING THE FINANCE OF TERRORISM** |
| CMOs | _ | **CAPITAL MARKET OPERATORS** |
| COs | _ | **COMPLIANCE OFFICERS** |
| CTRs | _ | **CASH TRANSACTION REPORT** |
| CUs | _ | **CREDIT UNIONS** |
| DNFBPs | _ | **DESIGNATED NON FINANCIAL BUSINESSES AND PROFESSIONS** |
| E I | _ | **EXECUTIVE INSTRUMENT** |
| ECOWAS | _ | **ECONOMIC COMMUNITY OF WEST AFRICAN STATES** |
| FATF | _ | **FINANCIAL ACTION TASK FORCE** |
| FIC | _ | **FINANCIAL INTELLIGENCE CENTRE** |
| FNGOs | _ | **FINANCIAL NON GOVERNMENTAL ORGANISATIONS** |
| FOREX | _ | **FOREIGN EXCHANGE** |

| | | |
|---|---|---|
| FT | _ | **FINANCING OF TERRORISM** |
| GBA | _ | **GHANA BAR ASSOCIATION** |
| GDP | _ | **GROSS DOMESTIC PRODUCT** |
| GHAMFIN | _ | **GHANA MICROFINANCE INSTITUTION NETWORK** |
| GIABA | _ | **INTERGOVERNMENTAL ACTION GROUP AGAINST MONEY LAUNDERING IN AFRICA** |
| GNP | _ | **GROSS NATIONAL PRODUCT** |
| GRA | _ | **GHANA REVENUE AUTHORITY** |
| GREDA | _ | **GHANA REAL ESTATE DEVELOPERS ASSOCIATION** |
| GSE | _ | **GHANA STOCK EXCHANGE** |
| IBA | _ | **INTERNATIONAL BAR ASSOCIATION** |
| ICAG | _ | **INSTITUTE OF CHARTERED ACCOUNTANTS GHANA** |
| Ids | _ | **IDENTIFICATION** |
| IMF | _ | **INTERNATIONAL MONETARY FUND** |
| KYC | _ | **KNOW YOUR CUSTOMER** |
| L I | _ | **LEGISLATIVE INSTRUMENT** |
| LEAs | _ | **LAW ENFORCEMENT AGENCIES** |
| MFCs | _ | **MICROFINANCE COMPANIES** |
| MFIs | _ | **MICROFINANCE INSTITUTIONS** |
| ML | _ | **MONEY LAUNDERING** |

| | | |
|---|---|---|
| ML/TF | _ | **MONEYLAUNDERING/ TERRORIST FINANCING** |
| MLs | _ | **MONEY LENDERS** |
| MOF | _ | **MINISTRY OF FINANCE** |
| MVTS | _ | **MONEY VALUE TRANSFER SERVICES** |
| NBFI | _ | **NON BANK FINANCIAL INSTITUTION** |
| NGOs | _ | **NON GOVERNMENTAL ORGANISATIONS** |
| NIC | _ | **NATIONAL INSURANCE COMMISSION** |
| NLA | _ | **NATIONAL LOTTERY AUTHORITY** |
| NPOs | _ | **NON PROFIT ORGANISATIONS** |
| NRA | _ | **NATIONAL RISK ASSESSMENT** |
| OECD | _ | **ORGANISATION FOR ECONOMIC COOPERATION DEVELOPMENT** |
| OFAC | _ | **OFFICE OF FOREIGN ASSETS CONTROL** |
| OFIs | _ | **OTHER FINANCIAL INSTITUTIONS** |
| PEPs | _ | **POLITICALLY EXPOSED PERSONS** |
| PMMC | _ | **PRECIOUS MINERALS MARKETING COMPANY** |
| PNDCL | _ | **PROVISIONAL NATIONAL DEFENCE COUNCIL LAW** |
| RCBs | _ | **RURAL AND COMMUNITY BANKS** |
| RGD | _ | **REGISTRAR GENERAL DEPARTMENT** |
| S&Ls | _ | **SAVINGS AND LOANS COMPANIES** |

| | | |
|---|---|---|
| SC&Es | _ | **SUSU COLLECTORS AND ENTERPRISES** |
| SDD | _ | **SIMPLIFIED DUE DILIGENCE** |
| SEC | _ | **SECURITIES AND EXCHANGE COMMISSION** |
| SMEs | _ | **SMALL AND MEDIUM SKILL ENTERPRISES** |
| SRO | _ | **SELF REGULATORY ORGANISATION** |
| STR | _ | **SUSPICIOUS TRANSACTION REPORT** |
| TF | _ | **TERRORIST FINANCING** |
| WB | _ | **WORLD BANK** |

## INTRODUCTION

In recent years the twin menace of Money Laundering and Terrorist Financing (ML/TF) have assumed alarming proportions putting at risk the global Financial Systems. Criminals over the years have concealed their illicit proceeds by investing in legitimate businesses through a number of schemes in the Bank Financial Institutions and Non-Bank Financial Institutions (FIs) and the Designated Non-Financial Businesses and Professions (DNFBPs). It is estimated by the International Monetary Fund (IMF) that the magnitude of money laundered in the world is about 2-5% of the world's Gross Domestic Product (GDP) (**source:** IMF Report, 2008).

The Financial Action Task Force (FATF) 40 Recommendations set out a comprehensive and consistent framework of measures which countries should implement in order to combat ML/TF as well as the financing of proliferation of weapons of mass destruction. Countries have diverse legal, administrative and operational framework and different financial systems and so cannot implement the same measures to counter these threats. The FATF Recommendations, therefore, set an international standard, which countries should implement through measures adapted to their peculiar circumstances (Revised FATF Recommendations 2012).

Recommendation 1 of the Revised FATF Recommendations (2012) and paragraphs 3-6 of its Interpretative Note (INR 1), in particular, outline general principles that may serve as a useful framework in assessing ML/TF risks at the national level.

Consequently, the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) directed all member States at its plenary in Niamey, Niger in May 2014, to undertake and complete their respective National Risk Assessments (NRA) before the next round of Mutual Evaluation commences in September 2016.

The National Risk Assessment (NRA) is, therefore, intended to provide guidance on the conduct of identifying and assessing threats and vulnerabilities of a country at national level, and it relates especially to key requirements set out in Recommendation 1. This Recommendation outlines general principles that may serve as a useful framework in assessing ML/TF risks at the national level.

## OBJECTIVES

The objectives of the NRA were to;

a) Determine the level of vulnerability of the economic and financial sectors to ML/ TF

b) Determine and understand the weaknesses in the legal framework, by considering the criminal and administrative justice system, and existing preventive systems; and

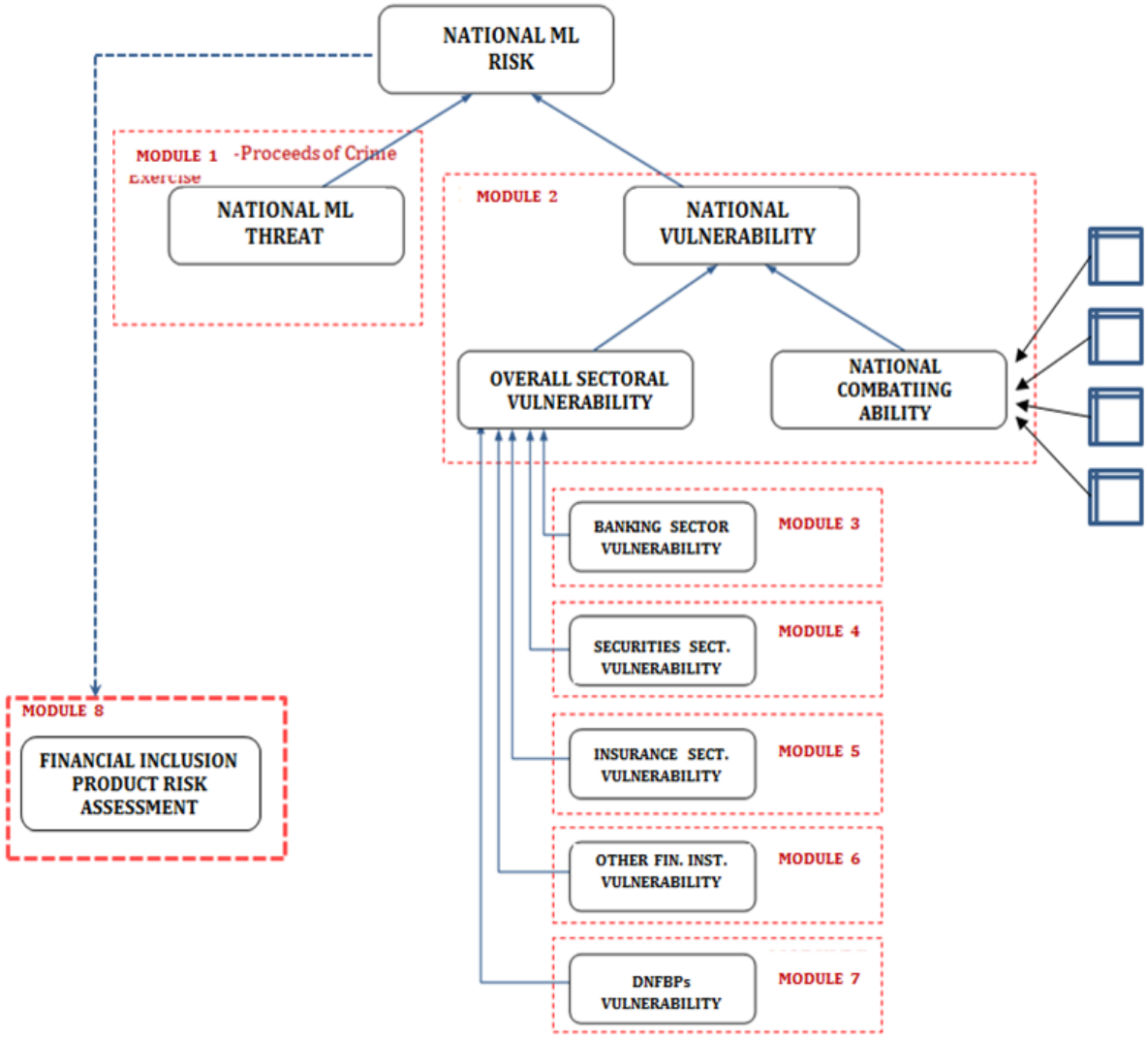
c) Appreciate the best way to allocate resources for the prevention, investigation and prosecution of ML and TF.

## METHODOLGY

This report discusses findings from Ghana's national ML/TF risk assessment, and was conducted as a self-assessment by Ghana through various working groups, using the World Bank's National Risk Assessment tool. Working Group members involved in the drafting of this report include representatives from: the National Security Council Secretariat, Financial Intelligence Centre(FIC),Attorney General's Department, Ghana Police Service, Narcotic Control Board, Economic and Organised Crime Office, Ghana Revenue Authority, Ghana Immigration Service Ghana Airport Authority, Representatives of Regulatory Bodies ( Bank Of Ghana, National Insurance Commission, Securities and Exchange Commission, National Pensions Regulatory Authority, Representatives of Compliance Officers from Banks, Insurance Brokers, Security Brokerage Firms, Forex Bureau Operators, Mobile Money Operators, Real Estate Representatives, Casino Operators, Non Profit Organisations, Car Dealers, Gate Keepers, Chamber Of Commerce, Micro Finance Network Representatives.

It was agreed that the composition of Working Groups should include members of the Private Sector since their involvement would add value to the process, considering their hands-on experience with the institutions they work with.

The NRA process involved three phases, the first Phase being the Preparation, Launch and Initial Assessment, phase two being Data Collection, Analysis and Drafting of Report, and the last phase being the finalization and recommendations of the Report as well as a proposed Action Plan following the study.




The diagram above depicts the architecture of the World Bank excel template. The National Security Council Secretariat was the Head of the Planning Committee for the NRA; this led to the creation of eight (8) Working Groups, made up of about 80 members. The eight Working Groups include the following:

National Threats Assessment

National Vulnerability Assessment

Banking Vulnerability Assessment

Securities Vulnerability Assessment

Insurance Assessment

Other Financial Institutions Vulnerability Assessment

Designated Non- Financial Businesses and Professions Vulnerability Assessment

Financial Inclusion Risk Assessment

A survey method was adopted for the study. In all, eight Working Groups were formed and each of the Groups used the World Bank tool. Two of the Groups, 1 and 2, focused on the National Threats and National Vulnerability while the other six Groups focused on Sector Vulnerabilities. Both quantitative and qualitative methods were applied. The survey also made use of primary and secondary sources of data. Inputs from the primary data were made into the World Bank excel template. Questionnaires developed by some of the Working Groups, were based on the variables developed by the World Bank excel template. The questionnaires contained both closed and open-ended questions, specially designed to elicit the views of the sampled respondents. Interviews were also employed in the study to confirm some of the responses given in the questionnaire earlier administered, and to elicit clarification or explanation on the operations in some sectors. Secondary sources were obtained from the last Mutual Evaluation Report (MER) on Ghana in 2009, FATF Recommendations (2012), Financial Intelligence Centre (FIC) Annual Reports from 2012 to 2014, among others. Relevant Information covering 2010 to 2014 was requested for. Data was collected from a wide range of institutions whose members were largely represented in each of the eight Working Groups. This was done to ensure that data was obtained with some ease.

## LIMITATIONS

Access to data was limited; some respondents did not have information or a statistical unit, and therefore, did not see the need to make the information readily available.

A number of institutions did not provide the required information as requested by the Working Groups. It was very difficult getting them to supply the remaining data. However, those that provided information/data did not do so within the stipulated time.

Some of the data/information provided needed to be validated to ensure their accuracy and integrity. Again, it was difficult getting some institutions to validate their data/information.

There was also a lack of clear understanding of issues the questionnaires sought to receive from some of the sampled respondents.

In most instances, there was no data available from almost all the industry players. In other instances, some institutions were not forthcoming with the information particularly in the DNFBPs sector. They held back information for fear of repercussions for divulging information related to their businesses. Some openly expressed the fear that providing the information would open them up for tax audit, as well as providing their business secrets and strategies to other competitors.

The lack of knowledge on ML and TF issues within some sectors also affected the responses provided by some of the industry players.

Most institutions did not have adequate Management Information System (MIS) to generate the required data requested for by the Working Group members.

## EXECUTIVE SUMMARY

A key feature of the NRA is to understand ML/TF risks and in so doing, identify and evaluate threats, vulnerabilities and their impact on the country and that on the economy of Ghana.

The NRA process tested the robustness of the current AML/CFT regime in Ghana. The objective is to identify, assess and mitigate ML/TF risks, through adjustments and amendments in the legal and regulatory frameworks. These measures may require direct policy changes.

The desired outcomes of the NRA process are to develop a National Strategic AML/CFT Action Plan that will assist in the allocation of AML/CFT resources, as well as, assist in revising or developing guidance for "Accountable Institutions" so as to ensure compliance with the AML/CFT regime.

The NRA process should support the Government of Ghana's declared fight against money laundering, illicit financial flows and transnational organised crimes.

As far as the process is concerned, the World Bank provided the conceptual framework in the form of a national risk assessment tool (including excel templates), gave technical assistance and guided the working groups in the effective use of the tool. All the findings, interpretations, and judgments of the exercise, are solely the work of the working groups in Ghana, and they do not reflect the views of the World Bank. This report was produced entirely by the working groups. The NRA process in Ghana involved three phases, undertaken between September 2014 and April 2016. This report discusses the last phase, which is the finalisation and recommendations of the Report and the Action Plan.

The Mutual Evaluation done on Ghana in the year 2009, revealed several shortcomings in the country's compliance with the AML/CFT measures. For instance, Financial Institutions did not conduct any CDD on their customers as required by recommendation 5 of the FATF Recommendations. There were no guidelines. There were no guidelines to enable Accountable Institutions fashion out internal rules in compliance with the afore mentioned recommendations. Besides, the Financial Intelligence Centre was not in existence.

The situation has however changed as several legislations have been passed to address the shortcomings revealed during the last Mutual Evaluation of Ghana in the year 2009.

All the sectors captured in this NRA have acknowledged the fact of the tremendous growth of Ghana's cash-based economy. As a result many microfinance institutions have emerged, and are operating, thus boosting the internal transfer of money. This has made the financial system vulnerable to ML/TF risks.

With regard to the threat analysis, our assessment concluded that crimes such as fraud, stealing, robbery, drug trafficking, corruption, and tax evasion, are the most rampant. Cybercrime is a particularly big issue here in Ghana. The overall threat was rated as medium-high.

Our assessment of the national vulnerability focused on 24 areas with varying levels of capacity to deal with threats. The overall picture shows the existence of a strong legislative

and regulatory framework, but a very low enforcement activity. With the national vulnerability rated as medium and a very low capacity to deal with the threats, it is concluded that the overall sectoral vulnerability is rates as medium.

Weighing the threats and vulnerabilities, the overall ML risk for Ghana is rated as medium. This is a product of the national ML Threat which is rated medium and the National Vulnerability which has a rating of medium. In terms of TF risk, the potential threat level is low, as there are no reported cases of TF in Ghana to date, although vigilance is necessary as a precaution given developments in the region.

On the positive side, the NRA has revealed that there are many sectors in which Ghana is working diligently, and achieving satisfactory results, particularly in the banking sector. Much effort has been made in the area of compliance as a result of diligent work undertaken by the regulator (central bank). Nonetheless, this sector showed that poor location addresses provided by customers hampered the effective implementation of know-your-customer (KYC) and customer due diligence (CDD) measures.

However, the survey indicated that ML/TF risk remains evident in many sectors of the business environment. Reasons cited include: a general lack of knowledge of AML/CFT issues on the part of the supervisors and accountable institutions; ineffective enforcement of laws by the regulators and supervisors. More importantly, the report notes the lack of inter-agency collaboration among the relevant authorities or agencies. Vigorous training and sensitization of personnel need to be carried out by experts and the Financial Intelligence Centre (FIC). Critically, we noted a lack of an effective sanction regime.

Turning to specific sectors, the Insurance and Securities sectors are fledgling industries that contribute only 2% and 6.9% respectively to Ghana's GDP. Therefore, the risk of ML/TF is comparatively low.

It was observed that Other Financial Institutions, such as MFIs and Bureau de Changes, were susceptible to ML/TF risks. These sectors have benefitted from a robust licensing regime and a strong regulatory framework. However, supervision has been erratic especially with the advent of "fun clubs" and other organisations that accept deposits. Monitoring by the regulator has not been effective. Overall, the sector's rating in terms of its vulnerability was medium.

DNFBPs were given a high rating for vulnerability to ML/TF risks. Casinos Operators and Betting Agents (operators of games of chance), Dealers in Precious Minerals and Real Estate Companies and Agents provided minimal response to questionnaires. The weakness in the regulatory framework makes this sector attractive to money laundering schemes.

NPOs and NGOs have presented a fertile ground for ML/TF risks because of a lack of AML/CFT measures, supervision and awareness. It is one of the few areas where legislation has not been enacted to effectively monitor their activities.

With regard to Financial Inclusion, we noted that, in Ghana, low incomes are prevalent and large segments of the population do not have bank accounts. Institutions that offer financially inclusive products were assessed. We identified a specific supervisory weakness and an inability to make appropriate adjustments as to risk. This sector was rated as medium vulnerability.

New Payments Products and Services (NPPS) in use in Ghana, including mobile payments, prepaid cards and internet based payment services carry the potential for ML/TF risks. The nature of these instruments coupled, with the issue of the existence of mobile money platforms, make it is quite easy for mobile numbers to be ported by criminals.

Weak legal and institutional frameworks observed during the survey include: inadequate Anti - Money Laundering (AML) and Combating the Financing of Terrorism (CFT) safeguards, relaxed oversight by competent domestic authorities, weak procedures to inspect goods and register legal entities, inadequate record-keeping and information technology systems and lack of adequate coordination and cooperation among relevant agencies.

The following recommendations were made amongst others:

- Creation of a specific training programme for LEAs in the various specialised areas of financial crime investigations.
- Capacity building of financial crime investigators, prosecutors and indeed LEAs, must be enhanced.
- The Government should allocate adequate funding to support the fight against ML/TF.
- Inter-agency collaboration should be encouraged and enhanced.
- There should be effective implementation of Asset Forfeiture laws and regulations.
- Create a single infrastructure platform to capture the true biometrics of all persons resident in Ghana.
- Amend laws in respect of the Financial Institutions (FIs) sectors to compel them comply with AML/CFT regime/measures.
- Establish an Asset Management Office (AMO) to manage property seized and confiscated in order to obtain the economic benefits from it.
- The sanctions regime should be punitive and dissuasive enough to deter criminals.
- Enhance tax auditing, monitoring, investigation and administration to punish tax defaulters.
- Supervisors and Regulatory Bodies should pay particular attention to the products/services with the highest vulnerabilities.
- The Government must take concrete and effective steps to improve the address system in Ghana to make it easy for Banks and other institutions to verify residential and business locations of their clients so as to enhance the conduct of effective KYC/CDD.
- FIC must also recommend sanctions against Banks that are found to be complicit and culpable in their failure to file Suspicious Transactions Reports (STRs) and Currency Transactions Reports (CTRs) as required by the provisions of Act 749 as amended.

## CONCLUSION

Ghana is gradually realising the impact of ML/TF risks, on the economic growth of the country, also realising its role as an increasingly relevant player in the global fight against ML/TF.

The threat of terrorist financing is becoming increasingly significant in Ghana.

A recent report of recruitment of Ghanaians into the fold of ISIS is a matter of concern. Reports of seven suspects arrested with weapons and rounds of ammunition, indicates a necessity for LEAs to thoroughly investigate, not only the crime, but the source of funding that precedes the commission of the crime.

Education on ML/TF should be a priority of the country. All stakeholders must be encouraged to take part in awareness creation and capacity building. This should follow a two-pronged approach; a renewed policy focus that would result in both effective administrative and criminal sanctions regime.

# SECTION 1- MONEY LAUNDERING (ML) RISK ASSESSMENT

## 1.1 THREAT ASSESSMENT

The threat analysis[1] involved carrying out a detailed examination of the most occurring predicate offences committed in association with ML and its related value.

### METHODOLOGY

Primary data was collected from Control, Regulatory, Enforcement and Judicial Agencies as well as, carrying out a qualitative review of official legal and socio-economic documents, local literature and international articles.

The request forms solicited for information for the period commencing 2010 to the present. The data collection forms were sent to the following State institutions: Ghana Revenue Authority, Attorney-General's Department, Economic and Organised Crime Office, Ghana Police Service and Narcotics Control Board and Immigration Service and the Financial Intelligence Centre.

Officials of other State institutions such as Food and Drugs Authority were interviewed. The intention and emphasis of the assessment is both an information gathering exercise and an evaluative analysis which is informed by a combination of documentary sources and primary data from key Stakeholder institutions.

Secondary Sources- Information was collected from the Internet, GIABA, FATF website and other open sources.

### LIMITATIONS

- Data from institutions relating to predicate offences, was not deep
- Respondents did not offer sufficient information on types of crimes

These challenges were well managed and the findings and recommendations are an accurate reflection of the assessment.

### 1.1.1 THREAT ASSESSMENT -ANALYSIS

Drug trafficking, theft, bribery, corruption, tax evasion, and fraud, are the most likely forms of predicate offences to be encountered in Ghana's financial crimescape and to a lesser extent, human trafficking, counterfeiting and piracy of products, smuggling and illegal possession of fire arms.

The overall M/L threat.

| |
|---|
| M/L threat was rated as **Medium/High** |

[1] Please refer to Tables 1,2 and 3 in Annexe 1

## FRAUD

Fraud, in its various forms, is an offence frequently committed in Ghana.

Financial Intelligence Centre (FIC) statistics show that over 95% of Suspicious Transaction Reports received in 2010 were reports on cases of fraud. Cybercrime, in the form of advanced fee fraud, and romance fraud, are the most commonly committed offences in Ghana.

Advanced fee fraud are scams usually conducted using the internet (email, social media) from an unknown individual who promises a business scheme that yields immediate financial gain but can only be concluded with the transfer of cash for payment, for taxes or to open an account. The purpose of the scams is simply to collect money from the victim.

Romance fraud is committed by persons claiming to live or work in Ghana, and who established a relationship with someone abroad over the internet. Once a relationship has been established, the fraudster will ask for money for living expenses, travel expenses, or visa costs. Sometimes a "hospital" or "doctor" telephones to say that the friend has suffered an "accident", and, therefore, needs immediate financial assistance to cover medical bills.

False identities are given and ultimately the goal of these scams is to obtain as much money as possible.

## SIM BOX FRAUD

SIM box fraud has emerged as a disturbing predicate offence in our M/L threat assessment. SIM boxes are an illegal terminal used in terminating and routing international calls, as though they were local calls. It is the use of voice over internet protocol technology to by-pass the international gateway switches in order to bring mobile traffic into the country and, have it appear as domestic originated traffic. The activity is proscribed by the Electronic Communications Act, 2008 (Act 775).

The Ghana Police Service and National Communication Authority (NCA) records show a relatively low commission of this offence. Twenty (20) cases have been recorded with 24 people arrested since 2011.

Out of the number arrested, three people have been convicted and four discharged while sixteen cases are still under investigations; one case has been forwarded to the Attorney-General for advice.

Information obtained from the NCA and the Ghana Police Service estimated that since 2010, fifty-two million United States Dollars GH₵197,600,000.00 (US$52,000,000.00 Equiv) which sum of money should have been paid by telecommunication service providers abroad, was lost to the State due to SIM box fraud activities.

The assessment further revealed that economic and financial loss occasioned by Sim box fraud, the technology or the fraudulent application of the technology could potentially be used to finance other transnational organised crime, including terrorism by enhancing the anonymity of the locations where the calls were made.

## STEALING (THEFT)

Stealing is defined by section 125 of the Criminal and Other Offences Act, 1960, Act 29 as follows: "A person steals if he dishonestly appropriates a thing of which that person is not the owner.

It ranked high amongst the most reported and investigated predicate offences in the period of this assessment; cases of stealing involved huge sums of money belonging to private persons, organisations and the State.

State officials in connivance with suppliers, contractors and bank officials, create elaborate schemes to steal monies designated for government contracts and projects.

Another conduit through which State's funds are stolen is the insertion of non-existent public sector employees onto the government payroll. Padding of salaries, or what is generally known as "ghost names" on the public pay roll, alone costs Ghana Thirty billion Ghana Cedis (GH₵30,000,000,000.00) [US$8,000,000,000.00 Equiv.] annually[2]. Currently some employees of the National Service Scheme, and the former director of the scheme, are being prosecuted for stealing sums amounting to eighty-six million, nine hundred thousand Ghana Cedis (GH₵86,900,000.00) [US$2,633,000.00 Equiv.] through padding of the wage bill. [3]

[2] National Anti - Corruption Action Plan 2012-2021.(December 20, 2011) para 2.2..2

[3]http://www.dailyguideghana.com/national-service-boss-caged-over-gh%C2%A287m-cash/

## BRIBERY AND CORRUPTION

Bribery and Corruption are both predicate offences under the Criminal and Other Offences Act, 1960, Act 29. Under the law there are several variants of bribery and corruption. With regard to corruption, there is the charge of corruption of and by public officer and juror, under section 239 of Act 29, and another charge of corrupt agreement for lawful consideration, under section 243. For bribery, the acceptance of bribe by a public officer after an act is done, is captured under section 244 of Act 29, while promise of bribe to a public officer after doing an act is also a crime under section 245 of Act 29.

There is little empirical data to support the detection of these crimes but public perception of them is high.

Corruption occurs in both the private and public sectors.

A key conclusion drawn from the African Peer Review Mechanism Report of 2005[3], was that corruption remains prevalent in all spheres of Ghanaian society. Similarly, the 2000 Ghana Governance and Corruption Survey of the Centre for Democracy and Development, CDD-Ghana found that 75% of the households surveyed regarded corruption as a serious national problem; 59% saw it as a major problem in the private sector, while 86% saw it as a major problem in the public sector.

The Auditor-General's Annual report submitted to the Public Accounts Committee of Parliament over the last few years, suggests massive misapplication of Public funds by public institutions.

Causes of corruption include institutional weaknesses, poor ethical standards, low level of integrity, non-enforcement or partial enforcement of laws, disregard or circumvention of procedures; institutional bureaucracies, which make access of such services frustrating, are a few examples.

Though primary data on corruption obtainable from law enforcement and judicial sources portray a relatively low prevalence of corruption, perception of its prevalence especially in the public sector, suggests it as being endemic and institutionalized; it is manifested by use of the following dominant techniques:

1. Embezzlement, misappropriation or other diversion of public property/funds by government officials.
2. Bribing top government officials.
3. Inflation of contracts and over invoicing.
4. Abuse/misuse of office for personal gains.
5. Trading in "influence" to get things done or not done.
6. Illegal transfer or taking of money abroad.

From collation of country reports of field survey conducted by GIABA of 30 people, the above corruption techniques were rated as follows: [3]

| **CORRUPTION TECHNIQUE** | **GHANA (30)** |
|---|---|
| Bribery of Government Officials | 56.7% |
| Bribery of Foreign Officials | 6.7% |
| Embezzlement, Misappropriation or Other Diversion of Property by Government Officials. | 56.7% |
| Abuse/Misuse of Office For Personal Gains | 46.7% |
| Trading in "Influence" to Get Things Done or Not Done | 50.0% |
| Illegal Transfer or Taking of Money Abroad. | 13.3% |
| Bribery or Embezzlement in Private Sector. | 10.0% |
| Inflation of Contract Figures | 56.7% |

In view of the Public perception, and most probably the devastating effect of corrupt practices on the country's development, successive governments since the advent of

constitutional rule in Ghana, in 1992, have enacted a raft of legislation to combat corruption.

As an illustration of Government's determination to fight corruption, a former Executive Director of the National Youth Employment Programme now Ghana Youth Employment and Entrepreneurial Development Agency (GYEEDA), and a Consultant to a project under the Programme are being prosecuted for stealing huge state funds through sham contracts.

| M/L threat was rated as **High** |
|---|

---

- Establishment of Commission on Human Rights and Administrative Justice (CHRAJ) under Commission on Human Rights and Administrative Justice Act, 1993 (Act 456)and investing it with the powers to investigate "all instances of alleged or suspected corruption and the misappropriation of public moneys by officials".
- Establishment of the Serious Fraud Office
- Enactment of Political Office Holders (Declaration and Disqualification) Act, 1998, Act550
- Audit Service Act, 2000 (Act 584)
- Political parties Act, 2000 (Act 574)
- Launch of Declaration of Zero Tolerance for Corruption Policy
- Financial Administration Act, 2003(Act 654)
- Internal Audit Agency Act, 2003 (Act 658)
- Public Procurement Act, 2003 (Act 663)
- Whistleblowers Act, 2006(Act 720)
- Anti-Money Laundering Act, 2008 (Act 749)
- CHRAJ has subsequently issued guidelines on conflict of interest to assist Public officials identify and manage conflicts of interest.

At the international level, Ghana ratified the United Nations Convention against Corruption (UNCAC) [Menda Convention] and the African Union Convention against Corruption in December 2005 as additional instruments to the Economic Community of West African States (ECOWAS) Protocol on the fight against corruption which had been ratified earlier.

Other recent interventions include the following:

- Code of Conduct for Public Officers of Ghana was launched.
- In 2009, the Ministry of Justice and Attorney –General's Department produced the Anti-Corruption Manual.
- The Economic and Organised Crime Office Act, 2010 (Act 804) was passed.
- The Mutual Legal Assistance Act, 2010(Act 807) was passed.
- The CHRAJ (investigative Procedure) Regulations (C.I. 67) was passed.
- Anti-Money Laundering Regulations, 2011(L.I. 1987) was passed.
- In 2014, the National Anti- Corruption Action Plan (NACAP) launched by His Excellency the President.

## ROBBERY

Robbery or armed robbery as defined by section 149 of Act 29 is stealing carried out with force or with the use of Offensive Weapons or implements. Between 2010 and 2014, the total number of robbery cases reported was 5976. With yearly distribution as follows:

| Year | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|---|
| No. of reported cases | 1260 | 1235 | 1126 | 1235 | 1116 |

The victims of robbery cases included fuel/gas filling stations, financial institutions, churches and high net worth individuals thus, earning the robbers substantial proceeds running into several millions of Ghana Cedis. Like most of the predicate offences, the total proceeds identified were not quoted.

M/L threat was rated at **Medium**.

## DRUG TRAFFICKING

There were a total of 2,559 Drug trafficking cases occurring in the assessment period. There was no information on usage of narcotic drugs within the country. Narcotic drugs related arrests involved cocaine, heroin and marijuana.

M/L threat was rated at **High**.

Available information showed Ghana as a transit point in the drug trade with inflows of cocaine from Latin America. According to The National Integrated Programme Report (2012-2016.) Ghana was a major hub for cocaine coming from the Bight of Benin through Togo and Nigeria with the second route passing through Guinea.

Heroin, like cocaine comes to Ghana from Latin America and it is then taken to Europe and America by couriers and through other means.[4]

Marijuana cultivation is rife throughout the country, especially along the forest belt. Current harsh economic conditions have encouraged some farmers to go into marijuana cultivation. Most reported cases emanated mostly from the Volta and Brong Ahafo Regions of Ghana. Cases involving marijuana were also found to be higher than cases relating to other narcotic drugs.

## HUMAN TRAFFICKING

[4] Interview with an official of the Narcotics Control Board

This is the transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction or fraud, deception, the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having the control over another person for the purpose of exploitation.

Three hundred and ninety eight (398) cases were reported during the assessment period. These included domestic and trans-national cases.

The trans–national cases consisted of outward and inward flow of victims. The outward cases were mostly the procurement of victims from Ghana to Turkey, Saudi Arabia, United Arab Emirates and other Arabian countries as domestic help, artisans for construction and for oil exploration activities.

With respect to the inward flow, nationals from foreign jurisdictions, such as China, Bangladesh, Thailand and the West African sub region, were procured into the country by human traffickers.

Domestic cases of human trafficking were reported to be rife. Most of the victims were children recruited to work on farms, and for fishing activities, and for illegal mining (galamsey) activities.

M/L threat was rated at **Medium**

## MIGRANT SMUGGLING

Migrant smuggling is the procurement of the illegal entry of a person who is neither a national or a permanent resident, into a country.

It was not until June 2012 that the Ghana Immigration Service Act was amended to criminalise migrant smuggling in Ghana. The passage of the legislation followed the ratification of the United Nations Convention against Transnational Organised Crime in February 2012.

Smugglers facilitate the crime by procuring forged documents as well as arranging spurious marriages.

Interviews conducted on the occurrence confirmed that the incidence is high, and on the ascendancy. Most interviewees cited sports tournaments and entertainers who go on international tours, among others, as the most prevalent modus for migrant smuggling.

There were no statistics from Law Enforcement databases on this crime, probably because the Law being new requires that Law Enforcement Agents are sensitized on it in order to enable them distinguish migrant smuggling from human trafficking.

M/L threat was rated at **Medium**.

## TAX EVASION

Once again, public perception of this predicate offence was higher than the figures obtained for the assessment. Information obtained from EOCO indicated that between 2013 and 2014 only 21 cases were reported.

Figures obtained from GRA also showed that from 2013 to 2015 an amount of GH¢666,153, 532. 83 (US$ 175,303.561.00 Equiv) was evaded in tax by 3513 Medium tax payers nationwide. This figure excludes Small and Large tax payers.

## TAX EVASION TABLE FOR MTO –GRA

| YEAR | NUMBER OF CASES | AMOUNT EVADED (¢) |
|---|---|---|
| 2013 | 995 | 184, 401, 273.24 (US$54,235,668.60 Equiv) |
| 2014 | 1136 | 222, 372, 612. 22 (US$58,519,108.47 Equiv) |
| 2015 | 1382 | 259, 379, 647. 83 (US$68,257,802.06 Equiv) |

Further information provided by the GRA indicates that though the number of tax evasion cases recorded among the Large Tax Payers was lower than the Medium Tax Payers, the yearly amount of tax evaded by the former is three (3) times higher than the latter. Accordingly, tax evaded by Large Tax Payers in 2013, 2014 and 2015, is approximated at GH¢5,995,381,795.47. (US$ 1,577,732,051.43 Equiv)

There has been a recent development in Ghana's efforts to tackle the predicate offence of tax evasion. On 6th October 2015 Ghana became the 50th member of the Organisation of Economic Cooperation and Development (OECD) and signed a multilateral agreement on Mutual Administrative Assistance that means that, Ghana will adopt an information sharing mechanism aimed at reducing tax evasion. Ghana is only the second African country to sign this convention developed by the Council of Europe and OECD.[5]

In view of the above, tax evasion was rated as High.

| S/N | Predicate Offence | Rating |
|---|---|---|

[5] http://www.oecd.org/dev/ghana-joins-oecd-development-centre.htm

| | | |
|---|---|---|
| 1 | Stealing | High |
| 2 | Bribery & Corruption | High |
| 3 | Tax Evasion | High |
| 4 | Drug Trafficking | High |
| 5 | Fraud | Medium High |
| 6 | Human Trafficking | Medium |
| 7 | Migrant Smuggling | Medium |

| |
|---|
| M/L threat rated High |

### 1.1.2 THREATS ASSESSMENT - CONCLUSION

Other possible money laundering threats specific to Ghana include: environment crime such as illegal logging, illegal fishing, illegal wildlife trade, illegal mining and the illicit trade in hazardous waste. A recent report called "Waste Crime: Tackling Britain's Dirty Secret" has highlighted how organised gangs use bribery and violence to obtain council contracts to clear waste, but end up sending the hazardous waste to Africa and for that matter Ghana. They also found that these criminals were also linked to a raft of illegal activities including human trafficking, fraud, drugs firearms and money laundering.

Ghana's rich extractive industries are a target for offences such as illegal small scale gold mining ("galamsey") and illegal oil bunkering. The latest threats include politically exposed persons (PEPs), such as government officials who have been involved in the smuggling of cash associated with the above mentioned crimes from developing countries to destinations such as the UK, UAE and US.

It is worth noting that the UK is an attractive destination for "dirty money" used specifically for purchasing luxury properties because there is no limit on how much one can invest. Moreover, the land registry in the UK only registers legal owners but not beneficial owners.

As of June 2015, 2.2m UK companies and more than 90,000 entities registered in tax havens, owned properties in the UK.[6]

More than 100,000 property titles are registered for overseas companies, with more than 36,000 properties in the capital owned by offshore firms.

Furthermore, some states in the US and a few European countries do not keep company registration information, thus making it relatively easy to set up and use them to launder proceeds of crime.

Cyber-crime in Ghana focuses mainly on advanced fee and romance fraud. However, the scope for more complex cyber fraud is endless.

The often used money laundering vehicle is bulk cash smuggling and remains a popular way to launder proceeds of crime. It is usually carried as a result of an illegal narcotic operation, trade-based money laundering process or perhaps the final step of some type of scam or fraud or associated crime. Current Bank of Ghana directives restricts the amounts of cash that can be exported or imported legally to the equivalent of GH₵38,000.00 (US$10,000.00 Equiv). However, a July 2013 report from Ghana saw the arrest of a couple at the international airport carrying the equivalence of almost GH₵2,660,000.00 (US$700,000.00 Equiv) in a variety of currencies.

[6] http://www.moneylaunderingbulletin.com/industries/lawyers/uk-property--how-to-stop-corrupt-public-officials-investing-113191.htm

## 1.2 NATIONAL VULNERABILTY ASSESSMENT

### METHODOLOGY

National vulnerability assesses lapses in the available defences and reactions mechanism for combating money laundering. Information was gathered by the National Risk Assessment Vulnerability Working Group Members. Information types were largely qualitative; they included interviews of certain key competent stakeholder institutions, and the administration of questionnaires. Data was collected from relevant institutions like the Attorney Generals Department, Judicial Service and others; secondary sources were also consulted like the Ghana MER 2009, FATF, and FIC Annual Reports 2012 to 2014 among others. Information used to analyse ML Vulnerability spans the period 2010 to 2014.

The overall national vulnerability is rated medium with a score **of 0.69**. This is influenced by two factors; the national combating ability generally rated low medium as a result of ineffective investigations, and prosecution, as well as the absence of sanctions such as forfeiture of assets of offenders, and the conviction of same.

The second factor is the overall sector vulnerability which is scored **0.72** due to vulnerability in DNFBPs, insurance, banking, securities, financial inclusion and other financial services.

### LIMITATIONS

- Access to data was limited, some respondents did not have information or a statistical unit and, therefore did not see the need to find and make the information readily available.
- Reluctance of some institutions to provide information was prevalent among most private sector institutions. A number of sectors held back information for fear of divulging information related to their businesses.
- Non cooperative attitude by some key stakeholder institutions was a challenge in that, in spite of the benefits to be derived by all stake holders, (perhaps institutions were apathetic) because they believed that sanctions would not be applied against them for non-compliance.

### 1.2.1 VULNERABILITY ASSESSMENT ANALYSIS

The analysis of the national vulnerability sector focused on legal and institutional framework of Ghana.

This assessment also involved a comprehensive look at legislative vulnerabilities, such as the absence of primary and secondary sources of the law including regulations and directives.[7]

[7] Please refer to Annexe 2

The objective of this model is to assess the National Vulnerability (weakness) to money laundering and terrorist financing (ML/TF) in Ghana. Vulnerability to money laundering is said to be high when there exist opportunities to perpetuate money laundering. National Vulnerability to ML can be managed when the overall sector vulnerability is low and the country's ability to combat it is high. A number of factors contribute to the vulnerability of a country in the fight against ML/TF; some have direct impact, while others have indirect impact. The importance of an impact depends on the availability or absence of the factors. In the case of Ghana, National Vulnerability is **Medium** because National Combating ability is **Low Medium** and Overall Sector vulnerability is also **medium**.

The overall national vulnerability is rated medium with a score **of 0.69**. This is influenced by two factors; the national combating ability generally rated low medium, as a result of poor or ineffective activities by way of investigations and prosecution, forfeiture and criminal conviction.

The second factor is the overall sector vulnerability which is scored **0.72** due to vulnerability in DNFBPs, insurance, banking, securities, financial inclusion and other financial services

A total of 24 input variables were analysed to ascertain Ghana's ability to combat money laundering and terrorist financing (ML/TF).

Data was gathered from various institutions for analysis. The national combating ability is low medium with a score **of 0.34**. This indicates that Ghana's ability to combat ML/TF is inadequate.

The ratings of the 24 Input variables are depicted in the table below.

| **Variable** | **Rating** |
|---|---|
| Capacity of Financial Crime Investigators | Low |
| Tax Disclosure | Low |
| Financial Integrity | Low |
| Integrity of Financial Crime Investigators | Low |
| Capacity of Asset Forfeiture Investigators | Low |
| Integrity of Asset Forfeiture Investigators | Low |
| Informal Economy | Low |
| Capacity of Financial Crime Prosecutors | Low Medium |
| Criminal Penalties | Low Medium |
| Asset Forfeiture Laws | Low Medium |
| Identification Infrastructure | Low Medium |
| Capacity of Presiding Officers | Low Medium |

| | |
|---|---|
| Availability of Independent Information Source | Low Medium |
| Domestic Cooperation | Medium |
| Integrity of Financial Crime Prosecutors | Medium |
| Auditing and Accounting Standards and Practices | Medium |
| Corporate and Trust Transparency | Medium |
| STR Data Receipt, Analysis And Dissemination | Medium |
| Asset Forfeiture Orders | Medium |
| Policy And Implementation | Medium High |
| Criminalisation of ML | Medium High |
| International Cooperation In Criminal Matters | Medium High |
| Integrity of Presiding Officers | Medium High |
| International Cooperation on Asset Forfeiture | Medium High |

**FIGURE 2: 24 NATIONAL COMBATTING ABILITY INPUTS**

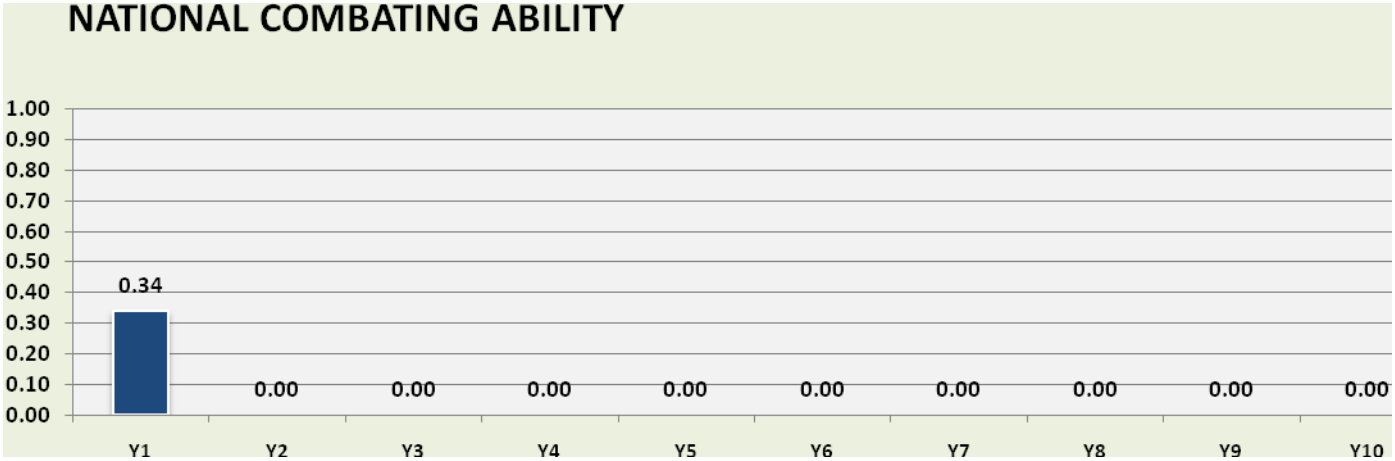
THE CHARTS BELOW SUMMARISE THE NATIONAL VULNERABILITY CHART 1 TO ML WHICH IS AFFECTED BY THE NATIONAL COMBATING ABILITY CHART 2 AND THE OVERALL SECTOR VULNERABILITY CHART 3. THE VULNERABILITY MAP IS CHART 4 AND IT SHOWS THE INTERRELATIONSHIP BETWEEN THE FACTORS AFFECTING NATIONAL VULNERABILITY.

