



INTER-GOVERNMENTAL ACTION GROUP AGAINST
MONEY LAUNDERING IN WEST AFRICA

First Follow Up Report

Mutual Evaluation



LIBERIA

MAY 2012

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Date of on-site Mutual Evaluation: November 2010																
Name of Assessor Institution: GIABA																
Date of adoption of last Mutual Evaluation: MAY 2011																
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Ratings for Core and Key Recommendations																
Rec	1	3	4	5	10	13	23	26	35	36	40	I	II	III	IV	V
	LC	PC	C	NC	PC	PC	NC	PC	PC	PC	LC	NC	NC	NC	NC	NC

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
Amend the Penal Law to designate predicate offences as first degree non-bailable offences and criminalise those not yet criminalised. .	July 2012	See Section 2, §15,2 of Draft Act, AML/CFT Law	Act to be submitted to the Cabinet and THE LEGISLATORS	MOJ	
<ul style="list-style-type: none"> Provide a legal framework to apply confiscation and other provisional measures to FT as a predicate offence for ML. Provide LEA's with power to identify & trace property that is subject to confiscation or suspected to be crime proceeds crime. Expressly provide in the PMLL authority to void actions taken by persons to prevent LEA's from recovering property subject to confiscation. 	July 2012	See Draft Act Section 2, §15.2 Section 3, §9.1 Section 1, §7.66	Act to be submitted to the Cabinet and THE LEGISLATORS	MOJ	

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<ul style="list-style-type: none"> • Provide for verification of authority of person acting on behalf of customers that are legal persons; and to understand structure and control of customer. • Require for FIs to scrutinize transactions undertaken throughout the relationship. • Require FIs to review records maintained on the relationship to ensure its relevance. • Effectively implement CDD measures and monitor compliance 		See draft KYC/CDD regulation			
<ul style="list-style-type: none"> • provide for requirements on PEPs in law, regulation or other enforceable means. • It is recommended that the CBL and SROs should develop 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 guidelines should require FIs and DNFBCs to: <ul style="list-style-type: none"> ○ establish source of wealth and source of funds of customers and beneficial 	July 2012	<p>See draft KYC/CDD regulation</p> <p>See Chapter 15.10 section 8. of draft AML/CFT Law</p> <p>See draft KYC/CDD regulation</p> <p>N/A to DNFBCs</p>	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	

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<p>owners identified as PEPS</p> <ul style="list-style-type: none"> ○ conduct enhanced ongoing monitoring of the relationship with PEPs <p>Obtain senior management's approval before establishing or continuing a business relationship with a PEP.</p>					
<p>Amend the PMLL to provide for correspondent banking and require FIs to:</p> <ul style="list-style-type: none"> • Gather information about respondent's business. • assess correspondent bank's AML/CFT controls and their adequacy and effectiveness • Obtain approval from senior management before establishing new correspondent relationship • Document respective AML/CFT responsibilities of each party in a correspondent banking relationship • Satisfy themselves that normal CDD obligations are conducted by respondent bank where payable-through-accounts are maintained and to provide relevant customer identification data upon request. <p>The CBL should effectively monitor compliance of FIs in relation to requirements on</p>	July 2012	<p>See Chapter 15.10 section 9. of draft AML/CFT Law See draft KYC/CDD regulation</p>	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	

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correspondent banking relationships					
<ul style="list-style-type: none"> Liberian authorities should put in place comprehensive risk measures to ensure that technology is not abused for purposes of money laundering Liberia should ensure that the requirements in PMLL are implemented across the entire financial sector. 		<p>See draft payment system Act</p> <p>See draft electronic payment scheme regulation</p>		CBL	
The authorities should amend the PMLL and the KYC/CDD Regulations to place ultimate responsibility on FIs when they use third parties or intermediaries to conduct CDD on their behalf		<p>See chapter 15.10 section 6. of draft AML Law.</p> <p>See draft KYC/CDD regulation</p>	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	
<p>Record-keeping requirements should be across all sectors</p> <ul style="list-style-type: none"> The authorities should require FIs in law, regulation or other enforceable means to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority There should be effective implementation of the requirements of the PMLL 		<p>Draft law §67.6 (iii), LRC §55</p> <p>See Chapter 15.13 of draft AML/CFT Law.</p> <p>See CBL New FIA 1999,</p> <p>See draft KYC/CDD</p>	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL/MOF	
The CBL should work with the Insurance Commissioner should develop and issue Regulations on	July 2012	Regulation in Progress		CBL	

