



# FIRST ROUND MUTUAL EVALUATIONS - POST EVALUATION PROGRESS REPORT OF ZAMBIA

Covering the period August 2016 – July 2017

ESAAMLG (2017), First Round Mutual Evaluation - Post Evaluation Progress Report of Zambia on Anti-Money Laundering and Counter-Terrorist Financing Measures.

# **POST EVALUATION PROGRESS REPORT OF ZAMBIA**

**Covering the period August 2016 – July 2017**

## **A. INTRODUCTION**

1. The mutual evaluation of Zambia’s AML/CFT regime was conducted by the ESAAMLG from November 19-28, 2007. The Mutual Evaluation Report (MER) was adopted by the ESAAMLG Council of Ministers in August 2008.
2. The main deficiencies in Zambia’s AML/CFT regime highlighted in the MER include: inadequacies in the laws criminalizing ML and TF; the FIU’s lack of operational independence; inadequate training of Law Enforcement Agencies (LEAs) and the judiciary; inadequate regulatory and administrative processes for implementing UN Security Council Resolutions related to combating terrorism financing (CFT); and inadequate supervision of the designated non-financial businesses and persons (DNFBPs).
3. Out of the 40+9 FATF Recommendations, Zambia was rated Largely Compliant (LC) with 4 Recommendations, Partially Compliant (PC) with 15 Recommendations and Non-Compliant (NC) with 30 Recommendations.
4. The tables below summarize the ratings obtained by Zambia on Core and Key Recommendations, and Non-Core and Non-Key Recommendations rated PC or NC.

**Table 1: Ratings of Compliance with Core and Key Recommendations**

<b>Core Recommendation</b>	1	5	10	13	SR. II	SR. IV
<b>Rating</b>	NC	NC	PC	NC	PC	NC

<b>Key Rec</b>	3	4	23	26	36	40	SR. I	SR.III	SR.V
<b>Rating</b>	PC	PC	PC	NC	PC	PC	NC	NC	NC

**Table 2: Ratings of compliance with Non-core and Non-Key Recommendations**

<b>Non- core &amp; Non-key recommendations</b>	2	6	7	8	9	11	12	14	15	16	18	19	20	21
<b>Rating</b>	NC	NC	NC	NC	NC	PC	NC	PC	NC	NC	PC	NC	NC	NC

22	24	25	29	30	31	32	33	34	37	38	39	VI	VII	VIII	IX
NC	NC	PC	PC	NC	PC	NC	PC	NC	NC	NC	PC	NC	NC	NC	NC

5. During the 33<sup>rd</sup> Task Force of Senior Officials Meeting held in April, 2017 in Arusha, the Task Force recommended that Zambia take measures to address the remaining outstanding issues.
6. Zambia was further directed to continue reporting bi-annually in respect both the High Level Mission Recommendations and on the following core and key Recommendations: 35/SR.I, SR.II, SR.III, and non-core and key Recommendations: 29, 33, SR.VII and SR.IX.

## **B. OVERVIEW OF PROGRESS MADE BY ZAMBIA**

### **Overview of main changes since the adoption of the MER**

7. Since the adoption of the MER in 2008, Zambia has taken the following steps:
  - Criminalized terrorism and its financing through the enactment of the Anti-Terrorism Act No. 21 of 2007 (as amended by the Anti - Terrorism (Amendment) Act No. 2 of 2015);
  - Issued the Anti-Terrorism (Implementation of the United Nations Security Council Resolutions on the Prevention and Suppression of Terrorism) Regulations to facilitate the implementation of a targeted financial sanctions regime under the United Nations Security Council resolutions (UNSCRs) 1267 and 1373.

- Criminalized money laundering under the Prohibition and Prevention of Money Laundering Act No.14 of 2001 (as amended by Act No.44 of 2010).
- Enacted the Financial Intelligence Centre Act No 46 of 2010 (as amended by Act No. 4 of 2016) which provides for the establishment of the Financial Intelligence Centre (FIC), Zambia's financial intelligence unit (FIU).
- Issued the Financial Intelligence Centre (General) Regulations in January 2016. The Regulations that further amplify the preventive measures including the risk based application of customer due diligence and other measures, beneficial ownership, enhanced due diligence as well as politically exposed persons (PEPs).
- Financial Intelligence Centre (Prescribed Thresholds) Regulations, 2016 which sets the cash thresholds.
- In October 2015 Zambia embarked on the National ML/TF Risk Assessment which was completed in November, 2016 and approved on 14<sup>th</sup> August, 2017 by Cabinet

## C. ANALYSIS OF PROGRESS

### CORE AND KEY RECOMMENDATIONS

8. Since the last Progress Report presented at the ESAAMLG meetings in Arusha, Tanzania in April, 2017, Zambia has addressed R.29.

