



**FIRST ENHANCED FOLLOW-UP
REPORT AND TECHNICAL
COMPLIANCE RE-RATING**

Ghana

MUTUAL EVALUATION REPORT

Revised June 2018



I. INTRODUCTION

1. The mutual evaluation report (MER) of Ghana was adopted on May 2017. This follow-up report analyses Ghana's progress in addressing the technical compliance deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also considers Ghana's progress in implementing new requirements relating to FATF Recommendations which have changed since the MER was adopted: Recommendation 7 and 8. Overall, the expectation is that countries will have addressed most if not all technical compliance deficiencies by the end of the third year from the adoption of their MERs. This report does not address the progress Ghana has made to improve its effectiveness. A later follow-up assessment will analyse progress on improving effectiveness which may result in re-ratings of Immediate Outcomes at that time.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated Ghana as follows for technical compliance:

Table 1. Technical compliance ratings, May 2017

| | | | | | | | | | |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| R 1 | R 2 | R 3 | R 4 | R 5 | R 6 | R 7 | R 8 | R 9 | R 10 |
| LC | LC | C | LC | LC | LC | LC | NC | C | LC |
| R 11 | R 12 | R 13 | R 14 | R 15 | R 16 | R 17 | R 18 | R 19 | R 20 |
| C | C | C | C | C | PC | PC | LC | C | C |
| R 21 | R 22 | R 23 | R 24 | R 25 | R 26 | R 27 | R 28 | R 29 | R 30 |
| C | LC | LC | LC | PC | LC | LC | PC | C | C |
| R 31 | R 32 | R 33 | R 34 | R 35 | R 36 | R 37 | R 38 | R 39 | R 40 |
| C | LC | PC | LC | PC | C | LC | LC | PC | LC |

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

Source: Ghana Mutual Evaluation Report, May 2017, www.giaba.org.

3. Given these results and Ghana's level of effectiveness with respect to the Immediate Outcomes, GIABA placed Ghana in enhanced follow-up¹. The Secretariat assessed Ghana's request for technical compliance re-rating and prepared this report.

4. Section III of this report summarises Ghana's progress made in improving technical compliance. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

5. This section summarises Ghana's progress to improve its technical compliance by:
1. Addressing the technical compliance deficiencies identified in the MER, and

¹ Enhanced follow-up is based on the GIABA Mutual Evaluation Process and Procedures that deal with member States with significant deficiencies (for technical compliance or effectiveness) in their AML/CFT systems, and involves a more intensive process of follow-up, on an annual basis.

2. Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (R.7 and R. 8).

3.1. Progress to address technical compliance deficiencies identified in the MER

6. Ghana has made progress to address the technical compliance deficiencies identified in the MER in relation to the following Recommendations:

- 16, 17, 18, 33 and 35 rated PC
- 22 rated LC

7. As a result of this progress, Ghana has been re-rated on Recommendations: 16 and 17. GIABA welcomes the steps that Ghana has taken to improve its technical compliance with Recommendations 18, 22, 33 and 35; however, insufficient progress has been made to justify a re-rating of these Recommendations. Ghana also presented additional progress on Recommendations 1, 4, 26, 28 and 40, all of which is briefly summarized in section 3.3 below.

Recommendation 16 (R16) (Originally rated PC – re-rated to LC)

8. The main deficiencies identified were that there were no express requirements for financial institutions, especially banks to obtain and maintain beneficiary information and include beneficiary information on cross border wire transfers.

9. Following the adoption of the MER, Ghana issued the revised BOG/FIC AML/CFT&P Guideline for Banks & Non-Bank Financial Institutions² in January 2018. The guidelines state that “for all wire transfers, the ordering financial institutions *shall* obtain and maintain the following information relating to the originator and beneficiary of the wire transfer:” the name of the originator and beneficiary; the originator’s account number (or a unique reference number if no account number exists); and the originator’s address. The guidelines further state that in the case of a cross-border wire transfer, the ordering financial institution should include the full originator and beneficiary information in the message or the payment form accompanying the wire transfer. However, the guidelines omitted one of the items of information listed in R16 c.1: the beneficiary account number where such an account is used to process the transaction or, in the absence of an account, a unique transaction reference number which permits traceability of the transaction. Ghana should revise the guidelines to ensure that all cross-border wire transfers are always accompanied by the beneficiary’s account number. Nevertheless, the guideline has largely addressed the deficiencies identified under Recommendation 16.

