

Understanding National Risk Assessments and FATF Evaluations

PUBIC PRESENTATION OF REPORT

By

SPACE 4 CHANGE

LAGOS, NIGERIA

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ROAD MAP >>>

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- Introduction
 - GIABA's establishment / Mandate
 - Understanding AML/CFT Framework
 - GIABA / FATF Mutual Evaluation
 - National Risk Assessment (NRA)
 - The Role of CSOs/NPOs – In AML/CFT
 - Recommendations/ Way Forward
 - Conclusion

INTRODUCTION

- ❑ GIABA is Inter-Governmental Action Group against Money Laundering in West Africa (GIABA)- **French**
- ❑ GIABA's overall vision is being the leader in forging strategic alliances against transnational organized crime;
- ❑ Criminal activities in particular Money Laundering and Terrorist Financing (ML/TF) have adverse impact on economy, social, peace, security and political stability of countries;
- ❑ World nations must unit and adopt measures to dismantle syndicates engaged in ML/TF.

GIABA IN BRIEF

- The Authority of Heads of States and Governments of ECOWAS on 10th December, 1999 in Lome, Togo, recognized threats of ML/TF and committed to engage in the global fight to prevent and deter these twin scourges.
- On December 6th, 2000, they created GIABA as ECOWAS specialized institution with a mandate to enforce the implementation of acceptable international standards against money laundering and terrorist financing in the region.

