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Assessing the role of the Intergovernmental Action Group Against Money Laundering in West Africa (GIABA) in light of virtual assets and cross-regional cryptocurrency-based money laundering in Nigeria

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ABSTRACT

Africa is one of the fastest-growing crypto markets in the world, with its crypto transactions peaking at $20 billion per month in mid-2021, with Nigeria contributing to the world's third largest bitcoin-holding. Evidence continues to grow, showcasing criminals who seek to use cryptocurrencies for illegal activities like money laundering which could subsequently give rise to the event of an unregulated economy and global financial instability. As a result of the challenges of these unconventional currencies and transaction methods, the Financial Action Task Force (FATF) updated its recommendations (particularly with the inclusion of Recommendation 15 on New Technologies) to address the various money laundering and terrorism financing risks associated with virtual assets (including cryptocurrencies) and Virtual Asset Service Providers (VASPs) as an attempt to encourage member states' regulatory actions against such risks.

As there has been considerable work carried out by the Intergovernmental Action Group Against Money Laundering in West Africa (GIABA) with regards to the implementation of Recommendation 15 in West African member states (and particularly Nigeria for the purpose of this research), this paper therefore investigates and evaluates the role of GIABA as an FRSB in monitoring Money Laundering in West Africa and implementing FATF Standards in the 21st-century era of virtual assets and other cryptocurrencies. Particularly, it provides an in-depth assessment of GIABA's work in monitoring the implementation of Recommendation 15, especially with regards to cryptocurrency-based money laundering amidst the growth of cryptocurrency exchange and trading services in West Africa.

1. Introduction

The 21st century has seen a rapid boost in the emergence and adoption of new technologies within the global financial ecosystem, particularly in Africa. The last five years have seen significant growth in the number of Financial Technology (FinTech) start-up companies predominantly headed by African youths, and the adoption of FinTech offerings such as mobile wallets, crowdfunding, peer-to-peer lending and more importantly blockchain technology which underpins virtual assets such as non-fungible tokens (NFTs such as digital art collectables) and cryptocurrencies. In July 2023, Namibia became the first African country to pass and adopt legislation on virtual assets in the form of the *Virtual Assets Act 2023,* as an attempt to regulate emerging technologies and virtual asset service providers. Within this same time frame, Nigeria was reported to have an "all-time high trading volume of cryptocurrencies worth $1.5 billion on Paxful"[1]; (an online trading platform) alongside numerous exchange platforms powered by FinTech start-ups, with Ghana ranking as the fourth largest cryptocurrency market in West Africa.[2] It is worth noting that these developments come within an era of Nigeria's fight with money laundering being on shaky grounds. For instance, Nigeria has been placed on FATF's grey list, which indicates jurisdictions with weak measures for money laundering prevention and are currently under strict monitoring by FATF.[3] This comes not too long after risks of Nigeria being

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[1] E Onyekwere, F.N Ogwueleka and M.E Irhebhude, 'Adoption and Sustainability of Bitcoin and the Blockchain Technology in Nigeria.' (2023) 15 International Journal of Information Technology 5. 2793–2804.

[2] Ibid.

[3] FATF, 'Jurisdictions Under Monitoring-October 2023.' (2023)

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blacklisted by global financial bodies and blacklisted from the Egmont Group in 2022.[4]

Virtual assets being presented as currency and a store of value as a consequence carry significant risks harmful to economic and financial stability such that they must be "effectively regulated."[5]; Such risks include "the possibility of fraud, malicious manipulation, data privacy and cyber security concerns and money laundering."[6]; This data alongside forecasts by experts of the diminishing relevance of traditional banking methods in the next ten years,[7] has sparked numerous conversations globally, particularly within West African countries on effectively enforcing policies surrounding cryptocurrency-based financial crimes, particularly money laundering.

Against this backdrop, this paper aims to thoroughly investigate the role of the Intergovernmental Action Group (GIABA) towards money laundering prevention in the region. Specifically, this paper assesses the traditional role of GIABA in light of the existence of virtual assets and their propensity to be weaponised in money laundering activities. To this aim, the first section will present an overview of money laundering in West Africa, the emergence of virtual assets with a particular focus on Nigeria as a case study and the evolution of the role of GIABA in the twenty years it has been active, alongside the recommendations presented by the Financial Action Task Force (FATF). The next section will assess GIABA's implementation of FATF standards in the AML regimes in member states as part of its money laundering prevention strategy by reviewing data sources from GIABA and Nigeria, to determine the effectiveness of GIABA in money laundering prevention particularly in Nigeria, in light of the existence of virtual assets and provide recommendations for improvement.

2. The evolution of money laundering in West Africa and the emergence of virtual assets

2.1. An overview of money laundering and cryptocurrencies in West Africa

Before 1986, the term 'money laundering did not formally connote a criminal offence in many countries but was a concept aimed at "combating drug trafficking"[8]; and became criminalised globally in 1988 under the United Nations Vienna Convention. It is worth noting that money laundering became criminalised in the US under the 1986 Money Laundering control Act and is recognised as one of the first countries globally to officially recognise money laundering as a criminal offence. Given the prevalence of predicate illicit offences within the financial system, such as embezzlement of funds, corruption, fraud, tax evasion and so on, the scope of money laundering has been expanded to cover a "wide variety of criminal activities."[9]; As such, the definition of money laundering has evolved such that it is "a process used to disguise the origin of ill-gotten money"[10]; to be channelled through legitimate sources such that it "circumvents national (and international) laws."[11]; Ifeakandu and Ardzard argue that "the use of the word 'money' makes the term appear misleading and imprecise since money may not necessarily be involved in the crime."[12]; This therefore brings cryptocurrency transactions within the ambit of money laundering, depending on its classification, as this argument assumes that provided the value represents the proceeds of crime, then money laundering has occurred. Money laundering is usually carried out in three stages: the placement stage, which involves the introduction of the illicit funds in the financial system. Teichmann notes that "this is the most important and at the same time most difficult step in the process, as the incriminated assets are "purged" of their most imminent traces during this phase."[13]; This involves the use of various depositing techniques to introduce the funds into the financial system through channels that detract attention from authorities. The next stage is the layering stage, "whereby money is placed with an accounting legend, often using bank accounts in various stages"[14]; through the use of complex financial transactions designed to obscure the source of the illicit funds and make it harder to trace the money to its criminal source. This includes converting funds to other currencies or assets such as cryptocurrencies or using shell companies to mask ownership. Finally, the integration stage involves the money being placed back into the financial ecosystem, thus turning dirty money "clean." Due to the threats to global economic and financial stability that money laundering activities present, the Financial Actions Task Force (FATF) was commissioned in 1989 by the G-7 to provide global recommendations and to set standards regarding the implementation of effective measures to combat money laundering, the financing of terrorism as well as other threats to the international financial system. Some of these measures include evaluating compliance of member states with the FATF Recommendations, providing guidance and technical assistance on the implementation of AML/CFT measures as well as promoting overall global cooperation and encouraging member states to build stronger AML/CFT framework. As of 2023, "over 200 jurisdictions have committed to the FATF recommendations"[15]; with over 30 countries in the sub-Saharan African region.

