



MUTUAL EVALUATION REPORT

ANTI-MONEY LAUNDERING AND

COMBATING THE FINANCING OF TERRORISM

REPUBLIC OF ZAMBIA

EXECUTIVE SUMMARY

AUGUST 2008

Executive Summary

Background Information

- 1 This report provides a summary of the AML/CFT measures in place in Zambia as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Zambia's level of compliance with the FATF 40 plus 9 Recommendations (see attached Table 1 on the Ratings of Compliance with FATF Recommendations).

Key findings

- 2 Zambia has demonstrated some commitment to establish a strong AML/CFT framework. This commitment is reflected by the enactment of the the Prohibition and Prevention of Money Laundering Act (PPMLA) and the Anti-Terrorism Act as well as the establishment of the Anti-Money Laundering Investigations Unit (AMLIU). The PPMLA addresses some key fundamental requirements by imposing AML obligations on all financial institutions and some designated non-financial businesses and professions covered by international standards.
- 3 A National AML Task Force chaired by the Secretary to the Treasury has been formed. It consists of all the major stakeholders in Zambia. Its core terms of references are: to enhance domestic cooperation, oversee adoption and implementation of international AML/CFT standards as well as development of national AML/CFT strategies. However, the Anti-Money Laundering Authority established under the PPMLA which is tasked with the responsibility to provide policy direction in matters of AML does not appear to be effective.
- 4 The AMLIU which is intended to operate as a financial intelligence unit, suffers from serious weaknesses which undermine its capacity to play that role. It has not fulfilled some of its statutory obligations under the PPMLA and does not fully meet the Egmont Group definition of an FIU.

- 5 The implementation of preventive measures by financial institutions has not been uniform across the sector. The financial institutions falling under the supervisory authority of the BoZ have implemented AML/CFT measures. The BoZ has also issued the AML and CDD directives to assist these financial institutions to comply with their AML obligations. The financial institutions falling under the supervisory purview of the PIA and SEC are however, not supervised for AML/CFT compliance. No sector specific directives have been issued by the respective supervisory authority to assist them to comply with their AML/CFT obligations.
- 6 The full range of the DNFBPs as defined under the FAFT recommendations is not covered under the PPMLA. The level of AML/CFT awareness amongst those that are covered is very low and therefore AML/CFT measures under the PPMLA have not been implemented. AMLIU has not developed any programme for assisting the reporting institutions to comply with the requirements under the PPMLA. As a result of the above, AML/CFT compliance by DNFBPs is non-existent.
- 7 Zambia should develop and implement an aggressive awareness raising campaign in the non-banking financial services and DNFBP sectors and the general public. This should be part of AMLIU's action plan for the next two years.
- 8 In order to ensure the effective implementation of the AML & CFT framework, Zambia should, by providing relevant training, enhance the technical capacity of the law enforcement agencies, the public prosecutors and the judiciary.

Legal Systems and Related Institutional Measures

- 9 Zambia initiated the fight against ML when it amended the Narcotic Drugs and Psychotropic Substances Act to introduce legislation that criminalizes money laundering. The initiative was reinforced in 2001 with the enactment of the PPMLA.

- 10 The PPMLA does not adopt a threshold approach. Predicate offences for money laundering extend to all illegal activities which amount to a crime. The law does not define the term crime nor has there been any judicial pronouncement on the issue.
- 11 As Zambia has recently promulgated the Anti- Terrorism Act the regulatory and administrative frameworks for implementing the United Nations Security Council Resolutions 1267 and 1373 have yet to be established. Zambia should expedite the setting up of appropriate regulatory and administrative processes to implement the requirements under these resolutions. Furthermore, the authorities are not disseminating the UNSCR 1267 lists to financial institutions. The authorities should establish the appropriate legislative framework for freezing terrorist assets as required by the UNSCRs.
- 12 The PPMLA provides an adequate framework for Zambia's seizure and forfeiture regime. However, forfeiture (confiscation) is conviction-based, with freezing, seizing and restraining orders being provided for under the Act. Adequate powers are available to identify and trace property. These powers have been used successfully by the AMLIU and the Anti-Corruption Commission to forfeit property used in the commission of an offence.
- 13 The legal framework in place to monitor cross border movement of currency and bearer negotiable instruments is inadequate. Currency has not been defined and bearer negotiable instruments have not been included in the definition of currency. Although the Customs and Excise Act requires declarations of currency above US\$5,000, it does not provide for submission of any cross-border movement of currency reports on both genuine and false declarations. Nor is there a specific requirement to maintain data on cross-border currency movements in the event of a suspicion of ML/TF. In addition, Zambia has not established systems and procedures on how seized currency should be handled.

