



INTER-GOVERNMENTAL ACTION GROUP AGAINST
MONEY LAUNDERING IN WEST AFRICA

Mutual Evaluation Implementation Action Plan

Anti-Money Laundering and Combating
the Financing of Terrorism

BURKINA FASO

MAY 5 2011

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Evaluation lead agency: World Bank, with GIABA as observer																
Date of adoption of last Mutual Evaluation: 4 November 2009 at the 12th Plenary Meeting of GIABA in Freetown, Sierra Leone.																
Date of 1st Follow-up report: 7-9 December 2010, Abuja (Nigeria)																
Ratings for main Recommendations and key Recommendations																
Rec.	1	3	4	5	10	13	23	26	35	36	40	I	II	III	IV	V
	PC	PC	LC	NC	PC	NC	NC	PC	LC	LC	PC	NC	NC	NC	NC	NC

Recommended measures (as listed in the action plan)	Time line for adopting corrective measures	Measures taken already	Measures still pending (with set time period)	Institution in charge and related structures	Technical assistance required
<p>1-Scope of application of the money laundering offence (R 1)</p> <p>AML Law 026-2006 should be revised to:</p> <p>a) clarify whether money laundering is a crime or misdemeanour</p> <p>b) state that money laundering applies to all property indirectly representing the proceeds of crime; that the perpetrator of the underlying offence can also be penalized for money laundering; and</p>	Short term	The Minister of Justice has prepared a circular to sensitize magistrates that money laundering is a misdemeanour in accordance with the spirit of the law; that the perpetrator of the underlying offence can also be penalized for money laundering; and that the intentional element can be appraised or deduced from objective factual circumstances.	The other components of the recommendation issued by experts, which were to clarify if money laundering applies to assets representing an indirect product of the underlying offence and to state if the author of the underlying offence can also be penalized for illicit laundering of profits, will be addressed during the review of uniform laws relating to anti-money laundering (AML) and counter financing of terrorism (CFT)	<ul style="list-style-type: none"> - FIU -Ministry of Justice -Ministry of Security - BCEAO 	Technical assistance to revise AML/CFT laws and regulations

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c) that the intentional element can be assessed or deduced from objective factual circumstances.					
<p>2- Confiscation, freezing and seizure of criminal assets (R3)</p> <p>-Include the possibility of confiscating the proceeds of the underlying offence and the subject of the offence.</p> <p>-Enforce Law 026-2006/AN without delay, and include provisions in substantive law for the criminalization of terrorist financing, and confiscation of assets used to commit the offence and which might be the object, product or instrumentalities of the offence.</p> <p>-Make provision to know the amount of money seized on grounds of money laundering and the modalities for handling said monies, in order to assess the effectiveness of judicial measures for forfeiture and confiscation and to know the amounts involved.</p>	Short term	<p>Burkina Faso addressed the first point by passing Law n°061-2009/AN of 17/12/2009 on CFT. Article 41 of said law provides that “In all cases of condemnation for terrorist financing or attempted terrorist financing, the courts should order the confiscation and transfer to the public treasury of funds and other financial resources related to the offence, as well as any other movable or immovable assets designed for use, or having served in the commission of the offence”.</p> <p>The requirement to criminalize the financing of terrorism has been met with the adoption and passing of Law N°061-2009/AN of 17/12/2009, which provides, in Article 6, that acts of terrorism and the financing of terrorism can constitute underlying offences for money laundering.</p>	<p>Draft provision for reporting the amounts of money seized for money laundering and how they are handled. This component shall be covered during implementation of the national AML/CFT strategy.</p>	<p>FIU MEF MJ BCEAO</p>	<p>Yes</p>

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<p>Bank secrecy and confidentiality (R4)</p> <p>The authorities in Burkina Faso should consider instituting measures to ensure that laws on professional secrecy in financial institutions do not obstruct information sharing between financial institutions where this is required by Recommendations 7 and 9 or Special Recommendation VII.</p>	Short term		Under the efforts being made to revise community provisions on AML/CFT, the BCEAO, which is in charge of banking regulation in the WAEMU, will take the necessary corrective measures to address the weaknesses identified.	<ul style="list-style-type: none"> - FIU - BCEAO - MEF - MJ 	Yes
<p>2-Criminalization of terrorist financing (RS II)</p> <p>a) Criminalize terrorism and terrorist financing, as provided by the 9 points annexed to the UN Convention on FT, and provide attendant penalties;</p> <p>b) Ensure that the following elements are addressed in the provisions for transposing the CFT Directive;</p> <p>c) Define the terms “terrorist organisation” and “terrorist”;</p> <p>d) Criminalize attempted terrorist financing in accordance with the</p>	Short term	<p>1) This weakness in Burkina Faso’s legislation has been addressed, following the entry into force of Law n°060-2009/AN of 17/12/2009, criminalizing the financing of terrorism in line with relevant UN instruments and Law n°061-2009/AN of 17/12/2009, criminalizing terrorist financing, based on the WAEMU uniform law.</p> <p>On the point of criminalizing attempted terrorist financing, it is worth noting that terrorist financing is a crime and</p>	<p>The other elements will be addressed during the review of the uniform law on counter financing of terrorism (CFT)</p> <p>The Ministry of Justice will send out a circular to call attention to the implementation of the system for preventing and repressing counter terrorist financing and attendant measures.</p>	<ul style="list-style-type: none"> - FIU, - Ministry of Justice, - BCEAO 	Yes

