



Anti-money laundering and counter-terrorist financing measures

Benin

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

Follow-up Report



JUNE 2023

2nd Enhanced Follow up report of Benin

I. INTRODUCTION

1. The Mutual Evaluation Report of Benin was discussed and adopted by the 35th GIABA Technical Commission/Plenary Meeting in May 2021. The country was rated Low on all 11 I.Os relating to the effectiveness of its AML/CFT system and had more than eight (8) Recommendations rated NC/PC . Thus, in compliance with the GIABA Process and Procedures for the second round of mutual evaluations (August 2020), Benin was placed under the enhanced follow up regime.
2. This FUR analyses Benin's progress in meeting the requirements of the Technical Compliance provided for in recommendations 6 and 7 subject to re-rating. A re-rating of Technical Compliance is granted when sufficient progress has been made. Also, the report analyses Benin's technical compliance with FATF Recommendation 15, which has been revised since the adoption of the MER.
3. This FUR does not provide any analysis on the progress made by Benin with regard to the effectiveness of its AML/CFT system.
4. The analysis of the request for re-rating of its Technical Compliance requested by Benin and the preparation of the report were made by Mr. Cyprien DABIRE of Burkina Faso, an ECG Expert, with the support of Mr. Madické NIANG of the GIABA Secretariat.

II. OUTCOMES OF THE MUTUAL EVALUATION REPORT (MER)

5. The ratings obtained by Benin following the adoption of its MER in May 2021 are summarized in the table below.

Table 1: Benin TC rating at MER adoption

R.1	R.2	R.3	R.4	R.5
LC (MER 2021)	LC (MER 2021)	LC (MER 2021)	PC (MER 2021)	PC (MER2021)
R.6	R.7	A.8 .	R.9	R.10
PC (MER 2021)	PC (MER 2021)	NC (MER2021)	C (MER2021)	PC (MER 2021)
R11	R.12	R.13	R.14	R.15
LC (MER 2021)	PC (MER 2021)	LC MER 2021)	PC (MER2021)	C (MER2021)
R.16	R.17	R.18	R.19	R 20
PC (MER2021)	LC (MER2021)	LC (MER 2021)	NC (MER 2021)	PC (MER 2021)
R.21	R 22	R.23	R.24	R : 25
C (MER2021)	PC (MER2021)	PC (MER2021)	NC (MER 2021)	NC (MER2021)
R-26	R-27	R-28	R. 29	R=30
PC (MER2021)	C (MER2021)	NC (MER 2021)	C (MER 2021)	C (MER 2021)
R 31	R 32	R 33	R 34	R.35
C (MER 2021)	PC (MER2021)	LC (MER 2021)	PC (MER 2021)	LC MER 2021)
R. 36	R-37	R-38	R. 39	R = 40
LC (MER 2021)	C (MER 2021)	LC (MER 2021)	LC (MER 2021)	LC (MER 2021)

III.OVERVIEW OF PROGRESS MADE IN IMPROVING TECHNICAL COMPLIANCE

4.1. Overview of progress made in addressing gaps identified in the MER

6. After the adoption of its first follow-up report in May-June 2022, Benin continued to take measures to resolve the deficiencies identified in its MER and improve compliance with the various Recommendations and effectiveness under the Immediate Outcomes. The measures fully implemented include:

- i. The development and adoption by the Cabinet on 1st June 2022 of an Action Plan designed to implement the recommendations of the MER. Part of the requisite budget for its implementation has been made available to the FIU;
- ii. The development and adoption of three (3) Guidelines for Notaries, Lawyers and Chartered Accountants (R.34);
- iii. Decree No.2022-350 of 22nd June 2022 and Order No.2022-2102 MEF/DC/SGM/SP164SGG22 of 1st September 2022, issued to establish the mandate, organization and functioning of the National Committee for the Coordination of AML/CFT Activities, and the appointment of its members respectively;
- iv. Decree No.2022-352 of 22nd June 2022 on the mandate, organization and functioning of the FIU which resolves the deficiencies of the former Decree;
- v. The establishment of the National Agency for the Recovery of Seized and Confiscated Assets by Decree No. 2022-563 of 12th October 2022; and a series of training programs for Notaries, Lawyers and Chartered Accountants. These actions are designed to improve compliance with Recommendations 1, 4, 22, 23, 28, 29, 34, 38.

7. During the period under review, the country initiated deliberations on the assessment of terrorist financing (TF) risks as well as sectoral risk assessments for the real estate (ML/TF) and NPOs (TF) sectors. These exercises were designed to improve compliance with Recommendations 1, 8 and 22. Benin has also initiated the drafting of administrative texts to regulate the range of sanctions applicable to AML/CFT as well as the designation of supervisory/regulatory authorities in the real estate and gambling sectors. These draft texts are intended to improve compliance with Recommendations 35 and 28. In the same vein, Benin has initiated the review of the Penal Code and Code of Criminal Procedures to resolve the deficiencies in the criminalization of TF and systematize parallel investigations, respectively.

