



RISK ASSESSMENT OF LEGAL PERSONS AND ARRANGEMENTS IN GHANA

TABLE OF CONTENTS

ACRONYMS AND ABBREVIATIONS	iv
EXECUTIVE SUMMARY	vi
1.0 INTRODUCTION	1
2.0 BACKGROUND	1
3.0 METHODOLOGY	2
4.0 LIMITATIONS	3
5.0 THE REGISTRAR GENERAL'S DEPARTMENT	3
5.1 Legal Persons	3
5.2 Legal Arrangements	6
5.3 International Context for Legal Persons and Arrangements	6
5.4 Registration Process for Legal Persons	7
5.4.1 Registration of Partnership	7
5.4.2 Registration of Companies Limited & Unlimited by Shares and Limited by Guarantee	7
5.4.3 Registration of External Companies	8
5.4.4 Challenges confronting the Registration Process	8
5.4.5 Rejection of Application Forms	9
5.4.6 Beneficial Ownership Information on Legal Persons in Ghana	9
6.0 CORRUPTION	11
6.1 POLITICALLY EXPOSED PERSONS (PEPS)	13
7.0 MISUSE OF LEGAL PERSONS BY INDIVIDUALS (NATURAL PERSONS)	14
8.0 RISK FACTORS OF LEGAL PERSONS TO ML/TF	18
8.1 Cash-Based Economies	18
8.2 Non-Face-To-Face Relationships and Anonymity	18
9.0 ML/TF THREATS AND VULNERABILITIES OF LEGAL PERSONS IN GHANA	18
9.1 ML Threats	18
9.2 ML vulnerability	19
9.3 Overall ML Threats and vulnerability	19
9.4 TF Threat	19

9.5 TF vulnerabilities	19
10.0 ASSESSMENT OF THE SECTORS	20
10.1 Assessment of the Financial Sector	20
10.2 Assessment of the Gaming Sector	21
10.3 Assessment of the Extractive Sector	22
10.4 Assessment of the Real Estate Sector	23
10.5 Assessment of the Import and Export Sector (Dealers in motor vehicles)	24
10.6 Assessment of the Trust and Company Services Providers	25
11.0 FINDINGS	27
12.0 ACTIONS BEING TAKEN TO ADDRESS THE CHALLENGES	28
12.1 Legal Frame work	28
12.2 National Infrastructure	29
12.3 Awareness Creation	29
12.4 Law Enforcement and Judicial Measures	30
8.5 Fit and Proper Screening	30
9.0 RECOMMENDATIONS	31
10.0 CONCLUSION	32
REFERENCES	32
APPENDIX I	33
APPENDIX II	35

ACRONYMS AND ABBREVIATIONS

AML/CFT	:	Anti-Money Laundering / Countering the Financing of Terrorism
AMLRO	:	Anti-Money Laundering Reporting Officer
BO	:	Beneficial Ownership
CDD	:	Customer Due Diligence
CHRAJ	:	Commission on Human Right and Administrative Justice
DNFBP	:	Designated Non-Financial Business or Profession
EOCO	:	Economic and Organised Crime Office
FATF	:	Financial Action Task Force
FIC	:	Financial Intelligence Centre, Ghana
GDP	:	Gross Domestic Product
GIABA	:	Intergovernmental Action Group against Money Laundering in West Africa
GREDA	:	Ghana Real Estate Developers Association
KYC	:	Know Your Customer
LEAs	:	Law Enforcement Agencies
LPs	:	Legal Persons
ML	:	Money Laundering
NRA	:	National Risk Assessment
NPRA	:	National Pensions Regulatory Authority
NPOs	:	Non-Profit Organisations
ODS	:	Open Data Standard
PEPs	:	Politically Exposed Persons
RAET	:	Risk Assessment Excel Template
RBA	:	Risk based Approach
RGD	:	Registrar General's Department
SOP	:	Standard Operating Procedures

- STR : Suspicious Transaction Report
- TCSPs : Trust and Company Service Providers
- TF : Terrorist Financing
- TIN : Tax Identification Number
- UBO : Ultimate Beneficial Owner

EXECUTIVE SUMMARY

It is estimated that **US\$2.3 trillion** is lost to the global economy annually as a result of corruption. According to the Commission on Human Rights and Administrative Justice (CHRAJ), in Ghana, **GH¢ 13.5 billion** is lost to corruption each year (Myjoyonline, 2018). The Government of Ghana has recently taken significant steps to tackle the issue of corruption and illicit financial flows. This has led to the improvement of the country's legislations and has enabled authorities, business sector and Civil Society actors to prevent and in most cases uncover corrupt practices.

Ghana at the 2016 London Anti-Corruption Summit was one of the five sub-Saharan countries that made anti-corruption commitments. They include; setting up a Public Company Register and providing both domestic and foreign law enforcement bodies' full and effective access to Beneficial Ownership information on companies and other legal entities registered within their jurisdiction.

This report was carried out particularly to assess the Money Laundering (ML) and Terrorist Financing (TF) risk level of legal persons and arrangements in the country and also to assess the extent to which the country's legal framework on Beneficial Ownership (BO) and the preparedness of relevant institutions to promote and maintain BO disclosures and register. The Government has introduced a number of legislations and policies which includes Public Procurement and Financial Management Act, the Companies Amendment Act 1963 (Act 920) and the Right to Information Act, 2019. These legislative frameworks have instilled confidence in the citizenry regarding Government commitment to fight corruption. This has enabled Competent Authorities, LEAs, Private Sector and Civil Society actors to put in place adequate mechanisms to prevent and in some cases uncover corrupt practices.

The outcome of the risk assessment of legal persons and arrangements would enable the country put in place mitigation measures to prevent the abuse of legal persons through complex arrangements of corporate structures. The assessment considered a tool developed by the Risk Assessment Team (Risk Assessment Excel Template-RAET). All ratings and interpretations were arrived from the exercise undertaken.

The assessment considered the role of the Registrar General's Department (RGD) as the sole agency responsible for the registration of legal persons and natural persons. There is no legal regime in the country to register private Trusts. The assessment revealed that the RGD does not register Trusts in Ghana. However, the RGD registers Private and Public Companies Limited by Shares, Private and Public Companies Unlimited by Shares, External Companies, Incorporated Private Partnerships and Companies Limited by Guarantee. In terms of international business, it was revealed that some Ghanaians are used as fronts to incorporate thereby hiding the Ultimate Beneficial Owners of the entities incorporated.

The assessment on legal persons and arrangements was done in six sectors including the Financial Sector, Gaming Sector, Extractive Sector, Real Estate Sector, Import and Export sector (car dealerships) and Trust and Company Service Providers.

With regard to the Financial, Gaming and Extractive Sectors, there were moderate ratings of associated risks due to the fairly good corporate governance practices, effective regulation, effective implementation of policies and compliance with international standards. It was also revealed that the sectors conduct due diligence on their clients to obtain basic information. The risks associated with the Real Estate and Car Dealership sectors were Moderate. This was because the sectors had no legal framework and hence no regulation. However, Trust and Company Service Providers had a moderate rating because even though there is no legal framework for the sector, the number of players in the sector is not significant to pose a high risk. With the exception of the Extractive Sector, BO information is yet to be collected by the financial, Gaming, Real Estate, Car Dealership and Trust and Company Service Providers Sectors.

The report findings indicated that the RGD maintains a record of all businesses registered in the country since its inception in 1962. Records were originally kept in manual form. Re-registration of all legal persons started in 2011, where all entities were required to update their information into the electronic system. The RGD also maintains a register which contains basic information of all legal persons in the country. This Basic information is available to all especially competent authorities. Also, there was no information on trustees because the RGD is not mandated by law to register Trust. However, the law firms that operate as trustees on behalf of their clients conduct some form of due diligence on their clients in order to avoid the misuse of their services by criminals. Currently, the RGD is in the process of upgrading its software to have in place a Beneficial Ownership register on all legal persons in Ghana.

1.0 INTRODUCTION

Over the years, legal persons and arrangements (corporate vehicles) have gradually become avenues that are being misused for Money Laundering (ML) and Terrorist Financing (TF) purposes. Typologies suggest that some legal persons and arrangements registered in some part of the world are common conduits for ML/TF for which Ghana is not an exception. These entities are mostly used to hide proceeds of crime, conceal ownership and control and also prone to tax evasion. Studies by the Financial Action Task Force (FATF) in 2006 and 2010, and by the World Bank in 2011, have shown that the lack of adequate, accurate and timely beneficial ownership information on legal persons and arrangements in particular jurisdictions allow ML/TF to flourish in those jurisdictions. It is for this reason that the Financial Action Task Force (FATF) in its 40 Recommendations (2012) requires countries to put measures in place to ensure the transparency of legal persons and arrangements.

ML /TF are serious concerns for the international community and a major focus of the Financial Action Task Force (FATF), the Intergovernmental Action Group against Money Laundering in West Africa (GIABA) and the Financial Intelligence Centre, Ghana. According to the Anti-Money Laundering Act, 2008 (Act 749), as amended, “a person commits an offence of money laundering if the person knows or ought to have known that property is or forms part of the proceeds of unlawful activity and the person (a) converts, conceals, disguises or transfers the property, (b) conceals or disguises the unlawful origin of the property, or (c) acquires, uses or takes possession of the property. Also, Terrorist Financing involves providing finance or financial support to individual terrorists or non-state actors. Both ML/TF have negative impact on a country’s financial system if not tackled with rapt attention. It has therefore been the aim of the international community to protect the integrity and stability of the international financial system by cutting off the resources available to money launderers and terrorist financiers and making it more difficult for those engaged in crime to profit from their criminal activities.

2.0 BACKGROUND

During Ghana’s First Round of Mutual Evaluation in 2009, the country was rated Non-Compliant to FATF’s Recommendations 24 and 25 which deals with transparency and beneficial ownership of legal persons and legal arrangements respectively. This was because there were no measures in place to ensure that there is adequate, accurate and timely information with respect to legal persons and arrangements. Ghana at the time had not conducted ML/TF risk assessment of legal persons created in the country. There were no provisions that required competent authorities to monitor the quality of assistance it receives from other countries in response to requests for basic and beneficial ownership information. There was also no direct requirement for companies to co-operate with competent authorities to the fullest extent possible in determining beneficial owners in Ghana and other jurisdictions.

To address these shortcomings, Ghana identified and assessed its ML/TF risks by conducting its National Risk Assessment (NRA) in April, 2016 and subsequently reviewed it in 2018. The NRA assessed and identified some elements of the vulnerabilities of the misuse of some legal persons (Accountable Institutions) in Ghana. However, a detailed assessment is required to identify and mitigate the risk associated with the transparency of legal persons and arrangements, the adequacy of basic information, the implementation of beneficial

ownership information and the extent to which information exchange and international co-operation support ML/TF investigations in Ghana. It is in this light that this Risk Assessment is being carried out on legal persons and arrangements in the country.

3.0 METHODOLOGY

This report builds on Ghana's national ML/TF risk assessment. To identify the extent to which Ghana is fulfilling its commitments and the adequacy of its Beneficial Ownership legislation/ implementation framework, the Financial Intelligence Centre (FIC) in collaboration with the RGD and other stakeholders conducted an assessment of the current level of compliance with FATF Recommendations 24 and 25. The FIC in collaboration with the RGD conducted a survey to assess the risk level of legal persons and arrangement in Ghana. This risk assessment sheds light on how well the existing basic information on legal persons and arrangement is supporting adequate Beneficial Ownership disclosures at the point of incorporation or the provision of further information by way of updating records after incorporation.