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<p>AML Directive;</p> <p>e) State clearly that the mental element of terrorist financing can be deduced from objective factual circumstances;</p> <p>e) Provide clearly that parallel proceedings, whether of a criminal, civil or administrative nature, can be initiated against legal persons whether or not they are responsible for terrorist financing;</p> <p>f) Provide the criminal sanctions applicable to the terrorist financing offence.</p>		<p>attempted terrorist financing is considered <i>de facto</i> as a punishable offence, as provided in Article 60 of the Burkina Faso penal code, which states that an attempt to commit a crime is always punishable.</p>			
<p>3-Customer Due Diligence; Customer Identification and record keeping (R 5)</p> <p>The authorities should implement the following recommendations:</p> <p>a) Put a clear ban on financial institutions to open anonymous accounts or accounts in fictitious names;</p> <p>b) Compel financial institutions to comply with customer due</p>	<p>Short term</p>	<p>BCEAO Instruction N°1/2007/RB binds subject categories to verify the identity of new customers before going into business relationships with them or performing a transaction for them, and to do the same for habitual customers whose previous identification data may be doubtful and unreliable (Art.4 of the Instruction).</p>	<p>Awareness and training initiatives for subject categories will continue in the action plans for 2010-2011.</p> <p>Draft guidelines for financial institutions (under preparation with the FIU) will complete the other aspects.</p>	<p>FIU; MEF BCEAO</p>	<p>Yes</p>

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<p>diligence measures:</p> <ul style="list-style-type: none"> - when they perform occasional wire transfer transactions under the circumstances described in the interpretative note in special recommendation VII; - In all cases of suspected ML; - When the institution doubts the authenticity and relevance of customer identification data obtained previously (including institutions not covered by the provisions of the BCEAO instruction); <p>c) Clarify customer identification obligations when dealing with legal persons;</p> <p>d) Compel all financial institutions to verify, in accordance with FATF legal structures, (i) that anyone</p>		<p>Articles 7 to 10 of the same Instruction recommend customer due diligence on an ongoing basis to determine the nature of transactions and geographic location of customers.</p> <p>To improve the implementation of Recommendation 5, the Burkina Faso FIU organised AML/CFT awareness and training forums on 23, 24 and 25 June, 2010 and on 29 July, 2010 for micro-finance institutions (28 participants), manual currency exchange operators (36 participants), insurance and reinsurance companies and brokers (17 participants), as well as the sub-agents of fund transfer companies (42 participants).</p>			

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<p>purporting to act on behalf of a customer is authorized duly to do so, and identify and verify the identity of such s person, as well as (ii) the legal status of the legal structure;</p> <p>e) compel financial institutions to evaluate, for all their customers, if the customer is acting on their own behalf;</p> <p>f) With regard to beneficial ownership, compel financial institutions:</p> <ul style="list-style-type: none"> - to identify the natural person(s) who, in fine, possess the ownership or control structures of their customer; - take reasonable measures to verify the identity of beneficial owners; - take all reasonable measures concerning the customers of legal persons or legal structures to (i) understand the ownership and control structures of the 					

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<p>customer; and (ii) identify the natural persons who, in fine, possess the ownership or control structures of the customer.</p> <p>g) compel financial institutions to obtain information, by all means, on the subject and nature of the business relationship that the customers envisage with the financial institution;</p> <p>h) Make it mandatory for financial institutions to exercise customer due diligence on an ongoing basis in their business relations;</p> <p>i) compel financial institutions to exercise due diligence in reviewing transactions done in the entire period of business relations;</p> <p>j) Compel all financial institutions to ensure documents, data or information gathered in line with customer due diligence requirements is up-to-date and relevant;</p> <p>k) Compel financial institutions to take enhanced customer due</p>					

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diligence measures for all high-risk categories.					
<p>4-Record keeping (R10)</p> <p>a) Provide that records be kept for longer periods if a competent authority so requests to perform their duty in a specific case;</p> <p>b) Provide that transaction records are enough to reconstitute the transaction history for evidence in criminal proceedings, where necessary;</p> <p>c) Provide that the obligation for financial institutions to keep records on their transactions for a period of ten years should include bookkeeping and commercial correspondence;</p> <p>d) Compel financial institutions to ensure all customer and transaction records are made available without delay to the national competent authorities for them to perform their duties.</p>	Short term	<p>Banking and financial sector supervision is done by the Banking Commission, BCEAO and the directorate for Monetary and Financial Affairs. Insurance market supervision is done by CIMA and the Directorate for Insurance. Such supervision goes beyond traditional prudential criteria and covers AML/CFT.</p> <p>During the seminars organised for subject categories, the FIU explains the content of relevant documents that have to be kept on record for the time provided by law.</p>	Draft guidelines (being prepared by the FIU) for financial institutions will provide enough indications and other aspects on the nature and availability of the documents to keep.	FIU MEF MJ BCEAO The self-regulation agencies of subject categories	Yes

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<p>5-Suspicious transaction reporting (Rec. 13)</p> <p>a) give subject categories the conditions under which they should make their suspicious transaction reports, emphasizing that these reports should be made without delay;</p> <p>b) Operationalize the FIU and let subject categories know, so that they can make their suspicious transaction reports;</p> <p>d) Make it compulsory to report attempted suspicious transactions.</p>		<p>Concrete steps have been taken to address this weakness. The FIU, in accordance with AML/CFT Laws that provide the STR should be made using a model issued by decree, has developed and submitted a sample report sheet to the Minister of Economy and Finance. By Order N°2009-0180/MEF/CENTIF of 29 May, 2009, the MEF officially adopted the model report used by all subject categories to send information to the FIU. The reporting entities have been taught how to use this tool and each given a copy so that they can send STRs to the FIU</p>	<p>Need to give the FIU adequate budget allocations and a befitting office.</p> <p>Continue to provide adequate training to the members and staff.</p>	<p>FIU MEF MJ</p>	<p>Yes</p>
<p>Regulation, Supervision and Monitoring (R23)</p> <p>-At the regional level, the WAMU Banking Commission and the BCEAO should ensure full implementation of community provisions (Uniform Law, 2007 BCEAO Instruction) and national provisions (law 06-2006) in the banking sector.</p>	<p>Short term</p>	<p>Art.7 to 17 and Art.28 to 32 under Law n°23-2009/AN of 14 May, 2009 on the regulation of SFD.</p> <p>On 23 November, 2009, the Conseil Régional de l'Épargne Publique et des Marchés Financiers (CREPMF), which is the WAMU organ supervising the regional financial market,</p>			<p>Yes</p>