Pertaining to West Africa, the Economic Community of West African States (ECOWAS) was created in 1975 with the primary aim of regulating and consolidating "the free movement of people, goods, services and capital and a common external tariff."[16]; Additionally, as part of its role, ECOWAS aims to be "at the forefront of the fight against transnational financial crime in West Africa"[17]; and to this aim, established GIABA in 1999 as part of its fight against money laundering in the West African region. ECOWAS has also established and adopted "several regional instruments"[18]; tackling many predicate illicit offences underpinning cross-regional money laundering activities. Ifeakandu and Arzdard explain that "GIABA was established as a specialised institution of ECOWAS responsible for protecting the economies and financial and

[4] Punch Editorial Board, "Nigeria's Money Laundering Status Worrisome." (*Punch*, 2022) Available at: < https://punchng.com/nigerias-money-laundering-status-worrisome/#:~:text=In%20its%20latest%20global%20ranking,greater%20risks%20of%20environmental%20crime. > Accessed 10 November 2022

[5] A Schmidt, 'Virtual Assets: Compelling a New Anti-Money Laundering and Counter-Terrorism Financing Regulatory Model.' (2021) 29 International Journal of Law and Information Technology 4. 332–362

[6] E.I Agbo and E.O Nwadialor, 'Cryptocurrency and the African Economy.' (2020) 2 Economics and Social Sciences Academic Journal 6 84–100.

[7] E Onyekwere, F.N Ogwueleka and M.E Irhebhude, 'Adoption and Sustainability of Bitcoin and the Blockchain Technology in Nigeria.' (2023) 15 International Journal of Information Technology 5. 2793–2804.

[8] F Teichmann, 'Current Developments in Money Laundering and Terrorism Financing.' (2023). 26 Journal of Money Laundering Control 2. 337–348

[9] Ibid

[10] E.S Mekpor, 'Anti-Money Laundering and Combating the Financing of Terrorism Compliance'. (2019) 22 Journal of Money Laundering Control 3. 451–471

[11] F Teichmann, 'Current Developments in Money Laundering and Terrorism Financing.' (2023). 26 Journal of Money Laundering Control 2. 337–348

[12] I.O Ifeakandu and H Arzdard. 'The Role of Institutional Framework in Entrenching Effective Anti-Money Laundering/Combating Terrorist Financing in West Africa: The Intergovernmental Action Group Against Money Laundering in West Africa (GIABA) in Perspective.' (2022) 13 Beijing Law Review 575–593.

[13] F Teichmann, 'Current Developments in Money Laundering and Terrorism Financing.' (2023). 26 Journal of Money Laundering Control 2. 337–348

[14] F Teichmann, 'Current Developments in Money Laundering and Terrorism Financing.' (2023). 26 Journal of Money Laundering Control 2. 337–348

[15] FATF, *The FATF.* Available at: < https://www.fatf-gafi.org/en/the-fatf.html > Accessed on: 10 December 2023.

[16] Intergovernmental Action Group Against Money Laundering in West Africa (GIABA), *An Assessment of the Challenges of Investigating, Prosecuting and Adjudicating Money Laundering and Terrorist Financing Cases in West Africa Report.* (2022).

[17] Ibid.

[18] Ibid.

banking system of member states against the proceeds of crime"[19]; as well as improving methods and efforts to combat financial crimes. As such, it is an autonomous body, with its own governance structure and technical and political leadership and Ojomo notes that while GIABA was established by the ECOWAS decision in 1999, with its establishing statute coming into full effect in 2000, "it was recognised as FATF Style Regional Body (FRSB) and became an associate member of the FATF"[20]; ten years later. Ultimately, GIABA functions as a body tasked with monitoring the implementation of AML/CFT standards of the FATF in the West African signatory states. Due to the continuously escalating nature of predicate offences behind money laundering in West Africa and the consequential damages to economic growth, the creation of GIABA therefore serves as an attempt to promote cross-regional collaboration in the fight against money laundering and terrorist financing risks and its role, objectives and implementation strategies will be critically assessed in later sections.

Research shows that many African countries are currently ranked highly with regard to cryptocurrency trading, with Nigeria ranked as the top African country globally and the third largest in the world in terms of cryptocurrency holders and volume, and Ghana, a close fourth.[21] Countries like South Africa, Kenya and Rwanda have significant innovations in establishing cryptocurrency exchange platforms within the FinTech ecosystem, such as LEAF (a Rwandan start-up aimed at converting national currency to cryptocurrency for the African unbanked) and Bankymoon (a South African consulting firm developing bespoke solutions for clients who require cryptocurrency integrations).[22] Particularly important is the fact that there is a growing interest by many African FinTech "on the transmission of encrypted payments without internet connectivity"[23]; to facilitate cross-border payment, especially for the unbanked, whilst also avoiding the watchful eyes of regulators. Igwebuike asserts that regarding cryptocurrency adoption and legislation in Africa, "African countries such as Zimbabwe and Namibia have reportedly taken off, and Mauritius takes a more prominent position in this kind of trade amongst African countries."[24]; Within Sub-Saharan Africa, while a majority of West African countries seem to lean towards completely banning or prohibiting cryptocurrency transactions[25] or adopting a 'wait-and-see' approach, the reality is that "the banning of cryptocurrency by the national government cannot stop the online transactions of virtual currency."[26]

[19] I.O Ifeakandu and H Arzdard. 'The Role of Institutional Framework in Entrenching Effective Anti-Money Laundering/Combating Terrorist Financing in West Africa: The Intergovernmental Action Group Against Money Laundering in West Africa (GIABA) in Perspective.' (2022) 13 Beijing Law Review 575–593.

[20] Edefe Ojomo Regional institutions as international bypasses in West Africa (2019) 10 Transnational Legal Theory, 333–354, Available at: < 10.1080/20414005.2019.1687248 > accessed on 3 January 2025.

[21] E.I Agbo and E.O Nwadialor, 'Cryptocurrency and the African Economy.' (2020) 2 Economics and Social Sciences Academic Journal 6 84–100; E Onyekwere, F.N Ogwueleka and M.E Irhebhude, 'Adoption and Sustainability of Bitcoin and the Blockchain Technology in Nigeria.' (2023) 15 International Journal of Information Technology 5. 2793–2804.

[22] Digital Observer for Africa, 'Cryptocurrency Adoption in Africa.' Available at: < https://www.do4africa.org/en/cryptocurrency-adoption-in-africa/. Accessed 15 December 2023.

[23] Ibid.

[24] E.I Agbo and E.O Nwadialor, 'Cryptocurrency and the African Economy.' (2020) 2 Economics and Social Sciences Academic Journal 6 84–100.