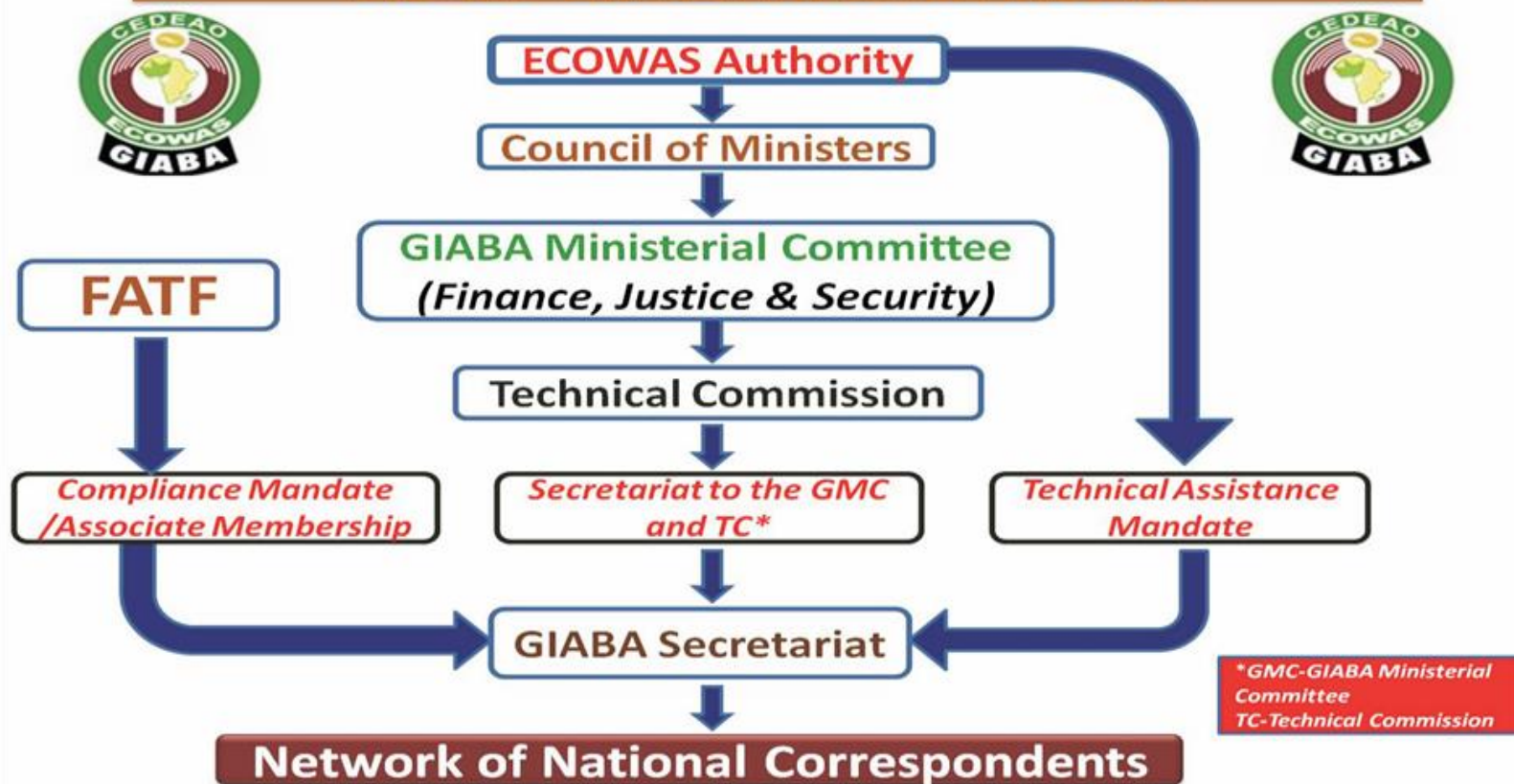
GIABA IN BRIEF

□ ECOWAS 15
member States
and Sao Tome and
Principe + countries
and organisations
granted observer
status



THE MAIN ORGANS OF GIABA

HOW GIABA FUNCTIONS



Core Values: Integrity, Professionalism, Teamwork, Respect for Diversity, Transparency and Accountability

GIABA IN BRIEF

cont...

- ☐ A FATF Regional Style body (FRSB).
- ☐ Financial Action Task Force (FATF)
associate member
- ☐ Change Agent
- ☐ Not a law enforcement agent

GIABA's OPERATIONAL MODALITIES

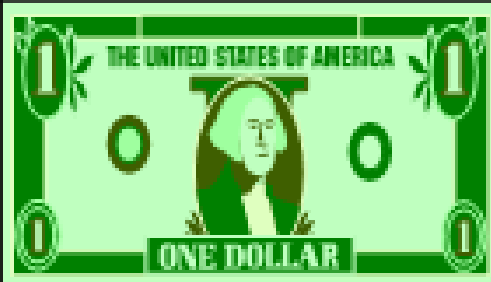
GIABA ensures that Member States recognize, adopt and implement:

- ❑ The FATF recommendations adopted by the FATF members;
- ❑ The UN Conventions and Protocols.

OVERVIEW OF AML/CFT FRAMEWORK

The Big Question-1

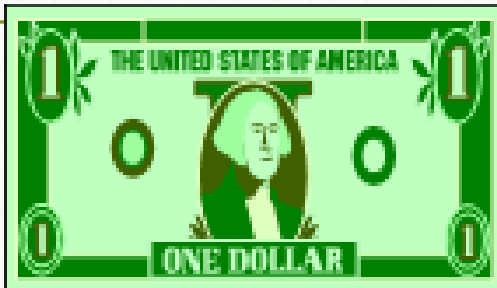
What is Money Laundering?



What is ML?



- ❖ The United Nations 1988 Convention (Vienna Convention) and 2000 Convention (Palermo Convention) define “ MONEY LAUNDERING” as (next slide)



What is ML?



“The **conversion** or transfer or acquisition or possession or use or concealment or disguising the true nature, source, location, disposition, movement, **rights** with respect to or **ownership** of property, **knowing** that such property is derived from a criminal activity or from an act of participation in such activity or of assisting any person who is involved in the commission of such offence or offences to evade the legal consequences of his/her actions”



What is ML?



❖ Money laundering therefore consists of actions or measures taken to transfer the proceeds particularly money from illicit transactions and the transformation of its origin, currency unit, beneficiaries or the final destination.