#### **Building Block 5: International Cooperation**

##### **V. 1 International Conventions - SR. 1 (rated NC)**

###### *Deficiency 1*

9. The Assessors recommended that Zambia should develop a national framework and administrative mechanism to enable implementation of both the provisions of the Anti-Terrorism Act, the UN Convention on the Suppression of Financing of Terrorism and Security Council Resolutions 1267 and 1373. The MER further recommended that once an authority is established to administer the Anti-

Terrorism Act, it is recommended that it also develops guidelines to assist stakeholders to implement the Act.

10. Government of the Republic of Zambia enacted the Anti-Terrorism (Amendment) Act No.2 of 2015 which establishes the National Anti-Terrorism Centre (NATC). Further, Zambia had issued Regulations to implement both the Terrorism Law and the UNSCRs 1267 and 1373 and their successor resolutions. The authorities have also developed and issued Guidelines in May 2017 under the auspices of the National Anti-Terrorism Centre to implement the Anti-Terrorism Act and its Regulations.

**Conclusion:**

The deficiency is **sufficiently addressed**

*Deficiency 2*

11. The Assessors noted that Zambia had not signed nor ratified most of the UN Conventions and protocols annexed to the Terrorism Financing Convention also outlined in the Fifth Schedule of the Anti-Terrorism Act. In particular, it was noted that Zambia had only ratified four out of the nine protocols/conventions annexed to the TF Convention.
12. The Reviewers noted that the Zambian Government ratified and deposited three (3) Conventions with the United Nations out of the five (5) outstanding Conventions. The remaining two (2) protocols which are supplementary to the ones ratified and deposited with the UN are yet to be ratified and approved by parliament.

**Conclusion:**

Not sufficiently addressed.

**Overall Conclusion S.R. I:** Based on the foregoing analysis, Zambia has not sufficiently addressed the Recommendation.

## Building Block 1: Legal Framework

### 1.2 Criminalizing of terrorist financing (SR. II)

#### SR II.1 – Criminalisation of TF

13. The Assessors noted that the definition of the term '*funds*' as provided for under the Anti-Terrorism Act does not meet the definition of '*funds*' as described in the TF Convention.
14. The Reviewers highlighted that the definition of the term '*funds*' appears not to address the element concerning the manner in which the funds have been acquired (whether from legitimate or illegitimate sources). The Zambian Authorities advised that they had commenced the process of amending the Anti-Terrorism Act to specifically provide the preferred words as used in the TF Convention in order to make the Act clearer.

#### **Conclusion:**

The Recommendation is **not addressed**.

### 2.4 Freezing of funds used for terrorist financing (SR III)

#### SR. III.1 – Freezing of funds or assets of persons designated in accordance with S/RES/1267(1999)

##### *Criterion III.6: Guidance to the Financial Sector*

15. Mechanisms for communicating listings/designations are set out in the Regulations, however it is not apparent as to what mechanisms will be used to communicate freezing orders once filed by the AG in court. The Zambian authorities have been requested to confirm as to whether they intend to issue additional guidance to the financial sector on freezing/unfreezing measures.
16. The National Anti-Terrorism Centre issued Guidelines in May 2017 to assist stakeholders to implement the Anti-Terrorism Act and ATA/SI 103 of 2015.

#### **Conclusion:**

The deficiency is **sufficiently addressed**

*Criterion III.8: Unfreezing Procedures of Funds of Persons Inadvertently Affected by Freezing Mechanism:*

17. The Assessors noted that there were no procedures to unfreeze the funds or other assets for persons or entities who are inadvertently or unintentionally affected by a freezing mechanism, upon verification that the person or entity is not designated.
18. The authorities advised that the revised anti-terrorism implementation of UN Security Council Resolutions Regulations, which will address the deficiencies, are still to be signed by the Minister of Home Affairs.

**Conclusion:**

The deficiency is **not sufficiently addressed**

*Overall Conclusion S.R.III:* Based on the foregoing analysis, although the first deficiency is sufficiently addressed by the issuance of guidelines to implement the Anti-Terrorism Act, the second deficiency is still outstanding pending clearance and gazetting of the revised regulations.

