



REPUBLIC OF NAMIBIA

NATIONAL STRATEGY

ON

ANTI-MONEY LAUNDERING

AND

COMBATTING THE FINANCING OF

TERRORISM

GLOSSARY AND ABBREVIATIONS

ACC	Anti-Corruption Commission
AML	Anti-Money Laundering
AMLAC	Anti-Money Laundering Advisory Council
BoN	Bank of Namibia
CFT	Combating the Financing of Terrorism
DNFBPs	Designated Non-Financial Businesses and Professions
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FI	Financial Institution
FIA	Financial Intelligence Act, 2007 (Act No. 3 of 2007)
FIC	Financial Intelligence Centre
FIU	Financial Intelligence Unit
MoJ	Ministry of Justice
MoSS	Ministry of Safety and Security
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding
NAMFISA	Namibia Financial Institutions Supervisory Authority
NBFIs	Non Banking Financial Institutions
POCA	Prevention of Organized Crime Act, 2004 (Act 29 of 2004)
SADC	Southern African Development Community
SARPCCO	Southern African Regional Police Chiefs Commission
UN	United Nations

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1. INTRODUCTION

The Government of Namibia recognises that financial crime of all types is facilitated by the laundering of the proceeds of crime. Government further recognises that it is essential to have robust laws and well trained and equipped law enforcement agencies which have the capacity to deal with money laundering and the financing of terrorism.

The Government understands that unless this is done, there is little to prevent Namibia from becoming an unwitting haven for those engaged in money laundering and terrorist financing activities and no way to assist neighbouring countries and other members of the international community who have been victimised by criminal groups.

Government also firmly supports the notion that criminal enterprises should be denied access to Namibian financial services. There are a number of reasons why this is so:

- Failure to prevent money laundering makes financial crimes more attractive and permits the funding of future criminal activities. This increases the level of crime;
- The abuse of the financial system by money launderers has the potential to undermine financial institutions and ultimately the integrity of the financial sector;
- If money laundering and terrorist financing is not checked, contempt for the law may well be engendered, undermining public confidence in the legal and financial systems. This in turn promotes economic crimes such as corruption, fraud, exchange control violations and tax evasion;
- Money laundering facilitates corruption and the accumulation of economic power by corrupt individuals and businesses and has the

potential to undermine the economy and Namibia's democratic way of life.¹

The Government of Namibia has firmly resolved to play its part in international efforts against crime and terrorism. The creation of efficient anti-money laundering and anti-terrorist financing programmes is necessary both to protect Namibia's fundamental national interests and to discharge Namibia's international treaty obligations.

The above issues and objectives were the factors which caused Namibia to participate in the 1999 Arusha Meeting after which the Eastern and Southern African Anti Money Laundering Group (ESAAMLG) was established. In 2001 the Government of Namibia established the Namibian Anti-Money Laundering Taskforce which has had the primary responsibility for co-ordinating Namibia's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) programmes.

The Government further acknowledge that no one agency or group within Namibia is capable of meeting the challenges posed by money launderers and terrorist financiers. This strategy therefore draws upon the resources of numerous ministries and agencies within Government and upon the skills and knowledge of different professional groups. It is essential that all these resources are harnessed co-operatively to identify launderers and terrorist financiers, to prosecute them and to deprive them of their capital, the proceeds of their crimes and the tools of their trade.

The strategy has been divided into 7 key objectives namely treaties, legislation, domestic and international co-operation, enforcement structures, co-ordination, training and the allocation of sufficient resources.

This National Strategy document is intended to be comprehensive. Many key elements of the Strategy are already in place as considerable progress has been made since 2001 with the implementation of the 1998 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 1999 United Nations International

¹ These four points have been paraphrased from *Combating Money Laundering and Terrorist Financing*, Commonwealth Secretariat 2nd Edition 2006. P. 6-7

Convention for the Suppression of the Financing of Terrorism, the 2001 United Nations Convention Against Transnational Organized Crime and the 2003 United Nations Convention on Corruption.

2. PURPOSE

The purpose of this Strategy is:

- a) To fully implement and comply with international obligations derived under:
 - i) the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention); the 2001 United Nations Convention on Transnational Organised Crime (the Palermo Convention); the 2003 United Nations Convention against Corruption and the 1999 United Nations Convention for the Suppression of the Financing of Terrorism;
 - ii) the ESAAMLG Memorandum of Understanding on AML/CFT;
 - iii) the SADC Memorandum of Understanding on AML/CFT; and
 - iv) international standards on AML/CFT as set forth in the Financial Action Task Force (FATF) Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing.
- b) To ensure that Namibia has an effective legal framework to combat Money Laundering and the Financing of Terrorism (ML/TF); and
- c) For Government to monitor progress with the implementation of above obligations.

