



# Anti-money laundering and counter-terrorist financing measures

# Zimbabwe

Mutual Evaluation Report

September 2016





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The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) was officially established in 1999 in Arusha, Tanzania through a Memorandum of Understanding (MOU). As at the date of this Report, ESAAMLG membership comprises of 18 countries and also includes a number of regional and international observers such as AUSTRAC, COMESA, Commonwealth Secretariat, East African Community, Egmont Group of Financial Intelligence Units, FATF, IMF, SADC, United Kingdom, United Nations, UNODC, United States of America, World Bank and World Customs Organization.

ESAAMLG's members and observers are committed to the effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism and proliferation, in particular the FATF Recommendations.

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## TABLE OF ACRONYMS AND ABBREVIATIONS

ADLA	Authorised Dealers with Limited Authority
AGO	Attorney General's Office
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
ARINSA	Asset Recovery Inter-Agency Network for Southern Africa
BNI	Bearer Negotiable Instrument
BSD	Banking Supervision Division
BUP Act	Bank Use Promotion and Suppression of Money Laundering Act
BUPSMU Unit	Bank Use Promotion and Suppression of Money Laundering Unit (FIU of Zimbabwe)
CDD	Customer Due Diligence
CID	Criminal Investigation Department
CSD	Central Securities Depository
CFT	Combating the Financing of Terrorism
CISNA	Committee of Insurance, Securities and Non-banking Financial Authorities
CTR	Cash Transactions Reports
DECIC	Department of Economic Crimes and International Cooperation
DNFBP	Designated Non-Financial Businesses and Professions
EDD	Enhanced Due Diligence
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
EXCON	Exchange Control Division
FATF	Financial Action Task Force
FIs	Financial Institutions
FIU	Financial Intelligence Unit
FPR	Fidelity Printers and Refiners (Pvt) Limited
GDP	Gross Domestic Product
GNU	Government of Nation Unity
ICRG	International Cooperation Review Group
Interpol	International Criminal Police Organization
IOs	Immediate Outcomes
IPEC	Insurance and Pensions Commission
KYC	Know Your Customer
LEA	Law Enforcement Authorities
ME	Mutual Evaluation
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual Legal Assistance
ML/TF	Money Laundering/Terrorist Financing
MLPC Act	Money Laundering and Proceeds of Crime Act (2013)
MLRO	Money Laundering Reporting Officer
MTAs	Money Transfer Agents
MTOs	Mobile/Money Transfer Operators

MOUs	Memorandum of Understanding
MVTS	Money Value Transfer Services
NGO	Non-Governmental Organization
NPA	National Prosecuting Authority
NPO	Non-Profit Organisation
NPS	National Payment System
NRA	National Risk Assessment
NTF	National Task Force on AML/CFT
Palermo Convention	United Nations Convention against Transnational Organised Crime
PEPs	Politically Exposed Persons
PF	Proliferation Financing
PVOs	Private Voluntary Organizations
RBA	Risk Based Approach
RBZ	Reserve Bank of Zimbabwe
REAC	Real Estate Agents Council
Reg.	Regulation
RTGS	Real Time Gross Settlement
SADC	Southern Africa Development Community
SARPPCO	Southern African Regional Police Chiefs Cooperation Organization
SECZ	Securities and Exchange Commission of Zimbabwe
SFT Convention	UN Convention on Suppression of Financing of Terrorism
SFS	Serious Fraud Squad of the CID
SI	Suppression of Foreign and International Terrorism Statutory Instrument 76 of 2014
SR	Special Recommendation
SRB	Self-Regulatory Body
STR	Suspicious Transaction Report
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TF	Terrorist Financing
UN	United Nations
Merida Convention/ UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
UNSCRs	United Nations Security Council Resolutions
Vienna Convention	United Nations Convention against Illicit Traffic in Narcotic Drugs & Psychotropic Substances
ZACC	Zimbabwe Anti-Corruption Commission
ZIMRA	Zimbabwe Revenue Authority

## EXECUTIVE SUMMARY

1. This report provides a summary of the anti-money laundering and combating the financing of terrorism and proliferation (AML/CFT) measures in place in the Republic of Zimbabwe (Zimbabwe) as at the date of the on-site visit [13-26 June 2015]. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Zimbabwe's AML/CFT system, and provides recommendations on how the system could be strengthened.

