



INTER-GOVERNMENTAL ACTION GROUP
AGAINST MONEY LAUNDERING IN WEST AFRICA

Mutual Evaluation Report

Executive Summary

Anti-Money Laundering and Combating the
Financing of Terrorism

GHANA

4 NOVEMBER 2009

GHANA is a member of the GIABA. This evaluation was conducted by the GIABA Secretariat and was then discussed and adopted by its Plenary as GIABA's 11th Mutual Evaluation Report on 4th November 2009.

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Executive Summary

Mutual Evaluation of the Republic of Ghana

1. This report provides a summary of the AML/CFT measures in the Republic of Ghana as of the time of the onsite visit from April 20 to 30, 2009 and shortly thereafter. It describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Ghana's level of compliance with the FATF 40 + 9 Recommendations.
2. Ghana is a unitary state and consists of ten administrative Regions. The three arms of government, namely the executive, legislature and judiciary are independent of each other but work closely for the development of the country. Ghana has a Cabinet consisting of the President, the Vice-President and Ministers of State who are responsible for the development of Government policies. Legislative power is vested in Parliament which consists of two hundred and thirty elected members. Judicial power, as provided by the Constitution is vested in the Judiciary headed by the Chief Justice who is responsible for the administration and supervision of the judiciary. The Supreme Court is the highest court and has general, original, and appellate jurisdiction over matters relating to the enforcement or interpretation of the Constitution.
3. Article 11 of the 1992 Constitution provides that the laws of Ghana shall comprise the Constitution; enactments made by or under the authority of Parliament; Orders, Rules and Regulations made by any person or authority under a power conferred under the Constitution; Existing Laws; and the Common Law. The common law is defined under Article 11 (2) of the Constitution to include rules of English common law as well as customary law. The Constitution takes precedence over all other laws.
4. Specific ML/FT risks arise from the following sectors and activities: very high volume of cross border cash movements as well as cash courier business; a thriving unregulated and unsupervised bureaux de change culture; high level of unsupervised charity activity fuelled by foreign donations; substantial import and export activity as a result of free movement of currency and persons in the West Africa Economic area. Cybercrime commonly referred to as "Sakawa" in Ghana is also considered as an emerging threat. Cash is physically transported for settlement of commercial dealings either for payment of goods or for investment in the real estate sector where Ghana has recorded significant growth in recent years as confirmed by the Ghana Real Developers Estate Association and the Internal Revenue Office.

2. Legal System and Related Institutional Measures

5. To combat Money Laundering and the Financing of Terrorism, (ML/CFT), Ghana has developed legislative and institutional framework through the enactment of the Anti-Money Laundering Act (AMLA), 2008 (Act 749), the Anti-Terrorism Act (ATA), 2008, (ACT 762), the Narcotic Drugs (Control, Enforcement and Sanctions) Act, 1990 (PNDCL 236), the Human Trafficking Act, 2005 (Act 694), the Bank of Ghana Act, 2002 (Act 612), the Banking Act, 2004 (Act 673), Securities Industry Act, 1993

(PNDCL 333), the Insurance Act, 2006 (Act 724) the Foreign Exchange Act, 2006 (Act 723), and the Non-Bank Financial Institutions Act, 2008 (Act 774).

6. Ghana has ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the Vienna Convention) but has not ratified the United Nations Convention against Transnational Organized Crime, 2000 (the Palermo Convention). Other related legislation which impact on the effective combating of money laundering and terrorist financing include the Criminal Offences Act, 1960 (Act 29). This Act criminalizes some of the predicate offences of money laundering. The offences include stealing, defrauding by false pretences, corruption, bribery, extortion. In addition, the Banking Act and the Guidelines on Account Opening and Customer Due Diligence play important roles in the AML/CFT strategy framework.
7. Ghana has adopted the threshold approach by limiting predicate offences to conducts which constitute serious offence, including financing of a terrorist act or contravention of a law which occurs after the commencement of the AML Act whether the conduct occurs in Ghana or elsewhere. Serious offence is defined in section 51 of the AMLA to mean an offence for which the maximum penalty is death or imprisonment for a period of not less than twelve months. The maximum penalty range from fifty penalty units (\$4,000USD) to five thousand penalty units (\$45,000 USD) and imprisonment term of three months to ten years. The AMLA provides for sanctions against both natural and legal persons including directors and officers of accountable institutions.
8. The UN Convention for the Suppression of the Financing of Terrorism; International Convention for the Suppression of Terrorist Bombing; and the Organisation of African Union Convention on Prevention and Combating of Terrorism were ratified in 2002 by the President of Ghana. These Conventions are domesticated in the Anti-Terrorism Act, 2008 (Act 762). Ghana has ratified twelve out of the thirteen United Nations Conventions against terrorism. Ghana established a Counter-Terrorism Intelligence Centre in October, 2001. The Center is designed to ensure cooperation between all members of the National Security Council. Sections 6 to 18 of the ATA provides for the prohibition of financing of terrorism in Ghana. The law covers individual terrorists, terrorist groups, and terrorist acts. It also covers circumstances where property, financial services, or funds are provided to terrorist groups or individual terrorists. The services prohibited include training, recruitment, premises, organization of meeting, retention or control of terrorist property, dealing in terrorist property, provision of lethal device or explosives to terrorist groups or individuals.
9. The legal framework for confiscation, freezing and seizing of proceeds of crime in Ghana may be found in several legislation. The legislation include the Anti-Money Laundering Act, 2008, the Criminal and Other Offences (Procedure) Act, 1960 (Act 30), the Anti-Terrorism Act, 2008 (Act 762), and the Narcotic Drugs (Control, Enforcement and Sanctions) Act, 1990 (P.N.D.C.L 236). The Anti-Money Laundering Act empowers the Financial Intelligence Centre to freeze assets and bank accounts where it is necessary to facilitate investigation. However, provisions related to freezing and confiscation under these legislation are limited in scope. It is expected that the new provision on freezing and confiscation measures in the draft Economic

and Organized Crime Bill will be expansive enough to permit seizing, freezing and confiscation by the courts and law enforcement agencies.

10. Section 5 (2) of the Anti-Terrorism Act, 2008 (Act 762) provides for the freezing of funds for terrorist financing. The High Court can order the funds of a terrorist, financiers of terrorism or a terrorist organization to be frozen and any person holding such funds must immediately freeze them without delay. The Act further enjoins a person or institution holding fund related to financing of terrorism to report without delay to the FIC.
11. The Anti-Money Laundering Act provides for the establishment of the Financial Intelligence Centre (FIC) that will be responsible for the receipt, analysis and dissemination of Suspicious Transactions Reports (STRs) submitted by financial and non-financial institutions and designated non-financial businesses and professions. As at the time of the onsite visit, the FIC has not yet been established and therefore the receipt, analysis and dissemination of STRs have not commenced in Ghana.
12. Various Law Enforcement Agencies (LEAs) are responsible for the investigation of money laundering and terrorist financing offences in Ghana. The Ghana Police Service is the primary investigating agency for money laundering and terrorist financing. The National Security Council, National Drugs Control Board, and the Customs & Exercise Service have powers to apply undercover measures in order to waive or postpone arrests. The existing laws provide competent authorities with the powers to search premises or persons, and to seize and confiscate proceeds of crime. These powers are exercised during investigation, prosecution and after conviction but have not been widely utilised in the investigation of money laundering and terrorist financing cases.
13. The AML Act and the Foreign Exchange Act, 2006 (Act 723) are the legal framework for cross border transportation of currency or bearer negotiable instruments. Section 18 of the Foreign Exchange Act 2006 (Act 723) prohibits the import and export of foreign currency unless it is done in accordance with Regulations issued by the Bank of Ghana (BOG). The Government of Ghana has adopted a declaration system for cross border movement of cash and bearer negotiable instruments. There is also an operational guideline issued by the Bank of Ghana requiring foreigners and residents of Ghana to complete the Foreign Exchange Declaration Form if they intend to import or export means of payment exceeding USD 10,000. It is expected that the forms will be submitted to the Bank of Ghana as well as to the Financial Intelligence Centre once it is set up. However, the implementation of the declaration system is not consistent across the points of entry and exit. There is currently no standardised reporting format. The Customs officials are not aware of their obligations under the AML Act and therefore merely conduct routine checks.

3. Preventive Measures – Financial Institutions

14. The legal framework governing financial and non-financial institutions are: the Insurance Act, 2006, the Securities Industry Act, 1993, the Foreign Exchange Act, the Bank of Ghana Act, 2002 and the Banking Act, 2004. Specific CDD measures are provided for in the “the General Guide for Account Opening for banks in Ghana” and

the “Know Your Customer (KYC) Checklist”. Banks and Non-Bank Financial Institutions (NBFIs) in Ghana are largely regulated for AML/CFT purposes by the Bank of Ghana (BOG).