[25] S Chinomso, 'African Countries That Banned Cryptocurrency.' (News Central, 2024) Available at: < https://newscentral.africa/african-countries-that-banned-cryptocurrency/ > Accessed 6th January 2025: In Sub-Saharan Africa, six countries have either out rightly banned, implicitly banned or placed extreme restrictions on cryptocurrencies (Ethiopia, Lesotho, The Republic of Congo, Cameroon, Sierra Leone and Liberia) as at 2023, with the latter three countries being West African nations. Nigeria, Kenya and Ghana are noted to be countries with the highest cryptocurrency volumes thus making attempts at regulating or placing regulated restrictions on crypto activities.

[26] Ibid.

2.1.1. The growth of the virtual assets ecosystem in Nigeria

Over the last 10 years, Nigeria's financial ecosystem has experienced rapid growth such that it now presents itself as one of the largest in the African continent, with the rise of fast-growing Financial Technology (FinTech) Start-ups, virtual banks, online foreign exchange platforms (such as Aboki FX) and the more popular and dominant cryptocurrency exchange and trading platforms. This has made the movement of money and financial transactions much easier, more complex and seemingly out of reach of financial regulators. Technological developments are growing at a beneficial rate in Nigeria, and many are not left behind, as it is readily available for use to both victims and offenders.

According to Goldbarsht, the European Central Bank (ECB) identifies cryptocurrencies as "bidirectional virtual currencies, which can be obtained against legal tenders and can be exchanged back into legal tender."[27]; Following this, the Financial Actions Task Force (FATF) categorises virtual currencies under two types: convertible or open virtual currencies which can be "exchanged back and forth for real currencies"[28]; or non-convertible or closed virtual currencies which in theory, are meant to be static and used for a specific virtual domain. On the other side of the same coin, Idelberger defines NFTs as "a uniquely identifiable digital representation of physical or digital assets."[29]; NFTs are essentially "tokenized versions of assets that can be traded on a blockchain, the digital ledger technology (DLT) behind cryptocurrencies like Bitcoin and Ethereum. Unlike Bitcoin, however, each NFT is a unique entity and can't be exchanged one-for-one."[30]; In today's financial ecosystem. one aspect that underpins the development of virtual assets and investment vehicles (ICOs) in modern finance is the development of FinTech platforms that act as cryptocurrency traders, exchangers, and miners, offering crypto-wallets and alternative payment methods using cryptocurrencies. The Financial Action Task Force (FATF) describes these types of platforms as "Virtual Asset Service Providers (VASPs). VASPs are defined as "any natural or legal person… that conducts one or more of the activities or operations listed (in the guidance) for or on behalf of another natural or legal person."[31]; Such activities include but are not limited to virtual asset transactions.

The use of virtual assets in Nigeria began to gain ground from early 2016, during the period when the Ponzi scheme, *'Mavrodi Mundial Moneybox (MMM)'*[32] gained infamous popularity in Nigeria. From then on, various financial exchange platforms began to exist, such as NairaEx, PexBank, PerfectMoney, Neteller and so on, which created time-saving avenues for the exchange and trading of cryptocurrencies. In 2020, Nigeria was ranked as the country with the fastest-growing cryptocurrency market with a growing value of $33.4 billion and as of 2023,[33] now has a trading volume of over $50 billion. Onyekwere explains that the most significant rationale for the growing popularity of virtual assets in Nigeria is due to "a high unemployment rate and a

[27] D Goldbarsht, "Virtual Currencies as a Quasi-Payment Tool: The Case of Frequent-Flier Programs and Money Laundering." (2022) 25 Journal of Money Laundering Control 1. 150–164

[28] Ibid.

[29] F Idelberger and M Péter, Non-Fungible Tokens (2022). 11 Internet Policy Review 2. Available at: < https://doi.org/10.14763/2022.2.1660 >, Accessed on: 18 June 2023.

[30] B Legters, "Will The Growth In NFTs Change The Trajectory Of The Banking And Payments Industry?" (2021) FinTech 2030. Available at: < https://www.fisglobal.com/en/fintech2030/economies/nfts-future-banking > Accessed 18 June 2023.

[31] Financial Actions Task Force, "Guidance on Virtual Assets and Virtual Service Providers (2019) FATF Guidance.

[32] This was a popular Ponzi scheme and money fund which aimed at increasing monetary returns for all deposits in the scheme, attracting 2.4 million Nigerian users before it collapsed.

[33] R Santosdiaz, 'Nigeria's FinTech Landscape in 2022.' (2022) The FinTech Times (Online) Available at: < https://thefintechtimes.com/nigerias-fintech-landscape-in-2022/ > Accessed 15 December 2023.

limited enabling environment for entrepreneurship and business ventures."[34]; While this may appear to be one of the reasons, perhaps the most accurate rationale for this development is the evolving and growing curiosity of Nigerian youths to break into the global tech space and seek and resort to other means to improve their economic status. Against this need, numerous FinTech start-ups which simultaneously operate as cryptocurrency exchange platforms such as Patricia, Bitmama and BuyCoins, have emerged and grown rapidly over the past eight years in Nigeria. In 2022, the revenue accrued from Nigerian FinTech companies was forecast at $543.3 million, an almost 400 % increase from its 2017 forecast.[35] Due to the nature of Nigeria's rather booming economy, the World Bank's diagnostic framework places Nigeria among the top four countries across the African continent to dominate with regard to funding raised by start-ups, particularly fintech start-ups. Onyekwere, on FinTech cryptocurrency exchange platforms, concludes that "the number of exchanges in operation and the volume of transactions in Nigeria show that the younger generations are fascinated and enthralled by this digital financial innovation."[36]

Towards the end of 2017, The Central Bank of Nigeria (CBN) issued a circular on the risks of using, holding, and/or trading cryptocurrencies due to the traction cryptocurrencies had gained in the country.[37] At the time, this represented an obvious dissociation from the reality of many Nigerians and even FinTech companies, whereby Nigerians continued to use, hold, trade and mine cryptocurrencies, growing such that "Nigerians were the third largest holders of Bitcoin as a percentage of its Gross Domestic Products in the world."[38]; In 2021, CBN released another circular, directing banks and other financial institutions to identify and report individuals and entities transacting or operating in cryptocurrency exchanges while freezing their accounts. This was a bold move, given the volume of cryptocurrency usage and holding Nigeria had at the time (regardless of this 'soft ban') where in May 2021, "Nigeria received $2.4 billion worth of cryptocurrency, compared to the $684 million last December."[39]; Within this frame of time, BuyCoins, an exchange platform that allowed Nigerians to "buy and sell cryptocurrencies with their local bank account or debit card" quickly found a way to circumvent the NDIC and CBN's circulars, by introducing "P2P deposits and withdrawals by matching user deposits to user withdrawal requests,"[40]; allowing users directly interact with each other using any relevant payment method outside local bank accounts or cards. Additionally, a popular trading platform, *Patricia*, developed its own digital token (*Patricia Token* or *PTK)* raising serious concerns as to the potential crypto scam this would result in, given that the launch of this token did not comply with SEC Rules and its existence was outside the scope of regulatory boundaries. In 2023, the Nigerian government allegedly made over "100 arrests, pursuing 452 prosecutions and obtaining 10 convictions"[41]; in money laundering cases, with over ₦60 billion being recovered as illicit funds that have been laundered. Interestingly enough, news reports in 2024 show the EFCC's crackdown on cryptocurrency fraud and scams throughout the year in similar volumes. Garba and Button recently conducted a study on cryptocurrency fraud in Nigeria's financial ecosystem side by side with the role of the EFCC in convicting cryptocurrency fraudsters. This constituted an empirical study involving collecting data on 22 convicted criminals from the EFCC related to cryptocurrency fraud and other related crimes. Key observations in their research were that "fraudsters employed various means to perpetrate cryptocurrency fraud, with victims targeted in the US, China, Canada, Malaysia and the Philippines"[42]; and what is particularly interesting also is the fact that majority of cryptocurrency fraud that exists in Nigeria usually relates to investment fraud which involves "deceiving individuals to invest in fraudulent schemes or projects that promise high returns that never materialise."[43]