3.2. Analysis of progress made in addressing gaps under Recommendations 6, 7 and 15.

8. Following the efforts made by Benin to improve the technical compliance of its AML/CFT system, the country requested for a re-rating of the ratings of Recommendations 6 and 7. This section is devoted to the analysis of progress made in addressing the technical compliance deficiencies under Recommendations 6 and 7. A similar analysis will also be done for compliance with Recommendation 15, which was amended after the adoption of the MER.

4.2.1. Recommendation 6 (initially rated PC)

9. In the MER adopted at the end of the 2nd round of mutual evaluation of its AML/CFT system, Benin was rated PC under Recommendation 6. This is due to the absence of multiple factors including:

- (i)
 - i. Mechanisms for identifying targets to be designated in accordance with the designation criteria set out in relevant UNSC Resolution 1267;

- ii. Evidentiary standards for determining whether or not to designate;
 - iii. Standard procedures and forms for listing; and
 - iv. Information requirements for listing and related matters under the United Nations Sanctions Regimes. Under Resolution 1373, Benin does not have specific procedures for identifying targets. The standard of proof for designation applies only to applications from other countries and Benin has no legal provision that requires other countries to give effect to the actions it undertakes; there is no specific provision to gather information to facilitate designation; the freezing measures provided for by law do not apply to funds and other assets of persons and entities acting on behalf of or at the directives of designated persons or entities; the lack of authority, procedure or mechanisms to act ex parte when considering a proposal to designate an identified person or entity; the obligation to report attempted transactions is limited to requests for wire transfers; the prohibition on making funds available to designated persons applies only to reporting entities. Benin does not have publicly known procedures for review requests; there is no mechanism for communicating de-listing and guidelines on obligation to comply with unfreezing measures.
10. **Criteria 6.1 [Met]**
11. **Criteria 6.1 a & b [Met]** See 2021 MER.
12. **Criterion 6.1.c [Met]** Benin applies evidentiary criteria based on “reasonable grounds or bases” on whether or not to propose a designation for inclusion in the lists of TFS, under Resolutions 1267 and 1989, Resolution 1988 and subsequent Resolutions (Article 5 Al.1 indent 3 of Decree No. 2022 – 351 of 22 June 2022 on the regime for the implementation of Targeted Financial Sanctions related to terrorist financing the proliferation of weapons of mass destruction). These 'reasonable grounds or bases' are defined under Article 1 (4) of that Decree. Proposals for designation are authorized in the absence of investigation, prosecution or criminal conviction (Article 6, Al.1 of the Decree).
13. **Criterion 6.1.d [Met]** Under Article 6 A1.1 indents 1 and 2 of Decree No. 2022 - 351 of 22nd June 2022 establishing the regime for the implementation of targeted financial sanctions related to terrorist financing and the proliferation of weapons of mass destruction, proposals for addition to the United Nations list and designations in the national list, must follow the applicable procedures and use the standard registration forms. The absence of a national list does not prevent the implementation from being assessed without delay, where necessary, in the light of the process outlined in the aforementioned Decree.
14. **Criterion 6.1.e [Met]** Article 1 (4) and Article 6 Al.1 indents 3, 4 and 5 of Decree No. 2022 - 351 of 22 June 2022 on the regime for the implementation of targeted financial sanctions related to the financing of terrorism and the proliferation of weapons of mass destruction, define and provide that proposals for addition to the United Nations list and designations in the national list must provide as much relevant information as possible on the proposed person or entity, provide a presentation with as much detail as possible on the basis or reasonable grounds for listing and specify whether Benin's status as a depositing State can be known in the event of a proposal for names to the 1267/1989 Committee.
15. **Criteria 6.2 [Met]**
16. **Criterion 6.2.a [Met]** See 2021 MER. No deficiency was identified in the MER and the situation remained unchanged.
17. **Criterion 6.2.b [Met]** The mechanism established by Benin is comprises the Authority in charge of Administrative Freezing (Minister of Finance) which has the responsibility to collect or solicit information

in order to identify persons or entities that meet the criteria for designation as established under the United Nations Security Council Resolutions (5 Al.1 indent 2 of Decree No. 2022 - 351 of 22nd June 2022 establishing the regime for the implementation of targeted financial sanctions related to terrorist financing and the proliferation of weapons of mass destruction) and; the Consultative Commission on Administrative Freezing (CCGA), the technical body under the Ministry, to which it proffers recommendations. The CCGA collects from other national competent authorities and requests, through the competent authority, foreign competent authorities, any information necessary for the proper identification of the natural or legal persons concerned by the freezing request in order to facilitate the implementation of the freezing measure by FIs and DNFBPs. For the performance of its task, the Commission may use any source of information it deems useful (Art.9 of the Decree). Under the same Article, the Competent Authority has the power to give effect to requests from other countries within the framework of their freezing mechanism (Art.5 indent 9 of Decree 2022-351).