10. Most of the deficiencies identified in the MER have been addressed but minor deficiencies remain. On that basis, R.16 is re-rated to Largely Compliant.

² The Guideline qualifies as enforceable means. Part 1.20 of the Guideline states that: “*In addition to the regulatory sanctions that may be imposed by the BOG as indicated in Section 92(8)9 of the Bank and SDI act 2016, Act 930, particulars of breaches of the Guideline by accountable institutions shall be referred to the appropriate law enforcement agency for further action.*” Section 92 (2) (a) (vii) of the Bank and SDI Act 2016 states that the BOG may issue directives to provide for rules and regulations to prevent financial institutions from being used for ML/FT &P; and section 92(8)9 of the Bank and SDI Act 2016, Act 930 states that a person that contravenes the directive is liable to pay an administrative penalty. In addition, the BOG established a sanctions regime specifically for breaches of the Guideline on 2 May, 2018.

Recommendation 17 (R17) (Originally rated PC – re-rated to LC)

11. The main deficiencies identified were that: (a) there was no requirement for financial institutions to have regard to a country’s level of risk in situations where the 3rd party they rely on is located in another country, and (b) there was no specific requirement on the applicability of third party reliance involving FIs that are part of the same financial group. Part 1.14 of the revised BOG/FIC AML/CFT Guideline for Banks & Non-Bank Financial Institutions requires reporting entities to have regard to information available regarding the level of country risk. There are similar provisions in Part 1.12 (e) of the revised SEC/FIC AML/CFT Guideline and Part C 2(b) (iv) of the the revised NIC/FIC AML/CFT Guideline for Insurance Institutions and Insurance Intermediaries. As regards the requirement on the applicability of third party reliance involving FIs that are part of the same financial group, the Banks and Specialised Deposit–Taking Institutions (SDI) Act, 2016 (Act 930) does not specifically cover the issue of *third party reliance* involving FIs that are part of the same financial group.

12. Some of the deficiencies identified in the MER have been addressed but minor deficiencies remain. On that basis, R.17 is re-rated to Largely Compliant.

Recommendation 18 (R18) (Originally rated LC – no re-rating)

13. The main deficiency identified was that there is no provision in law or regulations in Ghana requiring financial groups to implement group-wide programmes against ML/TF as set out in c18.2. Ghana revised the BOG/FIC AML/CFT Guideline for Banks & Non-Bank Financial Institutions. Part 1.24 (a) of the revised Guidelines states that financial institutions should ensure that their foreign branches and subsidiaries or parent observe group AML/CFT procedures consistent with the provisions of the Guideline and apply them to the extent that the local/host country’s laws and regulations permit. Part B 4.8 (a) of the revised SEC/FIC AML/CFT Guideline also sets down similar provisions for CMOs. These provisions largely address the shortcomings identified under R18. However, the law does not outline the specific measures which financial institutions are required to implement on group-wide basis.

14. Most of the deficiencies identified in the MER have been addressed but some minor deficiencies remain. On that basis, R.18 is remains Largely Compliant.

