

**PROCEDURES FOR THE ESAAMLG 2ND ROUND OF AML/CFT
MUTUAL EVALUATIONS AND
FOLLOW-UP PROCESS**

5 September 2014

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TABLE OF ACRONYMS

AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
CDD	Customer Due Diligence
DAR	Detailed Assessment Report
DNFBP	Designated Non-Financial Business or Profession
ECG	Evaluation and Compliance Group
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FSAP	Financial Sector Assessment Programme
FSSA	Financial System Stability Assessment
FSRB	FATF-Style Regional Body
IFI	International Financial Institutions
IMF	International Monetary Fund
MER	Mutual Evaluation Report
ML/TF	Money Laundering/Terrorist Financing
ROSC	Report of the Observance of Standards and Codes
SRB	Self-Regulatory Bodies
TC	Technical Compliance
UNODC	United Nations Organisation on Drugs and Crime
UNSCR	United Nations Security Council Resolutions
WB	World Bank

DRAFT PROCEDURES FOR THE ESAAMLG 2ND ROUND OF AML/CFT MUTUAL EVALUATIONS AND FOLLOW-UP PROCESS

INTRODUCTION

1. The ESAAMLG is conducting a second round of mutual evaluations for its members based on the FATF Recommendations (2012), and the Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems (2013), as amended from time to time. This document sets out the process and procedures that are the basis for the second round of mutual evaluations. It covers the following areas:
 - a) the underlying scope, objectives and principles;
 - b) changes in the FATF standards;
 - c) the evaluation schedule;
 - d) the procedures and steps in the evaluation process;
 - e) procedures for follow-up of mutual evaluations;
 - f) joint evaluations; and
 - g) assessments of ESAAMLG members by the International Financial Institutions (IFIs) and co-ordination with the Financial Sector Assessment Programme (FSAP) process.

I. SCOPE, BASIS AND PRINCIPLES FOR THE SECOND ROUND

2. The scope of the evaluations will be based on two inter-related components for technical compliance and effectiveness. Technical compliance will centre on assessing whether necessary laws, regulations or other required measures are in force and effect, and whether the supporting AML/CFT institutional framework is in place. The effectiveness component will assess whether the AML/CFT systems are working, and the extent to which the country is achieving the defined set of outcomes.
3. There are a number of general objectives and principles that govern mutual evaluations conducted by the ESAAMLG. The process and procedures should:
 - a) produce objective and accurate reports of a high standard in a timely way;

- b) ensure that there is a level playing field, whereby mutual evaluation reports (MERs), including the executive summaries, are consistent, especially with respect to the findings, the recommendations and ratings;
- c) ensure that there is transparency and equality of treatment, in terms of process and results, for all members assessed;
- d) seek to ensure that the evaluation or assessment exercises conducted by all relevant organisations and bodies (ESAAMLG, FATF, IMF, World Bank, other FSRBs) are of a consistent and high standard and not duplicative;
- e) have sufficient clarity and transparency; encourage the implementation of higher standards, identify and promote good and effective practices, and alert governments and the private sector to areas that need strengthening;
- f) be sufficiently streamlined and efficient to ensure that there are no unnecessary delays or duplication in the process and that there is effective use of resources.

II. CHANGES IN THE FATF STANDARDS

- 4. Work on Mutual Evaluation processes in the FATF is dynamic and this may lead to changes to the Recommendations, the Interpretive Notes or the Methodology used by ESAAMLG. All members of ESAAMLG should be evaluated on the basis of the FATF Recommendations and Interpretative Notes, and the Methodology as they exist at the date of the country's on-site visit. The MER should state clearly if an assessment has been done based on the recently amended Standards. To ensure equal treatment, and protection of the international financial systems, compliance with the relevant elements of the changes, could be assessed as part of the follow-up process explained (see section IX), for countries that have not been assessed or as part of the ME.

III. SCHEDULE FOR THE SECOND ROUND

- 5. The schedule of mutual evaluations for the second round, and the number of MEs to be carried out each year is primarily governed by the number of MERs that can be discussed at each Task Force of Senior Officials Plenary meeting, and the need to complete the entire round in a reasonable timeframe.
- 6. A schedule of mutual evaluations showing the fixed or proposed date of the on-site visit, the dates of relevant FSAP missions where possible and the date for the Plenary discussion of the MER will be maintained by the ESAAMLG

Secretariat. The ESAAMLG will maintain the discussion of two MERs per Plenary. As the ESAAMLG Task Force of Senior Officials has two Plenary Meetings with only one Council of Ministers Plenary Meeting per year, the MERs adopted by the ESAAMLG Task Force of Senior Officials during its first Plenary Meeting shall be approved by the Council of Ministers out of Plenary session by way of written Resolution as provided under *Clause X.6* of the Memorandum of Understanding of the ESAAMLG. The time frames for the out of session adoption of the MER are described in the *Publication and other procedures following Council of Ministers Meeting* part, at pages 22-24 below. The MERs adopted by the Task Force Plenary preceding the Council of Ministers Plenary shall be recommended for approval by the Council of Ministers during its Plenary. The factors determining the sequence of MEs will be based on:

- The scheduled date of any possible Financial Sector Assessment Programme (FSAP) mission.
- The date of the last mutual evaluation of the country.
- Members' views on their preferred date - members are consulted on the possible dates for on-site visits and Plenary discussion of their MER and this is taken into account in the schedule.

IV. PROCEDURES AND STEPS IN THE EVALUATION PROCESS

7. The procedures and steps set out in this section relate to the general conduct of ESAAMLG mutual evaluations. The ESAAMLG Secretariat will maintain a detailed Checklist based on the agreed finalised Schedule of Meetings. This process will be followed for each ESAAMLG mutual evaluation.
8. These procedures and steps should be read in conjunction with the FATF 40 Recommendations, the Interpretive Notes (adopted in February 2012) and the Revised Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems [Methodology] (adopted in February 2013). The key steps apply to both the assessment team and the assessed country and are summarised in **Appendix 1**. A detailed description of the steps is set out below.

Pre-Mutual Evaluation Training Workshop

9. The ESAAMLG Secretariat, four (4) months or such earlier period as may be agreed between the assessed country and the Secretariat before the commencement of the desk based review process, shall conduct a pre-mutual evaluation training workshop to assist the assessed country to prepare for the mutual evaluation. Such training workshop shall be tailor made to meet the conditions of each jurisdiction's requirements, including issues of language.

PREPARATION FOR THE ON-SITE VISIT

10. The Secretariat will fix the dates for the evaluation on-site visit as well as the timelines for the whole process in consultation with the country at least eight months before the on-site visit. The timelines shall be guided by those set out in Appendix 1, with flexibility where permissible. The onus is on the country to demonstrate that it has complied with the Standards and that its AML/CFT regime is effective, hence, the country should, when relevant, provide additional information to the assessment team during the course of the assessment. As appropriate, assessors should be able to request or access documents, data, or other relevant information.
11. All updates and information should be provided in an electronic format and countries should ensure that laws, regulations, guidelines and other relevant documents are made available in English and the original language.

(a) Information Updates on Technical Compliance

12. The updates and information provided by the assessed country are intended to provide key information for the preparatory work before the on-site visit, including understanding the country's ML/TF risks, identifying potential areas of increased focus for the on-site, and preparing the draft MER. Countries should provide the necessary updates and information to the Secretariat no less than 6 months before the on-site. Prior to that, it would be desirable to have informal engagement between the country and the Secretariat.
13. In some countries AML/CFT issues are matters that are addressed not just at the level of the national government, but also at state/province or local levels. Countries are requested to note the AML/CFT measures that are the responsibility of state/provincial/local level authorities, and to provide an appropriate description of these measures. Assessors should also be aware that AML/CFT measures may be taken at one or more levels of government, and should examine and take into account all the relevant measures, including those taken at a state/provincial/local level. Equally, assessors should take into account and refer to supra-national laws or regulations that apply to a country.
14. Countries may rely on the questionnaire template for the technical compliance update (see [Appendix 3](#)) to provide relevant information to the assessment team.

Along with previous reports, this will be used as a starting basis for the assessment team to conduct the desk-based review on technical compliance. The questionnaire template is a guide to assist countries to provide relevant information in relation to: (i) any new laws, regulations and guidance, and relevant updates and information on the institutional framework, (ii-) information on money laundering and terrorist financing risks and context, and (iii) information on the measures that the country has taken to meet the criteria for each Recommendation. Countries should complete the questionnaire, including indicating in any relevant areas if nothing has changed in their AML/CFT regime since the last MER. A country may also choose to present other information in whatever manner it deems to be more expedient or effective.

(b) Information on Effectiveness

15. Countries should provide information on effectiveness based on the 11 Immediate Outcomes identified in the effectiveness assessment no less than 4 months before the on-site. They should set out fully how each of the core issues is being addressed as set out in each Immediate Outcome of the Methodology. It is important for countries to provide a full and accurate description (including examples of information, data and other factors) that would help to demonstrate the effectiveness of the AML/CFT regime.

(c) Composition and Formation of Assessment Team

16. The ESAAMLG Secretariat will confirm the assessors and this should be at least six (6) months before the on-site. The Secretariat will formally advise the country of the composition of the assessment team at the time the team is confirmed.
17. Assessors will be selected by the ESAAMLG Secretariat from different member countries. The assessment team will normally consist of four expert assessors (one legal, two financial¹ and one law enforcement), plus the Secretariat (with the number determined by the size and complexity of the jurisdiction being evaluated). Also depending on the country and the money laundering and terrorist financing risks, additional assessors or assessors with specific expertise may also be required. In selecting the assessors, a number of factors to ensure that the assessment team has the correct balance of knowledge and skills will be considered. These will include: (i) their relevant operational and assessment experience; (ii) relevance of knowledge of assessed country's original language, where necessary²; (iii) type of the legal system (civil law or common law) and institutional framework; and (iv) specific

¹ Assessors in the assessment team should have expertise in preventive measures necessary for the financial sector and designated non-financial businesses and professions

² The language of evaluation in ESAAMLG is English.

characteristics of the jurisdiction (e.g. size and composition of the economy and financial sector, geographical factors, and trading or cultural links). Assessors should be very knowledgeable about the FATF Standards, and should have attended the 2nd round of assessors' training before they conduct a mutual evaluation. To ensure best results of the mutual evaluation exercise, at least one of the assessors should have had previous experience conducting an assessment.

18. In joint evaluations, the assessment team will be made up of assessors and Secretariat from both the ESAAMLG and the FATF/FSRB(s) or IMF/World Bank. For some other ESAAMLG evaluations, the Secretariat could, with the consent of the assessed country, invite an expert from another FSRB (member or Secretariat) or the IMF/World Bank³ to participate as an assessor or observer, on the basis of reciprocity. Where appropriate, for developmental purposes, the Secretariat may also select an additional team member as observer to observe or assist the evaluation team. The additional member will normally be an expert who has not previously participated in a mutual evaluation and/or whose jurisdiction has not previously been involved in a mutual evaluation. Normally, there should be no more than one observer per evaluation.
19. The Secretariat will submit the list of assessors and observer to the assessed country for information at least six (6) months before the on-site. The decision concerning the composition of the team will rest with the Secretariat. Due to the nature of the peer review process, the Secretariat will work to ensure that the mutuality of the process is maintained. A list of assessors will be kept, and the Secretariat will try to keep the process a mutual one, in which all members provide an expert for at least one mutual evaluation. Member countries are encouraged to commit themselves to releasing the assessors whenever requested to do so by the Secretariat. For the assessors trained under the sponsorship of ESAAMLG for the 2nd round of mutual evaluations, their governments will have to be ready to release them whenever they are requested by the Secretariat to undertake an evaluation. This does not stop the Secretariat from inviting any of the trained assessors under the ESAAMLG 2nd Round of Mutual Evaluations to participate in any evaluation.