❖ Note: The proceeds can be CASH or NON-CASH ASSETS

Point to Note

The definition of ML also includes:

- Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offenses (subject to fundamental principles of legal system).
- Third-Party laundering where the defendant in a money laundering case may not have committed the predicate offense
- Self-laundering - where the defendant in a money laundering case may also have committed the predicate offense

Stages of ML

Predicate Offence

Placement

- The physical disposal of cash or other assets derived from illegal activity
- Introduction of illegal proceeds into Fin System (Banks, Casinos, Shops; etc)
- *May involve breaking large amt into smaller sum, cross-border cash movement; etc*

Layering

- Separation of illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the source of money, subvert the audit trail and provide anonymity (A2A-Wire Transfer, convert cash into monetary instruments-TC, Resell High Value goods, Invest in stocks; invest in real estate)

Integration

- creating the impression of apparent legitimacy to criminally derived wealth.
- If the layering process has succeeded, integration schemes place the laundered proceeds back into the economy in a such a way that they re-enter the financial system appearing to be normal business funds.

Big Question - 2

What is Terrorist Financing
(TF)?

Ruins of
9/11

What is TF?



- ❖ Is the financial support, in any form, of terrorism or of those who encourage, plan, or engage in terrorism”.
- ❖ Directly or indirectly, unlawfully and willfully collecting, managing, or providing funds, assets, (securities) or services with the intention that they should be used or in the knowledge that such funds are to be used, in full or in part in order to carry out any terrorist act as defined in international instruments against terrorism