Preventive Measures – Financial Institutions

- 14 There are different types of financial institutions operating in Zambia. Banks, deposit taking institutions and foreign exchange bureau are licensed and supervised by Bank of Zambia, whereas insurance and stock market players fall under the jurisdiction of Pensions & Insurance Authority and Lusaka Stock Exchange respectively. Legislation for regulating money transmitters has just been passed. The Bank of Zambia is the designated licensing authority under the new law. However, the provisions of the Act had not been implemented as at the date on the onsite visit.
- 15 The PPMLA applies to all financial institutions. However, currently, only banks and foreign exchange bureaux are supervised for AML purposes. PIA has drafted AML/CFT directives which have not yet been issued for implementation while the capital market supervisory authority has not taken any action with respect to AML/CFT enforcement in the sector. These sectors are therefore vulnerable to exploitation for ML and TF.
- 16 There is currently no AML/CFT regulatory framework dealing with financial institutions with foreign branches or subsidiaries. Authorities should consider putting them in place even though at the time of the onsite, there was no bank in Zambia with a branch or subsidiary outside the country. However, one of the insurance companies had established a foreign subsidiary.
- 17 There are no AML/CFT requirements for money value transfers outside the formal banking sector. In addition, wire transfers rules do not exist. Although some banks have systems and procedures to handle
- 18 There are banking confidentiality provisions under the banking laws. While the Anti-Terrorism Act contains provisions that would override these confidentiality provisions it is not clear whether the provision under the PPMLA will prevail over the banking laws- which allows disclosure of information under specific circumstances. The BFSa does not have enabling provisions to facilitate exchange of information amongst competent authorities. In addition, weaknesses in maintaining

secrecy and confidentiality at AMLIU may affect the willingness of financial institutions release information.

- 19 The requirement for suspicious transactions reporting (STR) is laid out in the PPMLA. However, there are no reporting requirements in respect of TF. To date, only banks have been reporting, and the number of STRs has been declining over the years despite the growth and diversity of the financial sector. Insurance companies and capital market players are not aware of their obligations to submit STRs on ML and TF even though there are required to report under the PPMLA.
- 20 Provisions that protect the reporting agents and entities against civil and criminal proceedings are part of the PPMLA But there are no tipping off provisions with respect to STRs and related information submitted to the AMLIU.
- 21 There is no law or regulation dealing with shell banks. While the current licensing approach does not authorize shell banks, such licensing is discretionary. In this respect, the authorities should consider specifically prohibiting the establishment of shell banks.

Preventive Measures – Designated Non-Financial Businesses and Professions

- 22 Not all designated non-financial businesses and professionals (DNFBPs) as defined by the FATF are covered under the PPMLA. The designated supervisory authorities for the DNFBPs and the reporting institutions are not aware of their AML obligations under the PPMLA. In addition, there some DNFBPs that are not members of professional bodies. All of them remain vulnerable to ML and TF risks.
- 23 AMLIU has not carried out its duty to supervise the reporting requirements and provide training to supervisory authorities and reporting institutions.

Legal Persons and Arrangements & Non-Profit Organisations

- 24 Zambia has a wide range of legal persons and arrangements. These include: companies and other forms of companies, partnerships, sole

proprietorships, trusts and societies. The country has a registration system for most of these legal persons. For instance, companies formed under the Companies Act are required to have a registered office in Zambia, and keep up-to-date register of names and addresses of its members. The company registry office is automated. However, the Registrar is not required to obtain details of the source of capital to be used for starting a company or particulars of beneficial owners of shares.

- 25 Lack of information on beneficial owners and the fact that directors and shareholders may be nominees can slow down investigative trails. Authorities are therefore advised to review the current system to determine ways in which adequate and accurate information on beneficial ownership may be available on a timely basis to law enforcement agencies.
- 26 Currently, non profit organisations are regulated by the Societies Act Cap 119. The Organisations (Control of Assistance) Act 116 regulates the receipt of financial assistance given to organisations of a political nature by foreign governments and their agencies. Specific legislation to regulate non profit organisations is yet to be enacted.
- 27 The Registrar of Societies carries out random inspections to review compliance with the Act. These are normally based on information submitted in the annual returns. However, such reviews do not cover AML/CFT matters. Additionally, the officers have not been trained on AML/CFT.
- 28 In as far as preventing the unlawful use of legal persons and legal arrangements, Zambia relies on the investigative and other powers of law enforcement, regulatory and other competent authorities to obtain or get access to information.