### *A. Key Findings*

- Zimbabwe has a relatively new AML/CFT regime following the recent comprehensive review of its legal and institutional framework. Implementation of the new measures is emerging.
- Zimbabwe has assessed and identified ML/TF risks in the NRA report which was released a few weeks before the on-site visit, and therefore too soon to impact on understanding of risks. Generally, the understanding of the risks is generic and fragmented. While the FIs particularly large banks and FIs with affiliation to international financial groups have a better understanding and modest mitigation controls, the other FIs and DNFBPs showed little or no understanding of ML/TF risks.
- Zimbabwean laws do not require FIs and DNFBPs nor the companies registry to establish and verify the identity of a beneficial owner except in circumstances where a customer carries out a transaction classified as prescribed transaction. The FIs and, to a limited extent, the DNFBPs apply general basic CDD requirements but have limited understanding of the beneficial ownership requirements. In general, some FIs and the rest of the DNFBPs are yet to appreciate the concept of verification of the identity of a customer using independent, reliable sources of information.
- Overall, Zimbabwe has a cross-cutting issue of low resources capacity, which has negatively affected the implementation of the AML/CFT measures by competent authorities.
- Competent authorities have demonstrated a good national cooperation and coordination in the preparation of the NRA and the AML/CFT Strategy. There is however limited information on practical implementation of the coordination and cooperation measures against ML.
- The quality and use of financial intelligence is less developed largely due to expertise and resources constraints to conduct, (i) proper analysis of reports by the BUPSM Unit and, (ii) parallel financial investigations to identify potential ML/TF cases by the Police and other LEAs.
- There are no feedback mechanisms from the BUPSM Unit to reporting institutions on the reports filed, on the one hand, and on the Police and other LEAs' use of financial intelligence or other relevant information from the BUPSM Unit to initiate or support ML/TF cases, on the other hand.
- There is little evidence on the use of financial intelligence from the BUPSM Unit to carry out ML investigations and prosecution.
- Zimbabwe has not yet prioritised application of seizure and confiscation measures on property involving illegal proceeds as policy at national level. As a result, there is

insignificant cases of seizure and confiscation of property related to ML and TF.

- Zimbabwe regards TF as low risk and has demonstrated a good understanding of TF risks in the country.
- The authorities demonstrated a good national cooperation and coordination when they investigated a suspected financing of terrorism case in which financial intelligence was prioritised to identify the movements of funds involved and successfully complete the investigation.
- The legal and regulatory framework for registration and licensing as well as monitoring of the NPO sector is less developed, owing to a number of deficiencies and resources constraints at the NPO regulator. There has been no outreach to the NPO sector and the regulator has not yet identified the NPOs which pose high TF risk with a view to apply proportionate monitoring controls. Despite this, the national security agencies and specialised terrorism units have demonstrated a good understanding of the vulnerabilities facing the sector and with the cooperation of the NPO regulator have put in place mitigating controls to monitor the NPOs suspected of terrorism-related activities
- Zimbabwe has a sound legal and regulatory framework to implement targeted financial sanctions in respect of UNSCRs 1267 and 1373. FIs have a good understanding of the requirements and, as such, have put in place adequate procedures and processes to apply the lists issued by the BUPSMIL Unit on the customers and transactions. The DNFBP sector showed very little awareness of the UNSCRs requirements.
- Zimbabwe has no specific legal or regulatory measures to implement targeted financial sanctions in respect of proliferation financing.
- Supervisors are in the process of developing a risk-based approach supervision framework following the recent release of a NRA findings. Generally, AML/CFT supervision of FIs and DNFBPs in Zimbabwe is less developed. Only the BUPSMIL Unit has carried out supervision of banks and recently started carrying out joint inspections with the non-bank supervisors, as they develop their own capacity.. There has been no supervision of DNFBPs as the focus of the authorities was on FIs. No sanctions have been issued by the supervisors for non-compliance with AML/CFT requirements.
- There is no adequate legal and regulatory framework to obtain and maintain beneficial ownership information on legal persons and arrangements. No comprehensive and sufficient risk assessment of ML/TF risks has been conducted on companies. The Registrar has no supervisory capacity including ensuring that the information it obtains and keeps, is accurate and up-to-date.
- Zimbabwe has a sound framework for provision of MLA and other forms of international cooperation. However, these measures have been applied on predicate offences only and not on ML and TF cases.