**Chart 1**



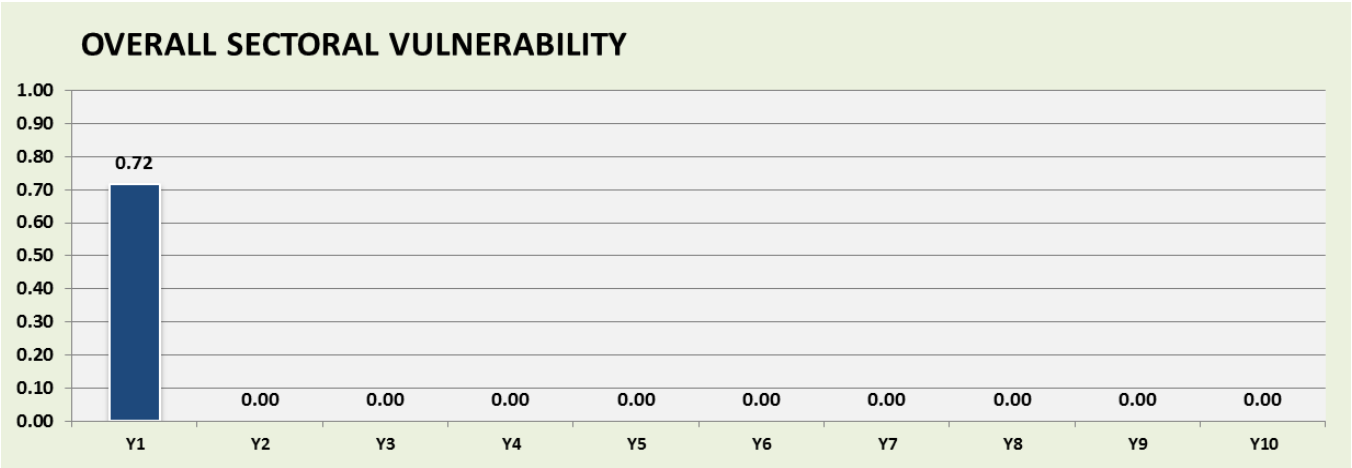

**Note:** the lower the better

**Chart 2**

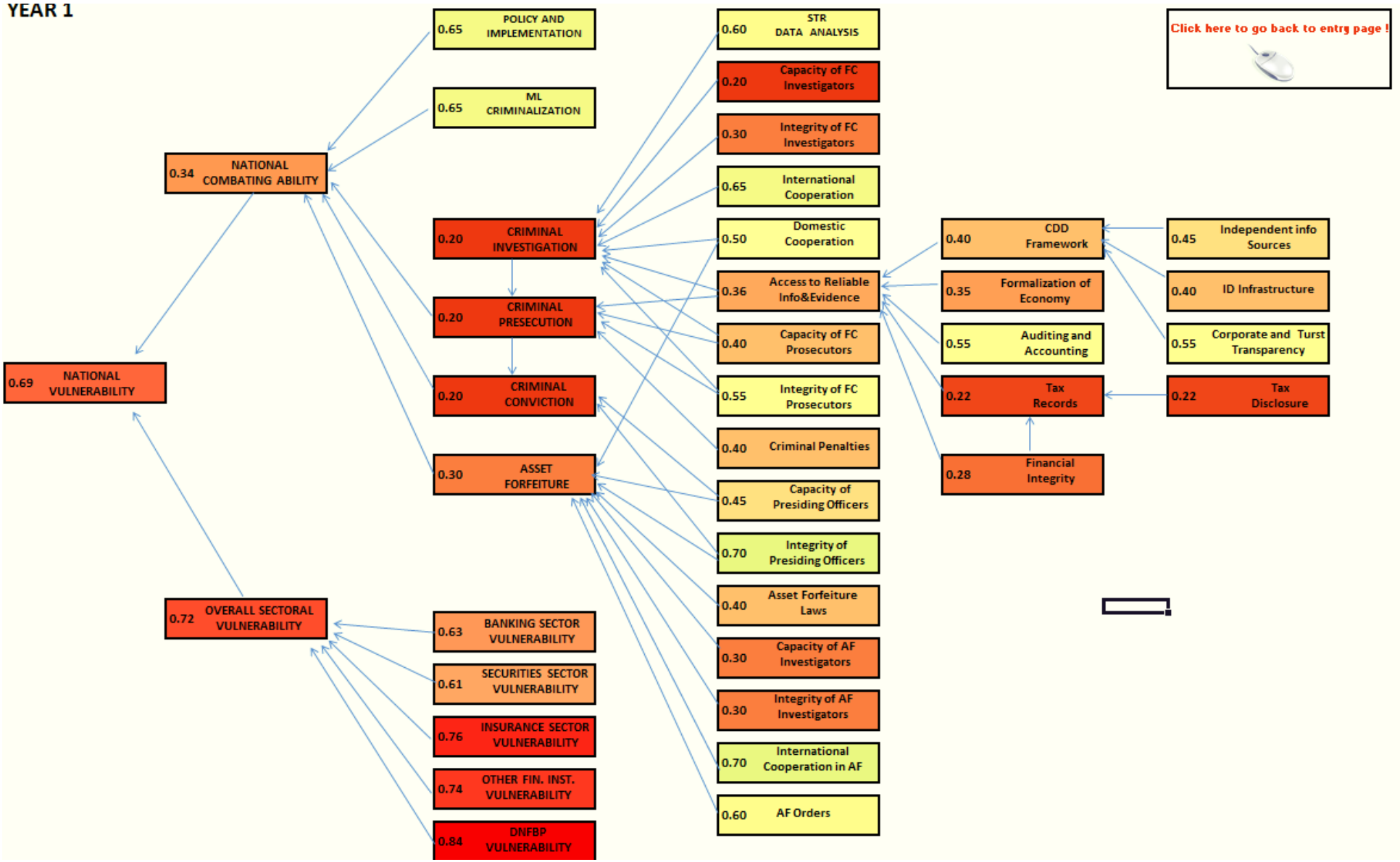



**Note:** The higher the better

**Chart 3**




**Note**: The lower the better


YEAR 1
Click here to go back to entry page !
0.69 NATIONAL VULNERABILITY
0.34 NATIONAL COMBATING ABILITY
0.72 OVERALL SECTORAL VULNERABILITY
0.65 POLICY AND IMPLEMENTATION
0.65 ML CRIMINALIZATION
0.20 CRIMINAL INVESTIGATION
0.20 CRIMINAL PRESECUTION
0.20 CRIMINAL CONVICTION
0.30 ASSET FORFEITURE
0.63 BANKING SECTOR VULNERABILITY
0.61 SECURITIES SECTOR VULNERABILITY
0.76 INSURANCE SECTOR VULNERABILITY
0.74 OTHER FIN. INST. VULNERABILITY
0.84 DNFBP VULNERABILITY
0.60 STR DATA ANALYSIS
0.20 Capacity of FC Investigators
0.30 Integrity of FC Investigators
0.65 International Cooperation
0.50 Domestic Cooperation
0.36 Access to Reliable Info&Evidence
0.40 Capacity of FC Prosecutors
0.55 Integrity of FC Prosecutors
0.40 Criminal Penalties
0.45 Capacity of Presiding Officers
0.70 Integrity of Presiding Officers
0.40 Asset Forfeiture Laws
0.30 Capacity of AF Investigators
0.30 Integrity of AF Investigators
0.70 International Cooperation in AF
0.60 AF Orders
0.40 CDD Framework
0.35 Formalization of Economy
0.55 Auditing and Accounting
0.22 Tax Records
0.28 Financial Integrity
0.45 Independent info Sources
0.40 ID Infrastructure
0.55 Corporate and Turst Transparency
0.22 Tax Disclosure

Ghana has enacted a raft of new legislation within a relatively short period in respect of money laundering and terrorist financing. This was accomplished in response to international pressure from organisations such as GIABA and FATF. It was recognised at the time that Ghana's justice system was ill equipped to combat ML/TF and required a comprehensive legal upgrade.

Although legislation is in place, convictions or confiscations have been negligible. The report found that regulators showed inadequate knowledge of their role in these matters, and that prosecutions were less than robust.

Initial STR and CTR filings were high but, were occasionally poor in quality and did not culminate in successful prosecutions and convictions.

## 1. LEGAL FRAMEWORK AND POLICY IMPLEMENTATION

A number of laws have been introduced since the passage of the Anti-Money Laundering Act 2008 (Act 749). In all, a total of 12 Acts were passed or amended to conform to the AML/CFT regime.

- *Anti-Terrorism Act, 2008 (Act762)*
- *Mutual Legal Assistance Act, 2010 (Act 807)*
- *Economic and Organised Crime Office Act, 2010 (Act 804)*
- *Anti-Money Laundering Regulations 2011 (L.I. 1987)*
- *Anti-Terrorism Regulations 2012 (L.I. 2181)*
- *Economic and Organised Crime Office (operations) Regulation (L.I.2183)*
- *Anti-Terrorism (Amendment) Act, 2012 (Act 842)*
- *Anti-Terrorism (Amendment) Act, 2014 (Act875)*
- *Anti-Money Laundering (Amendment) Act 2014 (Act 874)*
- *Criminal and Other Offences Procedure (Amendment) Act 1960 (Act 30)*

In March 2013, under Executive Instrument (E.I) 2, the Government constituted a seven member AML/CFT Inter- Ministerial Committee (IMC) which was tasked with the responsibility to coordinate all matters relating to ML/TF and other trans-national organised crimes with the Minister of Finance as the Chairperson.

This instrument also established the Law Enforcement Coordinating Bureau (LECOB), which derives its power from the IMC mentioned above and serves as its implementing arm. LECOB is chaired by the National Security Coordinator. Over the past few years* there has

been the political will to ensure that the fight against ML/TF is sustained at all levels. This is a clear departure from the 2009 Mutual Evaluation Report which scored Ghana as non-compliant.

The enactment of Executive Instrument (E.I.) 2 conferred extensive terrorism powers on the Attorney General and Minister of Justice. This instrument was passed on 15th February 2013. Section 37A of the amended Anti- Terrorism Act 2008, (Act 762), states the relevant provisions. The body to implement this instrument is the Inter-Ministerial Committee on Anti-Money Laundering and Countering Terrorism. The objectives are to implement the United Nations Security Council Resolutions 1267(1999), 1373(2001), 1718(2006) 1737(2006), successor resolutions and other relevant resolutions.

In 2012 and 2014 respectively, there were amendments to the Anti-Terrorism Act 2008 (Act762) and in 2014 the Anti-Money Laundering Act 2008 (Act749) was also amended all with a view to criminalising terrorist financing, allow courts to freeze property of suspected terrorist financiers, and ensure international best practice is upheld as recommended by FATF Recommendations 3 and 5 of the revised FATF Recommendations (2012).

This has resulted in five (5) convictions for offences of ML, which includes the following:

*The Republic vrs Maurice Asola Fadola - 2014*

*The Republic vrs John Cobbinah & Eugene Amoako Mensah -2014*

*The Republic vrs Christopher Animako-=2015*

*The Republic vrs Riera Cascante Victor Hugo -2015*

*Republic vrs 1 Omolaja Oduntan 2 Daud Jimoh Adewele-2015*

In spite of the passage of all these laws, the implementation of them was problematic due to the lack of adequate knowledge on the part of competent authorities. As a result, the FIC in collaboration with other stakeholders, domestic and international, has continued to build capacity for the Judiciary, prosecutors, LEAs and Supervisory Agencies.

However there is still room for improvement in the areas of investigative skills for LEAs, AML/CFT knowledge for Regulators and Prosecutors. Ostensibly, Inter-agency collaboration is good but this could be enhanced by ensuring there is mutual trust and respect among stakeholders, less incidence of departmental competition and more MoUs are executed among institutions (LEAs, and Intelligence Institutions).

M/L vulnerability was rated at **Medium High**

## 2. CRIMINALISATION OF MONEY LAUNDERING

Ghana's principal Anti-money laundering legislation is the Anti-Money Laundering Act, 2008 (Act 749). Section 1 defines the act of money laundering to include the conversion, concealment, disguise or transfer of property which is or forms part of the proceeds of

crime; the concealment and disguise of the unlawful origin of the property; the acquisition, use or possession of the property. Unlawful activity for the purpose of the Act includes all serious offences which mean offences for which the maximum penalty is death or imprisonment for a period of not less than twelve months. Under the *Criminal and other Offences Act this would include offences ranging from misdemeanours to felonies. All the listed FATF predicate offences have been criminalised by Ghana.

The Anti- Money Laundering (Amendment) Act, 2014, (Act 874), amended section I of Act 749 by incorporating concealing or disguising the ‘’disposition, movement or ownership of right with respect to property as an element of the money laundering offence, in accordance with the Palermo and Vienna Conventions.

The Amended Act also defined proceeds of crime to include, property or economic advantage derived indirectly or directly from unlawful activity in line with the relevant Conventions. Consequently, Ghana has adequately complied with Recommendation 3 of the revised FATF Recommendations (2012).

Five recent cases involving money laundering have been successfully prosecuted and convictions obtained in all of them. Some of these cases resulted in the confiscation of the proceeds of crime to the state. There are also a few cases pending before the court with money laundering charges.

The Economic and Organised Crime Act, 2010 (Act 804); is a body set up to investigate ML/TF and other transnational organised crimes. It adequately provides for the application of pre-emptive measures to proceeds of crime. These include seizures, freezing, confiscation and pecuniary penalty orders. The rights of third parties are adequately catered for. After the freezing order is made, any arrangement or dealing in respect of the tainted property is of no effect.

In section 69 of the Economic and Organised Crime Act provision is made for non-conviction based confiscation. However, these provisions are somewhat problematic because under the same Act, a suspect is required to be charged.[8]

This notwithstanding, prosecution of these crimes has been inadequate. Since the passage of Act 749 in 2008, Ghana recorded its first conviction for money laundering in 2014. Since then *four more convictions have been recorded.

It is of particular concern that although there have been a number of reported cases with underlying predicate offences, no charge of money laundering was brought against such suspects by investigators and prosecutors.

The challenge may be due to the lack of capacity in terms of skill and experience on the part of financial crime investigators and prosecutors, though a series of training sessions on money laundering has been organised for key stakeholders over the years this must continue since financial crime investigations and prosecutions are a relatively a new phenomenon.

| M/L vulnerability was rated at a **Medium** |
|---|

[8] An amendment to this Act is in progress

## 3. STR DATA, RECEIPT, ANALYSIS AND DISSEMINATION

The Financial Intelligence Centre is the sole recipient of STRs filed in Ghana. These STRs usually originate from the Banking Sector; however, a few Non-Bank Financial Institutions have also filed STRs. DNFBPs have not filed any STRs since the establishment of the FIC.

When STRs are received, they are analysed to ascertain if a prima facie case could be established. The case is then forwarded to the appropriate Law Enforcement Agency if there is merit to prosecute. For instance a case involving economic crime may be disseminated to the Economic and Organised Crime Office. On the other hand, where no prima facie case is established, the information is kept on the FIC database and/ or "Accountable Institution" may be requested to monitor the account and report on any unusual transactions that may take place subsequently.

A breakdown of STRs received and disseminated from 2009 to 2014 is shown below.

| Year | STR RECEIVED | CTR RECEIVED | STR DISSEMINATED |
|---|---|---|---|
| 2009 | 1 | | 1 |
| 2010 | 71 | - | 25 |
| 2011 | 137 | - | 57 |
| 2012 | 375 | - | 254 |
| 2013 | 356 | 1,256,054 | 225 |
| 2014 | 310 | 2,110,166 | 86 |
| TOTAL | **1,250** | | **648** |

Out of a total of **1,250** STRs received from 2009-2014, half **(648)** were disseminated and over 95% of the STRs received were from the *Banks. In addition to the STRs filed by "Accountable Institutions", CTRs and Electronic Cash Transactions Reports (ECTRs) were also filed from 2013 to complement analysis of STRs. It is worth noting that within the past five years, since the FIC has been in operation, no CTR filed has generated into an STR. There has been a low incidence of prosecutions or convictions. The reasons for this include poor investigations, poor prosecution, non-investigation of cases and no charges preferred against suspects within the time limit of one year as specified in the EOCO Act, Act 804. The FIC then carried out a review by undertaking a more detailed analysis of STRs before disseminating to LEAs, hence the drop in STRs disseminated

In recent years, the trend identified generally and reported in the FIC annual reports from 2011 to 2014 indicated that almost all STRs emanated from banks. These STRs were mostly cyber-crime related. It was further observed that perpetrators were young, uneducated or semi educated males. The types of schemes operated by perpetrators include romance fraud, inheritance fraud, impersonation, gold scams and many more.

Challenges reported were as follows:

- *That some STRs reported were of low quality,*
- *Other STRs showed monies withdrawn from accounts before STRs were filed by the banks*
- *CTRs were generally not reported on time.*
- *FIC would benefit from sophisticated, high capacity software to manage the ever increasing data being produced.*
- *Support documents requested from relevant institutions are not readily available thus leading to delays in freezing of accounts.*
- *LEAs collaboration with the FIC is inadequate leading to poor investigations, prosecution and no convictions.*
- *Some investigations do not lead to an ML charge, resulting in court orders to defreeze affected accounts after the expiration of one year as stipulated in the EOCO Act.*
- *Inter agency collaboration is fairly new, leading to a general lack of appreciation of the principles of money laundering cases*
- *There is a further misunderstanding of the evidential elements required to form a successful prosecution.*

However, there has been some form of inter agency cooperation between the FIC, Regulators and Law Enforcement Agencies which has led to an improvement of the situation and the filing of quality STRs. The FIC has for instance collaborated with Regulators and Supervisors to build capacity for "Accountable Institutions". A case in point is the various training sessions organised for the Police, Securities and Insurance sectors.

There is also a systematic plan in place to train DNFBPs AM/CFT matters. Ghana has created mechanisms for cooperation and collaboration with all key competent authorities.

M/L vulnerability was rated at a
**Medium**

## 4. INDEPENDENCE AND INTEGRITY OF FINANCIAL CRIME INVESTIGATORS

The 1992 Constitution of Ghana states that executive power is vested in the President of the Republic. Therefore all heads of public institutions in Ghana are appointed by the President.

Equally, public institutions are accountable to Parliament by way of submission of annual reports and appear before Parliament to justify their appropriation for the year which also serves as a check on the Executive. Politicians may attempt to influence investigators

involved in high profile persons or members of the ruling party; but this notion still remains a perception. There are no reported cases that a Chief Executive Officer of an institution has been sacked or relieved of his post for his refusal to drop investigations of a corrupt public figure connected to the government of the day. There have, however, been rumours that some investigators have been requested by their bosses to suspend or discontinue cases, but even these reports are minimal.

Transparency and accountability of investigators may be improved by assigning and registering cases electronically. Furthermore, investigators should account for all cases referred to them as part of their annual performance appraisal including providing tangible reasons for delay.

A few cases of investigator complicity have been reported while investigating cases and upon detection, officers involved were interdicted and investigations conducted. Officers found culpable have been duly punished under the law. Perception surveys undertaken by Transparency International, the Ghana Integrity Initiative, Centre for Democratic Development (CDD) and the Institute of Economic Affairs (IEA) have rated the police as the second most corrupt institution in Ghana. These ratings are supported by the fact that only a relatively small number of police officers have been prosecuted. However, a large number of police officers have suffered demotion in rank in such cases. It may not be out of place to suggest that convictions may be low due to the integrity of some law enforcement personnel.

In spite of the above, job security and training for financial crime investigators is still high. Integrity still remains a problem.

This variable is rated 0.30 low medium.

M/L vulnerability was rated at a **Low Medium**

## 5. INDEPENDENCE AND INTEGRITY OF PROSECUTORS

The 1992 Constitution states that the Attorney-General is responsible for the initiation and prosecution of all criminal cases in Ghana. The Attorney-General is also the Minister for Justice. The appointment of the Attorney-General is by the President of the Republic. The Prosecutions Division which handles financial crime prosecutions is headed by the Director of Public Prosecutions (DPP) and employs lawyers from the rank of Assistant State Attorney to Chief State Attorney. Cases are referred to the Attorney-General's Office from GPS, EOCO, NACOB and other State investigative bodies. These cases are referred to the DPP who refers them to an attorney to handle according to the complexity of the case.

Cases are prosecuted on behalf of the Attorney General, but in practice attorneys report to their group leaders who in turn report to the DPP. The Attorney-General does not deal directly with attorneys who have been assigned cases.

The Attorney-General's Office has prosecuted several high profile cases involving political figures, high ranking public officials, judges and prominent members of the Ghanaian

public. These cases are conducted without any interference at either the investigation and prosecution stage.

Police prosecutors are granted a "fiat" to conduct prosecutions on behalf of the Attorney-General in the lower courts. They report to the Head of the Judicial Police. Largely, the police prosecutors discharge their duties creditably. There are currently a number of police prosecutors who have gained qualifications in law and have been called to the bar which would undoubtedly increase their competence.

Police prosecutors without a background in law who undertake complex cases may be a contributory factor to the current level of unsuccessful prosecutions. It is worth noting that ML/TF cases are not always reported to the Attorney General's Office. A relatively small number of the police have engaged in unprofessional behaviour and this has dented the image of police prosecutors. Perception surveys undertaken by Transparency International, the Ghana Integrity Initiative, Centre for Democratic Development (CDD) and the Institute of Economic Affairs (IEA) have rated the police as the second most corrupt institution in Ghana and issues of integrity rank high in matters of prosecutions and convictions.

Although there has been some training of prosecutors this is woefully inadequate, hence specialised financial crime training is essential in order to gather quality evidence for fool proof prosecutions.

M/L vulnerability was rated at a
**Medium**

## 6. INDEPENDENCE AND INTEGRITY OF THE JUDICIARY

The independence of Judiciary Officers is guaranteed under the1992 Constitution of the Republic of Ghana. In Article 125(1) and (3) and 127 (1, 2, 3), this provision insulates the judiciary from political interference and other pressures from political leaders or State agencies.

The independence of Judiciary Officers is guaranteed under the Constitution of the Republic of Ghana. See Article 125(1) and (3) and 127 (1, 2, and 3).

There have been media reports of government intervention in high profile or political cases, but this has remained a perception. On the whole judges in Ghana have high integrity. This assertion is largely supported by LEA with the exception of a few high profile cases. There is however, the view that some staff working with the Judiciary is corrupt and this is supported by various surveys conducted by think tanks like Imani Ghana, Ghana Integrity Initiative, Centre for Democratic Development and others. They have presented a gloomy picture of the integrity of the Judiciary.

In 2013 a Transparency International Report found that 57% of respondents claimed to have paid bribes to the judiciary, whilst 71% of respondents were of the view that the judiciary is corrupt.

In 2014, the IEA's Socio Economic and Governance Survey placed the judiciary as the 7th most corrupt institution in Ghana.

The integrity of the judiciary has been criticised heavily in the past, and in response to this and to the notion of government intervention in high profile cases, the Chief Justice for Ghana- Mrs. Georgina Theodora Wood directed policy in this area by computerising case assignments and establishing forums to critically handle complaints against the judiciary.

In spite of these efforts, a large section of the judiciary has recently been the target of an undercover sting by a journalist called Anas Aremeyaw Anas. This has led to the dismissal of twenty–three (23) magistrate and Circuit Court judges. Twelve (12) High Court judges were also cited for corruption in the same undercover investigation which has brought the judiciary into considerable disrepute. Investigations are ongoing.

Promotion within the judicial service is well coordinated and only hard working and deserving judges are considered for promotion. The Judicial Council and the Bar Association have the opportunity to raise matters on discipline and the promotion of judges. There is a case currently before the Supreme Court of Ghana

Nevertheless, a high number of judges remain resolute and carry out their roles with integrity.

M/L vulnerability was rated at a
**Medium High**

## 7. CAPACITY OF FINANCIAL INVESTIGATORS

The Attorney General continually reassures LEAs that everything possible will be done to build the capacity of investigators in order to take profit out of crime.

Law Enforcement Agencies who can investigate money laundering crimes are:

*Economic and Organised Crime Office (EOCO)*

*Ghana Police Service (GPS)*

*Narcotic Control Board (NACOB)*

*Bureau of National Investigation (BNI)*

More specifically, the EOCO is the body mandated under the Economic and Organised Crime, 2010, (Act 804) to handle cases of organised crime.

EOCO in the last three (3) years, recruited a number of staff to enhance its manpower needs. EOCO staff has undergone series of training organised and facilitated by experts in financial crime investigations locally and internationally. The U.S Treasury, Office of Technical Assistance (OTA), the Federal Bureau of Investigation (FBI) and the Internal Revenue Service (IRS) have run many training sessions for various Law Enforcement Agencies.

The Financial Intelligence Centre in collaboration with other partners also organised financial crime investigation training for various Law Enforcement Agencies including NACOB, AG, BNI, and Police.

The Ghana Police Service has created a number of units including fraud, human trafficking, visa fraud, etc. with the sole aim of investigating specific crimes such as, money laundering offences. Other institutions, like the Ghana Immigration Service, have also received training in the fight against money laundering

Record keeping in LEAs is manual and cumbersome. This leads to poor case management and damage to papers in rainy seasons, manipulation of documents, corruption and disappearance of dockets.

A number of qualified and experienced workers from LEAs have resigned leaving behind young staff that had barely worked in financial crime investigations environment, and therefore, have no experience or skills in financial crime investigations. This has resulted in a huge resource cost and capacity issues. Another reason for the high labour turnover is the low remuneration paid to persons working in such sectors.

The power to investigate financial crimes is not in doubt, and the criminalisation of ML in the law meets the international benchmark. In spite of all the support given to LEAs they are yet to achieve successful investigations, prosecutions and convictions of suspects.

Ghana recorded two convictions in 2014 and three convictions in 2015. Majority of the convictions were prosecuted by the police who somewhat have not received adequate training compared to their counterparts in other agencies. Besides, the police service has many officers evenly distributed in the regions. FIC are currently running refresher courses for District and Divisional Commanders on financial crime investigations in partnership with the Police Command and staff College in Winneba.

The EOCO has an operational manual, the EOCO (operations) Regulation 2012 (L.I. 2183), and all other law enforcement agencies do have similar operational manuals.

There remains a need to enhance the knowledge of investigators in financial crimes investigations in order to increase their skills, experience and provide resources to execute their mandate. More security personnel should be employed to reduce the work load on the current staff, and remuneration for persons working in such institutions must be enhanced. A deliberate strategic decision needs to be made to address this problem.

The above portrait of the challenges LEAs face and ongoing mitigation leads to:

| M/L vulnerability was rated **Low** |
|---|

## 8. CAPACITY OF FINANCIAL CRIME PROSECUTORS

Financial crime cases are prosecuted by attorneys at the Attorney-General's Department and police prosecutors. Several attorneys have received general training in financial crime prosecutions to enable them to prosecute such cases. A few have also received specialised training in investigation and prosecution of financial crimes including money laundering cases. More attorneys, however, need to be trained so that for most economic crime cases,

the accused persons will additionally be charged with the offence of money laundering. This would then lead to an increase in the numbers of money laundering cases tried by the Office.

The Attorney General's Office has organised training with the support of UNDP for all attorneys nationwide on emerging crimes including ML offences. Specialists brought in included judges trained in the investigation of financial crime case. However, the training was broad and did not focus on prosecuting ML cases.

A number of Attorneys have received specialised training at a variety of sessions on investigating and prosecuting financial crimes. These sessions were organised by the Overseas Technical Assistance (Department of Treasury) USA. The training was focused, and included topics like financial investigative techniques and the use of net worth figures and expenditure methods to ascertain the actual amount tainted. However, the knowledge and expertise were unfortunately limited to very few attorneys who were all based in Accra.

It is worth noting that there are not enough state attorneys, resulting in a situation where there is heavy use of police prosecutors in this area.

Police prosecutors try cases on behalf of the Attorney-General in the District and Circuit Courts. The offence of money laundering can be tried in both the Circuit and the High Court, this means that the police prosecutors can handle ML cases in the Circuit Court.

The police prosecutors who prosecute on behalf of the AG's office are given basic training as part of their professional development.

Only a negligible percentage of experienced police prosecutors who could handle these cases has been adequately trained. It would be useful if all police prosecutors are placed on a nationwide systematic training programme aimed at bringing their knowledge in ML offences and the prosecution of such cases to an appreciable level.

These training sessions are provided to a limited number of police prosecutors and are seen by observers as woefully inadequate, given the complex nature of task at hand.

Some police prosecutors have obtained law degrees and others are very experienced. However there is no formal training career progression in this highly specialised area is offered.

It would also be useful to have the Attorney-General's Office engage a financial forensic analyst who would assist in putting together the financial evidence in such cases so as to secure convictions and also have the assets of the accused persons, forfeited. The Ghana Police Service also has police prosecutors prosecuting cases on behalf of the Attorney-General before the lower courts. They report to the Head of the Judicial Police. Largely the police prosecutors have discharged their duty creditably. There are currently a number of police prosecutors who have also obtained certificates in law and have been called to the bar as fully fledged lawyers, thus enhancing the human resource for prosecution at the courts.

The FIC has arranged a series of training sessions with the Ghana Police Command and Staff College which is based in Winneba. This facility is used periodically to train senior police officers in financial crime investigation. In the last three years the FIC has managed to train over 400 senior police officers of various ranks. The training is ongoing and it is

envisaged that a total of 500 senior police officers would have received requisite training by the close of year 2016.

M/L vulnerability was rated at a **Low Medium**

## 9. CAPACITY OF THE JUDICIARY

The Financial and Economic Crimes Court (FECC) was established on 30th October 2008 as a division of the High Court. It is a specialised court created to handle high profile money laundering and corruption cases. There are 3 FECC courts; two are located in Accra and one in Kumasi.

The Court System is well structured and the Judges who preside at the Financial Division of the High Court are generally well trained in adjudicating money laundering cases. Some training has been offered to selected judges in the recent past at the Judicial Training Institute in Accra. Since 2010, a number of training sessions have been held for some judges in ML/TF. However, their ability to function effectively is hampered by a lack of research material and reference books.

The Judicial Training Institute was established by the judiciary to train its members. It is run by an experienced judge, and it provides regular training for judges.

Section 69 of the Economic and Organised Crime Act 2010, (Act 804) gives judges the power to confiscate property in stand-alone ML cases; however it has been observed that some prosecutions fail completely as judges are reluctant to use these provisions. As a result, this provision has been identified for amendment in order to boost judges' confidence to facilitate confiscation of tainted assets without conviction.

More training in strategic areas of this law is required and the judges are certainly in need of additional specific technical assistance and skill in identifying the proceeds of crime.

M/L vulnerability was rated at a **Low Medium**

## 10. ASSET FORFEITURE LAWS

Asset forfeiture consists of several schemes:

POWERS TO SEIZE

These powers can be found under The EOCO Act, 2010 (Act 804), Narcotic Drugs (Control, Enforcement and Sanctions) Law, 1990 PNDCL (236) and the Criminal and Other Offences Procedure Code 1960 (Act 30). These powers refer to seizure of property by an officer during a search and also cash seizures in respect of forfeiture of currency, the Foreign Exchange Act, 2006 (Act 723) in sections (3) and (29), the Anti –Money Laundering Act, 2008 (Act 749)

in sections (33) (34) and (39),the Economic and Organised Crime Office Act, 2010 (Act 804) in section (23), the Customs, Excise and Preventive Service (Management) Act, PNDCL 330 Sections 269 and 251(1) (c), Bank of Ghana directive number BG/GOV/SEC/2008/28 dated 10/10/08 all contain provisions relating to the importation, exportation and trade in currency.

POWERS TO FREEZE

These powers can be found in The EOCO Act, 2010 (Act 804) and The Anti Money Laundering Act, 2008 (Act 749)

Where a person is being investigated for an offence, the Executive Director of EOCO may direct the freezing of the property of the person being investigated and confirm it in court within fourteen days. Furthermore, Section 69 of the EOCO Act also provides for civil forfeiture which allows for a non-custodial sentence.

The AML Act, 2008 (Act 749), as amended provides that the FIC has the power to freeze property to prevent ML in section 47 (1) (2) (3).

Sections 8 and 9 of E.I. 2, give the power to freeze terrorist funds based on United Nations Consolidated list received as a preventive measure.

POWERS TO CONFISCATE

These powers can be found in The EOCO Act, 2010 (Act 804).

Section 46 of the EOCO Act provides that the Executive Director shall apply for a confiscation order against tainted property or a pecuniary penalty order against a person in respect of benefit derived by that person from the serious offence. The application is to be made within a month of the conviction of the accused person and may be made in respect of more than one offence. The quashing of a conviction upon which confiscation orders have been made does not discharge the order.

The Narcotics (Control, Enforcement and Sanctions) Act, PNDCL (236) also provides for confiscation orders in respect of accused persons who have been convicted of narcotic offences. Several convictions and confiscations have been made under this Act. A negligible number of these confiscations have been set aside on appeal.

FORFEITURE OF ILLEGAL PROPERTY

Narcotic Drugs (Control, Enforcement and Sanctions) Law, 1990 (PNDCL 236) Courts in Ghana, granted several freezing orders. In the period 2013-2014, FIC applied for and were granted 42 freezing orders arising from STRs filed. Sections 65 and 66 of the EOCO Act 804, cover the management of property subject to seizure and freezing orders. Ghana participated in a workshop organised by the OECD in 2014 during which the Asset Inter-Agency Network for West Africa was established (ARIN-WA). The idea has been discussed for the establishment of an Asset Management Office and a legislative instrument to be passed to manage assets confiscated by the courts.

M/L vulnerability was rated at **Low Medium**

## 11. CAPACITY OF ASSET FORFEITURE INVESTIGATORS

Investigations into financial crime cases are new to the Ghanaian Criminal Justice system. As a result most investigators lack capacity in terms of skill, knowledge experience and resources to make them effective in asset tracing, identification, detection, seizure ,confiscation forfeiture of proceeds and instrumentalities. There are no specialised financial crime investigators trained in asset forfeiture in Ghana. This gap applies to investigators in various LEAs who are trained in general crime investigations and undertake money laundering investigations.

LEAs find it difficult to identify and trace assets due to the non-existence of the necessary infrastructure and software solutions to store data and information on transactions in the property market. There has not been any provision of a platform where information on property acquisition and sale can be verified. The EOCO has laid-down procedures provided in the operational manual (L.I. 2183). However, it is not clear whether the police or NCB officers have been issued with guidelines on identifying and tracing assets.

The challenge is that Ghana is yet to establish an Asset Management Office. Resources allocated for training of investigators are inadequate. There are no laid down policies and procedures relating to tracing, identifying, seizure and confiscation of assets.

M/L vulnerability was rated at

**Medium Low**

## 12. INDEPENDENCE AND INTEGRITY OF ASSET FORFEITURE INVESTIGATORS

Very little work has been done in the area of asset forfeiture. Ghana has had little or no experience in this field. This is basically due to the fact that skills have not been developed for investigators in this area of work. There are no laid down procedures to identify, trace, seize and manage assets when they are confiscated due to the lack of an Asset Management Office.

Therefore, no opportunity to assess the integrity of investigators. However, it is admitted that more training and research need to be undertaken to have an accurate picture of professional conduct of investigators. There is lack of a basic monitoring mechanism to assess the independence and integrity of investigators.

M/L vulnerability was rated at

**Medium Low**

## 13. ASSET FORFEITURE ORDERS

The Economic and Organised Crime Act, 2010 Act (804), extensively provides for forfeiture orders against accused persons in economic crime cases including money laundering, terrorist financing and all serious offences. One principal objective of the Act was to make provisions that will deal with the proceeds of crime.

Confiscation orders may be made against tainted property of the convicted accused person or may be made during the trial of an accused person for any serious offence. Pecuniary penalty orders may also be granted by a court in respect of tainted property. Even where the accused person dies or absconds, a confiscation order will still be effective against the identified tainted property of the accused person.

The Narcotics (Control, Enforcement and Sanctions) Act, PNDCL 236 also provides for confiscation orders in respect of accused persons who have been convicted of narcotic offences. Several convictions and confiscations have been made under this Act. A negligible number of these confiscations has been set aside on appeal.

There have so far been five convictions from a number of money laundering cases presented before court. In all the five cases, confiscation orders were made and none of the orders has been set aside to date. The cases under reference are, **The Republic V Maurice Asola Fadola**, **the Republic V Riera Cascante and Victor Hugo** and **the Republic V John Cobbina and Another**. In the case of Cascante, the total amount of money found in the possession of the accused person which was over six hundred and fifty-four thousand dollars GH¢ 2,485,200 (US$ 654,000 Equiv), was forfeited. In the case of **the Republic -v-John Cobbina& Another**, the landed property of the accused was confiscated and ordered to be sold, and proceeds given to the victim in the case.

The challenge that has so far confronted the prosecution in persuading the court to make confiscation orders, has been that investigators are often unable to present evidence of the assets of the accused person to the prosecutors. Financial investigations are often not carried out and it is therefore difficult to persuade the court to make asset forfeiture orders.

| |
|---|
| M/L vulnerability was rated at<br><br>**Medium High** |

## 14. INTERNATIONAL COOPERATION IN ASSET FORFEITURE

Under its Mutual Legal Assistance Act, 2008 (Act 801) Ghana can render assistance to requesting countries and may also make requests in respect of asset forfeiture orders. Where forfeiture orders are made against proceeds of crime located in Ghana, this can be enforced through the applicable laid down legal processes.

The MLA Act adequately provides the legal framework for international cooperation in asset forfeiture. Ghana has received requests from other countries for tracing of properties, identification of various bank accounts and properties, seizure of assets and for the enforcement of confiscation orders.

With the admission of Ghana into the Egmont group, the number of request to and from Ghana has been phenomenal. However, these requests are for intelligence gathering and are presently not for asset forfeiture purposes.

Unfortunately, our eagerness to assist other countries to forfeit tainted property in our jurisdiction is not reciprocated. In 2013 EOCO assisted the Crown Prosecution Service of the UK by seizing, confiscating properties here in Ghana and subsequently forwarded funds frozen in the accounts of the accused to the British authorities. Through the Interpol corridor, and Egmont, similar cooperation is on-going with international partners. There again, informal channels of cooperation exist for the sharing of information which are of intelligence value.

We may have to consider asset sharing agreements with international partners when we engage in asset tracing seizures and confiscations. There is the need for an Asset Management system, independent in nature and empowered to deal with seized and forfeited assets and properties.

| |
|---|
| M/L vulnerability was rated at **Medium High** |

## 15. DOMESTIC COOPERATION

The Law Enforcement Coordinating Bureau (LECOB) serves as the implementing arm of the Inter-Ministerial Committee (IMC) against Money Laundering and Terrorist Financing. This committee is chaired by the National Security Coordinator. Membership of this committee is made up of 15 institutions including the FIC, Law Enforcement Agency, Security Institutions and various Regulatory and Supervisory Bodies.

The FIC has so far signed MoUs with eight (8) institutions, including the Ghana Immigration Service, Narcotic Control Board, SEC, BoG, EOCO and others. Nine MoUs are awaiting signature. These MoUs have facilitated the sharing of information and exchange of documents among parties within reasonable time.

Another committee of Law Enforcement Agencies, called the Joint Security Task Force, meet on a Tuesday of every week to deliberate on security matters that sometimes include money laundering matters. These Committees did not exist at the time of the last Mutual Evaluation Report in 2009; since then a lot of work has been done.

On the whole inter-agency cooperation and collaboration needs to be enhanced to achieve the desired results. To achieve the best results there is the need for all institutions to appoint liaison officers in respect of money laundering issues in each institution. This collaboration is only discretionary and its effectiveness depends on the appreciation of teamwork of leaders in the institutions concerned.

Over the years a number of task forces have been put in place as special purpose vehicles particularly for high profile cases which needed urgent attention. However, these Task forces have not been incredibly successful because some members assumed extra ordinary powers and took unilateral decisions.

It should be noted that efforts at inter agency cooperation is highly reactive. Interagency cooperation usually works in short bursts in the context of task forces assembled for the purposes of high profile ML cases.

LECOB for instance does not meet as often as it should on AML/CFT issues as required by its mandate. Cooperation among the different LEAs is not always cordial. There is still the perception of mistrust and a struggle for turf. It should be made mandatory that LECOB

meets at least four times in a year and it must be seen to address challenges that may come up in the implementation of its mandate.

| M/L vulnerability was rated at **Medium** |
|---|

## 16. INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

Ghana has a robust Mutual Legal Assistance Act, (2010), Act 807 which provides for a wide range of mutual legal assistance in relation to money laundering/ terrorist financing and all the listed predicate offences, in respect of investigations, prosecutions and related proceedings. The Attorney-General's Office which is the Central Authority has set up the International Cooperation Unit which is under the Prosecutions Division to handle all international criminal law issues. The unit is manned by five trained attorneys and is headed by a Chief State Attorney. Ghana has received hundreds of international legal assistance requests from all around the world which are promptly worked on. Ghana also sends out mutual legal assistance (MLA) and extradition requests to several other countries.[9]

The Economic and Organised Crime Office (EOCO) which spearheads investigations in money laundering cases sends MLA requests on a regular basis which are sent out to the relevant country through the International Cooperation Unit. Similarly, requests sent to Ghana from requesting States are often sent to either EOCO, Economic Crime Unit of the Criminal Investigations Department (CID), or the Narcotics Control Board (NACOB) for investigations.

Although mutual legal assistance is based on an Arrangement or Agreement between Ghana and the requesting or requested State, the Act applies to the one hundred and forty-four Member States of the United Nations Convention against Corruption.

The police have been involved in international cooperation with its international counterpart, Interpol, over a number of years. Interpol has collaborated with the Ghana Police Service over the years and has been sharing information with other sister institutions in combating international crimes over the years.

The FIC also signed MoUs with a number of her foreign partners since it became effectively operational in 2012. In June 2014, the FIC was admitted into the Egmont group of prestigious FIUs. This admission has facilitated the flow of information to members. The FIC has also made a number of spontaneous disclosures to its foreign counterparts and has also received information from others. This state of affairs has resulted in critical information being received for investigation purposes and intelligence. Unfortunately Ghana's eagerness in assisting other countries to confiscate tainted property in Ghana is not reciprocated thereby affecting Ghana's own investigations and prosecutions.

[9] Please refer to list of cases handled by the International Cooperation Unit on MLA, Extradition and Prisoner Transfer from January 2012 to January 2015.

In 2013 EOCO assisted the Crown Prosecution Service of the UK by seizing, confiscating properties here in Ghana and subsequently forwarded funds frozen in the accounts of the accused to the British authorities. Through the Interpol corridor and Egmont, similar cooperation is on-going with international partners. Again, informal channels of cooperation exist for the sharing of information which have intelligence value.

Ghana may have to consider negotiating sharing agreements with international partners when we engage in asset tracing, seizures and confiscations. Formal guidelines on that will have to be developed going forward.

There is the need for an Asset Management system, independent in nature and empowered to deal with seized and forfeited assets and properties.

This variable is given a score of 0.70, Medium High

M/L vulnerability was rated at

**Medium High**

## 17. CRIMINAL PENALTIES

The Anti-Money Laundering Act, 2008, Act 749 as amended, provides the penalty regime for the offence of money laundering. Section 3 states that,

> '' A person who contravenes section 1or 2 commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not less than twelve months and not more than ten years or to both.''

This provision conforms to article 19 (11) of the 1992 Constitution of the Republic of Ghana.

The sentence places the offence of ML in the category of a second degree felony, which is regarded as a serious offence. A judge may impose an appropriate sentence in addition to making forfeiture orders. In the **Asola Fadola** Case, the accused person was sentenced to a term of five years imprisonment together with the confiscation of a luxury building owned by the accused person. In the case of **the Republic v John Cobbina**, the accused person was sentenced to a term of ten years imprisonment which is the maximum sentence, and a fine of GH¢100,000.00 (US$26,315.79 Equiv). In addition, all properties of the first accused person, including his building, were forfeited to the state. In the case of **Riera Cascante and Hugo Victor**, the accused person pleaded guilty, and upon his own plea, an amount of GH¢ 2,470,000 (US$650,000.00 Equiv) was forfeited to the state. All other convictions were custodial in nature with a possible confiscation of tainted property.

Sentencing guidelines for judges have recently been launched in Ghana[10]. These guidelines seek to ensure uniformity in the sentences handed out by judges for similar offences.

[10] Refer to Sentencing Guidelines

It is hoped that within the new guidelines, guidance shall be given on the calculation of benefit, recoverable and realisable amounts in confiscation cases.

The laws governing regulated sectors like Banking, Insurance firms and Securities firms, have not provided for AML sanctions in their respective acts, regulations or guidelines. As a result, supervisors and regulators are unable to enforce financial sanctions. This deficiency has come to the notice of the FIC and efforts are underway by AG and the institutions concerned to amend the laws governing such them.

As an initial step, the AML (Amendment) Act, 2014 Act (874), has created offences in section 18. It is hoped that regulators who have identified a gap in their own laws in this area will look to the main AML/CFT legislation and be encouraged to discipline rogue professionals.

Section 18 of the Anti Money Laundering Act (Amendment) Act, 2014 Act (874) amends section 39 of the Anti Money Laundering Act, 2008 to include a suite of penalties for money laundering offences.

It is hoped that subsequent money laundering regulations would include stiffer punishments which will serve as a deterrent to money launderers in the future.

The score for this variable is low Medium.

| M/L vulnerability was rated at |
| --- |
| **Medium Low** |

## 18. AUDITING AND ACCOUNTING STANDARDS AND PRACTICES

The Chartered Accountants Act 1963, (Act 170) was passed to establish the Institute of Chartered Accountants, Ghana (ICAG) Section 9: of the Institute's functions are to administer and manage the Institute in accordance with the provisions of Act 170. Such duties, include provision and maintenance of a library related to accountancy, encourage research in accountancy, supervise and regulate the engagement, training, licensing and the sole examiner for the accounting profession in Ghana.

The accountancy practice in Ghana adopted the International Accounting Standards in 2012.There is also the Institute of Internal Auditors Ghana; the Institute was formally registered in April 2001 in Ghana under the Professional Bodies Registration Decree, 1973 (NRCD 143) as a professional association dedicated to the promotion and development of the practice of Internal auditing in Ghana. The auditors also follow the International Auditing Standards. In order to practice, an accountant must be certified by its respective institute.

The integrity of accountants and auditors is generally high in Ghana because they are aware of sanctions they may suffer if they get involved in any malpractices. This notwithstanding, a few who may have indulged in such malpractices have been punished.

Most government agencies and institutions have employees in accountant positions that are not fully qualified. This is probably due to the poor remuneration package for such positions in the civil service.

The challenge, however, is that in matters of discipline the institute cannot punish them or extend their mandate to such persons since they are not members of the profession. The institute has insisted that government should make it attractive for qualified accountants to head top financial positions in the public sector.

Generally the integrity of most accountants is good and they enjoy a lot of independence in the pursuit of their work. On a number of occasions they recommend sanctions to the authorities when cases of fraud and embezzlements, are found out in their audits. The Auditor General in his report to Parliament Public Accounts Committee each year enumerates instances of theft, fraud and embezzlement; and recommends recoveries and sanctions against the culprits. However, recovery and prosecutions are minimal.

However, a few small and medium scale entities are given to not accounting for their financial activities accurately. These entities are severely sanctioned by the tax authorities and professional members involved in these misrepresentations are punished

It is thus difficult to monitor and sanction partially or unqualified unscrupulous people who perform the functions of accountants particularly when they are not members.

M/L vulnerability was rated at **Medium**

## 19. IDENTIFICATION INFRASTRUCTURE

There are six national biometric identification issuing institutions in Ghana. These are:

*The National Identification Authority*

*Social Security and National Insurance Trust*

*Electoral Commission*

*Driver and Vehicle Licensing Authority*

*Passport Office*

*National Health Insurance Authority*

Information on each of them is adequate and easily verifiable with the issuing authority. A number of financial institutions in Ghana use the G Five which has on its platform the voter's ID the biometric passport information and the National Health Insurance Card. The G Five data software is able to identify counterfeit IDs whenever they are presented.

In Ghana any of the six IDs is acceptable to be used to open a bank account and for all other banking transactions. The Driver's License, National Health Insurance Scheme card and Voters ID are most commonly used.

The problem with the use of the multiple IDs is that there is no common platform in Ghana on which all the multiple IDs will converge and can be synchronised into one database. Financial institutions request for just one ID to get on board their customers. However

Profiling of a subject by LEAs is inadequate due to reports of conflicting information recorded on different ID belonging to the same subject. In 2011 government directed Communication Companies to register all SIM cards. These owners were expected to have same information as captured by any of the biometric registration institutions. The effectiveness of this registration is a matter of concern to law enforcement.

The overall effect is that performance of due diligence is not effective and laborious.

Investigations are problematic and turnaround time is low.

M/L vulnerability was rated at

**Medium**

## 20. AVAILABILITY OF INDEPENDENT INFORMATION SOURCES

The process of assessing information from Financial Institutions and regulated private institution sectors in Ghana is generally easy to come by due to stringent requirements and timely provision of information. Institutions like the Banks, Insurance Companies, Credit Reference Bureau, Social Security and National Insurance Trust have adequate data on their clients and are ready to offer independent information to any institution that request for it. Information from Driver and Vehicle Licensing Authority, Passport Office and the Voters' Identity card are easily obtained upon the payment of a small fee. However, the picture is different in the private unregulated sector. Institutions are not held accountable for poor record keeping**.**

The Registrar General's Department is a prime source where access to information is quite cumbersome due to the quasi manual nature of its operations especially regarding companies which were registered years ago. Law Enforcement Agencies at times do not obtain timely access to information thereby delaying verification of documents and hindering customer due diligence checks by relevant stakeholders. This gap has some influence on investigations and decision making.