18. **Criterion 6.2.c [Met]** The Freezing Authority receives, reviews and gives effect without delay and without prior notification to requests for inclusion of persons/entities on the national list initiated by other countries, where there are reasonable grounds to suspect or believe that a natural or legal person is carrying out terrorist acts, financing terrorism or a terrorist organization (Art.5.AI.1, indent 9). In the same vein, the Advisory Commission on Administrative Freezing receives and reviews duly substantiated requests for freezing (on reasonable grounds) from the Ministers of Defence, Security, Justice and Foreign Affairs, as well as from intelligence officials or from other countries, and gives effect without delay and without prior notification to the request for administrative freezing (within or from another country) where there are reasonable grounds to suspect or believe that a natural or legal person is carrying out terrorist acts, financing terrorism or a terrorist organization, or carrying out or financing acts of proliferation of weapons of mass destruction (art. 8, para.1 indents 2, 3, 4 and 5 Decree 2022-351).

19. **Criterion 6.2.d [Met]** The Administrative Freezing Authority is responsible for proposing, on reasonable grounds, on its own initiative or on the recommendation of other relevant authorities, in particular the Ministries of Defence, Security, Justice and Foreign Affairs and the intelligence services, the persons or entities identified by the competent bodies of the United Nations, through the Minister for Foreign Affairs, for inclusion in the list of persons, entities, groups and communities subject to targeted financial sanctions in accordance with Resolutions 1267 and 1989, Resolution 1988 and subsequent Resolutions (cf. Article 5 Al. 1 indent 3 – Decree No. 2022 - 351 of 22 June 2022) and the Advisory Commission on Administrative Freezing receives and reviews the said duly motivated and without prior notification whenever there are reasonable grounds to suspect or believe that a natural or legal person is carrying out terrorist acts, financing terrorism or a terrorist organization, or carrying out or financing acts of proliferation of weapons of mass destruction (cf. Article 5 Al. 1 indents 5 and 9 and Article 8 Al. 1 indents 2, 3, 4 and 5 – Decree No. 2022 - 351 of 22nd June 2022). Such designations are not subject to the existence of any criminal proceedings. (cf. Article 6 Al. 1 – Decree No. 2022 - 351 of 22 June 2022).

20. **Criterion 6.2.e [Met]** The Administrative Freezing Authority has the responsibility to support as far as possible the designation of specific information, identification and information. The Advisory Commission on Administrative Freezing may collect from other national competent authorities and request, through the competent authority, from foreign competent authorities any information necessary for the proper identification of the natural or legal persons concerned by the request for freezing in order to facilitate the implementation of the freezing measure (Art.9 para. 1 Decree No. 2022 - 351 of 22 June 2022). Persons/entities on the national list are retained on reasonable grounds and meet the criteria for designation under Resolution 1373 (Art.5.AI.1, indent 10; Art.5.AI.1, indent 5 of Decree No. 2022 - 351 of 22nd June 2022).

21. **Criterion 6.3[Met]** No deficiency was identified in the MER and the situation remains unchanged.t

22. **Criterion 6.3.a [Met]** The Administrative Freezing Authority is responsible for collecting or soliciting information in order to identify persons or entities that meet the criteria for designation as outlined in the relevant UN Security Council resolutions; as well as proposing persons/entities on reasonable grounds (Art.5 paragraph 1 c) 1, indents 2 and 3 of Decree No. 2022 - 351 of 22nd June 2022).

23. **Criterion 6.3.b [Met]** The decision to designate shall be taken without prior notification to the persons or entities covered by the measure (art.16 of Decree No. 2022 - 351 of 22 June 2022). Thus, the legal mechanism for the application of the TFSs in Benin provides for *ex parte* intervention following requests received (Art.6, paragraph2 of Decree No. 2022 - 351 of 22 June 2022).

24. **Criterion 6.4 [Met] See 2021 MER.** No deficiency was identified in the MER and the situation remained unchanged. Also, Decree 2022-351 reinforces the freezing of funds and other assets of designated persons without delay. The concept “without delay” means a few hours following the designation made by the competent bodies of the United Nations; and means as soon as there are reasonable grounds, a basis or a reasonable foundation to suspect or believe that a person or entity is a terrorist, a terrorist organization or finances terrorism within the framework of Resolution 1373 (See. Article 1, indent 13 of Decree 2022-351). Indeed, with regard to the UNSCR 1267 lists, the Minister of Finance, which is the Competent Authority, notifies the lists and updates to the reporting entities who are required to freeze the assets of the designated persons without delay. With regard to UNSCR 1373, when a designation is made on the national list on the initiative of Benin or at the request of a third country, the Minister of Finance immediately takes a decision to freeze the assets of the designated person and notify this decision to the reporting entities. The lack of a national list does not prevent the assessment of the implementation without delay, where necessary, in the light of the process outlined in the aforementioned Decree.

25. **Criterion 6.5 [Mostly Met]**

26. **Criterion 6.5(a) [Met] See 2021 MER.** No deficiency was identified in the MER and therefore the situation remains unchanged.