Additionally, a risk assessment focused on six (6) main sectors to ascertain mechanisms in place to identify, disclose and maintain records on the management, shareholders and Ultimate Beneficial Owners of persons and complex business structures. The six sectors which include the financial sector (comprising of Banking, Insurance and securities), extractive sector (comprising of mining, oil and gas and petroleum), construction and real estate sector, import and export sector (particularly car and spare part dealers), the Gaming sector (particularly casinos) and Trust and services sector were chosen for a number of reasons:

1. For instance, the revised NRA report indicated that, the country has experienced some upsurge in the activities of the extractive sector thereby exposing the sector to ML/TF risks which is likely to affect Ghana's development, peace and security. The NRA also revealed that the sector was prone to crimes such as corruption, bribery, fraud and tax evasion. It is probable that the lack of adequate transparency and disclosure particularly in the mining sub-sector may encourage perpetrators to exploit the sector.
2. Additionally, the real estate sector and the import and export sector, particularly car dealers are not regulated. This is a major problem making these sectors very attractive to money launderers and promoters of terrorist activities.
3. The gaming sector has also gained grounds in the area of casino businesses with the emergence of sports betting. Even though this sector is regulated by the Gaming Commission, the sector has become very attractive to money launderers largely due to the use of cash. The assessment in this sector considered measures to identify customers who play at the various casinos.
4. The Financial sector is one of the key sectors in Ghana as it is the avenue for international transactions for most legal persons and arrangements. There is therefore the need to assess the adequacy of due diligence in place to identify and unveil management, shareholders and BOs of entities in Ghana.

Both quantitative and qualitative methods were applied. The survey also made use of primary and secondary sources of data. The primary data was collected through the use of questionnaires and interviews. The questionnaires comprised both open and closed ended questions in line with the objectives of this report. Data collected from primary sources were analysed using the SPSS and Excel. Secondary sources were also obtained from the First Mutual Evaluation Report (MER) on Ghana (2009), the National Risk Assessment Report (NRA) on Ghana (April, 2016), the Second Round of Mutual Evaluation Report (May, 2017), the FATF 40 Recommendations, GIABA publications and typologies, FIC Annual Reports (2012-2017) and RGD Statistics on numbers and types of registrations on Legal Persons.

A formal process for assessing ML/TF risk of legal persons and arrangements of the 6 main sectors was carried out by developing an ML/TF Risk Assessment Excel Template (RAET) - which is an analytical tool that provides a formal and systematic process for assessing the level of ML/TF risk in a consistent way across all legal persons and arrangements.

4.0 LIMITATIONS

Access to data was limited; some respondents did not have information, and others did not find it necessary to make the information readily available. A number of institutions did not provide the required information as requested; however, those that provided information/data did not do so within the stipulated time. Additionally, it was very difficult getting data on Trusts and Company Service Providers as there is no legal framework for Trusts and Company Service Providers. Due to the lack of statistics some stakeholder institutions could not provide adequate statistics on the involvement of legal persons in ML/TF crimes.

The lack of knowledge on ML/TF issues among some of the legal persons and arrangements also affected the responses provided. Time was also a limiting factor to sample a larger number of respondents.

5.0 THE REGISTRAR GENERAL'S DEPARTMENT

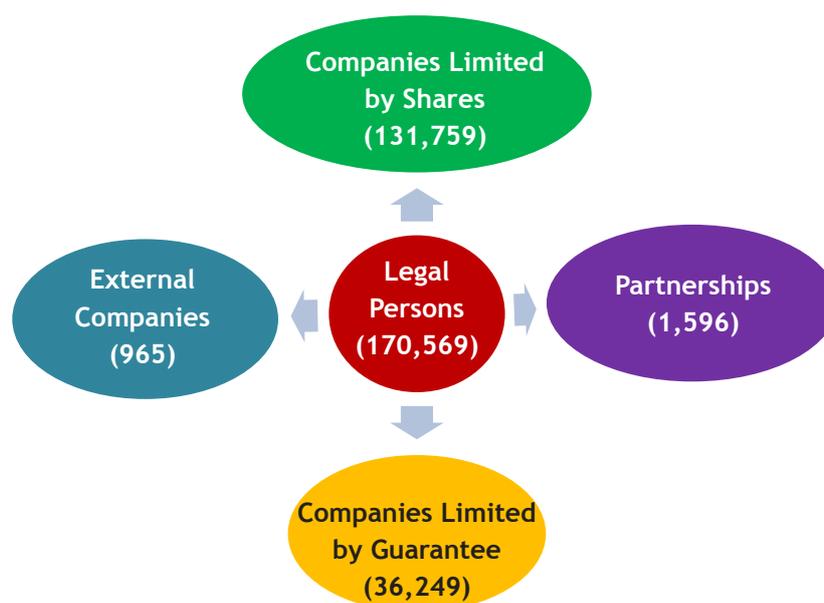
The Registrar General's Department (RGD) was established under the Ordinance 1950 during the colonial days and became a department of the Ministry of Justice and Attorney-General in 1961. The Companies Act, 1963 (Act 179) being one of several Acts regulated by the Department, mandates the RGD to register all businesses (natural and legal persons) which includes Non- for Profit Organisations who are categorized as Companies Limited by Guarantee. Some of these NPOs operate as Trusts, however, RGD is not mandated to register Trusts Companies. The RGD a Head Office in Accra, and has three (3) Regional offices. These Regional offices also register legal persons and data from these regional offices feeds directly into the main RGD register. The RGD maintains information (basic information) on all *legal persons* it registers and ensures it's easily accessible to all Ghanaians especially the Competent Authorities. Legal persons refer to any entity other than natural persons that can establish a customer relationship with a firm, or otherwise own property.

5.1 Legal Persons

According to FATF Legal persons refers to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own

property. This can include Companies, Bodies Corporate, Foundations, Clubs, Partnerships, or Associations and other relevantly similar entities.

The relevant laws on the establishment and registration of legal persons in Ghana are the Registration of Business Names Act, 1962 (Act 151), the Incorporated Private Partnership Act, 1962 (Act 152), the Trustees (Incorporation) Act, 1962 (Act 106), the Companies Act, 1963 (Act 179), and the Companies (Amendment) Act, 2016 (Act 920) which was enacted in August, 2016 to provide a legal regime for the collection of Beneficial Ownership Data. The different types of legal persons registered in Ghana are Companies Unlimited by Shares, Companies Limited by Guarantee, Incorporated Private Partnerships and External Companies. At the end of year 2018, RGD had registered Four Hundred and Forty-One Thousand One Hundred and Eighty-Three (441, 183) Businesses out of which One Hundred and Seventy Thousand Five Hundred and Sixty-Nine (170,569) are legal persons.



The main categories of legal persons under the laws of Ghana are explained below:

- **Companies Limited by shares:** - This is a business entity registered with at least two individuals acting as directors of the company and at least one person (company or individual) acting as a shareholder in the entity a nature of business which is (always) for the generation of profit. The liability of the members of this entity is limited by the value of their shares. These can either be private or public entities.
- **Unlimited Liability Companies by shares:** - This company type does not have any limit on the liability of its members. Unlimited Liability Companies have shares and are profit driven, but shareholders have unlimited personal liability. A shareholder of an Unlimited Liability Company is practically in the same position as a sole proprietor and does not benefit much from the potential advantages of incorporation. Unlimited Liability Companies are mostly Professional Bodies.
- **Companies Limited by guarantee:** - This company structure is best suited for Not-for-Profit Organisations. This is because the objects of a Company Limited by Guarantee cannot include the generation of profit. As such these companies are exempt from corporate tax (although the Organisation would have to pay income tax on behalf of its salaried employees). Examples of Companies Limited by Guarantee are Associations, Clubs, Foundations, Churches, Church based organizations, Charities etc. Some of them

move on to become Non-Governmental Organisations (NGO's) by proceeding to the Ministry of Social Welfare for their NGO status.

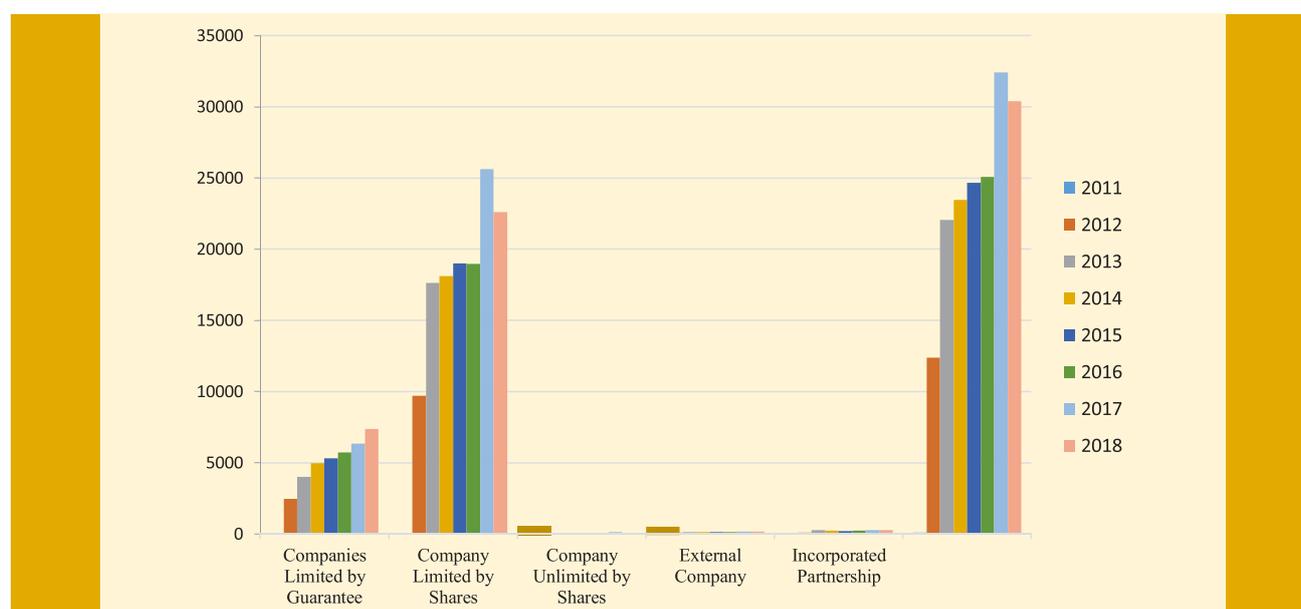
- **External Company:** - An External Company per Section 302 of the Companies Act, 1963, (Act 179) is a body corporate formed outside Ghana which has an established place of business in Ghana. Although an External Company is subject to Ghanaian tax laws (income & corporate tax), such a company is regulated by the laws of the country in which it was originally incorporated. An External Company is represented in the country by a Local Manager or Process Agent.
- **Incorporated Private Partnership:** - Section 3 of the Incorporated Private Partnership Act, 1962, (Act 152), describes a Partnership as an association of two or more individuals carrying on business jointly for the purpose of making profit and should not exceed 20 persons. There is no protection of partners' personal assets in an incorporated partnership. The acts of one partner bind the whole partnership.

The number of registrations by the various types of legal Persons is listed below:

Table 1: Total Number of Legal Persons (LPs) Registered in Ghana (2011-2018)

Year	Companies Limited by Guarantee	Company Limited by Shares	Company Unlimited by Shares	External Company	Incorporated Partnership	TOTAL
2011	17	84	6	0	1	102
2012	2,480	9,709	1	81	107	12,377
2013	4,012	17,632	0	136	275	22,055
2014	4,968	18,126	4	145	239	23,478
2015	5,317	18,995	28	146	210	24,668
2016	5,732	18,959	36	135	240	25,066
2017	6,347	25,636	128	167	263	32,413
2018	7,376	22,618	65	155	261	30,410
TOTAL	36,249	131,759	268	965	1,596	170,569

Source: RGD Data base, 2019



Source: RGD Data base, 2019

5.2 Legal Arrangements

Legal arrangements refer to express trusts or other similar legal arrangements. To date, the only statutes concerning trusts in Ghana are the Public Trustee Ordinance of 1952 (No. 24) and the Trustees (Incorporation) Act, 1962 (Act 106). The Public Trustee Ordinance of 1952 creates the office of the Public Trustee and clothes the holder with corporate status. The Public Trustee operates under the Ordinance as a trustee with power to administer the properties of mentally incapacitated persons and to be appointed as an ordinary trustee among other functions. Act 106 enables Trustees of a voluntary association established for a religious, literary, and scientific, sports or charitable purpose on registration under the Act, to become incorporated to hold immovable property in trust for the members of the relevant association. However, privately owned Trust arrangements fall out of Act 106.