As mentioned earlier, there are six (6) institutions which undertake biometric registration on their clients. Each of these six institutions operates its own individual platform. There is no form of harmonisation with one another. Ghana does not have a coordinated identification verification system as it pertains in other jurisdictions. There is also the Credit Reference Bureau to check the credit worthiness and profile of prospective loan applicant. Information is readily available provided data is sent to the bureau. However, this facility is barely used by Financial Institutions and this makes loan acquisition a risky and expensive venture.

Availability of information from Government Ministries is cumbersome. Information is kept manually and it usually takes a while before one can access them. Similarly, Law Enforcement Institutions themselves also keep most of their information manually. They are reluctant to share information with other sister institutions. The effect is that comprehensive information may not be made available to investigators in order to have a successful prosecution and conviction

In order to solve this problem a well-coordinated software solution could go a long way to make verification of true identity easy and efficient. This could help law enforcement agencies to monitor criminals.

| M/L vulnerability was rated at<br><br>**Low Medium** |
|---|

## 21. CORPORATE AND TRUST TRANSPARENCY

The Companies Act, 1963(Act179) is the main legal document mandating all businesses to register in Ghana. Companies, Partnerships or Sole Proprietorship and other entities are to be registered at the Registrar General's Department. Reforms initiated in the mid-2000 by the public sector reform project, put in measures at the Registrar General's Department to ensure that all new business registration should be done electronically rather than manually as was the case before. There is no requirement to name ultimate beneficial owners of companies.

For an entity to be registered it should have a Memorandum of Association and the Articles of Association. This includes Business Name, official Address, Share Stated Capital Names of Directors, Issued and Paid up Capital sharing of profit etc. This information is kept by the Registrar General's Department and copies made available to the entity concerned. Data is stored in two forms; Electronic data is stored in the department's computer and the Manual data is stored in the Department's archive.

Since the 1960's the Companies Act has not been amended, and so with the passage of time, many of its provisions have become outmoded. There have not been amendments related to registration of trusts and the disclosures of beneficial owners. Businesses are registered at will without background checks being conducted .Most trusts are privately owned and are not obliged to makes disclosures to banks and other financial institutions on beneficial ownership before bank accounts are opened and tax identification numbers issued.

In order to resolve this problem, the Companies Bill is currently with cabinet and is awaiting inputs from stakeholders before it is forwarded to Parliament. It is not too difficult to access information from the Registrar General's Department. However, it could take a few weeks before information is verified, especially if the company was registered under the manual system. The Registrar General Department is in the process of re- registering all companies previously registered under the manual system.

In June 2014, the AML Act 2008 (Act 749) was amended to make Trust Companies "Accountable Institutions" thereby making them conform to the AML Compliance regime. In spite of this, there is still room for improvement.

For this reason, the rating is low/medium with a score of 0.50.

| M/L vulnerability was rated at<br><br>**Medium** |
|---|

## 22. TAX DISCLOSURE

The tax regime currently being administered in Ghana is based on self-assessment by individuals and corporate bodies. This is in line with the new global trend where taxpayers are encouraged to honour their tax obligations through voluntary compliance.

The biggest challenge in Ghana, however, is with individual taxpayers, since they form the majority of defaulting taxpayers. Indeed very few citizens of Ghana comply with voluntary tax disclosures. Majority of taxpayers in Ghana are companies and business organisations. The situation is exacerbated by the lack of tax identification numbers (TIN) for citizens to identify them and monitoring their economic activities as well as tax compliance.

In spite of this situation citizens do not have difficulty in obtaining tax clearance certificates, whenever they need them.

Political parties are heavily funded but are not compelled to file taxes and unqualified or partially qualified persons in accountant jobs such as "book keepers" remain under the radar.

Although there are enough enforcement tools and procedures, as well as legal sanctions spelt out in the tax legislation administered by the Ghana Revenue Authority (GRA), little is seen of the enforcement of these sanctions such as prosecuting tax offenders . The few cases of prosecutions by the GRA have been to recover tax revenue, are not for criminal prosecutions.

The Public Procurement Authority has made it a prequalification condition for contractors bidding for contracts to show proof of tax payment before tendering. But there have also been numerous allegations of tax evasion by citizens and at times with the connivance of some tax authorities and not much has been reported as to how the issues are resolved.

Access to tax information by LEAs to undertake investigations are sometimes cumbersome. Data from the tax authorities are scattered at different units at the Ghana Revenue Authority (GRA)

Tax disclosures by companies in Ghana are low and GRAs administration of sanctions is also low. There are credible reports of incidences of trade mis-invoicing (mostly under invoicing) at the ports. VAT fraud (consists of understating sales output and overstating inputs resulting in claims for business expenses) and a large informal sector contributes to a low rating for financial integrity in Ghana.

Recently, however the GRA is making efforts to halt the tide. They have teamed up with the Registrar General's Department to issue out new Tax Identification Numbers (TIN) to individual and Companies at the point of registration of their companies. All tax payers are now being issued with tax identification numbers. It is hoped that effective monitoring will be undertaken in the future.

The GRA has also recently set up a special investigations unit with the sole mandate of conducting investigations for criminal prosecutions in the law courts.

GRA has also signed a Mutual Administrative Agreement in 2015 with OECD with a view to sharing information with other countries on tax matters.

| |
|---|
| M/L vulnerability was rated at<br><br>**Low** |

## 23. FINANCIAL INTEGRITY

Financial integrity refers to the quality of business, professional ethics and tax transparency in a country. The Companies' Act, 1960 (Act 179) has not been revised since the 1960's even though a number of changes have occurred over the years. For instance, there is no provision under the Company's Act for business owners to make declaration of beneficial owners. In the current dispensation, this provision cannot be overlooked. Presently, banks are required to request for information on beneficial owners as part of the customer due diligence before new accounts are opened. But as it stands even the business registration form does not have a column for such disclosures. The most that a financial institution can do is to ensure that documents submitted by customers are genuine and have been verified at the Registrar Generals Department.

The level of financial integrity is modest/ average. Small scale businesses in the unregulated sector do not clearly distinguish family expenses from business expenses in their billing of goods and services they provide. Businesses hide behind non-transparency to evade VAT thereby making them more competitive by selling their goods at cheaper rates. There have been a number of reports that goods are smuggled into Ghana through unapproved routes and at times with the connivance of customs officials in order to avoid tax payments. In other instances, goods imported are under invoiced thereby making tax payable lower than expected. A few of these cases are sent to the FIC as STRs which is then disseminated to the GRA for further work. This state of affairs results in low revenue collection in terms of low corporate tax receipts.

Some companies keep two sets of books with the aim of suppressing sales, increase expenditure thereby reporting low profits which results in low tax payments, and therefore low tax payable. Other individuals do not even register their business at all, but rather operate business by channelling the profits into their private accounts. Artisans generally are not registered, and therefore, do not pay tax. The number of persons in this category include caters, painters, interior decorators, event organisers and many more. The overall effect is that they avoid the radar of the tax authority and LEAs thereby evading tax.

Even though tax identification numbers are now being rolled out, the monitoring of businesses by tax authorities is low and the result is that the state loses revenue.

Bribery is common in state institutions and can be seen as a vital step to successful business. Therefore, ethical standards can be difficult to adhere to.

| **ML vulnerability rated at a Low** |
|---|

## 24. INFORMAL ECONOMY

The Ghana Statistical Service estimates that 86.1% of all employment in Ghana is found in the informal economy. The informal sector is widely seen as the engine of growth and the route to economic transformation. The share of the informal sectors contribution to GDP is 58% in Ghana.

Laws and regulations governing the informal economy are scattered and can be found in only a few sectors of the economy; where laws and regulations are provided, the implementation is not effectively enforced.

Business operations in Ghana are mainly executed by cash transactions and records keeping in most instances are non-existence. Among the small scale private businesses this phenomena is common leading to revenue leakages. There is absence of official protection and recognition Unregistered economic activities, non-taxation, and incapability of public workers to fulfil their duty due to lack of recognition by state agents; Source of capital is personal savings and persons who work there are predominance self-employed. In spite of efforts by SSNIT to get workers in that sector registered, only minimal results have been achieved. Most workers work for less than the official minimum wage and are unable to contribute to their pension, or save for future investment. This sector is characterised by high dependency on daily subsistence business as well as small profit margin.

There are no effective tax incentives to attract businesses in the informal sector to the formal sector. The lack of regulations in the informal economy speaks volume about the low capacity of policy makers to effect change.

The laws and regulations governing the informal sector are generally not enforceable; as a result there is a huge Perception of corruption. There is the need to create modes of communication in order to gradually evolve companies from an informal character to a formal one.

Currently underway is an IT infrastructure that registers all businesses in Ghana by ensuring that they have a TIN Number and are captured under the tax net is in progress. However, there is the difficulty in harmonising all the multiple biometric identities into one platform.

| |
|---|
| M/L vulnerability was rated at<br><br>**Low Medium** |

## OVERALL SECTOR VULNERABILITY

Another component which was considered in the assessment of national vulnerability is the overall sector vulnerability. This component collected findings from the five other modules of the various national risk assessment working groups. These include the Banking Vulnerability Sector, Securities Vulnerability Sector, Insurance Vulnerability Sector, Other Non-Bank Financial Institutions Vulnerability Sector, DNFBPs and Financial Inclusion Vulnerability Sector. Assessment of these vulnerability sectors are explained in details below.

| |
|---|
| M/L vulnerability was rated at<br><br>**Medium** |

The results from these sectors are summarised below in the table below:

**Weight assigned between 1 and 5 for each sector. The more important the sector, the higher the weight is.**

| OVERALL SECTOR | VULNERABILITY | WEIGHT |
|---|---|---|
| DNFBPs Vulnerability | 0.84 | 4 |
| Other Financial Institutions Vulnerability | 0.74 | 3 |
| Securities Sector Vulnerability | 0.61 | 2 |
| Insurance Sector Vulnerability | 0.76 | 2 |
| Banking Sector Vulnerability | 0.63 | 5 |

## BANKING SECTOR VULNERABILITY

The Banking Sector is one of the most vulnerable sectors for Money Laundering and Terrorist Financing due to its role, size, relatively large number of clients and legitimacy of transactions, both domestic and international.

The Banking Industry contributes about 45.4% to GDP and employed more than 18,000 people as at December 2014. It is the largest segment of the financial services sector with a total asset size of about GH¢51,000,000,000.00 (US$ 15,900,000,000.00 Equiv) as at 31st December 2014. The Sector is made up of 28 Universal Banks, 13 of which are indigenous banks, whilst the other 15 are international Banks. The Ghanaian banking industry is well governed and regulated.

Fourteen (14) out of Twenty Eight (28) Banks were selected for the NRA exercise. The selected Banks were Banks that had 3% or more of total industry assets as at September 2014. The reason for using sample of banks was that these 14 Banks significantly and truly represent the entire Banking Sector since together they contributed more than 80% of the total banking industry assets.

Eighteen (18) out of the many products and services offered by the Banking Sector, were selected for this exercise. These products/services represented almost all activities undertaken by the Banking Sector. The choice of the product/service was based on the fact that any potential money laundering or terrorist financing activity would most probably occur through them.

Thus, the vulnerability of the sector to money laundering and terrorist financing arises from products and services offered by the sector and other general indirect factors such as regulations, supervision, Bank staff integrity, enforcement actions, identification infrastructure, compliance function, and many more.

Some of the most vulnerable products and services of the Banking Sector include; Current Account Products, Foreign Exchange Account Products, Savings Account Products, Trade Finance Services, Private Banking, Investment Accounts, and International Money Transfers.

Geographically, the Greater Accra Region, Ashanti Region and the Western Region are considered to be the most vulnerable regions to Money Laundering, whereas the three Regions in the North and Greater Accra Region are considered the most susceptible to terrorist activities and financing.

However, there are adequate Anti-Money Laundering and Combating Terrorist Financing (AML/CFT) measures in the sector to mitigate the risk. There are requirements on Banks to identify high risk clients such as Politically Exposed Persons (PEP), delivery channels and transactions from high risk jurisdictions which should go through enhanced due diligence. Banks are also required to carry out due diligence to identify ultimate beneficial owners (UBO) of transactions and other relationships.

The prevalence of huge cash transactions in the Banking Sector makes the sector vulnerable to the threats of money laundering as cash transactions do not always carry record of actual sources, owner and legitimacy. Clients, both individuals and entities can make large cash deposits into their accounts with or without record of its sources, owner or legitimacy, thereby increasing ML/TF vulnerability. This makes it possible for the method of co-mingling to be used by criminals to launder their illegally obtained proceeds. Comingling makes it difficult for Banks to differentiate between legitimate cash and illegitimate cash transactions.

The improper address system also makes it difficult for banks to verify clients' residence and business addresses as part of their due diligence.

There is a fairly and relatively strong regulatory and supervisory environment for the Banking Sector. However, areas such as; enforcement of AML/CFT obligations by appropriate state institutions, commitment to good corporate governance, identification infrastructure as well as availability of independent information sources, still need strengthening to assist the Banks in their CDD/KYC programmes.

Overall Assessment of the Banking Sector vulnerability to Money Laundering and Terrorist Financing in Ghana is assessed

| |
|---|
| M/L variable was rated at **Medium** |

## INSURANCE SECTOR VULNERABILITY

The phenomenon of ML/TF has become a matter of global concern. Ghana being part of the global village is therefore not an exception and the insurance sector which is a Non-Bank Financial entity, is susceptible to ML and TF risks.

The Insurance sector is relatively small, contributing less than 2% towards GDP. As at 30th September 2014, three thousand six hundred and sixty one (3,661) persons were employed working in the Life, Non-life and Reinsurance companies. Total agents employed at the same date totalled three thousand and ninety (3,090). No industry records are currently available on the persons working in the Insurance Intermediary sector. Analyses of underwriters in terms of total assets of the sector as at 31stDec 2013 was GH¢1,739 million and total capitalisation was GH¢ 966 million

The average growth rate in the industry gross premium fell sharply from 35.3% to 23.6% between 2012 and 2013, whereas life recorded a growth rate of almost 32%, non-life grew by 18%. In Cedi terms, the market recorded a total gross premium of GH¢1,052,000.00 (US$276,842.10 Equiv) in 2013.

The total numbers of licensed entities as at December 31, 2014 were: Non-Life- 25, Life -20, Insurance Brokers-60, Reinsurance Broker -1, Loss adjuster-1, Reinsurers -4 given a total of 111 companies.

Thirty two (32) companies were selected for interview, but only thirty (30) were successfully interviewed. The thirty two companies constituted 87% of the market share in 2013, and it comprised eleven (11) life companies, eleven (11) non-life companies and ten (10) broking firms.

One hundred and eleven (111) questionnaires were circulated to companies to elicit their responses. Seventy (70) companies responded representing 63%but constituted 99% of sector turnover for 2013.

The vulnerability of the sector to money laundering and terrorist financing arises from products and services offered in the life and bond sectors. The general absence of customer due diligence practices, low quality of supervision, low skills and capacity of regulators in AML/CFT issues, policies fund from third parties premiums paid into one policy from different sources, claims for overpayments, no sanctions regime on AML/CFT and the presence of Oil and Gas industry in Ghana has elevated the insurance sector vulnerability in recent times. There is no evidence of ML/TF occurrence in this sector. However, the current Oil and Gas find, with its associated influx of foreign nationals and businesses into Ghana, is a possible recipe for ML/TF threats.

So far, there have not been any remarkable suspicious transaction reports from the industry since the inception of the FIC. This could be due to the genuine absence of activities to warrant reports or the ignorance of players to locate the transactions and red flags. Any of the two is a probability.

The National Insurance Commission has general powers under the Insurance Act 2006, Act (724) to issue administrative sanctions on violations, but no specific guidelines on AML/CFT issues; as such no sanctions have been meted out. Specific sanctions, however, are required to further strengthen the regime.

Overall Assessment of the Insurance Sector vulnerability to Money Laundering and Terrorist Financing in Ghana is assessed to be

**ML Vulnerability rated at Medium**.

## SECURITIES SECTOR VULNERABILITY

The Securities and Exchange Commission (SEC) is the regulator for the entire securities market in Ghana. Until September 1998 its functions as set forth in Section (9) of the Securities Industry Act, 1993 (PNDCL 333) as amended by the Securities Industry (Amendment) Act, 2000 (Act 590), were carried out by the Governor of the Bank of Ghana.

The size of this sector in terms of GDP in December 2014 stood at 6.9% .The Securities sector comprises the Broker-dealer firms, Fund Managers, Investment Advisory companies, Mutual Fund companies, Unit Trust, Custodians and Trustees, Registrars, Primary Dealers, Ghana Stock Exchange (GSE), and Central Securities Depository. There were one hundred and twenty five (125) fund managers, investment advisors and Broker-Dealers firms, within the securities sector.

In December 2011, SEC and the Financial Intelligence Centre (FIC) in accordance with section 6(d) of the Anti-Money Laundering Act (Act 749) and regulation 38 of Anti-Money Laundering Regulations (L.I. 1987), developed a Compliance Manual to guide Capital Market Operators (CMOs) and to enhance their monitoring and surveillance systems with a view to preventing, detecting and responding appropriately to money laundering (ML) and terrorist financing (FT).

Questionnaires were sent to all 125 industry players in the securities market. 80 questionnaires were completed and returned constituting a 64% response rate.

The vulnerability of this sector to money laundering and terrorist financing arises from products and services offered by the sector and other general combating factors such as weak regulations and, supervision, lack of enforcement actions, identification infrastructure, low capacity of skills and knowledge of Compliance Officers in AML/CFT issues, inadequate training for Board Members, Management and Staff of "Accountable Institutions", non- existence of comprehensive internal rules and procedures and lack of record keeping. Most firms undertake customer due diligence (CDD) or know your customer (KYC) by verifying their clients' identity however, the effectiveness of the CDD, especially that relating to the source of funds, leaves much to be desired. Client transactions monitoring is done both manually and electronically, but more needs to be done. Lack of effective identification and monitoring of Politically Exposed Persons (PEPs) and their associates is a source of worry to the regulator.

Mainly cash and in some cases cheques are the predominant ways of accepting deposits for investment in the securities sector. Source of funds for investment, lack of sanctions regime by regulators coupled with weak identity infrastructure and the non-existent beneficial ownership disclosures, make the sector vulnerable.

Although, some "Accountable Institutions" have documented procedures that their AMLROs should follow upon receipt of suspicious transaction reports, a majority of such institutions do not have such procedures in place. Between 2012 to date, only seven (7) STR have been

filed to the FIC. This is as a result of weak enforcement, supervision, monitoring and inadequately trained staff.

Ongoing on-site monitoring is inadequate except enquiring about the existence of compliance policies, the regulators fall short of inspecting the policies. Offsite monitoring has not yet been initiated due to lack of personnel and adequate knowledge of AML/CFT. During onsite inspection officials inspect Board minutes for approval as well as the FIC internal and external audit reports, list of PEPs, client statements, client files, operations manual, training on AML/CFT, AML/CFT risk assessment reports including categorisation of clients, appointment of AMLROs, organisational chart showing direct and indirect reporting relationship as well as the rank and independence of AMLROs. No penalties have been imposed yet.

The ineffective supervision is the major challenge, onsite supervision need relevant training, while sector capacity have to be improved through specialised training. Board must appoint requisite staff and develop appropriate AML compliance policies.

**ML Vulnerability rated at Medium**

## OTHER FINANCIAL INSTITUTIONS VULNERABILITY SECTOR

OFIs are vulnerable to the threat of money laundering. The degree of vulnerability affects both the formal and informal sub-sectors of the OFI sector.

The formal sector is highly regulated thus has a relatively lower ML/TF vulnerability risk compared to the informal sector. The formal sector comprises Finance Companies, Bureaux de Change, Remittance Service Providers, Electronic Money Issuers and Agents, National Pensions Regulatory Authority and the Ghana Revenue Authority.

The informal sector, unlike the formal sector, is unregulated because the activities take place underground, thus making it highly vulnerable to ML/TF risk. For this assessment, the informal sector consists of Black Market and Underground Remittance.

The Finance Companies are made up of twenty-four (24) institutions and is non-deposit taking in character. The sector in 2014 had an estimated asset size of GH¢2,919,882,000.00 (US$ 768.390,000 Equiv) which represents 38.1% of the total asset size of NBFIs in Ghana.

According to BOG, at the end of 2014, volume of credit granted by NBFIs amounted to GH3,771,169,000.00 (US$992.550,000.00 Equiv) with an estimated GH*¢1,436,058,000.00* (US$ 377.910,000.00 Equiv) from the Finance Companies. This sub-sector of the OFI sector lacks proper AML Tool to identify suspicious transactions and report. This makes them vulnerable to the threat of money laundering.

Based on the foregoing, the Finance Companies vulnerability is rated as medium with a score of 0.43.

The vulnerability of this sector to money laundering and terrorist financing arises through products and services offered by the sector. Other vulnerabilities include weak supervision, lack of enforcement actions, lack of identification infrastructure, and lack of AML/CFT

Compliance Officers at management level in most of the institutions. Most firms do not undertake effective Customer Due Diligence (CDD) or Know Your Customer (KYC), especially on the source of funds.

The National Pensions Act, 2008 (Act 766) established the 3-tier pensions scheme and the National Pensions Regulatory Authority (NPRA), to monitor and supervise the operation of the scheme and the service providers.

The transactions are mostly conducted with the use of cheques and bank transfer with very insignificant cash levels. The pension contributors are domiciled in Ghana as such the transactions are domestic with no international transactions. There are high levels of PEPs in this OFI sub-sector and the sector's exposure to the threat of ML is reinforced by the lack of the identification of any STR as well as the nature of investments made by the trustees

Even though there is no reportage of unusual and suspicious transactions, there are regular on-site visits by the regulator and the controls in the pension market are very high, thus the NPRA is rated as medium low with ML vulnerability score of 0.33.

The GRA has a very high vulnerability to ML with a score of 0.94 because transactions, especially amongst the informal contributors, are cash based and there is no AML/CFT guideline. STRs are not filed following the revenue mobilisation exercise.

There have been several reports in the Ghanaian media about tax evasion and indeed in a publication on the website of the Ghanaian Times dated December 12, 2014 and captioned, Tax evasion stifles Ghana's Development, this malpractice was covered extensively. The 'Daily Graphic' newspaper published in its June 11, 2014 edition that undervaluation of imported fruit juices denies the state of revenue. The paper stated 'the undervaluation of some imported fruit juices into the country is said to be denying the state its needed revenue while affecting the competitiveness of the products of local producers on the market.'

There were three hundred and ninety-six (396) Bureaux de Change as at December 2014 with twelve (12) of them being inactive, while the active ones are three hundred and eighty-four (384). Three hundred and four (304), representing 79.17% of the number of active Foreign Exchange Bureaux, has submitted audited financial statements to Bank of Ghana, and the data provided indicated that total assets grew from GH¢16,521,987.02 (US$ 4,347,891.32 Equiv) in 2013 to GH¢ 13,101,209.38 (US$ 3,447,686.68 Equiv) in 2014.

There are tight controls in this sector and this is seen in the regular site visits conducted by supervisory team from BOG, and the need to file periodic returns on the sale and purchase of foreign currencies. Among the regulatory requirements stipulated by Bank of Ghana which ought to be met by all Bureaux de Change is the mandatory FOREX deposit requirement.

The Bureaux de Change transacts business domestically but their clientele is mostly non-resident persons. In 2013, purchases and sale of foreign currencies amounted to GH¢ 507,179,388.38 (US$133,468,260.10 Equiv) and GH¢606,350,510.82 (US$ 159,565,923.90 Equiv) respectively, with a 19.55% and 18.53% respective rise in both purchases and sales for 2014. Bureaux de Change business is mostly over-the-counter and requires a high volume of cash. Cheques and bank transfers are not preferred in changing of money.

The Bank of Ghana is in the process of ensuring compliance by all Bureaux de Change to computerize their operations. However, the department faces a challenge of appropriate software to give electronic notification to Bureaux de Change upon submission and receipt of monthly prudential returns to the Bank of Ghana. The overall vulnerability rating for this sub-sector of the OFI sector is medium high with a score of 0.60.

The Remittance Service Providers operate both local and international money transfer services and the transactions are cash intensive. There was no information to the effect that an STR has been filed by any of the service providers even though transaction monitoring is high. Customers who patronise this service undergo significant CDD and KYC prior to the receipt or transfer of funds.

The Remittance Service Providers have a medium vulnerability to ML with a score of 0.45 because although suspicious transactions are not reported there are AML/CFT regulations and guidelines.

EMIs and Agents operate within a legal framework and their activities are supervised by BOG. This legal framework governs the activities of the service providers and stipulates the KYC requirements and the transaction threshold. Per the Bank of Ghana guideline on the issuance of e-money, customer e-money accounts, have been categorised in three levels as part of a risk-based approach to KYC. Minimum KYC accounts, intended as a first step towards financial inclusion for the unbanked, are subject to very low transaction limits and correspondingly low documentation requirements, while Medium KYC accounts have intermediate transaction limits and documentation requirements and Enhanced KYC accounts give access to high limits but come with bank grade account opening requirements.

The e-money providers have a medium vulnerability to ML with a score of 0.55 because suspicious transactions are not reported but there are AML/CFT regulations and guidelines.

The Black Market is an informal and unregulated illegal market where the exchange of money is finalised underground with no documentation. This service is used by people in the formal and informal sector, and the transactions are relatively faster. There are no questions asked on the purpose of the purchase or sale of transaction and there is also no ceiling on the volume of transactions. There are no statistics on the asset size in this market as well as the volume of turnover.

The Black Market with a score of 0.96 is highly vulnerable to ML because there is no regulation governing the activities of the operators and the transactions involve the use of cash. The black market activities are also uncontrolled and they remain unidentified, thereby making visits and inspections impossible

The Underground Remittance system operates outside the traditional banking and financial system which facilitate the process of remitting funds. This underground remittance system is also called Hawala. This medium of remitting funds relies heavily on trust and is very fast with no transaction limits with regard to how much can be remitted. There are no statistics on the asset size in this market as well as the volume of turnover.

The Underground Remittance with a score of 1.00 is highly vulnerable to ML because there are no regulations governing the activities of the Hawala operators and the transactions, which are very frequent in nature, are made solely on cash basis.

The industry has a Very High vulnerability to ML/TF with a rating.

| |
|---|
| M/L vulnerability was rated at **Medium** |

## DNFBPS VULNERABILITY SECTOR:

DNFBPs have been described in the first schedule (section 21) of the Anti-Money Laundering Act, 2008 (Act749), as amended, as an "Accountable Institution" operating in the following sectors of Ghana:

Real Estate Agencies, Operators of Game of Chance (casinos), Dealers in Precious Metals, Accountants, Lawyers, Notaries, Car dealers, Non-profit Organisations, Trust and Company Service Providers and Remittance of Exchange of Funds.

Their total contribution to the growth of the Ghanaian economy is significant. The Statistical Services of Ghana estimates that DNFBPs contribute about 30% to the Gross Domestic Product of Ghana. They employ about 25% of the population and contribute substantially to the tax revenue of Ghana.

The Real Estate Market is possibly the largest DNFBP in Ghana. The sector is governed by an Association called Ghana Real Estate Developers Association (GREDA) which is a voluntary association, backed by an Act but without powers to discipline members. The real estate sector is vulnerable due to lack of regulations in the industry, ineffective supervision and monitoring of industry players, ineffective due diligence performed on persons/entities and more critically the source of funds before transactions are sealed.

As at December 2014, there were seventeen (17) Casinos registered in Ghana. All seventeen (17) registered casinos are owned by foreigners, mostly Chinese and Lebanese, and are patronised largely by foreign nationals operating in the Ghana. Only a small number of the Ghanaian population patronise such casinos. This sector is also vulnerable due to the same reasons stated in the real estate sector.

The Precious Mineral sector is regulated by the Minerals Commission which was established under Article 269 of the 1992 Constitution and the Minerals Commission Act 1993 (Act 450). Its main role is to promote and regulate the minerals sector in Ghana.

In spite of all the legal, institutional, regulatory and supervisory frameworks, the industry continues to remain vulnerable to ML/TF risks. Indeed, a large number of reported cybercrime cases, is related to gold scams through various schemes. A number of foreigners continue to succumb to gold scams in Ghana and the scammers continue to employ new and sophisticated methods to defraud unsuspecting victims. Similarly, criminals and other corrupt officials see this sector as a good investment for tainted funds due to the lack of enforcement or application of AML/CFT measures.

The Institute of Chartered Accountants, Ghana (ICAG) is a professional accountancy body established by the Chartered Accountants Act 1963, (Act 170). As at December 2014, there were 420 registered professional accountants, 80 accounting firms and 40 auditing firms in Ghana. The Institute of Chartered Accountants, Ghana, is the regulatory body of all accountants in Ghana.

In 2011, there were about 2,500 lawyers in Ghana. The General Legal Council (GLC), under the Legal Profession Act 1960 (Act 32), sets standards for the regulation of professional conduct, and also organise legal education for all lawyers. The Ghana Bar Association is the body that regulates the activities of all lawyers in Ghana.

In both professions, there are no provisions in their laws to compel them to comply with the AML/CFT measures .It is a known fact that a lot of transactions are concealed by members of this profession and no effective due diligence is conducted.

There are a number of car dealers who are in the business of buying and selling of cars in Ghana. There are two categories of car dealers in Ghana; those which are authorised official and exclusive dealers in vehicles of several international brands, and those in the second hand car selling market. There are a lot of cash transactions involved in buying second hand cars in Ghana thus making it highly susceptible to money laundering risks.

According to the Department of Social Welfare, there are 6,290 NPOs registered in Ghana. NPOs in Ghana include Civil Society Organisations; Such NPOs qualify to access public funds, be it from external donors or the government, and/or benefit from tax exemptions and account for their usage in their operations in the non-profit sector. The lack of appropriate IT infrastructure, low capacity of law enforcement agencies, no guidelines to control and monitor the sector, No powers to enforce sanctions, Low knowledge in AML/CFT, Weak or non-existence of institutional frame work, identified in this sector.

| |
|---|
| M/L vulnerability was rated at **Medium** |

The DNFBP sector is rated 0.84 making it highly vulnerable ML/TF risks.

The issue of mobile money has been addressed elsewhere in this document but a key area of concern is the ease with which mobile numbers can be ported. This poses a challenge when dealing with criminals.

The National Communication Authority (NCA) requires internet services providers to retain some amount of information about their users. This is not enforced and remains a challenge.

The issue of who regulates the mobile money phenomenon is important. Is it the Bank of Ghana or is it NCA? There are some reported fraud cases in the mobile money platform. We may have to recommend a single entity to oversee and regulate this emerging area.

## PRIORITY AREAS

The main priority areas (in order of highest ranked in terms of vulnerability) which the state authorities and the stakeholders are required to improve are as listed below:

## A) SECTORS:

- DNFBPs
- Other financial institutions
- Securities
- Insurance
- Financial inclusion
- Banking Sector

## B) NATIONAL COMBATING ABILITIES:

- Capacity of Financial Crime Investigators
- Capacity of Asset Forfeiture Investigators
- Capacity of Prosecutors
- Capacity of Presiding Officers
- Integrity of Financial Crime Investigators
- Integrity of Asset Forfeiture Investigators
- Tax Disclosure
- Domestic Cooperation
- Criminal Penalties
- Identification Infrastructure
- Audit and Accounting Practices
- Financial Integrity
- Integrity of Prosecutors
- Independent Information Sources
- Corporate and Trust Transparency
- STR Data Analysis
- Informal Economy
- Integrity of Presiding Officers
- Asset Forfeiture Orders

- Asset Forfeiture Laws
- International Cooperation in Asset Forfeiture
- Policy and Implementation
- International Cooperation in Criminal Investigation and Prosecution
- Criminalisation of ML

### 1.2.2 NATIONAL VULNERABILITY -CONCLUSION

M/L prosecutors and investigators have identified some areas that impede the progress or success of cases:

1. Slow response to Ghana's MLA requests
2. Unwillingness of foreign counterparts to bring witness forward for video link interviews- especially where sums of money are minor
3. Fulfilling the dual criminality requirement is sometimes difficult in MLA matters even though the principle of reciprocity (as in extradition matters) should be applied regardless.
4. Section 69 of the EOCO Act does not deal with civil confiscation adequately. There is the need for change in this area. It is an impediment to successful stand alone confiscation orders.
5. Asset sharing agreements are required in MLA matters to incentivise both sides.
6. Asset Management Office is recommended and sections 44 and 45 of the EOCO Act have been identified for amendment.
7. There is a prevailing view that the judges tend to use Articles 18 and 19 of the Constitution arbitrarily, in asset forfeiture cases. That there is an uneven preoccupation with human rights as opposed to the national or public interest.
8. The Bank of Ghana directive on the import and export of cash is unclear as to what to do with monies in excess of the $10,000 threshold. It is also unhelpful that GRA officers have been given the mandate by BoG to supervise the detention of cash at the borders. It has been noticed that there is an inconsistency in the application of the existing rules.
9. Criminal penalties for non filing of tax are nonexistent.
10. The National Communication Authority (NCA) requires internet service providers to retain some amount of information about their users. This is not enforced and remains a challenge for investigators.

### 1.2.3 NATIONAL VULNERABILITY RECOMMENDATIONS

It is clear that there is the need to coordinate efforts among all stakeholders both public and private sectors to combat the risks of money laundering /terrorist financing.

The following has been recommended for action.

1. Creation of a specific training programme for LEAs in the various specialised areas of financial crime investigations.
2. Capacity of financial crime investigators, prosecutors and indeed all LEAs must be enhanced.
3. There should be adequate funding to support the fight against ML/TF.
4. Inter-agency collaboration should be encouraged and enhanced.
5. There should be effective implementation of Asset Forfeiture laws and regulations.
6. Create a single infrastructure platform to capture the true biometrics of all persons resident in Ghana.
7. Amend laws in the financial institutions sectors to compel them comply with AM/CFT regime.
8. Establish an Asset Management Office to manage property seized and confiscated in order to obtain the economic benefits from it.
9. Remuneration should be competitive to attract qualified persons into the arena of financial crime investigations and prosecutions.
10. The sanctions regime should be punitive.
11. Enhanced tax auditing, monitoring, investigation and administration to punish tax defaulters punished severely

## 1.3 BANKING SECTOR ASSESSMENT

Ghana's financial system is based on a number of banks and non-bank financial institutions. The Bank of Ghana (BOG) is the country's Central Bank and is responsible for the formulation, implementation and control of monetary policies. The Banking sector shows considerable knowledge and compliance but this should be assessed in the light of Ghana's large informal or cash based economy.

The Banking Sector is generally considered vulnerable to Money Laundering and Terrorist Financing due to; its size and importance, its relative large number of clients, legitimacy of transactions coming from the sector, and the many domestic and international transactions which pass through the Sector.

Thus the vulnerability of the sector to money laundering and terrorist financing risks arises from products and services offered by the sector and other general indirect factors such as regulations, supervision, Bank staff integrity, enforcement actions, identification infrastructure, compliance function, etc.

Overall Assessment of the Banking Sector vulnerability to Money Laundering and Terrorist Financing risks in Ghana is assessed to be **Medium Risk Level**, with a score of **0.63** (on a scale of 0.0 – 1.0). [11]

There is preventive Anti-Money Laundering and Combating Terrorist Financing (AML/CFT) measures (laws, regulations and guidelines) in the sector to mitigate this risk. However, in future, strong implementation must be the focus of the regulator and the FIC. There are requirements for Banks to identify high risk clients such as Politically Exposed Persons (PEP), and high risk transactions and carry out enhanced due diligence on them. Banks are also required to carry out due diligence to identify ultimate beneficial owners (UBOs) of transactions and other relationships.

Some of the most vulnerable products and services of the Banking Sector include; Current Account Products, Foreign Exchange Account Products[12], Savings Account Products, Trade Finance Services, Private Banking, Investment Accounts, and International Money Transfers.

Geographically, the Greater Accra Region, Ashanti Region and the Western Region are considered to be the most vulnerable regions to Money Laundering, whereas the three Regions in the north and Greater Accra Region are considered the most susceptible to terrorist activities and financing.

The prevalence of huge cash transactions in the Banking Sector makes the sector vulnerable to the threats of money laundering as cash transactions do not always carry record of actual sources, owner and legitimacy. The improper address system also makes it difficult for banks to verify clients' residence and business addresses as part of their due diligence.

Another area of concern is the current banking practice that says banks do not necessarily file cash transaction reports (CTR) if an inter bank transfer is being made or even file a suspicious transaction report (STR)where the deposit is placed into a corporate account.

The Banking sector operates within a fairly and relatively strong regulatory and supervisory environment.

However, areas that need to be strengthened include enforcement of AML/CFT obligations by the BOG through administrative sanctions, commitment to good corporate governance, identification infrastructure as well as, the availability of independent information sources to assist the Banks improve their CDD/KYC processes.

### 1.3.1 BANKING- QUALITY OF AML CONTROLS

### 1. AML/CFT LAWS AND REGULATIONS (PREVENTIVE MEASURES)

[11] Refer to Annexe 3

[12] http://citifmonline.com/2015/12/18/bog-to-sanction-banks-over-misclassification-of-foreign-currency-accounts/?wiziapp_display=categories

The AML/CFT laws and regulations as a general input variable are used to assess whether Ghana has adequately designed laws and by-laws concerning money laundering prevention measures and supervision, with the aim of significantly reducing money laundering/terrorist financing risks.

In making the assessment, the adequacy of laws and regulations relating to the prevention of money laundering/terrorist financing were taken into account, as well as their compliance with relevant International Recommendations and Standards (FATF 40 Recommendations, Basel Core Principles for Effective Banking Supervision and Basel Customer Due Diligence Paper).

*Score and Basis of Assigning Score*

The degree to which the AML laws are compliant with international standards is rated **medium high** which indicates a high level compliance.

Ghana has enacted relevant and adequate laws and regulations against money laundering and terrorist financing (ML/FT). The prevention of ML/FT in the Banking Sector in Ghana is governed by the Anti-Money Laundering Act, 2008 (Act 749), Anti-Money Laundering (Amendment) Act, 2014 (Act 874), Anti-Money Laundering Regulations, 2011 (L.I. 1987), Anti-Terrorism Act, 2008 (Act 762), Anti-Terrorism (Amendment) Act 2014 (Act 875), Anti-Terrorism Regulations, (L.I. 2181), Economic and Organised Crime Office Act, 2010 (Act 804) and Economic and Organised Crime Office (Operations) Act, 2012 (L.I. 2183).

According to the Mutual Evaluation Follow-up Report (November 2014) of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) the AML/CFT regime of Ghana is largely in compliance with relevant FATF Recommendations. The laws and regulations are also in compliance with relevant Basel Core Principles as well as the Basel Customer Due Diligence Paper.

## 2. THE QUALITY OF SUPERVISION REGARDING THE PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING

This variable was used to assess whether Ghana has a comprehensive supervision regime regarding the prevention of money laundering and terrorist financing that is supported by appropriate powers, personnel and other resources available to the supervisory authority.

The subject of assessment is whether in Ghana there is a comprehensive structure of supervision of banking operations in the AML/CFT field that has adequate resources and a high level of compliance with the requirements of the supervisory authority regarding money laundering risk management.

*Score and Basis of Assigning Score*

The quality of supervision regarding the prevention of money laundering and terrorist financing is rated **medium high** indicating high level of quality of supervision.

The rating is justified with the following reasons.

AML/CFT supervision in Ghana is conducted by the Financial Integrity Office, a dedicated Unit of the Bank of Ghana for ensuring that banks and non-bank financial institutions

(NBFIs) in the country are compliant to the requirements of the AML/CFT regime. The Office employs a risk-based supervision methodology, consistent with relevant FATF Recommendations, which comprises on-going off-site surveillance of licensed entities and on-site examinations when warranted.

This is a periodic review of Banks' annual compliance/training plans, compliance activity reports, risk self-assessment questionnaires, ML/TF internal risk assessments, etc. to ensure that Banks comply with applicable AML/CFT statutory and regulatory requirements.

The Office also organises periodic workshops and seminars to sensitize staff of banks and NBFIs on emerging AML/CFT issues. The Office is made up of personnel with diverse professional backgrounds e.g. legal, accountancy and finance, with some attaining the Certified Anti-Money Laundering Specialist (CAMS) professional certification. Members of staff have attended relevant AML/CFT training courses at national, regional and international levels to enhance their proficiency.

The quality of staff in the Office has contributed significantly to ensuring a high level of banks' compliance to AML/CFT laws and regulations and the control of money laundering and terrorist financing in the country.

## 3. MARKET PRESSURE TOWARDS ADHERENCE TO THE AML/CFT STANDARDS

This variable is used to assess whether the market factors exert pressure on bank management structures to adhere to the standards regarding the prevention of money laundering. It is used to consider the pressures existing outside the national legal and supervisory regime, e.g. the pressures originating from commercial partners, such as correspondent banks.

### *Score and basis of assigning score*

A market pressure towards adherence to AML/CFT standards is scored **medium** indicating a medium level of market pressure towards adherence to the standards.

Financial institutions in Ghana operate 'Nostro' accounts with international financial institutions to facilitate transactions outside Ghana. Pursuant to the FATF Recommendations, international financial institutions are required, prior to establishing correspondent banking relations, to take enhanced due diligence or 'know-your-correspondent' measures by requiring banks in Ghana to provide prescribed data, information and documents for review and clearance. In this regard, banks are expected to complete the Wolfsburg Questionnaire and indicate evidence of compliance with the US PATRIOT Act, and other relevant sanctions systems such as the SWIFT Sanctions Screening System.

The relevant information required to be submitted to support the due diligence process include operating license, description of procedures relating to the prevention of money laundering and terrorism financing, declaration that it is not a shell bank and that it does not do business with shell banks, supervision statements and any relevant information.

With respect to Money and Value Transfer Services (MVTS), relevant FATF Recommendation requires any natural or legal persons working as agents to be licensed or registered by a competent authority, and that MVTS providers should make their current lists of agents accessible to competent authorities in the countries in which the MVTS provider and its agents operate. In Ghana MVTS providers who use agents are required to include them in their AML/CFT programmes and monitor their compliance.

## 4. COMMITMENT TO GOOD CORPORATE GOVERNANCE

Commitment to good corporate governance assesses whether managements of banks are highly committed to the principles of corporate governance in their banks. An effective corporate governance practice promotes a high level of compliance with the international standards, as well as national laws and regulations are necessary to achieve and maintain the public confidence in the financial sector.

*Score and basis of assigning score*

Commitment to good corporate governance is scored **medium** indicating a high level of corporate governance in the banking sector of Ghana.

Banks in Ghana are held to high corporate governance standard. To this end all Board members and key management personnel must pass Bank of Ghana fit-and-proper test. Board members must generally be qualified for their positions, and have clear understanding of their role in corporate governance and ability to exercise sound judgement over the affairs of the bank. The AML/CFT regime requires all banks to have in place approved AML/CFT policies and internal rules and also to appoint Anti-Money Laundering Reporting Officers (AMLROs) to implement AML/CFT compliance programmes and report to the Board who should have oversight to ensure overall compliance effectiveness. The regime also requires banks to conduct independent test or audit of AML/CFT compliance to provide additional assurance as to compliance to the Board. Additionally, Bank of Ghana through its prudential supervision process ensures that banks adhere to sound corporate governance principles.

## 5. PENALTIES

Penalties as a general input variable is used to assess whether the country has appropriate sanctions in the case of non-compliance with the provisions of the AML/CFT regime as a preventive measure that is effective, proportionate and dissuasive.

*Score and basis of assigning score*

The score for Penalties variable is **medium high** indicating the availability of judicial and administrative sanctions against persons and Banks who fail to comply with AML/CFT obligations. Act 749 as amended by Act 874 provides for judicial sanctions against Banks for breaches of the AML/CFT regime, and offending persons and institutions are liable on summary conviction to fines and imprisonment, as well as administrative sanctions, (Section 39(5) of Act 874, by the supervisory authority against Banks. Bank staffs are generally aware of the consequences of non-compliance with the AML/CFT regime, internal AML/CFT rules and procedures, as well as findings and recommendations of AML/CFT

examinations. However, it came to light during the NRA exercise that supervisory authorities have not yet applied monetary penalties against Banks for AML/CFT infractions.

## 6. ENFORCEMENT OF AML/CFT OBLIGATIONS

This variable is used to assess whether Ghana takes criminal enforcement actions against banks or individuals or representatives of bank management in the case of non-compliance with their obligations under the AML/CFT regime.

*Score and basis of assigning score*

The score of enforcement of the provisions of the AML/CFT regime arising from the anti-money laundering regulations is **low** which indicates low level of enforcement of the regulations.

Generally, management and staff of banks in the Ghana are aware of the legal liability of non-compliance or breaches of the AML/CFT regime. Presently there are no records of actions taken against bank staff and management with regard to infractions of the AML/CFT regime. Perhaps supervisory authorities have not yet identified any infractions or none existed.

## 7. BANK STAFF INTEGRITY

This variable is used to assess whether bank officers act with integrity. When bank officers are in collusion with criminals or are under the influence of corruption, they undermine the measures regarding the prevention of money laundering, so banks become vulnerable to money laundering risks.

When assigning the score regarding the integrity of bank officers, account was taken of the frequency of fraud reports involving bank staff to the regulator.

*Score and basis of assigning score*

The integrity of banks staff is rated **high** indicating staff integrity of banks in Ghana is high with respect to detection of money laundering attempts. Experience from on-site supervision indicates that background checks are thorough including a no objection clearance from Bank of Ghana, before senior level staff are employed. This has contributed to the high level of integrity of staff in the banking sector. Fraud reports available to the Bank of Ghana indicates that the number of bank staff involved in fraud is low.

## 8. BANK STAFF KNOWLEDGE

This variable assesses whether officers of banks have adequate understanding of their obligations and duties regarding the prevention of money laundering and terrorist financing.

When assessing the knowledge of the bank officers, account was taken of the quality of training material, training frequency and level, as well as the type of personnel receiving the training.

*Score and basis of score*

Bank staff knowledge regarding the prevention of money laundering/terrorist financing is scored **medium high** and indicates average level of knowledge regarding the understanding of their obligations of the AML/CFT regime. Supervisory experience generally indicates that bank staff is quite well exposed to relevant AML/CFT courses. Review of training materials of banks indicates that content of training materials are relevant and adequate and includes identification of threats and vulnerabilities, money laundering 'red flags' and suspicious transactions, trade based money laundering typologies, AML regulations and offences, Record keeping and retention, Customer Due Diligence procedures, money laundering typologies and other emerging risk related to money laundering. Supervisory experience also indicates that training cuts across all categories of staff from front desk officers to back-office staff and Board Members.

## 9. COMPLIANCE FUNCTION

This variable assesses whether the banks have an effective function of compliance with the anti-money laundering regulations that enabled a high level of compliance with the standards in the whole banking sector. It was also considered whether the function of compliance with the AML/CFT regime is consistent with the relevant international standards and Recommendations.

*Score and basis of score*

The score of the extent to which the banks have effective functions of compliance with the AML/CFT regime of **medium high** indicating a modest level of compliance function with regard to ensuring compliance with the AML/CFT regime. Banks in Ghana have appointed compliance officers to ensure compliance with respect to AML/CFT. Ghana's AML/CFT regime requires, and is consistent with the relevant FATF Recommendation, that banks develop programmes against money laundering and terrorist financing. Such programmes should include:

- The development of internal policies, procedures and controls, including appropriate compliance management arrangements, and adequate screening procedures to ensure high standards when hiring employees.
- An on-going employee training programme.
- An audit function to test the system

The regulations require Banks to submit their compliance programmes to Bank of Ghana and Financial Intelligence Centre not later 31st December of every financial year. Experience indicates that though most banks have developed adequate internal rules, policies, procedures and controls for AML/CFT, some gaps still remain. Most AMLROs are not at top management level. Some Banks did not have their Compliance Function as

separate and independent department and staffing was not adequate, given the nature, scope and size of their operations.

## 10. BANK'S MONITORING, DATA COLLECTION & RECORD KEEPING SYSTEMS

This variable is used to assess whether banks have appropriate information systems to support their anti-money laundering policies and procedures.