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<p>complex and unusual large transactions for the financial service providers in accordance with FATF Recommendations and effectively monitor compliance</p>					
<ul style="list-style-type: none"> • There should be requirement in law, regulation or other enforceable means for DNFBPs to undertake CDD measures. • Liberia should designate a supervisory authority with mandate to regulate, supervise and monitor DNFBPs for implementation of AML/CFT requirements 	July 2012	Draft AML/CFT Law	Act to be submitted to the Cabinet and THE LEGISLATORS	MOJ	
<p>Liberian authorities should intensify efforts to establish the FIU</p> <ul style="list-style-type: none"> • There should be a direct mandatory obligation for FIs to report to the FIU when they suspect or have reasonable ground to suspect that funds are the proceeds of criminal activity. • Terrorist financing should be criminalized • There should be requirement for FIs to submit STRs on all suspicious transactions and attempted transactions regardless of the amount of the transaction; 	July 2012	Draft law §67.2, §67.4, Draft law §15.3, §15.2,	Act to be submitted to the Cabinet and THE LEGISLATORS	MOJ	

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<ul style="list-style-type: none"> FIs should be required to submit STRs regardless of whether it involves tax matter Criminalize remaining predicate offences of money laundering and extend reporting obligations to them 					
<p>Liberia should amend the PMLL to</p> <ul style="list-style-type: none"> Clearly define the persons benefitting from protection against criminal, civil or administrative liability as a result of disclosure of suspicion or belief of commission of a ML offence Make express provision on whether the protection will be available even if the person who reported did not know what the underlying criminal conduct was, regardless of whether illegal activity actually occurred; <p>Require that the names and personal details of staff of FIs who make STRs are kept confidential by the FIU.</p>	July 2012	Draft AML/CFT Law	Act to be submitted to the Cabinet and THE LEGISLATORS	MOJ	
<p>Amend PMLL to require reporting entities to :</p> <ul style="list-style-type: none"> Appoint AML/CFT compliance officers at senior management level 	July 2012	<p>See Chapter 67.6 section 2 of draft AML/CFT Law.</p> <p>See draft KYC/CDD</p>	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	

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<ul style="list-style-type: none"> Establish audit function to test compliance with internal procedures Screen employees before appointment to ensure high integrity and professionalism 		<p>Guidelines on minimum internal controls and internal audit standards</p> <p>Corporate Governance Regulation</p> <p>Guidelines on due diligence of existing and prospective employees of financial institutions</p>			
<ul style="list-style-type: none"> There is no requirement for DNFBPs to file suspicious transaction reports Liberia has not established an FIU DNFBPs are not regulated or supervised as such there is no awareness of the obligation to maintain internal controls and policy to prevent money laundering and financing of terrorism through their sector. There is no implementation of Recommendation 16. <p>Amend the PMLL to require DNFBPs to :</p> <ul style="list-style-type: none"> Appoint AML/CFT compliance officers at senior management level and prescribe measures for those who do not work with or in association with others Require DNFBPs to: 	July 2012	<p>Draft AML/CFT law §67.5, Section 2</p> <p>§67.5, Section 4, Section 6,</p> <p>§67.6</p>	Act to be submitted to the Cabinet and THE LEGISLATORS	MOJ	

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<ul style="list-style-type: none"> • -Establish audit function to test compliance with internal procedures • -Screen employees before appointment to ensure high integrity and professionalism <p>Liberia should amend the PMLL to</p> <ul style="list-style-type: none"> • Clearly define the persons benefitting from protection against criminal, civil or administrative • liability as a result of disclosure of suspicion or belief of commission of a ML offence • Make express provision on whether the protection will be available even if the person who reported did not know what the underlying criminal conduct was, regardless of whether illegal activity actually occurred; <p>Require names and personal details of staff of FIs who make STRs are kept confidential by the FIU.</p>					
<ul style="list-style-type: none"> • Authorities should ensure that sanctions are applied to other FIs including insurance companies for non- 	July 2012	Draft AML/CFT law	Act to be submitted to the Cabinet and THE LEGISLATORS	MOJ	