27. **Criterion 6.5.b [Met]** Benin has provided that the freezing measure applies to all funds, other financial resources and other assets owned, possessed or held wholly or jointly, directly or indirectly by the persons or entities concerned and not only those that can be linked any act, conspiracy or terrorism threat. It also applies to funds, other financial resources and other property derived from or generated by funds or other property owned or controlled directly or indirectly by the persons or entities concerned (Art.1 indent 13 and Art. 19 of Decree No. 2022 - 351 of 22nd June 2022). The freezing measure is extended to the funds and other property of persons and entities acting on behalf of or at the direction of designated persons or entities (Art. 24 para.1, indent 3).

28. **Criterion 6.5.c [Met]** Unless otherwise licensed, authorized or notified by the Competent Authority, in accordance with United Nations Security Council Resolutions, FIs, DNFBPs or any other person or entity within the national territory, it is prohibited to make funds, other financial resources and other property and other property or financial or related services, directly or indirectly, wholly or jointly available to designated persons or entities, entities owned or controlled, directly or indirectly, by designated persons or entities, persons and entities acting on behalf of or at the direction of designated persons or entities (Art.24 of Decree No.2022-351 of 22nd June 2022).

29. **Criterion 6.5.d [Mostly Met] Reporting mechanism:** Under the responsibility of the Administrative Freezing Authority, the Advisory Committee on Administrative Freezing (CCGA) notifies, without delay, the administrative freezing order to FIs, DNFBPs and any other person likely to hold funds, property and other financial resources belonging to persons and entities covered by TFS. The CCGA publishes in the

official Gazette or in a legal notice Gazette and on the website of the Ministry of Finance, the updated list of persons and entities affected by an administrative freezing order (Article 5 PARA. 1 indent 1, Art.21 of Decree No.2022-351). The CCGA ensures that FIs, DNFBPs or any other natural or legal person concerned are informed immediately of the list of targeted financial sanctions and have frozen without delay and without prior notification the funds, other financial resources and other property belonging to the designated persons or entities (see Article 8 PARA. 1 indent 1 of Decree No.2022-351). Similarly, the administrative freezing order issued by the Competent Authority shall be published in the official gazette or in a Legal News Bulletin.

30. *Developing freezing guidelines: the CCGA has the authority to develop and publish freezing guidelines for FIs, DNFBPs and any other natural or legal person or entity that may hold funds or other subject property with respect to their obligations regarding freezing shares (Article 8 Al. 1 indent 11). However, Benin has not reported on the publication of such guidelines developed by the CCGA. Although Decree 2022-351 contains directives for reporting entities, the lack of comprehensive guidelines in this regard, provided by Benin, is a minor deficiency to be resolved.*

31. **Criterion 6.5.e [Met]** The Advisory Commission on Administrative Freezing requires financial institutions, designated non-financial businesses and professions and other reporting entities to report to it the amount and type of funds and to have been frozen, as well as the date and time of the freezing and all measures taken in accordance with the prohibitions laid down by the relevant United Nations Security Council Resolutions, including measures taken in respect of attempted transactions (cf. Article 8 Al. 1 indent 13 and Art.23 of Decree No. 2022 – 351of 22 June 2022).

32. **Criteria 6.5 f [Met] See MER 2021:** No deficiencies were identified in the MER, and the situation remains unchanged. Article 26 of Decree 2022-351 stipulates that no action for civil or criminal liability may be brought against bona fide third parties who meet their obligation.

33. **Criterion 6.6 [Mostly Met]**

34. **Criterion 6.6.a [Met]** With regard to requests for withdrawal/removal from the sanction lists of the competent UN Committees: Where the challenge relates to a decision pursuant to a UNSCR, the request complies with the measure provided for by the UNSCR (Article 27 AI3 of Decree No.2022-351). Article 33 of the said Decree No.2022-351 specifies that where the designation criteria are no longer or not applicable, the request is submitted either to the Office of the Ombudsman or to the focal point or to the Competent Authority itself which will transmit to the Ombudsman within eight(8) days. Applications to be submitted must be accompanied by the necessary supporting information and documents.

35. It is the responsibility of the CCGA to make available to the public the procedure for requesting withdrawal/delisting (Art.8, indent 11). This procedure is deemed to be known to the public as soon as Decree No. 2022-351 has been published in the Official Gazette (No.23 bis Special Issue of December 7, 2022).

36. **Criterion 6.6.b [Partly Met]** With regard to requests for withdrawal/deletion from the national list established under UNSCR 1373 (national list): The procedure to be followed is established in Article 32 of Decree No.2022-351 which provides that the request accompanied by all supporting documents shall be sent to the competent authority which, after consulting the CCGA in charge of the investigation within eight (8) days, shall take a decision. The Competent Authority shall issue its decision within 15 days of receipt of the CCGA report. However, the measure only applies to persons or entities registered in error. It does not cover persons and entities who do not meet the designation criteria, under UNSCR 1373.