(d) Responsibilities of Assessment Team

20. The core function of the assessment team is, collectively, to produce an independent

³ Participation (on reciprocal basis) from other observers that are conducting assessments could be considered on a case by case basis.

report (containing analysis, findings and recommendations) of the country's compliance with the FATF standards, in terms of both technical compliance and effectiveness. A successful assessment of an AML/CFT regime requires, at a minimum, a combination of financial, legal and law enforcement expertise, particularly in relation to the assessment of effectiveness. Experts therefore have to conduct an evaluation in a fully collaborative process, whereby all aspects of the review are conducted holistically. Each expert is expected to contribute to all parts of the review, but should take the lead on, or take primary responsibility for topics related to his or her own area of expertise. It is also important that assessors are able to devote their time and resources to reviewing all the documents (including the information updates on technical compliance, and information on effectiveness), raising queries prior to the on-site, preparing and conducting the assessment, drafting the MER, attending the meetings (e.g. on-site, face to face meeting, and Plenary discussion), and adhere to the deadlines indicated.

21. Due to the mutual evaluation process being dynamic and a continuous process, the assessment team and Secretariat should engage and consult the assessed country on an on-going basis. Such engagement should commence as soon as reasonably possible. Ideally, this should be done through the identified contact person(s) or point(s) indicated by the country at least 6 months before the on-site. Throughout the process the Secretariat will ensure that the assessors can access all relevant materials.

(e) Desk Based Review for Technical Compliance

22. Prior to the on-site visit, the assessment team assisted by the Secretariat will conduct a desk-based review of the country's level of technical compliance, and the contextual factors and ML/TF risks. The review will be based on information provided by the country in the information updates on technical compliance, pre-existing information drawn from the country's 1st round MER, follow-up reports and other reliable or credible information. The assessment team is to carefully take into account this information and through review of the findings from the previous MER and follow-up reports, the assessment team may highlight relevant strengths or weaknesses not previously noted. If the assessment team reach a different conclusion to previous MERs and follow-up reports in circumstances where the Standards and legislation of the assessed country have not changed then the assessors should explain the reasons for their conclusion.
23. Subsequent to the review, the assessment team will provide the country with a 1st draft of the technical compliance analysis annex (which need not contain ratings or recommendations) about three (3) months before the on-site. This will include a description, analysis, and list of potential technical deficiencies noted. The country

will have one month to clarify and comment on this 1st draft on technical compliance.

24. During the review process for technical compliance, assessors are only to take into account relevant laws, regulations or other AML/CFT measures that are in force and effect at that time, or will be in force and effect at the time of the on-site. Where relevant bills or other specific proposals to amend the system are made available these may be referred to in the MER (including for the purpose of the recommendations to be made to the country) but should not be taken into account in the conclusions of the assessment or for ratings purposes.

(f) Ensuring Adequate Basis to Assess International Cooperation

25. In order to make the process as transparent and as effective as possible, six months before the on-site visit ESAAMLG, other FSRBs and FATF⁴ members will be invited to provide information to the Secretariat on their experiences of international co-operation with the country being evaluated.
26. In addition, the assessment team and the assessed country may also identify key countries which the assessed country has provided international cooperation to or requested it from, and seek specific feedback. The feedback could relate to: (i) general experience, (ii) positive examples, and (iii) negative examples, on the assessed country's level of international cooperation. The responses received will be made available to the assessment team and the assessed country.

(g) Identifying Potential Areas of Increased Focus for On-Site Visit

27. During the on-site, the assessment team will have to examine the country's level of effectiveness in relation to all the 11 Immediate Outcomes. The assessment team *may* also, based on its preliminary analysis (of both technical compliance and effectiveness issues) prior to the on-site, identify specific areas which it would pay more attention to during the onsite visit and in the MER. This will usually relate to effectiveness issues but could also include technical compliance issues. In doing so, the team will consult the assessed country. In addition, delegations will be invited to provide any comments that would assist the team to increase its focus on areas of

⁴ The FATF, other FSRBs and their members will only be invited to provide this information where they are willing to reciprocally invite ESAAMLG members to provide the same type of type of information in relation to their mutual evaluations.

higher risk.

28. In cases where there are potential areas of increased focus for the on-site, the assessment team should obtain and consider all relevant information and commence discussion of these areas approximately four months before the on-site. It will then consult the assessed country at least two months before the on-site. Ordinarily, the assessed country is expected to provide additional information regarding the areas which the assessment team would like to pay more attention to. While the prerogative lies with the assessment team, the areas for increased focus should, to the extent possible, be mutually agreed with the assessed country and should be set out in a draft scoping note. The draft scoping note should set briefly (in not more than two pages) the areas of increased focus, and why these areas have been selected. The draft scoping note, along with relevant background information (e.g. the country's risk assessment), should be sent to the reviewers (described in the section on quality and consistency, below) and to the country. Reviewers should, within one week of receiving the scoping note, provide their feedback to the assessment team regarding whether the scoping note reflects a reasonable view on the focus of the assessment, having regard to the material made available to them as well as the general knowledge of the jurisdiction. The assessment team should consider the merit of the reviewers' comments, and amend the scoping note as needed, in consultation with the assessed country. The final version of the scoping note should be sent to the country at least 3 weeks prior to the on-site, along with any requests for additional information on the areas of increased focus. The assessed country should seek to accommodate any requests arising from the additional focus.

(h) Programme for On-Site Visit

29. The country (designated contact) should work with the Secretariat, and prepare a draft schedule of meetings and coordinate the logistics for the on-site visit. The draft schedule of meetings, together with any specific logistical arrangements, should be sent to the assessment team no later than one month before the visit. The assessors and/or Secretariat may request such additional meetings as they think are necessary. The draft schedule of meetings should be flexible enough to allow follow-up and additional meetings by the assessment team, where they become necessary. Please see **Appendix 2** for the list of authorities and businesses that would usually be involved in the on-site. The assessment team, to assist in preparing itself, should prepare a preliminary analysis identifying key issues on effectiveness, eight weeks before the on-site visit.
30. The draft schedule of meetings should take into account the areas where the assessment team may want to apply increased focus. The assessed country will

make arrangements for a single venue where the assessment team shall hold interviews with agencies/organisations during the assessment, unless there are peculiar circumstances which will render this arrangement impracticable⁵. In such circumstances, the assessed country will advise on the appropriate venue for the assessors to meet with the agencies/organisations to be interviewed. For the latter arrangement to be effective, appropriate travel times between meetings must be built into the draft schedule of meetings and should be kept to a maximum of 3 meetings per day unless venues are in close proximity.

31. Where a translator is required for meetings, this needs to be factored into the draft schedule of meetings and the meetings made sufficiently long for reasonable discussions to take place using a translator. Where English is not the official language of the evaluated country, the process of translation of relevant laws, regulations and other documents should start at an early stage so that they can be provided to the assessment team a month before the commencement of the technical compliance desk based review, which will be six months before the on-site visit. However, the relevant laws and other documents should also be provided in the language of the jurisdiction to minimize and enable verification of technical translation errors. During the on-site visit, if the jurisdiction experts are not fluent in English, translators provided should be professional and well prepared. The jurisdiction being evaluated will provide the translators and translated documents.
32. Based on the draft schedule of meetings submitted by the assessed country, the assessment team, the country and the Secretariat will work to agree and finalise the schedule of meetings at least two weeks prior to the on-site visit.
33. It is the responsibility of the jurisdiction being assessed to provide the appropriate security arrangements, where required. All transportation during the visit, both to and from the airport and between appointments, is the responsibility of the assessed country. The jurisdiction should also provide the evaluation team with a meeting/resource room for the duration of the on-site visit. Ideally, this room should contain photocopying and other basic facilities, as well as internet access.

(i) Confidentiality

⁵ Where it becomes necessary for the assessment team to verify certain facts on-site to determine issues of effectiveness, the assessed country shall make the necessary arrangements for the assessors to visit the specific agency/organization.

34. All documents and information produced: (i) by an assessed country during a mutual evaluation exercise, (*e.g.* updates and responses, documents describing a country's AML/CFT regime, measures taken or risks faced [including those where there will be increased focus] or responses to assessors' queries); (ii) by the ESAAMLG Secretariat or assessors (*e.g.* reports from assessors, draft MER); and (iii) comments received through the consultation or review mechanisms, should be treated as confidential. They should only be used for the specific purposes provided and not be made publicly available, unless the assessed country (for documents under (i) above) or the Secretariat (for documents under (ii) and (iii) above) consent to their release. These confidentiality requirements apply to the assessment team, the Secretariat, reviewers, officials in the assessed country and any other person with access to the documents or information. At least four months before the on-site visit, members of the assessment team and reviewers should sign a confidentiality agreement, which should include the requirement to declare a conflict of interest.

ON-SITE VISIT

35. The on-site visit provides the best opportunity to clarify all issues relating to the AML/CFT system of the evaluated country as it allows for face to face meetings with all relevant government agencies/departments and with the private sector. The assessors need to be fully prepared to review the 11 Immediate Outcomes relating to the effectiveness of the system, and clarify any outstanding technical compliance issues. Assessors should also pay more attention to areas where higher money laundering and terrorist financing risks are identified. Assessors must be cognisant of the different country circumstances and risks, and that countries may adopt different approaches to meet the FATF Standards and to create an effective system. They thus need to be open and flexible, and seek to avoid narrow comparisons with their own national requirements.
36. Depending on the extent of the size, complexity and development of the AML/CFT systems in member countries, previous evaluations have shown that a total length of 8 – 10 days which allow the following, is required for on-site visits:
- An initial half day preparatory meeting between the Secretariat and assessors;

- Up to eight days of meetings⁶ with representatives of the jurisdiction (though fewer days might be required for smaller jurisdictions). Time may also have to be set aside for additional or follow-up meetings, where assessors have identified new issues that need to be discussed with the authorities or where further information is needed on an issue already discussed;
 - Finally, one to two days where the Secretariat and assessors work on the draft MER, to ensure that all the major issues that arose during the evaluation are noted in the draft report, and discuss and agree ratings, and key recommendations. The assessment team should also provide a summary of its key findings at the closing meeting with the authorities of the assessed country.
37. The initial half day preparatory meeting between the evaluation team and the Secretariat is held on-site to inter-alia:
- Ensure all evaluators have all relevant documentation and identify any outstanding documentation;
 - Verify on the agreed final schedule of meetings, including the level/type of person the evaluation team will wish to meet;
 - Confirm the sharing of responsibilities between evaluators, including who will take the lead role during each meeting during the on-site visit; and
 - Discuss issues arising from the preliminary draft MER and any other relevant information/documentation provided by the jurisdiction.
38. An introductory meeting with the government officials and private sector representatives (at the discretion of the assessed country) should be arranged (first day of ME). This meeting provides an opportunity to the evaluation team to explain the evaluation process and clarify logistical details. It also provides an opportunity for the jurisdiction to make any general statement and clarify any issues with the evaluation team.
39. Face-to-face meetings then take place between the assessment team and agencies/organisations in accordance with the agreed schedule of meetings (days 1-8). The meetings with the private sector and other non-governmental representatives⁷ are an integral part of the visit, and generally, the assessors should be given the opportunity to meet with various representatives of associations and institutions in private, and without a government official present.