There is currently no legal framework on Trusts in Ghana. In 2007, a Trust Bill was drafted by the then Attorney General and tabled before the Parliament of Ghana to provide for the establishment of the Trust Commission and more clearly delineate the powers and duties of Trustees and for the registration of Non-Governmental Organisations. However, the Bill expired and is yet to be presented again to Parliament for consideration. The rate at which Charitable Organisations are springing up in the country is very alarming. As such, it has become necessary to set up a regulatory body to regulate the activities of these organisations. There is currently a Non-Profit Organization Bill to address the issues of Private Trusts now being considered and also for stakeholders to make input into it before it would be finalized for Cabinet's approval to Parliament.

The Companies Act, 1963 (Act 179) since its enactment, has been amended over the years, creating pieces of legislation that requires consolidation. However, the amendments did not cater for the registration of Trusts and Company Service Providers. In 2016, the Companies Act was amended to address the issue of Beneficial Ownership disclosures and the setting up of the Register. However, the Act still has some deficiencies in the definition of domestic Politically Exposed Persons (PEPs) and associates. . The current Companies Bill now undergoing the third reading in Parliament has however addressed that and has included provisions on Domestic Politically Exposed Persons (PEPs)

Most Trusts are privately owned and mostly administered by law firms in Ghana. Even though there are no laws regulating the registration and operations of trust and company service providers in Ghana, the assessment revealed that these services are usually part of the wide range of the services provided by most law firms in Ghana.

5.3 International Context for Legal Persons and Arrangements

Ghana's political and economic stability makes the country very attractive to Foreign Direct Investment (FDI). The registration of Business Names (Sole Proprietorship/Enterprise) has been preserved by GIPC Act 2013, (Act 865) for Ghanaians only in setting up companies, some Ghanaians are used as fronts or shareholders in registering companies for foreigners. This is a means by which foreigner use to evade tax. In leveraging global trade and commerce infrastructures, many of the tools that have been designed to encourage business growth and development such as limited liability companies and local involvement in the form of

shareholding structure can facilitate money laundering, tax evasion, fraud and other forms of crimes.

The complex role of a Ghanaian who is a shareholder of a foreign company may encourage the concealment of identity of the Beneficial Owner of company and its assets. A Ghanaian shareholder can facilitate enclosures on jurisdictional controls on company ownership and circumvent directorship bans imposed by the judiciary and Competent Authorities including the RGD. While the Ghanaian shareholding with a foreigner in a company is lawful in Ghana, the ongoing merits of this practice are questionable in the context of the significant money laundering and terrorist financing vulnerabilities associated with the lack of disclosures. To mitigate the above risk, the Act 179 as amended may be amended to empower the RGD to conduct enhanced due diligence on all Ghanaian shareholders in a foreign company to identify their true identity and capability of holding shares in foreign companies. This may minimize the incidence of Ghanaians beings used as fronts by foreigners.

5.4 Registration Process for Legal Persons

Registration of business names and Companies can be done either through online registration or at the office of the Registrar General's Department. To register any company, the directors and shareholders of the company must obtain a Tax Identification Number (TIN) from the Ghana Revenue Authority (GRA) before s/he can go ahead with the registration process. Additionally, one has to conduct a name search at the RGD to ensure the proposed company name is unique.

5.4.1 Registration of Partnership

1. First, a name search is conducted and a TIN is obtained for the Partners, the applicant fills a Partnership form which requests the name of the Partnership, the general nature of the business, the address and principal place of business of the Partnership.
2. The names of the Partners and their residential and occupational addresses, and the date of commencement of the partnership.
3. A Partnership Deed duly stamped at the Ghana Lands Valuation Board is attached.
4. The Forms are submitted and payment is made at a Bank within the RGD premises. An electronic receipt of payment is then generated and printed and attached to the completed registration Forms. The Forms are then vetted and forwarded for approval. Approval is given within 3 working days if no query is raised.
5. Applicants are issued with a Partnership Certificate of Incorporation and a Partnership profile (Form B)

5.4.2 Registration of Companies Limited & Unlimited by Shares and Limited by Guarantee

1. An Applicant in registering a Company Limited or Unlimited by shares conduct a name search and ensure that the company name is not already registered or likely to confuse the general public.
2. All officers and members of the company obtain a TIN from GRA.

3. The Applicant fills the prescribed incorporation Forms indicating the name of the Company, the nature of business and principal activity, the business address and postal address, particulars of the officers of the company (at least 2 Directors and a Secretary), the addresses and occupation of the Directors and Secretary, particulars of the Company's auditor, digital and email address.
4. The Company indicates its minimum capital of the Company, the authorized and issued shares of the Company, particulars of the shareholders (members) of the Company and a declaration Form signed by the Directors and Secretary of the Company confirming that all information provided is true and a consent letter from the Auditor appointed.
5. The Forms are submitted and payment is made at the RGD premises. The Forms are vetted and forwarded for approval. Approval is given within 3 working days if no query is raised.
6. A Certificate of Incorporation, Certificate to Commence Business and a Form 3 & 4 being a profile and declaration form are issued to the applicants.

The procedure explained above also applies to the registration of Companies Limited by Guarantee. However, a company limited by Guarantee does not issue shares or pay stated capital. The Company is required to state a guaranteed amount which would be paid by each member upon its being wound up.

5.4.3 Registration of External Companies

1. For an External Company seeking to register its branch in Ghana, its local manager must obtain a TIN. The name must be the same as that registered in the country of incorporation.
2. It then completes the requisite Forms by providing details of the Company's name, the nature of business and principal activity, the business address in the country of incorporation, the address of the principal place of business in Ghana and postal address, the particulars of the Local Manager and who is authorized to manage the business of the Company in Ghana, and a Process Agent (if any), i.e. the person authorized by the company to accept service of processes and other documents on behalf of the External Company in Ghana.
3. The Company shall submit a certified copy of the Charter, Statutes, Regulations, Memorandum and Articles of Association or any other instrument constituting the constitution of the Company in a language acceptable to the Registrar (English language) as well as a notarized Power Of Attorney appointing the Local Manager.
4. The form is submitted and payment is made at the onsite Bank at RGD. The forms are vetted and forwarded for approval. Approval is given within 3 working days if no query is raised.
5. A Certificate of Registration and a Profile is issued to the applicant after registration.

5.4.4 Challenges confronting the Registration Process

1. The online registration portal of the RGD does not require a face to face interaction. However verification is done through the TIN application process.
2. The walk-in registration process is also susceptible to human errors. Additionally,

there are few shortcomings with respect to access and verification of Beneficial Ownership information.

3. Application Forms are not properly completed. When the information on the Forms are inadequate, a query is raised and approval is delayed awaiting the resolution of the issues raised. This delays the registration process which ought to be completed within 3 working days.
4. Inaccurate stated capital is sometimes paid by foreigners who wish to own businesses in Ghana. Foreigners who desire to form Companies to engage in trading are required per the Ghana Investment Promotion Centre Act, 2013, (Act 865) to pay a minimum capital of the cedi equivalent of \$1,000,000.00, whether jointly owned with a Ghanaian or not. Foreigners who set up businesses to offer services are required by the GIPC Act to pay a minimum capital of \$500,000.00 for solely foreign-owned businesses and for a joint venture with Ghanaians, \$200,000 is to be paid by the foreigners and at least 10% contribution of the minimum capital paid by the Ghanaian partner(s). However, to avoid the payment of the right stated capital, some foreigners use Ghanaians to front as shareholders even though the stated capital may not be for those Ghanaians.

5.4.5 Rejection of Application Forms

Applications are not usually rejected. They are rather queried to afford the applicants the opportunity to make changes to their applications as required. Some instances where queries are raised are listed below:

1. If a similar name already exists in the RGD register.
2. If the name is misleading or undesirable.
3. If the object or nature of business/es are illegal or is do not match up with the type of business entity being registered.
4. If the Forms are not properly filled out.
5. In the case of an External Company, where copies of the incorporation documents submitted are not certified from the country of origin of the Company or notarized.

5.4.6 Beneficial Ownership Information on Legal Persons in Ghana

The Companies Amendment Act, 2016 (Act 920) was enacted as an amendment to Companies Act 1963 (Act 179) on August, 2016 to provide for the inclusion of the names and particulars of beneficial owners of companies (legal persons and arrangements) in the register of members for the establishment of a Central Register (Beneficial Ownership Register) and for related matters. The Registrar-General's Department is the custodian of the Central Register. The law stipulates that the information provided by legal persons on Beneficial Owners should be adequate, accurate, and current. The Act 179 as amended defines a Beneficial Owner as an individual (natural person);

- a) "who directly or indirectly ultimately owns or exercises substantial control over a person or company;
- b) who has a substantial economic interest in or receives substantial economic benefits from a company whether acting alone or together with other persons;
- c) on whose behalf a transaction is conducted;

Sections 27 & 32 of the Companies Act 1963 (Act 179) as amended requires all Legal Persons to maintain a Register on their members as well as on their beneficial owners. The Register should contain information such as; the names of the members, addresses, consideration for the shares, date on which the person was entered in the register as a member, date at which a person ceased to be a member and the number of shares held in the case of a company having shares. Where a company has shares, there must be a share certificate held by each member distinguishing each share by a number. The share certificate must also state among other things, the name and address of the registered holder. The Companies Act (1963) Act 179 provides that individuals or entities are allowed to hold shares on behalf of other persons (i.e. beneficial owner). Nominee directors are also allowed but their details have to be furnished to the Registrar of Companies.

By law, bearer shares, which are considered by FATF as high risk in terms of concealing identity through legal persons, are prohibited in Ghana.

Additionally, Section 32 (2) of Act 179 as amended provides that, a member who is also not the beneficial owner shall provide the company with the particulars of the Beneficial Owner at the time of becoming a member and update the company within twenty eight (28) days of a change in the particulars submitted to the company.

The Act 179 as amended imposes a sanction of a fine of not less than one hundred and fifty (150) penalty units (each penalty unit is about GH₵12) or a term of imprisonment of not less than a year and not more than two years or both where a legal person fails to give correct information regarding beneficial ownership information or where it gives false information (Section 32 (14) of the Companies Act) as amended. Additionally, where a company defaults in complying with the requirements above, the company and every officer of the company that is in default is liable to pay to the RGD, an administrative penalty of twenty-five (25) penalty units for each day during which the default continues.

Ghana is in the process of developing its electronic BO register and this register is expected to be ready by the end of 2019. Meanwhile, the process leading to the full implementation of the BO register is underway. Currently the RGD is undertaking a nationwide sensitization program for all staff and relevant stakeholders on Beneficial Ownership. This has enhanced their knowledge and understanding of the importance of collecting, keeping and maintaining accurate information on BO information.

The RGD is building the needed momentum for the beneficial ownership transparency in the country by working together with other stakeholders to identify the necessary amendments and harmonizing conflicting legal issues.

Even though, Ghana is making progress to fully comply with the requirement of FATF Recommendation 24 and 25, there still remain some deficiencies. There are no clear regulations in Act 920 as to whether the BO register will be freely accessible online for the general public in line with Open Data Standards (ODS). There are calls by the Civil Society Organisations to further expand the bodies that can access BO information at no cost. Additionally, the Act 920 has not specified the threshold for which a legal person should disclose Beneficial Ownership information. The RGD is not required by law to verify beneficial ownership information or other relevant information against independent and reliable sources. Again, the Act requires companies to update Beneficial Ownership

information only within 28 days after they are informed about any change. This update should be done immediately to prevent abuse of ML/TF. Also, there is the need for the definition of domestic Politically Exposed Persons (PEPs) to include close associates of PEPs. With regards to Beneficial Ownership information on Trusts and Company Services Providers, Accountable institutions are not required to hold information on all parties to the trust. The country also lacks a Registry that would collect information, including Beneficial Ownership information on trusts. Meanwhile, the assessment revealed that the law firms that operate as trusts on behalf of their clients do cooperate and make available information to LEAs upon request. Additionally, the Act 749 as amended classifies all lawyers and trust company service providers as accountable institutions and is mandated to comply with all AML/ CFT obligations.