15. The BOG has begun to move towards a risk based approach in its supervision strategies in accordance with the Basel Core principles, albeit still at early stages. The BOG has also kept a close eye on safety and soundness of the banking system in Ghana. Whilst the BOG, the Insurance Commission, Securities and Exchange Commission and the Stock Exchange have well established prudential supervision programmes in place, their AML/CFT measures are not yet fully implemented and much work needs to be undertaken in order to ensure that reporting entities are properly supervised. All the regulators need to dedicate attention to the issues relating to AML/CFT in the regulated sector with respect to authorised and unauthorised activity.
16. Pursuant to section 52 of the Banking Act, the BOG issued the “General Guide to Account Opening and Customer Identification” to all banks as a way of providing guidance to banks in relation to account opening and customer identification. The BOG General Guide to Account Opening and Customer Identification states in the first paragraph that banks need to obtain all information necessary to establish to their full satisfaction, the identity of each new customer, the purpose and intended nature of business relationship. The Guide notes that the extent of the information to be obtained will depend on whether the applicant is corporate or individual customer, as well as the size of the account.
17. Whilst the rationale for the issuance of the Guideline is undoubtedly sound, it is noteworthy that the BOG refers to the Guideline as being necessary for “future anti-money laundering requirements”. This underlines the concerns expressed during the onsite that the regime instituted by the enactment of the AMLA cannot be said to be operational in practice. Additionally, the language of the Guide, although issued by way of a Directive, is in terms of “guidance” rather than being “mandatory” and therefore cannot be considered “other enforceable means” within the meaning of FATF Recommendations. For example paragraph 4 of the document states: “what follows is account opening and customer identification and general guide to good practice based on sound principles”.
18. In the absence of an effective implementation of the AML Act, the BOG’s Guide to Account Opening and Customer Identification is a useful tool for CDD measures; however, it is not comprehensive enough and does not represent an enforceable document for the effective implementation of CDD measures in Ghana. Similarly the SEC Compliance Manual only addresses prudential issues and needs further development. There are no meaningful provisions with regard to CDD for entities regulated by the Insurance Commission or firms operating in the Ghana Stock Exchange. The legislative instrument or Regulation that will bring the AML Act into force should incorporate a revised KYC manual. This will give bite to the CDD measures that are required to reinforce the AML/CFT regime in Ghana. The revised KYC manual should cover all the significant shortcomings identified under Recommendation 5 in the MER.

19. The requirement for the prohibition of anonymous accounts, fictitious names and numbered accounts should be specified in the AML Act or any other legislative instrument. There should be a clear statement in the law on when CDD is required or at what point CDD information should be obtained. The AML Act provided that accountable institutions shall keep records of the identity of the persons or agents of a person establishing a business relationship with them but it is not clear what that type of information should be collected from the customer. An attempt was made to list the types of information required from customers in the Guideline for banks but there is no listing of what is needed from a customer in law or a legislative instrument. Additionally, the obligation to verify the identity of customers and beneficial owners and the requirement to conduct ongoing due diligence are not provided in law or regulation. It is expected that Ghana would incorporate this requirement in a legislative instrument or amend the AML Act accordingly.
20. The BOG should develop a more comprehensive risk based approach for the conduct of CDD measures. The risk based approach should be based on materiality and risks prevalent in the financial market in Ghana. The risk based approach will also assist the government to determine where to invest more resources in protecting the financial system. It is important that CDD measures should be implemented by all the accountable institutions listed in the AML Act. At the moment, limited CDD measures are only being applied by the banks.
21. There are no guidelines with regard to PEPs for entities regulated by the Securities and Exchange Commission, the Insurance Commission or the Ghana Stock Exchange. With the exception of what is in the BOG Guide, which provides a useful start. The BOG Guide is, however not comprehensive as it describes those behind trusts and other legal arrangements as low risk customers and does not provide for senior management approval when a PEP becomes a customer of a bank. It is recommended that the BOG, SEC, and the Insurance Commission as well as DNFBPs should develop a more comprehensive guideline on PEPs taking into consideration the risks that they pose to the financial system.
22. Whilst all the regulatory authorities asserted that they have an informal system of ensuring that there are mechanisms in place with regard to cross border correspondent relationships, none were able to provide evidence of the effectiveness of such an informal system or produce any written standard with which accountable institutions are required to comply. It is recommended that the requirement for obtaining information on a respondent institution should be formalized and guidance issued to reporting entities in this regard. There is need for a more direct requirement in law or regulation to ensure that non-face to face business relationships, transactions and particularly modern technology is not used by money launderers and those who finance terrorism. There is currently no clear guideline regarding the use of third parties and intermediaries. The BOG and other regulatory authorities should incorporate the requirement for financial institutions in Ghana to obtain all identification documents of a customer from third parties and intermediaries and to retain the documents as required by the law. The guideline should require banks to verify the extent to which the third parties apply CDD measures on their customer and the extent to which they are supervised and regulated for AML/CFT purposes.

23. Section 31 of the Banking (Amendment) Act, 2007 which amended Section 84 of the Banking Act, 2004 on “Secrecy of Customer Information” provides an enhanced legal framework on the prohibition of banking secrecy in Ghana. Accordingly, confidentiality duties of banks will be waived in the circumstances listed under Section 31, including when information is required for civil proceedings, execution of a court order, submission of suspicious transaction reports under the AML Act, in fulfilment of obligations under international agreements or under a memorandum of understanding with other foreign regulatory agency performing the same function as the BOG. Although Ghana has a requirement under the Bank Act which prohibits bank secrecy, the procedure for obtaining disclosure order is restrictive and cumbersome and may in the end not achieve the purpose for which the confidentiality requirement was waived in the first instance.
24. There is no effective monitoring and supervision of all sectors to ensure compliance with the record keeping requirement. The monitoring of wire transfers by the BOG has not been effective. While it is arguable that no action has been taken in this regard because the FIC has not been established, it is recommended that pending the establishment of the FIC, the BOG should draft a guidance note for the monitoring of cross-border and domestic wire transfers from the minimum threshold of \$1,000USD and above. The guideline should provide that the identification details of the originator should be included in all wire transfers as well as in the payment form or transfer information for domestic wire transfer. There is currently no requirement for financial institutions to pay special attention to unusual and complex transactions that do not have apparent, visible or lawful purpose with a view to recording their findings and be able to make the report available to competent authorities when requested. FIs are not required to pay special attention to transactions with persons from countries that do not or insufficiently apply FATF standards. There is need for BOG to put in place countermeasures that will be applied to countries that do not or insufficiently apply FATF standards.
25. Compliance measures are just beginning to evolve in Ghana– mainly with the foreign banks. With regards to the local banks and other financial institutions as well as capital market firms and DNFBPs, not much thought has gone into the appointment of compliance officers. In the few firms where they exist, the officers are very junior and are not able to act independently. There is a requirement for financial institutions to monitor the activities of foreign branches and subsidiaries and ensure that they observe FATF standards. This does not however extend to the need to pay special attention to branches or subsidiaries in countries where FATF standards are not applied. There is no requirement to report to home supervisor where financial institutions are not able to implement AML/CFT measures in their host countries.
26. Under the Banking Act, the BOG will not permit the use of banking licence for any purpose other than that for which it is issued and no bank can be licensed in Ghana unless the entity has first been registered as a corporate body, however, there is no express prohibition of shell banking nor does the licensing policy in the banking Act exclude the practice. There is also no express provision regarding the continuing of correspondent relationship by banks in Ghana with shell banks in other countries.
27. The supervisory body for the banking sector is the Bank of Ghana (BOG) and it is accountable to the Ministry of Finance, however, the supervision of banks for

AML/CFT purposes has been entrusted on the FIC. The FIC, when established will work with the regulatory authorities such as the BOG, NIC and the SEC to develop guideline, monitor and supervise financial and non-financial institutions for AML/CFT purposes. With the exception of the BOG, none of the other regulators have developed AML/CFT guidance for their industry. The onsite visits conducted by the BOG are generally focused on prudential measures. Efforts to supervise banks for compliance with the Guideline on CDD measures and the AML/CFT Act are still at the early stages.

28. Regulatory authorities have powers to conduct onsite and offsite inspections; however, the supervisors do not have a clear understanding of the requirement of FATF Recommendations and are still at the early stage of developing competency in the application of risk-based approach and supervision of banks for AML/CFT purposes. As at the time of the onsite visit, no action has been taken to provide guidelines on financing of terrorism reporting requirements despite the enactment of the Anti-terrorism Act in early 2008. Only one bank has been sanctioned for failing to maintain the CDD documents in its files. The sanctions in the AML Act applicable to money laundering offence and non-compliance with the AML/CFT measures are considered not severe enough and not proportionate to the money laundering risks in Ghana.

4. Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBPs)

29. Designated Non-Financial Businesses and Professions are provided for in the First Schedule to the AMLA. The preventive measures on CDD, record keeping and report of suspicious transactions applicable to financial institutions, also apply to DNFBPs. The sectors covered include casinos, auctioneers, notaries, lawyers, non-governmental organisations, accountants, religious bodies, real estate developers, operators of games of chance, trust and company service providers, dealers in motor vehicles, dealers in precious minerals and stones. Casinos are covered under section 27 of the Anti-Money Laundering Act.
30. The AML/CFT obligation in the AML Act extends beyond entities covered by FATF and extends to religious bodies, non-governmental organizations, dealers in motor vehicles and religious organizations. Although the inclusion of additional reporting entities under the Act is not based on national risk assessment or AML/CFT typologies, it should be viewed as an important step given the money laundering and financing of terrorism threats in the region. With the exception of Casinos, operators of games of chance, accountants, NGOs, dealers in precious minerals and stones, the authorities have not designated supervisors or SROs for the other DNFBPs. As at the time of the onsite visit, no action has been taken to address the ML/FT risks in this sector and no specific guidance has been developed for the DNFBPs that are covered under the law.

5. Legal Persons and Arrangements and Non-Profit Organizations

31. The Companies Act, 1963 (Act 179) is the legal framework for the registration of legal persons including trust companies, foundations, charities and companies limited by guarantee including NGOs. Other laws related to legal persons in Ghana are the Incorporated Private Partnership Act, 1962 (Act 152) and the Registration of Business Names Act, 1962 (Act 151). The Registrar-General's Department (RG), is the central authority for the registration of businesses in Ghana. Under Ghanaian laws, legal persons refer to organizations created and registered under any of the business laws of the country. They include private and public limited liability companies, unlimited companies, guarantee companies, external companies, partnerships and sole proprietorships. As at February, 2009, 560,986 corporate bodies and business names had been registered with the Registrar General's office.
32. Registration of legal persons is based on the presentation of specific disclosure documents. Full disclosures regarding the purpose of business, shareholders, location, registered office address, names and addresses of directors are required at the registration stage. The records of registration are public documents and are accessible by third parties after payment of a specified fee, however, there is no requirement to obtain and verify information relating to beneficial ownership or control of companies in Ghana. Regulated businesses, including trusts service providers and lawyers are subject to the AMLA and are required to maintain information on their clients, including trust arrangements. As at the time of the onsite visit, no guidance has been issued to this sector on how to report suspicious activities related to trusts and beneficial owners. There is no information available with regards to beneficial ownerships and control of trusts and other legal arrangements despite the presence of these activities in Ghana.
33. Non-profit Organizations are registered under the Companies Act, 1963 (Act 179) as guarantee companies. The Department of Social Welfare under the Ministry of Employment and Social Welfare provides operating licences to the NGOs in Ghana irrespective of their registration with the Registrar-General's Department or other agencies. The Department of Social Welfare is thus the central registration authority of NGO's in Ghana. The Department as at 25th March, 2009 have registered 5, 724 NGOs.
34. Ghana is in the process of enacting a law to provide for the creation of, and the registration of religious bodies, trusts, non-governmental organizations and other non-profit civil society organizations. The Trusts and Non-Profit Civil Society Organization Bill seeks to remove the registration of Guarantee Companies from the Registrar-General's Department and to consolidate all non-profit entities under one body to be called "the Trusts Commission". The Bill takes into account the vulnerability of NGO sector for terrorist fundraising.

6. National and International Cooperation

35. The legal framework for domestic cooperation can be found under Sections 6 and 49 of the Anti-Money Laundering Act 2008 (Act 749); Section 19 of the Serious Fraud Office Act, 1993 (Act 466). The AML Act provides that the Board of the FIC shall consist of members from different security and supervisory agencies. Although the

FIC has not been established, it is anticipated that it will become the coordinating body for the development and implementation of AML/CFT policies once it becomes operational.

36. Currently, there is an anti-money laundering strategy implementation committee made up of representatives of agencies involved in AML/CFT implementation and mandated to develop an AML/CFT Strategy for the country. The Committee used to be co-ordinated by the BOG but is now led by the Minister of Justice and Attorney-General. The Committee is made up of the following agencies: the Attorney-General's Department, the National Security Secretariat, Ministry of Finance and Economic Planning, Bank of Ghana, Ghana Police Service, Narcotics Control Board, Customs, Excise and Preventive Service, Securities and Exchange Commission, Ministry of Foreign Affairs. As at the time of the onsite visit, no national strategy on AML/CFT had been developed and no ML/FT risk assessment had been conducted by the regulators or the law enforcement agencies.
37. The Counter-Terrorism Centre is designed to ensure cooperation between all members of the National Security Council. The National Security Coordinator is the head of the Counter-Terrorism Centre. The Centre was established to enhance the exchange of intelligence on terrorism, drug trafficking and money laundering. Agencies which share information with the Centre include the Defence Intelligence, the Narcotic Control Board, the Customs, Excise, and Preventative Service.
38. The legal framework for the provision of mutual legal assistance is article 73 of the 1992 Constitution, the Transfer of Convicted Persons Act, 2007 (Act 743), the Narcotic Drugs (Control, Enforcement and Sanctions) Act, 1990 (PNDCL 236), the Extradition Act and the AMLA. Additionally, Ghana subscribes to the Harare Scheme on Mutual Legal Assistance. Ghana does not have a comprehensive stand-alone legislation on mutual legal assistance but there exist mechanisms to provide mutual legal assistance in relation to criminal matters. The Ministry of Justice and Attorney-General's Department is the authority responsible for the provision of mutual legal assistance to foreign authorities.
39. Ghana extradites fugitives in accordance with the Extradition Act, 1960 (Act 22) which provides for the extradition of fugitives to and from Commonwealth countries as well as foreign States. The AML Act provides that money laundering and terrorist financing are extraditable in accordance with the Extradition Act. A person who commits an offence listed as an extraditable offence in the First Schedule to the Extradition Act and who is present in Ghana can be extradited, including Ghanaian nationals. There are mechanisms in place for the provision of other forms of co-operation with other countries. These mechanisms include co-operation agreements and Memorandum of Understanding (MOU).

7. Resources and Statistics

40. The absence of FIC has inhibited the capacity of all regulatory authorities to supervise and coordinate accountable institutions. Additional human and technical resources would be needed in the coming months to provide guidance to supervisory and

investigation authorities in order to ensure effective implementation of AML/CFT regime in Ghana. There is general lack of statistics on money laundering and terrorist financing cases prosecuted or investigated as well as assets confiscated and forfeited. This may be attributed to the fact that not much work has been done by the competent authorities towards enforcing their mandates under the AMLA and the ATA. Limited statistics obtained on seizure of assets was limited to narcotic cases.

Table 1: Ratings of Compliance with FATF Recommendations

The ratings of compliance are made in accordance with FATF Recommendations based on the four levels mentioned in the 2004 Methodology namely, (Compliant-(C), Largely Compliant (LC), Partially Compliant (PC), Non- Compliant (NC), or could in exceptional cases be marked as not applicable (N/A)

Compliant	The Recommendation is fully observed with respect to all essential criteria.
Largely compliant	There are only minor shortcomings, with a large majority of the essential criteria being fully met.
Partially compliant	The country has taken some substantive action and complies with some of the essential criteria.
Non-compliant	There are major shortcomings, with a large majority of the essential criteria not being met.
Not applicable	A requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country

Forty Recommendations	Rating	Summary of factors underlying rating
Legal Systems		
1. ML offence	PC	<ul style="list-style-type: none"> • Ghana has not ratified the Palermo Convention although some elements of Section 6 have been criminalized in the AML Act. • Ghana has not criminalized four of the twenty minimum designated offences, namely, Participation in organized criminal group and racketeering, human beings and migrant smuggling; Sexual exploitation, including sexual exploitation of children; and Illicit arms trafficking • There has not been any judicial decision arising from the AMLA and therefore there is no way of determining the effectiveness of the legislation. • The regulation that will trigger the effective implementation of the AML Act has not been issued.
2. ML offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> • The sanctions provided in the Act for the offence of laundering are not dissuasive and proportionate to the risk of money laundering in the country. In the absence of any judicial decision, it is not possible to determine the how the courts will apply the current penalties provided in the Act.
3. Confiscation and provisional measures	NC	<ul style="list-style-type: none"> • The AML Act does not provide for confiscation measures. • Provisional measures in place for the confiscation of proceeds of crime are limited in scope, and apply only to drug related offences. • There is no provision for <i>ex parte</i> application under the AML Act • The AML Act does not provide for the protection of bona fide third parties. • There is no provision to void actions or prevent actions that may prejudice the ability of the government to confiscate property that are proceeds of crime. • The confiscation measures under the Narcotic Drugs Control Act are restrictive and place too much burden on the prosecution.