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<p>-In the financial market sector, the Regional Council should adopt a sector-specific instruction on AML for all actors, SGI, SGP, investment advisers and others.</p> <p>-On the whole, the number of regional financial supervisors should be increased to bear the additional burden tied to integrating anti-money laundering in their mandate.</p> <p>-A considerable effort to provide training is crucial as well.</p> <p>-Develop methodological tools for investigation services in order to encourage risk-sensitive supervision that is not concerned with compliance alone.</p> <p>-Review the mechanisms for disseminating provisions among subjected institutions to ensure quick and exhaustive distribution of the AML regulation in all the sectors concerned.</p> <p>-Provide financial penalties against non-compliant banks. The existing disciplinary sanctions appear to be inadequately dissuasive.</p> <p>-For micro-finance institutions</p>		<p>adopted Instruction N°35/2008, relating to AML/CFT among certified stakeholders in the WAMU regional financial market.</p> <p>The FIU has developed a series of laws and regulations on AML/CFT and disseminated them widely via postal mail and during workshops for training and sensitization.</p> <p>This component shall be addressed within the AML/CFT national strategy.</p> <p>This component shall be covered under the ongoing review of uniform laws.</p> <p>The FIU organised workshops in July 2010 to raise awareness of AML/CFT among micro-finance institutions, certified MVT operators, and authorized currency exchange agents. These actions are still being pursued in 2011.</p>			

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<p>across Burkina Faso, outreach and training activities should be initiated without delay.</p> <p>-Conduct specific actions against MVT money operators in the informal sector.</p> <p>-Take action to raise awareness among Western Union sub-agents to exercise due diligence in customer identification</p>					
<p>6-Suspicious transaction reporting (SR IV)</p> <p>a) Make it compulsory to do STRs on funds with reasonable cause for suspicion, funds suspected to be tied or related with terrorism, or that are to be used for terrorist organisations or by those financing terrorism;</p> <p>b) Establish the obligation to report attempted suspicious transactions.</p>		<p>This situation has been addressed by the entry into force of Law n°061-2009/AN of 17/12/2009, relating to the suppression of terrorist financing, which, in Article 18, makes it compulsory for all subject categories to do so.</p>		<p>FIU BCEAO MEF MJ National Assembly</p>	
<p>7-Confiscation, freezing and seizure of criminal assets (R3)</p> <p>a) Introduce the possibility to</p>	<p>Short term</p>	<p>Burkina Faso has addressed the first remark with the enactment of Law n°061-2009/AN of 17/12/2009 on CFT. Article 41</p>	<p>Draft provisions that authorize the disclosure of amounts of money seized on grounds of money laundering and how such monies are</p>		<p>Yes</p>

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<p>confiscate the products of the underlying offence and the subject of the offence.</p> <p>b) Enforce Law 026-2006/AN without delay and include in positive law provisions for the criminalization of terrorist financing and confiscation of goods used to commit the offence, and goods which may be the subject, product or instrumentalities of the offence.</p> <p>c) Make provision for disclosure of the amount of money seized on counts of money laundering and how such monies are handled to assess the efficiency of judicial measures for seizure and confiscation and calculate the amounts.</p>		<p>of said Law provides as follows “In all cases where a sentence is passed for terrorist financing or attempted terrorist financing, the courts should order the confiscation for the public treasury of funds and other financial resources related to the offence, as well as any movable or immovable property designed for, or having been used in committing said offence”.</p> <p>The requirement to criminalize terrorist financing has been met with the adoption and promulgation of Law N°061-2009/AN of 17/12/2009, which, in Article 6, provides that terrorist acts and the financing of terrorism may constitute underlying offences for money laundering.</p>	handled.		
<p>8-Financial Information Unit (R26)</p> <p>a) Disseminate the STR without delay, using Ministerial Order from the Minister of Finance,</p>	CFT law adopted on 17 December, 2009 and promulgated by Decree n°2010-023/PRES/ of 28	To this day the Burkina Faso FIU has adequately fulfilled the criteria set under recommendation 26. However, efforts still to be made by the Burkina Faso authorities to			

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<p>b) appoint FIU correspondents in the respective services concerned;</p> <p>c) Look into the possibility of hiring more staff, and seek more financial resources to render the FIU autonomous;</p> <p>d) Expand the jurisdiction of the FIU to cover terrorist financing offences, once these offences are criminalized in Burkina Faso's legal system.</p> <p>e) Apply for Egmont Group membership, once domestic law criminalizes terrorism financing.</p>	<p>January 2010.</p>	<p>move towards financial autonomy.</p> <p>The suspicious transaction report sample was approved officially by Ministry of Economy and Finance Order N°2009-0180/MEF/CENTIF of 29 May, 2009 that officializes the use of the STR sample by all subject categories.</p> <p>Law N°061-2009/An of 17/12/2009 on counter financing of terrorism authorises the FIU to make STRs related to this offence. The FIU's human resource base has been strengthened with the recruitment of technical support staff, including an analyst, an IT specialist, an administrative and financial officer, a bilingual secretary and other administrative support staff. On training, the support and technical staff attended a satisfactory number of seminars and workshops organised at the regional and national level with the support of partners such as GIABA, UNODC. They also paid working visits to other</p>			