3. The historical context of GIABA's establishment and objectives

It is imperative to note that at the initial inception of GIABA in 1999, its main focus was protecting West African financial systems solely against money laundering. However, in 2006, following the 9/11 terrorist attacks and concerns with terrorism funding through illicit financial flows, "counter-financing of terrorism was officially incorporated into GIABA's mandate."[44]; While GIABA predominantly exists under ECOWAS as a specialised institution, it also operates as a "Financial Action Task Force-Style Regional Body (FSRB) that fully adheres to the FATF Recommendations."[45]; Through this, therefore, it aims to uphold standards and guidelines across West Africa for money laundering prevention, according to "acceptable international standards and practices."[46]; To do this, GIABA organises mutual evaluation across all member states to "assess the effectiveness or otherwise of individual countries' AML/CFT regimes and their level of technical compliance with FATF recommendations on a recommendation-by-recommendation basis."[47]; Borlini explains that the purpose of this mutual evaluation process is to "provide a framework for a global, unified and methodological approach to assessments."[48]; To create a seamless approach, GIABA, as an FSRB uses the mutual evaluation process to assess each member state's degree of compliance with international AML standards. In carrying out its functions, GIABA organises mutual evaluation and follow ups as contained in the FATF's methodology with

[34] E Onyekwere, F.N Ogwueleka and M.E Irhebhude, 'Adoption and Sustainability of Bitcoin and the Blockchain Technology in Nigeria.' (2023) 15 International Journal of Information Technology 5. 2793–2804.

[35] R Santosdiaz, 'Nigeria's FinTech Landscape in 2022.' (2022) The FinTech Times (Online) Available at: < https://thefintechtimes.com/nigerias-fintech-landscape-in-2022/ > Accessed on: 15 December 2023.

[36] E Onyekwere, F.N Ogwueleka and M.E Irhebhude, 'Adoption and Sustainability of Bitcoin and the Blockchain Technology in Nigeria.' (2023) 15 International Journal of Information Technology 5. 2793–2804.

[37] NAN, "Revisiting the CBN Ban on Cryptocurrency Transactions." (2021) The Guardian Online. Available at: < https://guardian.ng/features/revisiting-cbn-ban-on-cryptocurrency-transactions/ > Accessed on: 2 May 2023

[38] E Egbejule, 'Cryptocurrencies: The Rise of Nigeria's Digital Aboki's' (2018) The Africa Report Available at: < https://www.theafricareport.com/507/cryptocurrencies-the-rise-of-nigerias-digital-abokis/ > [Accessed on: May 3 2023]

[39] A Baydakova, "Thriving Under Pressure: Why Crypto Is Booming in Nigeria Despite the Banking Ban." (2021) CoinDesk (Online). Available at: < https://www.coindesk.com/markets/2021/07/06/thriving-under-pressure-why-crypto-is-booming-in-nigeria-despite-the-banking-ban/#:~:text=In%20May%2 C%20Nigeria%20received%20 %242.4,alive%20and%20well%20in %20Nigeria. > Accessed: 1 November 2022.

[40] Digital Observer for Africa, 'Cryptocurrency Adoption in Africa.' Available at: < https://www.do4africa.org/en/cryptocurrency-adoption-in-africa/. Accessed 15 December 2023.

[41] Intergovernmental Action Group Against Money Laundering in West Africa (GIABA), *An Assessment of the Challenges of Investigating, Prosecuting and Adjudicating Money Laundering and Terrorist Financing Cases in West Africa Report.* (2022).

[42] KH Garba, S Lazarus & M Button 'An assessment of convicted cryptocurrency fraudsters' 2024, Current Issues in Criminal Justice. Available at https://doi.org/10.1080/10345329.2024.2403294 accessed on 3 January 2025.

[43] Ibid.

[44] GIABA, *About GIABA.* (Updated, 2018). Available at: < https://www.giaba.org/about-giaba/index.html > Accessed 10 December 2023.

[45] Ibid.

[46] Ibid.

[47] I O Ifeakandu and H Arzdard. 'The Role of Institutional Framework in Entrenching Effective Anti-Money Laundering/Combating Terrorist Financing in West Africa: The Intergovernmental Action Group Against Money Laundering in West Africa (GIABA) in Perspective.' (2022) 13 Beijing Law Review 575–593

[48] Borlini L. 'The Financial Actions Task Force: An Introduction.' (2015) U4 Anti-Corruption Resource Center Brief.

the mutual evaluation assessing technical compliance (to determine whether the necessary systems and frameworks are in place) and the effectiveness of such systems/frameworks, with the follow ups predominantly aimed at encouraging implementation of the FATF standards, providing regular monitoring and applying sufficient pressure and overall accountability.

GIABA therefore focuses on how well countries achieve their objectives under AML, to make determinations on the relevant country's AML strategy and through evaluation reports, highlights the effectiveness of such AML regime and key areas to address for efficiency. For instance, Ibrahim notes that in its 2010 evaluation report on Nigeria, GIABA indicated that "some of the regulatory agencies and the judiciary are yet to develop enough capacity to combat ML effectively."[49]; The challenge, however with this process is that there is only a limited implementation requirement based on the suggestions for improvement provided by GIABA, a point which will be further assessed in later sections. It must furthermore be noted that GIABA offers a purely supplementary or support role to its Member States to help in the performance of their obligations (such as adopting FATF standards where required) but "it does not perform these functions in the stead of these states."[50]

GIABA works in collaboration with a number of stakeholders and projects such as the recent collaboration with the African Development Bank to work on a three year support project backed by a $5 million grant titled "*Capacity Development for Anti-Money Laundering and Countering the Financing of Terrorism in GIABA Member States in Transition* and other projects one of such being the Organised Crime: West Africa Response to Money Laundering (OCWAR-M),[51] an EU Financed project in West Africa, which provides operational capacity building in the fight against money laundering in West Africa. Ifeakandu and Ardzard cite further examples of GIABA's efforts to ensure a formidable AML regime in West Africa. Those range from "organising workshops in different member states"[52]; as well as providing technical assistance to Member states who require them. Evidence shows that "GIABA's assessment of countries focuses on high-risk areas"[53]; and in order to do this effectively, GIABA takes into account each region's "specific peculiarities and conditions"[54]; in the assessment of strategies and regimes. At the same time, it attempts to ensure a harmonised approach such that similar measures are used across West African countries, to the extent of strengthening cooperation among member states, to the goal of regional economic stability. Additionally, GIABA grants "observer status to African and Non-African states as well as Intergovernmental organisations that support its objectives and actions,[55] thus strengthening regional ties, enhancing knowledge sharing and best practices as well as encouraging other African action groups and bodies similar to GIABA (such as the Action Group against Money Laundering in Central Africa and Eastern and Southern Africa Anti-Money Laundering Group) to continue its work in the fight across the entire African jurisdiction.