		<ul style="list-style-type: none"> The current confiscation regime under the Narcotic Drugs Control Act is ineffective and has not led to successful investigation, prosecution and confiscation.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> The procedure for obtaining disclosure order is restrictive and cumbersome and may in the end not achieve the purpose for which the confidentiality requirement was waived in the first instance. There are concerns that the Banking Act may override the AML Act provisions which require FIC to access information directly from financial institutions.
5. Customer due diligence	NC	<ul style="list-style-type: none"> There is no comprehensive mechanism to address money laundering and financing of terrorism risks across all the sectors, namely, financial, non-financial, and DNFBPs. No CDD measures have been applied in the insurance and DNFBPs sectors as at the time of the onsite. No express prohibition in law regarding anonymous accounts. No express provision in law requiring CDD when: - a) carrying out occasional (or linked) transactions above a designated threshold; b) occasional transactions that are wire transfers in the circumstances covered by SRVII, c) there is a suspicion of money laundering or terrorist financing; d) the financial institution has doubts about the veracity of or adequacy of previously obtained customer identification data. No express provision in law requiring financial institutions to identify the customer and verify that customer identity using reliable, independent source documents. No express provision in law requiring financial institutions verify persons purporting to act on behalf of a customer where the customer is a legal person or legal arrangement; no requirement to verify the legal status of the legal person or arrangement. No express legal provision in place requiring financial institutions to:- <ul style="list-style-type: none"> (a) identify and verify the beneficial owner; (b) understand the ownership and control structure of the customer; (c) Determine the natural persons who ultimately own or control the customer. No requirement for regulated persons in the Securities, insurance and stock market to obtain information on the purpose and intended nature of business relationships. No express legal provision requiring ongoing due diligence on business relationships, nor scrutiny of transactions undertaken throughout the course of the relationship; nor to keep documents relating to CDD up to date by undertaking reviews, particularly of higher risk customers. No requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. There are no circumstances prescribed where reduced due diligence is permitted. There are no clear statements setting out precisely when CDD must be completed, and if after the account is opened, under what circumstances it is permissible. There are no provisions directing the financial institutions as to what they should do if they are unable to comply with the various CDD measures.

		<ul style="list-style-type: none"> • There is no comprehensive requirement for financial institutions to apply CDD measures to existing customers. • There is no effective implementation of CDD measures by the regulators.
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • Securities, insurance and stock exchange regulated entities are not subject to requirements to assess the political status of their clients. • Requirements to put additional risk management systems in place to determine whether a potential customer or a customer or the beneficial owner of a customer is PEP. • There is no requirement to obtain senior management approval prior to opening an account for a PEP; • No sectors are subject to a requirement to obtain senior management approval to continue a relationship when an existing customer is discovered to have been or to have become PEP. • Insurance, Securities and Stock Exchange regulated firms are not subject to a requirement to establish the source of funds of a PEP; • No sectors are subject to a requirement to conduct enhanced due diligence should they decide to provide services to a PEP.
7. Correspondent banking	NC	<ul style="list-style-type: none"> • No regulators have placed requirements on their sectors to carry out the necessary customer due diligence on cross border correspondent relationships. • There is no requirement to obtain senior management approval prior to establishing a correspondent relationship. • Financial Institutions are not required to document each others' respective AML/CFT responsibilities
8. New technologies & non face to- face business	NC	<ul style="list-style-type: none"> • There is no requirement on financial institutions to have policies in place to prevent the misuse of new technologies • Regulators have not placed requirements on their sectors to introduce the necessary policies and risk management procedures with regard to non-face to face business.
9. Third parties and introducers	NC	<ul style="list-style-type: none"> • There is no requirement across all the sectors to ensure that customer identification information will be made available by third parties. • Financial institutions are not required to satisfy themselves that third parties are duly supervised and regulated for AML/CFT purposes and that apply FATF Recommendations to their customers.
10. Record keeping	PC	<ul style="list-style-type: none"> • Lack of effective monitoring and supervision of all sectors to ensure compliance with the record keeping requirement. • Inability of law enforcement agencies to access information from financial institutions in a timely manner order to conduct investigation on criminal activities.
11. Unusual transactions	NC	<ul style="list-style-type: none"> • No requirement to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose • No express requirement to examine as far as possible the background and purpose of such transactions and to set forth their findings in writing; • There is no requirement to set forth the findings under this Recommendation in writing and make the records available to competent authorities and auditors
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • The DNFBPs are not conducting CDD measures as required by FATF. • The AML/CFT obligations for casinos are identical to those for financial institutions; they suffer from the same deficiencies identified previously with respect to Recommendations 5, 6, and 9-11.

		<ul style="list-style-type: none"> There is no effective implementation of AML/CFT obligations across all the reporting entities.
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> There is no implementation of Recommendation 13 because the Financial Intelligence Centre which is supposed to be responsible for receiving STRs has not been established. With the exception of the banks, all the other sectors are not aware of their obligation to report STRs to the FIC.
14. Protection & no tipping-off	LC	<ul style="list-style-type: none"> There is no effective implementation of the requirements under Recommendation 14
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> There is general lack of understanding of the role of compliance officers. Compliance officials are not appointed at senior management level. There is no guidance on the provision of timely access to compliance officers to transaction records. There is no requirement to set up independent audit functions and none has been set up and resourced to be able to test the compliance system put in place by financial institutions. There is no comprehensive ongoing training program for staff of financial institutions.
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> The DNFBPs are not aware of their obligation to file STRs with the FIC. The FIC has not been established and therefore no STRs have been submitted. DNFBPs are not aware of the obligation to maintain internal controls and policy to prevent money laundering and financing of terrorism through their sector. There is no action taken to ensure that foreign branches of DNFBPs and subsidiaries are subject to the same AML/CFT obligation in Ghana. There is no effective implementation of the requirements of Recommendation 16.
17. Sanctions	PC	<ul style="list-style-type: none"> Only one institution has been sanctioned for breach of money laundering provisions despite the prevalence of financial crime in the country The minimum penalty is too low given the risk of money laundering in the country. There is no effective implementation of the sanction regime.
18. Shell banks	PC	<ul style="list-style-type: none"> No express prohibition against operating shell banks There is no express requirement to prohibit financial institutions from entering into correspondent relationships with shell banks There is no effective monitoring of compliance with the activities of the banks to ensure that they are not dealing with respondent banks that are operating as shell banks.
19. Other forms of reporting	C	
20. Other NFBP& secure transaction techniques	LC	<ul style="list-style-type: none"> The use of cash is still prevalent in Ghana and the risks associated with other DNFBPs have not been assessed by Ghana. Implementation of secured transaction system is still at the early stages and its effectiveness is yet to be determined.
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> No requirement to pay special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations No measure in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. There is no requirement to make written findings available to assist competent authorities.

		<ul style="list-style-type: none"> There are no counter measures being applied to countries that do not apply FATF Recommendations.
22. Foreign branches & subsidiaries	PC	<ul style="list-style-type: none"> There is no requirement to pay special attention to branches or subsidiaries in countries where FATF standards are not applied. There is no requirement to report to home supervisor where financial institutions are not able
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> The supervisors across all the reporting entities have not commenced the monitoring and supervision of accountable institutions for non-compliance with the AML/CFT obligations. Supervisors are not aware not aware of their obligations under the AML/CFT laws. There is no mechanism in place for the supervision of banks, non-banks, insurance firms, securities firms, money transmission services and currency changers for compliance with FATF standards. The supervisory authorities do not have an understanding of the risk based approach to supervision of financial institutions.
24. DNFBP - regulation, Supervision and monitoring	NC	<ul style="list-style-type: none"> The supervisors, SROs and national authorities have not commenced the supervision of DNFBPs for AML/CFT purposes. The supervisors lack the capacity and resources to develop AML/CFT supervision based on the risk analysis of the existing threats in their sectors
25.Guidelines & Feedback	NC	<ul style="list-style-type: none"> With the exception of the BOG, none of the supervisors have issued AML/CFT related guidance to the industry There is no AML/CFT awareness program to inform the reporting entities about their obligations under the laws There is no feedback mechanism between supervisors and reporting entities on how to develop or improve AML/CFT guidance for industry specific purposes The BOG Guideline is not comprehensive and not effectively implemented across all reporting entities. The other regulators have not issued any guidance on AML/CFT issues and have not commenced the implementation of the AML Act DNFBPs have not been informed about their obligation under the AML Act No formal mechanism for feedback reporting.AML Act The supervisors lack the capacity to develop guidance for their sectors. Inadequate resources for the development of awareness program for reporting entities. No guidance has been issued across all the DNFBPs.
Institutional and other measures		
26. The FIU	NC	<ul style="list-style-type: none"> FIC is not operational despite its establishment by the AMLA in January 2008. There is no guidance to direct the reporting entities on how to submit STRs. There is general lack of awareness of the obligation to submit STRs across all reporting entities. There is no budgetary provision for the FIC under the 2009 budget. No work plan has been developed for the establishment of the FIC. There is no protection of the security of the tenure of office for the CEO of the FIC The President's power to revoke the appointments of Board members could interfere with the operational independence of the FIC.