## ***B. Risks and General Situation***

2. Since the last Mutual Evaluation in 2007, Zimbabwe underwent a comprehensive review of its AML/CFT regime. This exercise led to a number of new laws and amendments to the

existing legislations to strengthen the regime. Before this process, the primary legislations underpinning the AML/CFT regime were; Criminal Law (Codification and Reform) Act, 2006, Serious Offences Act, 2001 and the Bank Use Promotion and Suppression of Money Laundering Act, 2002. In 2013, Zimbabwe passed the Money Laundering and Proceeds of Crime Act (MLPC Act) which is a composite legislation criminalising money laundering (ML) and terrorist financing (TF). The Act also provides for provisional and confiscation measures, preventative measures and supervision responsibilities, and sanctions for failure to comply with obligations and commission of ML and TF offences.

3. Although Zimbabwe has strengthened its AML/CFT legal framework, the country has low institutional capacity to implement the new measures. The majority of the Financial Institutions (FIs), Designated Non-Financial Businesses and Professions (DNFBPs) and the Competent Authorities are still in the early stages of developing and implementing their policies, procedures and processes to take into account the new framework.
4. Zimbabwe has no measures in place to implement proliferation financing requirements.
5. Zimbabwe completed a National Risk Assessment (NRA) in July 2015, and has identified five predicate offences generating the most proceeds, as follows: smuggling, illegal dealings in precious stones, corruption, fraud and tax crimes including externalisation of currency (in that order). The NRA showed that 16 predicate crimes contributed about USD 1.8 billion in 2013. This was estimated at 13 percent of Gross Domestic Product (GDP) in 2013. There were some ML cases investigated and prosecuted arising from some of the predicate offences.
6. The general ML risk situation in Zimbabwe changed during the period of hyperinflation which resulted in structural changes to the economy, as follows:
  - Zimbabwe introduced a multi-currency system in 2009 in which nine currencies<sup>1</sup> became legal tender in place of the Zimbabwean Dollar (ZWD) which had collapsed. Botswana Pula, the South African Rand (ZAR) and the United States of America Dollar (USD) are widely used. The USD is the settlement currency for international transactions and central securities depository systems. Following the introduction of the multi-currency system, the authorities identified increase in criminal activities with organised cross-border characteristics mainly to conversion of foreign currencies, in particular, transactions involving the ZAR and the USD.

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1 The nine currencies are Australian Dollar, Botswana Pula, British Pound Sterling, Chinese Yen/Renmimbi, EURO, Indian Rupee, Japanese Yen and South African Rand.