*Score and basis of score*

The extent to which banks in Ghana have adequate information systems for record keeping and monitoring regarding the prevention of money laundering is scored **medium** which indicates an average level of information systems for record keeping and monitoring. Supervisory experience indicates that over 90% of banks in Ghana have automated AML tools that allow real-time monitoring and reporting of large and unusual transactions based on specified indicators for the identification of suspicious transactions. These tools support an effective screening of potential customers at on-boarding stage in order to identify designated individuals and entities on sanctioned lists. Almost all Banks in Ghana do have systems for monitoring unusual transactions and identifying high risk individuals and entities. It has been observed from examination experience, with respect to record keeping, that just a few banks have difficulty with the prompt retrieval of information on demand by supervisory authority.

## 11. CORPORATE AND TRUST TRANSPARENCY

This variable is used to assess whether it is easy for criminals to hide their shares and ownership rights in legal entities, trusts and similar businesses.

*Score and basis of assigning score*

Corporate and trust transparency is **medium** showing a medium-high level of corporate and trust transparency in Ghana. Operating trust accounts and businesses in Ghana is not illegal. However, the rules and regulations in Ghana require the identification of beneficial ownership of trust accounts and businesses. The AML/CFT regime and the relevant FATF Recommendations require financial institutions to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. Experience from on-site inspection indicates that banks are largely compliant in respect of establishing the ownership and control structures and determine the natural persons who ultimately own and control legal entities. Independent public sources including the Registrar General's Department (RGD) and the Credit Reference Bureaux of identifying and verifying individuals and entities are available but the processes are slow and most banks are reluctant to seek information from these sources.

## 12. IDENTIFICATION INFRASTRUCTURE

This variable is used to assess to what extent the banks are able to perform customer identification and verification using reliable, independent source documents, data or information. It is considered that the existence of good identification infrastructure

contributes to preventing the use of counterfeit documents and false identities, which hinder the implementation of customer due diligence measures.

*Score and Basis of Score*

Identification Infrastructure is scored **medium** indicating the extent to which banks have infrastructure to establish identity of individuals and entities. Banks are required to verify the identities of individuals and legal entities before business relationships are established consistent with the relevant FATF Recommendation. Banks are capable of verifying various IDs used in establishing business relationships with banks through online infrastructure. The IDs that are used in Ghana to open bank accounts are Government-issued photo-bearing IDs and include the Voter ID, passports, Drivers' License, National Health Insurance Card, and National Identification Card. All Banks are capable of verifying the Voter ID, NHIS Card and passports online. Currently banks are incapable of verifying the Drivers' License and the National ID even though some of the banks accept them for purpose of opening accounts.

### 13. AVAILABLE INDEPENDENT SOURCES

This variable is used to assess the availability of independent, reliable information sources in identifying customer transaction patterns. The customer due diligence measures are conducted more easily and better if there are available sources of comprehensive, reliable historical data and other data on customers that may be used in identifying their transaction patterns and commercial history, such as the data in the possession of credit reporting bureaux, information on previous transactions with banks, availability of public company information.

*Score and Basis of Score*

The score for this variable is **low medium** indicating a medium level of availability of independent sources. Comprehensive, independent sources of information for banks customers and patterns of transactions in Ghana are limited. The credit reference bureau is one source to obtain historical data on clients. Banks largely patronise this data to obtain credit history of clients. The extent to which the bureaux are used to obtain information for AML/CFT purposes is not clear.

A web-based system linked to the Ghana Electoral Register is another independent and reliable source data that is used by banks to verify identity of clients at on-boarding stage.

The Registrar General's Department that is responsible for registering legal entities is also an important independent and reliable source of data that banks rely on to verify the identity of beneficial owners of corporate entities. The shortcoming is that the processes of identification and verification are slow.

## 1.3.2 PRESENTATION OF ANALYSIS AND FINDINGS OF SELECTED PRODUCTS/SERVICES

The analysis and findings (results) of specific selected products/services are provided below. This shows the product/service's vulnerability score, and its interpretative level, and

reasons represented by the variables accounting for the score. It was based on data analysed, responses to questionnaires, and knowledge and experience of the Assessors.

The analysis showed that Current Account product was the product with the highest vulnerability score of a **medium high** risk level. This is particularly so since it is the product that is most commonly used by both individuals and entities. Almost all international transfer flows occur through current accounts.

The second most vulnerable product is Foreign Exchange Account. This product is popular with most corporate and individual clients who are exposed to international market and business. The 3rd most vulnerable product is Savings Account Product, patronised mostly by individuals.

Below are presentations of Individual product/service's scores and analyses:

## 1. INTERNET BANKING

This product has vulnerability score of **low.**

The reason for the score

The reason for this was based on an analysis of data and responses received for administered question, as well as professional experience and knowledge of assessors[13].

The volume and average transaction size of this product are generally low. However, clients from offshore jurisdictions, PEPs, and high net worth individuals and mostly retail customers present moderate ML/TF risk in terms of client profile. Cash activity in this product generally does not exist and there is availability of domestic but not international money transfer in the product. Some respondent Banks said some of the product's transactions occur in offshore, tax haven jurisdictions. The product does not allow anonymous or omnibus transactions, and there is low availability of non-face-to-face in the product.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 2. INTERNATIONAL MONEY TRANSFER

This product has vulnerability score of **medium.**

The reason for the score

The reason for this was based on analysis of data and responses received for administered question, as well as professional experience and knowledge of assessors.

The volume and average transaction size of this product are high. This product has clients from offshore jurisdictions, PEPs, and high net worth individuals as client profile. Cash activity in the product is moderate and frequency of international money transfer in the

[13] In this report, 'assessors refer to NRA Team members who go to the field to conduct interviews and administer survey questionnaires and analyse the information they get from such exercise'.

product is quite high, thus presenting an ML/TF risk. Availability of non-face-to-face in the product, coupled with occurrence of product's transactions in offshore, tax haven jurisdictions exposes it to ML/TF risk.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures.

## 3. DOMESTIC MONEY TRANSFER

This product has vulnerability score of **low medium.**

This product has high volume and average transaction size levels. Product has more retail clients than corporate clients, clients from offshore jurisdictions, PEPs, and high net worth individuals.

Availability of non-face-to-face in the product, coupled with occurrence of the product's transactions in offshore, tax haven jurisdictions exposes it to ML/TF risk.

Cash activity in this product is medium from the responses received the selected Banks for the National Risk Assessment. This is because most of the transfers are done electronically by Bank but some of the recipients receive cash.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 4. ELECTRONIC BANKING

This product has vulnerability score of **low medium.**

This product has high volume of transactions but the average transaction size is moderate. Electronic Banking in Ghana is still developing. Electronic banking service, that is mostly used by Bank clients, is ATM services. Customers use the ATMs to withdraw cash. Product has more retail clients, than corporate clients, clients from offshore jurisdictions, high number of PEPs, and high net worth individuals.

Availability of non-face-to-face exists in the product and Cash activity in this product is moderate.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 5. CURRENT ACCOUNTS

This product has vulnerability score of **medium high.**

This product has high transaction volumes and cash activity. Most Banks said the product contributes a lot to their overall business. This product has more retail clients than corporate clients even though average transaction size for the corporate clients is higher than retail clients. It also has clients from offshore and tax haven jurisdictions, PEPs, and high net worth individuals.

Availability of non-face-to-face exists and it has both domestic and international money transfer features as well as investment feature.

Majority of STR cases filed by Banks to the FIC involved use of current accounts.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 6. SAVINGS ACCOUNTS

This product has vulnerability score of **medium.**

The product has low average transaction size and moderate transaction volumes. It has more retail clients than corporate clients, clients from offshore and tax haven jurisdictions, PEPs, and high net worth individuals.

There is availability of non-face-to-face in the product and high cash activity as well as investment/deposit feature.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 7. FIXED DEPOSITS

This product has vulnerability score of **low medium.**

The product has moderate transaction volumes but very high average transaction size and prominent investment feature. The product has significant number of clients who are retail, PEPs, High net individuals and some of the clients come from off-shore and tax haven jurisdictions.

The level of cash activity in this product is moderate whilst availability of non-face-to-face is limited.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 8. CASH COLLECTION SERVICES

This product has vulnerability score of **low medium.**

The product has very high average transaction size and moderate transaction volumes. It is a service Banks render to their clients whose daily sales are cash heavy. Most of the clients are retail and semi-corporate. However, some of the clients are PEPs and high net worth individuals.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures.

## 9. FOREIGN EXCHANGE ACCOUNT

This product has vulnerability score of **medium.**

This product has moderate transaction volumes and very high average transaction size. Most Banks indicated the product contributes a lot to their overall business. This product has more retail clients than corporate clients even though average transaction size for the corporate clients is higher than retail clients. Profile of clients of this product includes clients from offshore and tax haven jurisdictions, PEPs, and high net worth individuals.

It has investment deposit feature and prominent international money transfer feature.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 10. FOREIGN CURRENCY ACCOUNTS

This product has vulnerability score of **low medium.**

This product has moderate transaction volumes and very high average transaction size. Product is predominantly patronised by corporate and semi-corporate clients. It has other vulnerable features such as clients from offshore and tax haven jurisdictions, PEPs, and high net worth individuals.

It has international money transfer feature and very limited investment deposit feature.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures.

## 11. MOBILE MONEY SERVICES

This product has vulnerability score of **medium.**

This is a relatively new but fast growing product in the Banking Industry. The Central Bank granted approval for the product as part of the latter's financial inclusion strategy. It allows most people who otherwise would not have access to banking facilities the opportunity to enjoy banking services. The product is a collaboration between Banks and the Telecom Companies (Telcos). However, the product has been seen as one that can also easily be exploited by criminals to launder money or finance terrorist activities. The product has moderate transaction volumes and relatively very small to average transaction size. It is most patronised by individuals, both clients and non-clients of Banks. There is involvement of agents in the product as part of delivery channels. There is significant cash activity in the product, and some availability of non-face-to-face.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 12. WEALTH MANAGEMENT/PRIVATE BANKING

This product has vulnerability score of **medium.**

Private banking is the provision of banking services to exclusive and mostly well to do individuals. Most of the clients are supposed to be at the high end of income bracket. However, during the NRA exercise it was observed that currently banks in Ghana have chosen to use the term private banking but are actually doing very little 'real and true'

private banking. Private Banking in the Ghanaian Banking Sector is still not fully developed.

This product is susceptible to money laundering because of calibre of people who use the product. These are influential figures, politicians, and financially exposed persons (FEPs), who could use their influence to circumvent the system to launder illegally obtained proceeds.

This product has low transaction volumes but very high average transaction size. Total deposit of the selected Banks was GH¢ 395.200,000.00 (US$ 104,000,000.00 Equiv). Most Banks indicated the product contributes less to their overall business. Product has more retail clients than corporate clients. Profile of clients of this product obviously includes PEPs, high net worth individuals and clients from offshore and tax haven jurisdictions. Clients usually patronise investment products and international money transfers.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures. Also there are requirements on Banks to apply enhanced due diligence measures on private banking clients.

## 13. MORTGAGE LOANS

This product has vulnerability score of **low medium.**

This product has low volume of transactions and very high average transaction size. Most Banks indicated the product contributes less to their overall business. The product has more retail clients than corporate clients. Profile of clients of this product includes clients from high risk jurisdictions, PEPs, and high net worth individuals as well as Ghanaians living abroad.

Though the product has very little or no cash activity, it is vulnerable to money laundering risks in general because the mortgage can actually be paid off with cash and Banks would most likely be less hesitant to refuse cash payment.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures.

## 14. TREASURY INSTRUMENTS

This product has vulnerability score of **medium.**

This product is made of government and Bank of Ghana treasury bills, Bonds, certificate of deposits and Notes. This is mainly investment product.

This product has moderate transaction volumes and very high average transaction size. Product has more retail clients than corporate clients even though average transaction size for the corporate clients is higher than retail clients. Profile of clients of this product includes PEPs, high net worth individuals, and corporate entities with excess funds.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures.

## 15. INVESTMENT ACCOUNTS

This product has vulnerability score of **medium**.

These are banking accounts other than generic accounts offered by the banks. They are designed by the banks with various beneficial offers to attract clients. Its main targets are Ghanaians abroad as well as middle class professionals. Clientele base also includes PEPs and high net worth individuals

This product has moderate transaction volumes and low average transaction size as well as availability of non-face-to-face feature.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures.

## 16. TRADE FINANCE SERVICES

This product has vulnerability score of **medium.**

This product has very significant transaction volumes and high average transaction size. Most Banks indicated the product contributes a lot to their overall business. The product is mostly used by corporate. Profile of clients of this product includes clients from high risk jurisdictions, PEPs, and high net worth individuals. Generally, there exists money laundering typology for this product (Trade based money laundering – APG Typology Report, 2012)

It has prominent international money transfer feature and very high frequency of international transfers.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures.

## 17. LOANS AND ADVANCES

**This product has a vulnerability score of medium.**

This product has high significant transaction volumes and average transaction size. The product contributes a lot to Bank's overall business. The product is patronised by equal number of retail and corporate clients. Profile of clients of this product includes clients offshore and tax havens, high risk jurisdictions, PEPs, and high net worth individuals. Cash activity is significantly present in the product since debtors and defaulters can actually pay off their indebtedness with cash.

Banks apply AML/CFT controls relative to the risk inherent in this product as part of their general AML/CFT measures.

## 18. NBFI CLEARING SERVICES

**This product has a vulnerability score of low.**

This is a cheque clearing service few Banks offer to Non-Bank Financial Institutions (NBFI) to enable clients of the NBFI receive and make cheque payments. In Ghana NBFIs are not part of the Central Bank's central clearing system (house) and so cannot directly clear their own cheques. To do cheque clearing they have to go through a licensed deposit Bank. As clients of the Banks, NBFIs also enjoy credit facilities from the Banks in the form of revolving overdrafts, and do deposit placement activities. Thus the Banks serve as quasi-correspondent banks.

Banks which engage in this service face indirect risk of money laundering and terrorist financing since they cannot verify identities of clients of these NBFIs and their source of funds. Again since the NBFIs AML/CFT controls are less stringent compared with the Universal Banks; they are seen as worthy alternatives by criminals to launder their proceeds. However, Banks have obligatory requirements to ask these NBFIs to show proof of their AML/CFT regimes before they deal with them.

The product has very low transaction volumes but very high average transaction size. The product is patronised by corporate clients some of which are PEPs, and high net worth individuals. It has prominent domestic transfer feature.

Banks apply AML/CFT controls relative to the risk inherent to this product as part of their general AML/CFT measures.

## 1.3.3 BANKING SECTOR CONCLUSION

The Banking Sector is the largest in the Financial Sector. The sector is well organised owing to the effective exercise of the regulatory and supervisory role of the Bank of Ghana over the banks. The Sector is generally vulnerable to money laundering and terrorist financing risks because of the significant role it plays in the Ghanaian economy through the various products and services offered by the Banks. Banks have AML/CFT measures in place to reduce risks of money laundering and terrorist financing. What makes the Banking Sector most vulnerable to the threats of money laundering and terrorist financing are huge cash transactions, inadequate location of customers addresses, and the fast growing mobile money activities, even though at the time of the exercise Banks indicated that mobile contributed very little to their overall business. It was discovered during the exercise that there are not enough penalties for breaches of AML/CFT measures and that the supervisory authority has not yet applied monetary sanctions against any Banks for AML/CFT infractions due to the lack of clarity on its powers to issue monetary sanctions under section 39(5) of Act 874. This confirms GIABA's 2009 Mutual Evaluation Report of Ghana and the Follow up Reports about lack of use of monetary penalties to compel and improve compliance with AML/CFT measures by Banks. Also independent information sources though were available, they were not readily and easily accessible to Banks to bolster their CDD measures.

## 1.3.4 BANKING SECTOR RECOMMENDATIONS

- Banks should be prevailed upon as part of their supervisory mandate to pay particular attention to the products/services with the highest vulnerabilities, i.e., Current Account Products, Foreign Exchange Account Products, Savings Accounts Products, Trade Finance Products, Private Banking, Investment Account Products, and International Money Transfer Services. Banks should be required to introduce AML/CFT specific controls for their products and services to improve overall ML/TF risk assessments.
- To reduce the significant threat of cash transactions, Government through Bank of Ghana should consider reducing the current 3rd party cash withdrawal limit further. Introduction of cash withdrawal limits for account holders should also be considered to facilitate Bank of Ghana's cash-light agenda. Again, Ghana should consider penalties in the form of fees, for cash transactions on graduated basis, taking into consideration cultural and uniqueness of the Ghanaian economy.
- The Government should take concrete and effective steps to improve the address system in Ghana as well as make available a centralised personal identification infrastructure that is reliable, independent and available to Banks to improve overall CDD verification procedures and thereby prevent criminals from abusing financial services.
- Bank of Ghana should ensure that compliance officers/AMLROs are part of top Management in line with Section 5, of the AML Regulations 2010, L.I. 1987, and that Banks make Compliance function separate and independent department/function.
- Government must continuously build the capacity of institutions like FIC, EOCO, and Law Enforcement Agencies to effectively discharge their duties. In this regard, Government should consider training anti-terrorist experts to deal with the global threat of terrorism and its related issues, and thus reduce if not eliminate, TF risk in Ghana.
- Bank of Ghana should apply monetary sanctions against Banks that are found to have inadequate AML/CFT controls and CDD measures to improve overall compliance with AML/CFT requirements.
- FIC should also recommend sanctions against Banks that are found to be deficient as far as the submission of STRs, CTRs and ETRs as required by the AML Act as amended.

## 1.4 SECURITIES

### INTRODUCTION

The Securities Sector in Ghana consists of the following institutions also known as Capital Market Operators (CMOs):

- Broker-Dealer firms are licensed to trade in stocks on behalf of clients and on their own accounts, and to also act as Investment Advisers for corporate bodies and individuals.
- Primary Dealers are licensed to trade in Government Securities.
- Fund Managers are licensed to manage pensions and provident funds on behalf of corporate institutions and individuals.
- Mutual Fund companies and Unit Trusts pool funds which they manage on behalf of their clients.
- Custodians and Trustees take custody of the assets of the Mutual Funds, Fund Managers and the Unit Trust schemes.

Registrars manage the register of shareholders of listed companies on the Ghana Stock Exchange (GSE).

GSE is a Self-Regulatory Organisation (SRO) responsible for trading, clearing and settlement of listed equities. They also regulate the activities of Licensed Dealing Members that trade on the exchange.

Central Securities Depository holds the database of all securities transacted within the securities sector.

As of December 2014, SEC had licensed a total of two hundred and thirteen (213) firms within the securities industry. This comprises of 105 Fund Managers, 22 Broker-Dealers, 18 Custodians, 15 Primary Dealers, 4 Registrars, 4 Trustees, 18 Unit Trusts, 24 Mutual Funds,1 Issuing House, 1 Central Securities Depository and 1 Stock Exchange.

The size of the Securities Sector in terms of GDP as at December 2014 stood at 6.9% in terms of the assets under management.

SIZE OF SECURITIES SECTOR TO GDP AS AT (DECEMBER 2014)

| | |
|---|---|
| Total Market Capitalisation | 64,352,420.00 |
| Collective Investment Schemes | 485,578,221.54 |
| Asset Under Management – Investment Advisors | 6,763,618,066.35 |

| | |
|---|---|
| Pensions | 1,130,187,429.91 |
| Corporate Bonds | 72,687,891.00 |
| Government Securities | 36,112,940.00 |
| | |
| GDP as at 31/12/2014 | US$38,580,000,000.00 |
| Exchange rate GHS3.2 to $1.00 | GH¢124,227,600,000.22 |
| Size of Sector to GDP | 6.88% |

### 1.4.1 QUALITY OF AML CONTROLS – SECURITIES SECTOR

#### REGULATING THE SECURITIES INDUSTRY IN GHANA

The Securities and Exchange Commission (SEC) is the apex regulator for the entire securities or capital market in Ghana. Its mandate also covers regulation, market development, investor education and protection. SEC also has an Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) supervisory role over "Accountable Institutions" in the securities sector in Ghana. The FIC on the other hand, monitors and gives guidance to "Accountable Institutions" and supervisory bodies such as SEC, Bank of Ghana (BOG), National Insurance Commission (NIC) and so on. Until September 1998 when the SEC was formerly inaugurated, its functions as set forth in Section (9) of the Securities Industry Act, 1993 (PNDCL 333) as amended by the Securities Industry (Amendment) Act, 2000 (Act 590) were carried out by the Governor of the Bank of Ghana. These functions are as follows:

a. Advise the Minister of Finance on all matters relating to securities industry;

b. Maintain surveillance over activities in securities to ensure orderly, fair and equitable dealings in securities;

c. To register, license, authorise or regulate , in accordance with this Law or any regulations made under it, stock exchanges, investment advisers, unit trust

schemes, mutual funds, securities dealers, and their agents and to control and supervise their activities with a view to maintaining proper standards of conduct and acceptance practice in the securities business;

d. To formulate principles for the guidance of the industry;

e. To monitor the solvency of license holders and take measures to protect the interest of customers where the solvency of any such license holder is in doubt;

f. To protect the integrity of the securities market against any abuses arising from the practice of insider trading;

g. To adopt measures to minimise and supervise any conflict of interests that may arise for dealers;

h. To review, approve and regulate takeovers, mergers, acquisitions and all forms of business combinations in accordance with any law or code of practice requiring it to do so;

i. To create the necessary atmosphere for the orderly growth and development of the capital market;

j. To perform the functions referred to in section 279 of the Companies Act 1963;

k. To undertake such other activities as are necessary or expedient for giving full effect to the provisions of the Securities Industry Law (SIL).

## AML/CFT LEGAL INFRASTRUCTURE

The SEC carries out AML/CFT & PF examinations of Capital Market Operators (CMOs) to ensure compliance with:

a. The Anti-Money Laundering Act, 2008 (Act 749);

b. Anti-Money Laundering (Amendment) Act, 2014 (Act 874);

c. Anti-Money Laundering Regulations, 2011 (L.I. 1987);

d. Anti-Terrorism Act, 2008 (Act 762);

e. Anti-Terrorism (Amendment) Act 2014 (Act 875);

f. Anti-Terrorism Regulations, (L.I. 2181);

g. Economic and Organised Crime Office Act, 2010 (Act 804) and

h. Economic and Organised Crime Office (Operations) Act, 2012 (L.I. 2183).

In the light of the above, the SEC has the responsibility to develop and enforce regulations for the Capital Market's compliance with all securities and AML/CFT legislations and impose sanctions where necessary.

## SEC AML/CFT RESPONSIBILITIES

The SEC, therefore, has the responsibility to develop and enforce regulations for the Capital Market. This involves regulating the activities of CMOs with respect to AML/CFT and prudential compliance with all securities and impose sanctions where necessary. In order to fulfil its mandate, the SEC, in collaboration with the FIC was the first supervisory body to develop and issue an AML/CFT guideline for its "Accountable Institutions" in Ghana. It was issued on 20th December, 2011 to guide CMOs to enhance their monitoring and surveillance systems with a view to preventing, detecting and responding appropriately to ML and TF risks. This document was issued in accordance with section 6(c) of the Anti-Money Laundering Act (Act 749) and regulation 38 of Anti-Money Laundering Regulations (L.I. 1987). The FIC supports national efforts at combating ML/TF activities by monitoring and giving guidance to "Accountable Institutions" and supervisory bodies such as SEC.

The SEC has also conducted training for the CMOs in respect of AML/CFT. Two CMOs invited the SEC to train its staff on AML/CFT. Areas of training included the appointment of Anti-Money Laundering Reporting Officers (AMLROs), formulation and implementation of internal rules, designing of Know Your Client (KYC) Forms, recording keeping, reporting of STRs, introduction of risk management systems etc.

In the April 2009 Mutual Evaluation Report issued by GIABA showed that SEC had not trained its staff in AML/CFT strategies. Since then SEC, has in collaboration with the FIC, embarked on training programmes for both staff and CMOs.

An AMLRO Forum has also been instituted where all the AMLROs meet bi-annually to share experiences and obtain guidance from both the SEC and the FIC. On the average, more than 60% of the target firms attend this forum.

The SEC has since 2003 required all CMOs to appoint suitably qualified Compliance Officers (CO). These COs are required to establish, maintain and enforce procedures to supervise the activities of "Accountable Institutions" to ensure compliance with the laws, regulations and directives of the Securities Industry. It must be noted that the appointment of the AMLROs is additional to the appointment of the COs even though some of COs double as AMLROs. COs are to ensure that:

a. All laws, regulations and directives issued by the SEC are complied with;

b. All prudential returns are submitted as required. These consist of monthly, quarterly, half yearly and annual returns. Areas covered in these returns include risk management activities, customer acceptance procedures, account monitoring etc. These returns constitute off-site reviews of CMOs and are analysed to identify institutions with weaknesses. These analysis form part of the decisions that inform the SEC on the institutions to focus its on-site supervision on. Non-submission of reports attract a penalty of GH¢100.00 (US$ 26.30Equiv) for every day that the default remains. After thirty (30) days of default, a license can be suspended and subsequently revoked. Penalties charged in the year 2013 including charges on non-submission, totalled GH¢86,600.00 (US$22,789.47 Equiv). This increased to GH¢324,950.00 (US$85,513.00 Equiv) in 2014.

c. The institution develops, maintains and manages a complaint register and that all complaints are resolved within thirty days (30). Complaints that remain unresolved after 30 days, are referred to the SEC for further action.

d. The CMO is prepared for onsite inspections.

SEC has shared its experiences with the Bank of Ghana and continues to work with it to enhance the supervision of the financial sector with respect to AML/CFT measures, among others. As elaborated below, the SEC as part of its supervision of CMOs conducts on-site AML/CFT inspections on a regular basis. The off-site inspection framework is under construction.

## SEC LICENSING FRAMEWORK

SEC first ensures that all applicants seeking its licenses are duly registered by the Registrar General's Department. Thereafter, it engages the services of the Criminal and Investigations Department of the Ghana Police Service and the Bureau of National Investigations (BNI) to conduct criminal background checks on applicant's Board of Directors. These checks encompass the Directors' educational, employment and criminal backgrounds. The Directors are also required to complete director's personal note form that records the assets and liabilities of all directors which can be verified. It also covers personal information and residential addresses, contact information etc.

All CMOs are required to have at least three (3) directors, the majority of whom must have relevant qualifications. They must not have been convicted of any offence involving misconduct, fraud, dishonesty, or the mismanagement of a CMO, ten (10) years before applying as a director. They must also not have been adjudged bankrupt by a court.

Each CMO must have at least three (3) licensed representatives with a minimum of two representatives at each branch office. There are penalties for operating without a license.

No person is allowed to operate capital market business without a license from the SEC. Licensing involves the test of the fit and proper status of the directors and senior management as well as detailed inspection of the premises or offices of operation. New locations for branches are also inspected before work can go on.

All SEC licenses are renewed annually.

SEC has set up a database of all fraudsters/criminals in the securities industry to guide its licensing processes. All CMOs are required by the SEC to submit details of all staff who are dismissed for misappropriation, misapplication, fraud or embezzlement of funds. SEC is discussing the possibility of sharing this information with other financial sector regulators.

**Statistics of license applications from 2012-2014**

| **Year** | **Number of license applications received by the Commission** | **Number of license applications approved by the Commission** |
|---|---|---|
| **2012** | **49** | **37** |
| **2013** | **41** | **43** |
| **2014** | **38** | **31** |

The license applications normally received by the Commission include applications for Investment Advisors (Fund Managers), Broker-Dealers, Mutual Funds, Unit Trusts, Custodians, Registrars and Primary Dealers.

## PRUDENTIAL AND AML/CFT INSPECTION

Apart from its prudential on-site inspections, the SEC conducts separate on-site AML/CFT examinations on CMOs and issues management reports. The management reports on AML/CFT examinations are submitted to the CMOs concerned for redress and copies are sent to the Financial Intelligence Centre (FIC).

SEC commenced its on-site AML/CFT inspections in 2013. Over this period, it planned to examine forty-six CMOs out of a total of one hundred and twenty eight (128) Broker-Dealers and Investment Advisers. It was able to carry out twenty-nine (29) on-site inspections as at the end of December, 2014 due to inadequate trained staff. Follow-up inspections have

been planned to commence in 2016. SEC uses an on-site inspection checklist attached as Appendix B.

Issues raised at these AML/CFT On-site Examinations of CMOs were:

- Not appointing AMLROs;
- Non-Board approved Compliance Programmes;
- Non- classification of clients of the CMOs into low, medium and high risk ;
- Lack of Independent testing of the Compliance Programmes;
- Non existence of AML/CFT Compliance Programmes;
- Non-availability of list of Politically Exposed Persons (PEPs);
- Inadequate staff training;
- Inadequate information on Know Your Client (KYC) forms such as sources of clients funds.

Off-site inspections have not yet been conducted. However, on-site inspections have been carried out.

There has been no imposition of administrative sanctions since the inception of the AML/CFT on-site visit in 2013 to present.

Section 39(5) of the Anti-Money Laundering (Amendment) Act 874 gives the SEC as a supervisory body the power to impose administrative sanctions. The SEC is currently studying that provision of the law so as to design an administrative sanction regime that is effective, proportionate and dissuasive. The option is to go to court; a measure the SEC is yet to avail itself of. The SEC is reviewing its law to accommodate AML/CFT directly.

**Statistics on On-site Inspection**

| **Year of visitation** | **Number of institutions visited** | **Deficiencies encountered** |
|---|---|---|
| **2013** | **5** | **No AML/CFT Compliance Programme; non-classification of clients into low, medium and high; no independent testing of AML/CFT Compliance Programme.** |

| | | |
|---|---|---|
| **2014** | **16** | **No AML/CFT Compliance Programme; non-classification of clients into low, medium and high risks; records of staff training materials were not available; no list of PEPs ; KYC Forms did not feature sources of clients funds; incomplete KYC Forms ; No independent testing of AML/CFT Compliance Programme.** |
| **2015** | **6** | **No AML/CFT Compliance Programme; non-classification of clients into low, medium and high; no independent testing of AML/CFT Compliance Programme; non-availability of PEP list; non-availability of training programmes.** |

## AML/CFT OBLIGATIONS OF CMOS

A summary of AML/CFT obligations of CMOs under the AML/CFT law and regulations are:

a. Formulation and implementation of AML/CFT internal rules

b. Appointment of AMLROs

c. Development of KYC/CDD policies

d. Record Keeping

e. Development of risk management systems including the development of a system to check PEPs, correspondent banking relations and other high risk clients and businesses.

f. AML/CFT training for staff

g. Clients verification and identification

h. Filing of STRs

i. Independent testing of AML/CFT Compliance Program

This consists of two types of variables, namely, the AML control variables and inherent vulnerability variables.

The AML control variables apply to the entire securities institution type, and also relate to the quality and effectiveness of the AML controls. The inherent vulnerability variables relate to the specific securities institution types and users.

## 1. COMPREHENSIVENESS OF AML LEGAL FRAMEWORK

This variable assesses whether Ghana has comprehensive laws and regulations regarding AML preventive measures and AML supervision for the securities institution.

The variable is assigned a rating of **medium high** because Ghana's AML Legal Framework generally conforms to FATF 40 Recommendations and this has been confirmed by GIABA's Mutual Evaluation Follow-up Report(November,2014). However, the Securities Industry Law (SIL) which was passed in 1993, does not mention AML/CFT. The current bill placed before the Parliament of Ghana, has a section on AML.

## 2. EFFECTIVENESS OF SUPERVISION PROCEDURES

This variable assesses the effectiveness of AML supervisory procedures and practices in securities institutions.

A rating of **low** was assigned to this variable because there is inadequate supervisory framework, which are lack of risk-based supervision, inadequate trained staff to take on on-site/off-site inspections and monitoring. There are two hands-on staff covering about 125 institutions. Legal framework exists, however, exercising of supervision, is weak due to resource constraints.

## 3. AVAILABILITY AND ENFORCEMENT OF ADMINISTRATIVE SANCTIONS

This assesses whether Ghana has a range of effective, proportionate, and dissuasive administrative sanctions applicable to natural or legal persons in cases of noncompliance with AML laws and regulations.

A rating of **low** was assigned to the variable on the grounds of lack of administrative sanctions for non-compliance with AML/CFT obligations.

The amended law gives the SEC the authority to sanction. However the AML/CFT laws and regulations are new and most of the institutions are under training to be able to grasp the AML/CFT concepts properly. Hence a grace period was given before the application of sanctions could commence. This is to ensure that capacity of staff within the industry is built.

## 4. AVAILABILITY AND ENFORCEMENT OF CRIMINAL SANCTIONS

This variable aims to assess whether Ghana has a range of effective, proportionate, and dissuasive criminal sanctions, which are applicable in cases of noncompliance with AML laws and regulations.

The rating assigned to this variable was **low** in that there are few convictions and enforcement action by law enforcement authorities regarding non-compliance.

## 5. AVAILABILITY AND EFFECTIVENESS OF ENTRY CONTROL

This variable assesses the availability and effectiveness of entry controls (including licensing, registration, or other forms of authorisation to operate).

A score of **medium high** was assigned to this variable because SEC has instituted rigid entry controls which have been captured in detail in this report.

Criminal investigations of the background of the directors of such companies are conducted. Among these are scrutinizing directors' educational background, employment history as well as checking the directors' personal records in terms of assets and liabilities before licenses' are issued. However, considerations would be given to check the background of important shareholders and senior management staff of such companies. The SEC is keeping a list of people who have committed fraud in the industry to check if they are re-emerging. The SEC is also considering checking with other financial institutions on the background of the directors of the companies to be licensed.

## EXTRACT FROM THE NEW SECURITIES INDUSTRY LAW

The Securities Industry Act, 1993 (PNDCL 333) was enacted in 1993 to provide a legal framework to regulate the securities industry and other related matters. It was subsequently amended by the Securities Industry (Amendment) Act, 2000 (Act 590). It has, however, become necessary to further amend the Securities Industry Act, 1993 (PNDCL 333), in accordance with international standards and best practices, and also in conformity with the principles and obligations of the International Organisation and Securities Commission (IOSCO), which are aimed at addressing the weaknesses in the existing laws and for an effective implementation of the activities of securities.

The enactment of the law will remove the regulatory overlaps, plug the loopholes in the existing law, and remove the provisions that are obstacles to the development of the securities market.

The Law will ensure compliance with IOSCO objectives and principles, in respect of Multilateral Memorandum of Understanding, and qualification requirements to make the legal framework for the securities industry robust enough to accommodate all forms of securities presently and in the future.

The Bill will also strengthen the operational independence of the Commission for an effective and efficient regulation of the securities industry in Ghana.

### a. Integrity of Staff in Securities Firms

This variable assesses whether staff in securities firms act with integrity.

An assessment score of **medium** was assigned to this variable because reports of collusion between staff working in the securities institutions and criminals are few and far between. The SEC is putting together statistics on criminal activities including ML cases against staff in securities firms.

### b. AML Knowledge of staff in securities firms

This variable assesses how well staff in securities firms know and understand their AML duties and responsibilities.

A score of **low medium** was allotted to this variable because there is inadequate statistics and information on staff training activities as revealed by the SEC's AML/CFT On-site inspections.

### c. Effectiveness of Compliance Function (organisation)

This variable assesses whether securities firms have effective compliance function that is comprehensive, risk-based, and well resourced, with independent AML compliance function.

A rating of **low medium** was given to the variable because SEC's AML/CFT On-site findings have established that securities firms AML/CFT Compliance Programmes are not based on their assessed ML/TF risks. Also, some gaps such as appointment of AMLROs at Senior Management positions, audit testing of AML/CFT Compliance Programmes and capacity building of the AMLROs must be addressed.

### d. Effectiveness of Suspicious Activity Monitoring and Reporting

This variable assesses whether securities firms have effective and appropriate systems for record keeping, monitoring, and STR reporting to support their AML policies and procedures.

The variable was allocated a score of **low** because securities firms had filed eight (8) STRs with FIC since 2012. This could be attributed to ineffective systems for monitoring and reporting STRs.

### e. Level of Market Pressure

This variable assesses the extent to which market forces exert pressure on the managements of securities firms to have effective AML compliance function.

A rating of **low** was assigned to this variable because most of the securities institutions are not only local but are also affiliated to very few local banks and international companies that will put pressure on them to comply with AML/CFT requirements.

#### *f. Availability and Access to Beneficial Ownership Information*

This variable assesses whether it is easy for criminals to hide their beneficial ownership in corporations, trust or similar structures registered in or administered from within Ghana.

A rating of **medium** was allocated to this variable because comprehensive information on beneficial ownership interests is not readily available to facilitate CDD requirements.

The sector indicated a medium-high level of corporate trust transparency in Ghana. Experience from on-site inspections indicates that some CMOs are subsidiaries of banks that are largely compliant in establishing the ownership and control structures, and to the extent of determining the natural persons who ultimately own and control legal entities. Independent public sources, including the Registrar General's Department (RGD) and the Credit Reference Bureaus of identifying and verifying individuals and entities, are available but the processes are slow and most CMOs are reluctant to seek the required information from these sources.

#### *g. Availability of Reliable Identification Infrastructure*

This variable assesses whether a good identification infrastructure exist in Ghana and as such AML regulated entities can rely on it.

A rating of **medium** was assigned to this variable because there is such an infrastructure at different governmental agencies which must be integrated or centralized to serve its intended purpose.

#### *h. Availability of Independent Information Sources*

This variable assesses the availability of independent and reliable sources of information to determine transaction patterns of clients.

A score of **low medium** was assigned to this variable because sources of information are not reliable in that there are conflicting information held for the same clients in other records and hence CDD processes are difficult to perform in such situations.

### 1.4.2 PRESENTATION OF ANALYSIS- SECURITIES SECTOR RISK ASSESSMENT

### INTRODUCTION

RESULSTS FROM THE ASSESSMENT OF FOUR SECURITIES INSTITUTIONS NAMELY BROKER-DEALERS, FUND MANAGERS, MUTUAL FUNDS AND UNIT TRUSTS USING THE WORLD BANK EXCEL TEMPLATE

This section of the report presents the results of the securities sector risk assessment , the conclusions drawn and recommendation made thereof.

Overall the final and inherent vulnerabilities of the four securities institutions assessed namely Broker-Dealers, Investment Advisers (Fund Managers), Mutual Funds and Unit Trust are displayed in the table below:

| Type of securities institution assessed | Final vulnerability | Inherent Vulnerability |
|---|---|---|
| **Broker-Dealer** | **0.52** | **0.52** |
| **Investment Adviser(Fund Manager)** | **0.63** | **0.63** |
| **Mutual Fund** | **0.63** | **0.63** |
| **Unit Trust** | **0.63** | **0.63** |

The implications of the above assessment show that the AML controls in the securities institutions are weak and ineffective to have significant impact on the final vulnerabilities of the institutions. This explains why the securities sector's overall vulnerability to money laundering was assessed as medium to money laundering.

## INHERENT VULNERABILITY VARIABLES

### TOTAL VALUE /SIZE OF THE INSTITUTION TYPE

This variable assesses the total value/size of institutions within the securities sector which is an indication of the level of money laundering that may be introduced into the securities sector and for that matter the entire financial sector if the identified risks are not addressed.

This variable is labelled **medium low** for Fund Managers, Mutual Funds and Unit Trusts because all of these institutions have significant assets under management compared to Broker-Dealers which are classified as low due to Ghana's illiquid market.

### COMPLEXITY AND DIVERSITY OF THE PORTFOLIO OF THE INSTITUTION TYPE

This variable assesses the diversity of the securities institution type's investment portfolio, and the complexity of the instruments in this portfolio. This has the tendency to attract more sophisticated money launderers into the securities sector and thus make the transactions more difficult to red-flag and trace.

A **low** rating is assigned to all the four institutions since their portfolios are similar (i.e. they consist of bonds and shares mainly).

### CLIENT BASE PROFILE OF THE INSTITUTION TYPE

This variable assesses whether the type of client using the assessed institution type increases the risk of money laundering abuse within the securities. The assessment will help determine the risk categorization of clients in the securities sector so as to effectively mitigate the inherent risk.

A designation of Not Analysed is assigned to all the four securities institutions in that there is no data on that currently.

### EXISTENCE OF INVESTMENT/DEPOSIT FEATURE

This variable assesses whether an institution type allows the investment/deposit of funds into a financial system, which consequently increases the risk of money laundering abuse within the securities sector. The assessment of this variable will enable the SEC to compare money laundering vulnerabilities of the different types of securities institutions and subsequently with other financial institutions.

A label of Available and Prominent is given to Fund Managers, Mutual Funds and Unit Trusts because these institutions sometimes receive cash for investments and subsequently pay redemptions of GH¢500.00 (US$ 131.58 Equiv). or less in cash to their clients. On the other hand, Broker-dealers are labelled as Available because they sometimes handle cash in buying and selling of securities on behalf of their clients.

### LIQUIDITY OF THE PORTFOLIO

This variable assesses the liquidity of the investment portfolio of the assessed institution type. In effect it is a measure of which securities institution type is more liquid.

A label of **medium** is assigned to Fund Managers, Mutual Funds and Unit Trusts because these institutions make investments in both Capital and Money Markets to offset their client losses. However, Broker-Dealers are labelled low because of illiquidity of their Capital Market investments.

### FREQUENCY OF INTERNATIONAL TRANSACTIONS

This variable assesses the frequency of international transactions associated with the institution type, which could increase the risk of money laundering abuse. This assessment will help to determine whether the securities institution type is involved in international transactions which are an indication of money laundering vulnerabilities. The assessment will also help to distinguish between the vulnerabilities of the different securities institution types as a result of the frequency of international transactions recorded.

A label of **Not Analysed** is assigned to all the institutions type assessed because of lack of data.

### OTHER VULNERABLE FACTORS

*Anonymous /Omnibus use of the product in the institution type*

A label of Available is assigned to all the assessed four institutions

*Existence of ML typologies*

A label of Exist but Limited is assigned to all the four institutions

*Use in Market Manipulation*

A label of Exist but Limited as assigned to all the four institutions.

*Difficulty in tracing records*

A label of Easy to trace is assigned to all the four institutions.

*Non-face to-face use*

A label of Available but limited is attributed to all the four institutions.

*Level of cash activity*

A label of Medium is assigned to all the four institutions.

## 1.4.3 PRESENTATION OF FINDINGS

This section of the report presents the results of the securities sector risk assessment , the conclusions drawn and recommendations made thereof.

This report contains information on money laundering vulnerabilities associated with the securities sector. The information contained in the report was provided by one hundred and four (104) Capital Market Operators (CMOs) comprising, Investment Advisers and Broker-Dealers in a response to a questionnaire that was sent to them to complete in November 2014. The aim of this report is to provide a useful overview of money laundering vulnerabilities inherent in the securities sector.[14]

Careful analysis of the results, suggests that AMLROs have been appointed in most of the organisations surveyed. Nevertheless, a number of them have not been appointed at senior management levels that would ensure their independence and allow effective implementation of AML/CFT procedures and policies. Again, the AMLROs also lacked experience and were not certified.

[14] Refer to Annexe 4

Moreover, most of the CMOs had Compliance Programmes that had not been approved by their boards. Many CMOs have also not subjected their AML/CFT Compliance Programmes to Independent Audit Testing. Most of the CMOs have not classified their clients and product/services in terms of risks.

It was also discovered that there was no effective monitoring of clients activities leading to the conduct of Enhanced Due Diligence when necessary. There were no STRs filed during the period of the survey.

The Regulator, Securities Exchange Commission (SEC) commenced its on-site inspection in 2013 however it has not embarked on a follow-up on inspections as yet.

From the above deficiencies in the AML/CFT controls in the sector, the sector is considered to be vulnerable to ML/FT risks.

M/L vulnerability was rated at **Medium**.

It is, however, recommended that firms in the securities sector should have well-documented and structured AML/CFT training/capacity building programs for regular training of appointed AMLROs to enable them to acquire the requisite skills and knowledge that will make them professionally functional and finally the SEC must design and implement sanctions regime for non-AML/CFT compliance institutions as soon as practicable.

In cash based economies, it is common for physical securities such as unregistered bearer securities or bonds to be issued. In July, 2015 the Ghana government issued its 3rd Eurobond priced at GH¢ 3,800,000,000.00 (US$1,000,000,000.00 Equiv) . In the past, these sovereign bonds would have been issued as bearer bonds but the majority of Eurobonds are now issued electronically rather than physically. However, as it is still possible for Eurobonds to be issued physically or even unregistered, (thereby, making it difficult to trace ownership), Ghana may have inadvertently created an opportunity for abuse by money launderers. Other jurisdictions have dealt with this vulnerability by registering or dematerialising bearer bonds.

In 2013 Ghana launched a parallel market to the Ghana Stock Exchange that trades in low-priced securities – or penny stocks. This may pose a money laundering risk as these types of securities (usually the target of stock manipulators) can be acquired by investing illicit gains into a company that is about to become public. Once the company goes public, the money launderer can sell his or her stake, thereby giving funds the appearance of having been derived from a legitimate securities transaction.

## 1. GENERAL FINDINGS FROM THE SURVEY

Generally, most of the securities market participants (91%) have appointed AMLROs who were the survey respondents. Only 9% lacked AMLROs at the time of the survey. On whether the appointed AMLROs have obtained any qualification in AML/CFT, majority

(71%) had no qualification, while 27% had some qualification (see Table 1). Results from SEC's AML/CFT on-site inspections show that out of a total of 27 CMOs so far inspected, 44% have appointed AMLROs that are at senior management positions. Those in senior management positions were found to report either to the Chief Executive Officers of the company or directly to the board.

AMLROs with qualifications in AML/CFT are essential to the effectiveness of the compliance function. The Compliance Programme which is a tool to assess the institution's preparedness to combat ML/TF, is designed by the AMLROs. The Programme constitutes internal policies, procedures and controls, an on-going employee training , a designated Compliance Officer to see to the day-to-day oversight of the AML/CFT Compliance Programme and an independent audit function to test the Programme. This requires some technical knowledge to put the Programme together.71% of the appointed AMLROs without qualifications may imply weak AML/CFT policies, procedures and controls. Moreover, this could result in the non-reporting of STRs.

## 2. CAPACITY BUILDING FOR AMLROS

The survey revealed that 53% of the institutions do not have documented AML/CFT training programmes which elaborates on the scope , content and frequency of training, the delivery methods, and the particulars of the training provider, even though the records of the survey indicated that 79% of the institutions confirmed that they had received training in AML/CFT. 47% of the institutions surveyed had training programs in their companies while 21% had no such training (see Table 2).

From the data enumerated above, it could be inferred that most of the institutions had poor record keeping related to AML training programs. The issue of poor record keeping is generic to all aspects of the industry. The SEC requires CMOs to keep their records for seven years, and that sanctions are being developed to enforce this.

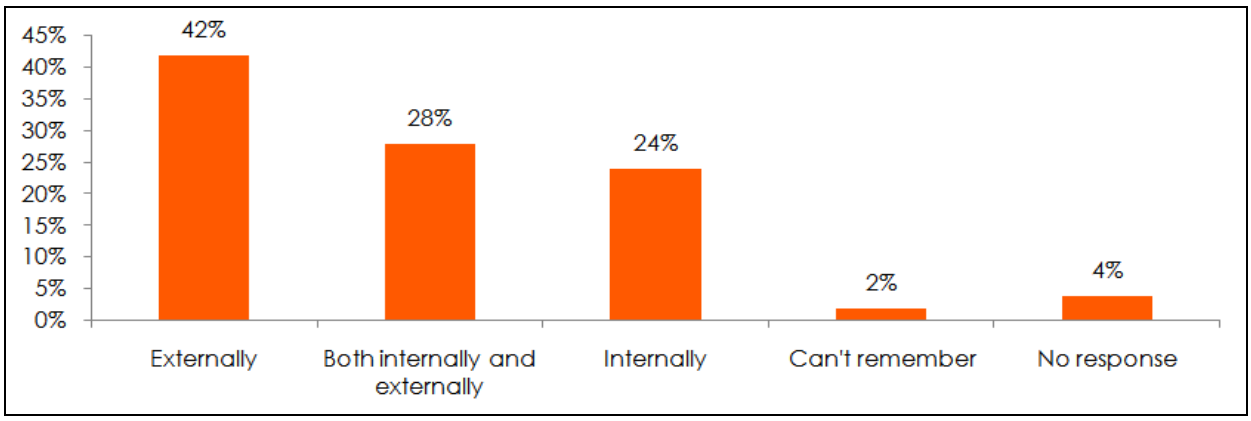
However, the SEC together with FIC organises frequent training for AMLROs and compliance officers in the securities industry to address trending issues and peculiar challenges that market operator's face in ML/TF matters. This is aimed at bringing the AMLROs together bi-annually to share experiences and challenges. They also deliberate on how to overcome those challenges in order to effectively combat ML/TF risks in the securities sector. The SEC plans to target different sections of the CMOs in the coming years. This will help to address specific challenges of the subgroups of CMOs.