In carrying out its work on combating the placement of criminal proceeds into the economy, GIABA works with Financial Intelligence Units (FIUs) in member states in carrying out its monitoring and FATF implementation roles, and notably offers relevant assistance to Member States who require it. For instance, Ogbaji notes that "the Nigerian FIU (NFIU) has received support from international and domestic partners particularly GIABA"[56]; and as such, the NFIU is "responsible for adopting the GIABA framework for its activities."[57]; Additionally, GIABA focuses on "deliverables and methodologies for achieving determinable results known commonly as *Strategic Plan.*"[58]; This is usually based on various goals or pillars, areas of extreme focus and development within four-year blocks, including technical and institutional development as well as capacity building. This strategic plan thus highlights GIABA's intention to support development of sufficient AML regimes in Member States as well as regional cooperation in the fight against money laundering and terrorism financing in West Africa and it is worth noting that based on this strategic plan, "GIABA works to assist states in enacting, upgrading and/or harmonising AML legislations in West Africa."[59]

3.1. A review of GIABA's role, achievements and challenges in traditional and 21st century money laundering prevention in Nigeria

Historically, the Nigerian economy and financial sector were lauded as the most dominant in West Africa and Africa, where it has experienced robust and continued growth over the last 10 years. GIABA describes Nigeria as "a major centre of organised criminal activity in the West African Region,"[60]; due to how much criminal activity continues to make headway with little to no regulatory oversight. As a result of this, from 2009 to 2012, Nigeria was described as a "high-risk ML/TF jurisdiction"[61]; for its non-compliance with international standards.

In its evaluation of Nigeria's compliance with FATF standards and an assessment of its AML/CFT regime, GIABA noted in 2010 that Nigeria's Money Laundering (Prohibition) Act 2004 was not fit for purpose, noting numerous weaknesses in its AML framework. Following on from this, in its May 2010 third follow up report, Nigeria made amendments to its 2004 MLPA (which later became the MLPPA 2011 Act once it took effect in 2011) as an attempt to address GIABA's concerns and "deepen the implementation of AML/CFT regimes in Nigeria."[62]; Additionally, GIABA has also been reported to have provided technical assistance to Nigeria in several areas, including strengthening the capacity of the EFCC, provision of a financial grant to improve its operations and provide support through the FATF review process. Beyond this, GIABA continues to hold sensitisation workshops and training exercises for regulatory agencies, and stakeholder actors, including those targeted towards young persons, investigative

[49] Ibrahim Abdu Abubakar, 'An Appraisal of Legal and Administrative Framework for Combating Terrorist Financing and Money Laundering in Nigeria' (2013) 19 JL Pol'y & Globalization 26

[50] Edefe Ojomo Regional institutions as international bypasses in West Africa (2019) 10 Transnational Legal Theory, 333–354, Available at: < 10.1080/20414005.2019.1687248 > accessed on 3 January 2025.

[51] Expertise France. 'OCWAR-M – Organised Crime: West African Response to Money Laundering and the Financing of Terrorism.' (2020) Available at: < https://expertisefrance.fr/en/fiche-projet?id= 774453 Accessed 15 December 2023.

[52] Expertise France. 'OCWAR-M – Organised Crime: West African Response to Money Laundering and the Financing of Terrorism.' (2020) Available at: < https://expertisefrance.fr/en/fiche-projet?id= 774453 Accessed on: 15 December 2023.

[53] I O Ifeakandu and H Arzdard. 'The Role of Institutional Framework in Entrenching Effective Anti-Money Laundering/Combating Terrorist Financing in West Africa: The Intergovernmental Action Group Against Money Laundering in West Africa (GIABA) in Perspective.' (2022) 13 Beijing Law Review 575–593.

[54] GIABA, *About GIABA.* (Updated, 2018). Available at: < https://www.giaba.org/about-giaba/index.html > Accessed 10 December 2023.

[55] Ibid

[56] J.O. Ogbaji, "The Role of Nigerian Financial Intelligence Unit (NFIU) In Curbing Money Laundering and Terrorism Financing 2005–2021. (2023) 3 Yamtara-Wala Journal Of Arts, Management And Social Sciences (YAJAMSS) 3

[57] Ibid

[58] I O Ifeakandu and H Arzdard. 'The Role of Institutional Framework in Entrenching Effective Anti-Money Laundering/Combating Terrorist Financing in West Africa: The Intergovernmental Action Group Against Money Laundering in West Africa (GIABA) in Perspective.' (2022) 13 Beijing Law Review 575–593.

[59] Ibid

[60] GIABA, *About GIABA.* (Updated, 2018). Available at: < https://www.giaba.org/about-giaba/index.html > Accessed 10 December 2023.

[61] FATF, 'Jurisdictions Under Monitoring-October 2023.' (2023)

[62] GIABA, *Third Follow Up Report (Mutual Evaluation.* (May 2010) > Available at: https://www.giaba.org/mutualevaluation/2854_third-follow-up-report.html Accessed 10 December 2024.

journalists and real estate brokers, as part of its strategic goal on institutional development. In its annual report of 2022, the GIABA Secretariat notes a monumental increase in "delivery of its technical assistance and capacity building at the national level,"[63]; citing the total number of trained stakeholders ass 1025. Additionally, Nigeria is reported as the West African country with the largest percentage of participation at 24 %.[64]

In its enhanced follow-up report in November 2024, Nigeria remains largely compliant across many FATF recommendations but interestingly is only ranked as "partially compliant," bordering on non-compliance with Recommendation 15 on New Technologies. Recommendation 15 of the FATF 40 Recommendations strongly encourages countries and financial institutions (including relevant agencies) to "identify and assess the money laundering or terrorist financing risks that may arise in relation to […] (b) the use of new or developing technologies for both new and pre-existing products."[65]; As such, this recommendation requires participant states to take reasonable and relevant steps to "manage and mitigate risks emerging from virtual asset and ensure that VASPs are regulated for AML/CFT purposes and licensed or registered."[66]; This therefore obliges countries and their associated enforcement or regulatory agencies first to understand the nature and level of money laundering risk associated with virtual currencies and the operations of VASPs.