There is a Companies Bill which has already passed the second reading stage in Parliament. This Bill seeks to address all these and many more concerns raised, and also replace both the Act 179 and Act 920 when it is passing into law to provide a comprehensive requirement to collect and maintain BO information on all legal persons.

Nonetheless, the RGD has stated that the presence of a beneficial ownership register will help unmask the real owners of businesses that are registered under the law. It will also ensure more transparency, accountability and prevention of corruption.

6.0 CORRUPTION

The NRA identified corruption as a major predicate offence. One of the ways of laundering the proceeds of corruption is through the use of legal persons and arrangements. Thus, government has put measures in place to access beneficial ownership information of legal persons which are likely to be misused or abused by individuals for their selfish gains.

The Assessment revealed that several factors including policies and initiatives by government and state institutions implemented since 2016 have accounted for Ghana's improvement in fighting corruption. The enhanced performance of the Audit Service and the Auditor General in discharging their constitutional mandate and ensuring the protection of the public purse could have made some impact. The paperless port clearing system under the Digital Inclusive Agenda and the establishment of the Office of the Special Prosecutor to fight corruption and corruption-related offences could have equally impacted on Ghana's fight against corruption. The ongoing Judicial Service reforms including efforts to promote high standards of integrity amongst Judges and Magistrates, and Judicial staff, and the E-Justice System cannot also go unmentioned

The 2018 Corruption Perception Index (CPI) score shows that Ghana's performance has improved by one point from its 2017 score of 40. "This score is a positive departure from the continuous drop the country has been experiencing since the year 2015" - a release by the Ghana

Integrity Initiative (GII) stated. The 2018 CPI scores Ghana 41 out of 100 and ranks the country 78 out of 180 countries included in the index. The 2018 CPI used nine out of the thirteen (13) data sources of independent institutions with a high level of credibility to compute the score for Ghana.

Large corruption cases are prosecuted in Ghanaian court every day. However, proceedings are lengthy and convictions are slow in coming. Notwithstanding the slow pace of proceedings, the country has recorded some corruption cases which involved the abuse of legal persons by public officials and Politically Exposed Persons (PEPs) for their selfish gains have been prosecuted and convicted. Below is typology of a corruption case involving Public Officials and PEPs.

Case Study 1: Abuse of Legal Persons by a Public Official

A former Member of Parliament (A1) and a businessman who is also a tribal chief (A2) conspired to defraud the state to the tune of GH¢4.1 million.

A1, who was the head of a public youth employment agency, falsely approved a claim for his supervising ministry to pay A2 the sum of GH¢4.1 million for consultancy, training and financial engineering services allegedly rendered to the public employment agency.

Investigation by the Economic and Organised Crime Office revealed that A1 and A2 put in false claims that A2 had secured a \$65-million World Bank funding for the creation of one million jobs for the youth.

A2 could not show proof of any contract or consultancy agreement with the youth employment agency.

A2 could not also provide any evidence of the workshops and their participants, feasibility studies and other consultancy services that he supposedly rendered to the youth employment agency to assist in securing the World Bank funding.

Investigations showed that the World Bank never released any \$65 million grant to the government of Ghana for disbursement to the youth employment agency.

A1 and A2 were prosecuted at the Financial and Economic Crimes Division of the Accra High Court. A1 was found guilty on two counts of abetment of fraud and five counts of willfully causing financial loss to the state. He was also slapped with a six-year sentence for abetment of fraud and a four-year sentence for willfully causing financial loss to the state.

The Court found A2 guilty on six counts of defrauding by false pretences and five counts of dishonestly causing loss to public property. He was sentenced to 12 years in prison for defrauding by false pretences and three year sentence for dishonestly causing loss to public property. The Court also ordered the state to seize the properties of A2 to recover the amount that it had lost.

Method Employed: Use of a legal person to fraudulently obtain funds.

Predicate Offences: Fraud

Technique used: (A1) Abuse of public office
(A2) Misrepresentation.

Status: Prosecuted, convicted and confiscation of assets.

6.1 POLITICALLY EXPOSED PERSONS (PEPS)

PEPs are one of the high-risk categories of customers, particularly with regard to Money Laundering (ML) in Ghana. Business relationships with PEPs may represent high risks for financial institutions (FIs) and DNFBPs as a result of assuming positions through which they might become vulnerable to or get involved in corruption, or abuse their power and influence for, personal gain or the gain of family members or close associates. They might also misuse public funds. Such individuals might also use their families or close associates to conceal funds or assets resulting from the abuse of their official positions. In addition, they may also use their power and influence to access or control legal persons for similar purposes; Hence the importance of the systems and procedures that enable FIs and DNFBPs to recognize their customers. Persons with political and public positions are therefore considered to belong to a ML high-risk category of customers in Ghana.

The assessment revealed as it was reported in the 2nd Round of Mutual Evaluation Report that most FIs have put in place measures, including robust customer on-boarding processes, ongoing monitoring of relationships and transaction, to identify and manage PEPs. Currently, some of the FIs have developed their internal PEPs list and also file reports on PEPs to the FIC. To complement their internal PEPs list, some of the FIs also subscribed to relevant commercial databases. Though guidance has been issued by sector regulators and the FIC to clarify who PEPs are and enhanced measures to be applied by AIs, overall, identification of PEPs' associates and closed relatives are major challenges across all FIs, especially in the absence of a mechanism that could enhance the linkages of some of the relationship. Furthermore, some banks said they have challenges in developing a PEP database that significantly covers all categories of PEPs.

Below is a typology that is based on real reported case, Its purpose is to illustrate and help discern suspicious financial activities involving PEPs so that law enforcement and the judiciary better understand how this type of crime is being committed by persons classified by PEPs.

Case Study 2: Abuse of Legal Persons by Peps

After a change of government from one political party to another in 2009, Woyome, a known financier of the two major political parties in Ghana colluded with the new attorney general to fraudulently obtain GH¢51 million in Judgement Debt from the state.

Woyome sued the state for compensation on a service which his company, Waterville, rendered to the previous government for which Waterville was paid in full.

The new Attorney General failed to enter a defense in favour of the state. This led to the award of GH¢51 million in compensation to Woyome by the Court. After an uproar by the citizenry, the Attorney General appealed the judgement. The Appeals Court ordered the state to pay one third of the compensation while the case is heard.

The Attorney General approved a claim for the Finance Ministry to pay the entire amount of GH¢51 million compensation to Woyome contrary to the ruling of the Appeals Court. Investigation into the matter revealed that after Woyome received

the funds from the state, part of the funds was shared among PEPs affiliated to the new government. About GH¢1 million was also traced to the bank account of the wife of a Chief State Attorney at the Attorney General's Department.

The Supreme Court, on July 29, 2014, ordered Mr Woyome to refund GH¢51.2 million to the State on the grounds that he got the money out of unconstitutional and invalid contracts between the State and Waterville Holdings Limited in 2006 for the construction of stadia for CAN 2008.

The court held that the contracts upon which Mr Woyome made and received the claim were in contravention of Article 181 (5) of the 1992 Constitution of Ghana, which requires such contracts to be laid before and approved by Parliament.

In March 1, 2016, Mr Woyome prayed the court to give him three years to pay back the money but the court declined to grant his wish. He, however, refunded GH¢4 million in November 2016 and promised to pay the outstanding balance by quarterly installments of GH¢5 million, commencing April 1, 2017. That did not materialize after the businessman had initiated a litany of legal cases at the Supreme Court to support his case, which was all dismissed. In addition to fighting his cases in the country, Mr Woyome sought relief from the International Court of Arbitration of the International Criminal Court (ICC), based in Paris, France, and the African Court of Justice, based in Arusha, Tanzania. In August 2017, the ICC dismissed his case, on the basis that he had failed to properly invoke the Court's jurisdiction.

The Supreme Court, on June 27, 2019, ordered the sale of Mr Woyome's assets to defray the GH¢47.2 million debt he owes the state. Assets to be sold include two mansions at Trassaco Estate, a house at Kpehe, an office complex of Anator Holdings, a residential building at Abelemkpe and a stone quarry, including its plants and equipment.

The Supreme Court, on July 25, 2019, determined the prices at which two of Mr Woyome's properties should be auctioned.

Method Employed: Use of Legal Person by a PEP to fraudulently obtain funds from the state.

Predicate Offences: Fraud, Corruption

Technique used: Collusion by PEPs to steal from the state. **Status:** Prosecuted and assets confiscated to defray cost.

7.0 MISUSE OF LEGAL PERSONS BY INDIVIDUALS (NATURAL PERSONS)

The issue of the misuse of corporate entities for illicit purposes by individuals has drawn increased attention from policy makers and other authorities. From the risk assessment conducted it was clear that some natural persons associated with legal persons have also been prosecuted and convicted for money laundering offenses. Below are typologies of individuals using legal persons to commit crime.

Case Study 3: Misuse of Legal Persons for Online Romance Fraud by an individual

Between 2007 and 2009, Mr Fadola, an online romance scammer, met with several British ladies via internet dating websites and falsely misrepresented himself as a United States soldier on a duty tour in Iraq and in other instances as an engineer with Cosmos Energy Group. After a period of interaction with all victims, he proposed to retire to the UK and to marry the victims.

Fadola promised to send bars of gold and millions of US dollars to his victims. He however requested them to send monies to him through Western Union, Moneygram and often times through his bank account. The monies were supposed to be used to facilitate the shipment of the gold boxes to the UK as promised. Fadola also used two companies (FAD Mining Company and VA Company Limited) and their bank accounts to fraudulently receive funds from his victims and succeeded in obtaining an estimated amount GBP735,000.00.

The Economic and Organized Crime Office (EOCO) teamed up with the UK's Serious and Organized Crime Agency to investigate the case.

EOCO collaborated with the Financial Intelligence Centre (FIC) and intelligence revealed that Fadola was the owner of both companies and the signatory to the companies' bank accounts. Fadola was arrested; his house searched and charged with illegal possession of a firearm and possession of forged passport, 37 counts of defrauding by false pretences and 1 count of money laundering.

Forensic analysis of Fadola's mobile phone showed a record of phone calls and exchange of text messages between him and some of his victims.

Fadola was convicted of all offences charged and sentenced to a 5 year jail term in hard labour. He was also ordered by the court to pay back all monies he fraudulently obtained from his victims. A mansion he had built was also confiscated to the state.

Method Employed: Romance Scam and the use of front company to obtain funds.

Predicate Offences: Fraud, Forgery.

Technique used: Use of Corporate account, wire transfers

Status: Prosecuted and convicted.

Case Study 4: Misuse of Legal Persons for Drug Trafficking by an Individual

The Managing Director of XYZ Company, (which provided security services at the Kotoka International Airport) Mr AY, was recently convicted in the US for drug trafficking. 'Mr AY was arrested together with two Nigerians and a Colombian in May 2015 for their role in a drug trafficking syndicate which had been operating in the West African sub-region.

Mr. AY used his company privileges at the Accra airport to assist drug mules to transport drugs from Ghana. Drug Mules would go through security checks without the drugs in their luggage and then XYZ employees would deliver the drugs to the mules on the aircraft.

Law Enforcement agents disguised themselves as drug dealers, holding meetings with the accused over one year to buy thousands of dollars' worth of Afghan heroin to distribute in Manhattan and the Bronx in New York City.

At a meeting on February 25, 2012 at Mr. AY's office at the airport in Accra, a undercover agent, named as CS-3, said he had hidden 1kg of heroin in his laptop.

Mr. AY then instructed CS-3 to give the computer to an associate of his, and after CS-3 passes through the security checkpoint at the airport, it would be returned to him. Also at that meeting, CS-3 gave AY \$6,000 cash to guarantee the safe passage of the heroin through the airport.