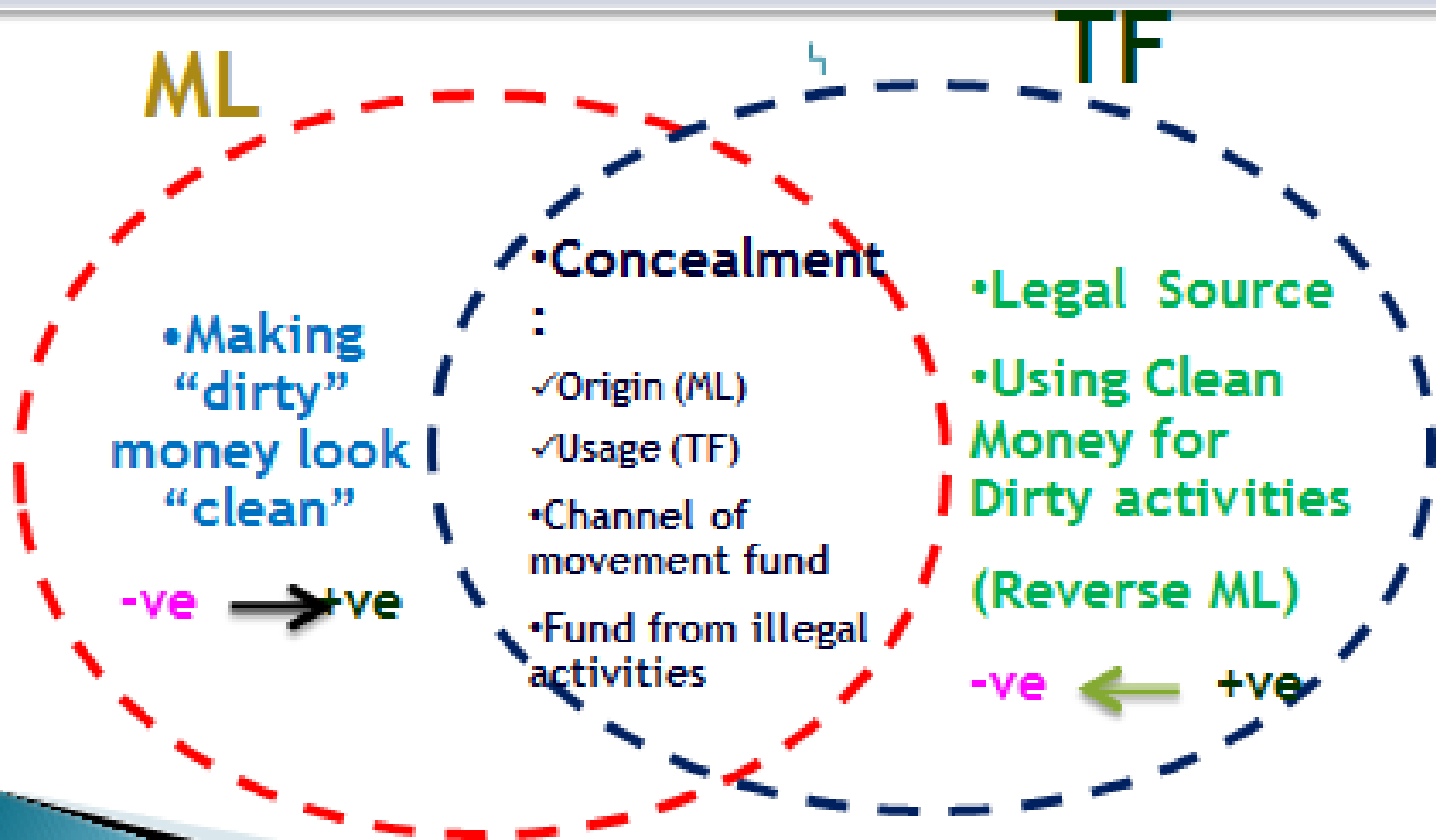
Sources of Terrorist Funding

- ❖ Voluntary contributions for charity, deployed through NPOs; etc.
- ❖ Proceeds of crime
- ❖ Proceeds of legal enterprise
- ❖ State-sponsor – assistance from foreign Governments.

Intermediaries of TF

- ☐ Religious/charity organizations
- ☐ Shell companies
- ☐ Financial institutions, e.g. banks –offshore –
correspondent, etc
- ☐ Alternative remittance systems, e.g. Hawala, Fic Chien.

The Confluence between ML and TF



What is Predicate Offence of ML?

- ❖ A Money Laundering Predicate Offence is the underlying criminal activities that generated proceeds, which when laundered, results in offense of money laundering. There are 21 Predicate Offenses
- ❖ Thus, ML is a derivative offence.

INTERNATIONAL INITIATIVES

▶ International Initiatives

- United Nations and its agencies
- Financial Action Task Force (FATF)
- The Basel Committee on Banking Supervision
- International Association of Insurance Supervisors
- International Organization of Securities Commissioners
- The Egmont Group of Financial Intelligence Units based in Canada
(Established in 1995 @ Egmont-Arenberg Palace in Brussels, Belgium)

▶ Continental and Regional Bodies

- FATF-Style Regional Bodies (FSRBs) including GLABA
- IMF
- World Bank
- The Commonwealth Secretariat
- European Commission

Overview of the FATF Standards

- ❖ **Consist of a set of Recommendations and corresponding interpretive notes**
- ❖ **set out a comprehensive and consistent framework of measures which countries should implement in order to combat money laundering and terrorist financing as well as the financing of proliferation of weapons of mass destructions (FATF, 2012).**