Recommendation 22 (R22) (Originally rated LC – no re-rating)

15. The main deficiencies identified were that: (a) there are no comprehensive guidelines that adequately address the requirements set out in c22.1; (b) a lack of requirement for DNFBCPs to conduct ML/TF risk assessment prior to the launch or use of new products, business practices as well as new or developing technologies; (c) a lack of requirement for DNFBCPs to have regard to a country’s level of risk, in situation where the 3rd party they rely on is located in another country; and (d) an inadequate definition of PEPs. The Ghanaian authorities are currently amending the Gaming Act, 2006 (Act 721) to incorporate risk assessment prior to the launch and use of new products and technologies. In practice, the Gaming Commission now carries out risk assessment prior to the launch of new products or technologies. Ghana reported that prior to their introduction, new virtual games in the sports betting industries go through AML/CFT risk assessment and mitigation procedures before approval. Recommendation 22 however, requires the reporting entities and not the supervisory authorities to carry out assessments prior to the launch of new products or technologies.

16. The deficiencies identified in the MER are yet to be been addressed. On that basis, R.22 remains Largely Compliant.

Recommendation 33 (R33) (Originally rated PC – no re-rating)

17. Recommendation 33 requires countries to maintain comprehensive statistics³ on matters relevant to the effectiveness and efficiency of their AML/CFT regime and this entails having an adequate mechanism for obtaining and keeping all relevant statistics accurate, consistent, and up to date. Countries can thus, utilize various means such as laws, other enforceable means, internal procedures and processes such as case management systems, or other mechanisms to bring about the required result or output which is: *comprehensive* statistics maintained over a period of time in compliance with the requirements of Recommendation 33. While the essential element under R33 is the comprehensive statistics presented by the country, a defective or inadequate mechanism for collection of statistics generally impacts on the range of the statistics collected. Thus, in a case where the statistics provided by a country are not comprehensive, an analysis of the mechanism or method of collection should highlight the underlying cause of the inadequacy. In the case of Ghana, the country cited the Anti-Money Laundering Regulation, 2011 LI 1987 to demonstrate compliance with the requirements of Recommendation 33. An assessment of the regulation showed that there is no obligation for the different competent authorities, besides the FIC and the supervisory agencies, to maintain comprehensive statistics on matters relevant to the effectiveness of their AML/CFT system. Even though the FIU is required to maintain some relevant statistics which it would have to collect from the other relevant competent authorities, there is nothing in the Regulation to compel the different competent authorities to provide FIC with those statistics and the competent authorities had not provided those statistics to the FIC prior to the onsite visit. Although, some statistics were provided to the assessors, Ghana did not provide comprehensive statistics regarding property seized, frozen, or confiscated. Furthermore, Ghana did not maintain statistics on ML investigations. Ghana is requesting for a re-rating based on a new mechanism. Ghana reported that it had established a mechanism for collecting relevant statistics on ML/TF by way of a circular dated 27 November, 2017 that was signed by the National Security Coordinator, which *requested* all stakeholders to submit monthly reports to the FIC using the reporting template attached to the circular. The template did not cover reports on confiscation, investigations, Mutual Legal Assistance or other international requests for co-operation made and received. It is unclear whether the circular compels the relevant competent authorities to maintain statistics or if it imposes an absolute and unequivocal obligation on the other competent authorities to provide the FIC the relevant statistics. The circular and attached template do not comprehensively implement the requirements of R33 and Ghana did not provide comprehensive statistics in line with criterion 33.1 (a – d) to demonstrate that the new mechanism would enable Ghana to comply with R.33. Ghana needs to: *identify all agencies and national institutions involved in the AML/CFT regime; ensure that they maintain the relevant statistics; identify existing national AML/CFT statistics and collection practices; determine which data are needed; establish contact points in the agencies, collect statistics, analyse the information provided by each agency and identify gaps and challenges; compile the information collected; approve the final product and maintain the data or statistics*⁴

³ For the purposes of technical compliance, the statistics should be limited to four areas as stated in Criterion 33.1 (a – d) of the FATF Methodology.

⁴ FATF Guidance: AML/CFT-Related Data and Statistics - October, 2015

18. The deficiencies identified in the MER are yet to be been addressed. On that basis, R.33 remains Partially Compliant.