Undercover agents had also given Mr. OZ (a Nigerian) \$28,000 cash at a hotel in Accra on February 22, 2012 for supplying the heroin, and had later sent him a further \$4,000 from New York. At a separate meeting in Accra in May 2013, another agent, posing as a Colombian dealer, discussed with Mr AY, Mr MQ and Mr OZ a plan to supply them with 3,000kg of cocaine, valued at \$25,000 per kilogram, in exchange for an amount of heroin of similar value.

Mr. AY, MQ, and OZ told the agent named CS-2 that they could transport the heroin to the United States by airplane in multiple shipments of 25kg each.

Mr. AY and the Nigerians were arrested in New York soon thereafter while MQ was apprehended in Colombia. He was jailed for only 24 months because he co-operated with investigators.

Method Employed: The use of a legal person to facilitate drug trafficking activities.

Predicate Offences: Drug Trafficking.

Technique used: Abuse of an airport security company

Status: Prosecuted and convicted (USA). Monies and assets confiscated (Ghana)

Case Study 5: Misuse of Legal Persons for Online Romance Fraud by a Natural Person

EA opened a personal account and business account in the name of AB Travel & Tours with Ghana Bank Ltd in 2015. He indicated to his bankers that he is a contractor. EA received approximately US\$ 162,602.78 through his accounts from different remitters in different jurisdictions. EA in some instances informed the remitters that he was the managing director of AB Travel & Tours in Ghana and fraudulently obtained monies from them through the company's account.

EA in another instance misrepresented himself to a victim in the United States of America by name LEE. EA claimed to have in his possession large quantities of gold. EA received approximately US\$ 133,650 from LEE under the pretext of supplying LEE with gold. Meanwhile, EA forged a Memorandum of Understanding, purportedly signed between him and the victim, LEE, indicating a joint business venture in order to justify his relationship with the victim to his bankers.

EA was arraigned before a High Court in Accra, and after being charged, was released into the custody of the Economic and Organized Crime Office. EA escaped from custody and absconded. He was tried in absentia and found guilty of the offences,

defrauding by false pretenses, money laundering, forgery of official documents and possession of forged documents. He was sentenced to eight (8) years imprisonment in December 2018 and the remaining funds in his account confiscated to the state.

Case Study 6: Misuse of a Legal Person for fraudulent transactions by a PEP

Olam was a Pastor at Image of God International Church. He used different identification cards belonging to members of his church to receive approximately GHS 586,391.70 through the Western Union Money Transfer platform at Liman Bank. Olam indicated to the bank that the beneficiaries of the funds were hospitalized, reason for him receiving the funds on their behalf.

During trial at the High Court, it was revealed that the members of the church were not aware that Olam used their identity cards to receive funds from overseas and were at no time hospitalized as claimed by the Olam. Olam was therefore, the ultimate beneficiary of the funds and only used the members of his church as mules. Olam used or abused his position as a pastor at Image of God International Church (which is registered as an NPO). Bank officials believed Olam was credible because of his position as a pastor.

Olam was found guilty on the offences of defrauding by false pretences and money laundering. Olam was sentenced to 24 months' imprisonment in April 2019 and the remaining funds in his account confiscated to the State.

Case Study 7: Misuse of Legal Persons for Online Romance Fraud by a Natural Person

BM operates different bank accounts in the name of his company Bomaa Ltd. The company accounts received over 6 million US dollars from different remitters in different jurisdictions. Bomaa Ltd is a duly registered company in Ghana.

The directors of the company are BM and his wife. Bomaa Ltd is duly registered to be in the maritime business, but investigations uncovered that the company has no physical office space, neither is it licensed with the appropriate agencies. BM implored various fraudulent acts to obtain funds into his company accounts in Ghana, such as romance and investment scams and business email compromise (BEC).

BM initially defraud his victims through romance and gold scams. He then grooms his victims to act as money mules who assist other accomplices to steal money from foreign companies through BEC. The funds would then be routed through these money mules into the accounts of Bomaa Ltd in Ghana. The purpose of these funds transfers would then be stated as payment for maritime services done on behalf of the remitters, which allowed BM access to the funds at the bank. BM was arraigned before the High Court for romance and investment scams but the trial has been put on hold as an extradition order was made by the USA.

The order seeks to extradite BM and his accomplices to the USA to stand trial for the BEC and other offences. The order has been granted pending the transportation of BM and his accomplices to the USA. Funds in company accounts and other assets BM remain frozen.

8.0 RISK FACTORS OF LEGAL PERSONS TO ML/TF

From the above case studies a range of risk factors can help identify some money laundering vulnerabilities associated with Legal persons in Ghana.

8.1 Cash-Based Economies

From the assessment it was realized that legal persons in Cash-based economies such as Ghana are more vulnerable to money laundering and terrorist financing. The predominant use of cash is a motivating factor for committing crimes (first of all tax evasion) and for laundering the proceeds of crime. Cash is hard to trace and therefore helps in the disguising of its illicit sources, making financial investigations and asset seizures difficult. Measuring the level of cash intensity among many legal persons in Ghana may be a difficult task. Also, complex and extensive corporate structures, especially with low levels of financial transparency, are helpful for concealing illicit flows and hiding beneficial ownership (BO).

8.2 Non-Face-To-Face Relationships and Anonymity

Some legal persons allow for non-face-to-face business relationships and transactions. This allows criminals to abuse or misuse the company to commit crimes. The use of front companies, shell companies, trusts and company structures, allows criminals not to appear as the real owners of business entities. Due Diligence measures may prove ineffective where the people performing online due diligence on a potential company and its staff are unable to physically verify identities.

The absence of face-to-face contact may indicate a higher money laundering risk situation due to increased impersonation fraud risk and the likelihood that staff of legal entities may not be who they say they are. If identification and verification measures do not adequately address the risks associated with non-face to face contact, impersonation fraud and money laundering risks increase as well as the difficulty in being able to trace funds.

High-risk customers like Politically Exposed Persons (PEPs) could exploit the non-face-to-face characteristics by using the identity of low-risk customers (e.g. pensioners) to transact business.

Corrupt PEPs could use some of these legal persons to conceal the origins of criminal funds by investing large sums of money.

9.0 ML/TF THREATS AND VULNERABILITIES OF LEGAL PERSONS IN GHANA

9.1 ML Threats

As a developing economy, trading with neighboring states, legal persons in Ghana are exposed to ML threats arising from both internal and external sources. Internally, fraud and drugs-related crimes pose high and medium-high ML threats to legal persons in Ghana. Externally, fraud poses a high ML threat while drugs, corruption and tax evasion pose medium-high threats. Local and cross-border money launderers have exploited the high degree of free trade and developed financial and banking systems. Corporate bank accounts and money

service operators (“MSOs”) are common conduits exploited by ML syndicates. Organised crime infiltrations are also a threat to legal persons as criminal organizations can sponsor members to attain influential positions within respectable institutions such as bank. These insider criminals can then abuse their positions and company’s assets and structures to launder funds for their criminal associates.

Corporate fraud can also be a threat to legal persons. For instance, management or owners may evade tax in order to have more funds to share as bonuses or dividends.

9.2 ML vulnerability

The number of Suspicious Transaction Reports (STRs) received by the Financial Intelligence Centre (FIC) has risen significantly over the past two years. The rapid growth in STRs reflects a growing awareness of ML/TF. From the risk assessment on legal persons it was identified that Financial Institutions (FIs) have adhered to the Customer Due Diligence (CDD) and recordkeeping requirements under the Anti-Money Laundering Act, 2008 (Act 749), as amended. Under the AML Act, legal persons are subject to the same set of CDD and record-keeping requirements as FIs. Legal persons are further required to obtain a license from the Registrar Generals Department (RGD) subject to the fulfillment of a fit-and-proper test, before they can do business in Ghana. All companies are required by law to maintain legal ownership information by way of keeping registers of directors, members and company secretaries. These steps have gone a long way towards enhancing the transparency of legal persons in Ghana. However, legal persons that are not regulated or operate within a grey area of the laws of the land may be vulnerable to ML/TF threats. Such institutions operate based on their own internal policies and may not be monitored for any kind of regulatory compliance. Such institutions may include those operating within the crypto currency sector or social media operators.

9.3 Overall ML Threats and vulnerability

Overall, Legal persons in Ghana are exposed to a **medium-high risk of threats** and a **medium level** of vulnerability regarding ML.

9.4 TF Threat

From the risk assessment on legal persons it was identified that legal persons were assessed to have a “low” level of terrorism threat, and a medium-low level of TF threat. The threat of isolated incidents of vigilantism and extremism may be emerging given Ghana’s advanced and open financial system, and the cultural and economic links between certain segments of communities and regions influenced by political factors. However, there has been no confirmed

TF case in Ghana associated with legal persons. High-risk patterns commonly associated with TF such as abuse of legal persons especially Non-Profit Organisations (“NPOs”) or physical movements of cash across boundaries are not observed in Ghana.

9.5 TF vulnerabilities

Ghana has a sound CFT framework in general. Ghana is fully aware of the constant need to update relevant legislation to reflect the latest measures imposed by the United

Nations Security Council (“UNSC”) against designated persons, entities and countries. Gaps have been identified in the fulfillment of the relevant United Nations Security Council Resolutions (“UNSCR”) and steps are being taken to address these gaps. Measures have been put in place to prohibit any person from dealing with properties of specified terrorists or terrorist associates, and to criminalize among other things, the financing of travel between states for the purpose of perpetration, planning or preparation of, or participation in, terrorist acts or the provision or receiving of terrorist training. Implementation of the R32 of FATF, extension of CDD and record-keeping requirements to DNFBSs under the AMLO, requirements for companies to keep beneficial ownership information and introduction of prohibitions on financing the travel of foreign terrorist fighters and on dealing with terrorist property goes a long way to help mitigate TF risks and complement ongoing CFT efforts by LEAs. Therefore, the overall TF risk Ghana is exposed to is a medium-low with threat and vulnerability both rated as medium-low.

10.0 ASSESSMENT OF THE SECTORS

10.1 Assessment of the Financial Sector

Ghana has a well-defined formal financial sector. Since the financial sector reforms, the sector has recorded impressive development in terms of numbers and nature of financial institutions. The main actors in the financial sector of Ghana are the Banks, Markets Operators, Rural and Community Banks, Non-Bank Financial Institutions, Insurance Companies, Pension and Provident Funds and Microfinance Institutions. These sectors are regulated by the Bank of Ghana, National Insurance Commission, Securities and Exchange Commission and the National Pensions regulatory Authority (NPRA).

From tables 6 and 7 below, the inherent risk and internal controls in the financial sector was rated moderate and satisfactory respectively resulting in a moderate residual risk. This can be attributed to the following; a fairly good governance practices, effective regulation of the industry by the regulators, effective implementation of policies and procedures and compliance with international standards.

Additionally, players in the financial sector assiduously conduct KYC/CDD on their clients (legal persons) to obtain basic information in partial fulfillment of Recommendation 24 & 25. However, even though their AML/ CFT guidelines, requires them to maintain a BO register of all its clients that are legal persons, not all are complying with this requirement. Large cash based transactions, improper addressing system and the fast-growing mobile money activities are some of the challenges confronting the sector.

Table 6: Inherent Risk in the Financial Sector

RISKS INDICATORS	Respondents Rating (1, 2 or 3)	Weight	Weighted Rating
Customer Risk	2	0.6	1.2
Geographic Risk	2	0.2	0.4
Product and Service Risk	2	0.15	0.3
Delivery Channel Risk	2	0.05	0.1
Total Sector Risk Weighted Rating			<u>2.0</u>

Table 7: Internal Controls rating in the Financial Sector

Mitigants	Respondents Rating	Weight	Weighted Rating
Corporate Governance	2	0.25	0.5
Key Policies & Procedures	2	0.2	0.4
Internal controls (KYC/CDD and Record Keeping)	1	0.2	0.2
AMLROs & STR Filings	2	0.15	0.3
Training	1	0.1	0.1
Risk Assessment	2	0.1	0.2
Composite Mitigant Rating			<u>1.7</u>

*****The overall ML/TF risk in the financial sector is rated Moderate*****

10.2 Assessment of the Gaming Sector

Operations within the Gaming sector in Ghana are regulated by the Gaming Commission in accordance with the Gaming Act, 2006, (Act 721). The statutory body responsible for the licensing of all casinos, sport betting, route operations and scratch card operators in Ghana is the Gaming Commission. As at December 2018, fifty-six (56) registered operators of game of chance were in good standing with the Commission. These legal persons are either wholly or partly owned by Ghanaians and foreign nationals. According to the RGD, the legal persons may be registered as a Company limited by Shares, Companies Unlimited by shares, External Company or Incorporated Private Partnership.