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<p>compliance with national AML/CFT obligations.</p> <ul style="list-style-type: none"> The PMLL should be amended to provide proportionate and dissuasive sanctions. <p>Supervisors/regulators should maintain comprehensive statistics on sanctions applied in furtherance of the PMLL</p>					
<ul style="list-style-type: none"> Liberia should expressly prohibit the establishment or acceptance of continued operation of shell banks in Liberia. FIs should be prohibited from entering into or continuing correspondent banking relationships with shell banks FIs must be obligated to satisfy themselves that respondent FIs in foreign countries do not allow relationships with shell banks. The requirement should be in law, regulation or other enforceable means 	July 2012	<p>See chapter 15.11 of draft AML/CFT Law.</p> <p>See sections 6.0(e) and 5.0(m) of Amended Banking License</p> <p>See draft KYC/CDD</p>	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	
<p>The authorities should require regulators and SROs to issue comprehensive guidelines to FIs and DNFBPs under their supervision to comply with FATF Recommendations</p>	July 2012	<p>See Chapter 67.5 section 3. Of draft AML/CFT Law</p> <p>See draft KYC/CDD regulation for FIs.</p> <p>N/A for DNFBPs</p>	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	
<p>The authorities must assess the risks applicable to DNFBPs in</p>	July 2012	See Chapter 67.6 section 6.	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	

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order to determine if lesser CDD measures should be applied					
<ul style="list-style-type: none"> • There should be express requirement in law, regulations or other enforceable for FIs to give special attention to businesses relationship with persons from or in countries that do not or insufficiently apply the FATF Recommendations and provide countermeasures for such matters incidental to such relationships and transactions • There should be effective monitoring for compliance with this FATF Recommendation 	July 2012	See Chapter 67.5 section 6.	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	
<ul style="list-style-type: none"> • Require FIs to apply AML/CFT measures in foreign branches and subsidiaries when they are established. Supervisory authorities should develop regulations for compliance with this FATF Recommendation. 	July 2012	See draft KYC/CDD regulation	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	
<ul style="list-style-type: none"> • FIs must be subject to adequate AML/CFT regulation and supervision. 	July 2012	See draft KYC/CDD regulation.	Act to be submitted to the Cabinet and THE LEGISLATORS	CBL	

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<ul style="list-style-type: none"> Supervisors should monitor compliance with FATF Recommendations. Liberia should amend the PMLL to designate a competent authority to ensure adequate compliance with FATF Requirements by FIs Ensure all FIs implement measures to prohibit criminals from controlling FIs CBL should take immediate steps to subject unlicensed or unregistered MFIs and dealers in foreign exchange to licensing requirements and adequate supervision. <p>Monitor money transfer service or currency changing service providers for compliance with AML/CFT measures.</p>		<p>See the following regulations: Microfinance Deposit-taking regulations; regulation on the licensing and supervision of money remittance entities; regulations on licensing and supervision of foreign exchange bureaus</p>			
<ul style="list-style-type: none"> Designate supervisors and SROs and specifically charge with the responsibility to oversee the supervision of DNFBPs for AML/CFT purposes. <p>The is the need to raise awareness of the existing risk factors in the DNFBP sector and make resources available to develop AML/CFT supervision of DNFBPs.</p>	July 2012		Act to be submitted to the Cabinet and THE LEGISLATORS		
<ul style="list-style-type: none"> CBL should issue comprehensive regulations/guidelines to 	July 2012	See of draft KYC/CDD regulation	Act to be submitted to the Cabinet and THE LEGISLATORS		

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<p>support compliance with AML/CFT obligations</p> <ul style="list-style-type: none"> • Authorities should issue regulations/guidelines to other FIs including insurance companies & DNFBBs to support compliance with AML/CFT obligations. • Implement feedback mechanism between reporting institutions, competent authorities and the FIU. • CBL, Insurance Commissioner and SRO should issue comprehensive regulations/guidelines to assist reporting entities to comply with AML/CFT measures <p>CBL should assist SROs to issue comprehensive regulations/guidelines to assist DNFBBs to comply with their AML/CFT obligations</p>		<p>See chapter 67.3 of draft AML/CFT Law</p> <p>N/A for DNFBBs</p> <p>See Chapter 67.4 of draft AML/CFT law</p>			
<ul style="list-style-type: none"> • Establish a Financial Intelligence Unit to receive, analyze and disseminate STRs and other information on money laundering and terrorist financing, and provide it with budget and operational independence 	July 2012	See Chapter 67.2 of draft AML/CFT law	Act to be submitted to the Cabinet and THE LEGISLATORS		

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<ul style="list-style-type: none"> • Provide guidance to ensure confidentiality & protect information reported to FIU. • Require the FIU to publish its activities, including statistics, typologies and trends of ML/FT as required • Provide reporting entities with guidance on how to submit AML/CFT related STRs. • Put in place mechanisms to ensure that Financial and Non-Financial Institutions generate and forward suspicious transaction reports for further analysis. • Empower relevant authorities to sensitize all reporting entities on their obligation to render AML/CFT STRs and enforce compliance 					
<ul style="list-style-type: none"> • Provide officers of LEAs with adequate logistics, including funding for training and operational requirements of the agencies. • Empower LEAs to apply power to take witness statements in investigation & prosecutions of predicate offences, to ML and FT • Define techniques for maintaining integrity amongst personnel of LEAs who are not subject to proper vetting and signing of oath of secrecy and allegiance. 					