GIABA in its report explains that Section 30 of Nigeria's Primary Money Laundering Act (MLPPA 2022) defines virtual assets in line with FATF's definition, such that regardless of whether it is classified as property, currency, commodity or security and provided that there is some value attached to it, then the money laundering offence and Act will apply. With regards to the classification of cryptocurrencies in Nigeria, while the SEC classifies virtual assets as securities, thus falling within the ambit of securities rules and regulations, it may be argued on one hand that given the operation of cryptocurrencies on crypto-exchange platforms and its use as currency to purchase goods and services in certain parts of the country, it may be best classified as a commodity rather than securities as it currently is. On the other hand, empirical data collected in a recent survey on the use of cryptocurrencies by Nigerians suggests that 69 % of Nigerians engage in exchange and trading activities while only 28 % use crypto assets for payments,[67] currency exchange and investment tools, thus supporting its classification as securities under SEC rules. Ultimately, the 2022 report shows that VASPs are classified as Capital Market Operators (CMOs) as they "fall within the meaning of Section 315 of the Investment and Securities Act 2007"[68]; and so virtual asset and VASP activities are assessed as securities for the purpose of regulation.

Through the periodic National Inherent Risk Assessment (NIRA) Reports, Nigeria attempts to identify and assess the money laundering risks of new technologies. In its most recent report of 2022, suggestions were made as to the activities and operations of VASPs and control of the associated money laundering risks, although these have not been finalised. It is worth noting that at the time of the NIRA report, Nigeria had not issued appropriate guidelines on VASPs and the application of "national measures to combat money laundering"[69]; due to the soft ban. However, as of December 22 2023, the CBN has now lifted the ban, with hopes of providing more effective guidelines on the operation of VASPs, including relevant licensing and registration requirements as an attempt to mitigate any money laundering risks through its 2023 "Guidelines on Operations of Bank Accounts for Virtual Assets Service Providers (VASPs)." This can therefore be seen as a significant move in compliance with FATF's Recommendation 15 as through this, the CBN aims to effectively monitor the activities of banks and other financial institutions in "providing service for SEC licensed VASPs entities in Nigeria."[70]; Through these guidelines, the CBN has laid the foundation for its ability to launch regulatory measures for cryptocurrencies in Nigeria, while encouraging innovation and growth of the financial product. It is important to note that the CBN guidelines strictly applies to banks and other financial institutions as well as "all entities registered by the SEC to conduct the business of digital asset services including VASPs, digital asset custodians, digital asset offering platforms, digital asset exchanges (DAX) and their operators."[71]; As such, the overarching aim of these guidelines is to "provide the minimum standards and requirements for account opening, effective monitoring of the activities of banks and financial institutions and risk management of the operation of VASPs in Nigeria,"[72]; in line with the FATF's targeted update and implementation strategy regarding Recommendation 15 on New Technologies.

In June 2024, after the release of the VASP guidelines, the SEC introduced the Accelerated Regulatory Incubation Program (ARIP) to "ease the process of on boarding VASPs as well as other Digital Asset Investment Service Providers."[73]

According to the SEC, one of the key objectives of the ARIP is to further provide an opportunity for the body to understand "the digital asset business models in order to enhance its regulations to ensure it adequately addresses issues surrounding market integrity, investor protection and money laundering."[73] As such, the introduction of these rules in mid-2024, further showcases what can be described as a transformative approach by the SEC towards the development of cryptocurrencies in Nigeria compared to its reactionary approach during its first emergence, given that two months after launching ARIP, the SEC issued an update noting that it had "granted 'approval-in-principle' to two digital assets exchanges, Busha Digital Limited and Quidax Technologies Limited under the ARIP framework.

There is therefore a growing body of evidence to support the Partially Compliant (PC) assessment given by GIABA to Nigeria in its most recent (third) enhanced-follow up report as of November 2024. However, in the report GIABA notes the following:

63 GIABA, Annual Report (2022).

64 Ibid

65 FATF, 'FATF Updated Recommendations.' (2023).

66 Financial Actions Task Force, 'Targeted Update on Implementation of the FATF Standards on Virtual Assets and Virtual Service Providers' (2023) FATF Guidance.

67 E Onyekwere, F.N Ogwueleka and M.E Irhebhude, 'Adoption and Sustainability of Bitcoin and the Blockchain Technology in Nigeria.' (2023) 15 International Journal of Information Technology 5. 2793–2804.

68 GIABA, '*Anti-Money Laundering and Counter-Terrorist Financing Measures: Federal Republic of Nigeria 1st Enhanced Follow-Up Report*.' (2022).

69 Ibid.

70 Central Bank of Nigeria (CBN) Financial Policy and Regulation Department. *Guidelines on Operations of Bank Accounts for Virtual Assets Service Providers (VASPs)* (2023).

71 Duale, Ovia and Alex-Adedipe, "Understanding the CBNs Guidelines on the Operation of Bank Accounts For Virtual Assets Service Providers in Nigeria." (2023) DOA Law (Online). Available At: < https://www.doa-law.com/wp-content/uploads/2024/01/CBNs-Guidelines-on-the-Operation-of-Bank-Accounts-for-VASPs.pdf > Accessed: 16th December 2024.

72 S Mba and P Osimhen, "A New Era for the Operation of Bank Accounts For Virtual Assets Service Providers in Nigeria." (2024) Dentons ACAS-Law. Available At: < https://www.dentonsacaslaw.com/en/insights/newsletters/2024/january/31/dentons-acas-law-financial-services-newsletter/dentons-acas-law-financial-services-newsletter-january-2024/a-new-era-for-the-operation-of-bank-accounts-for-virtual-assets-service-providers-in-nigeria > Accessed: 16th December 2024.

73 Advocaat Law Practice, 'The Securities and Exchange Commission and the Cryptocurrency Market in Nigeria' (Advocaat Law Practice, September 2024) https://advocaat-law.com/wp-content/uploads/2024/09/THE-SECURITIES-AND-EXCHANGE-COMMISSION-AND-THE-CRYPTOCURRENCY-MARKET-IN-NIGERIA.pdf accessed 10 January 2025.

- *Nigerian authorities are yet to issue guidelines and/or provide feedback to assist VASPs in applying national measures to combat ML/TF/PF, especially in detecting and reporting suspicious transactions.*
- *Nigeria did not demonstrate proactive steps to identify natural or legal persons that carry out VASP activities without the requisite registration and applied appropriate sanctions to the VASPs.*

It may be argued that due to the timing of the mutual evaluation and the assessment in 2022, GIABA is yet to update its rating to bring the recent VASP guidelines and ARIP in Nigeria within its purview, given that both of these frameworks address, to some extent, some of these concerns of GIABA. Given that the next round of assessments is currently slated for this year side by side with continuous undergoing by Nigerian regulators regarding cryptocurrency developments, it is likely that the PC rating may be updated to reflect these newer developments.