**NON-CORE AND NON-KEY RECOMMENDATIONS**

**Supervisors – Rec.29 (rated PC)**

19. The Assessors noted that Supervisors do not have powers to monitor and ensure compliance by financial institutions with the requirements to combat terrorist financing. In addition, Supervisory authorities of the insurance and securities sectors have not issued directives/guidelines to institutions under their supervision to facilitate onsite inspections.
20. Both Pensions and Insurance Authority (PIA) and Securities and Exchange Commission (SEC) have issued the AML/CFT Directives.

**Conclusion:**

The Recommendation is **sufficiently addressed**

### **Legal Persons – beneficial owners - Rec.33 (rated PC)**

21. The MER noted deficiencies relating to the lack of timely, accurate information on beneficial ownership and the inability of the Registrar to verify particulars of the beneficiary owners.
22. Although the Corporate Insolvency Bill was concluded and the Companies Bill finalised, the Bills are yet to be approved by Parliament.

### **Conclusion**

Recommendation **not sufficiently addressed**.

### **Wire Transfers - SR.VII (Rated NC)**

#### *Deficiency 4*

23. The MER recommended that each intermediary and beneficiary financial institution in the payment chain should be required to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer.
24. The authorities advised that the deficiency is being addressed through proposed amendments to the FIC (General) Regulations which have been drafted and submitted to the Minister of Finance for clearance.

### **Conclusion**

The deficiency is **not addressed**

#### *Deficiency 5*

25. The MER recommended that the beneficiary financial institution to be required to obtain originator information and adopt risk based procedures for handling wire transfers that do not contain complete originator information.
26. The Zambian Authorities advised that they would provide clarifications through the revisions of the FIC (General) Regulations that have been submitted to the Minister of Finance for clearance.

## **Conclusion**

**Not sufficiently addressed**

### **Overall Conclusion on SR.VII**

27. The Recommendation has not been sufficiently addressed given that the requirements that beneficiary financial institutions obtain originator information and adopt risk based procedures for handling wire transfers that do not contain complete originator information have not been adopted.

### **Cross Border Declaration & Disclosure (SR IX) (Rated NC)**

#### *Deficiency 3*

28. The MER noted that Anti-Money Laundering Investigation Unit (AMLIU) does not have a system to collect and maintain statistics on cross border transportation of currency or bearer negotiable instruments.
29. The authorities reported that ZRA and FIC have signed a MoU which would enhance exchange of information between the two parties. The authorities also advised that the project to establish a system for collection and maintenance of bearer negotiable instruments was still on-going and that the project on connectivity was yet to be concluded.

## **Conclusion**

The Recommendation is **not sufficiently addressed**

### **UPDATE ON THE HIGH LEVEL MISSION REPORT**

30. The ESAAMLG High Level Mission conducted an on-site visit to Zambia from 22<sup>nd</sup> - 23<sup>rd</sup> July, 2015 to discuss the country's key deficiencies on matters concerning Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT) with various senior officials in government and financial sector supervisory institutions. The report was considered by the ESAAMLG Taskforce of Senior Officials and adopted by the Council of Ministers in South Africa in 2015.

31. The following Recommendation was outstanding during the previous meeting in April 2017:

- a) That Zambia Task Force should start liaising with line Ministries that have to initiate ratification of the remaining five (5) UN Conventions to enable them to be ratified by December 2017.

32. See the analysis done under deficiency 2 of SR.I, above.

### *Conclusion*

The Recommendation is **not fully addressed**

## **D. RECOMMENDATIONS**

33. Authorities are urged to address the following outstanding issues:

- i. Ratify the remaining two (2) UN Conventions that are annexed to the TF Convention.
- ii. Consider amending the definition of '*funds*' as contained in the Anti-Terrorism Act (as Amended) to include funds from legitimate and illegitimate source as required by the TF Convention.
- iii. Expedite the approval process of the revised anti-terrorism implementation of UN Security Council Resolutions Regulations.
- iv. Expedite proposed amendments and approval of the Company and Insolvency Bills that would facilitate the availability of timely, accurate information on beneficial ownership in accordance with the requirements of Rec. 33.
- v. Expedite amendments to the FIC (General) Regulations to require both intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer and adopt risk-based procedures for handling wire transfers that do not contain complete originator information (SR. VII).
- vi. Consider expediting completion of the system for collecting and maintaining statistics on cross border transportation of currency or bearer negotiable instruments (SR.IX).

- vii. That Zambia continues reporting bi-annually in respect to the High Level Mission Recommendations and on the following Core and Key Recommendations: 35/SR.I, SR.II, SR.III, and the following Non-Core and Non-Key Recommendations: 33, SR.VII, and SR.IX.