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		<p>FIUs in the WAEMU zone as well as in Belgium and France. With support from GIABA, a mentor was sent to the FIU to help build certain notions that are useful for the STR and give some directions for a rapid development plan that would enable it to join the Egmont Group successfully.</p> <p>Senegal and France have agreed to mentor the Burkina Faso FIU in its efforts to become a member of the Egmont Group.</p>			
<p>9-International Conventions and United Nations Resolutions (SR I)</p> <p>a) Implement all the components of the Vienna and Palermo Conventions</p>	Short term	<p>The lack of cooperation in CFT has been addressed at the judicial level with the enactment of Law N°061-2009/AN of 17 December, 2009</p>	<p>Burkina Faso is implementing the provisions of the Vienna and Palermo Conventions.</p>	<p>FIU MEF Ministry of Foreign Affairs MJ</p>	Yes
<p>Conventions (R 35)</p> <p>-Fully implement all the components and provisions of the Vienna and Palermo Conventions</p>	Short term	<p>Burkina Faso has adopted the following legislative provisions:</p> <ul style="list-style-type: none"> - Law n°060-2009/AN of 17/12/2009, criminalizing terrorist acts in Burkina Faso - Law n°061-2009/AN of 17/12/2009 on CFT 	<p>Additional implementation laws have been developed</p>	<ul style="list-style-type: none"> - FIU - BCEAO - MEF - MJ - MAE-CR 	YES

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<p>Mutual legal assistance (R36)</p> <p>-Compile statistics to make it possible to evaluate the effectiveness of the mechanism for mutual legal assistance and extradition.</p> <p>-Criminalizing FT would make it possible to institute mutual legal assistance and extradition procedures for this offence.</p>	<p>Short term</p>	<p>Burkina Faso has enacted Law n°061-2009/AN of 17/12/2009 on CFT</p>	<ul style="list-style-type: none"> - Correct the weaknesses identified; - Make arrangements to keep statistical records on requests for mutual legal assistance. 	<ul style="list-style-type: none"> - FIU - MJ - Ministry of Security - Ministry of Defence - MAE-CR 	<p>Yes</p>
<p>R40</p> <p>11°) Other forms of cooperation</p> <p>-Put in place the means to facilitate cooperation between the competent authorities and their foreign counterparts in anti-money laundering.</p> <p>-Adopt the Law on FT to create the path to international cooperation in counter financing of terrorism.</p> <p>-Put in place an information gathering system on international cooperation in AML/CFT matters.</p> <p>-Tighten supervision and reinforce guarantees on</p>	<p>Short term</p>	<p>The FIU has processed 4 information requests from a third party.</p> <p>It has signed agreements for the exchange of financial information with CTIF in Belgium and the FIU in France, TRACFIN</p> <p>It is in the process of signing MOUs with the FIUs in Nigeria and Ghana.</p> <p>- Law n°060-2009/AN of 17/12/2009 on the suppression of acts of terrorism in Burkina Faso</p>	<p>Negotiations are going on for the signing of other MOUs with the FIUs of third countries to reinforce international cooperation.</p>	<p>FIU</p>	<p>YES</p>

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information exchanges and requests for mutual legal assistance.		- Law n°061-2009/AN of 17/12/2009 on CFT			
<p>Freezing and confiscation of terrorist assets (RS III)</p> <p>The provision for freezing assets, as provided under Resolution 1267, is very incomplete and should be amended, so as to:</p> <ul style="list-style-type: none"> -Provide measures for freezing funds or other assets possessed or controlled directly or indirectly by the persons or entities designated explicitly by the Sanctions Committee, as well as by persons acting on their behalf or under their instructions; -Extend freezing measures to all “funds and other assets”, -Extend jurisdiction of the regulation to cover all actors who are in possession of funds or other assets belonging to the persons and entities involved directly or indirectly in committing acts of terrorism; -Provide a clear and speedy mechanism for disseminating lists 	Short term	This problem has been addressed with the enactment of Law n°061-2009/AN of 17/12/2009 on counter financing of terrorism	<p>Burkina Faso’s national AML/CFT strategy, which is in the process of being finalized, takes into account the need for corrective measures on the weaknesses in its action plan.</p> <p>A draft decree is being developed to designate the Ministry of Economy and Finance as the authority in charge of administrative freezing of the assets of persons suspected to be terrorists, or to be involved in the financing of terrorism.</p> <p>Discussions have been opened with APBEF-BF with the aim of drawing up a national black list on AML/CFT</p>	The self-regulation mechanisms of subject categories	

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<p>from the Sanctions Committee at national level, which would be an addition to the regional mechanism.</p> <p>-Institute proper procedures to enable a person or an entity whose funds or other assets have been frozen to litigate against this measure and cause a court of law to re-examine the decision.</p> <p>-Adopt measures to protect the rights of third parties acting in good faith.</p> <p>With regard to Resolution 1373, Burkina Faso should:</p> <p>- Designate persons and entities whose funds and other assets should be frozen</p> <p>-Provide clear and speedy procedures for examining and implementing the initiatives taken in the freezing mechanisms of other countries;</p> <p>-Institute efficient public information procedures to be able</p>					