4. A critical investigation into GIABA's response to cryptocurrency-based money laundering: an appraisal of GIABA's monitoring and assessment role and functions for money laundering prevention in 21st century Nigeria

With many West African states exploring the operations of VASPs as part of its move to regulate money laundering and criminalise illicit sources and channels of funds exchanged via VASPs, especially with Nigeria recently releasing its guidance document on regulating cryptocurrency transactions on VASPs, GIABA is noted to be making strides in identifying the challenges it presents to its member states' financial ecosystems and strategies to align AML frameworks in line with FATF revised standards or methodologies and as such future trends on the monitoring role of GIABA in light of virtual assets in ML/TF regimes of its Member states appear more positive. In July 2024, GIABA hosted a West African summit in Liberia as a means to "raise awareness of the critical stakeholders, especially the private sector and Financial Intelligence Units on emerging ML/TF/PF risks and the considerable changes in FATF standards."[74]; This summit served as an opportunity for relevant stakeholders and participants to "share experiences, including identifying key challenges impeding effective implementation of AML/CFT preventive measures and best practices that will facilitate AML/CFT compliance in the region."[75]; As such, given the recent and continued risk of virtual assets in financial ecosystems across West Africa, particularly Nigeria, GIABA Director General speaking at the summit noted that these emerging risks notably virtual assets will continue to "shape the global compliance environment and add to the current AML/CFT implementation challenges by countries."[76]; As such, GIABA identifies the need for a better coordination with the private sector side by side with national authorities to address these challenges in line with FATF standards. This, according to him, is critical to changing the current narratives and for improving the performance of member States in GIABA's 3rd round of mutual evaluation."[77]; As part of its strategic operations, more recently GIABA is noted to have organised a "regional typologies workshop on ML/TF linked to cybercrime in member states"[78]; in response to the growing threat posed by criminals operating in the cyber world, particularly the techniques and risks of laundering illicit funds from cybercrime in West Africa. This is yet another operational acknowledgement of growing technological advancements to facilitate money laundering by GIABA over the last three years.

[74] https://www.fialiberia.gov.lr/1762–2/
[75] Ibid
[76] Ibid
[77] Ibid
[78] I.O Ifeakandu and H Arzdard. 'The Role of Institutional Framework in Entrenching Effective Anti-Money Laundering/Combating Terrorist Financing in West Africa: The Intergovernmental Action Group Against Money Laundering in West Africa (GIABA) in Perspective.' (2022) 13 Beijing Law Review 575–593.

In its November 2024 report on Member States' technical assistance needs, GIABA highlights that "the FATF amendments to […] virtual currencies remain a central focus of AML efforts,"[79]; and so is a key concern for member states given that its increased usage by criminals looking to obfuscate regulatory oversight, will create new challenges "on policy, legal and enforcement levels for government and law enforcement."[80]; As such, one highlighted area by member states in the request for technical assistance from GIABA was to "strengthen the capabilities of the competent authorities in charge of AML/CFT"[81]; in a number of listed areas including setting up mechanisms to anticipate and understand emerging risks (cybercrime, virtual currency offences. GIABA further notes that the existence of VASPs and operators offering related services means Nigeria faces significant money laundering threats (VA enabled money laundering) such that as part of Nigeria's technical assistance request for 2025, there is a focus on updating its "financial crime investigative tools and improving the capacity of law enforcement, prosecutors and judges with enhanced training to address developing ML/TF trends."[82]

One of the major challenges to GIABA's monitoring role revolves around the availability of reliable information from member states regarding their AML frameworks and compliance strategies especially as the world of digital finance continues to evolve with newer developments and innovation. With specific regard to virtual assets, this inability by member states to produce reliable information can be linked to a general lack of capacity to understand the operations of virtual assets and VASPs to the extent that its money laundering risks can be properly handled or managed. This is evidenced where GIABA for instance, in its 2022 typology on the challenges of investigating money laundering in West Africa notes that "technology is not sufficiently modern or leveraged"[83]; for individual member states to understand "the complexity of the modus operandi used by criminals to launder funds."[84]; This subsequently affects the ability of enforcers and criminal justice actors under GIABA member states to understand the technological complexities associated with virtual assets, thus subsequently impacting the ability of GIABA to carry out its monitoring function in the most efficient way possible. As such, while there is a booming cryptocurrency trading ecosystem across West Africa, there is an equally underwhelming level of expertise and understanding of the operations of these technological innovations in member states. Whitford and Anderson argue on one hand that the nature of cryptocurrencies alone makes it difficult to determine 'how' it should be regulated, such that some governments react by issuing "warning notices", others impose outright bans and only a small number of countries are actually "attempting to develop regulatory regimes that encourage the use of cryptocurrencies."[85]; As such, while there are various regulatory theories across more developed jurisdictions based on a more advanced level of expertise and understanding of these emerging technologies, "few regulatory theories have actually been developed in practice."[86]

Added to this, Manning et al. from their analysis explain that larger discourse assumes that "the FATF Recommendations were not designed–and therefore inappropriate for smaller and less developed

[79] GIABA, Member States Technical Assistance Needs for 2025.
[80] Ibid
[81] Ibid
[82] Ibid
[83] Intergovernmental Action Group against Money Laundering in West Africa (GIABA), *an Assessment of the Challenges of Investigating, Prosecuting and Adjudicating Money Laundering and Terrorist Financing Cases in West Africa Report.* (2022).
[84] Ibid.
[85] A Whitford and D Anderson, 'Governance Landscapes for Emerging Technologies: The Case of Cryptocurrencies." (2021) 15 Regulation and Governance 1053–1070.
[86] Ibid.

countries,"[87]; however it must be pointed out that in its Process and Procedures report for the third round of mutual evaluations, GIABA explains that "there will be some flexibility in the procedural arrangements (FATF Standards)."[88]; At the same time, GIABA appears to insert a set standard, principles which the body will apply as noted in "the High Level Principles and Objectives (HLPOs) for the relationship between the FATF and FSRB."[89]; This ultimately implies that while there are flexibilities in place regarding the implementation of FATF standards to take into account the peculiarities of various member states, GIABA also intends to ensure high level of compliance with the use of these HLPOs to apply sufficient pressure and accountability to ensure effective compliance. Evidence from the various levels and stages of implementation of FATF standards of various countries–both developed and developing–suggests that the challenge with the adoption of these standards may be a general one. For instance, the adoption of Recommendation 15 and regulating new and emerging technologies seem to unravel the global difficulty of adopting FATF standards, such that "many countries are still challenged by effectively identifying the financial crime risks from crypto asset-related activities."[90]; Further research shows that as of 2023, only 12.5 % of the total number of Jurisdictions are fully compliant with Recommendation 15, with low levels of compliance "especially in places with the most to gain from innovative financial technologies."[91]; Ultimately, many commentators argue that as opposed to the FATF standards, particularly Recommendation 15, being inappropriate for developing countries, adoption is challenging due to specific and individualistic challenges of its member states.

It is on this basis that an argument is formed that perhaps it would be utopian to expect a more succinct system of monitoring compliance and FATF standards implementation established by GIABA for West African countries regarding the operation of virtual assets, given that its member states are only developing countries. However, to curb these challenges around inadequate information for monitoring purposes, commentators have noted the possibility of moving into co-governance models, as similarly echoed by the GIABA Director General at the Liberian summit on the incorporation of more collaborative efforts with private actors and stakeholders, to tackle this issue of unreliable information as well as solve this challenge of ineffective information sharing.