Table 2: Capacity building for anti-money laundering reporting officers

| | No | Yes | Total |
|---|---|---|---|
| Firm has documented AML/CFT training programs | 53% | 47% | 100% |
| AMLRO have received AML/CFT training | 21% | 79% | 100% |

Regarding training for AMLROs, 42% had their training externally. 28% also received both external and internal training while 24% received in-house training. The survey also revealed that these training programmes were not regular. The import of this is that AMLROs receive inadequate training within the sector to enable them to implement effectively ML/TF measures. (See graph Figure 1).

Figure 1: The nature of AML/CFT training received by AMROs




AMLROs (56%) provided documentation and information to their staff purposely to ensure AML/CFT awareness was achieved. Among the documentations or information used by AMLROs were staff bulletins, newsletter, AML/CFT compliance manual, the AML Act, SEC circulars/FIC training and course materials, information from online sources (e.g. FIC and GIABA websites, other portals and videos), memos, letters, notices, interactions and staff durbars/meetings, policy documents, circulars, and procedures, changes to policies and procedures, updates on legislation, and presentations, and staff email.

Additionally, all AMLROs had other responsibilities in addition to their key roles as AMLROs. 53% of the AMLROs perform operational compliance and risk assessment duties, 19% perform accounting, finance and audit functions. 17% were also involved with investment management and advisory duties, and 12% perform other roles such as research, clients' services and administrative duties in their organisations. This implies that AML/CFT issues could be overlooked if no serious attention is paid by the officers in charge of the AML/CFT function. (See table 4)

Most of the CMOs are small in size with a minimum capital requirement of about GH¢ 95,000.00 (US$25,000.00 Equiv) a result they do not have enough staff to take on specific job roles. But as part of SEC's regulatory and supervisory functions, the CMOs are being educated about the risk of AMLROs undertaking operational activities that impinge on the profit of the CMO, or where promotions, bonuses or salary increases depend on being employed into conflict of interest positions. CMOs are, therefore, encouraged to allow AMLROs to perform only integrity type functions such as legal officer or risk manager.

Table 3: Other non-AML/CFT functions of AMLROs

| | No. of Responses | Percent |
|---|---|---|

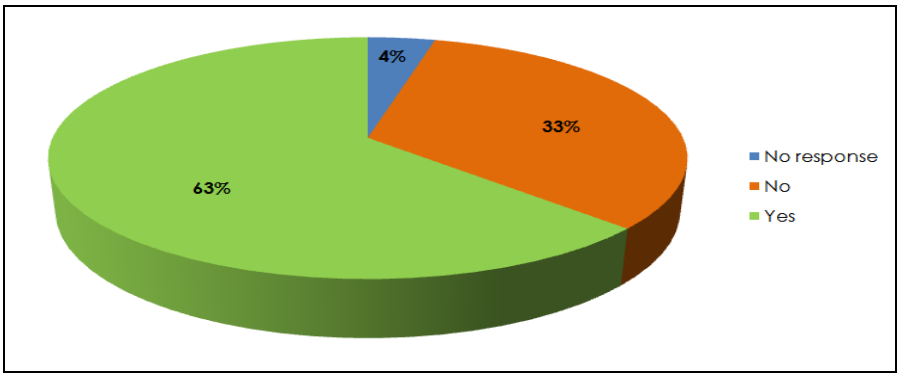
| | | |
|---|---|---|
| Compliance (including operational, general risk assessment) | 44 | 53% |
| Accounting, finance and internal audit/control | 16 | 19% |
| Investment, portfolio analysis/advisory and legal matters | 14 | 17% |
| Management and administrative functions | 3 | 4% |
| Client due diligence and Know Your Customer (KYC) functions | 3 | 4% |
| Research and reviews responsibilities | 3 | 4% |
| Total responses | 83 | 100% |

*Note: This is a multiple response question (n=88) so percentages represent share in the total of responses gathered.*

## 3. PROCEDURES FOR TACKLING SUSPICIOUS TRANSACTION REPORT/REPORTING LINES

When asked whether their firms have documented procedures that they follow upon receipt of reports regarding suspicious transaction, 63% of the respondents replied in the affirmative, 33% said there were no procedures, while 4% did not answer (see Figure 2).

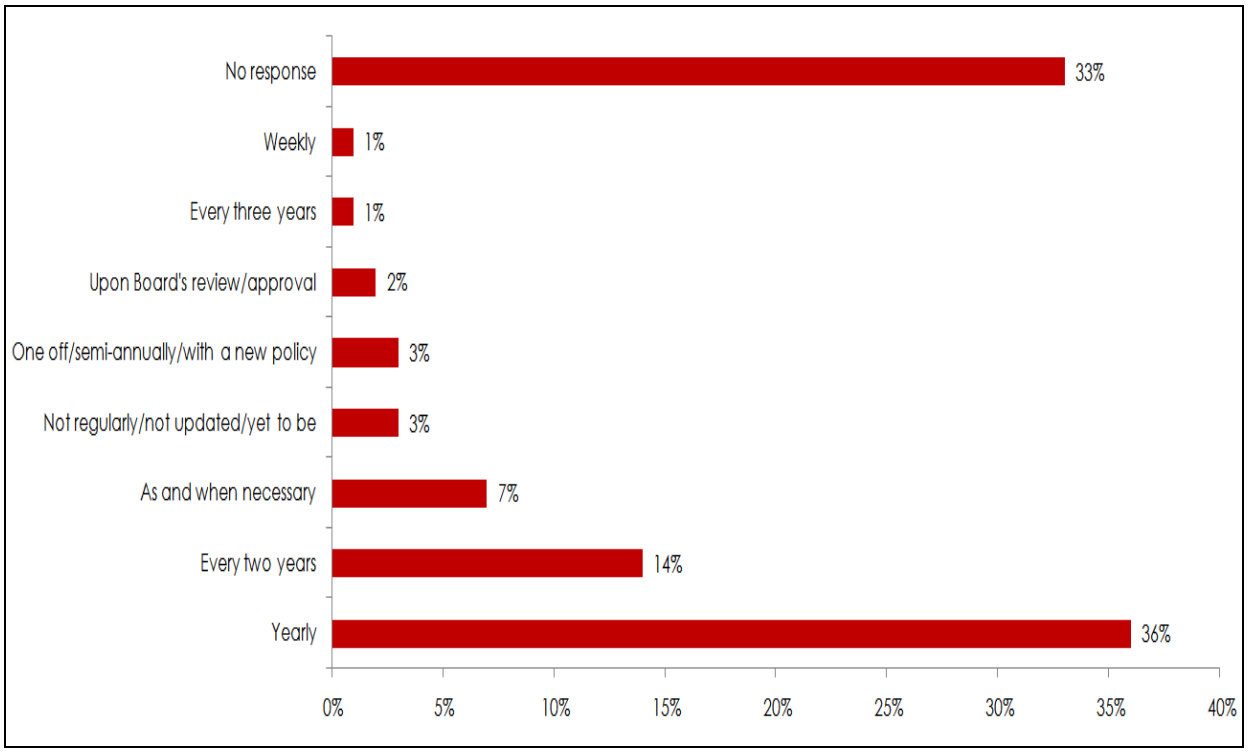
Figure 2: Availability of procedures for addressing suspicious transaction report




## 4. REVIEW OF AML/CFT POLICIES AND PROCEDURES

As to whether firms carry out periodic reviews of their AML/CFT procedures, 36% of officials who responded to the survey said their companies carry out a periodic review. Another 14% said every two years, 7% as and when necessary (for instance in response to update from regulator, major changes in law/policies, or availability of new information), and 2% upon review and approval of their Board. While 3% said updating is either not done regularly (or not done at all) or their firms are yet to update their AML/CFT procedures, 33% did not respond to the question (see Figure 3).

Figure 3: Regularity of the review of AML/CFT procedures




## 5. OVERSIGHT ROLE OF BOARD AND MANAGEMENT IN AML/CFT ISSUES

It is worth noting that 56% of firms within the securities sector have AML/CFT compliance program approved by their boards. 43% of firms did not have board-approved compliance programs. It is within the action plan of SEC to review the submitted compliance programs for the sake of making them comprehensive.

Of those who said there is a board-approved AML/CFT compliance program, 74% said their compliance programs are available to all staff of the firm, while 22% expressed contrary opinion.

In terms of Board and senior management roles, a large majority of survey respondents (81%), acknowledged that their management and board are aware of AML/CFT regulatory requirements, effectively oversee AML/CFT compliance, and show commitment to corrective actions in respect of audit and regulatory examination recommendations. Just 6% gave contrary view.

Indeed, a large majority of the survey respondents (87%) said the board/management of their firms take responsibility for AML/CFT systems and controls within the organisation. Just 5% disagree with this assertion while 8% did not offer any response (see Table 5).

Table 4: Oversight role of Board and management in AML/CFT issues

| | No | Yes | No response | Total |
|---|---|---|---|---|
| Board-approved AML/CFT compliance program | 43% | 56% | 1% | 100% |
| Board-approved compliance program available to staff | 22% | 74% | 4% | 100% |
| Board/Senior Management oversight AML/CFT compliance | 6% | 81% | 13% | 100% |
| Board/Management oversight AML/CFT systems/ controls | 5% | 87% | 8% | 100% |

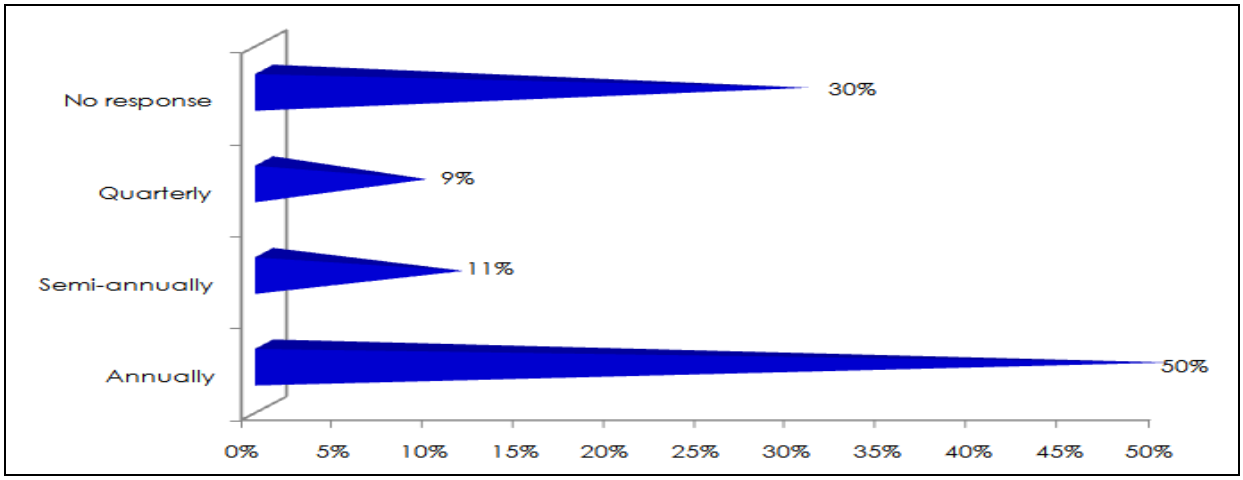
In fact, most of the respondents (73%), said they report AML/CFT issues in their firms to the Board and/or senior management (i.e. Executive Director, Director of Risk Management, Chief Executive Officer or Chief of Operations). Another 19% said they report AML/CFT issues to their Heads of Department/Unit or Head of Compliance/Internal Audit while 8% failed to offer any response.

## 6. ML/CT RISK ASSESSMENT AND REVIEW OF RISK REGISTER

At least, six in every ten officials who responded to the survey (69%) claimed their companies have identified that money laundering and terrorist financing (ML/TF) risks, are inherent in their operations, 29% stated otherwise, while 2% did not respond to the question.

According to half of the respondents (50%), their firms review and update their AML risks register annually. A little over one-tenth (11%) also claimed this is done semi-annually (i.e. twice in a year) while 9% indicated that this process is carried out quarterly. Nearly one-third (30%) did not respond (see Figure 4).

Figure 4: Regularity of the review of AML risk register of firms




## 7. KNOW YOUR CUSTOMER POLICY, FREQUENCY OF CLIENT IDENTITY AND VERIFICATION

97% of the firms have CDD and KYC policies and these institutions often verify the identities of these clients semi-annually or annually or as and when necessary.

As to how often clients' identities are verified, 19% of AMLROs who claimed their firms have Customer Due Diligence (CDD) or Know Your Customer (KYC) policy said it is done at every transaction and on signing on of a new client, or acceptance of new investment. Another 19% said this is done quarterly, 15% semi-annually, 12% as and when necessary, while 11% each said annually or continuously on daily or monthly basis (see Figure 5).

The specific CDD/KYC obligations relevant to the securities sector are as follows:

a. CMOs shall not establish or maintain anonymous accounts in fictitious names

b. CMOs shall conduct ongoing CDD on business relationships with its customers

c. CMOs shall put in place measures to identify politically exposed persons and other persons whose activities may pose a high risk of ML or TF and to manage associated risk.

d. CMOs shall undertake CDD when a business relation is established

e. CMOs shall undertake CDD measures when carrying out occasional transactions above the threshold of GH¢38,000.00 (US$10,000.00 Equiv) or its equivalent (or as may be determined by SEC from time to time), including where the transaction is carried out in a single operation or several operations that appear to be linked with operators (even when different accounts are used), between operators or over a period of time.

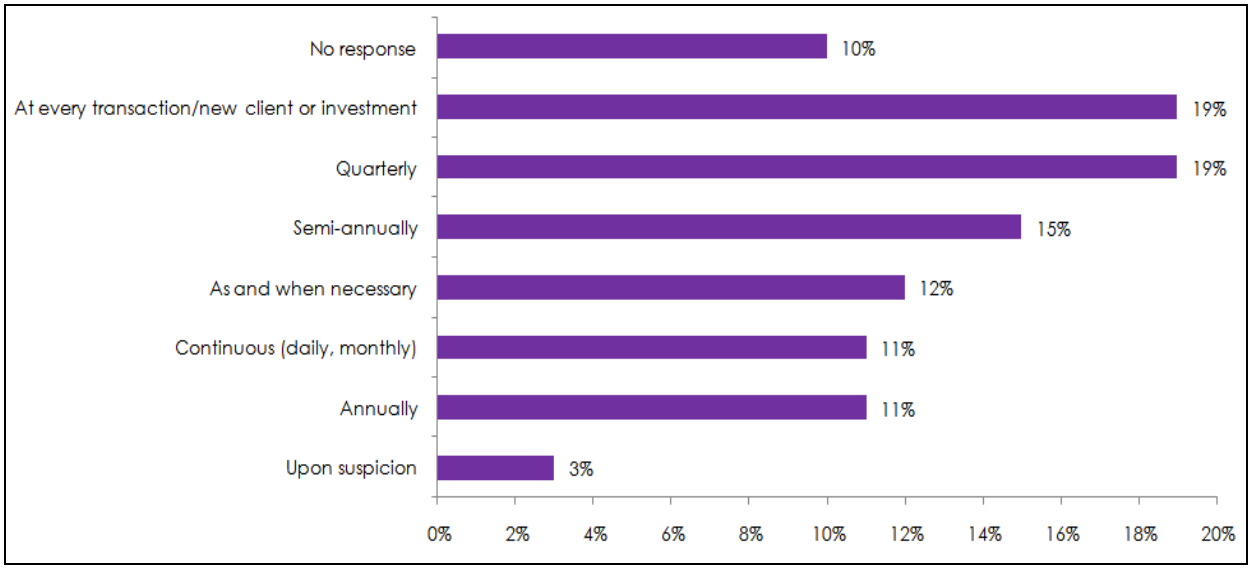
f. CMOs shall undertake CDD measures when carrying out occasional transactions that are wire transfers, including those applicable to cross-border and domestic transfers between CMOs and when credit or debit cards are used as a payment system to carry out a money transfer.

g. On commencement of business relationship with prospective clients, CMOs must collect information such as the purpose of establishing the business relationship, the nature of activity to be undertaken, expected origin of funds to be used during the relationship and the details of occupation or business activities and sources of income from their prospective clients

h. CMOs must identify all their clients and verify their identities using reliable, independent sourced documents, data or information.

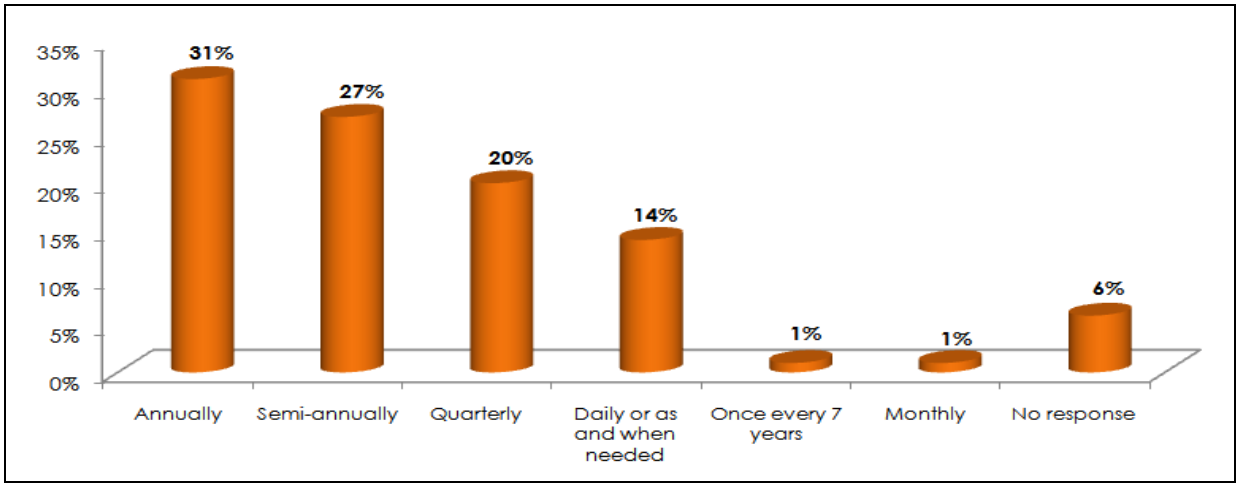
CMOs are required to complete account opening procedure forms before opening accounts for clients. All documents must be in place before transactions are executed for clients. Verification may only be delayed where it will affect the purpose of the business transactions due to the conditions under which the business is being conducted. This will normally apply to securities transactions. CMOs that do not complete CDD are not to open accounts for clients and are to terminate such accounts if they already exist and deliver a suspicious transaction report to the FIC. All accounts are to be classified on the basis of risk and EDD is to be applied to higher risk accounts including accounts of PEPs.

Figure 5: Regularity of checking clients' identity




Furthermore, nearly one-third of the respondents (31%) under the survey revealed that their KYC policies are reviewed annually. A little over one-quarter (27%) review it semi-annually;20% review it quarterly, while 14% review it as and when necessary (see Figure 6).

Figure 6: Regularity of the review of know your customer policy of firms




*Source: AML/CFT risk assessment survey by SSG4 (Nov. - Apr., 2014)*

## 8. MONITORING CLIENTS' TRANSACTIONS

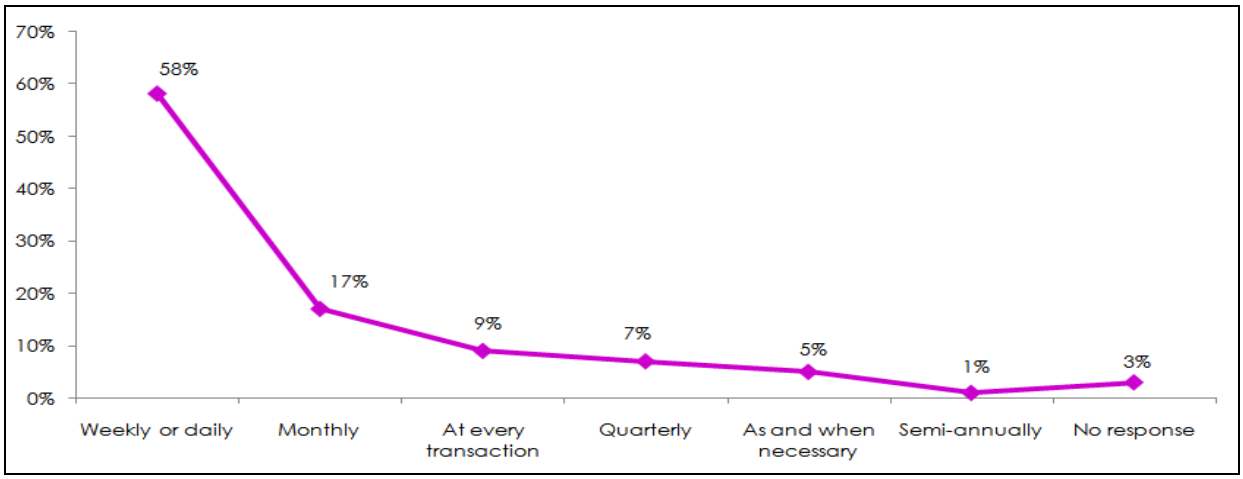
It was observed that firms generally monitor their clients' transactions.88% of the firms monitor the transactions of their clients. A little over one-tenth (11%) however said their firms does not while 1% failed to respond to the questionnaire.

These transactions are monitored either manually or electronically and are done on daily, weekly and monthly basis, and sometimes as and when necessary. 54% of these institutions monitor these transactions manually while 40% use electronic means. Another 6% uses both manual and electronic methods.

Of the responding officers who claimed transactions of clients are monitored, 58% said the monitoring activity is conducted on daily or weekly basis. About one-fifth (17%) said it is a monthly activity, 9% at every transaction, 7% quarterly, 5% as and when necessary, and 1% semi-annually (see Figure 7).

CMOs are expected to carry out enhanced monitoring in respect of higher risk accounts or transactions as well as to carry out on-going due diligence such that lower risk clients are re-examined and subsequently classified as higher risk when necessary.

Figure 7: Regularity of monitoring clients' transactions



Regarding the kind of systems used to monitor clients' transactions, 54% of AMLROs who claimed clients' transactions are monitored said they do so manually, while 40% use electronic means. Another 5% said they use both manual and electronic methods.

## 9. MONITORING TRANSACTIONS OF POLITICALLY EXPOSED PERSONS

Eight in every ten AMLROs that responded to the survey (80%) said there are systems instituted in their companies which enable identification and verification of PEPs, as well as the profiles of natural and legal persons that they transact businesses with. A large majority (83%) further averred approval is sought from the senior management of their firms before an account is opened for PEP.

In addition, 70% of those who responded to the survey indicated that there are established procedures in their firms that allow them to track the origins of funds, source of wealth, or income of the PEPs.

Furthermore, 73% said their companies have in place policies and procedures for detecting unusual customer activities (e.g. complex, unusually large transactions or an unusual pattern of transactions with no apparent economic or lawful purpose) (see Table 6).

CMOs are obligated to conduct on-going due diligence to re-classify clients that subsequently become PEPs.

Table 5: Transacting business with Politically Exposed Person (PEPs)

| | No | Yes | No response | Total |
|---|---|---|---|---|
| Have systems for identifying and verifying Politically Exposed Person (PEPs) | 16% | 80% | 4% | 100% |
| Senior management approval sought before accounts are opened for PEPs | 6% | 83% | 11% | 100% |
| Firms have procedures for determining the origin of funds of the PEPs | 20% | 70% | 10% | 100% |
| Firms have policies and procedures for detecting unusual customer activities | 14% | 73% | 13% | 100% |

Table 6: Transacting business with Politically Exposed Person (PEPs)

| | Types of products offered by firms | | Product types that allow cash into financial system | |
|---|---|---|---|---|
| | Total Responses | Percent | Total Responses | Percent |
| Fund/asset management (Fixed income, deposit, investment, wealth, pension, provident & venture capital) | 108 | 65% | 77 | 67% |
| Investment products (Equities ,bonds ,shares, treasury bills, retail products) | 48 | 29% | 27 | 24% |
| Advisory services (Investment and stocks) | 11 | 6% | 1 | 1% |
| None of the products on offer | -- | -- | 9 | 8% |
| Total | 167 | 100% | 114 | 100 |

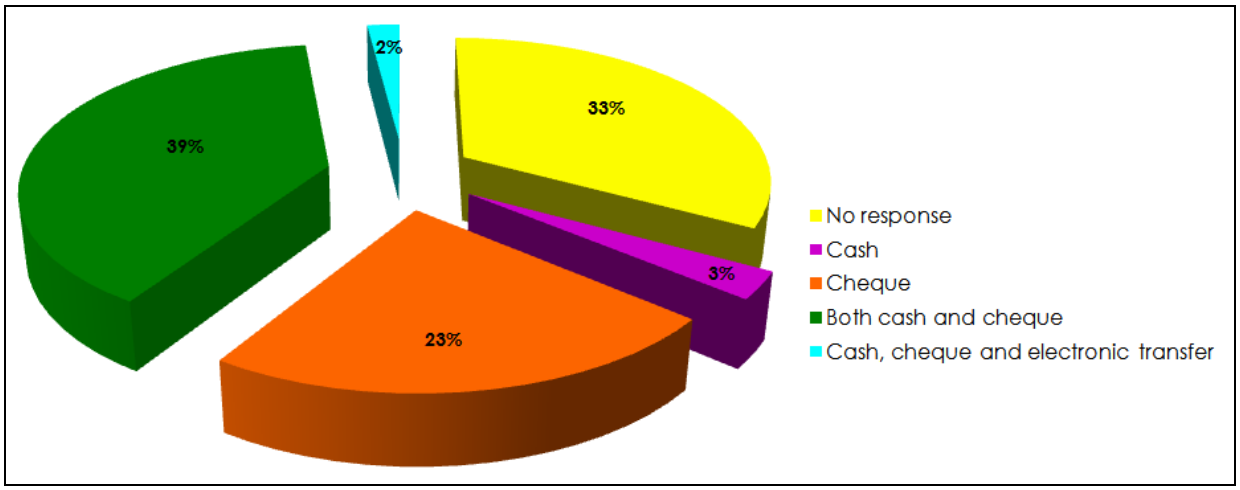
*Note: This is a multiple response question (n=167 for broad product types; and n=114 for product types that allow cash into the financial system) so percentages represent share in the total of responses gathered.*

Majority (39%), of the responding officers reported that when it comes to payments for transactions, their companies accept both cash and cheque. A little over one-fifth (23%) claimed their firms accept only cheque payments, 3% take payments only in cash, while 2% accept payments in three forms (i.e. cash, cheque and electronic transfers). However, one-third (33%) did not offer any response (see Figure 8).

## 10. PAYMENT METHODS THAT FIRMS ACCEPTS FROM CUSTOMERS

According to the survey 42.5% of the institutions in the securities sector accepts deposits for investment in the form of cash and cheque, 21.3% receive cheques only and 1.3% accepts cash deposits, 2.5% of the institutions also receive cash, cheques and electronic transfers. However, 32.5% of the institutions within the sector did not indicate any payment method. This suggests that 32.5% may come from cash and that in itself makes the sector vulnerable. This risk might be mitigated by the AML/CFT obligations to which the securities sector is subject by introducing a ceiling for the use of cash in the purchase of securities.

Figure 8: Payment methods that firms accept from customers




## 11. AUDIT OF AML/CFT COMPLIANCE PROGRAM

It is a regulatory requirement that firms in the securities sector should have their compliance program independently audited on an annual basis. The purpose of the audit is to ensure the completeness and the adequacy of the compliance program, examine the adequacy of CDD policies, procedures and processes; and also evaluate the effectiveness of the compliance programme. The survey revealed that 44% of firms in the sector do not undertake compliance audit. 39% of firms in the sector conduct independent audit on their compliance programme.

Table 7: Date of compliance audits by firms

| | Date of last audit | Next audit due date |
|---|---|---|
| Year 2012 | 2% | -- |
| Year 2013 | 9% | -- |
| Year 2014 | 25% | 11% |
| Year 2015 | 3% | 8% |
| No audit has been performed | 1% | -- |
| No audit schedule currently (yet to be determined) | -- | 4% |

| | | |
|---|---|---|
| No response | 59% | 77% |
| Total | 100% | 100% |

The survey noted that 21% of firms have their compliance programme audited by their internal auditors, while 15% of firms have their programme audited by external auditors. 5% of firms have the programme audited by both internal and external auditors. It can be inferred that the majority of firms (58%) within the sector do not independently audit their compliance programme. This implies that the sector has a weak compliance system, and therefore vulnerable to ML/FT risks.

### 12. SUBMITTING SUSPICIOUS TRANSACTION REPORT TO FIC

In general, firms hardly submit suspicious transaction reports (STRs) to the FIC. A large majority of respondents (87%), said their firms have never submitted STR to the FIC. Less than one-tenth (5%) claimed their firms have actually done so before, while 8% never responded to the question.

In the case of the few who indicated that their firms at a point submitted STRs to FIC, this was done either less than a year prior to the survey or between one to two years ago.

Even though SEC applies monetary and administrative sanctions in its prudential regulations, it is developing a sanctions regime in the area of AML/CFT supervision. The Commission is still developing the compliance capabilities of CMOs.

## 1.4.4 CONCLUSION- SECURITIES

Results from AML/CFT on-site inspections had revealed that:

- Twenty-seven (27) out of twenty-nine (29) CMOs visited had appointed AMLROs. However, a good number of them are not at senior management positions and, therefore, require more knowledge and experience to be effective. This situation may affect the capacity of some AMLROs to design and implement comprehensive AML/CFT Compliance Programme to ensure their functional independence. The SEC is collaborating with the FIC through the organisation of a periodic forum for the AMLROs to fill up this gap.

- Many AMLROs in the CMOs inspected had received AML/CFT training as revealed by the survey, but in some cases there were no training records. Therefore, the quality of the training materials (scope and contents of the training materials) could not be verified easily. Due to the inadequate recordkeeping in those cases, the frequency of training could also not be ascertained.

- In some cases AMLROs had taken on non-AML/CFT activities which confirm the survey findings. This has the tendency of distracting their attention from their core jobs;

- Most of the CMOs visited produced AML/CFT Compliance Programmes that had not been approved by their boards, contrary to the survey findings. This could be attributed to non-involvement of top management in AML/CFT compliance issues.

- Many CMOs have not subjected their AML/CFT Compliance Programmes to Independent Audit Testing, and this confirms the survey findings. The implication is that the CMO concerned will not be able to determine the adequacy, completeness and effectiveness of its Compliance Programme so as to mitigate present and future ML/TF risks inherent in its operations ;

- Most of the CMOs have not rated their clients risks, neither have they categorised them into low, medium and high risk. This corroborates the survey findings. The implication is that some AMLROs could not carry out effective monitoring of clients activities, and were sometimes unable to conduct Enhanced Due Diligence when necessary. Thus, they may not be able to identify and file STRs with the FIC;

- A good number of the CMOs have inadequate information such as sources of clients' funds on their KYC Forms also validate the survey findings. This situation could lead to poor CDD/KYC policies for clients identification and verification purposes.

From the above deficiencies in the AML/CFT controls in the sector, the sector is considered to be vulnerable to ML/FT risks.

| M/L threat was rated at **Medium**. |
|---|

Overall, the securities sector is vulnerable to money laundering with a medium level of 0.61. The implication, therefore, is that, the AML controls in the sector are very low and, therefore, need to be strengthened. The institutions that are most vulnerable include Fund Managers, mutual funds, unit trusts and Broker-Dealers.

### 1.4.5 RECOMMENDATIONS – SECURITIES SECTOR

In the light of the Excel Template assessment, the under listed actions in the order listed should be followed so as to strengthen the AML controls in the entire securities sector:

- To improve effectiveness of supervision procedures and practices the following steps will be taken:

    - SEC is developing off-site supervision tools.

- SEC is studying Section 39(5) of the Anti-Money Laundering (Amendment) Act 874 with its Legal Department so as to apply and enforce administrative sanctions against CMOs for non-compliance deficiencies.
- SEC/FIC will enhance the frequency of its training sessions for CMOs.
- SEC is working with its Legal Department to institute measures to enforce compliance with CMOs compliance manual during and after on-site inspection

- Upgrade AML knowledge of staff in the securities sector

  - SEC shall continue to use the AMLROs Forum to educate AMLROs
  - SEC shall also continue to stress the importance of attending such fora and apply sanctions for non-attendance.
- Enhance availability and enforcement of administrative sanctions.

  - SEC shall enforce the existing administrative sanctions as enshrined in AML amended Act, Act 874 as amended.

- Improve effectiveness of Compliance Function in the Securities Firms

  - SEC is educating CMOs and ensuring that AMLROs are appointed at managerial levels and are also independent.

  - SEC is ensuring that CMOs AML/CFT Compliance Programmes have been approved by the Boards of CMOs.

  - SEC is ensuring that CMOs AML/CFT Compliance Programmes are periodically subjected to Independent Audit Testing. SEC will sanction CMOs who fail to do that.

- Improve effectiveness of suspicious activity monitoring and reporting

  - SEC shall ensure that CMOs implement well-structured Customer Acceptance and Customer Identification Policies.
  - SEC shall ensure that CMOs undertake effective transaction monitoring of all transactions
  - CMOs AMLROs shall have adequate training to identify money laundering and terrorist financing reflags.
  - SEC will sanction CMOs who failed to report STRs which they should had filed when it is discovered at its on-site examinations.

  - SEC should assist in coordinating regulatory bodies such as Driver and Vehicle Licensing Authority(DVLA), Registrar General's Department(RGD),

National Identification Authority(NIA), Electoral Commission, and Immigration Services (for issue of passport) to set up a database that will facilitate verification of clients' identities.

- SEC management will hold discussions with the management of the aforementioned bodies to seek their mandate
- CMOs will officially be informed of the outcome of the final decision of the meeting.
- CMOs will be asked to bear all expenses with regard to using this methodology to verify clients.

- SEC must analyse client base profile of all its licensees
  - CMOs will be asked to submit information on their clients base profile to SEC
  - SEC will analyse this data periodically

- SEC must keep a database of international transactions of its licensees and then analyse their frequencies.
  - CMOs will submit data on their international transactions to SEC
  - This data will be analysed by SEC periodically.

- SEC must analyse other vulnerable factors in the securities sector such as existence of money laundering typologies, market manipulations and non-face to face clients.
  - CMOs will submit information on existence of money laundering typologies ,market manipulations and non-face to face clients
  - The data will be analysed by SEC periodically.

## 1.5 INSURANCE SECTOR

### INTRODUCTION

Although insurance legislation in Ghana lacks any specific AML/CFT obligations, the very nature of the business gives rise to financial underwriting which in itself is a process of risk assessment. These risk assessment procedures do not consider AML/CFT risks, thus making the industry attractive to money launderers and increases the sector's exposure to money laundering and terrorist financing activities e.g. most insurance companies do not undertake know your customer (KYC) procedures.

The three most vulnerable areas in this sector are Investment type single premium insurance policies, annuity policies and reinsurance. They allow for large deposits of cash and may offer payment of cash surrender value and easy change of beneficiary.

Although the National Insurance Commission (NIC) has general powers under the Insurance Act 2006, Act 724, to issue administrative sanctions on violation of AML/CFT guidelines, there has not been any sanction meted out. Specific sanctions, however, are required to further strengthen the regime. The Insurance sector is relatively small, contributing less than 2% towards Ghana's GDP in terms of Gross Premium (revenue). So far, there is no evidence of ML and TF occurrence in this sector.[15]

Training and general awareness creation needs to be intensified in order for the sector to be resilient in ML/TF issues. The Regulator will have to be adequately resourced in terms of enforcement authority, human capacity development and technical support, as well as logistical support.

### NON-LIFE COMPANIES

Non-life companies write short term insurance businesses like motor, fire, marine and aviation, accident and bonds. The total non-life policies underwritten accounted for premium income of GH¢582,000,000.00 (US$153,157,894.00 Equiv) in 2013 out of the total of GH¢1,052,000,000.00 (US$276,842,105.00 Equiv) for the entire insurance industry. The non-life sector thus contributed 55% of the total premium in 2013. Premiums are paid mostly once in the year and claims are only due on the crystallisation of the insured event. There is no geographic concentration of these companies, except that urban centres have more companies and policies due to the larger population.

### LIFE COMPANIES

The main products sold by life companies are funeral, key man, mortgage protection, group life, whole life, endowment and term. Unlike most non-life premiums which are paid annually, most life premiums are paid monthly and claims paid either on maturity/surrender, or the happening of an insured event like death. Money laundering and terrorist financing activities can be perpetrated in life products because they are more

[15] Refer to Annexe 5

likely to be cancelled before maturity for cash claims. This is because, most life policies are investments linked, and the possibility of clients paying single premiums, making them obvious cash claimable instruments. Money launderers and terrorist financiers may exploit these instruments to their benefit. Life insurance products are riskier for ML/TF and so greater risk mitigation measures for these products are necessary. Most life companies have their head offices in Accra, the capital, with branches throughout the country with no particular area of concentration.

## AGENTS

Both Life and non-life insurance companies engage the services of field sales agents, for the purpose of distributing their products to numerous existing and prospective clients. These sales agents are sponsored by their respective insurance companies for licensing by the National Insurance Commission, and operate in much the same way as brokers except that brokers are freelance, and are authorised to negotiate claims for their clients, in respect of which they are reimbursed by insurance companies with costs incurred during settlement of such claims. A sales agent is on the other hand restricted to one life and one non-life insurance company, and can concern himself/herself with facilitation of claims settlement processes only as far as the interests of his/her principal will allow.

The number of licensed field sales agents in operation nation-wide as at September 2014 was 3,090. However, since they have an association, the responsibility of preventing any infiltration of Money Laundering and Financing of Terrorism activities could be adequately handled in partnership with the leadership of the association. Insurance companies that are principals of the Agents, also scrutinise the policies brought by the Agents against money launderers.

## INSURANCE BROKERS

Most Insurance Broking companies are small in size in terms of equity and activity. Broking companies are the first contacts of some policy holders hence their importance in AML/CFT matters. The personal contact with policy holders puts insurance brokers in the spectacular role to either stop or allow money laundering. Despite the numbers, ten companies controlled 67% of the market commissions in 2013.

## REINSURANCE BROKERS

There is one reinsurance broker in the sector which helps to place businesses between insurance companies and reinsurers. Insurance practices within this sub sector are solely among corporate entities hence no direct contact with money launderers, however laundered money could be mixed up into re insurances.

## LOSS ADJUSTER

We have one loss adjuster who is duly registered to undertake professional insurance adjusting business for or on behalf of an insurer, insured or any person.

## REINSURERS

There are four reinsurance companies in the country which take businesses from the insurance companies and also retrocede to foreign reinsurers.

Although, there were 111 companies in 2014, statistics and figures in this report will be mostly based on 2013 information because 2014 reports are yet to be published.

## INDUSTRY PERFORMANCE

The average growth rate in the industry gross premium fell sharply from 35.3% to 23.6% between 2012 and 2013, whereas life recorded a growth rate of almost 32%, non-life grew by 18%. In Cedi terms, the market recorded a total gross premium of GH¢1,052,000,.00 (US$276,842.00 Equiv) in 2013.

Out of this amount non-life contributed GH¢582.4m, while Life contributed GH¢468.800, 000.00 (US$123,368,421.00 Equiv) .There was an increase of about GH¢200,000,000.00 (US$52,631,578.94 Equiv) in non-life premium between 2012 and 2013, whereas Life business increased by GH¢113.800, 000.00 (US$ 29,947,368.42 Equiv) within the same period (as shown in Table 2.1 and Figure 2.1 below)

Table 2.1: Growth in Total Gross Premium Income (Non-Life and Life)

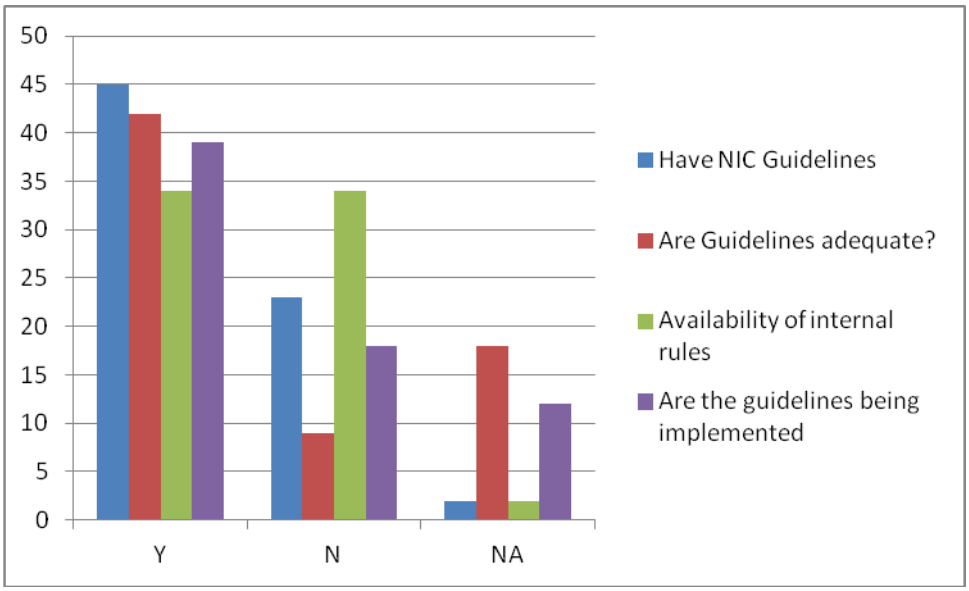
2009 – 2013

| Year | Premium Income (GH¢) | Growth Rate | Insurance Penetration |
|---|---|---|---|
| 2009 | 342,973,719<br>(US$ 90,256,241.84 Equiv.) | 23.2 | - |
| 2010 | 458,117,746<br>(US$120,557,301.57 Equiv) | 33.5 | 1.89% |
| 2011 | 628,528,775<br>(US$165,402,309.21 Equiv) | 37.2 | 1.06% |
| 2012 | 850,679,973<br>(US$ 233,863,150.78 Equiv) | 35.3 | 1.16% |
| 2013 | 1,052,090,981 | 23.6 | 1.42% |

| | | | |
|---|---|---|---|
| | (US$ 276,866,047.63 Equiv) | | |

An amount of GH¢204.090,000.00 (US$ 53,707,894.74 Equiv) (35%) of Non-life premiums was paid to reinsurers both local and international, GH¢41.100,000.00 (US$ 10,815,789.47Equiv) (7%) was provided for as Unearned Premium leaving a Net Premium Earned for the market of GH¢337.200,000.00 (US$88,736,842.11Equiv). Management expense totalled GH¢210.200,000.00 (US$ 55,315,789.47 Equiv)(36%) on the average.

Fig. 5.1: NIC Guidelines on AML/CFT




From the result presented in the chart above, most respondents have copies of the NIC guidelines on AML/CFT, but implementation is relatively low. This is due to the fact that they do not have internal rules that will customize the guidelines to their individual

operations. For those who indicated that they have the internal rules, most of their rules are in draft stage and yet to be finalised and approved. Out of 69, 18 gave 'not applicable' answers to the assessment of the adequacy of the guidelines and only 39 are implementing the rules. It could be read that the general knowledge of AML/CFT in the sector is low and has to be stepped up.

### 1.5.1 AML MONITORING CONTROLS

At the request of the NIC, all institutions within the sector were to appoint Anti Money Laundering Reporting Officers (AMLROs). The AMLROs would be the liaison between the institutions and FIC on one hand, and NIC on the other. Quite a number of respondents, 48 out of 70, have these AMLROs in place who are senior officers of their various institutions. Though some institutions have not got the AMLRO sit as a permanent one, the early signs are good for the insurance regulator to follow up.
So far suspicious transaction reports sent to the FIC had been close to nothing. Most institutions did not have the templates for reporting and their perception of the regulator's monitoring was not remarkable.

### LEVEL OF STAFF KNOWLEDGE OF AML/CFT

This level of questionnaire sought to know how knowledgeable sector members of staff are on the subject of AML/CFT.
The findings suggest low staff knowledge on AML/CFT. Training over the years had not been adequate enough to grant staff the knowledge required to deal with the subject. Most staff had not obtained any formal training and have also not attended sessions organised by the NIC. The institutions have also recognized this rightly when most of the respondents answered that their staff were not adequately trained. Continuous training is required but more productive will be to improve the quality of AML/CFT inspections and imposition of monetary penalties for deficiencies.

### STAFF INTEGRITY

Generally, the integrity of staff in the sector is commendable. Except for some few incidents from the answers, below staff have behaved well. We also realised that 71% of respondents have documented disciplinary actions against deviant members of staff, which is a sign of non-compromise against acts of indiscipline. This is a great asset which can be used to tighten money laundering and terrorist financing loose ends.

### POLITICALLY EXPOSED PERSONS (PEPS) AND OTHER RISKY CUSTOMER'S AND TRANSACTIONS

According to the guidelines issued by NIC to the sector, Insurance practitioners are required to put in place appropriate risk management systems to determine whether a potential customer or existing customer or the beneficial-owner is a politically exposed person. From the information gathered in the answers to the questionnaire and interview sessions, not much is being done in this area. Companies have not made any conscious efforts to identify and monitor PEPs, hence no enhanced CDD were being performed on them. There is, therefore, no adequate statistics available on highly risky customers like PEPs. The NIC must put in place uniformed proposal forms to capture all information

relating to policy holders and proportionate and dissuasive monetary policies to be instituted to ensure compliance.

## CUSTOMER PROFILING AND MONITORING SYSTEMS

A sizeable number of institutions were not profiling nor performing due diligence procedures on customers as shown in the table and figure below. Barely 61% of respondents performed some sort of CDD on their policy holders. Money launderers could hide in the 39% whose details are not taken. The NIC should intensify supervisory activities and impose monetary sanctions for non-conformity

## SUPERVISORY AUTHORITY

The National Insurance Commission is the supervisory authority of the Insurance sector in Ghana, excluding the health insurance. It is headed by the Commissioner of Insurance and assisted by the Deputy Commissioner of Insurance. The Commission derives its regulatory powers from the Insurance Act 2006, (Act 724). The Act has no provision on AML/CFT regulations, but the National Insurance Commission is responsible for AML/CFT supervision, compliance monitoring, enforcement and imposition of sanctions for non-compliance. All regulatory interventions on AML/CFT are derived from the general provisions of the Act.

Resources in terms of skilled man power, technical procedures and technology are woefully inadequate for the needed impact on the industry. Adequate resources should be made available to enhance onsite/offsite inspections and quality of AML/CFT regulation.

The AML/CFT unit in the National Insurance Commission, which has been set up recently is yet to conduct any on/off site inspections on the institutions. [16]

THE TOTAL NUMBER OF LICENSED ENTITIES AS AT DECEMBER 31, 2013 AND 2014 RESPECTIVELY WERE AS FOLLOWS

| | | 2013 | 2014 |
|---|---|---|---|
| Non Life | - | 25 | 25 |
| Life | - | 18 | 20 |
| Insurance | - | 58 | 60 |
| Reinsurance Broker | - | 1 | 1 |

[16] *At the time of publication of this document, NIC has carried out off site inspection on Insurance companies.*

| | | | |
|---|---|---|---|
| Loss Adjuster | - | 1 | 1 |
| Reinsurers | - | 2 | 4 |
| Total | - | 105 | 111 |
| Agents | - | - | 3,090 (September 2014) |

**FIGURE 4: LICENCED ENTITIES**

### 1.5.2 QUALITY OF AML CONTROLS

#### 1. AML LAWS AND REGULATIONS (PREVENTIVE MEASURES AND SUPERVISION)

This variable assessed whether Ghana's Insurance Industry has appropriate laws and regulations regarding AML preventive measures and AML supervision in the insurance sector. We also assess the appropriateness of AML laws and regulations in force and the extent to which these laws and regulations conform largely to the FATF recommendations and IAIS core principle no 22 relating to AML/CFT.