37. Furthermore, it is the CCGA's responsibility to make available to the public the procedure for requesting withdrawal/delisting (Art.8, indent 11). This procedure is deemed to be known to the public as soon as Decree No. 2022-351 has been published in the Official Gazette (Official Gazette No.23 bis Special Issue of 7th December 2022).

38. **Criterion 6.6.c [Met]** Article 20 of DECREE No. 2022-351 provides that the administrative freezing decision may be challenged from the date of its publication. Any person may file a lawsuit at any court for administrative freezing (Article 27 Decree No.2022-351). Furthermore, Article 34 of Decree No. 2022-351 provides that the administrative freezing measure shall be maintained for as long as a decision to withdraw from the lists or a court decision, which has become final, has not been taken.

39. **Criterion 6.6.d [Met]** The appeal against any administrative freezing decision taken pursuant to a UNSCR must comply with the appropriate procedure provided for by UNSCR In this context, Article 33 of Decree No.2022-351 provides that the persons and entities designated on the 1988 Committee's sanctions list submit their withdrawal/de-listing request to the focal point Applications should be accompanied by the necessary supporting information and documents.

40. **Criterion 6.6.e [Met]** In the implementation of procedures to inform individuals and entities designated on the Al-Qaeda sanctions list, which the Office of the United Nations Ombudsperson may receive de-listing requests in accordance with Resolutions 1904, 1989 and 2083, Article 33 of Decree No.2022-351 provides that the said designated persons and entities must contact the Office of the Ombudsman However, this provision of the aforementioned decree provides, in the event of an appeal against any administrative freezing decision in accordance with the UNSCR, the possibility for the appellant to comply with the appropriate procedure provided for by the UNSCR, instead and place for Benin to have a procedure to inform individuals and entities designated on the Al-Qaida Sanctions List of the availability of the UN Ombudsperson's Office to accept de-listing requests.

41. **Criteria 6.6.f. [Met]** No deficiency was identified in the MER and the situation remains unchanged. Also, Article 28 (3) of Decree 2022-351 covers the criterion.

42. **Criterion 6.6.g [Mostly Met]** With regard to de-listing pursuant to UNSCR 1373, the decision of the Competent Authority is notified without delay to the applicant, FIs, DNFBPs and any other person or entity likely to hold funds, other financial resources and other property belonging to the applicant. Also, the decision is published in the Official Gazette or in a newspaper of legal announcements (art.32 of Decree 2022-351). It is not clear whether this measure also covers the case of a freezing decision.

43. For sanctions under UN Committees 1267/1989, 1988: The dissemination without delay of updated UNSCR lists to FIs and DNFBPs takes into account de-listing and unfreezing decisions (purged lists).

44. The development and publication of guidelines for FIs and DNFBPs on their obligations regarding de-listing and unfreezing actions is the responsibility of the CCGA (Art.8, A11 point 11). However, Benin did not provide the said guidelines. This deficiency is a minor gap (See c6.5d above).

45. **Criterion 6.7 [Met]** Under Resolution 1373, the Minister of Finance may, under such conditions as he deems appropriate, authorize the person, organization or entity that has been frozen, at his request, to dispose monthly of a sum of money, set by the said authority. This sum is intended to cover, within the limits of availability, for a natural person, the running costs of the family home or, for a legal person, costs enabling him to pursue an activity compatible with the requirements of public policy. This amount may also cover legal aid costs or exceptional expenses. In any case, the costs must be justified in advance.

(Article 103 of the AML/CFT Act; Article 11 of the Freezing Decree and Article 29.AI.1 of Decree 2022-351 of 22nd June 2022).

46. With regard to the United Nations sanctions lists, Benin has also made provision for individuals and entities to have access to funds, other financial resources and frozen property to cover basic expenses and exceptional expenses, after consultation and receipt of a notice of non-objection from the competent organ of the United Nations (Article 29, para.2 of Decree 2022-351 of 22nd June 2022).

Weighting and Conclusion

47. Benin has met to a very large extent the requirements of the applicable targeted financial sanctions (TFS) measures relating to the financing of terrorism. However, the country has not yet developed and published any guidelines for FIs, DNFBPs and any other natural or legal person or entity that may hold covered funds or other assets, with respect to their obligations regarding freezing, unfreezing, and de-listing measures. Benin's lack of comprehensive guidelines in this regard is mitigated by the directives for reporting entities contained in Decree 2022-351. Also, the ability to request removal from the national list is limited to persons and entities designated in error. These aspects constitute a minor gap in Benin's TFS enforcement mechanism.