⁶ The assessment team should also set aside time midway through the on-site to review the progress of the mutual evaluation and where relevant identified areas of increased focus for the on-site, initially.

⁷ E.g. those listed in Appendix 2

The team may also request that meetings with certain government agencies be restricted to those agencies only.

40. In addition to supplying transportation and where necessary translator facilities, the assessed country shall provide a dedicated officer to assist the evaluation team with its meetings to ensure continuity. If the coordination agency wishes to have an officer attend meetings with the team, the officer will do so as an observer and their inclusion will be at the discretion of the assessment team. Generally, government officials will not be welcome to observe meetings by the evaluation team with the private sector.
41. The assessed jurisdiction and the specific agencies being met should ensure that appropriate staff is available for each meeting. The assessed country should also ensure that the assessment team is able to request and meet with all relevant agencies during the on-site. The level and type of officer required for each meeting will vary from agency to agency. The assessed country should however ensure that both senior managers, who can 'speak for' the agency/jurisdiction at a policy level, as well as 'operational' staff who can answer detailed questions, are present at each meeting.
42. A final on-site 'wrap up' meeting with government and, at the discretion of the jurisdiction under assessment, private sector representatives of the jurisdiction being assessed, will need to be held in order to provide an opportunity for any outstanding issues to be raised and answered. At this meeting, the evaluation team should provide some preliminary views on its findings and recommendations.
43. Following the final 'wrap up' meeting, the assessors and Secretariat will work on the draft MER on-site, ensuring that all the major issues that arose during the evaluation including areas of increased focus during the on-site are noted in the draft outline report. The assessors will also discuss and agree on ratings and key recommendations of the evaluation (days 9-10).

POST ON-SITE PREPARATION OF DRAFT EXECUTIVE SUMMARY AND MER

44. There should be a minimum of twenty- five (25) weeks between the end of the on-site visit and the discussion of the MER in the Task Force Plenary. The timely preparation of the MER and Executive Summary⁸ will require the assessors to work

⁸ The format for the Executive Summary and MER is contained in Annex II of the Methodology. Assessors should also pay attention to the guidance on how to complete the Executive Summary and MER, including with respect to the expected length of the MER (100 pages or less, together with a Technical Annex of up to 60 pages).

closely with the Secretariat and the assessed country. Depending on when the Plenary discussion is scheduled, the time period may also be extended or adjusted. In exceptional cases, and based on justified circumstances (and with the consent of the assessed country), a shorter period of time may be allowed for.

45. The steps in finalising a draft report for discussion at the Task Force Meeting, and the approximate time that is required for each step, should be as follows (see also **Appendix 1**):

(j) 1st Draft MER and Executive Summary

46. Assessors will have six weeks to coordinate and refine the 1st draft MER and the Executive Summary (including key findings, potential issues of note and priority recommendations to the assessed country). The 1st draft MER (including the Executive Summary) is then sent to the assessed country for comments. The assessed country will have four weeks to review and provide its comments to the Secretariat for simultaneous transmission to the assessment team.

(k) 2nd Draft MER and Executive Summary

47. Upon receipt of the country's comments on the 1st draft MER and Executive Summary, the assessment team will have **2 weeks** to review the various comments and make further amendments. The 2nd draft MER and Executive Summary will then be sent to the country and to the reviewers (**approximately 12 weeks after the on-site**).

(l) Quality and Consistency Review

48. As part of the ESAAMLG mutual evaluation process, there will be a quality and consistency review. The main functions of the reviewers are to ensure MERs are of an acceptable level of quality and consistency, and to assist the assessment team by reviewing and providing timely input on the scoping note and the draft MER and Executive Summary (including any annexes) with a view to:
 - Commenting on assessors' proposals for the scope of the on-site,
 - Reflecting a correct interpretation of the FATF Standards and Methodology (including the assessment of risks, integration of the findings on technical compliance and effectiveness, and areas where the analysis and conclusions are identified as being clearly deficient),

- Checking whether the description and analysis supports the conclusions (including ratings), and whether, based on these findings, sensible priority recommendations for improvements are made,
- Where applicable, highlighting potential inconsistencies with earlier decisions adopted by the ESAAMLG on technical compliance and effectiveness issues, and
- Checking that the substance of the report is generally coherent and comprehensible.

49. The review will draw on expertise from a pool of qualified volunteer experts (based on their professional experience, and expertise as assessors). This pool would contain experts from the ESAAMLG Working Group on Mutual Evaluations, which is composed of experts from the ESAAMLG member countries (including Chairpersons of Review Groups on Follow-Up Process⁹ and those from Cooperating and Supporting Nations and Observers). The latter among others, include experts from the FATF, IMF, WB, UNODC, expert groups formed pursuant to the UNSCRs and experts from delegations of supporting nations. Other FSRBs will also be invited to have their experts take part in the review exercise, particularly if the member country being assessed does not use English as its first language.¹⁰ ESAAMLG Secretariat experts who are not directly involved with the assessment of a member country whose report is up for review will manage the review process. To avoid potential conflicts, the reviewers selected for any given quality and consistency review will be from countries other than those of the assessors, and will be made known to the country and assessors in advance. Generally, four reviewers will be allocated to each assessment, comprising of two reviewers from the ESAAMLG and two external reviewers (where ever possible with one reviewer from the FATF Secretariat) from any of the other assessment bodies or delegations of one of the Supporting Nations, FSRB or Observers (who has professional experience or expertise as an assessor).

50. The reviewers will need to be able to commit time and resources to review the scoping note and the quality, coherence and internal consistency of the 2nd draft MER, as well as consistency with the FATF Standards and ESAAMLG precedent. In doing so the reviewers should have a copy of the comments provided by the country on the 1st draft MER. In order to ensure transparency of the process, all comments from the reviewers will be disclosed to the assessors and country. The reviewers will have two weeks to examine the 2nd draft MER and provide their comments to the ESAAMLG Secretariat experts managing the review process, who will forward the

⁹ See Appendix 4

¹⁰ Member countries that are either French or Portuguese speaking.

comments to the assessment team and the assessed country within a day from the date of receipt. The reviewers for the quality and consistency review do not have any decision making powers or powers to change a report. It is the responsibility of the assessment team to consider the reviewers' comments and decide whether any changes should be made to the draft report. The assessment team will provide a short response to the reviewers regarding the changes it has made to the draft report based on the reviewers' comments and decisions made by it.

51. In order, to help identify emerging issues in a transparent manner, and to inform delegations as they provide written comments on the draft MER, the reviewers' comments on the 2nd draft MER and the assessment team's response will be circulated for consideration by the WGMEs and chairpersons of the Review Groups.
52. Due to the nature of the peer review process, the Secretariat will work to ensure that the mutuality of the process is maintained, and that members provide qualified experts as reviewers. A list of past and forthcoming reviewers will be maintained and monitored by the WGMEs.

(m) Face to Face Meeting

53. Following the receipt of the reviewers' comments, the assessment team will consider those comments and prepare a 3rd draft MER and Executive Summary. A face to face meeting is an important way to assist the country and assessment team to resolve outstanding issues. Therefore, where requested by the assessed country, the assessment team (including Secretariat) and the country should have a face to face meeting to further discuss the 3rd draft MER and Executive Summary. During this session, the assessment team and country should work to resolve any disagreements over technical compliance or effectiveness issues and identify potential priority issues for Plenary discussion. The face to face meeting should occur at least eight weeks before the Plenary (*i.e.* approximately 17 weeks after the on-site). The country should provide its comments and other relevant material in writing to the assessment team at least one week prior to any such meeting.
54. After the face to face meeting, the assessment team will consider whether any further changes should be made to the draft MER and Executive Summary.

(n) Identifying Issues for Plenary Discussion

55. The revised Executive Summary and MER (4th draft), will then be sent to all members, cooperating partners, organizations and supporting nations about 5 weeks prior to Plenary. Delegations and reviewers will have 2 weeks to provide any written comments on the MER and Executive Summary, and in particular, to identify any specific issues that they wish to discuss during the Task Force Plenary. The comments should mainly focus on key substantive issues or other high level aspects of the assessment, though other observations can be made. The comments received will be made available to all delegations at least 3 weeks before the Task Force Plenary.
56. Based on the MER, the Executive Summary and comments received from members, cooperating partners, organizations and supporting nations, the Chair and Deputy Chair of the MEWG together with Chairpersons of the Review Groups will engage the country, assessors and reviewers, and prepare a list of (usually 5 to 7) priority and substantive issues that will be discussed in Task Force Plenary. This should take into account the issues that the assessed country and delegations are most keen to discuss. After consultation with the Chair of the Task Force of Senior Officials and the Executive Secretary, the list of key substantive issues for Task Force Plenary discussion will be distributed. The list of priority issues for discussion in Plenary would include key issues arising from the report (whether referenced by the assessed country, assessment team or delegations), as well as any areas of inconsistency or interpretation with other MERs adopted by the ESAAMLG.
57. The finalised list of priority issues will be circulated to delegations 3 weeks before the Plenary discussions. Drafting amendments received on the Executive Summary or MER can be made after the Plenary discussion, and will also take into account the decisions made during Plenary.

(o) Respecting Timelines

58. The timelines are intended to provide guidance on what is required if reports are to be prepared within a reasonable timeframe, and in sufficient time for discussion at the Task Force Meeting. It is therefore important that all those participating in the assessment, particularly the assessors, reviewers and the assessed country observe the timelines, since delays may significantly impact on the ability of the Task Force to discuss the report in a meaningful way.

59. Evaluations are scheduled so as to allow enough time between the on-site visit and the Task Force Meeting discussion, however a failure to respect the timetables may mean that this would not be the case. By agreeing to participate in the mutual evaluation process, the jurisdiction and the assessors undertake to meet the necessary deadlines and to provide full, timely and accurate responses, reports or other material as required under the agreed procedures.
60. The failure to comply with the agreed timelines, may lead to one of the following actions being taken (depending on the nature of the default):
- a) Failure by the assessed country - the Executive Secretary may write to the Primary Contact Point or the relevant Minister in the assessed country. Members will be advised at the Task Force Meeting as to reasons for deferral, and publicity could be given to the deferment (as appropriate) or other additional action considered. In addition, the assessment team may have to finalise and conclude the report based on the information available to them at that time.
 - b) Failure by the assessors or reviewers – the Executive Secretary may write a letter to the Primary Contact Point or the relevant Minister in the jurisdiction, or liaise with the head of delegation of the assessor or reviewer.
 - c) Failure by the Secretariat – the Chair of the Task Force may discuss the matter with the Executive Secretary or recommend to the President to write a letter to the Executive Secretary.
61. The Executive Secretary shall keep the Chair of the Task Force advised of any failure so that the Chair can decide on the action to take in an effective and timely manner. The Task Force Plenary may also be advised if the failures may result in a request to delay the discussion of the MER.