*Score and Basis*

This variable is rated **low** because the fact that though the laws exist, the institutions are unaware of the existence of the laws. This was confirmed based on the questionnaire and interviews conducted during this exercise.

#### QUALITY OF AML SUPERVISION

We assessed whether the Insurance Sector in Ghana has a comprehensive AML supervision regime supported by appropriate powers, staff and other relevant resources. We also noted that Money laundering vulnerabilities in the insurance sector can be minimised if the country has a strong insurance firm supervisory regime. A comprehensive insurance sector supervisory structure, that is adequately resourced, can ensure a high level of compliance with AML requirements and prevent systemic problems in the industry. The IAIS core principle 22 also emphasizes that the supervisor should consider the potential ML/FT risks alongside other risk assessments including governance and market conduct arising from its wider duties, and be aware of the relevance of ML/FT to the duties it carries out in respect of other ICPs and standards.

*Score and Basis*

We rated this variable **low** which is close to nothing**.**

This is because the Regulator has not allocated adequate resources for the effective supervision of AML activities. Moreover there was no AML Unit at the Regulators office at the start of this exercise. Ghana's insurance sector AML supervisory regime would have been comprehensive and of high quality, but for the absence of the following:

- The supervisory body has no adequate resources to ensure a high level of AML compliance in the insurance sector, including a sufficient number of well trained and highly skilled inspectors.
- it has no comprehensive AML supervisory program that consists of regular on and off site inspections;
- it has not applied any strong and effective enforcement powers that can be used to enforce AML compliance;

## 3. MARKET PRESSURE TO MEET AML STANDARDS

We used this variable to assess whether the market forces exert pressure on insurance firm managements to meet AML international standards, and whether it addresses the pressures that exist outside of a Ghana's legal and supervisory regimes, for instance commercial pressure that is applied by commercial counterparts such as banks, reinsurers, etc.

*Score and Basis*

We rated this variable **zero (0)** meaning, market pressure does not exist.

The reason is that, the team did not find any evidence to suggest that international or other related parties exert pressure which brought AML sensitivity into focus. The general low AML awareness in the industry reflected on this variable.

## 4. COMMITMENT TO GOOD CORPORATE GOVERNANCE

This variable assessed whether the boards and managements of insurance firms have commitment to a high level of corporate governance in their firms. Effective corporate governance practices promote a high level of compliance with international standards and national laws and regulations, and are essential to achieving and maintaining public trust and confidence in the insurance sector.

*Score and Basis*

We rated this variable **medium high.**

The regulator (NIC) as part of its regulatory activities conducts exercises like the fit and proper test for Directors and Senior members of Insurance firms, inspect copies of Board minutes, demand copies of Board meeting schedules; reports from on site and off site visits indicate that most boards and management have the commitment to good corporate governance as shown in the following areas:

- Board members are qualified for their positions, have a clear understanding of their role in corporate governance and are able to exercise sound judgment about the affairs of the insurance firm. The Board of Directors approves and oversees the

firm's strategic objectives and corporate values that are communicated throughout the organisation.

- The Board of Directors sets and enforces clear lines of responsibility and accountability throughout the organisation.
- Policy-Board of Directors set policy for firms.
- The boards and senior management effectively act on the reports and management letters from the internal and external auditors.
- The boards ensure that compensation policies and practices are consistent with the firm's corporate culture, long-term objectives and strategy, and control environment.

## 5. PENALTIES

We assessed this variable whether Ghana's insurance sector has appropriate criminal penalties in case of non-compliance with AML Laws and regulations. We also assessed whether potential criminal penalties imposed by law enforcement authorities are regarded as severe which will make management and staff members more likely to comply with AML obligations.

*Score and Basis*

We rated this variable **low.**

We rated this variable 'close to nothing' in that, although there are well designed criminal penalties in force, for non-compliance with AML obligations and AML-related offences such as corruption of insurance firm staff by money launderers and collusion between insurance firm staff and money launderers, staff in the insurance institutions are not aware of the criminal penalty regime, and therefore, not being able to positively influence individual behaviour patterns.

## 6. ENFORCEMENT OF AML OBLIGATIONS

This variable assessed whether the law enforcement agencies in Ghana take the criminal enforcement steps against insurance firms or individual members of management or staff in case of non-compliance with AML obligations. Consider the number of convictions, cases and other available evidence.

*Score and Basis*

We rated this variable **low,** close to nothing.

The reasons are that the members of the insurance firms are unaware of their obligations towards AML/CFT compliance. Beyond that there are also no records of prosecutions and convictions of staff of the insurance firms by the law enforcement agencies. Again because of the absence of insurance regulations, there is no provision that allows the Supervisor to

impose monetary penalties directly against Insurance entities where compliance deficiencies are identified during AML/CFT inspections.

## 7. STAFF INTEGRITY

In assessing this variable we considered whether the insurance firm's staff act with integrity and do not collude with criminals to undermine AML controls by acting corruptly.

*Score and Basis*

We rated this variable **medium high**.

The reasons for this rating are that disciplinary measures against acts of misconduct such as misrepresentation, failure to pay in premium, fronting for business and other acts of indiscipline, are severely punished by insurance firms. In addition, staff members who fall short of professional standards will not qualify as principal officers under NIC's fit and proper test procedures and cannot be re engaged in other insurance firms.

## 8. STAFF KNOWLEDGE

This variable assessed whether insurance firms' staff have the understanding regarding their AML duties and responsibilities. We also considered the quality of their training materials, frequency of training, level and type of staff trained in arriving at our rating.

*Score and Basis*

We rated this variable **low.**

We gave this rating because we did not find any appropriate AML training programs and materials for the appropriate staff in insurance firms. Almost all insurance firms did not train their staff at all on AML/CFT matters, and the very few who trained also did not do it frequently. Hence knowledge of AML laws, policies and procedures in the sector is low to the extent that some are of the view that insurance is not a medium of money laundering. There is no specific provision in the insurance law which compels the regulated entities to train their staff hence the regulator is unable to impose sanctions for non-compliance.

## 9. COMPLIANCE FUNCTION

Our assessment of this variable was based on whether the insurance firms have effective AML compliance function that supports a high level of AML/CFT compliance within the insurance sector.

*Score and Basis*

We rated this variable **low.**

The compliance officers in the insurance firms are not sufficiently resourced to meet the requirements of FATF recommendation 18. Also the absence of the AML/CFT Unit of the

Insurance Regulator added to the low compliance function of the firms. We also realised that most insurance firms do not perform internal and external AML audits.

Although the regulator now has an AML/CFT unit, it is under staffed and under resourced to do effective monitoring. If there were regulations in existence, the regulator could have also imposed necessary penalties for non-performance.

## 10. AML MONITORING SYSTEMS

This variable assessed the extent to which insurance firms have adequate and appropriate information systems to support their AML policies and procedures. We expected insurance firms to have well-designed systems that are adequate for their operations.

*Score and Basis*

We rated this variable **low,** close to nothing

Although insurance firms have information systems that enable and facilitate the monitoring of transactions of clients against their profiles, these systems are not adequate and appropriate for AML monitoring and data collection. Also there are no systems in place to identify and monitor the transactions of PEPs. So far the systems have not been able to assist insurance firms and insurance firm staff to identify and report suspicious and unusual transactions. The NIC must be empowered to sanction companies which fail to risk profile their policy holders.

## 11. CORPORATE AND TRUST TRANSPARENCY

We used this variable to assess whether it is easy for criminals to hide their beneficial interests in insurance firms registered in Ghana.

*Score and Basis*

We rated this variable **medium**.

Some background checks are carried out on significant shareholders of insurance firms. In the case of companies in groups, the structure, management, control and beneficial interests are verified as to their fitness and propriety. Additionally, background checks are performed on highly placed persons on Boards and management of firms. For non-Ghanaians serving in the above positions, a Police Character Certificate is requested on each of them. Also due diligence and detailed fit and proper tests are conducted on all persons holding shares of 10% or above in any regulated entity. This therefore justifies the above rating.

## 12. IDENTIFICATION INFRASTRUCTURE

This variable checked whether customer identification and verification processes are enhanced when insurance firms take on new policies. It checks whether systems are in

place to verify the identity of customers using reliable, independent source documents, data or information that cannot be faked.

*Score and Basis*

We rated this variable **medium high**

Apart from having so many sources of identification documents, verification of these documents is sometimes difficult. There are available verification platforms for International travel biometric passports, Voter's IDs and National health Insurance Cards. Two other identification cards – Drivers' licence and National IDs - could be verified manually with the issuing authorities.

### 13. AVAILABILITY OF INDEPENDENT INFORMATION SOURCES

In assessing this variable we verified the availability of independent, reliable sources to support the verification of the client ID and determine transaction patterns of clients.

*Score and Basis*

We rated this variable three **low**

We considered the availability of six main independent sources of verifying identifications namely, utility bills, international travel passports, driver licences, National identification cards, voter identification cards and National Health Insurance Cards. The Insurance industry has no means for verifying transaction patterns of clients.

## 1.5.3 PRESENTATION OF ANALYSIS AND FINDINGS OF SELECTED PRODUCTS/SERVICES

### LIFE

The life insurance sub sector is small in terms of value and volume of transactions. Money laundering (ML) risks may be presented by certain products such as life products with single premium payments and high cash values upon surrender. Products with no cash value such as term policies pose lower risks. Money could also be laundered through the assignment of policies and payments to third parties. Life insurers in Ghana have a wide retail reach and sell most of the policies to individuals. Premium payments are made by source deductions/cheques and bank transfers. Cash payments are accepted but on limited scale. Life insurers write mostly onshore risks with policy holders mostly local residents.

### NON-LIFE

The non-life insurance sub sector is bigger than the life sub-sector in terms of volume and value. This sub sector has again developed more than the life sub-sector. Non-life insurers sell retail and corporate products such as personal property, travel and motor as well as marine hull and cargo; aviation hull and cargo.

### ML RISKS

This could be high in the case of single premium policies, overpayment of premiums, assignment of claims and bogus or fake claims. However the products sold by the sub-sector have little or no cash values, assignments and overpayments. No monies are paid out upon maturity. Products currently on the market present low ML risks.

### TF RISKS

Life insurers mostly write on shore businesses or risks. The risk of foreign illicit funds flowing directly into the country is lower. Non-life insurers pay claims only if the specific event insured crystallises. TF may, however, occur when monies obtained through these claims are used to finance illicit activities.

### PRODUCTS OF INSURANCE COMPANIES

For the purposes of our analysis we selected 8 products and services. These products and services were

1. Funeral
2. Mortgage Protection
3. Group Life
4. Term
5. Motor
6. Fire
7. Accident
8. Marine/Aviation

These products and services were analysed and assessed based on the 4 variables namely:

1. Volume
2. Average transaction size
3. Client profile
4. AML/CFT specific controls

### PRODUCT INPUT VARIABLE ASSESSMENT

#### PRODUCT VOLUME

In assessing how vulnerable life products or services are due to their volume, we assumed that the more voluminous a product is in terms of policy holders/life assures, the more susceptible the product is to ML/TF risk. To determine the significance of product or service total industry premiums (revenue) and number of companies selling the product or service as at 31st December, 2013 was used as benchmark to which the product or service volume was compared with. The NRA team assumed that products or services with volume of 10%

and above to total industry premiums, or 50% and above to total number of companies selling the product, were considered significant and pose ML/TF risk in Ghana.

### AVERAGE TRANSACTION SIZE

We used this variable to assess the average size of transactions that occur in a particular product /service. Products and services with large sum assured and less number of policy holders would have large transaction sizes to attract the attention of money launderers.

### CLIENT PROFILE

The vulnerability of product/service to ML/TF also depends on the type of client or characteristics of clients who patronise it. A product or service is more vulnerable if its client profile is made up of politically exposed persons, clients with business interest in offshore centre, high risk jurisdiction and tax havens, high net worth individuals, non-resident clients, etc.

In assessing this variable, questionnaires were administered to all Insurance Companies to provide their profile of clients who use their products. The NRA team also relied on the industry experience as well as supervisory experience. A product or service was considered risky to ML/TF if most of the respondent Insurance Companies said client profile of that product or service composed of the high risk profiles.

### AML/CFT SPECIFIC CONTROLS

This variable assesses whether appropriate (well designed) specific AML/CFT controls to manage any potential money laundering risk that may occur in a particular product/service, are in place.

Specific AML/CFT controls are controls that are applied in addition to the standard AML/CFT controls applied to all products in the sector. Insurance firms that implement specific AML/CFT controls may reduce the vulnerability of money laundering occurring in insurance products/services.

We generally observed that the Insurance Companies do not have AML/CFT controls that could qualify as being specific controls for any product/service. Insurance Companies apply general AML/CFT controls which are deemed adequate for their products/services.

### LIFE PRODUCTS

Some of the products that fall under this category are

#### 1. FUNERAL:

This can be a whole or Term Life insurance but designed purposely to cater for funeral expenses upon the demise of the assured life. Usually, Funeral policies will have a non-forfeiture value if it is a whole life and forfeiture if it is a term policy. Therefore funeral policies that are whole life are vulnerable to ML/TF threats, whilst term policies are not vulnerable.

#### 2. MORTGAGE PROTECTION POLICY:

This is a Term life or Credit life policy which covers death and disability during the period of repaying ones mortgage loan. Benefits at any point of the contract are usually the outstanding balance of the mortgage loan. Premium is usually in the form of a single premium and at the point of taking the mortgage loan. Credit life has no non-forfeiture values

### 3. GROUP POLICIES:

These are policies which cover death or disability of members in a group. Premiums are paid on behalf of the whole group and the amounts as premiums are usually smaller as compared to individual policy premiums. Again, premiums are rated to reflect the risk exposure and history of each particular group.

### 4. TERM:

It provides death cover over a specific period of time. The policies are usually over a short period of time and commonly grant the policyholder the right to renew for an additional period(s) up to a maximum age such as 60 or 65, without requiring additional evidence of insurability. Such policies usually do not provide non-forfeiture values unless there are savings component to the contract.

The volumes of Funeral and Mortgage protection are medium, and average transaction sizes are low and medium high respectively. These policies are pure risk with no investment component and mostly patronised by low income and middle level customers. They pose low to medium ML risk.

Other products such as Term and Group life have high and low volumes with average transaction sizes of medium high and medium low as well. These products have investment components in them and patronised by some PEPs and people with medium to high incomes. They therefore pose high ML risk.

## NON LIFE PRODUCTS

Some of the products falling under this category are:

i. Motor

ii. Fire

iii. Accident

iv. Marine/Aviation

## MOTOR INSURANCE

Contracts of insurance against:

(a) Loss of or damage to motor vehicles;

(b) loss or damage arising out of or in connection with the use of, motor vehicles, including third party risks, carrier's liability and medical expenses for the injury of occupants of a motor vehicle.

Comprehensive Motor Insurance could be used for Money Laundering. Most comprehensive vehicles would be valued between GH¢19,000.00 (US$5,000.00 Equiv) and GH¢380,000.00 (US$100,000.00Equiv) with the very high end vehicles up to GH¢570,000.00 (US$150,000.00Equiv)

It would require a launderer to insure a vehicle and come for cancellation few weeks later. With cancellation, his money is refunded based on time on risk.

Similarly a launderer could deliberately cause an accident severely damaging the vehicle. This could lead to a write off with the claim money paid.

A launderer could fake his vehicle being stolen. If the police cannot trace the vehicle within 3 months, he could successfully make a claim.

### FIRE AND BURGLARY

These are contracts of insurance against loss or damage to property, and consequential losses, due to fire, explosion, storm and other natural perils and other perils customarily included in fire insurance policies. Excluding insurance of a type described above which is incidental to some other class of insurance business.

Like most insurance policies, this policy is subject to cancellation which is a major vulnerability as far as insurance policies are concerned. The policy makes provision for cancellation and premium refund.

Secondly, money laundered through the purchase of a house, which in Ghana can be done with cash, can be laundered by deliberately setting fire to ones property and making a claim. The money paid becomes clean money. With property insurance, the amounts involved could be significant. Therefore, fire and burglary policies are vulnerable to ML/TF threats in Ghana.

### ACCIDENT

- PERSONAL: Contracts of insurance that provide fixed pecuniary benefits or benefits in the nature of an indemnity (or a combination of both) against risks of the person insured

(a) Sustaining accidental injury,

(b) Dying as a result of an accident,

(c) Becoming incapacitated as a result of disease,

(d) Attributable to sickness or infirmity,

This class excludes any contract of insurance that falls within a class of long term insurance business.

The General Accident policies include several policies such as personal/group accident policy, money insurances, and engineering insurances including plant and machinery insurance, liability insurance.

With all these policies the sum insured could be inflated and exaggerated with the intention of cancelling the policies and calling for premium refund.

### WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

CONTRACTS OF INSURANCE AGAINST THE LIABILITY OF AN EMPLOYER TO EMPLOYEES IN RELATION TO ANY INJURY OR DISEASE ARISING OUT OF, OR IN THE COURSE OF, THEIR EMPLOYMENT

This policy like the other non-life policies is subject to cancellation. Premiums are based on the annual salaries and wages of employees. These salaries could be raised so high for purposes of having a huge premium. Subsequently the policy could be cancelled and premium refund made.

It is unlikely that claims could be staged for the purposes of laundering dirty money. This is because the claims process is initiated by the labour office and the formula for calculating the claim is prescribed by law.

### GOODS IN TRANSIT:

CONTRACTS OF INSURANCE AGAINST LOSS OF OR DAMAGE TO MERCHANDISE, BAGGAGE AND ALL OTHER GOODS IN TRANSIT, IRRESPECTIVE OF THE FORM OF TRANSPORT

Goods–In-Transit Policies are declaration policies. This means that a deposit premium is made on an estimated annual carriage of the goods to be transited. The annual carriage is determined by the Insured.

At the end of the insurance year, the premium is adjusted based on the actual carriage made. If the carriage is far less a refund is made to the insured or his account is credited. If he carried more, then he pays additional premium. The insured declares the actual carriage done by the year.

This declaration could be abused by a launderer by stating a very high annual transit figure for the year but actually transit very little which will call for premium adjustment and refund.

Another source of vulnerability is the possibility of cancellation after taking the policy.

### MARINE AND AVIATION

### CONTRACTS OF INSURANCE AGAINST

(A) LOSS OF OR DAMAGE TO MARINE CRAFT OR THE EQUIPMENT OR FITTINGS OF MARINE CRAFT;

(B) LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH THE FREIGHT, USE, CONSTRUCTION OR REPAIR OF MARINE CRAFT, INCLUDING THIRD PARTY RISKS,

CARRIER'S LIABILITY AND MEDICAL EXPENSES FOR THE INJURY OF OCCUPANTS OF A MARINE CRAFT, INCLUDING CREW. IT INCLUDES MARINE HULL AND CARGO.

Marine, Hull, and Cargo, and Aviation, like most non-life insurance policies, are subject to cancellation. This is a major vulnerability as marine insurance could be taken out, paid for and cancelled after a few days or weeks. This will call for a premium refund.

Again volumes of Motor, Fire and Accident are high, medium high, and medium high, while average transaction sizes are medium high, medium high and medium high respectively. Their client profiles are low risk, medium risk and low risk.

Marine and Aviation have volumes of medium high with average transaction size of medium low and a Client profile of low risk.

Based on the features and characteristics, the above products may pose low ML risk.

### TRENDS, GAPS IN AML MEASURES, BENEFICIAL OWNERSHIP SITUATIONS AND WHETHER STRS ARE FILED

Insurance industry trends as of now suggest very low ML/TF risk. The industry which contributes less than 2% GDP with a total equity of GH¢966,000,000.00 (US$ 254,210,526.32 Equiv) is yet to record any ML/TF trends. The NIC vets all significant shareholders to unearth the source of their funds into the industry.

So far, there have not been any remarkable suspicious transaction reports from the industry since the inception of the FIC. This could be due to the genuine absence of the activities to warrant the reports or the ignorance of the players to locate the transactions. Any of the two is a probability.

### LEGAL FRAMEWORK- PENALTIES ETC. WITHIN INDUSTRY/ REGULATIONS/ GUIDELINES/ENFORCEMENT MECHANISM IN PLACE /

AML/CFT legal framework in the Insurance industry is non-existent, hence there are no specific sanctions or penalties against would be violators. So far there has not been any opportunity to apply sanctions on any institution or player in the industry.

### EXISTENCE OF ADMINISTRATIVE SANCTIONS- WARNING LETTERS ETC

Although the National Insurance Commission has the general powers under the Insurance Act 2006, Act 724, to issue administrative sanctions on violation of AML/CFT guidelines, there has not been any sanction meted out. Specific sanctions, however, are required to further strengthen the regime.

## 1.5.4 CONCLUSION

PREDICTIONS -ANTICIPATION OF FUTURE MONEYLAUNDERING RISKS

Current insurance products in Ghana present relatively low level of ML risks. It is also possible that criminals are not using the insurance products or sector as avenues to

launder money. As the country's economic activities expand so will counter productive activities increase including ML risks in the insurance sector. ML risks in the future may be predicted in the following insurance products and channels.

SECOND HAND ENDOWMENTS POLICIES (SHEPS) bought in the secondary market or traded endowment policies (TEP). These are conventional endowments that have been sold to a new owner halfway through their term. The TEP market enables buyers (investors) to buy these policies for more than their surrender values. This policy provides the purchaser with the benefit of the death of the life insured or upon maturity to the money launderer who receives clean money or cheque.

INTRODUCTION OF CERTAIN ISLAMIC PRODUCTS INTO THE MARKET SUCH AS TAKAFUL This is a type of Islamic insurance product under which a group of individuals contribute funds into a pooling system that guarantees each other some benefits against loss or damage.

### OVERPAYMENT OF PREMIUMS

Policy holders may deliberately or inadvertently make payments which are in excess of what they are supposed to pay. Deliberate overpayment arises where the insured opts to make payments by way of deposits in advance of contract conclusion. Inadvertent payment can arise when the underwriting staff miscalculates the premium required. In all situations the insured would be entitled to a refund of the excess premium. In both cases money laundering activities can occur.

### ASSIGNMENT OF CLAIMS

An insured can direct an insurer to make a payment of a claim on his policy to another person other than himself. This process is termed as an assignment of claim. This is another means by which criminals can finance terrorist activities.

### RETURNED PREMIUMS

Premiums are returned to the insured where the policy is brought up for cancellation before the insured term expires. In situations like that the insured would be entitled to a returned premium for the unexpired period. Criminals can use the returned premium in ML/TF activities.

The research revealed absence of awareness in terms of Anti Money Laundering/Combating the Financing of Terrorism (AML/CFT) in Ghana's Insurance sector.

The barometer showed that virtually most companies simply did not believe that the industry is vulnerable to AML/CFT risks and threats.

Practitioners explained that carrying out identification and verification as part of customer due diligence efforts is not feasible and would upset prospective customers thereby affecting their output and overall profit margin.

## 1.5.5 INSURANCE SECTOR RECOMMENDATIONS

- Legal framework on AML/CFT is required.

- NIC to step up regulatory activities on AML/CFT with on/off site inspections
- Training and Capacity Building for staff and Board of Directors
- Uniform supplementary proposal forms which addresses AML/CFT concerns to be introduced
- Acquisition and use of requisite AML/CFT software for the Sector
- Strict Adherence to AML/CFT guidelines by all companies in the sector
- All companies must have AMLROs
- Templates for STRs and CTRs must be sent to all institutions

## 1.6 OTHER FINANCIAL INSTITUTIONS

### 1.6.1 PRESENTATION OF ANALYSIS

The expert stakeholders in this sector looked specifically at the following categories of businesses that operate as Other Financial Institutions (OFIs). These OFIs were divided into formal and informal sectors. The formal sectors comprise Remittance Service Providers, Foreign Exchange Bureaux (Bureaux de Change), Electronic Money Issuers and Agents, Finance Companies, National Pensions Regulatory Authority and Ghana Revenue Authority whilst the informal sector consisted of Black Market and Underground Remittance.

*Remittance Service Providers*

There are only three (3) properly registered Remittance Service Providers in Ghana according to BOG. They are; Express Funds International, Golden Link Financial Services, Trans-Continental Financial Services Limited. These organisations have contributed 4.8% of the total asset in that industry with a turnover of USD 96.05 million at the end of 2014.
The Remittance Service Providers operate both local and international money transfer services and the transactions are cash intensive.

There was no information to the effect that an STR has been filed by any of the service providers even though transaction monitoring is high. Customers who patronise this service undergo significant CDD and KYC prior to the receipt or transfer of funds**.** The CDD process takes account of the relationship between the remitter and beneficiary as well as the determination of the source of funds.

Remittance inflows to Ghana are staggering thus making a huge contribution to the emerging Ghanaian economy. The ML/TF risks associated with this sector requires the application of AML/CFT regimes to protect participants in the sector.

Remittance Service Providers are more vulnerable to fraudulent activities (stealing, defrauding by false pretences, corruption, bribery and extortion) which have consequential effect on ML/TF activities.

Although suspicious transactions are not reported there are AML/CFT regulations and guidelines. The sector has a Medium vulnerability to ML/TF with a rating of 0.45.[17]

| M/L vulnerability was rated at<br><br>**Medium** |
|---|

*Bureaux de Change*

Bureaux de Change are limited liability companies registered with the Registrar General's Department, licensed and regulated by Bank of Ghana to buy and sell some selected convertible foreign currencies such as British Pound Sterling, United States Dollars, European Union Euros, Canadian Dollars, Swiss Francs and CFA Francs.

There were three hundred and ninety-six (396) licensed Bureaux de Change as at the end of December 2014, with twelve (12) being inactive, while three hundred and eighty-four (384) were active. Three hundred and four (304) representing 79.17%, of the number of active Bureaux de Change has submitted audited financial statements to Bank of Ghana and the data provided indicated that total assets grew from GH¢16,521,987.02 (US$ 4,347,891.32 Equiv) in 2013 to GH¢13,101,209.38 (US$ 3,447,686.68 Equiv) in 2014. There are tight controls in this sector. This is shown by regular site visits conducted by supervisory team from BOG and the periodic filing of returns on the sale and purchase of foreign currencies.

Among the regulatory requirements stipulated by Bank of Ghana which ought to be met by all Bureaux de Change is the mandatory deposit requirement. Effective July 2007, the amount has been pegged atGH¢76,000.00 (US$ 20,000.00 Equiv) for new Bureaux de

[17] Refer to Annexe 6

Change and GH¢ 38,000.00 (US$ 10,000.00 Equiv) for the establishment of new branches. It is worth mentioning that these mandatory requirements have been met.

The Bureaux de Change transacts business domestically but their clientele is mostly non-residence persons. In 2013, purchases and sale of foreign currencies amounted to GH¢ 507,179,388 (US$ 133,468,260.10 Equiv) and GH¢ 606,350,510.82 (US$159,565,923.90 Equiv) respectively with a 19.55% and 18.53% respective rise in both purchases and sales for 2014. Bureaux de Change business is mostly over-the-counter and requires a high volume of cash. Cheques and bank transfers are not preferred in changing of money.

Customers of Bureaux de Change are not required to provide a justification for the purchase of foreign currency. Even though clients of Bureaux de Change are required to identify themselves with Passport, Driving license or Voter ID, in most cases there is no identification and verification of the customers involved in the transaction. Some PEPs pose high ML/TF risks due to the undisclosed nature of their source of funds. This can be a conduit through which proceeds of criminal activities are laundered by the use of the Bureaux de Change.

BOG has issued a directive to all Bureaux de Change to computerise their operations. However, the department faces the following challenges:

They require appropriate software to consolidate monthly prudential returns data submitted by the Bureau de Change to the Bank of Ghana in real time.

M/L vulnerability was rated at

**Medium High**

*Electronic Money Issuers (EMIs) and Agents*

Electronic Money is a relatively new service, and is currently being provided by the four leading telecommunication service companies in Ghana; MTN Ghana Limited, Airtel Ghana Limited, Vodafone Ghana Limited and Millicom Ghana Limited operators of Tigo. E-money is a mobile based financial service that allows both the banked and unbanked public to send and receive money, pay bills, and purchase airtime as well as purchase financial products and service loans. E-money operation utilises the work of agents and merchants where customers can access e-value and cash.

EMIs and their Agents operate within the Branchless Banking Guideline and E-Money Guideline issued by BOG. This legal framework governs the activities of the service providers and stipulates the KYC requirements and the transaction threshold.

Mobile remittance service is the most adopted means of money transfer in Ghana. For example, data provided by MTN, the largest telecommunications network in Ghana in its AML/CFT report for 2014 revealed that cases of fraud and cases of use of multiple accounts were up by 20% and 60% respectively, whilst transactions above threshold remained fixed at 0%. Money launderers tend to keep cash amounts below the prescribed threshold to avoid detection.

There are strong ML/TF risks involved with the proliferation of e-money. The risk is heightened as a result of the following;

• easy porting of mobile numbers and the disappearance of SIM registration details with every change.

• reported cases of fraud relating to mobile phone.

• mobile phone operators inability to hold information as required by NCA that will serve as evidence for the purpose of investigating fraud.

The e-money providers have a medium vulnerability to ML with a score of 0.55

| M/L vulnerability was rated at<br><br>**Medium** |
|---|

*Finance Companies*

Finance Companies form part of the Non-Bank Financial Institutions (NBFIs) as defined by Bank of Ghana.

The core mandate of the Finance Houses is to accept short term investments in the form of deposits, provide remittance services and granting credit.

Receipt of deposits and the granting of credit constitutes regulated activity under the Banking Act, 2004 (Act 673) as amended by Banking (Amendment) Act, 2007 (Act 738) and the Non-Bank Financial Institutions Act, 2008 (Act 774).

The above legislation includes AML/CFT obligations on NBFIs.

Except where expressly exempted in writing by the Bank of Ghana, persons and or institutions undertaking such activity require a licence issued by the Bank of Ghana.

*"To firm up the regulatory process with more stringent measures to ensure that the non-bank sector is more credible and sustainable,"*

The sector is made up of twenty-four (24) institutions and is non-deposit taking in character. The sector in 2014 had an estimated asset size of GH¢2,919,844,000 (US$ 768.380,000.00 Equiv) which represents 38.1% of the total asset size of NBFIs in Ghana. The nature of transactions in this sector requires the use of significant level of cash unlike the banks that can accept transfers and cheques from customers.

PEPs, as well as non-resident customers tend, to use these services but do not provide complete information on their source of funds. The verification of PEPs source of funds is a major problem as most of them have businesses which will help them to disguise their illegal funds. Finance Companies contribute highly to the volume turnover of NFBIs.

According to BOG, at the end of 2014, volume of credit granted by NBFIs amounted to GH ¢ 3,771,690,000.00 (US$ 992.550,000.00 Equiv) with an estimated GH¢ 1,436,058,000.00 (US$ 377.910,000.00 Equiv) from the Finance Companies.

This sub-sector of the OFIs lacks proper AML Tool to identify suspicious transactions and report same. This makes them vulnerable to the threat of money laundering.

The responses from the respondents based on questionnaire distributed suggest there is some record keeping but KYC on the customers is not adequate. The degree of regulation within the Finance Companies is reflected in the high level of controls attached to exit and entry into the market. The sector is also guided by the BOG and FIC AML/CFT guidelines for Banks and NBFIs.

M/L vulnerability was rated at

**Medium**

**TWO STATUTORY ORGANISATIONS**

*National Pensions Regulatory Authority (NPRA)*

Privately managed pension funds formally started operation in Ghana with the enactment of the National Pension Act, 2008 (Act 766), as amended and the establishment of the 3-Tier Pension Scheme. The implementation of the new Three Tier Pension Scheme started on 1st January, 2010.

The main objective of the 3-Tier pension scheme is to provide for pension benefits that will ensure retirement income security for the worker. The first and second tiers are mandatory for all formal sector workers and the third tier is voluntary. The components of the scheme are to be managed under trust arrangements and governed by the National Pensions Act 2008 (Act 766), as amended and other laws of the Republic of Ghana.

The mandatory first tier pension scheme is managed by the Social Security and National Insurance Trust (SSNIT), while the mandatory second tier and voluntary third tier schemes are privately-managed by approved trustees licensed by the National Pensions Regulatory Authority and assisted by pension trustees and custodians.

The National Pension Act 2008 (Act 766), as amended, states clearly where Pension funds can be invested, thus having the effect of minimising the risk of ML/TF.

Transactions are mostly conducted with the use of cheques and bank transfer with very insignificant cash levels. The pension contributors are domiciled in Ghana as such the transactions are domestic with no international transactions. There are high level of PEPs in this sub-sector, and it is also exposed to the threat of ML because no STR has been filed on the sort of investments by corporate trustees.

In 2013 there were unpermitted investments made into Non-Bank Financial Institutions (NBFIs). The trustees were asked to disinvest and they complied by disinvesting in all the NBFIs after the said investments matured.

M/L vulnerability was rated at

**Medium Low**

Even though there is no reportage of unusual transactions, there are regular on-site visits by the regulator and the controls in the pension market are very high.

A system for identifying beneficial ownership is also in place which suggests that instituting AML/CFT measures in regulatory bodies can be achieved with ease as compared with Bureaux de Change and Remittance Service Providers.

*Ghana Revenue Authority (GRA)*

GRA in 2014 collected total tax revenue of GH¢22,382,000,000.00 (US$ 5.890,000,000.00 Equiv), representing a three per cent short fall of the targetedGH¢23,104,000,000.00 (US$ 6.080,000,000.00 Equiv) according to MOF. Despite the shortfall the 2014 figure registered a growth rate of 29.7 per cent collection over the 2013 figure of GH¢ 25,650,000,000.00 (US$ 6.750,000,000.00 Equiv) and 18.5 per cent over that of 2012.

*There have been several reports in the Ghanaian media about tax evasion and indeed in a publication on the website of the 'Ghanaian Times' newspaper dated December 12, 2014, and captioned 'tax evasion stifles Ghana's Development' . The 'Daily Graphic' stated in its June 11, 2014 edition that 'the undervaluation of some imported fruit juices into the country is said to be denying the state its needed revenue while affecting the competitiveness of the products of local producers on the market.'*

These reports suggest that government revenue targets are not being realised and the GRA is unable to pursue tax defaulters due to its weak and inefficient monitoring mechanism. This essentially means money laundering is being fuelled by tax evasion which is one of the twenty-one serious offences leading to money laundering. Despite this development there is no AML/CFT guidelines for the GRA, apart from the fact that monitoring for suspicious transactions, is not done.

GRA has a very high vulnerability to ML with a score of 0.94 primarily because transactions amongst the informal contributors are cash based and there are no AML/CFT guidelines. STRs are not filed following the revenue mobilisation exercise. There is also no statistics available to confirm the extent to which resources have been invested in dealing with probable occurrence of money laundering hence the conclusion that GRA has a very high vulnerability ML rating with a score of 0.94**. HIGH**

GRA has been identified as a high risk area ostensibly because it is mostly unsuccessful in the application of administrative sanctions, and also not capable of prosecuting tax defaulters. Nevertheless, a task force was assembled in mid-2015 to identify and sanction companies who had failed to file their taxes[18]

[18] http://www.myjoyonline.com/business/2015/august-24th/gra-warns-tax-evaders-to-pay-up-or-risk-closure.php

The informal sector unlike the formal sector is highly unregulated; hence most of its activities take place underground and therefore has a relatively higher ML/TF vulnerability risk. For this assessment, the informal sector consists of Black Market and Underground Remittance.

**BLACK MARKET**

This is an informal and unregulated illegal market where the exchange of money is finalised underground without documentation. This service is used by people in the formal and informal sector and the transactions are relatively faster. There are no questions asked on the purpose of the purchase or sale of transaction, apart from the fact that there is also no ceiling on the volume of transactions. There are no statistics on the asset size in this market as well as the volume of turnover.

The key and major players are usually stationed at border posts and security posts. Their exchange usually hinges on the prevailing and dominating bank rate. It is very popular with prominent business persons in Ghana, and visitors to Ghana.

There are reports which suggest that foreign illegal miners in Ghana mainly, Chinese use this market to convert their ill-gotten gains prior to remitting the funds back home to China. The funds remitted are in the form of cash and outside the formal banking and financial system.

The Black Market has a very high vulnerability to ML risks with a score of 0.96. This is because there are no regulations governing the activities of the operators and the transactions are predominantly cash. The black market activities are also uncontrolled and they remain largely unidentified to be visited. There are some players in that sector operating around the Kotoka International Airport, Cowlane, Tudu and along the border towns and posts in Ghana.

**UNDERGROUND REMITTANCE**

Underground Remittance or Informal transfers of value systems such as Hawaladars (Middle East), Hundis (India) and Flying Money (China) mentioned because Ghana's business sector is dominated by people drawn from these communities. It is also a system utilised by Ghanaians including PEPs.

The Underground Remittance system does not require the movement of funds even though money has been transferred. This medium of remitting funds relies heavily on trust and is very fast with no transaction limits with regard to how much can be remitted. There are no statistics on the asset size in this market as well as the volume of turnover.

Underground Remittance has a very high vulnerability to ML with a score of 1.00 because there are no regulations governing the activities of the Hawala operators. The transactions frequently carried out are cash-based. The market activities are also uncontrolled and they remain unidentified to be visited and inspected. The Underground Remittance market serves businessmen, ordinary individuals and PEPs. It has been suggested that a lot of economic activities are financed by funds remitted with the support of the Hawala operators.

To conclude the transfer of money via informal systems are the weakest link and these criminal proceeds are not being identified and confiscated.

### 1.6.2 BASIS OF FINDINGS

A data collection instrument specifically a well-structured questionnaire, was employed in the determination of the findings of this research. The number of questionnaires distributed to respondents was one hundred (100) constituting the sample size; out of that eighty (80) were retrieved representing 80% of the total number of questionnaires issued. The findings from this research were analysed using a simple frequency distribution method. The data analysis and discussion required coding of the responses obtained from respondents through the questionnaire issued.

The data analysis and discussion specifically touched on all the ten (10) sections of the questionnaire, including Demographic data of respondents, Appointment of Compliance Officer/Anti-Money Laundering Reporting Officers, Anti-Money laundering awareness creation and training, AML/CFT Policy, Procedure and Processes, Timeliness of report to competent authorities and board of directors on issues relating to AML/CFT, Assessment of money laundering and terrorist financing risk, Effective Customer Due Diligence (CDD) Policies and Procedures for the prevention of Money Laundering and Combating of Terrorist Financing have been developed, Effectiveness in the keeping and storage of customer records, General Monitoring of Transactions, Compliance Programme and Independent Testing of the programme

OFIs vulnerability to the threat of money laundering was also assessed. The degree of vulnerability covered both the formal and informal sub-sectors of the OFIs. Vulnerability in the national context assesses lapses in the available defences and reaction mechanisms for combating ML. The national vulnerability is determined by comparing the national combating ability with the overall sectoral vulnerability. The conduct of the vulnerability assessment for the various sectors requires the determination of the asset base of the various sectors within the OFI industry.

### 1.6.3 SUMMARY OF FINDINGS

This study basically sought to assess the AML/CFT risk vulnerability among the Bureaux de Change, Non-Bank Financial Institutions, Electronic Money Issuers and Agents, and two statutory bodies (Ghana Revenue Authority and National Pensions Regulatory Authority).

Money laundering and terrorist financing have potentially devastating economic, security, and social consequences to most financial institutions, especially a developing economy like Ghana. It also provides the fuel for drug dealers, terrorists, illegal arms dealers, corrupt public officials, and others to operate and expand their criminal enterprises.

The findings on the demographic questions revealed that majority of respondents were males, with the age range of 30-39 years being the most dominant. Most of the respondents had been in employment for a period of 1-5 years and the highest form of education being first degree.

The foremost research objective which was in respect of the appointment of Compliance Officer/Anti-Money Laundering Reporting Officers, the findings revealed that there is a

general acceptance of the need for AML Compliance amongst Accountable Institutions as the majority of the respondents surveyed has in place an appointed staff for AML reporting.

The data gathered on whether regular training is organised for staff in the organisation, taking cognisance of the different roles that the staff performs in the organisation, suggest that majority of institutions are performing one of the core functions of Anti-Money Laundering; i.e. regular training. It could be argued on this basis that there is an adherence to Section 20 (i) of the amended AML Act (2014) Act (874). The section of the Act enjoins AIs to train their employees on a continuous basis on the requirements of the Act, internal policies, procedures and controls, new developments on current techniques, methods and trends concerning money laundering, terrorist financing and proliferation of weapons of mass destruction.

With regard to the statement as to whether there is a working document guiding the activities of staff, it is worth mentioning that there is strict adherence to the development of policies, procedures and processes within the AIs. These policies from the respondents are reviewed periodically and this could be attributed to the dynamic nature of the typologies that criminals resort to in pursuing both terrorist financing and money laundering.

The next objective of this research was directed at ascertaining the timeliness of reports to competent authorities and board of directors on issues relating to AML/CFT. It was evident that there is a certain level of interest on the part of management and the board of some of these AIs. This inference is based on the fact that majority of the respondents agreed to the fact that reports on AML breaches and adherence are submitted to the decision makers of the organisation. Regulatory reports, such as cash transaction reports and suspicious or unusual transaction reports, are regularly filed by the AIs to the appropriate competent authority. The low point about the regulatory reporting is about the tools used in gathering the information prior to the report.

With regard to the assessment of both money laundering and terrorist financing risks, a key criterion in the conduct is the adoption of FATF risk based approach. The inference that could be drawn from responses from the respondents is that, there is adherence to best practice in line with FATF standard.

It could be inferred from the findings on effective CDD that it is being carried out with reference to the BOG and FICs AML/CFT guidelines that were introduced in December 2011. The CDD process also requires that no anonymous accounts are created and that the Ultimate Beneficial Owners of accounts are identified and verified.

Section 8 of the amended AML Act 2014 (Act 874), requires that records on transactions must be kept for five (5) years. This legal provision is being respected based on respondents' reaction to the statements on record keeping.

Transaction monitoring, which is a key component of the KYC/CDD framework, was also addressed as part of the survey. The information from the respondents was in line with the responses that were given by the respondents under the CDD section of the survey.

The acknowledgement by management and the Board that they are ultimately responsible for AML/CFT systems and controls, is remarkable. This stance taken by the Board and management of the AIs surveyed is also encouraging in view of the fact that there is a compliance programme in place detailing the compliance activities that would be pursued by the institutions. There is also a review process which seeks to make the programme

relevant to contemporary situation. This would preclude the need for an independent testing or further managerial action to be taken following the release of the report.

The vulnerability assessment of the OFIs dealt with both the formal and informal sectors. Formal sectors are regulated whilst the informal sectors are those that are unregulated.

The informal sector, which includes Hawala and Black Market Foreign Exchange, was considered to pose a very high ML/TF vulnerability because it is not regulated and is conducted in secrecy.

The formal sector had varying ML vulnerability; Finance Companies (medium), Bureaux de Change (medium high), Remittance Service Providers (medium), Electronic Money Issuers and Agents (medium) National Pensions Regulatory Authority (medium low), and Ghana Revenue Authority (very high).

## CONCLUSION

It is evident from the study conducted that though the majority of respondents attested to the fact that there are appointed compliance officers who understand the issues under the AML/CFT regime, these persons are not management persons. Additionally, section 20 (i) of the amended AML Act 2014 (Act 874), which makes reference to training on AML related issues, is being, observed religiously considering the responses from the respondents. The ultimate decision makers of the AIs have set the tone for compliance primarily because the respondents accepted the fact that there are policy documents guiding the discharge of AML functions and those documents are subject to review in order to make them relevant.

There was an agreement to the effect that regulatory reports, such as CTR and STR are prepared and submitted to the relevant competent authorities. The major weakness was the fact that there was unavailability of a standardised tool or software that will support the detection of the STRs in particular. This has the potential of affecting the quality of that report. Effective CDD is being carried out by the AIs, even though there are occasions when a simplified CDD is carried out. This is not a healthy practice and must be discouraged.

Linked to the issue of CDD/KYC, is the concept of transaction monitoring and risk assessment. These two core functions are being given the requisite attention, except that there are instances where the monitoring of transactions is skewed towards only highly risk customers.

The acknowledgement by management and the board for being ultimately responsible for AML/CFT systems and controls is commendable, and the fact that most of the respondents asserted that there is a compliance programme in place also suggests that management recognises that they have a critical role to play in combating money laundering and terrorist financing. The major drawback is the fact that compliance programme is not subjected to an audit test. And even in instances where an audit is carried out, the majority of the respondents suggest that management does not take any further action.

The vulnerability assessment of the OFIs comprises both the formal and informal sectors with varying vulnerability scores for the formal sector and very high vulnerability score for the informal sector. The combined effect of these results translated into a **very high vulnerability sector**

## RECOMMENDATION

The following recommendations based on the findings of the study have been made for regulators, stakeholders and management of the OFIs:

FIC must enforce the provision in the AML Act which stipulates that compliance officers should be placed at management level or the appointment should be targeted at persons who are already holding management position. The current practice of appointing AMLROs who are not management members of their respective AIs suggests that implementation of internal AML/CFT controls have not commenced. Consequently there is little to no effort devoted to knowing the customer to identify or report suspicious transactions. Screening process must be carried out by the regulators on the capacity of such appointees to execute the task expected.

Another recommendation following the research is for these OFIs to procure less-complex, but useful software that can adequately support them in making essential report in AML like STR. This software must also support the onerous task of performing customer risk assessment with the institutions. The regulator must take keen interest in this recommendation.

Again, it is recommended these OFIs sign on to the United States of America's OFAC platform. This will aid in identifying customers that are on a sanctioned list and ought not to be dealt with. Additionally, information from the United Nations Security Council detailing countries and individuals that have been sanctioned must be accessed daily by the OFIs so that they do not expose themselves to potential money laundering or terrorist financing. Information on high risk customers that is circulated by the FIC must be given the necessary attention by the OFIs; this can be achieved by developing a database internally.

It is also recommended that complete CDD is carried out with no deferral of documentation prior to the opening of the account. Additionally, the likelihood of money laundering occurring could be attributed to the dealings of high risk customers, it therefore, makes sense for the focus of transaction monitoring to be on such accounts, it should also be recognised that a low risk customer can be transformed into a high risk customer. There is the need for equal attention to be given to all the customers. Also, the need for proper disclosure of the source of funds of these high risk persons, especially the politically exposed persons, must be insisted upon by the AIs. This information must be subjected to rigorous scrutiny by the FIC during on-site visit.

It is also recommended, amongst others, that the Bank of Ghana and the Financial Intelligence Centre carry out studies on Black Market and Underground Remittance to determine the extent to which they have impacted adversely on the Ghanaian economy.

BoG must collaborate with the Association of Foreign Exchange Bureaux (Bureaux de Change) Operators, sensitise them to the policies formulated to guide and regulate the FOREX market. This benign approach will have a universal acceptance amongst the industry players. This collaborative effort will aid in ultimately enforcing for instance the transaction limit of GH¢ 38,000.00 (US$ 10,000.00) set per FOREX transaction with a specific customer.

BoG must also consider increasing the staff strength of the team tasked to monitor the activities in the FOREX market. The activities in the market have outstripped the efforts of the monitoring team thus supervision currently is weak.

In order to enhance the extent to which identity is verified prior to the commencement of transactions, the sector regulator is advised to adopt the concept of Bank Verification Number which will be a unique number meant to properly identify customers and would be for the sole purpose of banking and executing auxiliary financial transactions. This Know Your Customer procedure would reduce identity fraud and fraud in general.

Bureaux de Change operators must adopt a standard form that will seek to illicit basic questions about the background of the patrons and customers in the FOREX market. This will sanitise the transactions in the sector and also minimise any attempt by miscreants and deviants in society to launder money through the sale or purchase of FOREX. The information requested should also include the purpose for either the sale or acquisition of the FOREX.