27. Law enforcement authorities.	LC	<ul style="list-style-type: none"> The AML Act does not specify the agency responsible for the investigation of money laundering. The powers of the investigation authorities are not effectively applied towards the investigation of money laundering and financing of terrorism
28. Powers of competent authorities	LC	<ul style="list-style-type: none"> The powers of the investigation authorities to compel financial records are restrictive. The AML Act is not effectively applied for the purpose of compelling the production of records of financial transactions The powers to freeze and confiscate is not effectively applied.
29. Supervisors	NC	<ul style="list-style-type: none"> No AML/CFT onsite inspections have been conducted by the supervisors across all the financial sector industries. The BOG will require a court order to compel certain documents from the banks. The powers to apply sanctions and enforce AML/CFT obligations are not effectively utilized by supervisors.
R. 29	NC	<ul style="list-style-type: none"> No AML/CFT onsite inspections have been conducted by the supervisors across all the financial sector industries. The BOG will require a court order to compel certain documents from the banks. The powers to apply sanctions and enforce AML/CFT obligations are not effectively utilized by supervisors.
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> The AML Act does not provide for the operational autonomy for the FIC. There is no dedicated personnel and budget for the effective functioning of the FIC. There is no funding committed to the development and implementation of AML/CFT strategy in the country. Adequate training has not been provided to staff of the different supervisory, law enforcement agencies and other competent authorities to enable them to commence proactive implementation of the AML Act and the AT Act.
31. National co-operation	PC	<ul style="list-style-type: none"> The AML/CFT coordination mechanism is weak and lacks strategic focus. No strategic coordination policy has been put in place for the public and private sector institutions There has not been any attempt at assessing the ML/FT threats and risks in Ghana. The Board of the FIC that will provide guideline in terms of national coordination policy has not been appointed. There is no effective mechanism in place to foster the development of AML/CFT polices in Ghana.
32. Statistics	NC	<ul style="list-style-type: none"> There is general lack of statistics on issues related to AML/CFT. Not much work has been done by almost all the competent authorities on the implementation of the AML/FT Act. It is difficult to assess the effectiveness and efficiency of the AML/CFT regime in the country given the lack of statistics across all the sectors. Assessors were unable to obtain Statistics on cases prosecuted or investigated on money laundering, terrorist financing and assets confiscated and forfeited.
33. Legal persons - beneficial owners	PC	<ul style="list-style-type: none"> Adequate measures are not in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and Information on the companies registrar pertains only to legal ownership/control and does not include information on beneficial ownership; There is no mechanism in place to verify the identity of owners for

		<p>AML/CFT purposes;</p> <ul style="list-style-type: none"> The RG's office lack resources and personnel to undertake investigation and conduct onsite visit to verify information provided by corporate bodies.
34. Legal arrangements beneficial owners –	NC	<ul style="list-style-type: none"> There is no measure in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of trusts The trust service providers and lawyers are not supervised for AML/CFT compliance. Competent authorities are not able to access information on beneficial ownership and control of trusts
International Co-operation		
35. Conventions	PC	<ul style="list-style-type: none"> Ghana has not ratified the Palermo Convention. The legislative instruments which have incorporated the international conventions into the legal framework of Ghana are not fully implemented. There is no effective mechanism in place for the implementation of the Conventions.
36. Mutual Legal Assistance (MLA)	PC	<ul style="list-style-type: none"> Lack of comprehensive legislation on MLA; No guidelines on procedure for management of MLA requests in a timely manner. Lack of capacity to manage MLA requests effectively. No effective implementation of MLA requests on ML/FT cases.
37. Dual criminality	PC	<ul style="list-style-type: none"> Chanel of extradition request is very cumbersome – passes through the Foreign Affairs and then to Attorney-General before getting to the relevant agency; Treaty based extradition is restrictive in terms of application. Timely response affected by delays and lack of logistics; No comprehensive database on MLA/Extradition.
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> Lack of an effective confiscation regime for money laundering offences. Mechanisms on timely response to MLA on identification, freezing, seizure and confiscation of laundered property is limited in scope
39. Extradition	PC	<ul style="list-style-type: none"> Extradition under the Ghanaian law is treaty based and is restrictive in terms of application. No comprehensive database on extradition requests Timely response affected by delays and lack of logistics and capacity
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> No streamlined procedure to respond to requests Lack of coordination between financial institutions supervisory authorities and law enforcement on how to access information from accountable institutions. No comprehensive legislation on international cooperation Restrictive processes for sharing of information on informal basis exist in the Banking Amendment Act Lack of effective implementation of the AML and AT Act
Nine Special Recommendations	Rating	<ul style="list-style-type: none"> Summary of factors underlying rating
I. Implement UN instruments	PC	<ul style="list-style-type: none"> There is no regulation in place for the implementation of the Anti-terrorism Act. No guidance has been issued by supervisory authorities in relation to the UN/SC/Resolutions. There is no mechanism in place to circulate and monitor the list of terrorists from the Council There is no effective mechanism for the implementation of FT Convention.

II. Criminalise terrorist financing	PC	<ul style="list-style-type: none"> No action has been taken by the authorities to implement the Act since its enactment in 2008. Accountable institutions under the Act are not aware of the Act and therefore not able to perform the roles required of them under the Act. No legislative instrument has been issued for the implementation of the Act by the Minister.
III. Freeze and confiscate terrorist assets	PC	<ul style="list-style-type: none"> There is no procedure, guidance or regulation to guide the reporting entities on how to implement the provisions of the Anti-terrorism Act. There is no mechanism for dissemination or monitoring of the implementation of UN Security Council Resolutions. The FIC has not been established; hence STRs on FT are not being submitted. The accountable institutions are not aware of their obligations under the Anti-Terrorism Act. There has not been any freezing measure undertaken or initiated since the enactment of the Act. There is no effective implementation of the Anti-terrorism Act.
IV. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> There is no effective implementation of SR IV All the sectors are not aware of their obligation under the AML Act and Anti-terrorism Act in relation to the filing of STR reports on financing of terrorism
V. International co-operation	PC	<ul style="list-style-type: none"> No guidelines on procedure for management of MLA requests in a timely manner. Lack of capacity to manage MLA requests effectively. There is no effective implementation of the Anti-terrorism Act
VI. AML requirements for money/value transfer services	NC	<ul style="list-style-type: none"> MVTs are not properly supervised for AML/CFT compliance. The limitations noted under Recommendations 4- 11, 13-15, 21-23 and SR VII will apply here.
VII. Wire transfer rules	NC	<ul style="list-style-type: none"> The AML Act does not provide the type of originator information that should accompany a wire transfer, including domestic and international transfers. The minimum threshold for the provision of originator information is also not indicated in the Foreign Exchange Act and in the AML Act. The FIC has not been established and therefore there is no formal reporting process in place for the provision of guidance to reporting entities; monitoring and detection of non compliance with wire transfer, and application of sanctions. There is no monitoring of wire transfers for AML/CFT purposes.
VIII. Non-profit organisations	NC	<ul style="list-style-type: none"> The legal regime for the supervision of NGOs is currently limited in scope and would need to be revised to bring it in line with best practices. There is limited information available on the threats posed by ML/TF to the NPO sector in Ghana since no review or risk assessment has been conducted by the national authorities to review adequacy of the current supervisory and regulatory regime. Very few workshops have been conducted for the NGOs Supervision and management of NPOs is ineffective due to lack of capacity and lack of a centralized system of control. Although the AML Act covers the NPO sector, there are not being supervised for compliance with AML/CFT obligations under the law. Law enforcement and supervisors are not trained on how to detect if NGOs are being used as fronts for terrorist groups. Although sanctions exist, they do not cover the NPOs that are not

		<p>supervised.</p> <ul style="list-style-type: none"> • Information on NGOs are not always available for law enforcement and for international cooperation • There is no comprehensive data base of NGOs operating in Ghana and therefore it is impossible to determine the extent to which they are effectively managed • There is no procedure for managing information on NGOs and therefore response to international requests may not always be timely or complete and adequate.
<p>IX. Cross Border Declaration & Disclosure</p>	<p>PC</p>	<ul style="list-style-type: none"> • The implementation declaration system and enforcement is adhoc and not consistent across the ports of entry. • There is no standardized reporting mechanism and guidance in place to collect declaration information and to transmit the same to the FIC or to the Bank of Ghana. • Records are not maintained in a database in an efficient manner. • Customs officials are not informed of their obligation under the AML Act. • The CEPS is not adequately resourced and funded to undertake its mandate under the AML Act. • There is no effective implementation of the declaration system as provided under the AML Act and the Foreign Exchange Act.