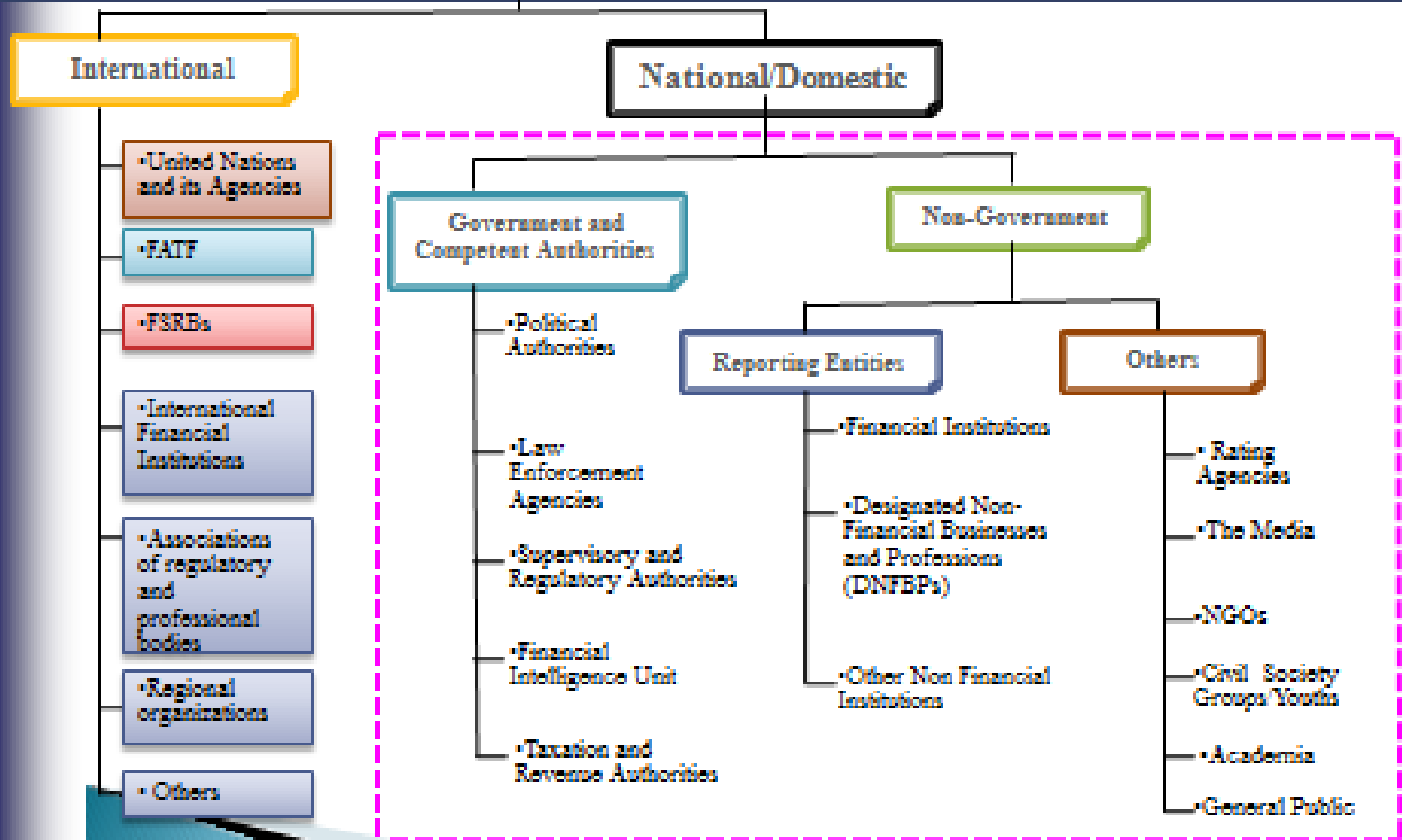
SEVEN COMPONENT OF FATF 40 RECS

Component	Recommendations	Description
1.	R1 - R2	AML/CFT Policies and Coordination
2.	R3 - R4	Money Laundering and Confiscation
3.	R5 - R8	Terrorist Financing and Financing of Proliferation
4.	R9 - R23	Preventive Measures
5.	R24 - R25	Transparency and Beneficial Ownership of Legal Persons and Arrangements
6.	R26 - R35	Powers and Responsibilities of Competent Authorities and other institutional measures
7.	R36 - R40	International Cooperation

Components and Basic Requirements of the FATF 40 Recommendations (1)

Component	Description	Basic Requirements
1	AML/CFT Policies and Coordination (R1 – R2)	<ul style="list-style-type: none">•Risk Assessment (National, Sectoral, Institutional levels)•Application of RBA to promote resource optimization•Development of National AML/CFT policies based on risks•Cooperation and coordination mechanisms required at both policy and operational levels

TAXONOMY OF AML/CFT STAKEHOLDERS IN THE IMPLEMENTATION OF FATF STANDARDS



GIABA/FATF MUTUAL EVALUATION

- Mutual Evaluation is a form of Peer Review Mechanism through which countries are assessed based on the FATF Revised 40 Recommendations and the FATF set Methodology.
- The ME is on an on-going basis set to assess countries performance and compliance with the 40 recommendations. Its providing an in-depth description and analysis of each country's system for preventing criminal abuse of the financial system.