National and International Co-operation

- 29 The Anti-Money Laundering Authority and National AML Task Force serve as platforms to enhance domestic cooperation and coordination. However, these fora have not been fully utilized for this purpose. The

assessors did not get any information that members of the AMLA meet and exchange views on ML matters. In addition, there has been lack of engagement of other stakeholders in AML matters by AMLIU.

30 There is no national framework in place to deal with domestic cooperation on TF matters.

31 The Mutual Legal Assistance in Criminal Matters Act does not cover all forms of assistance as required under the international standards.

32 Money laundering and terrorist financing are extraditable offences

Other Issues

33 This report has demonstrated that Zambia has made significant commitment to establish a strong AML/CFT system. The commitment is reflected by the enactment of the PPMLA and the Anti Terrorism Act. It has also established the AMLIU which is expected to carry out the functions of an FIU. The PPMLA has addressed some key fundamental requirements by imposing AML obligations on all financial institutions and some DNFBPs.

34 The report has also identified deficiencies in the existing system and has made recommendations on actions that Zambia needs to take in the medium and long term to address the deficiencies and strengthen the legal and institutional framework it has put in place to combat money laundering and terrorist financing.

35 As the report indicates Zambia is a jurisdiction which is committed to extending the liberalisation of its economy and its financial sector to make it a sustainable investment destination. To achieve this overall national objective, Zambia will need to take concerted action to address the AML/CFT deficiencies identified in the report to enable the country to continue benefiting from the liberalisation of its economy.

36 There are a number of capacity related issues that Zambia will need to address in its efforts to develop its AML/CFT system in the medium and long term. Strengthening of existing institutions involved in the fight

against money laundering and terrorist financing is one of the major challenges. There is also the need to raise more awareness of the risk of money laundering and terrorist financing in the intuitions obligated to report in the law. Given the resource constraints that countries at Zambia's level of development are facing there will be a requirement for mobilisation of technical assistance to assist Zambia to build the requisite capacity.

- 37 This report and its recommendations for actions provide an opportunity to the Zambian authorities to engage with technical assistance providers to seek assistance in advancing the existing AML/CFT systems to enable them to progressively attain the international standards.

TABLES

Table 1: Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating
Legal systems		
1. ML offence	NC	<ul style="list-style-type: none">• The definition of ML is not as wide as to include the acquiring of proceeds of crime by any other means.• Not all the relevant requirements of the Palermo Convention are met by the PPMLA. It does not deal with the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights relating to proceeds.• The PPMLA does not specifically provide for a prior conviction of an offender for a predicate offence as not being a prerequisite for the prosecution of a money laundering offence.• The law does not define predicate offences specifically

		<p>for the purpose of ML.</p> <ul style="list-style-type: none"> • The courts in Zambia only have limited jurisdiction over offences committed by foreign nationals.
<p>2. ML offence – mental element and corporate liability</p>	<p>NC</p>	<ul style="list-style-type: none"> • The PPMLA does not provide for the intention to commit an ML offence or the negligent element of Money Laundering where a reasonable man receives, possesses, conceals or disposes of property in circumstances where he is expected to have knowledge that such property was realised or derived directly or indirectly from commission of an offence and would be proceeds of crime. Thus, it is not possible for an offence of ML to be inferred from objective factual circumstances. • Current laws of Zambia do not provide for civil or administrative liability to run parallel with criminal ML proceedings. • Given the current definition of

		<p>illegal activities and absence of definition either of a predicate offence or a serious offence in the PPMLA, it is not possible to determine whether the sanctions applied are effective, proportionate or dissuasive.</p>
<p>3. Confiscation and provisional measures</p>	<p>PC</p>	<ul style="list-style-type: none"> • The forfeiture of property of corresponding value in the absence of the originally acquired property whose value has been determined is not provided for by both the PPMLA and the Anti-Terrorism Act making possession of benefits acquired from proceeds of such crimes lawful. • Both the PPMLA and the Anti-Terrorism Act do not specifically provide for instrumentalities used in or intended for use in the commission of an ML, FT or other offences. • The PPMLA does not specifically provide for property derived directly or indirectly from proceeds of crime such as income, profits or other benefits. • The PPMLA does not also provide for forfeiture of

		<p>proceeds of crime held by a third party.</p> <ul style="list-style-type: none"> • The PPMLA does not provide for <i>ex parte</i> applications barring a person charged or about to be charged from dealing, transferring or disposing of property subject to confiscation or forfeiture. • The Anti-Terrorism Act and the PPMLA do not provide for preventive measures to stop persons from entering into contracts where they have knowledge or ought to have knowledge that such contracts might have the effect of prejudicing the recovery of property subject to confiscation.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • BFSA does not have enabling provisions to permit sharing of information amongst FIs on correspondent banking, third parties and wire transfers. • In the absence of any judicial pronouncement it is not clear whether the confidentiality provision under section 50 of the BFSA will be overridden by