5. A push for co-governance/independent non-state actors and increased collaborative effort to address monitoring and implementation challenges

Whitford and Anderson, quoting Mandel, explain that "for the first time in history, there is the opportunity for governance systems to develop simultaneously with emerging technologies, permitting proactive rather than reactive management structures."[92]; Africa presents a fertile ground for the development of regulatory regimes and special governance systems for cryptocurrencies, particularly when assessing its unprecedented growth alongside the financial crime implications and money laundering risks, as explained previously. In West Africa, GIABA recognises that at the operational level, the development of AML strategies and regimes seems to proceed in a varied way, as it is highly dependent on each country's specific peculiarities and conditions. This means that each country is at different stages in understanding virtual assets and classifying cryptocurrencies for ease of regulation, such that developing a uniform approach or regime may prove nearly impossible. The current reality of criminals in virtual asset-related activities is that there is a larger tendency to "launder illicitly acquired funds in VASPs located in jurisdictions with weak anti-financial crime (AFC) frameworks while avoiding countries with more robust AFC systems, processes and controls."[93]; Based on this, it becomes clearer that the longer regulatory agencies in member states fail to establish concise rules and regimes for regulating cryptocurrency-based financial crimes, the more creative and complex these criminals become in exploiting these porous jurisdictions and the more difficult implementation of the FATF standards become.

Taking this into account, an unexplored avenue regarding cryptocurrency-based money laundering regulation is perhaps attempting to establish governance regimes by working with non-governmental entities as 'co-governance' actors, as there is evidence to suggest that "non-governmental stakeholders can contribute critical technical expertise or industry insight that government actors would not otherwise have had."[94]; Not only does this mitigate the challenge of lack of expertise and knowledge about virtual assets and other emerging technologies to better understand the money laundering risks they pose, but this co-governance system, as suggested by Whitford and Anderson, provides an avenue to increase the quality and effectiveness of investigative tactics as well as the overall governance system as well as improve information sharing amongst all governance actors especially where the private actors are experts within the crypto ecosystem. In line with this, there is a call for more collaborative efforts from GIABA with other FRSBs and jurisdictions for information sharing. Owen and Chase argue that "countries must acknowledge the cross-border nature of this sector and work with one another to understand the risks they are exposed to."[95]; To do this, jurisdictions are encouraged to develop "working groups and crypto asset-focused questionnaires"[96]; to send to reporting entities and enforcement agencies alongside the development of online databases identifying licensed VASPs in the jurisdiction, which may be accessible to other FRSBs or non-FATF international enforcement teams, recognising the fact that cryptocurrency-based money laundering activities are cross-border and should be fought with cross-border tactics. This therefore fits nicely into the second recommendation[97] proposed by GIABA in its assessment of its challenges, such that working side-by-side with expertise international, regional or private non-government actress ensure effective capacity building and strengthening in member states regimes. However, Ojomo, while highlighting the positives of such a model, notes some potential challenges where it is not properly utilised, such that "conflict among governance actors could result in governance challenges that reveal

[87] M Manning, G Wong, N Jevtovic. 'Investigating the Relationships between FATF Recommendation Compliance, Regulatory Affiliations and the Basel Anti-Money Laundering Index.' (2021) 34 Security Journal 566–588.

[88] GIABA Process and Procedures for the GIABA Third Round of AML/CFT/PF of Mutual evaluations. (2024). GIABA, Dakar, Senegal

[89] Ibid

[90] A Owen and I Chase, 'Can the Implementation of FATF Standards on Crypto assets be strengthened?' (2023). Royal United Services Institute (RUSI). Available at: < https://www.rusi.org/explore-our-research/publications/commentary/can-implementation-fatf-standards-cryptoassets-be-strengthened > Accessed 31st December 2023.

[91] Basel Institute on Governance. 'Basel AML Index: Ranking Money Laundering and Terrorist Financing Risks around the World' (12th Public Edition, 2023).

[92] A Whitford and D Anderson, 'Governance Landscapes for Emerging Technologies: The Case of Cryptocurrencies." (2021) 15 Regulation and Governance 1053–1070.

[93] N Tambe and A Owen. *Institutional Virtual Asset Service Providers and Virtual Assets Risk Assessment Guide*. (Royal United Services Institute for Defence and Security Studies (RUSI), 2023).

[94] Ibid.

[95] A Owen and I Chase, 'Can the Implementation of FATF Standards on Crypto assets be strengthened?' (2023). Royal United Services Institute (RUSI). Available at: < https://www.rusi.org/explore-our-research/publications/commentary/can-implementation-fatf-standards-cryptoassets-be-strengthened > Accessed: 31st December 2023.

[96] Ibid.

[97] GIABA Recommendation 2 in *An Assessment of the Challenges of Investigating, Prosecuting and Adjudicating Money Laundering and Terrorist Financing Cases in West Africa Report:*

deficiencies in capacity and legitimacy”[98]; given that there could be competition for scarce resources that emanate from the same source or cases of one governance actor (for instance a state or regional agency actor) exercising undue control over others “others so that it can impose its interests on them”[99]; which may then defeat the essence of collaborative efforts for the purpose of information sharing to develop best approaches. Ultimately, the merits of a co-governance model, especially when utilised in such a rapidly developing area of financial technology, far outweighs the challenges and appear to be a welcome approach as reiterated by GIABA’s Director General, in the performance of its monitoring role as part of the fight against money laundering in West Africa.

Conclusion

Technological disruptions in the global financial system by virtue of virtual assets and their related innovations have created an even more potent means for criminals to evade regulatory oversight. This becomes even more plausible in developing countries with weak and less potent regulatory systems and enforcement tactics, such as the situation in West Africa. Over the last five years, side by side with the immense growth of cryptocurrencies in West Africa particularly Nigeria, there have been numerous regulatory efforts in Nigeria to define, classify and regulate cryptocurrencies in ways that acknowledge its innovations and risks to Nigeria’s financial sector, such as money laundering and other financial crime-related offences. The last twenty years have seen a tremendous improvement in the implementation and monitoring role of GIABA as an FSRB in Wet Africa since its inception with increased sensitisation activities and typologies on the money laundering concerns of emerging technologies to fragile financial systems in GIABA’s member states. For Nigeria, while its most recent follow up report indicates that it has not sufficiently met the requirements to be fully compliant under Recommendation 15 of the FATF recommendations, recent developments such as the VASP guidelines and the ARIP programme recently developed suggest it may be on its way to developing sufficient standards to address the money laundering risks of cryptocurrency use in the jurisdiction. As noted earlier from GIABA’s recent summit on emerging technologies like virtual assets and its money laundering risks particularly with the next round of mutual evaluation assessments set to take place in 2025 and the first mutual evaluation reports under this next round to be adopted in 2026, given the complexities of these emerging financial products, an increase in collaborative efforts such as the role of private actors in a co-governance model seems to be a highly welcome approach especially in the development of best practices in the fight against money laundering (and crypto laundering) in West Africa.

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

[98] Edefe Ojomo, Regional institutions as international bypasses in West Africa. (2019) 10 Transnational Legal Theory 3, 333–354, DOI: 10.1080/20414005.2019.1687248

[99] Ibid