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<p>to examine, in due time, the requests to withdraw the names of persons on the black list, and to unfreeze the funds and other assets of persons or entities no longer on the list;</p> <p>-Adopt measures to protect third parties acting in good faith.</p> <p>-Transpose the CFT Directive, criminalize the financing of terrorism and provide measures for freezing, seizure and confiscation of funds or other assets used to finance terrorist activities.</p>					
<p>International cooperation (RS V)</p> <p>-Adopt the CFT Law to pave the way for international cooperation on counter financing of terrorism.</p> <p>-Establish an information gathering system for international cooperation on AML/CFT.</p> <p>-Tighten supervision and strengthen guarantees on the exchange of financial information</p>	<p>Short term</p>	<p>Burkina Faso has enacted Law n°061-2009/AN of 17/12/2009. Said law criminalizes the financing of terrorism. Given that the law makes provision for dual criminalization, this removes barriers to the execution of decisions passed for confiscation of the products and instrumentalities of the terrorist financing offence.</p>	<p>Close the legal void on the sharing of confiscated assets with other countries, and close the gaps identified.</p>	<ul style="list-style-type: none"> - FIU - BCEAO - MJ - MAE-CR 	<p>Yes</p>

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and requests for mutual legal assistance					

Summary of other Recommendations rated PC or NC	Timeline for the adoption of corrective measures	Measures taken already	Measures still pending implementation (with timeline, if available)	Institution in charge and associated structures	Technical assistance required
<p align="center">R6</p> <p>17) Politically Exposed Persons (PEP)</p> <p>Compel financial institutions to:</p> <ul style="list-style-type: none"> - Provide adequate risk management systems in order to identify whether a potential or usual customer or beneficial owner is a PEP; - Obtain authorization from senior management (i) before entering into a business relationship with a PEP, or (ii) to pursue the business relationship when a customer has been accepted and it becomes known subsequently that this customer or beneficial owner is a PEP or becomes a PEP; - Take measures for stricter and continuous supervision of business relationships with PEPs; 	<p>Short term</p>	<ul style="list-style-type: none"> - Article 13 of Law n°061-2009/AN of 17/12/2009 on counter financing of terrorism - 1 local bank has drawn up a list of 15 193 PEPs, as part of efforts to implement the procedures of its group - the following web site, www.petitecademie.gov.bf, is a solid basis for compiling such a list of PEPs in Burkina Faso 		FIU MEF APBEF APSAB APIM	YES

Summary of other Recommendations rated PC or NC	Timeline for the adoption of corrective measures	Measures taken already	Measures still pending implementation (with timeline, if available)	Institution in charge and associated structures	Technical assistance required
<p>18°) Correspondent banking relationships</p> <p>Compel financial institutions to:</p> <ul style="list-style-type: none"> • - gather enough information on the customer institution in order to understand the nature of its activities and to assess, on the basis of publicly available information, the reputation of the institution and the quality of its supervision work; • - assess the AML/CFT supervision measures in place in the customer institution and make sure they are adequate and efficient; • - obtain authorization from senior management before entering into new relations with correspondent banks; • Clearly write down the respective duties of each institution in AML/CFT. 		None	These aspects shall be addressed with regulation from MEF	MEF FIU BCEAO	Yes GIABA World Bank
<p>R8</p> <p>19°) New technologies and non face-to-face business</p>		Burkina Faso has passed Law n°045-2009/AN of 10 November 2009, regulating	A bill on cybercrime control is in the process of being developed	MJ MPTIC	YES

Summary of other Recommendations rated PC or NC	Timeline for the adoption of corrective measures	Measures taken already	Measures still pending implementation (with timeline, if available)	Institution in charge and associated structures	Technical assistance required
<p>transactions</p> <ul style="list-style-type: none"> - Compel financial institutions to put in place policies or take the necessary measures to prevent the abusive use of new technologies in ML or FT. 		<p>electronic services and transactions;</p>			
<p>R9</p>		<p>NONE</p>	<p>A BCEAO Instruction is required</p>	<p>MEF BCEAO</p>	<p>YES</p>
<p>Third parties and introduced business</p> <ul style="list-style-type: none"> - Financial institutions using third parties should be compelled to obtain without delay from said third parties all necessary information concerning certain aspects of customer due diligence (criteria 5.3 to 5.6); - Financial institutions should be required to take adequate measures to ensure that third parties are able to provide, upon request and without delay, copies of identification data and other relevant documentation pertaining to customer due diligence 					

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<p>requirements;</p> <ul style="list-style-type: none"> - financial institutions should be required to see to it that third parties are subjected to regulation and supervision (in accordance with Recommendations 23, 24 and 29), and that they take measures for compliance with customer due diligence as provided under Recommendation 5 and 10; - When it comes to deciding in which country the compliant third party may be established, the competent authorities should take into account the available information that makes it possible to know whether these countries adequately apply FATF Recommendations; - In the last resort, the responsibility for customer due diligence should be on the financial institution that uses the third parties. 					