		<p>section 14 of the PPMLA.</p> <ul style="list-style-type: none"> Weaknesses to secure information which exist at AMLIU.
<p>5. Customer due diligence</p>	<p>NC</p>	<ul style="list-style-type: none"> There are no provisions in the law or regulations that prohibit financial institutions to keep anonymous accounts or accounts in fictitious names. There is no provision set out in the law or regulations that requires financial institutions to undertake customer due diligence measures. There is no requirement set out in the law or regulation that requires financial institutions to identify the customer and verify the customer's identity using reliable, independent source documents, data or information. There is no requirement set out in law or regulation to require financial institutions to determine the beneficial owner and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is

		<p>satisfied that it knows who the beneficial owner is.</p> <ul style="list-style-type: none">• There are no CDD requirements in law or regulation for NBFIs including insurance and security market players.• PPMLA and BoZ AML Directives do not make any reference to terrorist financing.• Financial institutions are not required to perform enhanced CDD for high risk customers.• The laws or regulations do not prohibit opening an account, commencing business relationship or performing a transaction where financial institutions have failed to verify identity of prospective customer. In addition, there is no legal or regulatory requirement to terminate an existing business relationship where the financial institution later fails to verify the identity of the customers.• There is no requirement in law or regulation to ensure that identification documents collected for CDD are kept up-to-date and relevant by
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		<p>undertaking reviews of existing records.</p> <ul style="list-style-type: none"> • There is no requirement for financial institutions to conduct on-going due diligence. • A requirement to apply CDD measures on existing anonymous customers is not provided for.
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • There are no legal or regulatory requirements for financial institutions: <ul style="list-style-type: none"> - to put in place risk management systems to determine if customers are PEPs; - requiring senior management approval to establish relationships with PEPs; - to establish source of wealth and conduct enhanced ongoing monitoring of the relationship.
7. Correspondent banking	NC	<ul style="list-style-type: none"> • There are no provisions in the current laws relating to correspondent banking relationship.
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> ▪ There are no requirements providing for prevention of the misuse of technological

		<p>developments in ML/TF schemes.</p> <ul style="list-style-type: none"> ▪ There are insufficient guidelines in the BoZ Directives on the procedures that must be put into place by banks and other financial institutions to prevent the misuse of technological developments in ML or TF schemes. • There is no requirement for the other financial institutions falling under the supervisory purview of the PIA and the SEC to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions.
9. Third parties and introducers	NC	<ul style="list-style-type: none"> ▪ No supervisory guidance has been issued to address customer introductions by intermediaries and third parties. ▪ There is no requirement for financial institutions to immediately obtain from the third party the necessary information concerning certain elements of the CDD process. ▪ There is no requirement for financial institutions to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request

		<p>without delay.</p> <ul style="list-style-type: none"> ▪ There is no mechanism in place to determine in which countries the third party that meets the conditions can be based. • There is no guidance to ensure that the ultimate responsibility for customer identification and verification remain with the financial institution relying on the third party..
10. Record keeping	PC	<ul style="list-style-type: none"> • The laws do not provide for maintenance of records by financial institutions on account files and business correspondence. • The laws do not provide for customer and transaction records and information to be produced on a timely basis to domestic competent authorities upon request.
11. Unusual transactions	PC	<ul style="list-style-type: none"> • There are no provisions requiring the financial institutions to maintain records in writing of the background and purpose of all complex, unusual large transactions or unusual patterns of transactions that have no visible economic or lawful purpose for at least five years.

		<ul style="list-style-type: none"> • Absence of directives for insurance and securities sectors in respect of complex and unusual transactions.
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • The DNFBPs are not regulated and of those regulated there are no clear provisions indicating that they have an obligation to comply with AML/CFT requirements. • The DNFBPs are not aware of the existence of AMLIU and how to relate to it. • The AMLIU has not assisted the DNFBPs to develop guidelines to assist them in administering AML/CFT matters. Other than the expected codes of conduct which some of the DNFBPs did not have, none of them had set out written guidelines. • The PPMLA provisions on identification and record keeping lack specificities on the standard of information expected to be obtained hence there has been no practical effect of this requirement on the DNFBPs. • The DNFBPs are not subject to