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<ul style="list-style-type: none"> Provide LEA officers with more technical knowledge on economic and financial crimes. 					
All FIs should be monitored for compliance with FATF Recommendations	July 2012	See draft KYC/CDD regulation. See Chapter 67.2 of draft AML/CFT law	Act to be submitted to the Cabinet and THE LEGISLATORS		
Liberia should consider to undertake the following: <ul style="list-style-type: none"> Establish the FIU. Provide funding for the development and implementation of the AML/CFT Bill and strategy in the country. Provide staff training to supervisors, law enforcement agencies and other competent authorities to enable them to commence proactive implementation of the PMLL	July 2012	See Chapter 67.2 of draft AML/CFT law §67.6 Draft law §67.1	Act to be submitted to the Cabinet and THE LEGISLATORS		
<ul style="list-style-type: none"> Liberia should establish Inter-Ministerial Committee of relevant stakeholders Adopt the national AML/CFT strategy as a framework for strengthening institutional, legal and enforcement of mechanisms for the prevention of financial crime and combat of ML/TF. 		AML/CFT Working Committees: <ul style="list-style-type: none"> Inter-Ministerial Drafting Inter-Agency Coordination AML/CFT National Strategy drafted	AML/CFT National Strategy to adopted by Cabinet	MOF	

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<p>FIU must play a lead role in development of a national AML/CFT policy.</p>					
<ul style="list-style-type: none"> • As a matter of urgency, establish the FIU • Have in place a data system for recording received data on STRs and CTRs. • Require the FIU to publish annual reports to enable it provide feedback to reporting entities and to the public. • Have in place a centralized data system or require relevant agencies to maintain statistics on prosecutions and investigations of money laundering cases under the PMLL and other legislation • Maintain records of assets seized, frozen, confiscated and forfeited should also be • Maintain records on mutual legal assistance and extradition matters initiated/concluded by Foreign Affairs or by the MOJ <p>Consider setting up a central data system in the FIU. The data system should be available to all the relevant supervisory authorities &LEAs to store case info on investigations/prosecutions including recovered assets and other related matters.</p>	<p>July 2012</p>	<p>See Chapter 67.2 of draft AML/CFT law</p>	<p>Act to be submitted to the Cabinet and THE LEGISLATORS</p>		

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<ul style="list-style-type: none"> • Liberia should review its current corporate registration system to determine how adequate and accurate information on beneficial ownership may be available in a timely manner for investigation by law enforcement authorities. • There should be a mechanism in place to verify the identity of owners of legal persons for AML and CFT purposes. • The Ministry of Commerce should recruit qualified investigators to undertake investigations and conduct on-site visit to verify information Provided by corporate bodies 					
<ul style="list-style-type: none"> • Liberia 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 					

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supervised for compliance with AML/CFT obligations.					
Liberia is urged to domesticate and implement the Vienna and Palermo Conventions					
<p>Liberia should take the following steps to improve its MLA regime:</p> <ul style="list-style-type: none"> • Provide for comprehensive and efficient process for the execution of mutual legal assistance requests. • Develop procedures to manage MLA requests in a timely and efficient manner. • Develop a data base for MLA information • Train the MOJ staff on how to manage MLA requests effectively. • Develop an effective confiscation regime for money laundering offences. • Liberia should put in place mechanisms, including guidelines to provide LEAs with clear and efficient processes for the execution of MLA requests. A good example is the MLA provisions of UNCAC. Ministries and Agencies should maintain proper records of MLA requests dealt with. 	July 2012	Draft law §9.5, Section 1	Act to be submitted to the Cabinet and THE LEGISLATORS		
<ul style="list-style-type: none"> • There should be clear cut appropriate laws that deal 	July 2012	Draft law §15.5, Section 1	Act to be submitted to the Cabinet and THE LEGISLATORS		