3. OBJECTIVES

3.1 OBJECTIVE 1

TO EFFECTIVELY COMPLY WITH INTERNATIONAL TREATIES AND OBLIGATIONS

ACHIEVEMENTS :

Namibia ratified the following United Nations Conventions on combating Money Laundering and Terrorism Financing:

- (i) the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) in 2009;
- (ii) the 2001 United Nations Convention on Transnational Organised Crime (the Palermo Convention) in 2002; and
- (iii) the 2003 United Nations Convention against Corruption in 2004.

FURTHER ACTION REQUIRED:

Namibia must still ratify the 1999 United Nations Convention for the Suppression of the Financing of Terrorism and complementing United Nations Security Council Resolutions 1267 and 1373.

3.2 OBJECTIVE 2 :

TO HAVE AN EFFECTIVE LEGAL SYSTEM TO COMBAT MONEY LAUNDERING AND TERRORIST FINANCING

ACHIEVEMENTS :

Namibia implemented comprehensive legislation which:

3.2.1 criminalises:

- a) money laundering under the Prevention of Organized Crime Act, 2004 (Act No. 29 of 2004) (POCA), as amended; and

b) corruption under the Anti-Corruption Act, 2003 (Act No. 8 of 2003);

3.2.2 provides for the confiscation of the proceeds of crime and instrumentalities used to facilitate the commission of crime under the POCA;

3.2.3 provides a regulatory framework designed to minimise the incidence of financial transactions linked to crime and that detects such transactions when they occur under the Financial Intelligence Act, 2007 (Act No. of 2007);

3.2.4. permits the enforcement of foreign requests for legal assistance in AML/CFT matters and which enables Namibia to make such requests of foreign jurisdictions under the International Cooperation in Criminal Matters Act, 2001 (Act No.9 of 2001) ; and

3.2.5 provides for the extradition of persons charged with AML/CFT offences to and from Namibia under the Extradition Act, 1996 (Act No. 11 of 1996).

FURTHER ACTION REQUIRED:

Namibia must still:

3.2.6 criminalize the financing of terrorism;

3.2.7 implement the requirements of UN Security Council Resolutions 1267² and 1373³;

² which aims to combat, among others, terrorist financing by preventing the making of funds and other financial Resources available to the Taliban. UN Security Council Resolutions (UNSCR) 1267 together with UNSCR 1390 and UNSCR 1455, obligate UN Member States to impose certain measures—namely, asset freezes, travel restrictions and an arms embargo—against individuals and entities associated with Usama Bin Ladin, or members of al-Qaida or the Taliban, that are included on the consolidated list maintained and regularly updated by the UN 1267 Sanctions Committee.

³which is aimed at the global combating of terrorism, requires States to take certain specified measures to combat terrorism. Among other things, it requires States to do the following: to freeze without delay funds, financial assets or other economic resources of persons who commit, attempt to commit, facilitate or participate in the commission of terrorist acts; to prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or other related services available—directly or indirectly—for the benefit of persons who commit, attempt to commit, facilitate or participate in the commission of terrorist acts; to ensure that terrorist acts are established as serious criminal offenses in domestic laws and regulations and that punishment duly reflects the seriousness of such terrorist acts; to deny safe haven to those who finance, plan, support or commit terrorist acts; and, to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts is brought to justice. UNSCR 1373 calls upon States to exchange information and cooperate to prevent the commission of terrorist acts. UNSCR 1373 further establishes a committee, the UN Counter-Terrorism Committee (CTC), to monitor implementation of the resolution and to receive reports from States on steps they have taken to implement the resolution.

3.2.8 enact and commence the Drug Control Activities Bill which will amend the Abuse of Dependence-Producing Substances and Rehabilitation Centre Act of 1971 (Act No. 41 of 1971), thus giving effect to obligations derived by Namibia under the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

3.3 OBJECTIVE 3 :

TO ENSURE EFFECTIVE DOMESTIC AND INTERNATIONAL COOPERATION

3.3.1 ACHIEVEMENTS

Namibia already:

- a) established a central authority called the Directorate of Legal Services and International Cooperation, within the Ministry of Justice, to deal with incoming and outgoing requests for mutual legal assistance,;
- b) established a Financial Intelligence Unit (FIU) within the Bank of Namibia, called the Financial Intelligence Centre (FIC), which enables the Bank to exchange financial intelligence with foreign Financial Intelligence Units (FIUs), foreign law enforcement agencies and domestic law enforcement agencies;
- c) fully participates in regional forums dealing with AML/CFT issues, such as the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) and the Financial Action Task Force on Money Laundering and Terrorism Financing;
- d) fully participates in regional and international policing forums such as INTERPOL and the Southern African Regional Police Chiefs Commission (SARPCCO).