		<p>full legal obligations to carry out sufficient CDD and record-keeping requirements</p> <ul style="list-style-type: none"> • There has been no effort to educate the DNFBPs on their obligations in particular CDD checks, risks relating to non-face to face transactions e.g. transactions involving purchase of immovable assets through lawyers and estate agents, risks related to new technology, unusual and complex transactions which do not seem to make economic sense.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> ▪ The requirement to report under the PPMLA does not extend to funds that are proceeds of a criminal activity but is restricted to a ML offence. ▪ The AML/CFT laws do not provide for reporting requirements in respect of suspected terrorist financing activities, including <i>attempted</i> terrorist financing transactions. ▪ No legal provisions requiring reporting of attempted suspicious transactions. • There is no effective implementation of the

		reporting requirements in the securities and insurance sectors.
14. Protection & no tipping-off	PC	<ul style="list-style-type: none"> • In the absence of a judicial pronouncement it was not possible to ascertain the effectiveness of the safe harbour provisions under section 14 of the PPMLA..
15. Internal controls, compliance & audit	NC	<ul style="list-style-type: none"> ▪ There are no requirements for financial institutions falling under the supervisory purview of the SEC and the PIA to develop appropriate internal control policies and procedures. ▪ No requirement for appointment of Money Laundering Reporting Officers for financial institutions falling under the supervisory purview of the SEC and the PIA and to develop an on-going employee training programme. ▪ Absence of requirements for financial institutions to maintain and adequately resourced and independent audit function to test compliance with AML/CFT policies and procedures. • Financial institutions are not required to have in place screening procedures to ensure

		that high standards when hiring employees.
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> • DNFBPs do not send any STR reports to AMLIU. • There is no monitoring of compliance on STR reporting by DNFBPs. • Minimal efforts by AMLIU to educate DNFBPs on their obligations. • Lack of clarity in regards to STR reporting obligations on lawyers and accountants. • CDD requirements relating to AML/CFT are not being applied by DNFBPs. • No specific provisions in the law against tipping-off on STRs reported or about to be reported. • No guidelines to DNFBPs on reporting of STRs. • No obligations on supervisory authorities to DNFBPs to advise them on how to deal with customers from high risk areas. • The law relating to reporting of STRs connected to financing of

		terrorism transactions is inadequate neither is the law clear on the designated authority to which STRs on FT should be reported.
17. Sanctions	LC	<ul style="list-style-type: none"> ▪ There is no provision under the PPMLA for administrative sanctions against institutions that fail to comply with PPMLA. ▪ The Anti-Terrorism Act does not specifically make a distinction between a natural and legal person.
18. Shell banks	PC	<ul style="list-style-type: none"> ▪ Financial institutions are not prohibited from entering into a correspondent banking relationships with shell banks. ▪ There is no legal obligation for financial institution to satisfy themselves that respondent institutions in a foreign country do not permit their accounts to be used by shell banks.
19. Other forms of reporting	NC	<ul style="list-style-type: none"> • PPMLA and BoZ directives do not provide for reporting of all transactions in currency above a prescribed threshold. • Zambia has not considered a

		cash transaction reporting system above a certain threshold.
20. Other NFBP & secure transaction techniques	NC	<ul style="list-style-type: none"> • Not all vulnerable DNFBPs are regulated on AML/CFT. • No guidelines have been issued for most of the vulnerable DNFBPs. • No regulatory authority for the DNFBPs on AML/CFT. • Vulnerable DNFBPs which conduct large cash sales are not monitored. • There are no risk management arrangements in place for the DNFBPs nor has there been assessment done on the DNFBPs.
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • Non-existence of regulatory framework for financial institutions to pay attention when establishing business relationships with countries that do not apply or insufficiently apply FATF Recommendations. • No measures to inform financial institutions of

		<p>AML/CFT concerns in other countries.</p> <ul style="list-style-type: none"> • Absence of specific legal framework to apply appropriate counter-measures to countries that continue not to apply FATF Recommendations.
22. Foreign branches & subsidiaries	NC	<p>There are currently no AML/CFT legal requirements for financial institutions with foreign branches and subsidiaries.</p>
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> • There is no adequate CFT regulation and supervision in all financial institutions. • Money or value transfer service providers were not licensed and subject to AML/CFT supervision. • All financial institutions, other than those falling under the supervisory purview of the BoZ, are not being supervised for money laundering purposes. • It did not seem that the PIA takes necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or