TABLE 2: RECOMMENDED ACTION PLAN TO IMPROVE THE AML/CFT SYSTEM

AML/CFT System	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional measures	
2.1 Criminalization of ML (R.1 & 2)	<ul style="list-style-type: none"> • The Ministers of Justice, Finance, Interior, the BOG and the other members of the National AML/CFT Coordinating Committee should be appointed as interim Board members for the FIC pending the constitution of the Board. • The interim Board of the FIC should finalize the drafting of Regulations for the AMLA for the effective implementation of the AML Act. • There is need for judicial officers to be trained on developments in international criminal law with regards to money laundering and terrorist financing. • The national authorities should review the AML Act to ensure that it is in compliance with international standards. • The offences which have not been criminalized should be criminalized immediately. • The authorities should also ratify the Palermo Convention as soon as possible. • Although there has not been any court decision under the new AML Act, it is essential that the law should take into consideration the prevalence of money laundering activities in the country and the vulnerability of its financial system in determining the appropriate sanctions applicable to the offence of money laundering. • The Inter-Ministerial Committee should develop a national strategy or action plan for the effective implementation of AML/CFT regime in Ghana
2.2 Criminalization of Terrorist Financing (SR.I)	<ul style="list-style-type: none"> • The Minister should develop the legislative instrument within the shortest possible time in order to activate the Anti-terrorism Act. • Accountable institutions under the Act should be informed about their roles under the Act • The Regulatory authorities should also issue relevant guidance to reporting entities as well as train them on what to report under the Anti-terrorism Act.
2.3 Confiscation, freezing and seizing the proceeds of crime (R.3)	<ul style="list-style-type: none"> • The country should take immediate steps to review the freezing, seizing and confiscation regime, particularly under the AML Act • Alternatively, immediate steps should be taken to review the Economic and Organised Crime Office Bill to ensure that it is in conformity with Best Practices Notes issued by FATF and the World Bank on Asset Forfeiture and Confiscation as well as the Best Practices Notes on the implementation of the UN Security Council Resolutions. • Immediate steps should be taken to enact the Bill into law once the review is completed. • The Narcotic Drugs (Control, Enforcement and Sanctions) Act should be amended to conform to international standards • The authorities should simplify the procedures for confiscation, freezing and seizing of proceeds of crime under the Narcotic Drugs Control Act.

	<ul style="list-style-type: none"> • Law enforcement and prosecution officers should be provided with training at the national and international level to enable them to effectively detect, investigate and prosecute predicate offences of money laundering, including the tracking of proceeds of crime
2.4 freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> • Reporting institutions should be sensitised about the Anti-terrorism Act • The Bank of Ghana and the Ministry of Justice should develop guidance, procedures and regulations for the implementation of United Nations Security Council Resolutions as well as monitor compliance with the legislative instruments • The Bank of Ghana should be mandated to commence the receipt of reports filed by financial institutions until the FIC is set up.
2.5 The financial intelligence units and its functions	<ul style="list-style-type: none"> • The country should take immediate steps to set up the FIC. • The AML Act should be reviewed to ensure that the FIC is not constrained by political considerations. • The appointment of the Board and the CEO should be supported by parliamentary oversight. • The security of tenure office of the CEO should be guaranteed under the law. • The budgeting needs of the Centre need to be specifically provided for under the AML Act in order to ensure the FIC operational independence is guaranteed • The procedure for the receipt, analysis and dissemination of STRs should be clarified in a guidance or in the regulation to ensure that submission of STRs is effective. • Authorities should create awareness about the obligation to submit STRs across all reporting entities. • Budgetary provision for the FIC under the 2010 budget should be immediately approved • Authorities should develop a work plan for the operational commencement of the FIC.
2.6 Law enforcement, prosecution authorities and other competent authorities (R. 27 & 28)	<ul style="list-style-type: none"> • Officers of the designated agencies should be trained and adequately equipped to deal with the complex money laundering cases that have been reported in Ghana. • The AML Act should clearly specify the law enforcement authority that is designated to investigate money laundering offences as is specified in the Anti –terrorism Act • Specialized investigation teams should be set up and adequately resourced to ensure the effective implementation of the AML and the AT Acts. • Training plan should be developed to cover national and international training programs as well as the development of exchange programs and study tour or attachment of experts to government agencies to bring them up to speed with their colleagues in the region.
2.7 Cross Border Declaration and Disclosure (SR IX)	<ul style="list-style-type: none"> • The requirements of the AML Act and the Foreign Exchange Acts should be applied with a greater level of consistency, particularly at the various points of entry and exit • CEPs should develop a plan of action for the immediate collection of currency declaration information at all points of entry in a consistent manner since this is currently implemented on an ad hoc basis and a significant part of the land and sea entry points are not covered. • CEPs should share reports generated from the borders with other agencies in a more coordinated manner to assist investigation agencies to detect AML/CFT cases.

	<ul style="list-style-type: none"> • The FIC should be immediately set up to assist law enforcement agencies in analyzing reports from cross-border declaration. • The government should provide CEPS with a computerized system to maintain data on declarations received at the points of entry. • Ghana's bilateral agreements with its neighbors should be expanded to include the sharing of financial information collected on cross-border transportation of currency.
Preventive measures – Financial Institutions	
3.1 Risk of money laundering and terrorist financing (R. 5)	<ul style="list-style-type: none"> • The legislative instrument or Regulation that will bring the AML Act into force should incorporate a revised KYC manual. This will give bite to the CDD measures that are required to reinforce the AML/CFT regime in Ghana. The revised KYC manual should cover all the significant shortcomings identified under Recommendation 5. • The requirement for the prohibition of anonymous accounts, fictitious names and numbered accounts should be specified in the AML Act or any other legislative instrument; • There should be a clear statement in the law on when CDD is required or at what point CDD information should be obtained; • Although the AML Act has provided that accountable institutions shall keep records of the identity of the person or agent of a person establishing a business relationship with them, it is not clear what type of information should be kept and what that type of information should be collected from the customer. This is however elaborated in the Guideline for banks. FATF Recommendation 5 requires that this should be in law or a legislative instrument. The authorities are advised to incorporate this requirement in a legislative instrument or amend the AML Act accordingly; • The requirement to verify identity of customers and beneficial owners should be provided in a law; • The AML Act or any other legislative instrument should provide for a legal obligation that will require financial institutions to conduct ongoing due diligence; • The BOG should develop a more comprehensive risk based approach for the conduct of CDD measures. The risk based approach should be based on materiality and risks prevalent in the financial market in Ghana. The risk based approach will also assist the government to determine where to invest more resources in protecting the stability of the financial system; • Guidance on the timing for the verification of account opening information should be provided to the financial institutions; • Financial institutions should be required to undertake either of the following actions when a customer fails to satisfactorily conclude CDD requirements: (a) refuse to open the account; (b) refuse to commence business relationship or perform a particular transaction (c) file a suspicious transaction report to the FIU or FIC. • Financial institutions should be required to update information on the identities of existing customers based on materiality and risk. • The requirements under Recommendation 5 should be implemented by all the accountable institutions listed in the