3.3.2 **FURTHER ACTIONS REQUIRED:**

Namibia must still:

- a) review the provisions of the *International Co-operation in Criminal Matters Act 2000* to ensure that it continues to meet the mutual legal assistance (MLA) requirements of Namibia and the international community under the auspices of the above four United Nations Conventions and the Financial Action Task Force (FATF) Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing;
- b) review all existing multilateral and bilateral agreements for MLA and extradition to which it is a party;
- c) identify deficiencies and gaps in Namibia's network of agreements in MLA and extradition and remedy those deficiencies and gaps;
- d) exchange financial intelligence with foreign Financial Intelligence Units (FIUs) by becoming a member of the Egmont Group of FIUs and by entering into MoUs with regional and international FIUs;
- e) Encourage the development of mechanisms which will enable Namibia to give effect to the requirements of Financial Action Task Force Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing; and which will allow for:
 - i) domestic policy cooperation and coordination across all relevant competent authorities involved in AML/CFT; and
 - ii) operational cooperation and coordination between law enforcement agencies and Namibia's FIU; and between Namibia's FIU, law enforcement agencies and regulatory bodies; and
 - iii) cooperation between Namibian law enforcement agencies and their counterparts within the region and, where applicable, further afield.

3.4 **OBJECTIVE 4** :

TO ENSURE EFFECTIVE AML/CFT ENFORCEMENT STRUCTURES ARE IN PLACE

ACHIEVEMENTS:

Namibia already established:

3.4.1 an anti-corruption agency known as the Anti-Corruption Commission (ACC) tasked with the responsibility of:

- a) receipt of complaints and intelligence on corrupt activities;
- b) educating the public, the business community and the public service on the evils of corruption;
- c) investigating of corruption offences;
- d) examination of public and private bodies to ensure that practices, procedures and systems are structured to prevent and detect corruption.

3.4.2 a Financial Intelligence Unit within the Bank of Namibia, called the Financial Intelligence Centre, Bank of Namibia (FIC BoN) which is Namibia's national centre responsible for the following:

- a) the receipt, collection, analysis and dissemination of information (including financial information of a sensitive and confidential nature) regarding money laundering and the financing of terrorism;
- b) the accurate and timely identification of persons, accounts and transactions linked to criminal activity.
- c) monitoring compliance with the reporting and other AML/CFT obligations of Financial Institutions (FIs), Non-Banking Financial Institutions (NBFIs) and Designated Non-Financial Businesses and Professions (DNFBPs) whether they are prudentially supervised or not.

3.4.3 Supervisory bodies responsible for the supervision of FIs, NBFIs and DNFBPs

3.4.4 Law Enforcement Structures to investigate and prosecute ML/TF cases and thus far created:

- a) a specialised investigation unit within the Namibian Police called the Organized Crime and Criminal Intelligence Unit; and
- b) a specialised prosecution unit within the Office of the Prosecutor-General called the Extradition and Money Laundering Unit, to undertake complex financial investigations and prosecutions.

3.4.5 **FURTHER ACTIONS REQUIRED**

Namibia must still:

- a) establish Supervisory Bodies for those accountable institutions that has no Supervisory Bodies;
- b) provide supervisory bodies which are administrative in nature, with the necessary regulatory authority to ensure compliance with the provisions of the FIA⁴ and the FATF Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing;
- c) develop the capacity within Supervisory bodies responsible for the supervision of FIs, NBFIs and DNFBPs to ensure:
 - (i) the entities it supervise do not become the vehicles for money laundering or terrorist financing; and
 - (ii) the routine supervision of FIs, NBFIs and DFBNPs by supervisory bodies, should in addition to enforcing compliance with national laws and regulations, ensure compliance with the FATF 40 Recommendation on Money Laundering and 9 Special Recommendations on Terrorist Financing standards.
- d) develop a comprehensive framework that will outline the functionality of multi-disciplinary task forces, tasked with the

⁴ Government must adopt legislative instruments which will: (i) create regulatory bodies for those accountable institutions that have no regulatory bodies; and (ii) provide regulatory powers to those supervisory bodies which are administrative in nature.

investigation and prosecution of complex financial crimes, money laundering and terrorist financing cases; and

- e) inter-agency memoranda of understanding which will set out how complex financial investigations crossing agency “boundaries”, are to be handled.