GIABA SECOND ROUND OF MUTUAL EVALUATION

- As set out in the FATF Methodology, the scope of the evaluations will involve two interrelated components for technical compliance and effectiveness. The technical compliance component will assess whether the necessary laws, regulations or other required measures are in force and effect, and whether the supporting Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) institutional framework is in place. The effectiveness component will assess whether the AML/CFT systems are working, and the extent to which the country is achieving the defined set of outcomes.

IMMEDIATE OUTCOMES

The **EFFECTIVENESS** of a country's AML/CFT regime will be assessed based on the following eleven (11) immediate outcomes.

1. Risk, Policy and Coordination.

2. International Cooperation

3. Supervision

4. Preventive Measures

5. Legal Persons and Arrangements

6. Financial Intelligence

7. ML Investigation and Prosecution

8. Confiscation

9. TF Investigation and Prosecution

10. TF Preventive Measures and Financial Sanctions

11. PF Financial Sanctions

Rating of the Recommendations

- Each of the FATF Recommendations are rated based on the specific set of criteria
- Each Recommendation is then assigned any of the following four ratings

Compliant	C	There are no shortcomings
Largely compliant	LC	There are only minor shortcomings
Partially compliant	PC	There are moderate shortcomings
Non-Compliant	NC	There are major shortcomings
Not applicable	NA	A requirement does not apply, due to the structural, legal or institutional features of a country

When deciding on the level of shortcomings for any Recommendations, consideration is given to the country context, the number and the relative importance of the criteria met or not met.

Status of Compliance with the FATF AML/CFT Standards

Compliance Level	Assessed Member State															
	Benin	Burkina Faso	Cape Verde	Cote d'Ivoire	The Gambia	Ghana	Guinea Bissau	Guinea	Liberia	Mali	Niger	Nigeria	Senegal	Sierra Leone	Togo	STP
C	0	0	0	0	3	2	0	3	0	0	2	2	6	2	0	0
LC	7	5	3	7	9	3	1	8	0	2	5	7	13	1	4	2
PC	19	13	16	17	17	24	13	12	21	11	14	22	16	9	24	2
NC	22	30	29	24	19	20	33	25	28	35	27	18	12	36	20	24
N/A	1	1	1	1	1	0	2	1	0	1	1	0	2	1	1	1

Understanding NRA

- FATF R.1 – Risk –Based Approach - The text of Recommendation 1 lays out a number of basic principles with regard to risk assessment. First, it calls on countries to “identify, assess and understand” the ML/TF risks they face, and states that countries should also designate “an authority or mechanism to co-ordinate actions to assess risks”. The goal of the standard is to ensure that countries can mitigate their ML/TF risks effectively, and the risk assessment is clearly intended to serve as the basis for application of the risk-based approach, i.e., “to ensure that measures ... are commensurate with the risks identified.” The text of the Recommendation adds that the “[risk-based] approach” (and therefore the risk assessment process on which it is based) should also be “an essential foundation” in allocating AML/CFT resources efficiently.

Understanding NRA ...Cont!

- National Risk Assessment covers a wide range of risk issues.

Identifying, assessing, and understanding ML/TF risks is an essential part of the implementation and development of a national anti-money laundering / countering the financing of terrorism (AML/CFT) regime, which includes laws, regulations, enforcement and other measures to mitigate ML/TF risks. It assists in the prioritization and efficient allocation of resources by authorities.
- KEY STAGES:
- Stage I Identification
- Stage II Analysis
- Stage III Evaluation

Understanding NRA ...Cont!