As an additional recommendation, FIC and BOG are encouraged to crack the whip by applying the various punitive measures that are clearly prescribed in the Fines and (Penalty Units) Act 2000 (Act 572). The pecuniary value of a penalty unit in the said Act is GH¢12.00 (US$ 4.14Equiv) which is very minimal. Consequently, an amendment of this Act is recommended with the figure raised by ten thousand per cent (10,000%). FIC should also liaise with the other competent authorities and revoke the operational license of AIs that will be deemed complicit in any reported case of money laundering. The enhancement of the sanctions will, in the long run, make the perpetration of money laundering, unattractive.

Lastly, it is recommended that, in addition to the annual financial audit that External Auditors are required by law to execute on AIs financial statements, independent audit testing of the compliance programme should be added to the External Auditors responsibility. This will engender confidence and make the entire process reliable. Management must be forced to comment on the issues emanating from the audit and also provide information on actions that it would take. This report following the independent testing must be displayed in a public place as it is the case for the audit report on the institutions financial statements.

## 1.7 DESIGNATED NON- FINANCIAL BUSINESSES AND PROFESSIONS (DNFPBS)

### 1.7.1 INTRODUCTION

This assessment focused on businesses and professions and their susceptibility to money laundering risks.

Data from the Statistical Services of Ghana indicate that DNFBPs account for about 30% of the country's Gross Domestic Product (GDP). The sector employs about 25% of the population and contributes substantially to the tax revenue of the country.

This study concluded that the DNFBPs sector is highly vulnerable to Money Laundering/Terrorist Financing (ML/TF) activities due to the lack of regulations and guidelines addressing AML/CFT concerns in the sector.

Ghana's Anti-Money Laundering Act, 2008 (Act 749) requires DNFBPs to implement internal AML/CFT control policies and procedures and also file Suspicious Transaction Reports (STRs) to the Financial Intelligence Centre (FIC). However, supervisory bodies have not embarked on effective implementation through compliance monitoring. The absence of enforceable regulations and industry guidelines tailored to the peculiar circumstances of the DNFPB sector, makes it difficult even for DNFPBs willing to comply with AML/CFT obligations, to understand exactly what would constitute effective compliance. Consequently, DNFBPs are able to ignore the use of the sector for money laundering and terrorist financing activities.

The weak legal and regulatory framework of this sector, exposes it to high risks of money laundering and terrorism financing activities. For instance, as there are no industry guidelines to ensure that DNFBPs, such as dealers in precious metals and stones, real estate agents, and car dealers conduct "Know Your Customer" (KYC) and "Customer Due Diligence" (CDD) procedures before transacting business with their clients, the sources of funds involved in such transactions are invariably not disclosed. Thus, without the due KYC/CDD measures and suspicious transaction reporting procedures in place, money launderers are able to conceal their ill-gotten wealth within the DNFBPs sector.

The study also observed that though some business groups within the DNFBPs sector, notably the accounting, legal and notary firms, operate under well-organised supervisory bodies, the regulatory functions and activities of these supervisory bodies place little or no emphasis on AML/CFT rules and procedures, possibly due to lack of awareness of their responsibilities under the Anti-Money Laundering Act. Compliance with AML/CFT obligations by players in the industry is thus very low.

DNFBPs are described in **Schedule 21** of the Anti-Money Laundering Act, 2008 (Act749), as amended, as "Accountable Institutions" operating in the following sectors of Ghana:

- Real Estate Agencies
- Operators of game of chance (casinos)
- Dealers in Precious Metals
- Accountants
- Lawyers
- Notaries
- Car dealers

- Non-profit Organisations
- Trust and Company Service Providers
- Remittance of Exchange of Funds

The above provision on DNFBPs in the AML/CFT law is technically compliant with international AML/CFT obligations.

DNFBPs contribute significantly to the economy of Ghana, and are spread in both the formal and informal sectors of the economy. They can be grouped in the following categories:

> ***Gatekeepers*** *– Accountants, Lawyers, Trust and Company Service Providers*
>
> ***Informal*** *–Real Estate Agencies, small scale Precious Metals Dealers, Casinos, Car Dealers, Non-profit Organisations*
>
> ***Formal****– Large Scale Gold Dealers, Remittance of Exchange of Funds*

Below are the main attributes of DNFBPs in Ghana:

> *They are found in every segment of the country.*
>
> *Financial transactions within the sector are mainly in cash.*
>
> *Record keeping is minimal or non-existent.*
>
> *The designated supervisory authority is not clear in the DNFPB sub-sectors*
>
> *Tailored AML/CFT regulations to enable businesses in the sector understand what is expected is lacking.*

## ACCOUNTANTS:

The Institute of Chartered Accountants, Ghana (ICAG) is a professional body established under the Institute of Chartered Accountants Act 1963, (Act 170). As at December 2014, there were 420 registered professional accountants, 80 accounting firms and 40 auditing firms in the country.

The functions of the Institute as provided in Act 170 include the provision and maintenance of a library of books related to accountancy, encouraging research in accountancy, supervising and regulating the engagement, training of accountants as well as sanctioning unprofessional conduct of members. A person cannot operate an accounting or auditing firm/service unless the person is a qualified and certified member of the Association. As at December 2014, there were 420 registered professional accountants, 80 accounting firms and 40 auditing firms in the country.

There are, however, no specific AML/CFT provisions in the Institute of Chartered Accountants Act specifying responsibilities for supervision, compliance monitoring and

enforcement of AML/CFT obligations, neither are there any AML/CFT-specific guidelines to regulate the operations of professional accountants. Thus, the supervisory activities of the ICAG do not involve enforcement of compliance with AML/CFT measures in line with FATF best practice recommendations. This makes the sector highly vulnerable ML/TF activities.

Though there is a lack of AML/CFT monitoring and supervision of the sector, most of the large accountancy firms in the country are international firms and they largely comply with international best practice as far as AML/CFT is concerned.

## LAWYERS:

Lawyers in Ghana are regulated by the General Legal Council (GLC) under the Legal Profession Act 1960 (Act 32), which governs standards of professional conduct and organises legal education. At the last count in 2014, there were about 2,500 lawyers in Ghana. Ghana Bar Association (GBA) is a professional organisation of lawyers and membership is mandatory.

The main functions of GBA are to maintain the integrity, honour, independence and integrity of the legal profession and to ensure that a high sense of professional standards, discipline and etiquette, are maintained.

Lawyers carry out many functions that require an awareness of AML/CFT issues. These include services relating to the buying and selling of real estate, managing client accounts and the establishment of companies. Lawyers also act as trustees, nominees, directors and can also manage the operations of companies. They serve as intermediaries in the execution of businesses and transactions.

The services they provide can attract cash transactions which require that comprehensive due diligence on the client is conducted.

The legislation that provides that lawyers file a Suspicious Transaction Reports (STRs), and the criminal and monetary penalties for failing to file same, are the Anti-Money Laundering Act 2008, Act 749- s30 and the Anti-Money Laundering Regulations, 2011 (LI 1987) s44 (a) & (b). There is a general lack of education and awareness of AML/CFT issues, including he need to file STRs, by lawyers.

In other countries, AML/CFT legislation includes some defences for non-filing, and defines the limitations on the use of legal professional privilege. Ghana's legislation does not have such a provision.

Internationally there is continuing controversy over the money laundering vulnerabilities of legal professionals, and whether they should be obliged by law to file suspicious transaction reports (STRs) on their clients.

It is important to note that though the International Bar Association (IBA) of which the GBA is a member, has produced AML/CFT guidelines for its members, the GBA itself has not provided any such guidance to lawyers in the country. Perhaps GBA should follow the example of IBA and issue guidelines in relation to AML/CFT to its members.

It is important for steps to be taken to educate lawyers about the potential misuse of the profession for ML/TF activities and illustrate how this might happen in practice.

## NOTARIES:

Governed by the provisions of the Notary Public Act 1946, Notaries are required to report suspicious transactions under provisions of the AML/CFT Act, 2008 (Act 749), as amended.

Notaries are legally authorised to administer oaths and affirmations, signature witnessing, authenticate documents and perform other official acts depending on the jurisdiction. In Ghana, a notary is under the direct supervision of the Chief Justice, who has the power to appoint, and dismiss a notary as deemed fit.

Professionals have an inherent role as gatekeepers to the financial sector. The gate keeping role is a term applied to lawyers, notaries, accountants and company service providers, and occurs when professionals provide advice and therefore, have access to the financial system. In order to forestall a situation where professionals knowingly or unintentionally facilitate development of money laundering and terrorist financing schemes, AML/CFT regulations have placed specific obligations on this group. However, these obligations may not go far enough in dissuading this "trusted" group from being enablers in the commission of financial crime.

## NPOS AND NGOS:

There are 6290 NPOs registered with the Department of Social Welfare. There is a two tier registration that requires NPOs to register with the Registrar-General's Department. First as a company Limited by Guarantee, and therefore an NGO. Secondly, they are expected to register with the Department of Social Welfare.

NPOs in Ghana are defined as civil society organisations that are formed independently of the State but register voluntarily under specified laws in order to gain official recognition to pursue objectives that are not self-serving, but for public benefit.

Registration qualifies NPOs to access public development funds, be it from external donors or the government, and/or benefit from tax exemptions and account for their usage in their operations in the non-profit sector. NPOs in Ghana maybe national as well as international; secular as well as faith-based; and membership or non-membership based. They operate in fields such as health, education, training, health, agriculture and food security, energy, water, sanitation, rural and urban development, environment, population and social welfare.

NPOs are also involved in employment creation, micro-credit financing, economic development, skills training, gender awareness and action, peace and human rights, informal economic activity, anticorruption, poverty reduction and advocacy on policy reforms.

All NPOs are required to be registered by the Department of Social Welfare under Ministry of Gender, Children and Social Protection. Registration is preceded by an onsite inspection and where satisfactory, registration is twofold.

- Registration as a company limited by guarantee at the Registrar Generals Department then;
- Registration as an NGO at the district, municipal or metropolitan level and then at the national level.

A certificate will be granted upon the presentation of a mission, vision, names of directors and a constitution. The process can be protracted but is nevertheless rigorous.

The laws that define the legal framework within which NGOs operate in Ghana are as follows:

- The Companies Code/Act 179 (1963).
- Articles (21) and (37 (1) (2) (3)) of the Constitution of the Fourth Republic (1992).

The Draft NGO Bill (1993) was never enacted into law, and, therefore, does not form part of the legal framework. In addition to these laws, administrative rules and regulations have occasionally been issued as Government Directives to address specific problems of regulating the operations of NGOs.

In Ghana, NGOs have resisted a draft NGO law that they believe could constrain their development and activities. In 2006, the Government introduced a *Trust Bill* which included the regulation of NGOs/CSOs. This was also rejected.

An emerging initiative in Ghana is the *Ghana NGO/CSO Standards Project*, which seeks to promote self-regulation among NGOs and CSOs operating in Ghana. This initiative constituted a 15-member Standards Commission comprising the heads of local and international NGOs all over the country. Currently, NGOs are to submit annual reports to the Ministry of Gender, Children and Social Protection.

The Government directive on registration with the Ministry, is rather confusing especially where NGOs have registered with the Registrar-General's Department. There is some confusion over 'recognition as NGO' deriving from registration with the Ministry, on the one hand, and recognition as a legal entity, i.e. a 'company limited by guarantee', deriving from registration under the Companies Code. This apparent state of confusion has created a situation in which some NGOs register either with the Registrar-General's Department but not the Ministry, or with both the Registrar-General's Department and the Ministry, or with none of the two institutions. As a result the, problem of registration has become rather complicated.

Another state of confusion arises because the Ministry of Gender, Children and Social Protection monitors and coordinates the work of NGOs but registration is carried out by the Registrar- General's Department.

In a recent case the high court in its ruling questions, the lack of a specific law that could give rise to an offence for misuse of NGO funds or donations.

The Ministry for Gender, Children and Social Protection say that there is no organised national response in the NGO sector to combat possible terrorist financing abuse.

Being the receiver of annual and financial reports from NGOs, the Ministry admits that a major challenge is inadequate annual and financial reports, as well as the integrity and calibre of board members and general poor internal governance. It has recommended the enactment of a comprehensive law to cover the activities of NGOs, and also the establishment of a National Council to undertake accreditation of NPOs.

This coupled with a lack/slow response so far to our questionnaire points to a gaping opportunity for the abuse of NGOs as a conduit for terrorist financing. It also highlights a lack of awareness and sector guidelines or regulations on AML/CFT.

> *NGOs present as an area of high vulnerability to ML/TF, and can be illustrated by the ruling of a high court in the case- Network of International Christian Schools Inc. & American International School –v- Laurie Korum and Others on 12th June 2015 in which Her Ladyship Justice Torkornoo criticised the way in which NGOs are registered in Ghana and expressed her "profound dismay" with the Registrar of Companies for the "unbelievably reckless and feckless manner in which so many ventures set up as non profit organisations, with no mechanism for monitoring that their income is used for charity instead of as a scheme for persons to earn money without paying tax to a country brought to its knees by poverty"*
>
> *She continued, "I believe it is high time Parliament took up its responsibility of setting up a Charities Authority to ensure that income obtained through the activities of alleged non-profit organisations such as churches and other institutions are actually used to partner social development instead of being taken by organisations that effectively dodge the tax net"*

An exercise to register all NPOs is currently underway at the Registrar Generals Department under the Ministry of Justice. This will make available to the public a list of all NGOs in the country.

## DEALERS IN PRECIOUS METALS:

The Precious Mineral sector in Ghana is regulated by the Minerals Commission established under the Minerals Commission Act 1993 (Act 450). The Minerals Commission serves as the main promotional and regulatory body for the minerals sector in Ghana and is responsible for the regulation and management of the utilisation of the mineral resources in the country. It also serves as the main Agency for the coordination and implementation of policies relating to mining, it ensures compliance with Ghana's Mining and Mineral Laws and Regulations.

The profit margins of dealers in precious metals and stones are very high, and largely cash based and therefore, remains highly attractive to money launderers.

So for example, a common scheme that is used to circumvent the need for a licence to trade in gold is one where the company would enter into a service agreement with a Ghanaian small scale mining company to provide technical knowhow or equipment in exchange for payment in gold and use the existing agreement to sell to the Precious Minerals Marketing Company (PMMC) or private licensed buyers.

Other laws involved in the management of the mineral resources in Ghana are the Minerals and Mining Law, 1986 (PNDCL 153), as amended by the Minerals and Mining (Amendment) Act, 994 (Act 475) and the Mining Act 2006, (Act 703).

There is also the establishment of the Precious Minerals Marketing Company Ltd (PMMC) whose main mandate is to trade in gold, diamonds, precious and semi-precious stones

locally and internationally, and produce quality jewellery through highly skilled and motivated staff to ensure customer satisfaction. All Small and Medium Scale Enterprises (SMEs) which trade in gold, diamonds, and precious stones, are required to register with PMMC and be issued with the requisite license before commencing business operations in the country.

In spite of the legal, institutional, regulatory and supervisory framework outlined above, the industry remains highly vulnerable to ML/TF activities, due largely to a lack of focus on and enforcement of AML/CFT control measures by the supervisory bodies and agencies. Indeed information available to the FIC indicates that a large number of reported cybercrime cases concern gold scams carried out through various schemes. A lot of foreigners continue to fall prey to gold scams in Ghana with the scammers increasingly employing new and sophisticated methods to defraud their unsuspecting victims.

## CAR DEALERS AND REAL ESTATE:

These are regulated sectors, but remain susceptible to money launderers because of the ability to invest large quantities of cash, as well as manipulate allied services and schemes, such as mortgages, and the establishment of nominees in situations where anonymity is required.

A large section of the real estate sector is organised under the GHANA REAL ESTATE DEVELOPERS ASSOCIATION (GREDA), a voluntary organisation, backed by an Act of Parliament but without powers to sanction erring members.

A Real Estate Agency Bill soon to be enacted seeks, amongst others things, to address issues relating to licensing, obligations, operations and regulation of operators in the industry and also to promote the fight against Money Laundering and Terrorist Financing (ML/TF). Once the law is enacted, it is expected that regulations and necessary control measures will be available to ensure effective supervision and monitoring of businesses in the sub-sector to enhance compliance with AML/CFT obligations.

## CAR DEALERS

The AML laws do cover car dealers, and yet there are no specific guidelines for this sector. There is also a lack of AML/CFT supervision because the GHANA CAR DEALERS ASSOCIATION, the umbrella body for car dealers, is merely a voluntary organisation and does not have legal backing to regulate the activities of the players in the sector.

This group remains largely unregulated in Ghana since there is no legislation that specifically governs their operations. There are a number of car dealers in the country who deal in the buying and selling of cars. Some are authorised official and exclusive dealers of several international brands such as Toyota, Honda, Kia, Hyundai, Range Rover, TATA, Mercedes and Volkswagen. There are also informal car dealers who are involved in the importation and sale of second-hand vehicles. The car dealers in the formal sector maintain an inventory on the sales and purchases of cars. They also stock spare parts and are involved in service provision for clients. Most car dealers, especially those in the informal sector accept cash as the most common method of payment, and are thus a potent avenue through which criminals can launder money.

The trend is worrying, especially as car dealers are involved in exchanges of huge amounts of cash. About 90% of transactions within the sector are through cash and as such drug dealers and other criminals find it very convenient and safe to channel their ill-gotten funds through the sector

In Ghana, car values do not depreciate as quickly as they do in other countries, if at all and undoubtedly real estate is an ever-growing industry in developing countries. Therefore, not only do these sectors provide a haven for money launderers, it is likely that their investments will appreciate steadily and remain valuable.

## OPERATORS OF GAME OF CHANCE:

Operations of Casinos in Ghana are regulated by the Ghana Gaming Commission in accordance with the Gaming Act 2012, (Act 846). The Gaming Commission is responsible for the licensing and registration of all casinos and other operators of games of chance in Ghana.

Casinos and other games of chance constitute important components of the DNFBPs sector, and are generally highly risky entities in terms of ML/TF in any country including Ghana, due to the use of huge sums of money in their transactions. As at December 2014, there were seventeen (17) casinos registered with the Commission. All seventeen registered casinos are owned by foreign nationals, mostly Chinese and Lebanese, and are patronised largely by foreigners who also operate other forms of businesses in the Ghana. A small number of Ghanaians also patronise such casinos.

In recent times there has been a significant increase in the number of sports and betting companies across the country. Thus, though the number of casinos is seen as relatively low with respect to the size of the Ghanaian economy, the emergence of these sports and other betting agencies, has further heightened the ML/TF risks of the sector.

In light of the high cash intensity of transactions, the weak supervision and the lack of disclosures, which make it difficult to determine the volume of transactions undertaken by casinos and the other games of chance, the sector is viewed to be highly vulnerable to money laundering activities.

The AML Act, 2008 (Act 749) as amended, requires each casino (as an "Accountable Institution") to appoint an Anti-Money Laundering Reporting Officer, conduct customer due diligence and report currency and suspicious transactions to the FIC. Currently there is little enforcement of these requirements by the regulatory body or the FIC, thus making this sector very vulnerable to ML/TF risks and activity.

There has been a huge rise in a relatively short period. Many foreign nationals (Chinese and Lebanese) owned bricks and mortar casinos in the country. Statistics show that pre 2013, Thirty-five (35) gaming licences had been granted but by the end of 2014, fifty four (54) licences were in existence.[19] Although AML/CFT legislation places obligations on these establishments, enforcement or sanctions are rarely applied. Online gambling is not as popular and its potential vulnerability not as pronounced.

[19] MINISTRY OF INTERIOR -MEDIUM TERM EXPENDITURE FRAMEWORK (MTEF) 2015-2017 PG. 62

There is a significant sport betting culture in Ghana which is growing fast. Also, fruit machines and other similar gaming machines are becoming popular. In other countries heavy use of such machines by the young and unemployed is considered a huge indication of money laundering.

## GENERAL OUTCOME

Below are the findings from the interviews conducted, analysis of the various questionnaires as well as study of the legal framework, institutional framework and the general structure of DNFBPs in Ghana.

### 1. LACK OF PROPER LEGAL FRAMEWORK

Most of the laws that exist now, as they stand now have not incorporated provisions of AML/CFT guidelines into the said laws. Even laws for well regulated sectors, such as the lawyers, accountants, casino operators and dealers in precious minerals lack specific provisions on AML/CFT. Sectors like the real estate and car dealers for instance do not have any legislation at all. There is a bill before Cabinet which may be sent to parliament soon for the passage of the real estate agency Act. Without the adequate powers to effectively supervise, monitor and regulate these sectors, it is very difficult to control the industry players in terms of their AML/CFT obligations.

### 2. WEAK OR NON-EXISTENCE OF INSTITUTIONAL FRAME WORK

Some DNFBPs have some institutional framework in the form of regulations and supervision, but are not AML compliant. The Ghana Bar Association and the General Legal Council supervise the legal profession, but they do not have specific AML supervisory powers. The Institute of Chartered Accountants, Ghana, is another example of this incongruity.

### 3. LOW KNOWLEDGE IN AML/CFT

There is lack of knowledge on AML/CFT laws generally, and in the DNFBP sector in particular. Non-compliance with Customer Due Diligence (CDD) procedures in the region for example, can be attributed to lack of knowledge. Evidence from the FIC's compliance and outreach programmes shows that though there were many efforts to educate the DNFBPs on the dangers of money laundering, only a few of them really showed interest in AML/CFT. Apparently, they have no idea about their obligations under the AML/CFT laws in the country. It is, therefore, imperative that they are educated about the law and their responsibilities as operators in the economy. Perhaps, assistance in conducting self AML/CFT risk assessments to determine the threats and vulnerabilities of money laundering, terrorism financing and predicate crimes, can be provided as an important development in the adoption of an AML/CFT Risk-Based Approach.

### 4. NO POWERS TO ENFORCE SANCTIONS

Almost all the sectors with regulators and supervisors do not have AML/CFT guidelines or appreciate the provisions in their laws to sanction their members. In fact, non-compliance with AML/CFT issues does not arise at all due to the lack of appropriate provisions in the laws or guidelines. This has made supervisors weak and ineffectual.

### 5. NO GUIDELINES TO CONTROL AND MONITOR THE SECTOR

> *Knowledge in AML/CFT issues is minimal and most professional associations and businesses have not initiated amendments to their laws or created industry guidelines to include AML/CFT provisions.*
>
> *Regulatory bodies do not feel confident to apply sanctions laid out in s39 of the Anti Money Laundering Act 2014 as they believe that they do not have the power within their establishing law to sanction members who do not comply with AML/CFT measures.*
>
> *Moreover, associations such as GREDA (the association of Real Estate Developers in Ghana) do not have the power to monitor, control and sanction its members for non-compliance.*

### 6. LOW CAPACITY OF LAW ENFORCEMENT AGENCIES IN RESPECT OF CASES INVOLVING DNFBPS

Money laundering is a relatively new kind of crime to Ghana, even though it has developed internationally over the last two decades; law enforcement agencies in Ghana are yet to develop an effective approach to securing convictions for this crime. At the moment prosecution is low and conviction is almost non-existent. There is minimal understanding of the schemes operated by these criminals. A concerted effort is required to organise targeted training for personnel in this sector.

### 7. LACK OF APPROPRIATE ID INFRASTRUCTURE

Ghana has a number of biometric national identification cards but none are complete. These cards are acceptable forms of identification for most transactions. There is no single database that combines all identity forms. This situation makes background checks on suspects extremely difficult to carry out.

## 1.7.4 CONCLUSION- DNFPBS

The contribution of DNFBPs to GDP, revenue and employment is quite significant to the economy of Ghana and can be found both in the formal and informal sectors.

In fact, the sector is by assessment likely to be the most vulnerable sector and the most susceptible to white collar crimes. In particular, launderers of cash derived from drug trafficking, are likely to take advantage of the lapses within the sector.

In spite of the risks posed by the sector, Ghana has not been able to introduce effective regulatory and supervisory guidelines for the sector to address the deficiencies within the sector. Ghana is seriously challenged in implementing AML/CFT laws in respect of the DNFBPs due to the fact that the sector lacks some of the appropriate regulatory or supervisory bodies to monitor and enforce compliance of the law.

### 1.7.5 DNFPBS RECOMMENDATIONS

In view of the serious risks posed by the DNFBPs sector and the numerous vulnerabilities identified by this study, the following recommendations are suggested:

#### REAL ESTATE

1. The Ghana Real Estate Developers Association (GREDA) should be given statutory recognition and its membership should be mandatory for all real estate developers and agents. Once the regulatory authority is in place, it should have the necessary resources committed to AML/CFT. It should also have in place professional ethics and standards and it should be able to monitor transactions in the real estate sector.

2. The regulatory authority in conjunction with the FIC must, as a matter of urgency, come up with AML/CFT Regulations, guidelines, enforcement mechanisms for the real estate sector. The players should be made to comply with the reporting requirements under the AML Act, 2008 (749), as amended, by filing STRs and CTRs to the FIC.

#### OPERATORS OF GAME OF CHANCE

1. The Ghana Gaming Commission in conjunction with the FIC should develop AML/CFT Regulations, guidelines and enforcement mechanisms for the casino operators and other gaming houses in the country.

2. AML/CFT regulations and guidelines do not apply to lotteries as they do to casinos and gaming houses. A policy change is required to ensure that National Lottery Authority (NLA) is empowered to administer and supervise AML/CFT regulations and guidelines.

3. Both the Ghana Gaming Commission and the National Lottery Authority must come up with a system that will ensure that transactions are monitored regularly and the necessary reports are filed to the FIC.

4. There should be professional ethics and standards for the entire casinos, gaming houses and lotteries sector to supplement guidelines and procedure manuals that would be put in place.

#### DEALERS IN PRECIOUS METALS

1. The Ghana Minerals Commission and the Precious Minerals Marketing Commission should, as a matter of urgency, develop AML/CFT Regulations, guidelines and enforcement mechanisms.

2. Adhering to AML/CFT requirements should be embodied in the licensing renewal process of the industry players.

3. Both institutions should come up with a system that will ensure that transactions are monitored regularly and the necessary reports are filed to the FIC.

## ACCOUNTANTS

1. The Institute of Chartered Accountants, Ghana (ICAG) should be engaged and encouraged to extend its supervisory role to cover AML/CFT issues. This will ensure that regulations and guidelines are put in place, that AML/CFT examinations are conducted regularly, and that the professional standards and ethics incorporate AML/CFT issues.

2. Resources should be committed to ensure proper monitoring and enforcement of AML/CFT guidelines.

## LAWYERS

1. The General Legal Council and the Ghana Bar Association (GBA) should be engaged and encouraged to extend their supervisory role to cover AML/CFT issues. AML/CFT Regulations and Guidelines should be put in place to regulate the activities of lawyers in the country.

2. There should be regular monitoring and enforcement to ensure compliance to the AML/CFT Regulations and Guidelines.

## CAR DEALERS

1. As a matter of urgency, a regulatory authority must be put in place to regulate and supervise the activities of both franchised car dealers and used/second-hand car dealers. The role of such a regulatory authority must cover AML/CFT issues and ensure that members comply with the AML/CFT Regulations and Guidelines that would be set out. Membership should be mandatory for all car dealers in the country.

2. The GRA may also assist with the regulation of cars dealers in the country to ensure that the appropriate taxes are paid to the state.

## NON-PROFIT ORGANISATIONS (NPOS)

1. Steps must be taken to enact the necessary laws to regulate the activities of NPOs in the country. Thus a regulatory authority with enforcement and sanctions powers must be set up to regulate and properly supervise the activities of all NPOs in the country. All churches, NGOs and other religious bodies must be regulated by one body to ensure effective monitoring and compliance.

   Such a regulatory authority should issue licences to newly registered NPOs and existing ones and also should be made to renew their licences yearly. The licences of NPOs who blatantly flout the law should be withdrawn in order to sanitise the sector.

2. Submission of yearly financial reports by NGOs and other religious bodies must be enforced and properly supervised to abate the risk of terrorism financing since the operations of NPOs is a fertile ground for the financing of terrorists' activities.

3. In addition to these industry specific recommendations, the working group also recommends that the FIC, in conjunction with the key stakeholders, should embark on a sensitisation and education programme, aimed at key players within the DNFBPs sector. This will address the low levels of AML/CFT knowledge of the DNFBPs sector which was very evident during the research.

4. Where NPOs receive donations, a gift policy should be adhered to by organisations as part of CDD/ KYC measures to ensure that the origins of any cash donated is clearly stated in a standardised format.

Finally, the working group recommends that Ghana should consider establishing a special regulatory unit for DNFBPs similar to the "Special Control Unit against Money Laundering" (SCUML) of Nigeria set up to regulate the activities of the industry players within the DNFBPs sector.

## 1.8 FINANCIAL INCLUSION ASSESSMENT

*Excluding* the unbanked, underserved and low income groups from access to formal financial service can have a large negative impact on AML/ CFT policies and on the economy generally. Having large groups existing outside formal financial systems in a cash based economy, makes it a huge ML/TF risk.

International standards on anti-money laundering (AML) and combating the financing of terrorism (CFT), promote financial integrity and support the fight against crime. However, the inappropriate implementation of these standards plays a role in excluding millions of low-income people from formal financial services. It can relegate the underserved majority to the informal world of cash, undermining social and economic advancements and denying regulators and law enforcement a key means of strengthening financial integrity: the ability to trace the movement of money.

A well-developed risk based approach in supervising the financial institutions and other providers of financial inclusion products will ensure to a large extent full compliance with the AML/CFT guidelines and also promote financial inclusion.

The Banks continue to offer New Payments Products and Services (NPPS) such as mobile money, pre-payment cards and internet payments that facilitate financial inclusion and its usage rate is growing rapidly in Ghana.

Statistics published by the Bank of Ghana (www.bog.gov.gh) show the growth of mobile money usage in Ghana as at end of December 2015.

Table 1

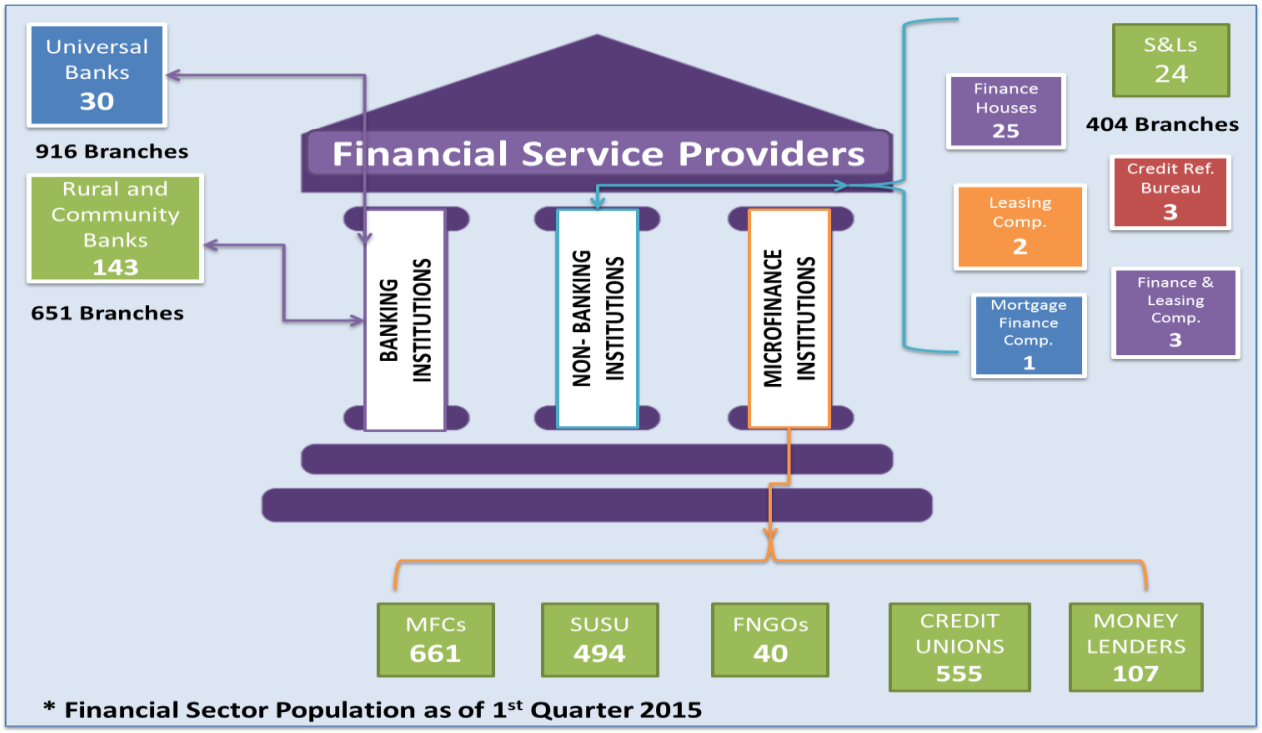
| Indicators | 2012 | 2013 | 2014 | 2015 | Annual Growth 2015 (%) | Annual Growth 2014 (%) |
|---|---|---|---|---|---|---|
| **Total number of mobile phone subscribers (Cumulative)3** | 25,618,427 | 28,026,482 | 30,360,771 | 32,826,405 | 8.12 | 8.33 |
| **Registered mobile money customers (Cumulative)** | 3,778,374 | 4,393,721 | 7,167,542 | 13,120,367 | 83.05 | 63.13 |
| **Active mobile money customers4** | 345,434 | 991,780 | 2,526,588 | 4,868,569 | 92.69 | 154.75 |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Registered Agents (Cumulative)** | 8,660 | 17,492 | 26,889 | 79,747 | 196.58 | 53.72 |
| **Active Agents5** | 5,900 | 10,404 | 20,722 | 56,270 | 171.55 | 99.17 |
| **Total volume of transactions** | 18,042,241 | 40,853,559 | 113,179,738 | 266,246,537 | 135.24 | 177.04 |
| **Total value of transactions GH¢'Million** | 594.12<br>US$156.35 | 2,652.47<br>US$698.02 | 12,123.89<br>US$3190.50 | 35,444.38<br>US$9,327.47 | 192.35<br>US$50.62 | 357.08<br>US$93.97 |
| **Balance on Float (GH¢'Million)** | 19.59<br>US$5.16 | 62.82<br>US$16.53 | 223.33<br>US$58.77 | 547.96<br>US$144.20 | 145.36<br>US$38.25 | 255.51<br>US$67.24 |

As per the above table, 40% of mobile phone subscribers have registered as mobile money users with 38% of them very active. A growth rate of 63.13% to 83.05% for registered customers from 2014 to 2015 reveals an active interest in the payment system year on year basis. The year 2014 and 2015 recorded 177.04% and 135.24% growth rate in terms of volume of transactions respectively. An average amount of GH¢54.69 (US$14.39) was transfer per customer annually.

Figure 1

Ghana's Financial Inclusion Landscape: as at March 31, 2015




Service providers operating within Ghana's Financial Inclusion product space include:

- Formal Banks (30 with over 916 branches)
- Rural and Community Banks (143 with over 651 branches and outlets)
- Savings and Loans Companies (24 with over 404 branches)
- Finance Houses (25)
- Credit Reference Bureaux (3),
- Leasing Companies (2)
- Finance and Leasing Companies (3)
- Mortgage Finance Companies (1),
- Tier 2 Deposit Taking Microfinance Companies (661)
- Credit Unions (555)
- Financial Non-Governmental Organisations (40)
- Corporate Money Lenders (107
- Individual Money Lending Enterprises (304)
- Susu Collectors/enterprises (494)
- Money Transfer Services- TIGO, MTN, AIRTEL – NO DATA AVAILABLE
- International Money Transfer Services- REMITTANCES TO GHANA $ 119 million in 2010[20]

The 2015 World Bank Findex data indicates that 40.5 percent of adult Ghanaians are financially included; meaning 59.5percent of the population does not use formal financial products.

[20] Migration and Remittances Fact Book 2011

## MICROFINANCE INSTITUTIONS (MFI'S)

Following the enactment of these laws BOG, have also issued guidelines to regulate this sector.

- Non-bank Financial Institutions Act, 2008,(Act 774)
- Banking Act, 2004 (Act 673) as amended by Act 738
- Notice No. Bg/Gov/Sec/2011/04, Operating Rules and Guidelines for Microfinance Institutions- provisions on licensing.

Microfinance Institutions include:

- Formal suppliers such as savings and loans companies, rural and community banks, as well as some development and commercial banks;
- Semi-formal suppliers such as credit unions, financial non-governmental organisations (FNGOs), and cooperatives;
- Informal suppliers such as Susu collectors and clubs, rotating and accumulating savings and credit associations (ROSCAs and ASCAs), traders, moneylenders and other individuals.

## MOBILE MONEY- E- MONEY ISSUERS (TELECOMMUNICATIONS AND FINANCIAL ENTITIES)

Mobile money plays a large and increasing role in Financial Inclusion.

Laws and BOG guidelines enacted in this area are:

- Payment Systems Act 2003 (Act 662)
- Guidelines for E Money Issuers in Ghana

  These guidelines include provisions on KYC/CDD and licensing requirements. The above E-Money guidelines introduce limitations per accounts using the risk profile of the customer. Section 12 (1) to (7) of BOG guidelines for E-money issuers' deals with transaction limitations. The minimum KYC accounts, medium KYC accounts and Enhanced KYC accounts determine the limits of amounts allowed for the transactions.

### 1.8.1 QUALITY OF AML CONTROLS

Ghana has laws and regulations in place to protect the entire economy especially the financial system from being used to carry out illegal activities tailored to launder funds or to finance the activities of terrorist groups, terrorist individuals and/or entities. In the past, the majority of criminal proceeds were laundered through the mainstream banking. However, since 2010 a higher degree of complexity has been observed, especially with the increase in the number of microfinance institutions, remittance companies, rural banks,

money lenders, mobile money operators and Financial Non- Governmental Organisations (FNGOs), all of which may be categorised under the financial inclusion products in Ghana.

Apart from mainstream banking, where specific laws, regulation and guidelines apply, financial inclusion products which have long been ignored by regulators are gradually gaining attraction by money launderers because of its minimal detection and reporting focus.

Ghana has noted with concern the growing number of remittance services, microfinance institutions, rural banks, money lending institutions, remittance service businesses, rural banks, mobile money operators financial Non-Governmental Organisations (FNGOs) and other financial inclusion products and have since 2010 been developing appropriate measures to include them in the reporting and sanctions regime.

### *Money Laundering Provisions*

In addition to the provisions of sections 7 and 8 of the Payment Systems Scheme Act 2003 (Act 662) of the Banking and Financial Laws of Ghana, (1998-2006), it is required that a customer information is taken prior to and subsequent to the execution or receipt of a transfer, section 1.16 of the Bank of Ghana/ Financial Intelligence Centre AML/CFT Guidelines for Banks and Non-Bank Financial Institutions stipulates that financial institutions shall pay special attention to all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic purpose. Financial institutions are to examine as far as possible the background and purpose of such transactions and set forth their findings in writing to the Financial Intelligence Centre (FIC).

Section 30 of the Anti-Money Laundering (AML) Act 2008, (Act 749) as amended by Act 874, provides that a person or an "Accountable Institution" (AI) that knows or reasonably suspects that a property is terrorist property, proceeds of money laundering, financing of proliferation of weapons of mass destruction or intended for any other serious offence shall submit a suspicious transaction report within twenty-four hours after the knowledge or suspicion was formed. Under Act 874, "suspicious transaction" is defined as a transaction that appears to involve or to be connected to unlawful activity.

Section 1.20 of the Bank of Ghana/Financial Intelligence Centre (BOG/FIC) Guidelines for Banks and Non-Bank Financial Institutions, states that in addition to the regulatory sanctions that may be imposed by the Bank of Ghana, particulars of the breaches of the Guideline(s) by the financial institution or individual(s) shall be referred to the appropriate law enforcement agency for further action. For the purpose of emphasis, financial institutions are reminded to take note of the following:

- Section 39 of the AML Act 749, especially sub-section 4
- Section 42 of Act 749
- Section 43 of Act 749
- Section 44 of Act 749
- Section 50 (2) of Act 749

- Regulation 44 of the L.I 1987

Again, section 2.54 of the BOG/FIC Guidelines indicates that failure to comply with the provisions will attract appropriate sanctions in accordance with existing laws.

The Bank of Ghana has issued notice to Banks and Savings and Loans Companies (See Notice No. BG/GOV/SEC/2008/21) on Guidelines for Branchless Banking. This represents a significantly cheaper alternative to conventional branch-based banking that allows financial institutions and other commercial actors to offer financial services outside the traditional bank premises by using delivery channels. The primary audience of these guidelines are deposit-taking financial institutions as they cannot take on branchless banking without the help of other market players such as telecom companies, technology service providers and other intermediation agents.

In the Notice, all financial institutions and their agents are required to comply with the AML Act 2008, (Act 749) as amended. These include the following measures:

- Adequate Know Your Customer/Customer Due Diligence (KYC/CDD) must be undertaken on all new accounts and on one-off cash transactions over designated thresholds. This requires identifying the customer and verifying the customer's identity.

- Financial service providers to keep detailed transaction records for at least five years.

- Financial institutions to report suspicious transactions promptly to the AML/CFT authority.

- Special attention to threats that may arise from new technologies that may favour anonymity.

- Policies and procedures may be in place to address specific risks associated with non-face-to-face business relationships and transactions.

- Customers using branchless banking should be uniquely identified. This means that financial institutions should be able to trace branchless banking transactions to particular customers. In this regard mobile phone SIM cards will have to be registered by the financial institution.

Section 30 of the Non-Bank Financial Institutions Act, 2008 (Act 774) provides that the Bank of Ghana may impose sanctions that it considers appropriate for non-compliant financial statements. The Bank of Ghana Guidelines for E-Money Issuers and Agent Guidelines in Ghana - July 6, 2015 also took note of AML Act and the need for compliance.

In addition, section 32 of Act 774 also indicates that the Bank may impose a penalty of two hundred and fifty penalty Units on a Non-Bank Financial Institution for non-submission, incomplete submission, delayed submission, inaccurate submission of the required information, data, statement or returns by non-bank financial institutions.

*Strongest Threats*

- This can be attributed to the weak supervisory measures undertaken by the regulators of the financial sector. this can be effectively achieved by the imposition of monetary penalties and other prescribed sanctions
- The non-approval of an AML/CFT policy by some financial institutions and the inability of some of them to fully document EDD,

## MFIS

- Not all deposit taking MFIs (71%) renew their customer's identification every year.
- Not all deposit taking MFIs (86%) do keep profile on investors.
- Acceptance of Investments by MFIs not authorised to do so
- Non-existence of AML/CFT policies
- Non-existence of cut off points for MFIs that take investments
- Some MFIs take third party investments and also do not care about the sources of their investment.

### *Weakest Vulnerabilities*

- To a large extent, a significant number of Banks have their senior management and boards fully trained and have also adopted an AML policy. In spite of this, they have their AMLRO reporting to much lower officers which reflects a significant weakness in the system.
- Banks with approved AML policies do not review them frequently. Review is critical due to the rapid changing nature of the business environment. Financial institutions churned out products and services on regular bases and inherent in there are risk that must be captured during the review of AML/TLF policies.
- Well trained boards /senior management do not guarantee a high level of independence of the AMLRO in reporting suspicious transactions over their less trained counterparts.
- High staff attrition rate amongst the Non-Banking Financial Sector
- High cost to secure appropriate AML software
- Lack of key expertise within the sector
- lack of well documented best practices

### 1.8.2 PRESENTATION OF FINDINGS

The sector is exposed to several risks as far as Money Laundering and Terrorist Financing is concerned. These risks emanate from (i) the operations of microfinance institutions, (ii) gaps within the regulatory and supervisory regimes, (iii) processes of attracting investments and deposits by microfinance institutions, (iv) weak corporate governance structures among various MFIs as well as (iv) the fact that prior to the sector regulation in 2011, most microfinance institutions were already operating. This poses the difficult challenge of assessing their sources of funding with which they even commenced their operations then.[21]

### OPERATIONS OF MICROFINANCE INSTITUTIONS

Several weaknesses exist in the operations of Microfinance Institutions. The most significant being the difficulty associated with the full implementation of Know Your Customer (KYC) requirements.

*Application of Predetermined KYC Requirements (High Risk)*

The critical starting point of a relationship between a Financial Service Provider and a Client is the establishment of a clear criterion for uniquely identifying clients in a consistent manner. This ensures credibility in transactions between the Service Provider and the Client. Consequently, KYC is critical in the promotion of financial inclusion. In the Ghanaian context, the use of a variety of Identity (ID) Cards for the purposes of satisfying KYC requirements weakens the system's ability to track the activities of Money Launderers and Terrorist Financiers.

*Difficulty in maintaining a single KYC for each client*

Given the wide use and acceptance of a variety of ID Cards, it is very difficult to restrict KYC to a particular ID system since clients are allowed to present different ID's. None of the available ID cards are truly representative of the population. This is because there is always a low take up of any one form of ID.

Therefore institutions must make provision for multiple sources of ID. If the AML compliance requirements are too strict, they will prevent inclusion; and if the AML obligations are too flexible it will be easy to launder money via these products and services which will make prevention and detection ineffective.

There is, therefore, the need to have a well-balanced control system with flexibility to ensure effectiveness of prevention and detection.

*Adoption of high security and Data Protection Systems (High risk)*

[21] Refer to Annexe 8

Well secured financial inclusion software and systems tend to be very expensive and usually unaffordable to small scale financial service providers. The expensive nature of this protective software makes it difficult for most financial service providers to acquire the appropriate applications for their functions. This exposes data to corruption and misuse by staff and other agents. Data protection is critical to the success of the entire system especially for the credit referencing institutions. Therefore, prevention & detection obligations have to be designed to allow for implementation by smaller providers that cannot afford expensive software systems.

### *Gaps within the Regulatory and Supervisory Regimes (Medium Risk)*

The proliferation of various financial service providers within the country has created an increased risk due to capacity limitations of the Bank of Ghana to effectively supervise the sector. The delegation of different aspects of supervision to apex associations of microfinance institutions is an attempt to address this shortfall. However, the supervisory capacity of the apex associations also remains a challenge. The rampant loss of depositor's funds by unregistered service providers is a major concern and needs to be addressed with all urgency it requires. The Non-Bank Financial Institutions Act 2008 (Act 774), and the subsequent issuance of operating rules and guidelines for the microfinance sector attempts to address this deficiency. The supervisory authorities must compel compliance through the use of administrative and other sanctions, when these financial institutions do not address their deficiencies. Monetary penalties should be applied and escalated until the deficiencies are fully remedied, and license actions and criminal actions considered when remedial actions are not taken. Key players like the Metropolitan Assemblies, the Police Service, the Chieftaincy Councils and Opinion leaders in the communities must also be used as prompters especially those companies that operate within the communities. Better cooperation among regulators, policy makers, and other competent institutions would enable the clean-up of the system of illegal financial institutions.

### *Processes of Attracting Investments and Deposits by MFIs (Medium Risk)*

The increased competition among service providers, together with weak AML/CFT supervisory enforcement provides a disincentive for financial institutions to adequately screen their sources of funds. The high demand for basic financial services (credit and safe ways to save and transfer money) among all segments of the population drives the increase in risks faster than regulatory supervision and risk mitigation systems are keeping up.

### *Weak Corporate Governance among MFIs (High Risk)*

Board Members of most MFIs do not have the necessary skills to fully appreciate and govern the institutions against Money Laundering and Terrorist Financing. The regulations that govern the establishment of RCBs for example have over the years led to the appointment of persons with local clout but minimal competence as Board Members. The supervisors must step up training programs in AML/CFT for all Board Members of Microfinance institutions and Rural Banks. Ownership and compliance to internal AML/CFT policies need to be enforced by the Board of these institutions. The failure to comply must attract the appropriate sanctions.