Legal persons surveyed in the gaming industry revealed that as part of their operations, casinos offer gambling for entertainment, but also undertake various financial activities that are similar to financial institutions, which put them at risk of money laundering. Similarly, an emerging development in this same sector is the operation of sport betting companies. As at December 2018, the commission has registered twenty-seven (27) sport betting companies operating across the various regions of the country. The ease in the movement of funds within this sector makes it an attractive target for those attempting to launder money. Some of the identified vulnerabilities in this sector included low knowledge of AML/CFT, appointment of AMLROs, lack of KYC/CDD measures, no threshold for cash transaction reports, and the non-filing of STRs. The survey showed that the residual risk of this sector is moderate with an inherent risk rating of 1.75 (moderate) and the internal controls rating of 2.0 (moderate) as indicated in tables 8 and 9 below. The survey indicated that even though casinos maintain basic information of their clients who are legal persons, however, they do not maintain a BO register of all its legal persons and arrangements.

Table 8: Inherent Risk in the Gaming Sector

RISKS INDICATORS	Respondents Rating (1, 2 or 3)	Weight	Weighted Rating
Customer Risk	2	0.6	1.2
Geographic Risk	1	0.2	0.2
Product and Service Risk	2	0.15	0.3
Delivery Channel Risk	1	0.05	0.05
Total Sector Risk Weighted Rating			<u>1.75</u>

Table 9: Internal Controls rating in the Gaming Sector

Mitigants	Respondents Rating	Weight	Weighted Rating
Corporate Governance	2	0.25	0.5
Key Policies & Procedures	2	0.2	0.4
Internal controls (KYC/CDD and Record Keeping)	2	0.2	0.4
AMLROs & STR Filings	2	0.15	0.3
Training	2	0.1	0.2
Risk Assessment	2	0.1	0.2
Composite Mitigants Rating			<u>2.0</u>

*******The overall ML/TF in the Gaming sector is rated moderate*******

Though the Gaming sector is rated moderate with respect to ML/TF, measures are being put in place to mitigate the identified risks. The Anti Money Laundering Act, 2008 (Act 749) as amended, requires operators of game of chance such as casinos to appoint an Anti-Money Laundering Reporting Officer (AMLRO), conduct customer due diligence and report Suspicious Transactions and file Cash Transaction Reports to the FIC. As such, the Gaming Commission has directed all operators of games of chance to appoint AMLRO and furnish the Commission and the FIC with details of designated officers. Additionally, a number of trainings have been organized to bring operators of the game of chance up to speed on their AML/CFT obligations.

10.3 Assessment of the Extractive Sector

The Extractive sector was included in the review of the National Risk Assessment (NRA) of Ghana in 2018. For the purposes of this report, the extractive sector consists of the oil, gas and mining sub-sectors.

The sector is regulated by the Minerals Commission, Petroleum Commission and the National Petroleum Authority. The sector continues to be a major contributor to Ghana's GDP. According to the reviewed NRA, oil and gas employs about 7000 people while about 192,000 people are employed in the mining sector. These two sectors account for over 10% of GDP and more than 50% of Ghana's exports. Small scale mining also contributed 15% of merchandise exports in 2014. However, the extractive sector has experienced an increase in the oil and gas business and a decline within the mining sub-sector. The surge in activities within the oil and gas sub-sector comes with a rise in the ML/TF risks that the sub-sector is exposed to. In recent times the extractive sector has been faced with crimes such as bribery, corruption, fraud, smuggling, tax evasion, theft and robbery, illegal mining, environmental pollution, among others which is why the players in the extractive sector have gone further to collect and maintain BO information even though the RGD has not yet begun implementing the BO register. For example, Extractive Industries Transparency Initiative, a global standard for the good governance of oil, gas and mineral resources, was very instrumental in the amendment of the Companies Act to address the issue of BO.

Table 10: Inherent Risk in the Extractive Sector

RISKS INDICATORS	Respondents Rating (1, 2 or 3)	Weight	Weighted Rating
Customer Risk	2	0.6	1.2
Geographic Risk	2	0.2	0.4
Product and Service Risk	1	0.15	0.15
Delivery Channel Risk	1	0.05	0.05
Total Sector Risk Weighted Rating			<u>1.8</u>

Table 11: Internal Controls rating in the Extractive Sector

Mitigants	Respondents Rating	Weight	Weighted Rating
Corporate Governance	1	0.25	0.25
Key Policies & Procedures	2	0.2	0.4
Internal controls (KYC/CDD and Record Keeping)	2	0.2	0.4
AMLROs & STR Filings	2	0.15	0.3
Training	2	0.1	0.2
Risk Assessment	2	0.1	0.2
Composite Mitigants Rating			<u>1.75</u>

*****The overall ML/TF in the Extractive sector is rated Moderate*****

10.4 Assessment of the Real Estate Sector

Information gathered from the survey revealed that the real estate sector is not regulated. However, there exists an association called Ghana Real Estate Developers Association (GREDA) which has the objective of bringing all the players in the industry together. GREDA operate as a self-regulatory body and is guided by a constitution and it encourages members to abide the building and construction code of ethics and other policies and guidelines within the Association.

The GREDA constitution does not have any express provision on AML/CFT. GREDA currently has a membership of two hundred and fifty (250) real estate developers. However, membership is voluntary. Clearly, a large number of developers operating in the country are not members of GREDA and therefore are not subject to any form of monitoring. However, prior to registration of members, GREDA does not conduct any form of background checks. The residual risk of this sector is moderate stemming from an inherent risk rating of 2.35 (high) and the internal controls rating of 1.9 (moderate) as indicated in tables 12 and 13 below.

Table 12: Inherent Risk in the Real Estate Sector

RISKS INDICATORS	Respondents Rating (1, 2 or 3)	Weight	Weighted Rating
Customer Risk	2	0.6	1.6
Geographic Risk	2	0.2	0.4
Product and Service Risk	2	0.15	0.3
Delivery Channel Risk	1	0.05	0.05
Total Sector Risk Weighted Rating			<u>2.35</u>

Table 13: Internal Controls rating in the Real Estate Sector

Mitigants	Respondents Rating	Weight	Weighted Rating
Corporate Governance	2	0.25	0.5
Key Policies & Procedures	2	0.2	0.2
Internal controls (KYC/CDD and Record Keeping)	3	0.2	0.6
AMLROs & STR Filings	2	0.15	0.3
Training	2	0.1	0.2
Risk Assessment	1	0.1	0.1
Composite Mitigants Rating			<u>1.9</u>

*******The overall ML/TF in the Real Estate is rated Moderate*******

From the above, the assessment concludes that the ML/TF risk in the Real Estate sector is moderate. This can be attributed to factors such as no regulation of the sector, no KYC/CDD being conducted on customers, inadequate understanding of their AML/ CFT obligations and the inability of the industry players to identify and report suspicious transactions. One major problem within this sector is the maintenance of a register of clients who are legal persons. Most of the Real Estate developers do not obtain adequate basic inform on their clients before engaging in a business relationship with them. Furthermore, no beneficial ownership information is maintained on all legal persons and arrangements by the real estate developers. To address some of these deficiencies, there is currently a Real Estate (Agency) Bill being developed to regulate the sector to ensure AML/CFT compliance.

10.5 Assessment of the Import and Export Sector (Dealers in motor vehicles)

The number of legal persons engaged in import/export businesses is a huge part of both the formal and informal sectors of the Ghanaian economy. All legal persons engaged in exportation of goods and services are mandated to comply with both internal and external export regulations. However, some entities engaged in importation of goods and services are not regulated. Such entities include car dealers, spare parts dealers, and dealers in second-hand and brand-new household appliances, commodities and groceries importers. According to NRA report on Ghana (2016), there are two main categories of vehicle dealers in Ghana; the Ghana Automobile Dealers Association (GADA) -authorized official dealers of new vehicle brands and Vehicle and Assets Dealers Association of Ghana (VADAG) - Dealers in imported used vehicles. It is also estimated that about eight hundred (800) dealers are freelance and do not belong to any association. Unlike the new vehicle dealers, the second-hand car dealers have no direct relationship with the vehicle manufacturers or their appointed Agents.

They do not require authorization and are also not limited to selected brands of vehicles. Some of the common offences identified within the industry include false declaration/misclassification, false registration (local and foreign registration), under valuation/declaration, double invoicing, use of fraudulent documents, theft of motor vehicles, tax evasion and among others.

Transactions in the second-hand cars dealership are usually in cash making the sector highly susceptible to money laundering. The motor vehicles dealers who operates mostly under

the import and export sector recorded a moderate residual risk rating emanating from an inherent risk rating of 2.0 (moderate) and the internal controls rating of 2.0 (moderate) as indicated in tables 14 and 15 below.

Table 14: Inherent Risk in the Import and Export Sector (Dealers in motor vehicles)

RISKS INDICATORS	Respondents Rating (1, 2 or 3)	Weight	Weighted Rating
Customer Risk	2	0.6	1.2
Geographic Risk	2	0.2	0.4
Product and Service Risk	2	0.15	0.3
Delivery Channel Risk	2	0.05	0.1
Total Sector Risk Weighted Rating			<u>2.0</u>

Table 15: Internal Controls rating in the Import and Export Sector

Mitigants	Respondents Rating	Weight	Weighted Rating
Corporate Governance	2	0.25	0.5
Key Policies & Procedures	2	0.2	0.4
Internal controls (KYC/CDD and Record Keeping)	2	0.2	0.4
AMLROs & STR Filings	2	0.15	0.3
Training	2	0.1	0.2
Risk Assessment	2	0.1	0.2
Composite Mitigants Rating			<u>2.0</u>

*******The overall ML/TF in the import and export sector is rated Moderate*******

The moderate risk recorded in this sector is as a result of lack of regulation within the imports sub-sector which has the potential to attract a number of criminals to hide their ill-gotten funds. For example, activities relating to illicit dealing in motor vehicles have been attributed to various factors including the unregulated sector; cash-based nature of transactions, poor record keeping especially by the second-hand vehicle dealers, no KYC/CDD measures, no reporting of STRs and among others.

Again, aside the GADA members, most of the car dealer companies do not request for basic information on their clients. They only do so when they are helping with the change of ownership documents and unfortunately, they don't even maintain the records they collect because the main focus is to make that information available to Driver's Vehicle Licensing Authority (DVLA). No beneficial ownership information is maintained by players in this sector. It is often assumed that the buyer of the car or the one in whose name the car is registered is the beneficial owner.

10.6 Assessment of the Trust and Company Services Providers

The Companies Act, 1963 (Act 179) since its enactment has been amended over the years, creating pieces of legislation that requires consolidation. However, the amendments did not cater for the registration of Trusts and Company Service Providers. The Companies (Amendment) Act, 2016 (Act 920) addressed the issue of Beneficial Ownership. However, the issue of Trusts and Company Service Providers still remains outstanding.

To date, the only statutes concerning trusts in Ghana are the Public Trustee Ordinance of 1952 (No. 24) and the Trustees (Incorporation) Act, 1962 (Act 106). The Public Trustee Ordinance of 1952 creates the office of the Public Trustee and clothes the holder with corporate status. The Public Trustee operates under the Ordinance as a trustee with power to administer the properties of mentally incapacitated persons and to be appointed as an ordinary trustee among other functions. Act 106 enables trustees of a voluntary association established for a religious, literary, and scientific, sports or charitable purpose on registration under the Act, to become incorporated to hold immovable property in trust for the members of the relevant association. However, privately owned trust arrangements fall out of Act 106.