3.5 OBJECTIVE 5 :

ENSURE EFFECTIVE COÖRDINATION OF NATIONAL AML/CFT PROGRAMMES

ACHIEVEMENTS:

3.5.1 Namibia has through its promulgation of the Financial Intelligence Act, 2007 (Act No. 3 of 2007), established a dedicated national task force called the Anti-Money Laundering Advisory Council (AMLAC), to co-ordinate the national AML/CFT strategy and to facilitate liaison between ministries and agencies with responsibilities in this area. The AMLAC has representation from the following office bearers/ministries/agencies:

- The Governor, Bank of Namibia (Chairperson)
- The Director, Anti-Corruption Commission (Deputy Chairperson)
- The Permanent Secretary, Ministry of Justice (MoJ);
- The Inspector-General, Namibian Police
- The Director, Namibia Central Intelligence Service
- The Permanent Secretary, Ministry of Finance
- The Permanent Secretary, Ministry of Trade and Industry
- The Chief Executive Officer, Namibia Financial Supervisory Authority
- The President of the Banker’s Association of Namibia

The principle functions of the AMLAC are to:

- on the Minister's request or at its own initiative, advise the Minister of Finance on policies and measures to combat money laundering activities;
- on the Minister's request or at its own initiative, advise the Minister on the exercise by the Minister of the powers entrusted to the Minister in terms of the FIA;
- make recommendations for legislation and policy enhancements in the area of AML/CFT to relevant Ministries;
- co-ordinate the implementation of this National Strategy;
- devise strategies for the enhancement of Namibia's AML/CFT capacity;
- co-ordinate the response to any mutual evaluation process to which Namibia may be subject in the area of AML/CFT;
- assist and co-ordinate the preparation of communications on AML/CFT passing between Namibia, the United Nations, the FATF, the Southern African Developing Communities Secretariat, the ESAAMLG and any other international or regional body involved in AML/CFT matters;
- co-ordinate requests for technical assistance in the AML/CFT area;
- conduct regular reviews of progress made in the implementation of this strategy;
- conduct regular reviews of progress made on recommendations contained in any mutual evaluation or financial sector assessment report on AML/CFT.

3.5.2 Namibia further created a technical committee to execute technical work on behalf of the AMLAC and which functions under the auspices of and report to the AMLAC.

3.6 OBJECTIVE 6 :***ENSURE EFFECTIVE TRAINING ON AML/CFT*****ACHIEVEMENTS:**

3.6.1 The Bank of Namibia through its Financial Intelligence Centre:

- a) conducts training for the staff of:
 - i) FIs, NBFIs and DNBFBPs;
 - ii) Regulatory/Supervisory bodies listed in Schedule II to the FIA; and
- b) rolled out a public awareness campaign which creates public awareness of the dangers of money laundering and terrorist financing.

FURTHER ACTIONS REQUIRED

Namibia must still:

- a) devise training programmes and conduct AML/CFT training for:
 - i) Law enforcement agencies such as the Namibia Police, the Prosecutor-General, the ACC, Customs and other agencies tasked with the responsibility of enforcement of AML/CFT laws; and
 - ii) the Office of the Judge President and Magistrate's Commission tasked with the responsibility of adjudicating AML/CFT cases.
- b) allocate the necessary financial resources that will assist in the development of such training programmes.

3.7 OBJECTIVE 7 :***ENSURE EFFECTIVE ALLOCATION OF SUFFICIENT RESOURCES*****ACHIEVEMENTS:**

3.7.1 Government has formally allocated a budget to the Bank of Namibia for its Financial Intelligence Centre operations.

FURTHER ACTIONS REQUIRED

Namibia must still ensure:

- a) the provision of sufficient resources by Government, both capital and recurrent, to ensure that AML/CFT laws are properly enforced;
- b) the recruitment of high level professional and non-professional staff to ensure the successful investigation/prosecution of money laundering and terrorist financing offences and the recovery of the proceeds of financial crimes; and
- c) the preparation of a costing analysis of implementing the AML/CFT programme for the first few years of implementation of this Strategy. This analysis will inform Government on the resources that need to be applied to ensure that this Strategy is successfully implemented.