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<p align="center">R11</p> <p>21°) Unusual transactions</p> <ul style="list-style-type: none"> - Compel financial institutions to pay special attention to all complex individual transactions of an exceptionally high amount with no apparent economic or legal purpose, without regard to the amount (i.e. not only when the amount is equal to or higher than FCFA 10 Million); - Compel financial institutions to pay special attention to all types of unusual transactions with no apparent economic or legal purpose; - Allow auditors on duty to gain access to the confidential register provided under Article 10 of the uniform law on AML; 	<p>Short term</p>	<p>The FIU organised AML/CFT awareness and training forums on 23, 24 and 25 June, 2010 and on the 29th of July, 2010 for micro-finance institutions (MFI), manual currency exchange agents, insurance and re-insurance companies and brokers, and money value transfer operators.</p> <p>Further, the DGTCP Directorate for Insurance, on 28-29 July 2010, organised an awareness and training workshop for insurance and re-insurance companies and brokers on the implementation of relevant CIMA Regulations.</p>		<p>MEF BCEAO FIU</p>	<p>GIABA</p>
<p align="center">R12</p> <p>22°) Designated Non-Financial Businesses and Professions (DNFBP)</p> <p>-R5, 6, 8-11</p> <p>-The authorities should, among</p>		<p>AML/CFT provisions have been disseminated widely to DNFBP and all stakeholders in AML/CFT.</p> <p>- Passing of Law n°021-</p>	<p>Provision has been made in the 2011 Action Plan to conduct activities that will reach out to and raise the awareness of lawyers, notaries and chartered accountants.</p>	<p>FIU MEF</p>	<p>YES</p>

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<p>other things,:</p> <ul style="list-style-type: none"> - Include the obligation to apply enhanced customer due diligence measures to politically exposed persons; - Subject those who provide services to companies and trusts to prudential obligations and suspicious transaction reporting, and set out clearly that chartered accountants are among the subject categories when on duty; - Disseminate the 2006 Law without delay to the subject categories, as well as to their supervisory authorities. Vigorous efforts should be made to raise awareness of the risks of leaving the non-financial sector to be used for money laundering. - Raise the threshold for customer identification in casinos. - Impose prudential obligations on casinos, taking into consideration that they are legal persons - Institute a threshold for compulsory due diligence 		<p>2010 /AN of 6 May, 2010, instituting the Association of Surveyors in Burkina Faso and establishing the offices of the Bureau of the National Council of the Association of Surveyors in Burkina Faso;</p> <ul style="list-style-type: none"> - Adoption of Order n° 2010-829 /PRES/PM/MEF/SECU /MATD/MTSS of 31 December, 2010, which sets out the conditions for running casinos in Burkina Faso; - Adoption of Order n°2010-822/PRES/PM/MEF/SECU of 31 December, 2010, which sets out the conditions for organising and supervising gambling activities that have been transferred to the Burkina Faso National Lottery, called the Loterie Nationale Burkinabè (LONAB). 			

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measures for dealers in precious metals and gemstones, in accordance with FATF Recommendations.					
<p align="center">R14</p> <p>23°) Protection and no tipping-off</p> <p>-Make clear provision for the protection of financial institutions, their directors and employees (i) even if they did not know precisely what the underlying criminal activity was; and (ii) regardless of whether the illegal activity actually occurred;</p> <p>-Extend the confidentiality requirement (i) to the existence and content of all the information sent to the FIU, and (ii) prohibit communication of these latter to any third parties not authorized duly to have access to them;</p>	March 2009	<ul style="list-style-type: none"> - FIU correspondents have been sworn in (19/03/2009) - Staff have committed themselves to comply with professional secrecy; - SD are kept in a safe, - FIU premises are guarded round-the-clock by public security forces since 1/7/2010. - The internal rules and regulations of the FIU were adopted by Order n°2010-026/MEF/CENTIF of 8 February, 2010, issued by the Ministry of Economy and Finance; - The code of ethics was adopted by virtue of Memo n°2010-03/MEF/CENTIF of 22 April, 2010 from the President of the Financial Information Unit; 			

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		<ul style="list-style-type: none"> - Memo N°2010-0006 /MEF/CENTIF of 1st July, 2010, sets the security rules applicable to the FIU; 			
<p align="center">R15</p> <p>24°) Internal controls and compliance</p> <ul style="list-style-type: none"> - Adopt sector-based regulations for the subject categories not under the WAMU BC on internal controls for money laundering, especially for MFI and Post Office financial services; - Clarify the requirements for internal controls incumbent on micro-finance institutions; - Institute measures, without delay, for subject categories to honour their obligations. 	<p>Short term</p>	<p>Art.25, 37 to 42 and 43 to 48 of Law n°023-2009/AN of 14 May, 2009 on the regulation of SFD. The Directorate for Micro finance conducted SFD inspection missions. While these activities were not focused entirely on AML/CFT, they did make a contribution towards good governance in these enterprises, enabling them to prevent the use of their facilities for ML/FT purposes. Banks, financial institutions, insurance companies, and SONAPOST have each designated an AML officer and his deputy, and put in place internal measures on AML/CFT. These AML/CFT officers are accredited to the FIU.</p>	<p>Continue AML/CFT awareness and training</p> <p>Pursue visits to the subject categories</p> <p>Organise periodic consultation frameworks (every quarter) between the FIU, AML/CFT officers and financial institutions</p>		
<p align="center">R16</p> <p>25°) Designated Non Financial Businesses and Professions (DNFBP) – R.13-15 & 21</p>		<p>Refer to the measures set out above, under R13, 14,15 and 21)</p> <p>The provisions under AML/CFT Laws relating to suspicious</p>	<p>Idem</p>	<p>FIU</p>	