48. **In the light of the foregoing, Recommendation 6 is re-rated Largely Compliant (LC).**

4.2.2. Recommendation 7 (initially rated PC)

49. In the MER adopted after the 2nd round of mutual evaluation of its AML/CFT system, Benin was rated PC under Recommendation 7. This is due to the following deficiencies: There is no mechanism for communicating designations to DNFBPs; the country does not provide information on the issuance of clear guidance, in particular to financial institutions and other persons and entities, including DNFBPs, that may hold relevant funds and other assets, regarding their obligations under the freezing mechanisms; the obligation to report attempted transactions is limited in scope as it does not cover DNFBPs and other entities; there are no measures designed to monitor compliance by FIs and DNFBs with the provisions of the AML/CFT Act governing the obligation under Recommendation 7; the AML/CFT Act does not provide for civil, administrative or criminal sanctions for non-compliance with the obligations under Recommendation 7.

50. **Criterion 7.1 [Met]** Benin has adopted a regime for the implementation, without delay, of TFS related to the financing of proliferation, in application of the UNSCRs taken under Chapter 7 of the Charter of the United Nations (Decree No. 2022 - 351 of 22nd June 2022 establishing the regime for the implementation of targeted financial sanctions related to terrorist financing and the proliferation of weapons of mass destruction). The expression "without delay" is defined under Article 1 of the said Decree (see c.6.4 above).

51. **Criterion 7.2. [Mostly Met]**

52. **Criterion 7.2.a [Met]** Same as in MER. No deficiency was identified in the MER and the situation remained unchanged.

53. **Criterion 7.2.b [Met]** In the legal framework of Benin, the obligation to freeze covers all funds, property, other economic and financial resources covered by criteria c.7.b (See Article 1 points 8,9 and Article 19 of Decree No. 2022 - 351 of 22nd June 2022 on the regime for the implementation of targeted financial sanctions related to the financing of terrorism and the proliferation of weapons of mass destruction).

54. **Criterion 7.2.c [Met]** Articles 24 Al.1 and 25 of Decree No. 2022 - 351 of 22nd June 2022 establishing the implementation regime of targeted financial sanctions related to the financing of terrorism and the proliferation of weapons of mass destruction, provide that funds or other property may not be made available by Beninese or by any person or entity on their territory, from or for the benefit of designated persons or entities unless licensed, authorized, or notified otherwise by the competent authority, in accordance with the relevant Security Council Resolutions.

55. **Criterion 7.2.d [Mostly Met]** Reporting mechanism: Under the responsibility of the Administrative Freezing Authority, the Advisory Committee on Administrative Freezing (CCGA) shall notify, without delay, the administrative freezing order to FIs, DNFBPs and any other person likely to hold funds, property and other financial resources belonging to persons and entities covered by TFSs. The CCGA publishes in the official gazette or in a legal notice gazette and on the website of the Ministry of Finance, the updated list of persons and entities affected by an administrative freezing order (Article 5 Para. 1 indent 1, Art.21 of Decree No.2022-351). The CCGA ensures that FIs, DNFBPs or any other natural or legal person concerned are informed immediately of the list of targeted financial sanctions (see Article 8 PARA. 1 indent 1 of Decree No.2022-351).

56. *Provision of freezing guidelines: the CCGA has the authority to develop and publish freezing guidelines for FIs, DNFBPs and any other natural or legal person or entity that may hold funds or other covered assets, with respect to their obligations under the freezing mechanisms (Article 8 Al. 1 indent 11). However, Benin has not reported on the publication of such guidelines developed by the CCGA.*

57. **Criterion 7.2.e [Met]** The Advisory Commission on Administrative Freezing requires financial institutions, designated non-financial corporations and professions and other reporting entities to report to it the amount and type of funds that have been frozen or unfrozen, as well as the date and time of the freezing or unfreezing and all measures taken in accordance with the prohibitions laid down by the relevant resolutions of the United Nations Security Council, including measures taken in respect of attempted transactions (cf. Article 8 Al. 1 indent 13, Decree No. 2022 – 351of 22nd June 2022).

58. The same obligations are imposed on them when they hold or receive funds, other financial resources and other property on behalf of a client subject to a freezing order (Art.23 of the same Decree).

59. **Criteria 7.2.f [Met] See MER 2021:** No deficiencies were identified in the MER, and the situation remains unchanged. Also, Article 26 of Decree 2022-351 covers this criterion well: “No action in civil or criminal liability can be brought against them”.

60. **Criterion 7.3 [Partly Met]** The CCGA has the prerogative to ensure the immediate implementation, by FIs, DNFBPs and public authorities or other persons and entities concerned, of the planned freezing measures (Art.8 paragraph 4 1 indent 12).

61. In the event of non-compliance with the obligations relating to targeted financial sanctions (TFS) in relation to proliferation financing (PF), Article 25 refers to the application of the administrative and disciplinary sanctions provided for in Article 112 of the AML/CFT Uniform Law or the criminal sanctions provided for under Articles 119 to 123 of the AML/CFT Uniform Law. However, the relevant provisions do not provide for violation of PF obligations. Benin is in the process of designating DNFBP supervisory/monitoring authorities (ongoing project at the time of submission of the FUR by Benin). In this case, the sanctions provided for cannot be applied in the absence of any Supervisory and Monitoring Authority.