	<p>AML Act. At the moment, limited CDD measures are only being implemented by the banks.</p>
<p>3.2 Customer due diligence including enhanced or reduced measures (R.6-8)</p>	<p>Recommendation 6:</p> <ul style="list-style-type: none"> • It is recommended that the BOG, SEC, and the Insurance Commission as well as DNFBBs should develop a more comprehensive guideline on PEPs taking into consideration the risks that they pose to the financial system. Efforts should be made to provide a list of PEPs to financial institutions. This list should be updated from time to time; • The categorization of trusts and other legal arrangements and corporate vehicles as low risk customers in the Guideline should be reviewed given the fact that PEPs and other organized criminals may hide behind corporate vehicles and trust to commit money laundering offences and finance terrorism; • Senior management approval should be required to commence business with PEPs. • It is also recommended that the government of Ghana should develop a comprehensive anti-corruption law as well as establish a specialized unit that will be responsible for the investigation of corruption cases in line with the United Nations Convention against Corruption. <p>Recommendation. 7</p> <ul style="list-style-type: none"> • It is recommended that the requirement for obtaining information on a respondent institution should be formalized and guidance issued to reporting entities in this regard. • The authorities should put in place a system to ensure that the financial institutions comply with the following measures when entering into a cross-border correspondent banking relationship or other similar relationships such as securities transactions or fund transfers: <ul style="list-style-type: none"> ○ Assess respondent’s institutions AML/CFT regulatory and supervisory regime as well AML/CFT internal policies and control; ○ Obtain approval from senior management before establishing new correspondent relationship; ○ Document the responsibility of each institution; ○ Ensure that customers of respondent institutions undergo relevant CDD measures and that this can be provided on request. <p>Recommendation 8:</p> <ul style="list-style-type: none"> • Stronger and more direct requirements are necessary to ensure that non-face to face business relationships, transactions and particularly modern technology is not used by money launderers and those who finance terrorism. • It is recommended that a formal monitoring system should be put in place to guide the financial institutions and to check abuse. • The Regulators should consider the risks associated with non-face to face business and ensure that CDD measures are applied to non-face to face customers.
<p>3.3 Third parties and introduced business (R.9)</p>	<ul style="list-style-type: none"> • The BOG and other regulatory authorities should provide accountable institutions with clear guidelines regarding the use of third parties and intermediaries and ensure that accountable institutions incorporate the requirement for financial institutions in Ghana to: <ul style="list-style-type: none"> (a) obtain all identification documents of a customer from third parties and intermediaries ,

	<p>and</p> <p>(b) retain the documents required by the AMLA.</p> <ul style="list-style-type: none"> • The guideline should require banks to verify the extent to which the third parties apply CDD measures on their customers and the extent to which they are supervised and regulated for AML/CFT purposes
3.4 financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> • The Banking Amendment Act should be amended to ensure that the BOG, FIC and other relevant supervisory authorities and specified law enforcement agencies will have direct access to transaction records and account files of customers in a financial institution or with DNFBPs based on a clearly established procedure, that will not undermine the privacy of persons concerned or undermine ongoing investigations. • The need to apply to court for access to financial institutions' records should only be available to authorities as a last option. • The procedure for the application for information should be reviewed to permit law enforcement agencies to have direct access to bank records when required for criminal investigation and for AML/CFT purposes. • The FIC should have direct access to the banks otherwise the receipt of STRs from banks will become difficult when the FIC becomes operational.
3.5 Record keeping and wire transfer rules (R 10 &SR VII)	<p>Recommendation 10</p> <ul style="list-style-type: none"> • There is need effective monitoring and supervision of all sectors to ensure compliance with the record keeping requirement. • It is recommended that that the other regulators should ensure that all reporting entities are complying with record keeping requirements. This requirement should also extend to the DNFBPs. <p>Special Recommendation VII</p> <ul style="list-style-type: none"> • The BOG should issue a guideline for the monitoring of cross-border and domestic wire transfers from the minimum threshold of \$1,000USD and above pending the establishment of the FIC. • The guideline should provide that the identification details of the originator should be included in all wire transfers. Under the domestic wire transfer, the details of the originator or a unique identifier must be included in the payment form or transfer information. • There should also be a process in place for identification and reporting of suspicious wire transfers based on the application of risk based approach as well as a requirement to restrict or terminate transactions with financial institutions that do not comply with FATF standards in this regard. • The informal foreign exchange dealers, the casinos and community banks should be properly supervised and regulated for effective monitoring
3.6 Monitoring of transactions and relationships (R. 11& 21)	<p>Recommendation 11</p> <ul style="list-style-type: none"> • The drafting of the AML Act regarding the difference between unusual and complex transactions and suspicious transactions is not clear. Accordingly, there is need for a specific requirement in a guidance or regulation for Recommendation 11 to be implemented by the accountable institutions. • There is need for special surveillance on complex and

	<p>unusual financial transactions</p> <ul style="list-style-type: none"> • Other reporting entities should, in addition to the banks be required to render reports on complex and unusual financial transactions <p>Recommendation 21</p> <ul style="list-style-type: none"> • The BOG should put in place countermeasures that will be applied to countries that do not or insufficiently apply FATF standards. • The BOG should consider establishing a comprehensive mechanism of providing information to FIs on countries that do not apply FATF recommendation. This effort should be complimented by the FIC when it becomes operational.
<p>3.7 Suspicious transactions reports and other reporting (R. 13,14,19, 25, & SR IV)</p>	<p>Recommendation 13</p> <ul style="list-style-type: none"> • The FIC should be set up immediately to enable the reporting and analysis of suspicious transactions reports that will help law enforcement agencies and prosecution authorities to prevent criminal activities. • The regulatory bodies should provide information to the operators regarding their obligation under the AML Act and the Anti-terrorism Act. <p>Recommendation 14</p> <ul style="list-style-type: none"> • It is expected that once the reporting of STRs commence that the FIC and the other regulatory bodies will ensure that Recommendation 14 is effectively implemented. <p>Recommendation 25</p> <ul style="list-style-type: none"> • The regulatory bodies are expected to develop AML/CFT guidance to the operators pending the establishment of FIC so that the FIC will assist in streamlining the guidance once set up. • There is need for a mechanism for the exchange of information between the operators, regulators and FIC. <p>Recommendation 19</p> <ul style="list-style-type: none"> • There is need for the information to be reviewed for AML/CFT investigation as well. The data base should be set up as soon as possible and should be secured.
<p>3.8 Internal controls, compliance, audit and foreign branches (R.15 &22)</p>	<p>Recommendation 15</p> <ul style="list-style-type: none"> • Financial institutions must appoint officials at senior management level or at least officials who will be able to report findings to the Board of Directors. This is expected to set the tone for compliance. • Financial institutions must put in place internal policies to provide for timely access by compliance officers to transaction records. • An independent audit should be set up and resourced to be able to test the compliance system put in place by financial institutions. • A comprehensive ongoing training program should be developed and implemented for all staff of financial institutions to strengthen their capacity to detect and report suspicious transactions. <p>Recommendation 22:</p> <ul style="list-style-type: none"> • There is need for financial institutions to pay attention when their subsidiaries and branches cannot implement FATF standards in a host country • Financial institutions should be required by regulation to

	<p>report to home supervisor about inability to implement FATF standards in host country.</p>
3.9 Shell banks (R.18)	<ul style="list-style-type: none"> • The country should expressly prohibit the operation of and business with shell banks. • The BOG should expressly provide guidance to financial institutions regarding their operations with respondent banks. They should be required to verify the status of the respondent banks and to terminate relationships once there is an indication that they are operating as shell banks. • The BOG should constantly monitor the implementation of this requirement by banks once it is put in place.
3.10 The supervisory and oversight system-competent authorities and SROs, Role, functions, duties, and powers, (including sanctions) (R. 23, 29, 17 & 25)	<p>Recommendation 23</p> <ul style="list-style-type: none"> • There is need for NIC and SEC to develop AML/CFT guidance for their industry as well. • The BOG’s AML/CFT Guideline should be revised to make it more comprehensive and to reflect the developments in the FATF Recommendations. • All the supervisors complained about lack of adequate personnel to conduct onsite visits for AML/CFT purposes. • The supervisors should develop a training program on AML/CFT related supervision. Priority should be given to resources required for training of supervisory authorities. • The FIC should also be setup as soon as possible to provide the necessary direction in the development and implementation of AML/CFT national strategy. • Regulators should coordinate and develop and implement a strategic approach to combating money laundering in the financial market. • AML/CFT onsite inspection program should be developed immediately in order to monitor compliance of accountable institutions with the AML/CFT legislation. • Regulators should ensure that inspections are consistent and cover all reporting entities, and financial market products, including money transmission and currency changing businesses. • Deterrent sanctions should be applied for non-compliance in order to reduce the future non-compliance. <p>Recommendation 25</p> <ul style="list-style-type: none"> • The BOG guideline is limited in scope and would need to be revised to address FATF standards in a more comprehensive manner. • The other regulators should develop AML/CFT industry specific guidance pending the establishment of the FIC. <p>Recommendation 29</p> <ul style="list-style-type: none"> • Authorities should have sufficient powers to conduct inspections. • The authorities are advised to remove the requirement for application to courts before certain transaction record can be accessed from banks. <p>Recommendation 17</p> <ul style="list-style-type: none"> • There is need for the authorities to review the minimum penalty units applicable to the breach of money laundering provisions and non compliance by financial institutions with their obligations under the Act. • The judiciary should be trained on how to adjudicate complex AML/CFT cases as well as impact on the society.
3.11 Money value transfer services (SR. VI)	<ul style="list-style-type: none"> • BOG must enhance supervision of MVTs in order to ensure that the firms that are not operating within a bank are duly licensed and supervised.