- Zimbabwe experienced significant rise in inflows of remittances mainly from Botswana and South Africa as well as the USA and the United Kingdom due to the substantial increase in emigration. The official estimated figure was 5.9 percent of GDP in 2013.
  - The economy has become cash-intensive and informal following the collapse of the ZWD which had eroded public confidence in the formal financial sector. This means that the transactions conducted in cash and outside of the formal sector are not being recorded and therefore difficult to monitor by the authorities.
7. The NRA identified “externalisation of currency” (i.e. sending currency out of Zimbabwe without formal approval from the Exchange Control Department of the Reserve Bank of Zimbabwe) as a major concern. The main typologies observed were, (i) individuals who physically carried cash across the borders, (ii) and legal entities transferring funds to foreign jurisdictions using personal or non-business accounts to avoid detection.
  8. Among the existing FIs, the NRA has identified the banking sector (based on materiality and links with the global financial sector) as the most exposed to risks of ML and proceeds of associated predicate crimes. The most vulnerable DNFBPs to ML and proceeds associated predicate crimes are precious stones and metals dealers, lawyers and the real estate sectors. Cash couriers largely use informal, unregulated foreign currency changers to convert proceeds. Botswana Pula, South African Rand and the United States of America Dollar are the currencies which are widely used in the illegal transactions.
  9. The legal regime on terrorism and terrorism financing is contained in the Suppression of Foreign and International Terrorism Act and the MLPCA. The NRA concluded that the risk of TF in the country is low considering a number of factors including risk level in the region, understanding of TF threats and risks by relevant competent authorities and FIs’ risk assessments and absence of known TF or terrorism cases in the country.

**C. *Overall Level of Effectiveness and Technical Compliance***

10. Zimbabwe has seen an improvement on its AML/CFT system since the last mutual evaluation assessment in 2007. The most notable change is the enactment of the MLPCA Act, 2013 which expanded the scope of predicate offences, criminalised the offences of ML and TF; provided for confiscation and provisional measures; preventative measures and supervision responsibilities; range of sanctions for non-compliance with preventative measures and commission of ML/TF offences; and international cooperation framework. The legal basis for targeted financial sanctions relating to financing of terrorism are provided under the Suppression of Foreign and International Terrorism Act. Zimbabwe has no measures in place to implement proliferation financing requirements.

11. Zimbabwean laws do not require competent authorities, FIs and DNFBPs to adopt and implement a risk-based approach to AML/CFT measures.
12. The BUP Act or any other law does not provide the BUPSMUL Unit with the necessary legal framework to ensure adequate autonomy and operational independence. The main concerns relate to lack of legal clarity on the Director's security of tenure and absence of legal authority on employment of staff.
13. There is insufficient appreciation of AML/CFT requirements as well as low institutional capacity which has negatively affected implementation and effectiveness of the AML/CFT system. As a result, Zimbabwe has achieved low level of effectiveness in nine Immediate Outcomes (IOs). Zimbabwe achieved moderate level of effectiveness in respect of IO.9 and IO.10.
14. It is recommended that Zimbabwe should dedicate significant efforts to collate statistical data and information to regularly update the NRA and develop a common understanding of its ML/TF risks; enhance implementation of preventative measures and supervisory actions on a risk sensitive basis; conduct integrated financial intelligence analysis using different sources of information; increase utilisation of financial intelligence by law enforcement agencies; increase focus on parallel financial investigations to identify, investigate and prosecute ML/TF cases; confiscate illicit proceeds; and improve the transparency of legal persons and arrangements. Most importantly, Zimbabwe should urgently make available adequate resources to competent authorities on a risk-sensitive basis to ensure adequate implementation and effectiveness of the AML/CFT system.

*C.1 Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)*

15. The Ministry of Finance and Economic Development (Treasury) is responsible for AML/CFT policy setting and coordination in Zimbabwe. The National Task Force on AML/CFT (NTF) is in charge of coordinating implementation of the NRA findings to mitigate the ML/TF risks. As the secretariat of the NTF, the BUPSMUL Unit is charged with the responsibility for coordinating inputs to update and review the NRA.
16. Zimbabwe completed its NRA in July 2015, a few weeks before the on-site visit. While Zimbabwe has identified and assessed its ML/TF risks, the authorities are yet to develop a common understanding of the risks to enable allocation of resources on a risk-sensitive basis, and to mitigate the identified ML/TF risks through policies and programmes at a national level.
17. In respect of implementation, the competent authorities, are familiarising themselves with the provisions of the MLPC Act and other recently enacted laws, regulations

promulgated, and guidelines issued and the findings of the NRA and the way forward in the AML/CFT Strategy. As a result, at the time of the on-site visit there had not been any meaningful implementation of the measures by the AML/CFT stakeholders. The biggest challenge to Zimbabwe is the lack of adequate resources across the broad spectrum. This has had a significant effect on the overall implementation of the AML/CFT objectives.