Proposed Composition of Stakeholders according to FATF Guidelines

- Policy-making bodies:
- Law enforcement and prosecutorial authorities
- Intelligence and/or security services:
- Financial intelligence units
- Regulatory and supervisory authorities
- Other authorities such as Foreign Ministries
- International and foreign partners:
- Financial institutions and DNFBPs:
- Industry associations and self-regulatory bodies (SRBs)
- **Other actors:**
- Criminals can seldom provide very useful information

NPOs Categorization

- Other actors: researchers, criminologists, industry associations, private sector experts (for example, practitioners or others with in-depth knowledge of specialised financial activities), risk management experts, non-government organisations and civil society, academics and other international experts/specialists can provide their perspectives, for example, on what constitutes a “cash intensive” business or economy, produce reports and provide analysis related to ML/TF and predicate crimes.

The Role of CSOs/NPOs – In AML/CFT

- The NPOs must acquire knowledge of AML/CFT on a continuous basis to be able to contribute meaningfully, not only to the debate but to the fight.
- NPOs must never allow their structures and platform to be used in ML/TF
- Carry out advocacy activities with authorities and policy makers as it relates to AML/CFT
- Service as a whistle blowers and pressure groups to pursue courses around AML/CFT

The Role of CSOs/NPOs – In AML/CFTCont...!

- Advocate to be part of the framework and contribute to the overall regime of AML/CFT in their countries
- Conduct researches and typologies relevant to key predicate offenses and other areas of AML/CFT
- Increase visibility and raise awareness on the ills of ML/FT within the sphere of their operations.
- Create sustainable partnerships and networks to identify their risks, threats and vulnerabilities, develop mitigating factors and advance the course of their work

Challenges

- ☐ Low political will to drive the AML/CFT process;
- ☐ Poor funding of the implementation process of AML/CFT programmes;
- ☐ Low capacity (both human and insitutional) of member States in the effective implementation of AML/CFT measures;
- ☐ Deficiencies in the national legal framework and national coordination and collaboration among competent authorities;
- ☐ Low level of regional and international cooperation

Challenges

- ☐ inability to adequately deal with the complexities in the administration of AML/CFT regime
- ☐ Slow pace in the introduction of legislative changes in the region
- ☐ The regional specific weaknesses (geographical challenges, sequels of armed conflict, ethnic and religious crises, organized crime and corruption)
- ☐ The informal and cash based nature of the region's economy

Challenges

- ☐ Poor coordination of all law enforcement agencies
- ☐ The speed of technology and its application in financial transactions, recruitment of youth
- ☐ Lack of capacity of MS to respond to the challenges of terrorist financing
- ☐ Underdeveloped financial systems;

Challenges

- ❑ Poor data management
- ❑ Emergence of new and complex financial products and services (internet and mobile banking; etc)
- ❑ Balancing the integration requirement of free movement of people, goods and services across the region in accordance with ECOWAS Trade Liberalization Scheme (TLS) with the fight against trans-national organised crimes

Recommendations/Way forward

- ☐ There is need for stronger political commitment and leadership;
- ☐ Need to establish an effective early warning mechanism for the prevention of terrorism
- ☐ Need to enhance regional capacity and expertise to promote rule of law, democracy and good governance to enable robust implementation of AML/CFT regime
- ☐ Need for adequate resources (technical assistance and financial) for the effective implementation of AML/CFT measures;
- ☐ Need to continuously improve and sustain cooperation and coordination at the national, regional and international levels

Recommendations/Way forward

- ❑ Need to understand the implication of ML/TF on economic management – especially the issue of corruption
- ❑ All stakeholders must be carried along in each country for comprehensive and effective coverage and implementation of measures.

Conclusion

- AML/CFT is a task that must be done, and must be done by all! Everyone has one role or the other to play, let us all work together for a better and safe society. Let's Enact the Laws, then we can enforce them.

ALWAYS REMEMBER:

**IN A LAWLESS SOCIETY IT IS CRIMINAL TO
BE LAW ABIDING!**

**THANK YOU FOR
LISTENING**