	<ul style="list-style-type: none"> • BOG must create awareness of the risks that money laundering and financing of terrorism pose to the financial market in Ghana through the MVTs. • Sanctions should be applied where it becomes obvious that firms are operating MVTs without licence from the BOG.
4. Preventive Measures – Non-Financial Businesses and Professions (DNFBPs)	
4.1 Customer due diligence and record keeping (R. 12)	<ul style="list-style-type: none"> • Immediate steps should be taken to ensure that DNFBPs become aware of their obligation under AML and Anti-Terrorism Act. • Regulators, the SROs and the Minister responsible for the implementation of the Act should develop KYC guidance for the DNFBP sectors. • The BOG should monitor the activities of Casinos when they act as currency changers. • All the requirements mentioned under Recommendation 5 above are also applicable under this Recommendation.
4.2 Suspicious transaction reporting (R.16)	<p>Applying Recommendations 13, 14, and 15 to DNFBPs</p> <p>Recommendation 13</p> <ul style="list-style-type: none"> • The authorities should develop a mechanism to inform the DNFBPs of their obligation to file STRs or to maintain internal controls and policies to prevent money laundering and financing of terrorism. <p>Recommendation 15</p> <ul style="list-style-type: none"> • The FIC should be established to provide guidance to the DNFBP sectors on the establishment of internal control systems as well as monitor the compliance of subsidiaries and foreign branches with AML/CFT obligations. <p>Recommendation 14</p> <ul style="list-style-type: none"> • The DNFBPs should also be protected when they report STRs in good faith and sanctioned for tipping off their clients.
4.3 Regulation, supervision and monitoring (R.24-25)	<p>Regulation 24</p> <ul style="list-style-type: none"> • Authorities should train and build the capacities of the DNFBPs sector to supervise for AML/CFT compliance. • The Games Commission should be guided by the BOG pending the establishment of the FIC. • The BOG can act as a bridge between now and when the FIC is established by providing guidance to all the DNFBPs regulators. The DNFBPs would then use the guidance to develop industry specific guidance and create awareness among its members. • The PMMC is urged to extend its supervisory mandate to cover AML/CFT issues in order to reduce the AML/CFT threats that may arise from diamond sales. • The authorities should assess the risks applicable to DNFBPs to determine if lesser CDD measures should be applied <p>Recommendation 25</p> <ul style="list-style-type: none"> • The Assessors recommended that the supervisors and SROs where they exist should develop guidance for entities reporting to it as soon as possible.
4.4 Other non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> • The authorities must assess the risks applicable to DNFBPs in order to determine if lesser CDD measures should be applied
5. Legal Persons and Arrangements & Non-Profit Organizations	
5.1 Legal Persons – Access to beneficial	<ul style="list-style-type: none"> • The current corporate registration system should be reviewed

ownership and control information	<p>to determine ways in which adequate and accurate information on beneficial ownership may be available in a timely manner for investigation by law enforcement authorities.</p> <ul style="list-style-type: none"> • Adequate resources should be made available to the RG's office to boost the capability of the office to conduct onsite investigations on information provided by corporate bodies. • The country should expedite action on the review of the Companies Act as well as seek to provide comprehensive measures for the identification of beneficial owners.
5.2 Legal Arrangements – Access to beneficial ownership and control information	<ul style="list-style-type: none"> • Ghana should enact a comprehensive legislation on trusts and implement measures to ensure that adequate, accurate and timely information are available to law enforcement authorities concerning the beneficial ownership and control of trusts. • A supervisor or SRO should be appointed for lawyers and trust service providers to ensure that they are supervised for compliance with AML/CFT obligations under the AML Act.
5.3 Non-profit organizations	<ul style="list-style-type: none"> • Authorities should organise more outreach programs for the NPOs on the vulnerability of the sector to AML/CFT. • Training programs and awareness activities should be organized for the NPOs, supervisors and law enforcement agencies on how to detect the abuse of NPOs by terrorist groups that disguise themselves as charitable organizations. • Authorities should provide a point of contact that could respond promptly to requests for international cooperation. • The authorities should implement the Best Practices Note provided by FATF on SR VIII. <i>(This can be obtained from FATF website- www.fatf-gafi.org or www.giaba.org.)</i>
6. National and International Cooperation	<ul style="list-style-type: none"> • The country should take the following steps to improve its MLA regime: • Provide for comprehensive and efficient process for the execution of mutual legal assistance requests. • Develop procedures for the management of MLA requests in a timely and efficient manner. • Develop a data base for the MLA information • Train the A-G's staff on how to manage MLA requests effectively. • Develop an effective confiscation regime for money laundering offences, and • Expedite action to pass the Mutual Legal Assistance Bill.
6.1 National co-operation (R.31)	<ul style="list-style-type: none"> • The new coordinating committee led by the Ministry of Justice should review the current AML/CFT regime and come up with a national AML/CFT strategy that will be endorsed by the national authorities. • The AML/CFT national strategy should be used as a framework for strengthen institutional, legal and enforcement mechanisms for the prevention of financial crime and combat of money laundering and financing of terrorism. • The FIC Board should be appointed to take the lead in the development of the AML/CFT policy.
6.2 The Conventions and UN Special Resolutions (R. 35 & SR I)	<p>Recommendation 35</p> <ul style="list-style-type: none"> • The national authorities are urged to take necessary steps to ensure the ratification of the Palermo Convention which is a very important Convention for the provision on international cooperation on ML/FT related matters. • There is need for regulations related to the implementation of the AML and the AT Act to be issued to enable the full implementation of international obligations.

	<ul style="list-style-type: none"> • The authorities should issue guidelines for the circulation, monitoring, listing and delisting of persons suspected to be financing terrorism under the relevant UN/SC/Resolutions. • Effective application of the relevant international conventions can only commence with the development and full implementation of all the legislative instruments under the Acts.
6.3 Mutual legal assistance (R. 36-38 & SR V)	<ul style="list-style-type: none"> • The country should take the following steps to improve its MLA regime: • Provide for comprehensive and efficient process for the execution of mutual legal assistance requests. • Develop procedures for the management of MLA requests in a timely and efficient manner. • Develop a data base for the MLA information • Train the A-G's staff on how to manage MLA requests effectively. • Develop an effective confiscation regime for money laundering offences, and • Expedite action to pass the Mutual Legal Assistance Bill.
6.4 Extradition (R.39,37 & SR V)	<ul style="list-style-type: none"> • The country should consider maintaining a comprehensive data on extradition requests. • There should be a mechanism in place to ensure timely response to extradition requests.
6.5 Other forms of co-operation (R.40 & SR.V)	<p>The country must:</p> <ul style="list-style-type: none"> • Streamline procedures to ensure timely response to requests; • Put in place mechanisms to ensure cooperation between supervisory authorities of financial institutions and law enforcement agencies in exchanging information with counterparts in other countries. • Enact a comprehensive legislation on international cooperation; • Simplify the process of sharing of information on informal basis ; and • Effectively implement the AML Act.
7. Other issues	
7.1 Resources and statistics (R. 30 & 32)	<p>Recommendation 30</p> <ul style="list-style-type: none"> • The authorities must consider providing additional human resources and funding to be devoted to the development and implementation of AML/CFT strategy and capacity in the country. • More staff of the different agencies should be trained to enable them commence proactive implementation of the AML Act and the AT Act. • The coordination framework for LEAs should be strengthened to enhance exchange of information and intelligence. • The FIC should, when established, take up the challenge of coordinating AML/CFT efforts related to the development of guidance, training programs and policy for the relevant agencies. • Personnel of supervisory authorities must be provided with additional resources including personnel, and more specialized training on the implementation of AML/CFT measures to bring them up to speed and in line with international best practices. <p>Recommendation 32</p> <ul style="list-style-type: none"> • There is need for national authorities to keep statistics on issues related to AML/CFT, including on cases investigated, prosecuted and concluded in the courts as well as

	<p>convictions.</p> <ul style="list-style-type: none">• Information on assets frozen, seized and confiscated or forfeited to government should be available in a data base to assist in policy development.• Authorities are advised that the effectiveness and efficiency of the AML/CFT regime in the country is usually assessed based on statistics provided across all the sectors.
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