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The recommendations made under section 3 for R13, 14, 15 and 21 apply also to DNFBPs.		transaction reporting (art. 24 and 28 of the AML Law 026 and articles 18 & 23 of the CFT Law 061) and the protection of reporting entities apply to DNFBPs.			
<p align="center">R17</p> <p>26°) Sanctions</p> <ul style="list-style-type: none"> - The authorities should ensure full implementation of community provisions and engage in AML/CFT awareness and training activities. 	Short term	<p>The offences and sanctions applicable to SFD are governed by art.70 to 84 under Law n°23-2009/AN of 14 May, 2009 on the regulation of SFD.</p> <p>During the merger between BACB and Ecobank, the BCEAO's 73.684 shares were sold to Ecobank on 13 January, 2009. Hence, the BCEAO is no longer a shareholder in any of the banks in Burkina Faso.</p> <p>The ongoing BCEAO review of uniform laws is expected to come up with a mechanism compliant with FATF standards.</p>	Pursue the programme for training and sensitizing subject categories	FIU CNSA-GIABA	YES
<p align="center">R18</p> <p>27°) Shell banks</p> <ul style="list-style-type: none"> - The national authorities should consider (i) prohibiting 	Short term	The ongoing review of the uniform laws will make provision for correcting these weaknesses		BCEAO FIU	YES FATF GIABA, WB

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<p>financial institutions from entering into or pursuing correspondent banking relations with shell banks, and (ii) compel financial institutions to ensure that the financial institutions that are among their foreign customers do not authorize shell banks to use their accounts</p>					
<p>R19 28°) Other forms of reporting Conduct a feasibility study on a reporting system for cash transactions</p>	<p>August 2011</p>	<p>A study on the scope of ML/FT in Burkina Faso is being carried out and will address this concern.</p>		<p>MEF FIU</p>	
<p>R20 29°) Other non-financial businesses and professions and modern, secure transaction techniques Initiate thinking on the risks of money laundering in non-financial businesses and</p>	<p>August 2011</p>	<p>A study on the scope of money laundering and terrorist financing in Burkina Faso is under way. The study costs CFA 54 031 610 inclusive of tax. (Funding: national budget). The findings of said study shall be available in August 2011. The study covers all the sectors that are vulnerable to ML/FT</p>		<p>FIU Recipient consultancy agency</p>	<p>YES</p>

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professions subjected to the anti-money laundering law in order to sensitize them and ensure efficient supervision in the application of the measure.					
<p align="center">R21</p> <p>30°) Special attention for higher risk countries</p> <p>- Make it compulsory for financial institutions to pay special attention to their business relations and transactions (including those with legal persons and financial institutions) residing in countries not applying, or insufficiently applying FATF Recommendations;</p> <p>- Institute efficient measures to inform financial institutions about the concerns raised by the weaknesses in the AML/CFT systems of other countries.</p>		NONE	The BCEAO review of AML/CFT uniform laws will make it possible to attain compliance with FATF standards	BCEAO FIU	YES
<p align="center">R24</p> <p>31°) DNFBP Regulation, supervision and monitoring</p>	Short term	- Adoption of Order n° 2010-829 /PRES/PM/MEF/SECU /MATD/MTSS of 31 December, 2010, setting the		FIU MEF Ministry of Security	

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The authorities should ensure that casinos and other DNFBPs comply with the anti-money laundering law.		<p>conditions for running casinos in Burkina Faso;</p> <ul style="list-style-type: none"> - Adoption of Order n°2010-822/PRES/PM/MEF/SECU of 31 December, 2010, setting the conditions for organising and supervising the gambling activities assigned to the National Lottery in Burkina Faso, called the Loterie Nationale Burkinabè (LONAB). 			
<p>R25 32°) Guidelines and feedback</p> <p>The authorities should establish guidelines to help FI and DNFBPs to apply and comply with their anti-money laundering obligations.</p>	Dec- 2011	<p><i>There was wide dissemination of community instructions and guidelines to subject categories during the awareness and training workshops:</i></p> <ul style="list-style-type: none"> - BCEAO Instruction n°01-2007 of 2 July, 2007 - Regulation n°0004/CIMA/PCMA/PCE/SG/08 of 4/10/2008, which sets out the procedures applicable by the agencies in CIMA Member States for AML/CFT. - Instruction N°35/2008 of 23/11/2009, relating to AML/CFT among the certified stakeholders of the WAEMU 	<p>Guidelines will be developed for DNFBPs</p> <p>Efforts to raise awareness and widely disseminate the sample suspicious transaction report will be pursued.</p>	FIU	Yes, GIABA WB

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		<p>regional financial market.</p> <p>The FIU has distributed all the laws and regulations among the subject categories (letter n°2010-0022/MEF/CENTIF of 2 March, 2010).</p> <p>The FIU has produced a technical information sheet on how to fill out the sample suspicious transaction report, adopted by Order N°2009-0180/MEF/CENTIF of 29 May, 2009.</p>			
<p>R27</p> <p>33°) The prosecution authorities</p> <p>-The Ministry of Justice should frame and issue a circular that calls attention to the roll-out of the system for preventing and repressing money laundering, as well as the measures involved.</p> <p>-At the public prosecutor's office, efforts should be made to see how feasible it is to establish special sections for financial crime, organised crime and terrorism.</p>		<p>Three (3) economic police officers are now undergoing training at the Ecole Nationale des Régies Financière (ENAREF)</p> <p>A magistrate has been appointed at the prosecutor's office in Ouagadougou to deal with AML/CFT issues.</p> <p>Further, GIABA trained Magistrates and JPOs in Bamako, Cotonou and Ouagadougou respectively</p>	<p>Magistrates are specializing progressively, and this trend is expected to expand to all the high courts.</p>	<p>MJ MSECU FIU</p>	<p>YES GIABA UNODC WB</p>