		<p>holding a management function.</p> <ul style="list-style-type: none"> • It was also not clear whether the Directors and senior management of the insurers were evaluated on the basis of the “fit and proper” criteria including those relating to expertise and integrity. • While Zambia is a member of IOSCO and IAIS there was no indication that the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering apply in a similar manner for money laundering purposes to the securities and insurance sectors. The SEC and PIA have not issued AML Directives to their respective licensees. Licensees of the SEC and the PIA are not supervised with respect to AML/CFT requirements.
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • There is no effective regulation and supervision of accountants on AML/CFT measures through issuing and implementation of guidelines; • The casino sector is not fully

		<p>regulated and supervised on AML/CFT;</p> <ul style="list-style-type: none"> • Inadequate vetting measures on AML/CFT when issuing casino licenses; • No guidelines have been issued to regulate the casino sector; • Lack of adequate training of inspectors of casinos on AML/CFT measures; The Supervisory Authority on casinos has got no powers to issue guidelines on CFT; • Some sectors of the DNFBPS are not regulated or supervised for AML/CFT purposes; • There are no ongoing mechanisms to monitor nearly all the DNFBPs on AML/CFT measures.
25. Guidelines & Feedback	PC	<ul style="list-style-type: none"> • No guidelines have been established for the financial institutions falling under the supervisory purview of the PIA and the SEC to assist these financial institutions to implement and comply with their respective AML/CFT requirements. • No guidelines have been

		established to assist DNFBP to implement and comply with their respective AML/CFT requirements.
Institutional and other measures		
26. The FIU	NC	<ul style="list-style-type: none"> • The AMLIU does not have sufficient operational independence or autonomy. • The AMLIU does not serve as a national centre for receiving and analysing and disseminating disclosures for STRs and other relevant information concerning ML as required under the Egmont definition of an FIU. • It does not address STRs relating to TF. • The AMLIU does not provide regulated institutions with guidance regarding the manner of reporting, including specification of reporting forms and the procedures thereto. • The AMLIU does not have adequate procedures to secure and protect information under its custody. • The AMLIU does not release

		<p>periodic reports to guide on trends and typologies of criminal activities.</p> <ul style="list-style-type: none"> • The AMLIU is not seriously considering applying for Egmont Group membership • The AMLIU does not have set procedures for exchanging information with other FIUs in line with the Egmont Group Statement of Purpose and Principles. • The AMLIU does not have training programmes to reporting institutions.
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> • No specific administrative or operational structures in place within ZPS to deal with the investigation of TF offences. • The powers of investigation for TF offences have not been used and tested. The effectiveness of these powers cannot be assessed.
28. Powers of competent authorities	LC	<ul style="list-style-type: none"> • Although the provisions are there, in as far as exercising

		<p>such powers relating to investigations and prosecutions of FT matters, it was difficult to determine their effectiveness as the authority which is supposed to investigate and prosecute such offences is not yet in existence.</p> <ul style="list-style-type: none"> • Again, there were no statistics or information on successful use of such procedures in assisting investigations and prosecution relating to FT matters.
29. Supervisors	PC	<ul style="list-style-type: none"> • Supervisors do not have powers to monitor and ensure compliance by financial institutions with requirements to combat terrorist financing. • Supervisory authorities of the insurance and securities sectors have not issued directives/guidelines to institutions under their supervision to facilitate onsite inspections with respect to AML/CFT.
30. Resources, integrity and training	NC	<ul style="list-style-type: none"> • There is no proportionate training of both law enforcement agencies,

		<p>prosecutors and other court officials on AML/ CFT matters</p> <ul style="list-style-type: none"> • The DPP does not have specialized training of prosecutors and specialized prosecution of ML/FT cases • The DPP's does not retain statistics on ML/FT cases and its involvement in such cases is limited. • There is need for further training for prosecution, including the court presiding officers, judges on ML/FT trends and typologies and measures relating to AML/CFT.
31. National co-operation	PC	<ul style="list-style-type: none"> • No mechanisms have been put in place in terms of the PPMLA to enable domestic cooperation and coordination of AML matters. • Some of the structures, such as National Task Forces, are on ad hoc basis. • Effectiveness of domestic development and implementation of cooperation and coordination of policies relating to AML/CFT could not