Most Trusts are privately owned and mostly administered by law firms. Operating trust accounts and businesses in Ghana is not illegal. Some of the vulnerabilities identified in this sector are the lack of regulation on private trust companies, no requirement for registration of private trust in Ghana. Also, private trustees are not obligated to disclose BO information to Competent Authorities and inadequate knowledge on AML/CFT obligations. It is as a result of some of these deficiencies mentioned above that the sector recorded a moderate residual risk with regards to ML/TF with an inherent risk rating of 2.0 (moderate) and the internal controls rating of 1.75 (moderate) as indicated in tables 16 and 17 below.

Table 16: Inherent Risk in the Trust and Company Service Providers Sector

RISKS INDICATORS	Respondents Rating (1, 2 or 3)	Weight	Weighted Rating
Customer Risk	2	0.6	1.2
Geographic Risk	2	0.2	0.4
Product and Service Risk	2	0.15	0.3
Delivery Channel Risk	2	0.05	0.1
Total Sector Risk Weighted Rating			<u>2.0</u>

Table 17: Internal Controls rating in the Trust and Company Service Providers Sector

Mitigants	Respondents Rating	Weight	Weighted Rating
Corporate Governance	1	0.25	0.25
Key Policies & Procedures	2	0.2	0.4
Internal controls (KYC/CDD and Record Keeping)	2	0.2	0.4
AMLROs & STR Filings	2	0.15	0.3
Training	2	0.1	0.2
Risk Assessment	2	0.1	0.2
Composite Mitigants Rating			<u>1.75</u>

*******The overall ML/TF in the Trust and Company Service Providers is rated moderate*******

Though this sector recorded a moderate residual risk it is worth noting that the Anti Money Laundering Act 2008 (Act 749) as amended designated Trust and Company Service Providers as “Accountable Institutions” thereby put AML/CFT obligations on them.

11.0 FINDINGS

Below are the findings from the interviews conducted, analysis of the various questionnaires as well as study of the legal framework, institutional framework and the general structure of legal persons and arrangements in Ghana:

1. Registration of a Legal Person in Ghana can take up to more than a week and there have been calls from the business community and other state actors for the registration process to be reduced to at most 48 hours in commensuration with process of other countries.
2. The survey revealed that the RGD does not have approved documented policy (Standard Operating Procedures -SOP) to be followed when registering legal persons.
3. At the point of registration, RGD verifies the TIN number provided by the applicant with GRA. Aside which there is no form of due diligence conducted on applicants. The main reason cited by the RGD for not conducting CDD before registration is that, such an endeavor may lengthen the turnaround time of the registration process. However, the RGD indicated that, conducting CDD after the registration process maybe more feasible but however, due to unavailability of resources, little was being done in this regard.
4. Also, the RGD neither screens shareholders and directors against any Sanctioned Persons List nor report suspicious activities to law enforcement agencies. For instance, Company Inspectors cannot tell when Ghanaians are fronting for foreigners to aid them (foreigners) to evade tax and other regulatory obligations.
5. RGD maintains a record of all businesses registered in the country since its inception in 1962. Records were originally kept in manual form. Re-registration started in 2011 where all entities were required to update their information into the electronic system in both electronic and paper forms. It also maintains a Register which contains basic information of all legal persons in the country. However, there is no information on Trustees. The Basic information is available to all especially Competent Authorities. Currently, the RGD is in the process of developing a Beneficial Ownership register on all legal persons in Ghana.
6. Companies Inspection, which is the only form of Monitoring undertaken by the RGD, is carried out by company inspectors of the RGD on a quarterly basis. Even though Company Inspectors follow some guidelines in undertaking their inspections, the inspections are not risk based. However, there are a range of penalties that can be applied to legal persons who are found to be engaged in activities other than their stated objectives.
7. RGD incorporates Companies Limited by Guarantee which is not for profit. Some of these companies may go on to register with the Department of Social Welfare to acquire an NGO status before the commencement of their operations. However, since the law regulating the activities of the NGOs is with the Ministry of Social Welfare which is not linked to the database of the RGD, some of the Companies registered as Companies Limited by Guarantee who wish to register as Non-Governmental Organisations after registering with RGD might go ahead and start operating as an NGO without obtaining a license from Social Welfare.
8. Additionally, players in the well-regulated sectors such as banking, insurance and securities sectors assiduously conduct KYC/CDD on their clients who are legal

persons to obtain basic information in partial fulfillment of Recommendation 24 & 25. However, it is a partial fulfillment of recommendation 24 and 25 because the legal persons in the financial sector rely on information on company registration documents issued by the

Registrar General's Department which is inadequate in terms of BO requirements.

9. The Banking, Insurance and Securities sectors are mandated by their AML/ CFT guidelines to request for the Beneficial Ownership Register of all legal persons and arrangements in Ghana.
10. All key sectors in Ghana are compliant in terms of the Basic Information collection for KYC/CDD purposes. However, the Petroleum Commission maintains a BO Register of all its registered members (legal persons) operating in the sector.
11. As evidenced by the improved ratings of Ghana in the 2018 corruption perception index, corruption in Ghana is on a downward trend mainly because of prosecutions, conviction and naming and shaming of corrupt officials.
12. Also, the Financial Sector has put in robust measures to monitor relationships and transactions which help them in the identification and management of PEPs.
13. It was found out from the assessment that some physical persons (individuals) abuse their positions with the corporate vehicles and misused their company's banking accounts as it was showed in the typologies above.

12.0 ACTIONS BEING TAKEN TO ADDRESS THE CHALLENGES

To reduce the ML/TF risk associated with legal persons and arrangements in Ghana, the country has undertaken a number of activities. Some of which are listed below.

12.1 Legal Frame work

A number of legislative instruments are being considered to address some of the identified ML/TF deficiencies in the various sectors.

1. Beneficial Ownership: Section 32 of the Companies Act, 1963 (Act 179) outlines the basic information required for the registration of Legal Persons. Subsequently Act 179 was amended by Act 920 to provide for the inclusion of the names and particulars of Beneficial Owners of Companies in the Register of Members for the establishment of a Central Register and for related matters in line with recommendations 24 and 25. The Act also requires Legal Persons to provide the RGD with Beneficial Ownership information and also seeks to improve transparency Of Legal Persons in Ghana. RGD is in the process of developing an electronic data for BO register. However, a number of workshops have been organized across the various regions to sensitise legal persons on the importance for full disclosure of Beneficial Owners. Currently, there is a Bill before Parliaments which seeks to further amend Act 920 to establish a new Office of the Registrar of Companies separate from the Registrar General's Department (RGD) to deal exclusively with company registration and regulation.

The RGD has also operationalized its administrative sanctions and penalties to all legal persons and arrangement who fail to file returns and update their records with the RGD by a certain date (April 30) every year. This is to ensure accurate and current data in the Register.

2. A Real Estate (Agency) Bill which seeks to establish a statutory body to regulate the real estate sector is being developed. The purpose of the Bill is to regulate commercial transactions in the real estate sector including the sale, purchase, rental and leasing of real estate and other fixed assets as well as real estate agents and practitioners.
3. The National Insurance Commission (NIC) is considering an amendment to the Insurance Act, 2006 (Act 724) to give it powers to issue administrative sanctions on violation of AML/CFT Guidelines.
4. In pursuit to avoid the risk of ML/TF on legal persons and arrangements, the Financial Intelligence Centre (FIC) and the Bank of Ghana (BOG) revised the existing BOG/FIC Anti-Money Laundering/ Combating the Financing of Terrorism & the Proliferation of Weapons of Mass Destruction (AML/CFT& P) guideline for banks and non-bank financial institutions in Ghana in July, 2018. This was to cater for among other things third party disclosure. Additionally, in July, 2018, BOG/FIC issued an AML/CFT& P Administrative Sanctions and Penalties for bank and non-bank financial institutions in Ghana.

12.2 National Infrastructure

1. National Identification Card: To streamline Ghana's economy, the National Identification Authority (NIA) has begun the issuance of a national ID card popularly known as the Ghana Card which will have a unique database where citizens are registered and provided a unique identification number. This will go a long way to enable Accountable Institutions to easily verify the identities of their customers when they conduct transactions. The national ID cards also collect biometric traits of individuals which is in line with international standards.
2. National Digital and Property Addressing System, aptly-dubbed 'ghanapostGPS,' a modern approach to allocating addresses within a defined space with the aid of the latest geocoding technology, has been launched in Ghana. With this new system, every property in Ghana will have an address and can easily be identified and located.
3. The Government of Ghana has implemented a paperless port operation system that seeks to enhance transparency in the activities of importers and exporters. This would also minimize crime such as tax evasion, smuggling, forgery (over invoicing and under invoicing), fraud, corruption and bribery and among others.

12.3 Awareness Creation

The FIC in collaboration with other stakeholders and accountable institutions has been conducting awareness creation and sensitization on AML/ CFT. However, following the outcome of the Second Round of Mutual Evaluation, attention has been given to the DNFBP sector particularly, car dealers, real estate developers, casinos, NGOs/NPOs and religious bodies.

The aim is to bring them to speed on their obligations under the AML Act.

12.4 Law Enforcement and Judicial Measures

Between 2016 and 2018, twenty (20) legal persons were investigated and subsequently prosecuted for money laundering and its related offenses such as defrauding by false pretense, possession of forged documents and fake currency, drug trafficking, gold scams and tax evasion. Some natural persons associated with some legal persons have also been prosecuted and convicted for money laundering offenses. Additionally, **103** intelligence reports disseminated by the FIC to the Ghana Revenue Authority (GRA) between **April 2017** and **November 2018**, led to the assessment of **23 million Ghana cedis** in unpaid taxes. Below is a typical case study involving a criminal hiding behind legal persons to defraud unwitting victims.

Case Study 1: Money Laundering through Legal Persons

Mr. Okyere, is a businessman with a registered mining company in Ghana. Between 2007 and 2009, he registered with several online dating websites and made contacts with several women through the online dating platforms majority of who were British citizens.

Mr. Okyere misrepresented himself to these women as an American Soldier serving in Iraq and proposed marriage to them using various false identities. He succeeded in persuading these women to send him various sums of money through the bank accounts of his mining company. He also promised to sell them gold from Ghana. Some of the women visited Ghana to inspect the boxes of gold. They were convinced when they saw the bars of gold and so decided to send money to Mr. Okyere for the purchase and shipment to their home country. The monies for the gold bars were paid into several bank accounts including the accounts of the mining company as directed by Mr. Okyere. He succeeded in collecting a total of GBP 735,000 from his victims.

However, the women did not receive any shipments of gold bars as promised by Mr. Okyere. Upon the realization that they had been defrauded by Mr. Okyere, the women reported the matter to their local Law Enforcement Agencies (LEA) who then liaise with Economic and Organised Crime Office (EOCO) of Ghana to arrest and investigate the activities of Mr. Okyere.

Mr. Oyere was subsequently arraigned before the law court and charged with 37 counts of defrauding by false pretenses, 1 count of money laundering, 1 count of possession of false documents and 1 count of possession of firearm without proper authority.

Mr. Okyere was found guilty on 28 counts including money laundering. He was convicted and sentenced to a 5 year jail term with hard labour on each count to run concurrently. He was also liable to pay back to his victims all monies he fraudulently obtained from them and his house was confiscated by the state.

8.5 Fit and Proper Screening

As part of the licensing process for legal persons in the financial, extractive and gaming sectors, the regulators of these institutions conduct fit and proper screening for the companies and its directors.