62. **Criterion 7.4. [Mostly Met]**

63. **Criterion 7.4.a [Met]** The legal regime for the implementation of the TFS of Benin allows designated persons and entities to challenge the decision taken under the UNSCRs, in accordance with the procedure provided for under the relevant UNSCRs (Art.27 LL3). It is expected that the withdrawal or cancellation request, together with supporting information and documentation, will be sent to the focal point or to the Competent Authority which will transmit same to the focal point within eight (08) days.

64. **Criterion 7.4.b [Met]** In the case of a “false positive”, the provisions of Articles 27 and 28 of Decree No.2022-351 provide the procedures to be followed for the release of funds and other property. The procedures are deemed to be known to the public as soon as Decree No.2022-351 is published in the Official Gazette.

65. **Criterion 7.4.c [Met] See MER 2021**

66. **Criterion 7.4.d [Mostly Met]** Benin has provided for procedures concerning the communication of de-listing and unfreezing decisions to FIs and DNFbps (see Article 8 Al.1 indent 11 to 14 and Articles 32, 33 and 34 of Decree No. 2022 - 351 of 22nd June 2022).

67. At national level, the withdrawal decision taken by the Competent Authority shall be notified without delay to the applicant, FIs, DNFbps and any other person or entity likely to hold funds, other financial resources and other property belonging to the applicant. Also, the decision is published in the Official Gazette for legal announcements and on the website of the ministry in charge of finance (art.32 of Decree 2022-351). It is not clear whether this measure also covers the case of a freezing decision.

68. For decisions taken by the competent UN bodies: The immediate communication to FIs and DNFbps of updated lists under UNSCRs (Article 5 Al.1 indent 1, Art.21 of Decree No.2022-351) takes into account de-listing and unfreezing decisions (purged lists).

69. The development and publication of guidelines for FIs and DNFbps on their obligations under the freezing, unfreezing, listing and de-listing of persons and entities is the responsibility of the CCGA (Art.8, Al1 point 11). However, Benin is yet to provide such guidelines. This deficiency is a minor gap (see 6.5d).

70. **Criterion 7.5.[Met]**

71. **Criterion 7.5.a [Met]** Same as in MER.

72. **Criterion 7.5.b [Met]** The measures provided for by Benin under Article 31 of Decree No. 2022 - 351 of 22 June 2022 on the regime for the implementation of targeted financial sanctions related to the financing of terrorism and the proliferation of weapons of mass destruction, meet the requirements of sub-criteria (i), (ii), and (iii) of criterion 7.5 b.

Weighting and conclusion

73. Benin has made progress on its TFS related to PF. However, there are minor outstanding deficiencies, including: (a) Benin has not defined any specific sanction measure for violation of TFS obligations related to Proliferation Financing (PF); the country is yet to designate the DNFbp supervisory authorities; (b) the non-publication of guidelines to FIs and DNFbps on their obligations concerning freezing, de-listing and unfreezing actions.

74. **In the light of the foregoing, Recommendation 7 is re-rated as Largely Compliant (LC).**

Recommendation 15 (initially rated C)

75. In the MER adopted in the framework of 2nd round of mutual evaluation of its AML/CFT system, Benin was rated compliant (C) on Recommendation 15. Benin's AML/CFT system meets all the requirements for new technologies. However, Recommendation 15 was amended after the adoption of theme. Therefore, this analysis is devoted to Benin's compliance with the new requirements of Recommendation 15.

76. **Criterion 15.1 [Met]** See 2021 MER.

77. **Criterion 15.2 [Met]** See 2021 MER.

78. **Criteria 15.3 [Not Met]**

79. **Criterion 15.3.a [Not Met]** Benin has not identified or assessed ML/TF risks arising from Virtual Asset (VA) activities and Virtual Asset Service Provider (VASP) activities or operations.

80. **Criterion 15.3.b [Not Met]** In the absence of an assessment of ML/TF risks arising from VA activities and VASP activities or operations, there has been no risk-based approach to mitigate planning.

81. **Criterion 15.3.c [Not Met]** There are no provisions in place requiring VASPs to take appropriate measures to identify, assess, manage and mitigate their ML/TF risks, in accordance with criteria 1.10 and 1.11.

82. **Critère 15.4 [Not Met]**

83. **Criterion 15.4.a [Not Met]** No measure is provided by Benin to approve or register a VASPs, (i) whether it is a legal person or (ii) a natural person.

84. **Criterion 15.4.b [Not Met]** No legal or regulatory measures are taken by the competent authorities in Benin to prevent criminals or their associates from owning, or being the beneficial owner of, a significant or controlling interest in, or holding a management position in a VASP.

85. **Criterion 15.5 [Not Met]** No measure has been taken by Benin to identify natural or legal persons who carry out VASP activities without being licensed or registered as required, and to mete out appropriate sanctions on them.

86. **Criterion 15.6 [Not Met]**

87. **Criterion 15.6.a [Not Met]** VASPs are not subject to any regulation, monitoring and supervision by any competent authority using a risk-based approach, including supervisory systems designed to ensure they comply with national AML/CFT obligations.