PLENARY DISCUSSION

62. The discussion of the MER and Executive Summary will focus on high level and key substantive issues (particularly the list of priority issues)¹¹, primarily concerning effectiveness. The Executive Summary will summarise the key risks, the strengths and weaknesses of the system and the priority actions for the country to improve its AML/CFT system. Where appropriate, important technical aspects of the MER will

¹¹ The Executive Summary will describe the key risks, the strengths and weaknesses of the system, and the priority actions for the country to improve its AML/CFT regime.

be discussed. Adequate time should always be set aside to discuss the assessed country's response to the ME and other issues. Depending on the issues to be covered, the discussion may take on average, 3 to 4 hours of Plenary time. The procedure for the discussion will be as follows:

- Assessment team (preferably one assessor only) briefly presents in high level terms the key issues and findings from the report. The team will have the opportunity to intervene/comment on any issue concerning the Executive Summary or MER.
- Assessed country makes an opening statement.
- The Plenary discusses the list of priority issues identified. This would usually be introduced briefly by the Assessment Team Leader, with the assessors and the assessed country having the opportunity to provide additional information.
- Adequate time (approximately half the Plenary's time allocated for discussion of the report) will be set aside to discuss the overall situation of the assessed country's AML/CFT regime and ML/TF risks, the priority actions and recommendations set out in the Executive Summary, the country's response to the mutual evaluation including any actions already taken, and the key findings.
- Time permitting, other issues could be raised from the floor, and discussed by the Plenary.

Adoption of the MER and Executive Summary

63. After the completion of Task Force discussion, the Task Force Plenary adopts the MER and the Executive Summary and makes a recommendation to the Council of Ministers to approve and adopt the MER and Executive Summary. The adopted report will be subject to further checks for typographical or any other likely errors.
64. If the MER and Executive Summary are not agreed, then the assessors, the assessed country and the Secretariat should carry out amendments to meet the issues raised by the Plenary. Where substantive changes are required, either because additional information is required to be added or the report has to be substantially amended, then the Task Force could decide to: (a) defer the adoption of the report, and agree to have a further discussion of an amended report at the following Task Force meeting, or (b) where the required changes are less significant, adopt the report

subject to it being amended. The Secretariat and the assessment team would be responsible for ensuring that all the changes agreed by Plenary are factored into the report. Following the adoption of the report by the Task Force and prior to its formal adoption by the Council of Ministers, the Task Force should discuss the nature of the follow-up measures that would be required based on the outcome of the assessment.

65. The final report that is agreed is a report of the ESAAMLG and not simply a report by the assessors. The Task Force will therefore make the final decision on the wording of any report consistent with the requirements of the FATF Standards and Methodology and will give careful consideration to the views of the assessors and the jurisdiction, when deciding on the wording. In this regard, and taking into account the need to ensure consistency between reports, the Task Force should carefully consider the text of the reports. The adoption of the MER and its Executive Summary by the Council of Ministers closes the assessment exercise as such, and at the same time, it creates the basis for future follow-up activities.

Publication and other procedures following Council of Ministers Meeting

66. Following the discussion of the report by the Task Force Plenary meeting and adoption by the Council of Ministers' Plenary, the Secretariat will amend the MER and Executive Summary as necessary within one week after the Plenary and send the two documents to the assessed country. Within two weeks of receipt of the final version of the MER and Executive Summary from the Secretariat, the assessed country must confirm the accuracy of both documents and/or advise of any typographical or similar errors. If the MER and Executive Summary were discussed and adopted by the Task Force at its first Plenary Meeting of the year, then the Secretariat upon receiving confirmation of the accuracy of both documents shall immediately on behalf of the President, circulate a Resolution seeking the adoption of the MER out of session by the Council of Ministers. If one third of the Council of Ministers does not formally object to the adoption of the MER within two weeks, it shall be assumed that the report is adopted. In the event of one third of the Council of Ministers formally objecting to the adoption of the MER within the two weeks then the process set out in paragraph 64 above, shall equally apply.
67. After the adoption of the MER and Executive Summary, the ESAAMLG Secretariat shall, as required by the Universal Procedures for AML/CFT, circulate the approved version of the MER to the FATF Secretariat and/or members, other FSRB Secretariats and/or members and IFIs, which shall have two weeks to advise the ESAAMLG and

FATF Secretariats, in writing, if they have serious concerns about the quality and consistency of the MER¹², and if so, to indicate the specific concerns. Where the same

specific concern(s) are identified by two or more delegations excluding the assessed country, the ESAAMLG Secretariat shall within a week of receiving such common concerns, refer the concerns to both the assessed country and the assessment team to comment and copy the FATF Secretariat. The assessed country and the assessment team shall have a week to respond to the ESAAMLG and FATF Secretariats on the raised specific concerns. Thereafter, the FATF Secretariat in consultation with the ESAAMLG Secretariat will prepare a short note that incorporates the views of the assessment team and the assessed country to be circulated to the FATF Evaluations and Compliance Group (ECG) together with the MER for consideration. The ECG will decide whether the report has significant problems of quality and consistency. If the ECG determines that the report has such significant problems which may affect the FATF brand, it will make recommendations to the FATF Plenary on the appropriate action that could be taken¹³. Where the FATF Plenary decides on such recommendations, these will be submitted to the ESAAMLG Secretariat. The ESAAMLG Secretariat shall take the matter back to the Task Force Plenary for consideration of the recommendations and directions on action to be taken and recommend to Council to adopt that particular aspect of the report. If ESAAMLG does not take up the action recommended by the FATF Plenary, the FATF Plenary may decide on what further action to take.

68. All MERs and Executive Summaries once finalized will be published on the ESAAMLG website to enable timely access to an important part of the ESAAMLG work:
- a) Where the ECG has to consider concerns about quality and consistency, ESAAMLG will not publish the MER, or Executive Summary until the issues have been resolved;
 - b) In any other case, the MER and Executive Summary adopted by Council of Ministers during its Plenary, will be published six weeks after the Plenary meeting and reports which will need approval by the Council of Ministers out of their Plenary session (by way of a signed resolution) will be published six weeks after the Task Force Plenary meeting (this is to allow the one week for

¹² e.g. where ratings are clearly inappropriate, are not consistent with the analysis, where there has been a serious misinterpretation of the Standards or the Methodology, or where an important part of the Methodology has been systematically misapplied

¹³ E.g. requesting that the ESAAMLG reconsiders the report and/or make appropriate changes before publication.

correction of the MER and Executive Summary by the Secretariat after Plenary, two weeks for the assessed country to confirm the accuracy of the report and two weeks to allow circulation of the report for approval by the Council of Ministers out of session by way of signed resolution and two weeks to circulate and receive comments on the adopted MER from parties cited in para. 67, as now required under the Universal Procedures on AML/CFT before posting the MER on the ESAAMLG website).

V. Evaluation of New Members

69. Where a potential new member undergoes a mutual evaluation by the IFIs, in order to determine whether it meets the criteria for ESAAMLG membership, the ESAAMLG may use the report applying procedures laid out in sections I to IV of these procedures. If the criteria for membership are met, and the country is admitted as an ESAAMLG member, but has deficiencies which have been identified in its AML/CFT system, then Plenary shall apply ESAAMLG's follow-up process.

VI. Joint Mutual Evaluations with the FATF and other FSRBs

70. Where ESAAMLG members are also members of the FATF, joint evaluations shall be conducted with the FATF. The FATF and ESAAMLG will agree on the number of evaluators that will be provided by each organisation. Both the FATF and ESAAMLG Secretariats will participate in the evaluation. The ESAAMLG will participate in the evaluation as an associate member of the FATF.
71. Where the ESAAMLG has a member which is also an FATF member, the FATF mutual evaluation procedures shall apply to its evaluation. The FATF's policy is that FATF members that are also members of an FSRB will undergo a joint evaluation by both bodies. The FATF procedures for preparing the draft MER would be the same as for a normal FATF mutual evaluation, with the report being discussed and finalized in the FATF Plenary. This process already allows for considerable FSRB input in this exercise since an FSRB expert and the FSRB Secretariat participates at every step of the process. Moreover, the draft report is shared with the FSRB and its members. In addition, on the basis that the FSRB allows reciprocal participation in the mutual evaluation discussions for FATF members, the following additional steps are added to the evaluation process for joint evaluations:
- a) FSRBs would be given a specific opportunity to intervene during the Plenary discussion of the MER;

- b) All the FATF assessors on the assessment team are encouraged to attend the FSRB Plenary at which the joint evaluation report is discussed, and at least one FATF assessor should attend the FSRB Plenary.
 - (c) In the exceptional case where a report was agreed within the FATF but subsequently the ESAAMLG identified major difficulties with the text of the report, then the ESAAMLG Secretariat would advise both the ECG and FATF Secretariat of the issues, and then wait for guidance from the ECG.
 - (d) Consideration will also be given to the timing of publication, if the MER has not been discussed in ESAAMLG, with a view to finding a mutually agreed publication date.
73. The FATF Procedures thus allow for input from ESAAMLG members in the FATF Plenary consideration of a joint report.
74. Bearing in mind the FATF procedures as described above and the need to streamline procedures for adopting reports of jurisdictions which are members of both the ESAAMLG and the FATF, where a report has already been adopted by the FATF, the ESAAMLG will use an abridged process for adoption of the report by the ESAAMLG. This would mean that the adoption process will take less time for ESAAMLG Task Force consideration and will include some of the following:
- Whilst not the entire assessment team will be required to be present at the ESAAMLG Task Force meeting, at least not less than two assessors should be present.
 - Members of ESAAMLG will be given an opportunity to discuss and raise issues of concern on the mutual evaluation conducted by the FATF or World Bank/IMF (the issues raised in the context of the FATF ECG process will be presented at the Task Force meeting);

VII. IMF or World Bank led assessments of ESAAMLG members

75. The ESAAMLG is responsible for the mutual evaluation process for all its members, and there is a presumption that the ESAAMLG will conduct the mutual evaluations of all ESAAMLG members, including any follow-up required as part of this process. The presumption can be overridden at the discretion of the Council of Ministers Plenary on a case by case basis.
76. The ESAAMLG formally agreed at its 2003 Council of Ministers Meeting to co-operate with the IMF and World Bank in assessing ESAAMLG members. The broad

intention is that evaluations whether led by the Fund/ Bank or by the FATF or FSRBs should be interchangeable and should use consistent procedures. It is also intended that a co-ordinated approach be taken to the conduct of evaluations globally, to reduce both duplication of evaluations and inconsistencies between them.