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<p>with provisional measures that can be applied in respect of MLA</p> <ul style="list-style-type: none"> • Procedures are not in place to ensure uniformity, clarity and expediency in responding to MLA requests. • There is no record of MLA responded to by Liberia for identification, freezing, seizure or confiscation of laundered property, proceeds from, or instrumentalities used or intended to be used. • Liberia should put in place appropriate structures to coordinate seizure and confiscation actions with other countries. <p>The authorities should consider putting in place a system to deal with sharing of confiscated assets arising from cooperation between Liberia and other countries provide for an asset forfeiture fund.</p>					
<p>Criminalise the full range of predicate offences of money laundering and ensure effective implementation of the PMLL in relation to the extradition provisions.</p>	<p>July 2012</p>	<p>Draft law §15.2</p>	<p>Act to be submitted to the Cabinet and THE LEGISLATORS</p>		

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<ul style="list-style-type: none"> Liberia should intensify efforts to establish the FIU, put in place appropriate mechanisms and develop procedures to qualify for membership of the Egmont Group to enable the Liberian FIU to exchange and receive intelligence information on money laundering and terrorist financing from other countries. Liberia should improve on exchange of information with other counterparts through the signing of MOUs and arrangements with their counterparts. <p>Implement sufficient security mechanisms to protect confidential information</p>	July 2012	Draft law §67.2	Act to be submitted to the Cabinet and THE LEGISLATORS		
<ul style="list-style-type: none"> Enact legislation to criminalize FT. Provide a legal framework and mechanisms for the implementation of the UNSCR 1267 and 1373. 	July 2012	Draft law §15.3	July 2012	MOJ	
Properly criminalize TF and implement appropriate procedures for dissemination of TF lists, screening of clients and freezing of TF assets.	July 2012	Draft law §15.3	July 2012	MOJ	
<ul style="list-style-type: none"> As a matter of urgency, establish the regulatory and institutional framework for implementing the 					

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<p>requirements in the 1267 and 1373 Resolutions. The authorities may consider establishing a Counter Terrorism Committee as a mechanism by which this can be done;</p> <ul style="list-style-type: none"> • Establish regulatory and institutional mechanism to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions; • Set up appropriate and effective systems for purposes of communicating actions taken under freezing mechanisms to the financial sector including the distribution of lists of designated persons; • Provide appropriate guidance to the commercial banks and other financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms. The authorities should, in setting up the regulatory and institutional framework for implementing 					

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<p>1267 and 1373 resolutions, include processes by which:</p> <ul style="list-style-type: none"> ○ listed persons can be de-listed; ○ access to funds or other assets that were frozen and have been determined to be necessary for basic expenses, the payment of certain fees, expenses and service charges or extraordinary expenses can be authorised; ○ the unfreezing of funds of de-listed persons & innocent third parties; and ○ reviewing of freezing decisions, <ul style="list-style-type: none"> • Put in place appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that measure with a view to having it reviewed by a Court; • Provide protection for the rights of bona fide third parties. Such protection should be consistent with the standards provided in Article 8 of the Terrorist Financing Convention, where applicable; and 					

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<p>Establish appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such legislation, rules or regulations.</p>					
<ul style="list-style-type: none"> • Law enforcement agencies must implement mechanism to coordinate asset seizure and confiscation with other countries. <p>Authorities should consider establishing an asset forfeiture fund to authorize sharing of terrorist assets with other countries.</p>					
<ul style="list-style-type: none"> • The CBL should issue guidelines to MVTs to assist in implementing AML/CFT measures. • There should be effective supervision of MVT service providers • MVT service providers should be monitored to ensure implementation and compliance with AML/CFT measures 		<p>See Regulation for the Licensing and Supervision of Money Remittance Entities;</p> <p>See Regulation Concerning Transfer of Foreign Currency;</p> <p>See Regulation Concerning the Physical Movement of Foreign Currency Banknotes;</p> <p>See draft KYC/CDD regulation;</p>			

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<ul style="list-style-type: none"> Sanctions should be applied in instance of non-compliance by MVTs. CBL should ensure effective implementation of the requirements of SR.VI 		See CBL Guidelines for Mobile Money Services.			
<ul style="list-style-type: none"> Issue regulations or guidelines for implementation of the requirements of SR VII Supervisory Authorities should put in place procedures to monitor compliance with SR VII 		See draft KYC/CDD regulation See Regulation Concerning Transfer of Foreign Currency; See Regulation Concerning the Physical Movement of Foreign Currency Banknotes			
<ul style="list-style-type: none"> Authorities should organize 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. (This may be 					

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obtained from FATF website- www.fatf-gafi.org or www.giaba.org.)					
<ul style="list-style-type: none"> • Enforce the Regulations on Physical Movement of Currency and Foreign Bank Notes • Provide facilities, including supervision guidelines to capture relevant data • Provide a threshold for incoming cash and bearer negotiable instruments Provide sanctions for non-compliance of incoming requirements					