9.0 RECOMMENDATIONS

In view of the identified ML/TF risks posed, the following are recommended:

1. The Beneficial Ownership register which is being developed should be made accessible to LEAs and other competent Authorities to facilitate investigations on legal persons and arrangement relation to ML/TF.
2. The Government should speed up the process of passing the Real Estate Authority Bill, 2014 into law to regulate commercial transactions in the real estate sector, including the sale, purchase, rentals and leasing of real estate and related fixed assets as well as real estate agents and practitioners in order to ensure AML/CFT Compliances.
3. The Gaming Commission should ensure by way of conducting enhanced due diligence as well as fit and proper screening on all casinos and gaming company owners and directors to prevent unscrupulous persons from laundering illicit funds through legal persons in the gaming industry.
4. The regulators of the DNFBP and other sectors should ensure that legal persons operating in those sectors put in place PEPs identification and management systems to effectively mitigate the likelihood of PEPs abusing legal persons for illicit purposes.
5. The Government should allocate enough resources to the GRA (the regulator) to supervise the activities of the DNFBPs sector. There should be a continuous sensitization of the DNFBPs sector and the general public by the GRA/ FIC through workshops, seminars, prints and electronic media to enhance their compliance with the Act 749 as amended.
6. The FIC should also collaborate with the players in the DNFBP sector to develop AML/ CFT Guideline and Administrative Sanctions regime for their operations.
7. The Government of Ghana should put in place mechanisms to regulate and supervise operators in the motor vehicle sector.
8. The Trust Bill which seeks to designate a regulator should be quickly passed into law to ensure regulation of the Trust and Company Service Providers.
9. There should be documented Standard Operating procedures (SOP) for RGD.
10. Risk Based Approach (RBA) supervision manuals be developed for company inspectors and continuous capacity building be provided to them to enhance their understanding on AML/CFT issues.
11. The FIC should continue to advocate and advise the government of Ghana and other stakeholders on AML/ CFT issues and international best practices.
12. The FIC should continue to share information on designated persons identified in both international and domestic Sanctions lists with relevant stakeholders including the Registrar General's Department.

13. RGD should be required to check applicant's information against the UN sanctions list.
14. RGD should be obligated to file STR's based on certain indicators.
15. Act 179 as amended may be amended to empower the RGD to conduct enhanced due diligence on all Ghanaian shareholders in a foreign company to identify their true identity and capability of holding shares in foreign companies. This may minimize the incidence of Ghanaians beings used as fronts by foreigners.

10.0 CONCLUSION

This risk assessment identified a number of emerging and potential risk areas for ML/TF as well as identified some deficiencies in key sectors in the Ghanaian economy. The survey revealed that the real estate, import and export (dealers in motor vehicles), the gaming sector, trust and company service providers and the extractive sector all had a moderate level of AML/CFT risk. However, there are a number of steps being put in place to reduce the identified deficiencies to the barest minimum.

The risk assessment will be updated from time to time as Ghana continues its work to enhance its AML/CFT regime to enhance transparency of legal persons and arrangement. The Government of Ghana will spare no efforts and will devote the necessary resources to ensure that Ghana stays as a safe place for living, work and doing business.

It is anticipated that the government would mobilize resources to ensure that the identified deficiencies in the various sectors would be rectified.

REFERENCES

1. Anti-Money Laundering (Amendment) Act, 2014 (Act 874) Anti-Money Laundering Act, 2008 (Act 749). Anti-Money Laundering Regulations, 2011 (L.I. 1987)
2. Anti-Terrorism (Amendment) Act, 2012 (Act 842).
3. Anti-Terrorism (Amendment) Act, 2014 (Act875)
4. Anti-Terrorism Act, 2008 (Act762),
5. Anti-Terrorism Regulations, 2012 (L.I. 2181)
6. Companies Act, 1963 (Act 179) as amended
7. Sections 27 & 32 of the Companies Act 1963 (Act 179) as amended
8. Section 32 (2) of Act 179 as amended
9. Transparency International, Annual Report, July 2015
10. National Risk Assessment Report (NRA), 2018 (Reviewed NRA)
11. Financial Intelligence Centre Annual Reports, 2014
12. Financial Intelligence Centre Annual Reports, 2015
13. Financial Intelligence Centre Annual Reports, 2016
14. Financial Intelligence Centre Annual Reports, 2017

15. FATF Recommendations (2012) revised
16. GIABA Research Report, 2015, www.giaba.org/media/f/1012_DNFBP Report 2015.
17. Ghana's First Round of Mutual Evaluation Report, 2009
18. Ghana's Second Round Mutual Evaluation Report, 2016
19. Ghana Revenue Authority Data base, 2019
20. Ghana Revenue Authority Annual Report, 2018
21. <https://www.myjoyonline.com/politics/2018/October-3rd/ghana-losing-gh135bn-to-corruption-everyyear-chraj.php>

APPENDIX I

Procedures in Assessing ML/TF Risk of the Sectors

The FIC implemented a formal process for assessing ML/TF risk of legal persons and arrangements in Ghana by developing an ML/TF Risk Assessment Excel Template (RAET) - which is an analytical tool that provides a formal and systematic process for assessing the level of ML/TF risk in a consistent way across all legal persons and arrangements.

In assessing the level of risk for each legal persons and arrangements in the various sectors, the RAET begins with determining the legal persons and arrangements' inherent risk, which is driven by the nature and complexity of the products and services, delivery channels and geographic exposure of legal persons and arrangements. The RAET further looks at the quality of controls that legal persons and arrangements have in place, which includes the corporate governance and the functioning of its internal policies, oversight and other control functions. The RAET also took into consideration factors such as the size of the legal persons and arrangements and previous publications on this sector. Each of the main data elements assessed by the RAET is briefly described below.

Assessment of Inherent Risk

Inherent Risk represents the legal persons and arrangements exposure to ML/TF risk in the absence of any control environment being applied. The inherent risk depends on the type of company and the industry. It basically assesses customers, products and services, geographic activities, and delivery channels. These four factors are consistent with the FATF standard expectation for risk identification and analysis.

Assessment of Internal Controls

Once the inherent risks have been identified and assessed, internal controls must be evaluated to determine how effectively they offset the overall risks. Controls are programmes, policies or activities put in place by the legal persons and arrangements to protect against the materialisation of a ML/TF risk, or to ensure that potential risks are promptly identified. Controls are also used to maintain compliance with regulations governing the activities of legal persons and arrangements.

Residual Risk

Residual risk is the risk that remains after controls are applied to the inherent risk. It is determined by balancing the level of inherent risk with the overall strength of the risk management activities/controls. The residual risk rating is used to indicate whether the ML risks of legal persons and arrangements are being adequately managed.

Weighting and Scoring (Ranking of ML/TF Risk)

Due to the nature of each selected legal persons and arrangements' business activities, products and services (including transactions), client base and geographic footprint, a risk-based approach was used to calculate the inherent risk. Each risk factor was assigned a score which reflects the associated level of risk. Each risk was assigned a weight which reflected the level of importance in the overall risk calculation relative to other risk areas. Similarly, each control was assigned a weight which reflects the relative strength of that control. The tables below illustrate the weighting for inherent risk, control factors and residual risk ratings.

Table 18: Inherent Risk Weighting

Inherent Risk Factor	Weight
Customers	60%
Geography	20%
Products and services	15 %
Delivery Channels	5%

Table 19: Control Factor Weighting

Control Factor	Control Factor Weighting
Corporate Governance	25%
Key Policies & Procedures	20%
Internal controls (KYC/CDD and Record Keeping)	20%
AMLROs & STR Filings	15%
Training	10%
Risk Assessment	10%

Table 20: Risk Rating Scale

Scale for Inherent Risk	From	To	Scale for Mitigants
1 - Low	0.00	1.00	1 - Strong
2 - Moderate	1.01	2.00	2 - Satisfactory
3 - High	2.01	3.00	3 - Weak

Table 21: Residual Risk as a function (f) of inherent risk and risk mitigation [f(ir)(rm)]

Residual Risk	Internal Control		
Inherent Risk	Strong (1)	Satisfactory (2)	Weak (3)
Low (1)	Low	Moderate	Moderate
Moderate (2)	Moderate	Moderate	High
High (3)	Moderate	High	High

APPENDIX II

QUESTIONNAIRE

This AML/CFT self-assessment questionnaire is a set of key AML/CFT questions to assist companies in Ghana to assess if they are effectively managing and controlling their money laundering and terrorist financing risks. The Registrar General's Department (RGD) and the Financial Intelligence Centre (FIC) will also use this information to assist companies comply with the Anti-Money Laundering Act, 2008 (Act 749) as amended and Anti-Terrorism Act, 2008 (Act 762) as amended.

The questions cover key aspects which include board/senior management responsibilities, the role of the AML/CFT compliance officer, AML/CFT policies and procedures, adopting a risk-based approach, detecting and reporting suspicious activities, record keeping, staff training and independent testing.

This self-assessment questionnaire is not a checklist and is neither exhaustive nor prescriptive. It is designed to assist companies to focus on the key areas and to enable them to gauge if they are effectively managing their money laundering/terrorist financing (ML/TF) risks and complying with regulatory obligations to prevent ML/TF.

The AML/CFT Self-Assessment requires companies to assess and document its AML/CFT programme against each requirement/control and indicate its level of control as (categories - e.g. no control, partial control, largely effective control, and effective controls).

Please tick the appropriate box or write in the space provided.

1. COMPANY INFORMATION

a.	Company Legal Name	
b.	Industry within which the company operate	
c.	Location of Company	
d.	Date of Commencement	
e.	Nature of Business	

2. RISK ASSESSMENT

a.	Have you undertaken a risk assessment to identify transaction types, customers and the geographical nature of your business to determine vulnerabilities to ML/TF that your company may face?	Yes []	No []	Don't Know []
If you answered "yes" to question 1a please answer the following two questions below				
b.	Has your Risk Assessment been documented?	Yes []	No []	Don't Know []
c.	How often is the document reviewed?			
d.	Who undertakes the review?			

3. POLICIES AND PROCEDURES

a.	Does your business have written policies and procedures detailing your AML/CFT obligations and the steps that you undertake to meet those obligations?	Yes []	No []	Don't Know[]
If you answered "yes" to question 2a please answer the following two questions below				
b.	How often are your policies and procedures reviewed?			
c.	Do you undertake regular audits of transactions to determine that policies and procedures are being followed throughout your business?	Yes[]	No []	Don't Know[]

4. ANTI-MONEY LAUNDERING REPORTING OFFICER (AMLRO)

a.	Has your company formally appointed an AMLRO?	Yes []	No []	Don't Know[]
b.	If you answered 'Yes' to question 3a, does the AMLRO make regular reports to the management of the company on AML/CFT issues?	Yes[]	No []	Don't Know[]

5. REPORTING SUSPICIOUS ACTIVITY

a.	Does your business continually monitor transactions for possible suspicious activity?	Yes []	No []	Don't Know[]
b.	Does your business report/ file suspicious activity report to the FIC	Yes[]	No []	Don't Know[]

6. CUSTOMER DUE DILIGENCE (CDD)

a. How do you undertake CDD?

.....

b.	Do you have an external identification verification service?	Yes []	No []	Don't Know[]
If "yes", please provide the name of the service				
c.	Do you have a database of Politically Exposed Persons?	Yes[]	No []	Don't Know[]
d.	Do you check your customers against the Sanctions list?	Yes[]	No []	Don't Know[]
e.	Do you undertake CDD on the purchasers of property being sold by your business?	Yes[]	No []	Don't Know[]

f. If you answered 'Yes' to question 5e at what point do you carry out the CDD?

.....

7. BENEFICIAL OWNERSHIP INFORMATION (BO)

a.	Is your company required to maintain BO information?	Yes []	No []	Don't Know[]
b.	Does your company require shareholders to declare to the company if they own shares on behalf of a third person?	Yes[]	No []	Don't Know[]
c.	Does the RGD require you to update information on beneficial ownership or identifying the beneficial owner immediately or within a period of time after the change?	Yes[]	No []	Don't Know[]
d.	Do your company conduct independent verification of the information on the identity provided by clients	Yes[]	No []	Don't Know[]

8. TRAINING

a.	Does your company provide AML/ CFT training for its staff?	Yes []	No []	Don't Know[]
b.	If 'Yes' how often is training provided?			
c.	Are you aware of AML/CFT course?	Yes[]	No []	Don't Know[]
d.	If you answered 'Yes' to question 7c have you or any of your staff attended the course?	Yes[]	No []	Don't Know[]

9. HOW CAN THE RGD/ FIC HELP YOU

Let us know how we can help you meet your AML/CFT obligations
.....
.....
.....