77. There are thus two broad aspects to the co-operation between the ESAAMLG and the IMF/World Bank:

- Use by the IMF and World Bank of ESAAMLG MERs; and
- Use by the ESAAMLG of IMF/World Bank Assessment Reports

78. As part of burden sharing arrangements, the IMF or World Bank shall, with the consent of the country concerned, advise the ESAAMLG Secretariat on a timely basis of their willingness to conduct the AML/CFT assessment of particular ESAAMLG members. The Plenary will decide on any such requests. For the purposes of the ESAAMLG 2nd round of mutual evaluations, the ESAAMLG Council of Ministers Plenary has discretion as to the number of ESAAMLG assessments that could be conducted by the IFIs. The ESAAMLG Secretariat will engage the IFIs to eventually come up with the number of member countries they can assess.

79. Where the IMF or WB conduct an AML/CFT assessment as part of the ESAAMLG 2nd round, they should use procedures set out by the ESAAMLG, although the assessment team will be made up of IFI staff or consultants who will take on similar responsibilities to those of the Secretariat and assessors in an ESAAMLG led assessment. Some additional specific procedural points are:

- The IMF/WB staff will send the draft detailed assessment report (DAR)(equivalent to the MER)) and Report on the Observance of Standards and Codes (ROSC)(equivalent to the Executive Summary) to the ESAAMLG Secretariat for transmission to ESAAMLG delegations. The Secretariat will then co-ordinate the process (in conjunction with the assessment team and the assessed country) of identifying issues for Plenary discussions within timeframes that are established under ESAAMLG mutual evaluation procedures (see Attachment 1).
- As regards the draft MER/DAR and Executive Summary/ROSC, the IFI assessment team should take into account the Task Force Plenary decisions and make modifications to the DAR and ROSC where appropriate. Although the substance of the MER and DAR will be identical, as will that of the Executive Summary and ROSC, the MER and Executive Summary are the

responsibility of the ESAAMLG, while the ultimate responsibility for DAR and ROSC remain with the IMF or World Bank.

- Discussions and adoption of the DAR/ROSC by the Task Force and recommendations to Council.
- The Council of Ministers Plenary will in all cases have to approve an IFI assessment that is conducted under the ESAAMLG 2nd round for it to be accepted as an ESAAMLG mutual evaluation report.

VIII. Co-ordination with the FSAP process

80. The FATF Standards are recognized by the IFIs as one of the twelve (12) key standards and codes, for which Reports on Observance of Standards and Codes (ROSCs) are prepared, often in the context of a Financial Sector Assessment Programme (FSAP). Under current FSAP policy, every FSAP and FSAP update should incorporate timely and accurate input on AML/CFT. Where possible, this input should be based on a comprehensive quality AML/CFT assessment and, in due course, in the case of the ESAAMLG, on a MER follow-up assessment, conducted under the prevailing standard. The ESAAMLG and the IFIs should therefore co-ordinate with a view to ensuring a reasonable proximity between the date of the FSAP mission and that of a mutual evaluation or a MER follow-up assessment conducted under the prevailing methodology, to allow for the key findings of that evaluation or MER follow-up assessment to be reflected in the FSAP; and members are encouraged to co-ordinate the timing for both processes internally and with the ESAAMLG Secretariat and IFI staff.¹⁴
81. The basic products of the evaluation process are the MER and the Executive Summary (for the ESAAMLG) and the Detailed Assessment Report (DAR) and ROSC (for the IFIs)¹⁵. The Executive Summary, whether derived from a MER or MER follow-up assessment report, will form the basis for the ROSC. ESAAMLG members may choose to participate in the IMF/World Bank FSAP process, and the

¹⁴ If necessary, the staff of the IFIs may supplement the information derived from the ROSC to ensure the accuracy of the AML/CFT input. In instances where a comprehensive assessment or follow-up assessment against the prevailing standard is not available at the time of the FSAP, the staff of the IFIs may need to derive key findings on the basis of other sources of information, such as the most recent assessment report, and follow-up and/or other reports. As necessary, the staff of the IFIs may also seek updates from the authorities or join the FSAP mission for a review of the most significant AML/CFT issues for the country in the context of the prevailing standard and methodology. In such cases, staff would present the key findings in the FSAP documents; however, staff would not prepare a ROSC or ratings.

¹⁵ The DAR uses a similar template to that of the common agreed template that is annexed to the Methodology and has a similar format.

product of that process is an IMF Financial System Stability Assessment (FSSA) or a stand-alone assessment, or a World Bank FSA. Following the Council of Ministers Plenary and after the finalisation of the Executive Summary, the summary is provided by the Secretariat to the IMF or World Bank, so that a ROSC can be prepared following a pro forma review.

82. The substantive text of the draft ROSC will be the same as that of the Executive Summary, though a formal paragraph will be added at the beginning:

“This Report on the Observance of Standards and Codes for the *FATF Recommendations and Effectiveness of AML/CFT Systems* was prepared by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). The report provides a summary of the/certain¹⁶ AML/CFT measures in place in [*Jurisdiction*] as at [*date*], the level of compliance with the FATF Recommendations, the level of effectiveness of the AML/CFT system, and contains recommendations on how the latter could be strengthened.

The views expressed in this document have been agreed by the ESAAMLG and [*Jurisdiction*], but do not necessarily reflect the views of the Boards or staff of the IMF or World Bank.”

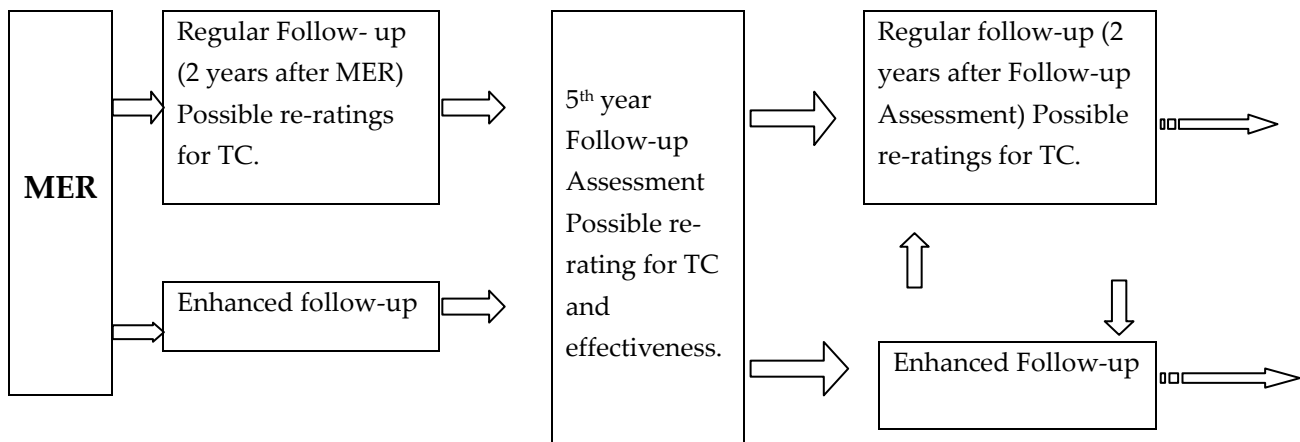
IX. Follow-up process

83. The follow-up process is intended to:
- i. encourage members’ implementation of the FATF Standards;
 - ii. provide regular monitoring and up-to-date information on countries’ compliance with the FATF Standards (including the effectiveness of their AML/CFT systems);
 - iii. apply sufficient peer pressure and accountability; and
 - iv. better align the ESAAMLG and FSAP assessment cycle.
84. Following the discussion and adoption of a MER, the country could be placed in either regular or enhanced follow up. Regular follow-up is the default monitoring mechanism, and is based on a system of annual reporting after discussion of the first two year’s follow-up report by Task Force Plenary. Enhanced follow-up is based on the ESAAMLG’s policy that deals with members with significant deficiencies (for technical compliance or effectiveness) in their AML/CFT systems, and involves a

¹⁶ For ROSCs based on an MER, the word “the” should be used; for ROSCs based on a MER follow-up assessment, the alternative wording “certain” would be used (since the follow-up assessment is not a comprehensive one).

more intensive process of follow up. Whether under regular or enhanced follow up, the country will also have a follow-up assessment after 5 years. This is intended to be a targeted but more comprehensive report on the countries' progress, with the main focus being on areas in which there have been changes, high risk areas identified in the MER or subsequently and on the priority areas of action. Re-ratings will be possible as part of the follow-up process. A schematic of the 2nd round process is included below.

Figure1. **Process of the 2nd Round of Mutual Evaluations**



(a) Regular Follow-up

85. Regular follow-up will be the default mechanism to ensure a continuous and on-going system of monitoring. This is the minimum standard that will apply to all members. Countries subject to regular follow-up will report back to the Plenary on an annual basis after discussion of their first two year follow-up report unless placed under enhanced follow-up. Whenever a regular follow-up report is discussed, re-ratings for technical compliance are possible in appropriate cases.
86. At the adoption of the country's MER, the normal first step is that the assessed country would report back to the Plenary two years after the MER and provide information on the actions it has taken or is taking to address the priority actions and recommendations, and deficiencies in its MER. The expectation is that significant progress would have been made within the two years. Thereafter the member country on regular follow-up process is expected to be reporting annually to the Task Force on the progress it will be making in addressing the outstanding deficiencies in its MER.

87. The country will provide the first two year follow-up report to the Secretariat two months¹⁷ before the next Task Force Plenary, setting out the actions it has taken since its MER. This should include relevant changes to the laws, regulations, guidance, relevant data and information relating to effectiveness, and other contextual and institutional information. The Secretariat will do a preliminary summary analysis of the follow-up report and then send the follow-up report and the preliminary summary analysis to the Review Groups in three weeks of receipt of the follow-up reports, to enable further detailed analysis and a review of the follow-up report. The Reviewers will prepare a summarised analysis report of their findings and refer it to the reporting country for comments, two weeks before the Task Force Plenary meeting. The analysis and review of the follow-up report by the Review Group will be a desk-based review, however to the extent possible issues relating to effectiveness are also to be considered.
88. The Reviewers in carrying out their review may consult the original assessors, where they are available. Where practicable and relevant, the Reviewers could also consult the relevant experts in the pool of experts set up for the quality and consistency review. The Reviewers will discuss the summarised analysis report of their findings on the follow-up report and any issues (including comments from the reporting country) arising from the report with the reporting country during the Task Force Meetings. Thereafter, the Reviewers will provide the final summarised report with recommendations (including a recommendation on the country's next step in the follow-up process) to be referred to the WGME, to the country delegates for comments. The Reviewers will use their discretion in determining comments which would add value to their summarised analysis report before submitting it to the WGME. The WGME will discuss and consider the recommendations made to it by the Reviewers and may call on the Chair of the Review Group or country to answer specific questions or make clarifications, when necessary. Unless, there are substantive issues to be discussed by both the WGME and Task Force Plenary coming out of the recommendations made by the Reviewers, the WGME shall make a recommendation in its report to the Task Force for the Review Group's summarised analysis report to be included as an information item to its Plenary agenda. Where there are substantive issues raised in the Review Group's report, the WGME shall deliberate on such issues and make the necessary recommendations in its report to the Task Force Plenary. *Examples* of substantive issues include:

- The country requests technical compliance re-ratings;

¹⁷ The same procedure will be followed for every regular follow-up or enhanced follow-up report, whenever its submission to the Secretariat is due.

- Significant changes in the country leading to a decline in technical compliance or effectiveness;
- Insufficient progress made by the country against the priority actions in its MER; and/or
- The report recommends placing the country in enhanced follow-up.