88. **Criterion 15.6.b [Not Met]** No authority has been designated by Benin that is empowered to monitor and supervise VASPs to comply with their AML/CFT obligations, or to carry out inspection missions or mete out sanctions.

89. **Criterion 15.7 [Not Met]** There is no requirement for competent authorities and supervisory authorities to establish guidelines and provide feedback that will assist VASPs in the implementation of national AML/CFT measures, particularly in the detection and reporting of suspicious transactions.

- 90. **Criterion 15.8 [Not Met]**
- 91. **Criterion 15.8.a [Not Met]** No range of proportionate and dissuasive sanctions, whether criminal, civil or administrative in nature, are being meted out on VASPs that do not comply with their AML/CFT obligations.
- 92. **Criterion 15.8.b [Not Met]** There is no provision for sanctions to be meted out not only on VASPs, but also on members of the administrative body and senior management.
- 93. **Criterion 15.9 [Not Met]**
- 94. **Criterion 15.9.a [Not Met]** There is no requirement for VASPs to conduct due diligence on occasional transactions above the US\$/EUR 1000 threshold.
- 95. **Criterion 15.9.b [Not Met]** Since VASPs are not regulated in Benin, there are no legal or regulatory provisions obliging them to comply with AML/CFT obligations or the preventive measures set out in sub criteria (i), (ii), (iii) and (iv).
- 96. **Criterion 15.10 [Not Met]** There is no legal or regulatory instrument in Benin to ensure that the mechanisms for communicating designations and reporting and monitoring obligations under criteria 6.5(d), 6.5(e), 6.6(g), 7.2(d), 7.2(e), 7.3 and 7.4(d) with respect to targeted financial sanctions are applied to VASPs.
- 97. **Criterion 15.11 [Not Met]** There is no measure to enable Benin to rapidly provide the widest range of possible international cooperation under ML, TF and associated predicate offences with regard to virtual assets. Since there is no supervisory authority for VASPs, there is no legal basis for exchanging information with their foreign counterparts, regardless of their nature or status and differences in nomenclature or status of VASPs.

Weighting and Conclusion

98. Benin has not carried out any risk assessment of VA/VASPs. Also, no legal instrument has been adopted by Benin designed to regulate VA and VASP activities. Benin's system has significant deficiencies in terms of compliance with Recommendation 15.

99. **In the light of the foregoing, Recommendation 15 is re-rated Non-Compliant (NC)**

IV.CONCLUSION




100. Benin has made significant progress in addressing the Technical Compliance deficiencies identified in its MER under Recommendations 6 and 7, notwithstanding the minor outstanding deficiencies.

101. In terms of re-rating, Benin is re-rated Largely Compliant (LC) on Recommendations 6 and 7. On the other hand, the country is rated Non-Compliant (NC) on Recommendation 15.

102. The progress made by Benin since the adoption of its MER, including its Technical Compliance with the FATF Recommendations, is summarized in the Table below, as at May 2023.

Table 2: Benin's TC rating as at its 2nd FUR (June 2023)

A.1	R.2	R.3	R.4	R.5
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LC (MER 2021) R.6	LC (MER 2021) R.7	LC (MER 2021) A.8.	PC (MER 2021) R.9	PC (MER 2021) R.10
PC (MER2021)  LC (2023 FUR)	PC (MER 2021)  LC (2023 FUR)	NC (MER 2021)	C (MER 2021)	PC (MER2021)
R.11	R.12	R.13	R.14	R.15
LC (MER 2021)	PC (MER 2021)	LC (MER2021)	PC (MER2021)	C (MER 2021)  NC (2023 FUR)
R.16	R.17	R.18	R.19	R.20
PC (MER 2021)	LC (MER 2021)	LC (MER 2021)	NC (MER 2021)	PC MER 2021)
R.21	R.22	R.23	R.24	R: 25
C (MER 2021)	PC (MER 2021)	PC (MER2021)	NC (MER 2021)	NC (MER 2021)
R-26	R-27	R-28	R.29	R=30
PC (MER 2021)	C (MER 2021)	NC (MER2021)	C (MER 2021)	C (MER2021)
R.31	R.32	R.33	R.34	R-35
C (MER 2021)	PC (MER2021)	LC (MER 2021)	PC (MER 2021)	LC (MER 2021)
R: 36	R-37	R-38	R.39	R = 40
LC (MER2021)	C (MER2021)	LC (MER 2021)	LC (MER 2021)	LC (MER 2021)

103. The Republic of Benin is rated NC/PC on 18 Recommendations including 3 Core Recommendations. Consequently, the country will be maintained under the enhanced follow up regime. Benin is expected to submit its next Enhanced Follow up Report in May 2024.



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JUNE 2023

Anti-money laundering and counter-terrorist financing measures in Benin

Follow-up Report & Technical Compliance Re-Rating

The report also looks at whether Benin measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2021.

Follow-up Report