*Existing MFIs Prior to BOG Guidelines in 2011 (Medium Risk)*

Prior to the issuance of the Bank of Ghana (BoG) operating rules and guidelines in 2011, some MFIs were already in business. The operations of such MFIs were regularised but where the MFIs concerned have already established associations with Money Launderers, unravelling those linkages could pose a challenge

*Cultural tendency to not question the source of Wealth (High Risk)*

### 1.8.3 CONCLUSION- FINANCIAL INCLUSION ASSESSMENT

Over the years, the attitude of the average Ghanaian to wealth has changed significantly. The change has mainly been from vigilance of society questioning and frowning upon wealth from unknown sources to general apathy and indifference. This can be attributed to the ineffectiveness and lack of prevention and detection systems on the part of civil society to identify crime proceeds. This is reflected in the increased cases of cyber fraud popularly known amongst the Ghanaian community as "Sakawa". The desire to get rich quick significantly exposes the youth to engage in cybercrime and launder proceeds from unsuspecting victims by defrauding by false pretences.

The stability of the financial system will always be a primary concern for a financial regulator. Ensuring such protection is a juggling act for regulators because they want to balance open regulation and an open environment with control of systemic risks—particularly ML/TF risks (MMT Global Gateway 2009).

The risk based approach prescribed by FATF in Recommendation 1 suggests that countries should identify, assess and understand the ML/TF risks that they face and adopt proportionate measures to mitigate that risk, thereby adjusting AML/CFT measures to the risk. Therefore, where there are higher risks such as in the case of PEPs, then EDD should be applied and where there are lower risks, SDD may be applied. But some AML /CFT measures should be applied by financial institutions to manage and mitigate risks.

FATF Recommendation 10 is probably one of the most important recommendations among the 40 FATF standards. It suggests that apart from the standard CDD, in practice, financial institutions should seek to simply identify the customer or client in a situation where they may be low income or unbanked (SDD) or apply EDD where verification is required such as in the case of (PEPs).

Either way, a risk assessment determines whether there are higher or lower risks, and provides grounds for the shaping of the regulatory and risk-management regimes to identify those circumstances that will justify reduced KYC measures, as recommended by the FATF.

The risks in Ghana include a significant supervisory gap in the operations of microfinance institutions and credit unions, which make up a significant proportion of finance houses in the country.

There still remain a large number of finance companies operating under the radar of BOG. In late October 2015, petitions were sent to the President of Ghana regarding the activities of four MFI's operating without a licence.[22]

Under the Non- Bank Financial Institutions Act 2008, (Act 774) In 2011 Notice No. Bg/Gov/Sec/2011/04, guidelines for the operation of microfinance companies were released. However, a legislative instrument, (Co-operative Credit Union Regulations (2015) Bill) in relation to the activities of credit unions is still waiting to be passed into law by Parliament. Its passage will enable BOG to regulate this sector properly.

Creating a balance between ensuring that AML/CFT measures are applied and providing much needed banking services to those who are excluded for one reason or another is vital. It is also essential in developing countries such as Ghana where remittance inflows from migrant workers are an important factor in economic growth and a boost to GDP figures.

*The Centre for Global Development has released a new report on this matter entitled: Are Anti–Money Laundering Policies Hurting Poor Countries?*

They found that one of the unintended consequences of AML/CFT measures was that banks in the west were no longer interested in handling remittances from migrant workers to their families in developing countries. In fact, some banks had completely shut down this part of their business altogether.

> *They have addressed the following recommendations to "national regulators, international standard setters, international organisations, and private institutions":*

1. Rigorously assess the unintended consequences of AML/CFT and sanctions enforcement at the national and the global level: The strength of the suggestive evidence detailed in the report requires that Supervisors and Regulators must review and design/develop rules and regulations governing AML/CFT that will minimise the effect of the unintended consequences. Generate better data and share existing data between institutions to derive the real impact of the AML/CFT policies.

2. Strengthen the risk-based approach: FATF should be congratulated for introducing and recently strengthening its risk-based approach. However, it needs to be implemented more extensively and more consistently.

3. Improve compliance and clarify indicators of lower risk: Compliance procedures at many NPOs and MTOs must be improved so as to be more effective. At the same time, more needs to be done to recognise those NPOs and MTOs that do have effective systems in place, including better supervision of MTO sectors at the country level.

4. Facilitate identification and lower the costs of compliance: National governments, banks and the World Bank should accelerate the adoption of new and existing technology such as Legal Entity Identifiers and biometric ID to facilitate lower cost

[22] http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Customers-of-five-companies-petition-Mahama-391073

customer identification, and enable "know your customer" compliance and due diligence while still protecting individual privacy.

The report also suggested that this matter should be discussed at the G20 meetings in Turkey in 2015 as one of their policy goals is inclusive economic growth. [23]

Ghana's financial inclusion product space has **medium risks to ML/TF** due to the low value of transactions involved. There is a well-established weakness in the supervisory role of the regulators. There is the urgent need to initiate steps to enhance the enforceability of sanctions within the sector that will ensure that all financial institutions comply fully. This is because, even though the mainstream banks have put in place stringent measures to fight ML/TF, financial inclusion products will inevitably catch the attention of money launderers in Ghana, thus giving rise to the need to devise immediate preventive measures on these products.

### 1.8.4 RECOMMENDATIONS- FINANCIAL INCLUSION ASSESSMENT

- The KYC obligations need to be tailored to the real risks of the various financial products/services aimed at expanding financial inclusion
- Bank of Ghana to develop a strategic approach to the management of MFI sector. This should include deliberate development of human resource capability to guide and promote directives and good practises.
- Carry out a thorough review of the activities of MFIs before the 2011 operating guidelines were issued to ascertain the linkages between MFIs and Money Laundering.
- There is also the need to prosecute and impose severe sanctions on anyone who deals with illegally sourced proceeds.
- Sensitise civil society in general on the effects of money laundering and terrorist financing so it can play the "watch dog role"
- Bank of Ghana to enforce administrative sanctions for non-compliance and this should include fines and withdrawal of operating licences. The imposition of these sanctions should be published.
- Issue Administrative directions that compel MFIs to have AML polices within their operational setup
- Policy makers may consider the use of a single identity card to be accepted as a form of ID during any financial transaction instead of the variety of cards being used now.
- There is the need to pay particular attention to activities of Fulani Herdsmen
- There is the need to tighten entry conditions into the country
- Ensure compliance with controls and regulations that govern the delivery of financial inclusion products.
- There is the need for sensitisation amongst members within the sector.
- Bank of Ghana which is responsible for licensing, needs to ensure that Board members, Directors and senior management have skills and experience to understand risks and risk mitigation.

[23] http://www.cgdev.org/blog/are-anti-money-laundering-policies-hurting-poor-countries-new-cgd-working-group-report

- More training and awareness raising by Ghanaian officials should specifically targeted at MFIs
- Adoption and implementation of specifically tailored AML/CFT internal control obligations that fit the risks and operational realities of MFIs
- Effective AML/CFT supervision, compliance monitoring and sanctioning of non-compliance by Ghanaian supervisory officials

## SECTION 2- TERRORIST FINANCING (TF) RISK SUMMARY

### 2.1 INTRODUCTION

Terrorism financing involves the act of acquiring and processing money to fund the resources required to facilitate terrorist attacks.

There is a low incidence of terrorist activity in Ghana[24]. However, in the past there, have been sporadic ethnic or tribal clashes in Northern Ghana and other isolated incidences of civil unrest in parts of the country.

Terrorist activity was initially criminalised under the Criminal and other Offences Act of 1960, (Act 29) only to be amended by the Criminal Offences (Amendment) Act, 2012 (Act 849) to create the offences of participation in organised criminal groups and illicit trafficking in explosives, firearms and ammunition amongst others.

In order to comply with United Nations Security Council Resolutions (UNSC), Chapter VII of the UN Charter, and 5 and 6 of FATF's Recommendations, a raft of legislation has been enacted, including Anti-Terrorism Act, 2008 (ACT 762), Anti-Terrorism (Amendment) Act, 2012 (Act 842) and the Anti- Terrorism (Amendment) Act 2014 (Act 875).

This new legislation addresses much wider issues which include provisions for the confiscation and repatriation of terrorist funds and assets. Also included is the enforcement of the United Nations Consolidated List (subjects individuals and groups, who are listed to a travel ban, arms embargo and asset freeze – a prison without walls) of suspected terrorists and financiers of terrorism, as well as, third party requests for freezing of assets of suspected terrorist.

Ghana has also implemented the requirement under its obligations under United Nations Security Council Resolution No. 1267 by setting up an Anti-Money Laundering and Counter Financing of Terrorism Inter-Ministerial Committee.

Further powers have been given to the High Court to freeze assets of terrorists, financiers of terrorism or terrorist organisations.

Notwithstanding these impressive legislative changes, Ghana remains at risk of external terrorism and terrorist financing.

In 2009 three foreigners were arrested in Ghana for narco terrorism, and specifically for "providing material support to a terrorist organisation" in a joint US and Ghana enforcement effort. However, supervision and reporting of terrorist activity remains low, and sanctions for non-compliance are nonexistent.

[24] The US State Department's OSAC (Overseas Security Advisory Council) Report on Safety and Crime in Ghana (2015)

Terrorism is a crime of secrecy and only becomes apparent when the final act is accomplished (usually a terrorist attack). It is for this reason that Ghana, like any other country, could easily become a haven for terrorist financing and ultimately terrorism.

Ghana's vulnerability to terrorism is apparent in its reputation as a highly regarded manufacturer of illegal small arms and light weapons (SALW)as a well known transit point, as these weapons are transferred from Ghana to neighbouring countries like Cote d' Ivoire , Sierra Leone and Nigeria.

The transit of these guns within the West African region is made easier and could possibly be more attractive to terrorists because it is popularly used in hunting and for cultural activities during festivals, funerals and during the performance of chieftaincy rites.

In October 2015, Ghana's Permanent Representative to the United Nations, Ms Martha Ama Pobee, advised the First Committee Thematic Debate on Conventional Weapons at the United Nations (UN) headquarters in New York that the proliferation of Small Arms and Light Weapons (SALW) remains a major threat to stability and security worldwide.

Ms Pobee stated that the proliferation of SALW in West Africa has fuelled a rise in terrorism and other forms of armed violence, transnational organised crime and corruption.

Ghana's proximity to Nigeria and to other troubled zones, such as Mali to the northwest, and Niger and Chad to the northeast, is disconcerting to say the least.

In November 2015, Brigadier General Sampson Adeti, General Officer Commander of the Southern Command of the Ghana Armed Forces (GAF), expressed concern about a possible "spill over" or infiltration of Boko Haram into Ghana.

Boko Haram is a terrorist group that has launched attacks on Nigeria since 2009, and has pledged allegiance to the Islamic State in Iraq and al-Sham/Syria (ISIS) or Islamic State in Iraq and the Levant (ISIL) in March 2015.

A call for greater intelligence sharing among West African states has been made by Senegal's President Sall, after two Imams linked to militant Islamists, were charged with money laundering offences and reported on 10th November 2015 by BBC and 'The Ghanaian Times' newspaper. He also called for "courage to fight this excessive form" of Islam.

The issue of graduate unemployment is one that ought to be seriously addressed, as that group of people is very vulnerable to recruitment into radical groups. According to Desmond Biney, director of the Unemployed Graduates Association of Ghana, the number of unemployed graduates stands at about 287,000.[25]

Ghana's National Security Coordinator Mr Yaw Donkor in a recent (August 2015) security briefing said that young people in tertiary schools in Ghana were being lured into joining ISIS via social media for a through which they are indoctrinated. There have been reports of three young people (one unconfirmed) leaving to join ISIL/ISIS.

[25] http://www.defenseone.com/ideas/2015/08/allure-isis-has-reached-long-stable-ghana/119879/

Madrasas or "Makaranta" are Muslim religious schools, and are sometimes blamed for growth of militancy in Islam, and are therefore linked to terrorism. In Ghana it is important to point out that in 1987 the Ghana Education Service, placed these schools under unit referred to as The Islamic Education Unit (IEU), in order to streamline the Islamic Education System and integrate it with the national curriculum.[26] Therefore Madrasas or "Makaranta" in Ghana were no longer controlled by individual Imams, thus reducing the incidence of brainwashing. IEUs have become a buffer between the government and the Islamic community on educational issues.

FATFs 8th Recommendation addresses NPOs and the possibility of misuse by terrorist groups. The poor response to our survey on NPOs and NGOs revealed that there is a little or no awareness of T/F threats by NPOs in Ghana. Extraordinarily, NPOs have strongly resisted attempts to pass what is known as the *Trust Bill* 2007, which would have provided the much needed guidance and regulation of NGO activities.

It is significant that a High Court judge in a recent case recommended the passing of a Charities Law to regulate the activities of a foreign owned NGO.

### 2.1.1 THREATS- TERRORIST FINANCING ASSESSMENT

The terrorism threat assessment was conducted solely with secondary information. Neither the FIC, LEAs nor Judicial Databases, had information on terrorist financing, be it either actual or from suspicious transaction reports. Various sector assessment of TF threat/ risk did not empirically assign specific score or rating to the vulnerability of the sectors to Terrorist Financing. The reality is that some of these sectors are not well regulated and, therefore, have a very high potential to be used as a medium to finance or promote terrorist activities. The lack of data on terrorism financing may portray Ghana as a low TF risk country. However recent terrorist incidences in Nigeria, Niger and Mali, and the country's proximity to these countries, coupled with a National vulnerability rating (medium), [27]renders Ghana a high TF risk country.

In December 2009 three alleged associates of Al-Qaeda were arrested in Ghana[28]. The three were alleged to be in communication with United States undercover agents who claimed to work for the Columbian Organisation Fuerzas Armadas Revolucionarias de Colombia (FARC), and offered to transport cocaine through West Africa into the Maghreb. The trafficking route was supposed to be protected by AQIM (Al-Qaida Organisation in the Islamic Maghreb). Their activities entailed kidnapping for purposes of raising additional funds. The three, namely Idriss Abdelrahman, Oumar Issa and Haruna Toure, were arrested and are now facing trial in the United States for narco-terrorism.

[26] Engaging with a Legacy- Nehemia Levtzion 1935- 2003- pg 249

[27]Report of working group on National Vulnerability to Money Laundering and Terrorism Financing 2015

[15]http://www.prnewswire.com/news-releases/manhattan-us-attorney-charges-three-al-qaeda-associates-with-conspiring-to-transport-cocaine-through-africa-for-the-farc-79672847.html, 20 May 2010.

In November 2013, a delegation from the African Centre for the Study and Research on Terrorism (ACSRT) assessed Ghana and identified the following incidences which underscored potential terrorist threats and terrorism financing activities in relation to Ghana:

- Some Ghanaians fought alongside Mujahedeen in Afghanistan.
- One British National of Caribbean origin known to have trained in Afghanistan was deported from Ghana for activities not related to terrorism.
- One Abdallah alleged to be AQIM bomb expert was in Ghana to arrange purchase of fertiliser.
- Oumar Farouk Abdulmutallah (a Nigerian national) is known to have transited in Ghana on his way to the United Stated to bomb the passenger aircraft on Christmas Eve in 2009.
- One Ghanaian was known to have been recruited and fought for Boko Haram.
- One Ghanaian was involved in the July 2007 bombing in United Kingdom.
- One ex-fighter from Afghan-Pak slipped into Ghana from Mali and was discovered later.

The research report noted that proliferation of small arms and light weapons as consequences of prolonged conflicts in the region, porous borders, proximity of the sea (The Gulf of Guinea) to Latin America, pose a threat to Ghana in terms of terrorism and terrorism financing.

The participation of Ghanaians in the activities of terrorists' organisations in other countries as well as the arrest in Ghana and the subsequent extradition of persons linked to terrorist activities, reinforce the fact that threat of terrorist financing in Ghana is real. Though the assessment did not link any financial or material support emanating in Ghana directly to a terrorist individual or organisation, or indirectly as a form of support to the family or dependants of a terrorist operative, the threat of terrorist financing is deductively high.

The deduction is founded on the porous national boundaries which serve as free passage for arms smuggling and cash couriers plying between Ghana and high risk terrorists jurisdictions such as Nigeria, Mali and Niger. The high number of immigrants from the above countries further heightens the risk.

The increasing number of Non-Governmental Organisations (NGOs), particularly ones that promote religious welfare support and providing places of worship, further heightens the threats of terrorism financing. The recent Third Party Designation of some NGOs as designated persons by the government of Kenya, is an example of how NGOs could be used to facilitate terrorist financing.[29]

[29]Ministry of Foreign Affairs and Regional Integration

It is on record that, Hezbollah conducted fund raising activities in four West African countries. In June 2013, the United States black listed four Lebanese nationals, Ali Wafta, Abass Loutfe Fawas, Ali Ahmad Chahade and Hicham Nmer Khanafer after they were accused of master minding the Hezbollah fund raising campaigns in Senegal, Gambia, Sierra Leone and Cote d'Ivoire.

More recently on 26th February 2015, the U.S Department of the Treasury, by an Executive Order, (E.O) 13224, designated Mustapha Fawaz, Fouci Fawas and Abdallah Tahini who are all Lebanese nationals resident in Abuja, Nigeria's capital, as designated persons acting for and on behalf of Hezbollah. The Order also designated Amigo Supermarket Limited, Wonderland Amusement Park and Resort Limited and Kafak Enterprises Limited, located in Nigeria, for being owned and controlled by Mustapha Fawas and Fouci Fawas.[30] Since the West African sub region is considered as a single economic block (a common market), there is high possibility that business activities of the above designated persons could transcend the boundaries of ECOWAS member states because of the porous borders and the regional efforts at removing trade restrictions on the movement of persons, goods and services. We, therefore, conclude by emphasising that TF threat in Ghana is **HIGH**.

Finally, the above information as it stands does not provide enough or adequate data to assist in completing the Terrorism Threat Assessment tables.

### 2.1.2 NATIONAL VULNERABILITY- TERRORIST FINANCING ASSESSMENT

Ghana passed its Anti-Terrorism Act, 2008 (Act 672); to conform to FATF Recommendations' 40+9. This Act has been amended twice in 2012 and 2014, An Executive Instrument (E.L.2) 2013 was also passed to account for the UNSCR 1267(1999), 1373(2001), 1718(2006) 1737(2006), and to cater for deficiencies identified under the original Act. The Anti-Terrorism Regulations 2012, (L.I. 2181), was also passed to operationalise the Act and prevent terrorist financiers from abusing the laws and regulations. The Anti-Money Laundering Act 2008 (Act 749), as amended, further elaborated on terrorist financing and expanded it to cover the financing of the proliferation of weapon of mass destruction

Terrorism has been defined as the financial support, in any form, of the terrorism or of those who encourage, plan or engage in it (IMF, WORLD BANK). The critical issue about terrorist financing is the relatively little amount required to carry the act of terrorism. Furthermore the source of funds may be either legitimate or illegitimate.

There has so far not been any reported case of terrorist financing in Ghana; nevertheless the country maintains a keen focus on the threat of terrorist financing. Some of the sources for funding of terrorist financing include the use of Non-Profit Organisation, wire transfers to banks and non-banks, mobile money, smuggling among others.

There is evidence suggesting that Fulani herdsmen (a nomadic North African tribe that passes through Ghana) are being used to carry weapons on the bodies of the cattle for a fee.

[30] www.jpost.com/Blogs/Reflections-on -African Hezbollahs-operations-in -west Africa-392947

There have also been recent reports of the construction of an ISIS training centre[31] and reports of seven suspects being arrested with weapons, ammunition and ISIS training videos.[32] In the case of the building of the ISIS training centre, no STR from the banking sector has been filed in relation to the financing of the building.

The low capacity of investigators, prosecutors, non-transparency of the sources of information and funding, and lack of a good identification infrastructure, are but a few, of the lapses in the country that could aid terrorist financing.

The potential for Ghana to be used as a safe location for terrorist financing is high, especially as almost all countries in the West African sub region have experienced one conflict or another over the last ten (10) years.

The alarming rate of armed robbery, smuggling, murder and fraud reported in the media give credence to the potential to recruit, fund and train terrorist.

So far no STR has been filed on terrorist financing since the FIC became operational. There is, however, the need to build capacity for law enforcement agencies in the areas of identifying potential terrorist financing schemes, investigating and prosecution of such schemes of alleged terrorist financiers.

### 2.1.3 BANKING SECTOR VULNERABILITY- TERRORIST FINANCING ASSESSMENT

Funds, cash or facilities (in kind) to support a group or individuals to carry out terrorist activities: Terrorist activity is any act that is intended to intimidate a population, force or coerce a government into a particular action, and/or cause fear, harm or kill people, as well as destruction of properties.

Therefore, terrorist activity financing offence occurs when a person knowingly collects or provides property, such as funds, either directly or indirectly, to carry out or attempt to carry out terrorist activities/crimes. This includes inviting someone else to provide funds for this purpose. It also includes the use or possession of property to facilitate or carry out terrorist activities. Funds for terrorist financing may come from both legitimate sources such as personal donations, profits from businesses and charitable organisations, and/or from illegitimate sources, such as the drug trade, the smuggling of weapons and other goods, fraud, kidnapping and extortion. What is important is what the funds are going to be used for (purpose).

Terrorists use techniques similar to those used by money launderers to evade authorities' attention and to protect the identity of their sponsors and the identity of ultimate beneficiaries of the funds. However, financial transactions associated with terrorist financing tend to be in smaller amounts than in the case with money laundering; and when terrorists raise funds from legitimate sources. The detection and tracking of these funds become more difficult.

[31] http://www.graphic.com.gh/news/general-news/53752-construction-of-isis-centre-at-akyem-asene-causes-stir.html

[32] http://mobile.ghanaweb.com/GhanaHomePage/NewsArchive/Police-transfers-7-suspects-with-AK-47s-to-Accra-403585

To move their funds, terrorists use the formal banking system, and other channels such as informal value-transfer systems like Hawalas, and now Mobile Money.

Ghana, as part of ECOWAS is exposed to the nexus of terrorist activities in the West African Sub-Region. Though there is no evidence of terrorist activities in Ghana, a study by FATF and GIABA[33] in 2013 indicated exposure of Ghana to terrorist financing risk.

The Banking Sector, and for that matter, Ghana is exposed to the threat of terrorist activities and terrorist financing due to factors such as the presence of large, informal sector, cash-based transactions, acts of corruption, widespread poverty, unemployment, and proximity to terrorist affected countries such as Nigeria and Mali.

Ghana's Banking System is highly exposed to significant number of Nigerian nationals who conduct various transactions. There is therefore the threat that it could be used to carry out transactions to Nigeria especially, to the Northern part to finance activities of the Boko Haram group.

Banks in Ghana are governed by the Anti-Terrorism Act, 2008 (Act 762) as amended, and Anti-Terrorism Regulations, 2012 (L.I. 2181), and are enjoined to put in place counter terrorist financing (CTF) measures to protect the banking system from being abused by terrorist financiers. This includes scrutinising transactions to prevent flow of funds to any terrorist groups. The Banks are also required under the Act, to file reports on suspicious transactions linked to terrorist financing with the Financial Intelligence Centre.

At the time of the NRA exercise, there was no evidence of terrorist financing in the Banking Sector as none[34] of the 13 respondent Banks had filed any terrorist financing related STR with the FIC.

The Banks must continue to pay particular attention to non-profit organisations (NPOs) and other charities as part of their CFT procedures. The growing number of Mobile Money transactions also poses a particular threat since these transactions are highly susceptible to TF risks.

In Ghana, the Northern and Greater Accra regions are believed to be the most vulnerable areas to terrorist activities and financing[35]. Areas like Tamale. Bolgatanga, Bawku, in the Northern Regions, and Ashaiman, Nima, Sodom & Gomorrah in the Greater Accra Region, are believed to be more prone to terrorist activities and financing.

Government must pay particular attention to these areas, and Banks with locations in these areas should strengthen their CFT measures.

Since the African sub region is considered as a single economic block (a common market) there is a high possibility that the business activities of the above designated persons could transcend the boundaries of ECOWAS member states, due to the porous borders and the

[33] GIABA and FATF Report, Terrorist Financing in West Africa, October 2013

[34] Out of 13 responded Banks, none indicated filing of TF related STR

[35] In a survey conducted among 14 selected Banks, 11 respondent Banks believed Northern Region and the two Upper Regions are more prone to TF, followed by Greater Accra Region.

regional effort at removing trade restrictions on the movement of persons, goods and services. We therefore conclude by emphasising that TF threat in Ghana is **HIGH**.

Finally, the above information as it stands does not provide enough or adequate data to assist in completing the Terrorism Threat Assessment tables.

### 2.1.4 SECURITIES SECTOR VULNERABILITY- TERRORIST FINANCING ASSESSMENT

1. The TF risk within the Securities Sector is perceived to be low as the securities firms have in place the following mechanisms:

All payments of investment proceeds are made in the names of the account holders and not in the names of third parties except by authorisation of the account holders.
This has no legal basis but it is an industry practice. The new Securities Industry Law will address that as it will be discussed by management. The focus is on the account holder and that SEC requires that comprehensive Know Your Clients (KYC) should have been done by the company concerned as every client must have a fully completed KYC. What is required is that the account must be monitored against clients profile until something unusual emerges. In addition, every Capital Market Operator (CMO) is required to have an appointed Compliance Officer who is required to report to SEC quarterly on account opening and monitoring procedures.

All payments of investment proceeds in excess of five hundred Ghana Cedis GH¢500 (US$131.58) are paid by issuing cheques in the names of accounts holders.

Payment is not obligatory but it is an industry practice. There is no penalty for flouting this. The issue will be discussed with management when the new law is launched.

There is still more to be done and so the sector must invest significant resources to strengthen the AML/CFT controls in order to further reduce the sector's vulnerability to money laundering.

The UN Terrorist lists is used by SECs licensees to screen clients, especially foreign clients. The updated list comes through the Financial Intelligence Centre (FIC), Ghana.

### 2.1.5 INSURANCE SECTOR- TERRORIST FINANCING ASSESSMENT

Terrorists can exploit new technologies in money transfer payment systems such as mobile money. Payments can be made anytime, anywhere by anyone with the mobile phone. In Ghana payments for life insurance premiums by life insurance policy holders by mobile money is on the ascendency. While this could be used to launder money the proceeds could be used to carry out fraud and illicit activities by terrorists. Influx of foreign nationals could expose the sector. In view of the terrorist attacks of Boko Haram in nearby Nigeria, Ghana must be alert.

Politically Exposed Persons (PEPs)

PEPs have bought life policies and have insured personal properties. These are high risk persons who could launder money through life and non-life products. There have also been

instances where such persons engage in illicit trade and drug trafficking. Proceeds from such activities and insurance products and claims will be used to finance insurance products.

### 2.1.6 FINANCIAL INCLUSION PRODUCTS - TERRORIST FINANCING ASSESSMENT

In terms of terrorist financing, there has not been any significant suspicious activity reporting to the FIC since the introduction of the Anti-Terrorism Act 2008, (Act 762). The risk of terrorist financing may generally be considered as low as compared with issues in relation to money laundering.

To date, a total of 3 Suspicious Transaction Reports in relation to terrorist financing have been submitted to the Financial Intelligence Centre since 2010. These reports were submitted based on the suspicion that the names of subjects were associated with some listed terrorist whose names were published in the Gazette Notice in respect of listing of terrorist individuals, entity and organisation. However, subsequent analysis revealed that there was no evidence to suggest the financing of terrorism.

Despite low numbers of Suspicious Transaction/Activity Reports on terrorist financing, the identification of issues in connection with terrorist financing activity is important in assisting to close existing information gaps. For instance, international experience has identified terrorist entities use the services of informal remittance providers, mobile money operators, savings and loans companies and other financial inclusion products to carry out domestic/international funds transfers.

**Multiple Low Value Transactions (High Risk)**

Most of the financially excluded persons fall within the low income groups. The average value of transfers among them is thus low. This poses a challenge regarding how to track these amounts and the purpose for which they are provided. Also, due to the amount limit on the mobile money transfer and other services, users readily adopt multiple channels to execute their agenda.

**Fulani Herdsmen**

Fulani herdsmen have over the years resorted to violence in attempts to protect their trade. They, therefore, serve as a possible conduit through which terrorist financing could be advanced. It is, therefore, important to think of how to address the peculiarity of this group in the promotion of Financial Inclusion.[36]

There is evidence to suggest that Fulani herdsmen are being used to carry weapons on the bodies of their cattle for a fee.

**Poor Entry Borders and Proverbial Ghanaian Hospitality**

Ghana's entry points appear not to be the adequately protected. This is due to the influx of many foreigners. Ghana's risk to Terrorist Financing is exacerbated by well known

[36] Seasonal migrants from the West African sub region

Ghanaian Hospitality. Special efforts would be needed to adequately mitigate the risk exposure.

## 2.2 CONCLUSION- TERRORIST FINANCING ASSESSMENT

- Ghana is a stable democracy and has had two peaceful transitions of power. This environment may be attractive to those who wish to amass funds in secret in order to launch terrorist attacks here or elsewhere.
- The threat of Boko Haram in Nigeria, which has recently pledged allegiance to ISIL, looms.
- Ghana's own sporadic ethnic violence and violence emanating from political rivalry during election, are a possible source of threat.
- The presence of a large number of Shiite Lebanese who maintain an active interest in their mother country and may have links to the Hezbollah movement. They are also major players in business in Ghana. The West Africa Report – Is Cote d' Ivoire facing religious radicalism? ( July 2015)- Reports on a survey carried out on the Lebanese community and says that 80% are Shiite Muslims who support the Hezbollah movement financially.
- Ghana has a thriving industry in illicit small arms and light weapons which could help ignite ethnic trouble zones both here and in the rest of West Africa.
- There is a general lack of awareness of AML/CFT matters and its importance to maintaining security in Ghana.

- There is evidence to suggest that Fulani herdsmen (a nomadic North African tribe that passes through Ghana) are being used to carry weapons on the bodies of the cattle for a fee.

- There have also been recent reports of the construction of an ISIS training centre[37] and reports of seven suspects being arrested with weapons, ammunition and ISIS training videos.[38]

- In the case of the building of the ISIS training centre, no STR from the banking sector has been filed in relation to the financing of the building.

- Weak legal and regulatory framework, poor law enforcement and corruption.

[37] http://www.graphic.com.gh/news/general-news/53752-construction-of-isis-centre-at-akyem-asene-causes-stir.html

[38] http://mobile.ghanaweb.com/GhanaHomePage/NewsArchive/Police-transfers-7-suspects-with-AK-47s-to-Accra-403585

## 2.3 RECOMMENDATIONS- TERRORIST FINANCING ASSESSMENT

- FIC to engage with the NGOs Standards Commission to encourage the adoption of AML/CFT measures and a gift acceptance policy.
- Review the 2007 draft trust bill OR assist in the development of a Charities Act
- Curb the proliferation of Small Arms and Light Weapons
- Create awareness of the schemes associated with ML/TF
- FIU to engage the Islamic Education Unit within Ghana Education Service and similar religious outfits to generate awareness of ML/TF.
- Greater Intelligence sharing between security agencies of ECOWAS countries is essential in order to detect and pre-empt Terrorism and the financing of it. Please consider Senegalese President Macky Sall's comments of 11th November 2015. [39]

- More attorneys in all the regions of Ghana to be trained in financial crime prosecutions. This will again lead to ML cases being prosecuted across the whole country.

- Engage a financial forensic analyst and placed within AGs to assist in putting together financial evidence in ML cases in order to secure convictions and proceed to forfeiture.

- It will be useful for the Attorney-General's Office to liaise with the institute to obtain feedback during interaction of judges for use as knowledge for the prosecution department.

- LECOB's terms of reference should be updated, if it has not already, to include meeting at least four times in a year and must be seen to address challenges that may come up in the implementation of its mandate.

[39] http://www.bbc.com/news/world-africa-34774985

## 3. CONCLUSION- NATIONAL RISK ASSESSMENT ON M/L & T/F

- Strong legal framework but weak implementation of legislation
- Lack of awareness of sanctions available within the law
- Nonexistent industry guidelines on ML/TF especially within the DNFPBs sector
- Lack of inter agency cooperation due to requirements for an attendance allowance to vital meetings and inter agency rivalries
- Lack of a comprehensive case management system, operational manuals and resources in LEAs but manpower is inadequate in all LEAs except the police.
- Lack of training of essential players - investigators, prosecutors and judges involved in the combat of ML/TF
- A need for Financial Intelligence Officers who specialise in forensic analysis. These officers will be financially trained and accredited to not only investigate financial crimes but to obtain new evidence as well.
- There is a need for better asset tracing, identification, detection, seizure, confiscation and forfeiture of proceeds of crime.
- There is no requirement for further asset recovery laws, however; perhaps existing laws may need to be consolidated to achieve clarity.
- Lack of criminal prosecutions or application of penalties for tax evasion.
- The means to detect ultimate beneficial ownership is limited. Some banks remedy this by creating close relationships with clients via KYC procedures and deciphering ownership through that continued relationship.
- Identification Infrastructure is varied, inconsistent and inadequate across all sectors.
- Information sources are available but somewhat slow. There is also the problem of a reluctance to use Credit Reference Bureaux[40]
- General lack of education and awareness of ML/CFT matters and combating measures.
- A need to create the sole position of an AMLRO within organisations to limit conflict of interest matters. Although this is expensive and beyond the reach of many organisations especially in the DNFBP sector.
- There is a need to balance financial inclusion with application of AML/CFT measures or controls.
- NGOs and NPOs are at great risk of being used for terrorist financing because of the lack of protective legislation or formal self regulation.
- Cash detention laws and guidelines for officers at the borders are inconsistent. Also unable to decipher the organisation with sole responsibility of cash detention because of presence of a variety of personnel at the airport.
- Looming terrorist incidents within West Africa and minor incidences of unconfirmed terrorist activities inland is an indicator of possible terrorist financing in Ghana.
- Ghana has a cultural disposition for not questioning source of wealth.
- Evidence of misclassification of foreign exchange bank accounts to facilitate to the transfer of large sums of money out of Ghana.[41]

[40] http://www.marcopolis.net/credit-referencing-in-ghana-lacks-law-enforcement-xdsdata.htm

[41] https://www.ghanabusinessnews.com/2015/12/08/bank-of-ghana-cautions-banks-on-misclassifying-foreign-currency-accounts/

- The difference between the amount of STRs filed and confiscation orders granted is stark.
- Law enforcement agencies appear weak and unaware of the powers available to them.
- Lawyers and Accountants do not fully understand the essence of the gatekeeper role within the AML/CFT regime and the responsibility and integrity that it requires. Intensive practical training is required.
- The Dual Criminality requirement hampers Ghana's MLA requests even with the availability of the principle of reciprocity.
- Securities and Insurance Industries are fledgling industries and are largely unaware of the money laundering schemes applicable to this industry.
- The Banking sector, although performing admirably, relies heavily on meeting ever increasing client targets, which can make it susceptible to weaknesses in the application of AML/CFT controls.
- The DNFPBs is a large and unwieldy sector that is the most susceptible to ML criminals.

## CONCLUSION

The National Risk Assessment of Ghana was a very successful exercise as it revealed a number of deficiencies in the legal and institutional sectors. It also determined the level of vulnerability of the economic and financial sectors to ML/TF risks. It showed the need to prioritize allocating of resources for prevention, investigations and prosecution of ML/TF offences.

The action plan put together by the working groups is expected to help policy makers take the best decisions in identifying and prioritizing sectors that need the support most. The plan will also assist to identify training needs of stakeholders and foster interagency collaboration and international cooperation.

Ideally the next national risk assessment exercise should take place between two (2) to four (4) years. However, depending on the effective implementation of the action plan and the possible emergence of new schemes in the area of ML/TF, the next national risk assessment could take place earlier than scheduled.

It is our hope that the political authority would galvanize all the resources at its disposal to ensure that the problem encountered in data collection, storage and analysis does not recur and that all stakeholders would develop a culture of data collection and storage.

## 4. MAIN RECOMMENDATIONS- NATIONAL RISK ASSESSMENT ON M/L & T/F

- FIC should be given the power to adopt a supervisory role, even if temporary, in order to install and monitor a sanctions regime in particular sectors and "Accountable Institutions".

- To set up an asset management office- to ensure that confiscated property are preserved until such time that the case is resolved. The officers would be expected to manage any asset e.g. cash, jewellery, houses or cars. As soon as a suspect makes a disclosure or property is seized during arrest, this property would be placed in the possession of the Asset Management Office. This office may be autonomous or placed under the supervision of the Attorney Generals Department under the Ministry of Justice.

- Inter-agency cooperation should be mandatory by imposing an obligation on all enforcement officers to organise and attend case conferences on high profile money laundering and terrorist finance cases. In furtherance of this standardised job performance targets regimes should be established across the civil/public service and attendance at case conferences stipulated as a key performance indicator for all enforcement agency jobs and promotions.

- Discourage the payment of allowances/lunch money/fees etc. for attendance of meetings because of the ensuing reluctance to attend important/vital meetings that are not funded. Again, this should be standardised across the civil and public service.

- Training must be provided for all prosecutors ( whether legally trained or not) on matters such as drafting a charge sheet with special reference to ML/TF matters and commercial court judges would benefit from specialised training on sentencing and confiscation orders/ calculation of benefit, realisable and recoverable assets.

- Intense efforts should be applied by prosecutors, investigators and the judiciary to investigate, prosecute and grant seizure, freezing and confiscation and to establish strict enforcement of confiscation orders procedures against convicted persons and ill gotten property. This can be achieved by greater information sharing between these groups, targeted training and the creation of specialised AML/CFT units at all levels and across the public service.

- Prosecutors must increase efforts to confiscate cash of questionable origin via civil recovery. This can only be done by a swift amendment of current laws which are confusing at best. Cash detention or civil recovery is very limited under current laws. An amendment will cover cash detention at the borders or where a person is due for trial and has absconded or where they have died.

- Prosecutors need resources to pursue the confiscation of proceeds of crime. Implementing asset sharing agreements as a standard between countries could provide much needed resources. The AGs department could negotiate these agreements with countries that send through letters of request.

- Strengthen laws or clarify regulations that govern cash detention at the borders or boost law enforcement in this are in order to stem cash smuggling and narcotics.

- A major change in case preparation and evidence gathering is necessary to achieve successful confiscations. This target can be achieved with specialised training given to law enforcement officers on asset tracing or forensic accounting.

  The Chief Justice for Ghana- Mrs Georgina Theodora Wood says: "we need to understand that fines, no matter how hefty or incarceration alone, without the seizure of all assets tainted with the criminality, renders crime prevention ineffective" (Ghana News Agency, 28th March 2011.

- A need for a proceeds of crime manual (POCA) to assist in the tracing, identification, seizure and confiscation of the proceeds of crime. It should outline step by step procedure and provide relevant forms and precedents.

- A need for an Asset Management Office to ensure the preservation of confiscated assets. This office can be autonomous or can be supervised by the AGs department or even GRA.

- Increase efforts to prosecute for tax evasion, especially where charge for money laundering fails. Greater cooperation and information sharing between GRA and AGs department is required to achieve this target.

- A policy shift is required which would drive a change in perception and the practice of the use of cash in intra West African trade and to encourage the use of banks instead. This is because traders between Burkina Faso, Ghana, Togo and Nigeria carry large sums of money across borders and would benefit from using West African Banks for their transactions. This policy overhaul could be placed under the remit of BoG and GRA.

- The conundrum of who regulates the mobile money phenomenon is important. Should it be the already beleaguered BoG or perhaps NCA is more suitable? There are already some reported fraud cases in mobile money transactions. We recommend a single entity to oversee and regulate this emerging area.

- Regulatory bodies have a mandate to, set entry requirements and standards of practice, assess applicants' qualifications and credentials, certify, register or licence qualified applicants, discipline members, set requirements for continuing professional development (CPD),publish codes of conduct and/or ethics. As part of this mandate Regulatory bodies should be mandated to create manuals and/or update industry guidelines to include AML/CFT measures and sanction members for non compliance. FIC would be instrumental in this endeavour. An amendment in the laws governing specific sectors such as securities, insurance or mining is required and the creation of new legislation to govern NPOs, car dealers and other unregulated sectors is necessary.

- A need to create the sole job position of an AMLRO within organisations to limit conflict of interest matters.

- Limit the use of police prosecutors and recruit and train more state attorneys perhaps within a specialised unit in the Attorney-General's office.

## 5. BIBLIOGRAPHY

**VULNERABILITY WORKING GROUP**

(www. transparency.org/whatwedo/publications/cpi2014)

1992 Constitution of Ghana

Anti-Money Laundering (Amendment) Act 2014 (Act 874)

Anti-Money Laundering Act, 2008 (Act 749).

Anti-Money Laundering Regulations 2011 (L.I. 1987)

Anti-Terrorism (Amendment) Act, 2012 (Act 842).

Anti-Terrorism (Amendment) Act, 2014 (Act875)

Anti-Terrorism Act, 2008 (Act762),

Anti-Terrorism Regulations 2012 (L.I. 2181)

Aug 1, 2014 - The informal sector is widely seen as the growth engine for ….to data from the Ghana Statistics Service, the share of the informal economy of.

Criminal and Other Offences Procedure Act 1960 (Act 30)

Customs, Excise and Preventive Service (Management) Act, PNDCL 330

Economic and Organised Crime office (operations) Regulation (L.I.2183)

Economic and Organised Crime Office Act, 2010 (Act 804),

Executive Instrument (E.I) 2 Government constituted a seven member AML/CFT Inter-Ministerial Committee (IMC)

FATF Recommendations (2012) revised

Foreign Exchange Act, 2006 (Act 723)

Freidrich Ebert Stiftung; Ghana office critical overview of the (urban) informal economy in Ghana by JULIAN HAUG

Mutual Evaluation Report 2009

Mutual Legal Assistance Act, (2010), Act 807

International Labour Organisation, Women and Men in the Informal Economy 2002

United Nations Security Council Resolutions 1267(1999), 1373(2001) 1718(2006)1737(2006), successor resolutions and other relevant resolutions

www.fesghana.org/…/FES_CriticInformalEconomy_2014_FINAL.pdf

**BANKING WORKING GROUP**

http://www.fintrac-canafe.gc.ca/fintrac-canafe/definitions/terrorist-terroriste-eng.asp

http://www.giaba.org/reports/typologies/reports.html

http://www1.worldbank.org/finance/assets/images/01-chap01-f.qxd.pdf

http://www.giaba.org/media/f/632_TF-in-West-Africa.pdf

http://www.bog.gov.gh/index.php?option=com_wrapper&view=wrapper&Itemid=298

http://www.fatf-gafi.org/topics/mutualevaluations/key/internationalstandardsoncombatingmoneylaunderingandthefinancingofterrorismproliferation-thefatfrecommendations.html

http://www.bog.gov.gh/privatecontent/Publications/Annual_Reports/bank%20of%20ghana%20annual%20report_press%202014b.pdf

http://www.statsghana.gov.gh/docfiles/GDP/GDP2015/Annual_2014_GDP_Rev2_June_2015%20edition.pdf

**SECURITIES WORKING GROUP**

Securities Industry Act, 1993(PNDCL333) as amended by the Securities Industry(Amendment) Act 2000(Act 590)

SEC's Annual Reports for 2012, 2013 and 2014

www.tradingeconomics.com/ghana/gdp

**INSURANCE WORKING GROUP**

NIC Annual Report 2013
GIABA Country Assessment Reports on Ghana
IAIS Core Principles
FATF Recommendations
NIC Supervision Department Reports (SDRs)
Insurance Act 2006, Act 724

**DNFPBS WORKING GROUP**

Anti-Money Laundering Act, 2008 (Act 749).

Anti-Money Laundering (Amendment) Act, 2014 (Act 874).

Anti-Money Laundering Regulations, 2011 (L.I 1987).

Anti-Terrorism Act, 2008 (Act 672).

Anti-Terrorism (Amendment) Act, 2012 (Act 842)

FATF Recommendations (revised) 2012.

Gaming Commission Act, 2006 (Act 721).

Ghana Real Estate Agency Company Code, Act 179, of 1963.

Ghana Statistics Service (Revised GDP for 2014).

Minerals and Mining (Amendment) Act of 1994 (Act 475)

Minerals and Mining Law of 1986 (PNDCL 153).

Minerals Commission Act, 1993 (Act 450).

Mining Act 2006, (Act 703).

The Chartered Accountants Act, 1963 (Act 170).

Legal Profession Act, 1960 (Act 32).

**OTHER FINANCIAL INSTITUTIONS WORKING GROUP**

Anti-Money Laundering Act, 2008, (Act 749) - Anti-Money Laundering Act. Retrieved from www.praad.gov.gh/.../ACT%20749%20Anti-Money%20Laundering%20... on December 3, 2015.

Bank of Ghana (2015), List of NBFIs/Credit Reference Bureaux as at June 2015. Retrieved from https://www.bog.gov.gh/index.php?option=com_content...id... on December 3, 2015

Bank of Ghana and Financial Intelligence Centre (2011), "Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Guidelines for Banks and Non-Bank Financial Institutions in Ghana",

Bank of Ghana Report (2014), Annual Report. Retrieved from http://www.bog.gov.gh on 3 December, 2015

Bank Secrecy Act (2010). Anti-Money Laundering Examination Manual. Retrieved from http://www.ffiec.gov/bsa-aml-infobase/pages-manual/olm.html on 10/03/2015

Castillo, J. J. (2009). Research Population. Retrieved from http://www.explorable.com/research-population on November 25, 2014

Fiedler, I., McCarthy, J.K. and Van, S., P. (2014). Modelling the Money Launderer: Micro-Theoretical Arguments on Anti-Money Laundering Policy. Retrieved from https://www.researchgate.net/publication/262194648_Modeling_the_Money_Launderer_Microtheoretical_Arguments_on_Anti-Money_Laundering_Policy on December 3, 2015

Financial Action Task Force (2013). Guidance on Money Laundering and Terrorist Financing. Retrieved from www.fatf-gafi.org/media/fatf/.../National_ML_TF_Risk_Assessment.pdf on December 3, 2015

Financial Action Task Force (2003). *Money laundering FAQ.* Retrieved 10 November, 2014 from http://www. gafi.org/document.html

Fowler, F. J., Jr. (1993). *Survey research methods* (2nd ed.) Newbury Park, CA: Sage.

Ghana News Agency (2015). Ghana Revenue Authority collects GH¢17b taxes in 2014, targets GH¢22b in 2015: Retrieved from https://www.ghanabusinessnews.com/.../ghana-revenue-authority-collects... on December 3, 2015

Inter-governmental Action Group against Money Laundering in West Africa (2009). "Mutual Evaluation Report", Inter-governmental Action Group against Money Laundering in West Africa, November, 4.

Lester, J. and Roth, J. (2007). Criminal prosecution of Banks under the Bank Secrecy Act, *United States Attorneys' Bulletin,* 8(3), 12-16.

McDowell, J. and Novis, G. (2001). *The Consequences of Money Laundering and Financial Crime. Money Laundering -Economic Perspectives Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State.* Retrieved from http://www.apgml.org/issues/docs/negative-effects-of-ml-economic-perspectives.html on May, 20 2001

Osei, F.C. (2014). Tax Evasion Stifles Ghana's Development. Retrieved from www.ghanaiantimes.com.gh/tax-evasion-stifles-ghanas-development/ on December 3, 2015.

Reuter, P. and Truman, E. (2004). Chasing dirty money; the fight against money laundering. Retrieved 16 November, 2014 from http://bookstore.piie.com/book-store//381.html

Saunders, M., Lewis, P. and Thornhill, P. (2007). *Research methods for business students* (4th ed.) London: Financial Times/Prentice Hall.

Smith, A. D. (2002). When is a nation. *Journal of Geopolitics,* 7(2), 5 – 32.

**FINANCIAL INCLUSION WORKING GROUP**

Bank of Ghana's Reports

GHAMFINs Performance Monitoring and Benchmarking Reports 2011 - 2014

Reports from Microfinance Associations

Ghana Mutual Evaluation Report- November 2009.

GDP Data from Ghana Statistical Service

Know Your Customer-Understanding The AML Threat Beyond The Customer by - Eugene McConville and Stuart Whatley- August 2013 as well as the

Bank of Ghana: Guidelines for E-Money Issuers in Ghana - July 6, 2015.

Bank of Ghana - Agent Guidelines - July 6, 2015

State of Implementation of Anti-Money Laundering Measures in Relation to Financial Inclusion in GIABA Member States - Jan 2013.