89. The Task Force Plenary will consider the report (whether as a discussion or information item) and the progress made by the country, and decide whether the country should report back on a regular basis (*i.e.* a year after discussion of the first two year follow-up report), or should be placed in enhanced follow-up and report back sooner. A similar process would apply for subsequent regular follow-up reports.

(b) Enhanced Follow-up

90. For a member country that has been evaluated, **it will immediately be placed under enhanced follow-up**, if any one of the following applies:
- i. it has 8 or more NC/PC ratings for technical compliance, or
 - ii. it is rated NC/PC on any one or more of R.3, 5, 10, 11 and 20, or
 - iii. it has a low or moderate level of effectiveness for 7 or more of the 11 effectiveness outcomes; or
 - iv. it has a low level of effectiveness for 4 or more of the 11 effectiveness outcomes.
91. The member country will have to report biannually at each Task Force Plenary meeting, on the progress it will be making in addressing the deficiencies and recommendations made in its MER.
92. **After the discussion of a follow-up report**, the Task Force Plenary based on recommendations from the WGMEs or on its own, could decide to place the country into enhanced follow-up at any stage in the regular follow-up process, if a significant number of priority actions have not been adequately addressed on a timely basis.

93. Where a member country is already on enhanced follow-up and the Task Force Plenary makes a determination that the country is not taking sufficient steps to deal with the priority actions or implementing the recommendations made by the assessors and deficiencies in its MER, in addition to more frequent reporting, [it will immediately trigger the Task Force Plenary to take the steps set out in (a) and (b), or make recommendations to Council to immediately take steps outlined in (c) to (f)¹⁸]:
- a) The ESAAMLG President to send a letter to the relevant minister(s) in the member jurisdiction drawing attention to the lack of compliance with the FATF Standards.
 - b) To arrange a high-level mission to the member jurisdiction to reinforce this message and the President of the Council would write to the relevant Minister about the arranged mission. The mission will meet with Ministers and senior officials.
 - c) In the context of the application of Recommendation 19 by its members, issuing a formal ESAAMLG statement to the effect that the member jurisdiction is insufficiently in compliance with the FATF Recommendations, and recommending appropriate action, and considering whether additional counter-measures are required.
 - d) To refer the country to ICRG for monitoring, and potential listing.
 - e) Suspending the jurisdiction's membership of the ESAAMLG until the prioritized recommendations have been implemented. Suspension would mean that the country would be considered as a non-member of the ESAAMLG for the period of the suspension, would not be able to attend the ESAAMLG meetings or provide input into ESAAMLG processes except for the process to determine whether the country's deficiencies and agreed work plan have been sufficiently addressed.
 - f) Terminate the membership of the jurisdiction.
94. Where the recommendation is to be referred to Council out of its Plenary session to take steps outlined in (c) to (f) by way of Resolution, the President through the Secretariat shall immediately after the Task Force Plenary meeting circulate a

¹⁸ Steps (a) to (f) will be taken in escalation of each other where a country is making insufficient progress or in combination where there has been no progress from the time the MER was adopted.

written Resolution for adoption of the measure(s) and if one third of formal objections are not received from any of the Council Members within two weeks, then the measure(s) shall be assumed adopted.

95. The Task Force Plenary upon recommendations from the WGMEs or on its own may move the country to back regular reporting at any time if it is satisfied that the country has made significant progress against the priority actions in its MER or has taken satisfactory action to address its deficiencies and inform the Council. At that time, the Plenary will also recommend to Council the timing of the country's next regular follow-up report or follow-up assessment.

(c) MER Follow-up Assessment

96. The follow-up assessment is intended to provide a more comprehensive update on the country's AML/CFT regime. It is intended to serve a similar function as an update that is part of a country's Financial Sector Assessment Programme. This takes place 5 years after the adoption of the country's MER, and will occur regardless of whether the country has been in regular or enhanced follow-up. The focus will be on the progress made by the country on the priority actions in its MER, and other areas where the country had significant deficiencies. The follow-up assessment could also examine any areas where the Standards have changed since the MER, other elements of the country's AML/CFT regime which have changed significantly as well as high risk areas identified in the MER or noted subsequently in the follow-up process.
97. The process for the follow-up assessment should include a short (two to three days) on-site visit to assess improvements in effectiveness and other areas. This would be conducted by a small team of (e.g. one to three) experts drawn from countries (preferably experts that were on the original assessment team), and supported by the Secretariat. The team would prepare a progress assessment report to be first considered by the Review Group, which will make recommendations to the WGME for discussion. The WGME will include its comments and recommendations on the progress assessment report in its report to the Task Force Plenary. Re-ratings on both technical compliance and effectiveness will be possible, and based on the recommendations of the Task Force Plenary, the Council Plenary will decide whether the country should then be placed in regular or enhanced follow up, with the process continuing as previously.

(d) Publication of Follow-up

98. The ESAAMLG publication policy would apply to actions taken under the ESAAMLG's follow-up policy. Regular follow-up, enhanced follow-up and the follow-up assessment reports of member countries determined by the Task Force Plenary to have made significant progress upon recommendation of both the WGMEs and Review Groups will be published. The follow-up reports and the summarised analysis report of the individual member country by Review Group highlighting the significant progress made by the member country¹⁹ discussed by the Task Force Plenary shall be published on the ESAAMLG website one week after the Task Force Plenary meeting. The decision and supporting reasons by the Task Force Plenary to publish the report shall be referred to Council for information. The reports where the Task Force Plenary has made a recommendation to be considered by Council for a member country to be subjected to measures set-out in (c) to (f) of paragraph 92 above, the Secretariat shall not publish such reports until Council has made a decision on the recommendation.

¹⁹ Including where the member country has had an improved re-rating.

APPENDIX 1 – TIMELINES FOR THE 2ND ROUND MUTUAL EVALUATION PROCESS

Date		Week	Key Indicative Milestones ²⁰		
The Secretariat shall conduct a pre-mutual evaluation workshop for the assessed country eight months before the on-site visit.					
			<i>For assessment team</i>	<i>For the country²¹</i>	<i>For Reviewers</i>
At least 6 months before the on-site	-24	<ul style="list-style-type: none">Commence research and desk-based review on technical compliance (TC).Confirm (or find) assessors drawn from the list of assessors²². The Secretariat to formally advise assessed country of the assessors once confirmed.Invite delegations to provide	<ul style="list-style-type: none">Designate contact point(s) or person(s) and set up an internal coordination mechanisms (as necessary)²³.Respond to technical compliance update by providing updated information on new laws and regulations, guidance, institutional		

²⁰ Interaction between assessors, secretariat and country is a dynamic and continuous process. The assessment team should engage the assessed country as soon and as much as reasonably possible and seeking and provision of information will occur throughout the process. Countries should respond to queries raised by assessment team in a timely manner.

²¹ The country would have to commence preparation and review of its AML/CFT regime for compliance with the FATF Standards more than 6 months prior to the on-site.

²² The assessment team should comprise at least 4 assessors, including at least one legal, law enforcement and financial expert. Depending on the country and risks, additional assessors with the relevant expertise may be sought.

²³ Contact point(s) or person(s) should ideally be familiar or trained in the FATF Standards before the commencement of the process.

		information about (a) assessed country's risk situation and any specific issues which should be given additional attention by assessors, (b) their international cooperation experience with the assessed country.	framework, risk and context.	
4 months before the on-site	-16	<ul style="list-style-type: none"> • Prepare preliminary draft TC annex. • Analyse country's assessment of risk and discuss potential areas of increased focus for on-site²⁴. • Confirm reviewers (drawn from WGME and Chairs of Review Groups.) 	<ul style="list-style-type: none"> • Provide response on effectiveness based on the 11 Immediate Outcomes and the underlying Core Issues (including as relevant supporting information and data). 	
3 months before the on-site	- 12	<ul style="list-style-type: none"> • Send 1st Draft TC annex (need not contain ratings or recommendations) to country for comments. 	<ul style="list-style-type: none"> • Contact point(s) or person(s) to engage Secretariat for on-site. 	
2 months before the	-8	<ul style="list-style-type: none"> • Advise and consult country on 	<ul style="list-style-type: none"> • Provide comments on draft TC 	<ul style="list-style-type: none"> • Review draft

²⁴ This may identify a need to request additional experts with other specific expertise for the assessment team

on-site visit		<p>preliminary areas of increased focus for on-site. This could involve preliminary discussions on the assessment team's impressions on the country's ML/TF risks.</p> <ul style="list-style-type: none"> • Send draft scoping note to reviewers. • Prepare a preliminary analysis identifying key issues on effectiveness. 	assessment.	scoping note
1 month before on-site visit		<ul style="list-style-type: none"> • Final date for members and FSRBs to provide specific information on their international cooperation experiences with the assessed country. • Provide draft programme for on-site visit to the assessment team²⁵. 		
At least 3 weeks before the	-3	<ul style="list-style-type: none"> • Finalise areas of increased focus for on-site visit, and key 		

²⁵ Contact point(s) or person(s) to identify and inform key government agencies and private sector bodies that would be involved for the on-site.

on-site.		government agencies and private sector bodies to meet.		
At least 2 weeks before the on-site	-2	<p>Finalise programme and logistics arrangements for on-site.</p> <p>Assessment team to prepare revised draft TC annex, draft TC text for MER, and outline of initial findings/key issues to discuss on effectiveness. Where possible a working draft MER prepared.</p> <p>Revised TC annex sent to country.</p>	Country to provide responses to any outstanding questions from the assessment team.	
On-site Visit				
Usually 2 weeks (but may vary)	0	<ul style="list-style-type: none"> Conduct opening and closing meetings with country. A written summary of key findings is to be provided at the closing meeting. Where relevant, assessment team to review the identified areas for greater focus for the on-site. Discuss and draft MER. 		
After the on-site visit				
Within 6 weeks of	6	<ul style="list-style-type: none"> Assessment team to prepare the 		

on-site visit		complete 1st draft MER and draft Executive Summary, and send to assessed country for comments.		
Within 4 weeks of receipt of draft MER	10	<ul style="list-style-type: none"> Review and provide inputs on queries that assessed country may raise. 	<ul style="list-style-type: none"> Respond to 1st draft MER and Executive Summary. 	
Within 2 weeks of receiving country comments	12	<ul style="list-style-type: none"> Review assessed country's response on 1st draft of MER and ES. Prepare and send 2nd draft MER and ES to assessed country (for information only) and reviewers. Send country comments to reviewers. 	<ul style="list-style-type: none"> 	
	14			<ul style="list-style-type: none"> Provide comments on 2nd draft MER and ES.
Minimum -10 weeks before the	15	<ul style="list-style-type: none"> Prepare and send 3rd draft MER and ES to assessed country. 		