		<p>be determined.</p> <ul style="list-style-type: none"> • There is no clear distinction between the coordinating roles played by the DEC and AMLIU in AML. • Lack of frequent engagement of other stakeholders in AML matters by AMLIU • Lack of national framework dealing with domestic cooperation and coordination of matters on FT.
32. Statistics	NC	<ul style="list-style-type: none"> • No mechanisms in place to review the effectiveness of systems for combating ML and TF on a regular basis.
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> • The Registrar’s office is not yet fully computerized making it difficult for information to be readily accessed for companies whose records are still kept in a manual form. • Share warrant or bearer shares are transferable by mere delivery, making it difficult to monitor their transfer. • The lack of the jurisdiction by the Registrar to verify on the particulars of the beneficiary owners can easily lead to

		manipulation of information supplied for such purposes compromising the information contained in the Registrar's records.
34. Legal arrangements – beneficial owners	NC	<ul style="list-style-type: none"> • It is not clear what is understood by protectors as well as other legal arrangements. • The minister of Lands does not require trust providers to maintain records related to the trusts. • Competent authorities are not able to obtain or have access in a timely fashion to adequate accurate and current information on the beneficial ownership and control of legal arrangements and in particular the settlor, the trustee and beneficiaries of express trusts.
International Co-operation		
35. Conventions	LC	<ul style="list-style-type: none"> • Zambia has not fully implemented the Palermo Convention as it has no provisions for witness assistance, protection and relocation. • No adequate training programmes and technical

		<p>assistance on ML at national level to enhance effective implementation of the UN Palermo Convention.</p> <ul style="list-style-type: none"> • Zambia has not developed preventive measures and national projects against ML that can be evaluated to determine implementation of the convention.
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> • The mutual legal assistance in criminal matters act does not cover all forms of assistance covered under the international standards. • No information on the kind of MLA offered and the extent to which such assistance was provided. • Statistics on the number of requests which have been received for the past three years, the nature of the applications in terms of assistance required and how they were handled was not available. • There was again no information on how much time it took to provide the assistance required and whether it was provided in a constructive and effective

		manner.
37. Dual criminality	NC	<ul style="list-style-type: none"> • Under the MLA in Criminal Matters Act, the absence of dual criminality with the requesting jurisdiction may lead to a request for MLA being denied. • Information on whether or not technical differences in facilitating MLA in cases with due criminality are becoming an impediment was not available. • There were no information of whether MLA has been given in the absence of due criminality and the criteria used.
38. MLA on confiscation and freezing	NC	<ul style="list-style-type: none"> • It could not be determined whether any mutual legal assistance requests relating to identification, freezing, seizure or confiscation of laundered property, proceeds from, instrumentalities used in or intended to be used in the commission of any ML, FT or other predicate offences had been received. • It could not be determined whether effective and timely

		<p>procedures had been followed in response to such requests.</p> <ul style="list-style-type: none"> • There are no provisions for the establishment of an asset forfeiture fund to deposit confiscated property. • No provisions for asset sharing of confiscated property where there have been co-ordinated investigations. • No provision for seizure, confiscation or forfeiture of property of corresponding value. • The MLACMA does not provide for effective and timely mutual legal assistance to requests regarding the identification, freezing and seizure or confiscation of property of corresponding value.
39. Extradition	PC	<ul style="list-style-type: none"> • While Zambia has legislation in place which would enable extradition to take place, there is no information on the efficiency and implementation of the extradition requests. • There is no record of how many extradition requests have been

		<p>handled so far and how many of those dealt with related to Zambian nationals.</p> <ul style="list-style-type: none"> • There was no information on the ability of the Zambian Authorities to effectively handle extradition requests in a timely manner.
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> • No time frame given for providing assistance and the manner of providing such assistance • Effectiveness of exchange of information could not be determined • Spontaneous exchange of information relating to AML not provided for. • Poor safeguarding of information received from the regulated institutions by AMLIU • No provisions allowing AMLIU to access directly the databases of the relevant institutions • No statistics maintained on the requests for international cooperation

Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	NC	<ul style="list-style-type: none"> • No effective framework to administer implementation of CFT matters. • Standard of implementation of CFT provisions could not be determined. • No guidelines to the regulated institutions in implementing CFT laws. • No clear accountability on who handles and report on UN Security Council Special Resolutions.
SR .II Criminalise terrorist financing	PC	<ul style="list-style-type: none"> ▪ Effectiveness could not be determined as the Act had just been enacted and there was no statistics on either previous cases or STRs dealt with relating to FT. ▪ The definition of funds provided for under the Anti-Terrorism Act does not meet the definition of funds as described in the convention. ▪ There is no evidence indicate

		<p>that TF offences are predicate offences.</p> <ul style="list-style-type: none"> ▪ Zambia has not signed and ratified most of the UN conventions and protocols relating terrorism. ▪ .The Act does not create an offence where terrorist finances were not actually used to carry out a terrorist act or were not linked to a specific terrorist Act.
<p>SR. III Freeze and confiscate terrorist assets</p>	<p>NC</p>	<ul style="list-style-type: none"> • The Anti-Terrorism Act is not exhaustive in some areas and needs to be complimented with guidelines or directives which are not yet in existence making it difficult for the designated agencies to implement it. • It was not possible to determine the effectiveness of the Act as there are no cases of funds or property relating to financing of terrorism which had been dealt with or completed under the Act at the time of the onsite visit. • Institutions mandated to implement the Act were either not acquainted with it or