Recommendation 35 (R35) (Originally rated PC – no re-rating)

19. The main deficiencies identified were that: (a) administrative sanctions appeared limited as there were no clear provisions that permitted supervisors to impose pecuniary sanctions; and (b) the fines stipulated in Section 18 of Act 874 were not proportionate or dissuasive, as the Acts sets a limit of \$6,000 irrespective of the amount involved. Ghana has developed a set of “administrative sanctions documents” for the three regulatory bodies responsible for supervision of the banking, insurance and securities sectors. However, the administrative sanctions documents are all in draft. Although, consultations with stakeholders have taken place and the documents are awaiting approval by the respective management board in each sector. While the document sets a minimum limit for violations, Section 18 of Act 874 has not been amended to permit the application of proportionate and dissuasive sanctions. The noted progress is not sufficient to warrant a re-rating, thus the Partially Compliant rating on R.35 is retained.

3.2. Progress on Recommendations which have changed since adoption of the MER

20. Since the adoption of Ghana’s MER, the FATF amended Recommendations 7 and 8. This section considers Ghana’s compliance with the new requirements.

Recommendation [R7.] (Originally rated LC – no re-rating)

21. As regards, Recommendation 7, following the Joint Comprehensive Plan of Action (JCPOA) and amendments to the proliferation financing related United Nations Security Council Resolutions (UNSCRs), the FATF made amendments to the Recommendation 7 in November 2017. Based on this amendment, countries are to continue to freeze the funds, other financial assets and economic resources that are owned or controlled by the individuals and entities that were specified on the list established and maintained by the Committee pursuant to resolution 1737, with the exception of those individuals and entities de-listed by the Security Council as specified in in Attachment to UNSCR 2231 and any additional individuals and entities that may be designated by the Security Council as having engaged in, prohibited activities contrary to the JCPOA. In addition, where countries have determined that the exemption conditions set out in UNSCR 1718 (2006) and UNSCR 2231 (2015) are met, countries should authorize access to funds or other assets.

22. Ghana’s regulation on PF broadly covers resolution 1718 and 1737 *and successor resolutions*. Nevertheless, Ghana has not provided information as to whether the procedures or mechanisms the country has in place incorporates the revised R.7. In view of this, the LC rating for R7 will be maintained pending further information from Ghana.

Recommendation [R8.] (Originally rated NC – no re-rating)

23. Ghana did not report any progress on Recommendation 8. It should be noted that this was the only Recommendation rated NC in the MER and Ghana was rated NC based on the former requirements of Recommendation 8. The country has not taken the required steps, as

outlined under the revised R.8, to protect NPOs from being misused for terrorist financing purposes. The deficiencies under R.8 were identified as a priority action in the country's MER. The revised Recommendation 8 requires countries to utilize a risk-based approach in assessing the NPO sector. Ghana is required to identify which subset of organizations fall within the FATF definition of NPOs, identify high risk NPOs; review the adequacy of measures that relate to this subset of the NPOs, including applicable laws and regulations; put in place measures to mitigate the risks identified; periodically reassess the NPO sector; conduct sustained outreach to NPOs on TF issues including by ensuring that NPOs have clear policies to promote accountability, integrity, and public confidence in their administration and management and by developing best practice for the sector. Ghana is also required to: conduct targeted risk-based supervision or monitoring of NPOs; apply effective, proportionate and dissuasive sanctions for violations by NPOs; have capacity for effective information gathering and investigation of NPOs; have effective capacity to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support, through appropriate points of contact and established procedures.

24. Given that the new requirements of Recommendation 8 have not been addressed by Ghana, the original rating of NC on Recommendation 8 is maintained.

3.3. Brief overview of progress on other Recommendations rated PC/LC

25. Ghana also reported progress on Recommendations 1, 4, 26, 28 and 40.

26. **Recommendation 1 (rated LC):** Since the MER was adopted, Ghana has taken steps to improve compliance with Recommendation 1. Ghana is reviewing the country's NRA and priority areas have been identified. The country is about to develop a policy document that will stipulate how resources are to be allocated to combat ML/TF. The BOG/FIC/AML/CFT Revised Guideline has elaborated on instances where financial institutions are to apply simplified or reduced CDD. It is unclear whether these instances of lower risk are based on the findings in the country's risk assessment. Ghana has commenced training of supervisors of DNFBPs. The training covered risk assessment, application of risk based approach and effective supervision.