Plenary		<ul style="list-style-type: none"> Send note to reviewers and assessed country setting out comments of assessment team on reviewers' comments. 		
Minimum-8 weeks before the Plenary	17	<ul style="list-style-type: none"> Conduct face to face meeting to discuss the 3rd draft MER and ES. Work with assessed country to resolve disagreements and identify potential priority issues for discussion in Plenary. 	<ul style="list-style-type: none"> Provided 2nd set of comments to the assessment team <i>at least one week</i> prior to the face to face meeting. 	
Minimum -5 weeks before Plenary	18	<ul style="list-style-type: none"> Send final draft MER and ES, together with reviewers' comments and assessment team response to all delegations for comments (2 weeks). 		
Minimum -3 weeks before Plenary	22	<ul style="list-style-type: none"> Deadline for written comments from delegations. 		
Two-week period before Plenary	23	<ul style="list-style-type: none"> Engage assessed country and assessors on priority issues, and other comments received on 	<ul style="list-style-type: none"> Work with assessment team on priority issues, and other comments received on MER or 	

		<p>MER or ES.</p> <ul style="list-style-type: none">• Circulate (a) compilation of delegation comments, and (b) finalized list of priority issues to be discussed in Plenary.• Review and provide inputs on priority issues, and other comments received on MER or ES.	ES.	
Plenary week	25	<p><u>Discussion of MER</u></p> <ul style="list-style-type: none">• The Executive Summary together with any official communication from ESAAMLG, shall be published three weeks after the Plenary to allow corrections and consultations with the assessed country.		
Post Plenary – Publication and Finalisation of MER				
<p>The MER adopted by Council of Ministers is to be published as soon as possible, and within 3 to 6 weeks, once the assessment team has reviewed it to take into account additional comments raised in the Task Force Plenary, and the country confirms that the report is accurate and/or advises of any consistency, typographical or similar errors in the MER, and comments from the FATF, FSRBs, IFIs and other delegations in terms of the Universal Procedures for AML/CFT.</p>				

APPENDIX 2 – Authorities and Businesses Typically Involved for On-Site Visit

Ministries:

- Ministry of Finance;
- Ministry of Justice, including central authorities for international co-operation;
- Ministry of Interior;
- Ministry of Foreign Affairs;
- Ministry responsible for the law relating to legal persons, legal arrangements, and non-profit organisations;
- Other bodies or committees to co-ordinate AML/CFT action, including the assessment of the money laundering and terrorist financing risks at the national level.

Criminal justice and operational agencies:

- The FIU;
- Law enforcement agencies including police and other relevant investigative bodies;
- Prosecution authorities including any specialised confiscation agencies;
- Customs service, border agencies, and where relevant, trade promotion and investment agencies;
- If relevant - specialised drug or anti-corruption agencies, tax authorities, intelligence or security services;
- Task forces or commissions on ML, FT or organised crime.

Financial sector bodies:

- Ministries or agencies responsible for licensing, registering or otherwise authorising financial institutions;
- Supervisors of financial institutions, including the supervisors for banking and other credit institutions, insurance, and securities and investment;
- Supervisors or authorities responsible for monitoring and ensuring AML/CFT compliance by other types of financial institutions, in particular bureaux de change and money remittance businesses;
- Exchanges for securities, futures and other traded instruments;
- If relevant, Central Bank;
- The relevant financial sector associations, and a representative sample of financial institutions (including both senior executives and compliance officers, and where appropriate internal auditors);
- A representative sample of external auditors.

DNFBP and other matters:

- Casino supervisory body;
- Supervisor or other authority or Self-Regulatory Body (SRB) responsible for monitoring AML/CFT compliance by other DNFBPs;
- Registry for companies and other legal persons, and for legal arrangements (if applicable);
- Bodies or mechanisms that have oversight of non-profit organisations, for example tax authorities (where relevant);
- A representative sample of professionals involved in non-financial businesses and professions (managers or persons in charge of AML/CFT matters (*e.g.* compliance officers) in casinos, real estate agencies, precious metals/stones businesses as well as lawyers, notaries, accountants and any person providing trust and company services);
- Any other agencies or bodies that may be relevant (*e.g.* reputable academics relating to AML/CFT and civil societies).

Efficient use has to be made of the time available on-site, and it is therefore suggested that the meetings with the financial sector and DNFBP associations also have the representative sample of institutions/DNFBP present.

APPENDIX 3 – QUESTIONNAIRE FOR TECHNICAL COMPLIANCE UPDATE

BACKGROUND AND KEY DOCUMENTS

Countries should briefly note any significant changes to their AML/CFT system which have taken place since the last evaluation or since they exited the follow-up process. This includes :

- New AML/CFT laws, regulations and enforceable means.
- New competent authorities or significant reallocation of responsibility between competent authorities.

Countries should list the principal laws and regulations in their AML/CFT system, and give a brief, high level summary of their scope. The text (translated where necessary) should be given to assessors. It is preferable to assign each document a unique number to ensure references are consistent. These numbers should be listed here.

Countries should list the main competent authorities responsible for AML/CFT policy and operations, and summarise their specific AML/CFT responsibilities.

1. *[Example – “Since the last evaluation, Country X has passed the ‘Law on Suspicious Transaction Reporting (2009)’ and established an FIU. Responsibility for investigating suspicious transactions has been transferred from the Ministry of Interior to the FIU.”]*

2. *[Example – “ The principal laws relevant for AML/CFT are:*

- *Money Laundering Act (1963) (document L1) – establishes the criminal offence of money laundering.*
- *Proceeds of Crime Act (2007) (document L2) – sets a legal framework for confiscation of the proceeds of crime.*
- *National Security Act (2005) (document L3) – establishes the criminal offence of terrorist financing and a legal framework for implementing targeted financial sanctions.*
- *Financial Sector Act (1999) (document L4) – provides the legal basis for financial sector regulation and supervision and sets out the basic AML/CFT obligations of firms.”]*

RISK AND CONTEXT

Countries should provide assessors with available documents about the ML/TF risks in their country. They should list each document they provide and briefly describe its scope. Countries should also note any important considerations about risk and context which they wish to bring to the attention of the assessors. They should not duplicate information included in the documents provided. If countries wish to highlight specific contextual factors, they should provide documentation of these.

Countries should describe the size and structure of the financial and DNFBP sectors, using the tables in Annex 1.

TECHNICAL COMPLIANCE INFORMATION

Countries should provide information on their technical compliance with each of the Criteria used in the FATF Methodology.

For each criterion, countries should, as a minimum, set out the reference (name of instrument, article or section number) that applies. Countries should refer to the specific clauses of their laws, enforceable means, or other mechanisms which are relevant to the criterion. If necessary, countries should also briefly explain the elements of their laws, enforceable means, or other mechanisms which implement the criterion, (e.g. an outline of the procedures followed, or an explanation of the interaction between two laws). Countries should also note whether the law or enforceable means referred to has changed since the last MER or follow-up report.

The text (translated where necessary) of all relevant laws, enforceable means, and other documents should be provided separately (but as early as possible).

Countries should provide brief factual information only – there is no need for lengthy argument or interpretation. There is no need to set out each criterion in full. Information could be provided in the following form:

Recommendation 1

Criterion 1.1

99. *[Example – “Country X has conducted separate risk assessments on Money Laundering (attached as document R1) and on Terrorist Financing (edited public version attached as document R2). These risk assessments are both used as the basis for the National Strategic Plan on AML/CFT (attached as document R3) which brings together both ML and TF risks.”]*

Criterion 1.2

100. *[Example – “The Minister of Finance has overall responsibility for AML/CFT. The National Strategic Plan on AML/CFT (document R3) assigns responsibility for ML risk assessment to the National Police Authority (page 54), and for TF risk assessment to the*

Interior Ministry (page 55). Actions are coordinated through the National AML/CFT Coordinating Committee (terms of reference on page 52).”]

Criterion 1.3

101. *[Example – “Both ML and TF risk assessments are required to be updated on an annual basis (document R3, pages 54, 55)”]*

Criterion 1.4

102. *[Example – “The ML risk assessment is a public document (document R1). The TF risk assessment is confidential but available to selected staff of all relevant competent authorities. A public version of the TF assessment is prepared which sets out key findings for financial institutions, and DNFBPs (document R2).”]*

ANNEX 1 TO THE QUESTIONNAIRE FOR TECHNICAL COMPLIANCE UPDATE: SIZE AND STRUCTURE OF THE FINANCIAL SECTOR AND DNFBP SECTORS

AML/CFT Preventive Measures for Financial Institutions and DNFBPs (R.10 to R.23)

Type of Entities*	No. Licensed / Regulated / Registered	AML/CFT Laws** / Enforceable Means for Preventive Measures	Date in Force or Last Updated (where applicable)	Other additional Information (e.g. highlights of substantive changes etc.)***	Additional Comments/Questions from the Assessors (upon receipt of responses from country)
Banks					
Life Insurers					
Securities					
MVTS					
Casinos					
Lawyers					
Notaries					
Accountants					
Precious Metals & Stones Dealers					
Trust and Company Service Providers					
Others					

* Additional rows may be added for other type of financial institutions and DNFBPs. Countries may also choose to have more granular and specific classification of the types of financial institutions and DNFBPs.

** Countries should indicate the specific provisions in the AML/CFT laws that set out the CDD, record keeping and STR reporting obligations.

*** Where there have been changes since its last update or where relevant, countries should also set out the specific provisions in the AML/CFT laws or enforceable means and key highlights of the obligations for other preventive measures (e.g. PEPs, wire transfers, internal controls and foreign branches and subsidiaries etc.).

Legal Persons and Arrangements (R.8, R.24 and R.25)

Type of Legal Persons / Arrangements*	No. Registered (where available)	Applicable Laws / Regulations / Requirements	Date in Force or Last Updated (where applicable)	Other additional Information (e.g. highlights of substantive changes etc.)**	Additional Comments/Questions from the Assessors (upon receipt of responses from country)

* Additional rows may be added for other type of legal persons or arrangements. Countries may also choose to have more granular and specific classification of the types of legal persons or arrangements.

** Countries should indicate the specific provisions in the applicable laws / regulations / requirements and key highlights that set out the obligations to maintain the requisite information in R.24 (e.g. basic and beneficial ownership) and R.25 (e.g. settlors, trustees, protectors (if any), the (class of) beneficiaries, and any other natural person exercising control) respectively.

APPENDIX 4



TERMS OF REFERENCE FOR THE REVIEW GROUPS FOR MONITORING THE POST EVALUATION IMPLEMENTATION OF FATF STANDARDS IN ESAAMLG MEMBER COUNTRIES

Background

1. At the Task Force of Senior Officials (Task Force) meeting held in Arusha, Tanzania in March 2010, it was observed that as a result of the new initiative of setting up the Review Groups for monitoring the post evaluation implementation of the FATF standards in member countries, there was a need to put in place guidelines for the work of the Groups. The Secretariat was requested to formulate the pertinent guidelines.
2. Pursuant to the provision of Article IX(5) of the ESAAMLG Memorandum of Understanding, the Task Force may, with the consent of the President of the Council of Ministers establish standing working groups to undertake specific tasks, such as the Finance and Audit Committee; and ad hoc groups, as appropriate, to deal with specific issues.
3. This paper amends the Terms of Reference for the Review Groups established in March 2010 for monitoring the post evaluation implementation of the FATF standards in member countries after the 1st round of MEs, to include monitoring the Follow-Up process introduced under the revised ESAAMLG 2nd Round of AML/CFT Mutual Evaluation Procedures. The setting up of these Review Groups was approved by the Task Force at the same meeting in March 2010. The Review Groups were also constituted at this meeting and conducted their first review of the draft implementation plans submitted by member countries. [The draft Terms of Reference for the Review Groups is therefore submitted for approval by the Task Force. If adopted by the Task Force, the draft Terms of Reference will be submitted for approval and adoption by the Council of Ministers (the Council)].