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<p align="center">R28</p> <p>34°) Powers of competent authorities</p> <p>The judicial authorities should improve their relations with the FIU in order to make optimal use of the system for suspicious transaction reporting.</p>		<p>FT is criminalized under Art. 6 of Law n°061-2009/AN of 17/12/2009 on CFT. Article 17 of said law gives the FIU access to all the necessary information on CFT</p>		<p>MJ MEF MESECU FIU</p>	<p>YES</p>
<p align="center">R29</p> <p>35°) Supervision authorities</p> <p>-At the regional level, the WAMU-BC and the BCEAO should ensure full implementation of community provisions (Uniform Law, 2007 BCEAO Instruction) as well as national provisions (law 06-2006) in the banking sector</p> <p>-In the financial market sector, the Regional Council should adopt a sector-specific Instruction on AML for all the players, SGI, SGP, investment advisers and others.</p> <p>-Overall, the number of regional financial supervisors should be</p>	<p>Permanent</p>	<p>Supervision is done in accordance with the attendant instructions of the WAMU-BC, the Directorate for Monetary and Financial Affairs, CIMA, the Directorate for Insurance, the CREPMF, and the Directorate for Micro Finance The AML/CFT component is now addressed in supervision work;</p>		<p>WAEMU-BC; General Directorate of the Treasury and Public Accounting; BCEAO; CIMA, CREPMF</p>	<p>YES</p>

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<p>increased to transition smoothly into management of anti-money laundering, which has been added to their mandate.</p> <p>-A considerable effort in training would be a crucial requirement as well.</p> <p>-Design methodological tools for investigation services on the ground in order to encourage risk-sensitive efforts in the measures for compliance.</p> <p>-Review the mechanisms for disseminating provisions to subjected institutions to ensure speedy and exhaustive dissemination of AML regulation in the sectors concerned.</p> <p>-Provide financial sanctions against non-compliant banks. The only disciplinary sanctions now available appear to be insufficiently dissuasive.</p>		<p>The ongoing review of community provisions will take this component into account.</p>			
<p>R30 36°) Resources, integrity and</p>	<p>Dec 2011</p>	<p>- Awareness and training workshops were organised</p>	<p>The staff team has been reinforced in 2011, following the recruitment of a</p>	<p>MEF</p>	<p>YES GIABA</p>

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<p>training</p> <p>-Provide adequate resources to supervision and monitoring authorities.</p> <p>- Provide training for all sectors;</p> <p>- Give the FIU the resources it needs.</p>		<p>on AML/CFT for the subject categories. The FIU had planned to cover all the subject categories by the end of 2010.</p> <p>- The FIU now has a separate, albeit inadequate budget line in the State budget;</p> <p>The administrative and technical staff unit has been reinforced with the recruitment of an IT specialist, a bilingual executive assistant, who is fluent in French and English, an errand boy, and two drivers. The FIU has a financial analyst and a Material and Financial management officer.</p>	<p>financial analyst, an IT specialist and a financial expert.</p>		<p>UNODC WAEMU World bank</p>
<p>R31</p> <p>37°) National cooperation and coordination</p> <p>-Establish mechanisms for coordination and cooperation between the competent authorities for anti-money laundering and terrorist financing.</p>	<p>June 2009</p>	<p>A National Committee for Monitoring GIABA activities (CNSA/GIABA) was put in place by Order N°2009 - 0 8 4 /MEF/MJ/SECU of 22/06/2009. This inter-ministerial Committee is a coordination and cooperation organ on AML/CFT at the national level.</p>	<p>This committee shall be fully operational with the appointment of the members representing the various structures and institutions involved (May 2011).</p>	<p>MEF MSECU MJ BCEAO National correspondents /GIABA; FIU</p>	

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<p align="center">R32</p> <p>38°) Statistics</p> <p>-Compile statistics to make it possible to assess the effectiveness of the mechanism for mutual legal assistance and extradition.</p>		<p>The Justice Minister has a structure in charge of keeping statistics on the activities of public judicial services.</p>		<p>MJ FIU</p>	
<p align="center">R33</p> <p>39°) Legal persons – Access to beneficial owners and information control (R 33)</p> <p>-Implement all OHADA laws, especially for book keeping, record keeping and the updating of data in business establishments;</p> <p>-Initiate thinking on how to match OHADA laws with Recommendation 33 for access to relevant information on beneficiary ownership and control of business establishments and other legal persons.</p> <p>-Take all the proper measures to</p>		<p>The General Directorate for Taxes (DGI) has resumed efforts to apply Order 765 and Order 766 of 15/12/2005. These provisions respectively provide an information sheet on natural and legal persons and institute a single financial information service (IFU). If these two Orders are implemented properly, they will make it possible to issue registration numbers to all traders in Burkina Faso, including those in the informal sector. For fear of protests from the Unions, the government was forced to suspend the application of said Orders. With the progress made</p>		<p>MJ MEF FIU</p>	<p>YES</p>

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reduce the portion of the informal economy.		in identification measures, the government was able to issue IFUs to 12.092 players in the informal sector at the end of September 2010.			
<p align="center">R38</p> <p>40°) Mutual legal assistance on confiscation and freezing</p> <p>Take steps to transpose without delay the WAEMU Uniform law on counter financing of terrorism so as to pave the way for cooperation in this regard.</p>	17 Dec.- 2009	With the criminalization of terrorist financing (FT) in Burkina Faso, following the passing of Law n°061-AN/2009 of 17 December 2009 on counter financing of terrorism, the country can now engage in mutual legal assistance and extradition on grounds of this offence.		MEF FIU BCEAO	GIABA Executive Directorate of the United Nations Sanctions Committee
<p align="center">R39</p> <p>41°) Extradition</p> <p>Keep statistics to permit evaluation of the system's effectiveness.</p>	Short term	The Justice Minister has a structure in charge of keeping statistics on the activities of public judicial services.		MJ FIU	