27. **Recommendation 4 (rated LC):** Since the MER was adopted, EOCO has established procedures for management of seized and confiscated illicit proceeds and the Narcotic Control Board has also drafted an asset management document for consideration by the Board. Generally, seized or confiscated assets are managed by the criminal justice institution that institutes a matter even though Ghana's law states that the Attorney General should manage these assets. Ghana should consider issuing a regulation on asset management to cover all LEAs. This will not only provide the needed guidance, but it will ensure that asset management practices are uniform across board and backed by the force of law.

28. **Recommendation 26 (rated LC):** The National Insurance Commission has developed supervisory tools including a risk assessment matrix which will ensure that AML/CFT supervision are conducted on the basis of the ML risk within the sector and an assessment of an institution's risk profile.

29. **Recommendation 28 (rated PC):** Ghana authorized the Ghana Revenue Authority to regulate, supervise and monitor the activities of DNFBPs. In this regard, the Ghana Revenue

Authority has established an AML desk within the institution. A capacity building workshop has been scheduled to train members of staff that have been assigned to the desk.

30. **Recommendation 40 (rated LC):** Ghana is applying Section 147 of the Banks and Specialized Deposit taking Institutions Act, 2016 (Act 930) to reinforce the provision of Section 85 of the Banking Act, 2004 (Act 673) which *permits information exchange by the BOG if the information is used only for purposes related to the effective supervision of the institutions concerned*. Act 930 limits exchange of information to cases where confidentiality of information will be protected, in line with the standards.

IV. CONCLUSION

31. Overall, Ghana has made some progress in addressing the technical compliance deficiencies identified in its MER. and has been re-rated on two Recommendations.

32. Ghana has largely addressed the deficiencies identified under Recommendations 16 and 17 which were both rated PC. Both Recommendations have been re-rated as LC. Since the adoption of its MER, Ghana has revised the Guidelines for the financial sector and the re-rating of R. 17 and R.18 were effected on this basis. In addition, some steps were taken to rectify the issues relating to Recommendations, 18 and 22 (initially rated LC) and Recommendations 33 and 35 (initially rated PC). However, these measures were not sufficient to justify re-rating of these Recommendations.

33. Ghana did not provide any information on Recommendations 7 and 8 which were amended after the MER of Ghana was adopted. The Plenary should direct Ghana to provide information on both Recommendations in its subsequent follow up report in order to ascertain the level of compliance with the revised Recommendations.

34. Overall, in light of Ghana’s progress since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows in the table below.

Table 2. Technical compliance with re-ratings, May 2018¹

| | | | | | | | | | |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| R 1 | R 2 | R 3 | R 4 | R 5 | R 6 | R 7 | R 8 | R 9 | R 10 |
| LC | LC | C | LC | LC | LC | LC | NC | C | LC |
| R 11 | R 12 | R 13 | R 14 | R 15 | R 16 | R 17 | R 18 | R 19 | R 20 |
| C | C | C | C | C | LC | LC | LC | C | C |
| R 21 | R 22 | R 23 | R 24 | R 25 | R 26 | R 27 | R 28 | R 29 | R 30 |
| C | LC | LC | LC | PC | LC | LC | PC | C | C |
| R 31 | R 32 | R 33 | R 34 | R 35 | R 36 | R 37 | R 38 | R 39 | R 40 |
| C | LC | PC | LC | PC | C | LC | LC | PC | LC |

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

35. Ghana will remain on the enhanced follow-up, and will continue to report back to the GIABA on progress to strengthen its implementation of AML/CFT measures.

GIABA Secretariat
June 2018