Amended Draft Terms of Reference

4. The amended draft Terms of Reference for the Review Groups address the issues set out below.

Membership

5. For the purposes of reviewing the progress of the assessed countries in implementing the FATF Standards, three Review Groups set up by the Task Force, comprising of member countries will continue to exist.

Terms of the Review Groups

6. Initially no definite term was proposed for the Review Groups but now since they are a substantive element of the ESAAMLG 2nd Round of AML/CFT Mutual Evaluation Procedures, it is expected that their existence will be determined after the 2nd round process of MEs has been completed. ESAAMLG is expected to finish its second round of mutual evaluations under the FATF 2013 Methodology by August 2019. The Review Groups shall be responsible for monitoring the follow-up process (on TC and where possible, on effectiveness) of member countries starting two years from the date of adoption of each member country's MER²⁶ and annually thereafter for member countries on regular follow-up and at the next Task Force meeting for countries placed under enhanced follow-up at the time of adoption of the MER. During the transitional period until a member country is removed from the post evaluation monitoring process relating to ESAAMLG's first round of MEs or is assessed under the 2nd round of MEs, which ever comes first, the Review Groups shall continue to review the progress made by member countries based on their first round post evaluation monitoring implementation plans.
7. A member country being assessed under the 2nd round of MEs is expected to submit its first progress report to the ESAAMLG Secretariat for review by the Review Groups, two months before each Task Force Meeting. The submission of progress reports by member countries will be determined by whether a country has been placed under the regular follow-up process (when it will be required to submit its first progress report two years after adoption of the MER and thereafter, report annually to the Task Force) or enhanced follow-up process (when it will be required to submit its progress report for discussion at the next Task Force meeting following the adoption of its MER and more frequently [biannually] thereafter, to the Task Force). The Review Groups are then expected

²⁶ Refer to the Follow-up Process described in the ESAAMLG 2nd Round AML/CFT Mutual Evaluation Procedures

to review a comprehensive follow-up report of each of the member countries' progress following an assessment after five years.

8. The Review Groups, as part of the ESAAMLG mutual evaluation process shall be an integral part to the review process for quality and consistency of the 2nd Draft Mutual Evaluation Report and Executive Summary. The terms of reference for the quality and consistency reviewers are set out in more detail in the ESAAMLG 2nd Round of AML/CFT ME Procedures.

Appointment of the Chairperson and Vice Chairperson

9. The term of office of the Chairperson and Vice Chairperson shall be until the end of the ESAAMLG 2nd round ME process.

Tasks

10. The Review Groups, which will be in charge of analyzing the corrective actions taken by the assessed countries and the progress achieved, will be assisted by the Secretariat in this exercise. The Review Groups are expected to analyse the progress reports of member countries online/electronically, one month before the commencement of Task Force meetings. The reviewers' through their Chair, will then submit their first written draft reports with preliminary findings to the Secretariat to be circulated to the reviewed countries for comments two weeks before the Task Force meetings.

Reporting

11. The Review Groups will report to the Working Group on Mutual Evaluations (WGME) which will report to the Task Force Plenary on assessed countries' follow-up actions and progress accomplished in implementing the recommendations set out in the mutual evaluation report within the agreed timeframes.

Meetings

12. The Review Groups will meet physically during the Task Force meeting to finalise on their findings of each of the progress reports and thereafter, meet with the delegations of each of the member countries to discuss the result of their progress report. The Chairs of the Review Groups will then present the Review Group reports to the WGMEs.

ANNEX II

TERMS AND PROCEDURES FOR THE REVIEW GROUPS

Membership

1. Membership of the Review Groups is open to all ESAAMLG member countries.
2. Members shall nominate experts, from the following three sectors: legal, financial (regulatory/supervisory) and FIU/law enforcement, who have been trained as assessors and/or have participated in mutual evaluations to represent them in the Review Groups.
3. At all times, each Review Group shall be composed of experts representing all the three sectors.
4. Where experts are no longer able to participate in the Review Groups for any reason whatsoever, member countries shall inform the Secretariat accordingly and shall appoint a new expert expeditiously. The name and contact details of the new expert shall also be communicated to the Secretariat
5. The meetings of the Review Groups shall be open sessions for members and Co-operating and Supporting Nations and Observers (the COSUNS) who may wish to attend.
6. The membership of the Review Groups shall be composed of member countries set out in the table below and any other new members to ESAAMLG. The member countries shall be responsible for reviewing the progress of member countries as follows:

Membership of Review Groups	Country Implementation Plans under review
Review Group A	
Uganda Namibia Zimbabwe	Seychelles Tanzania Malawi

Botswana Comoros Secretariat Angola	Swaziland Mozambique Ethiopia
Review Group B	
Seychelles Zambia Kenya Mozambique Tanzania Rwanda ²⁷ Secretariat	Botswana Mauritius South Africa Uganda Lesotho Angola
Review Group C	
Lesotho South Africa Swaziland Mauritius Malawi Ethiopia Secretariat	Namibia Zimbabwe Zambia Comoros Kenya Rwanda

Confidentiality

7. Documents produced by a member country for the purposes of the Follow-up Process, which the member country considers must be kept confidential, will be treated as confidential by the Reviewers and will not be made publicly available unless the country consents to it.
8. Members of the Review Groups will be required to sign a Confidentiality Undertaking in the form set out in Attachment A.

Term

9. The term of the Review Group shall expire at such time in the future as may be determined by the Council of Ministers (the Council) upon the recommendation of the Task Force of Senior Officials (the Task Force).

²⁷ The Republic of Rwanda will join Review Group B once it is admitted as a full member of the ESAAMLG.

Chairperson

10. The countries that chair the Review Groups shall be appointed by the Task Force upon the recommendation of the Working Group on Mutual Evaluations and shall hold office until the end of the ESAAMLG's 2nd round ME process. In order to retain experience within the Review Groups, at the expiry of the term of office, the Chairperson shall be eligible for re-appointment for a period to be determined by the ESAAMLG.
11. The country that holds the office of the Vice-Chairperson shall also be appointed by the Task Force under the same terms and conditions as the Chairperson.

Tasks

12. The Reviewers and the Secretariat, shall closely monitor the post evaluation follow-up process as set out under the ESAAMLG 2nd Round AML/CFT ME Procedures and shall for this purpose:
 - (a) review and analyse the follow-up action plans of member countries. Where appropriate, the Review Groups shall make such recommendations, as may be relevant, to amend the action plans to assist member countries in meeting the requirements of the FATF standards and effectively implementing core issues on effectiveness;
 - (b) review and analyse the progress made by member countries in meeting the requirements of the FATF standards and where possible, effective implementation of the core issues on effectiveness within the agreed time frames. Analysis of progress made will essentially involve looking into the main laws, regulations and other documentation to verify the technical compliance of domestic legislation and other relevant requirements with the FATF standards. In assessing the progress achieved, where possible effectiveness should also be taken into account, primarily through a consideration of data provided by the country; and
 - (c) after analysing the progress reports submitted by member countries on either the regular follow-up or enhanced follow-up process, make recommendations to the WGMEs addressing the following circumstances:
 - (i) where a country is making sufficient progress, to deliver a subsequent follow-up progress report as provided in the ESAAMLG 2nd Round AML/CFT ME Procedures ; or
 - (ii) in the case where no significant progress has been made, propose steps in the context of enhanced follow-up process which will call

for closer monitoring of the member country as set out in the ESAAMLG 2nd Round of AML/CFT ME Procedures.

Reporting

13. The Review Groups after discussions with the member countries shall prepare a final written report, (which will take into consideration the comments made by the reviewed member country) for each reporting member country summarising the progress made under the regular or enhanced follow-up processes.
14. The final report shall be prepared together with the Secretariat and shall be circulated to ESAAMLG members in advance of the WGMEs meeting.
15. The Review Groups shall report to the WGMEs which shall be responsible for reporting to the Task Force Plenary on assessed countries' follow-up actions and progress made in implementing the recommendations set out in the MER within the agreed timeframe.

Meetings

16. Members of the Review Groups shall endeavour to attend all ESAAMLG and Review Group meetings.
17. Where a member is not able to attend any Review Group or ESAAMLG meetings, he/she shall notify the Chairperson of the Review Group and the Secretariat in advance of the meeting. **The absentee member will be expected to contribute online to any ongoing work by the Review Group and send his/her contribution to the Chairperson of the Group and the Secretariat before the meeting.**
18. The Secretariat shall maintain records of attendance of members of the Review Groups, and done by the Review Groups of all meetings and deliberations.
19. The Review Groups should normally meet physically during the Task Force meetings. However, the Review Groups may meet in-between these meetings depending on the exigencies and urgency of the business and whenever the Chairperson directs after consultation with the Secretariat and members of the Review Group.

Administrative arrangements

20. The Secretariat shall, as may be required, provide secretarial and administrative support to the Review Groups, including:-

- Following up on countries to submit follow-up progress reports in preparation for all Task Force meetings.
- Upon receipt of the follow-up progress reports, reviewing and preparing a preliminary analysis of the report, including comments on the quality of the information submitted for reviewers.
- Submitting its preliminary analysis report of the progress reports, and progress reports to members of the Review Groups, (submission will be after three weeks of receiving the progress report from a member country).
- Disseminating any other information to assist the Review Groups in the preparation of their reports
- Liaising with the Chair of each Review Group for the first draft report on the follow-up progress report and any other comments by the reviewers to be referred to the country submitting the progress report, before the Task Force meetings.
- Facilitating the holding of meetings of the Review Groups to discuss their findings on the follow-up progress reports with delegates of reviewed member countries and prepare their final written reports for submission to the WGMEs.

ATTACHMENT A – Confidentiality Undertaking for the ESAAMLG ME



CONFIDENTIALITY UNDERTAKING

I, [name of assessor], of [country of residence] having agreed to participate in the mutual evaluation of [name of assessed country], hereby undertake to keep, as **confidential**, all information and documents imparted to me or generated in the course of the mutual evaluation process. I further undertake not to disclose to any third party any such information or document unless expressly authorised in writing to do so by the Government of [name of assessed country].

Signed

Name of Evaluator:

Date:

Witnessed by.....

Name of Witness

Signature.....

Date:

ATTACHMENT B- Confidentiality Undertaking for the ESAAMLG on the Follow-Up Process



CONFIDENTIALITY UNDERTAKING

I, [name of reviewer], of [Country of reviewer], [mobile number and email address of reviewer] having been nominated as a member of Review Group (A, B or C) for the purposes of the ESAAMLG Post Evaluation Follow-Up process, hereby undertake to keep, as confidential, all information and documents, of such a nature, imparted to me or generated in the course of this process. I further undertake not to disclose to any third party, any such information or document unless expressly authorised in writing to do so by the Government of the country undergoing the process.

Signed

Name of Reviewer.....

Date.....

Witnessed by.....

Name of Witness.....

Signature.....

Date.....