		<p>unaware of its existence.</p> <ul style="list-style-type: none">• It did appear to the Evaluators that Zambia despite the act being enacted had not yet practically implemented the laws against financing of terrorism.• In terms of the Anti-Terrorism Act, the court can only proceed to order forfeiture of funds or property related to terrorist financing where evidence to meet the criminal standards has been adduced and the person has been convicted of the offence. This makes it difficult for the court to order forfeiture where only circumstantial evidence which is not adequate to meet the criminal standards has been adduced but on a balance of probability there is evidence to show that the property is tainted.• Although the Act provides for compliance with UN Resolutions 1267 and 1373 respectively, Zambia at the time of the evaluation had no mechanism or structures in place to give effect to the actual implementation of the
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		<p>resolutions.</p> <ul style="list-style-type: none"> • The Anti-Terrorism Act does not provide for attachment of funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons, terrorists, those who finance terrorism or terrorist organisations. • It appeared to the Evaluators that there was no effective implementation of the requirements of the Anti-Terrorism Act.
SR IV	Suspicious transaction reporting	<p>NC</p> <ul style="list-style-type: none"> • There are no laws or regulations requiring regulated institutions to submit STRs relating to terrorist financing activities. • There is no agency that has been designated.
SR. V	International co-operation	<p>NC</p> <ul style="list-style-type: none"> • No mechanisms in place to administer exchange of information relating to terrorist financing • No time frame given to handle

		<p>such requests and the ability of the authorities to provide such assistance in a timely and effective manner could not be verified.</p> <ul style="list-style-type: none"> • Not able to determine proper accountability on the handling of requests relating to FT and whether there has been such requests before. • No proper recording system of international cooperation requests on CFT was provided.
SR VI	AML requirements for money/value transfer services	<p style="text-align: center;">NC</p> <ul style="list-style-type: none"> • There are currently no requirements for MVTs outside the formal banking system to be licensed and supervised.
SR VII	Wire transfer rules	<p style="text-align: center;">NC</p> <ul style="list-style-type: none"> ▪ Financial institutions are not required to obtain and maintain complete originator information and verify its accuracy for all wire transfers for both domestic and cross-border wire transfers. ▪ Each intermediary and beneficiary financial institution in the payment chain is not required to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. ▪ Beneficiary financial institutions are not required to adopt effective risk-

		<p>based procedures for handling wire transfers that do not contain complete originator information.</p> <ul style="list-style-type: none"> ▪ Supervisory authorities are not monitoring compliance of financial institutions with rules and regulations implementing SR VII. • The laws or regulations do not contain specific sanctions against non-compliance...
SR VIII Non-profit organisations	NC	<ul style="list-style-type: none"> ▪ No risk assessment of the NPOs regarding misuse of the sector for terrorist financing has been conducted. ▪ No periodic assessment is undertaken on the sector's potential vulnerabilities to terrorist activities. ▪ Zambia has not undertaken outreach programmes to raise awareness in the NPO sector about the vulnerabilities of NPOs to terrorist abuse and terrorist financing risks and the measures that NPOs can take to protect themselves from such abuse. ▪ There is no specific retention period prescribed for NPOs to maintain and make available to appropriate authorities records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organisation. ▪ There is no mechanism in place that allow for prompt investigative or preventative action against such NPO that are

		<p>suspected of either being exploited by or actively supporting terrorist activity or terrorist organisations.</p> <p>Zambia has not identified appropriate points of contact and procedures to respond to international requests for information regarding particular NPOS that are suspected of terrorist financing or other forms of terrorist support.</p>
<p>SR. IX Cross Border Declaration & Disclosure</p>	<p>NC</p>	<ul style="list-style-type: none"> • There are major shortcomings with the Zambian legislation. • No provisions directly dealing with the cross border transportation of currency relating to ML and TF. • The law does not provide for any cross border currency reports, reporting on both genuine and false declarations to be made to AMLIU. • Stakeholders not clear as to which institution to send reports between DEC and AMLIU. • There is no definition of currency in the Act and bearer

		<p>negotiable instruments are not specified.</p> <ul style="list-style-type: none">• There are no provisions specifically requiring declarations by passengers in transit.• Sanctions not being applied for false declarations.• There are no systems in place for notifying AMLIU about suspicious cross border transportation incidents.• The declaration requirements at the entry and exit points are not being effectively applied.
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