18. The FIs and the DNFBPs are also still familiarising themselves with the AML/CFT requirements, though implementation varies in the former. The large-sized banks and FIs affiliated to international financial groups have better implementation of the requirements than the rest of the FIs. In addition, the FIs and the DNFBP sector are both still familiarising themselves with the findings of the NRA. There is a marked variance in the understanding of the ML/TF risks in the financial sector. The large-sized banks and the FIs affiliated to international financial groups demonstrated a good understanding of the ML/TF risks that apply to them. This understanding had existed before the NRA. The main concern with these banks is that their compliance function and risk mitigation measures are not commensurate with the size of their businesses and identified risks. This concern applies to the whole of the financial sector and the DNFBPs. There is little or no awareness of ML/TF risks amongst the DNFBPs including the high-risk real estate and precious stones and metals sectors.
19. There is an urgent need for Zimbabwe to ensure that stakeholders are aware, and improve their understanding of ML/TF risks, and implement appropriate measures including allocation of adequate resources to mitigate the identified risks. Zimbabwe should therefore regularly update the NRA using relevant and reliable sources of information. In particular, the authorities should include ML threats and risks posed by legal persons and legal arrangements as well as identify NPOs which pose high TF risks with a view to applying proportionate mitigating controls.

*C.2 Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)*

20. The Bank Use Promotion and Suppression of Money Laundering Unit (BUPSML Unit) is the national financial intelligence unit (FIU) of Zimbabwe which is responsible for receipt and analysis of reports, and dissemination of financial intelligence and other relevant information to the Police. The BUPSML Unit receives suspicious transaction reports (STRs) and cash transaction reports (CTRs). The BUPSML Unit does not receive or have access to cross-border currency/BNI information collected by the Zimbabwe Revenue Authority (ZIMRA). Although the MLPC Act stipulates that financial intelligence be sent only to the Police, the BUPSML Unit has disseminated to other LEAs such as the ZIMRA and the Immigration Department.
21. In terms of law, the BUPSML Unit does not have sufficient autonomy and operational independence, but in practice there is no evidence noted by the assessors to suggest undue influence on its core operations. The authorities are, however, encouraged to

provide legal clarity on security of tenure of the Director and his powers to employ staff. Further, the authorities should also set a clear distinction between the BUPSMML Unit and the RBZ as two separate statutory bodies by removing the impression held by the authorities and some reporting institutions, that the two are the same.

22. The BUPSMML Unit has adequate legal powers to access administrative and financial information to augment analysis. Currently, the BUPSMML Unit has access to a wide-range of databases of competent authorities. The main challenge is that, in practice, the information held by most of the competent authorities is not of good quality. For instance, the quality of information held by the Registrars of Companies and of Deeds is less comprehensive to verify the identity of ultimate beneficial ownership of legal persons and legal arrangements. Additionally, there are statutory confidentiality restrictions on tax information held by the ZIMRA. The BUPSMML Unit has adequate powers and capacity to request additional information based on STRs filed from the FIs and the DNFBPs.
23. Law enforcement agencies have low resources capacity to conduct (parallel) financial investigation and ML investigations. This is also reflected in the limited use of financial intelligence by the LEAs from the BUPSMML Unit to identify potential ML and conduct investigations. For instance, while statistics showed requests made by the domestic agencies to the BUPSMML Unit, it is not clear what the purpose (either to initiate or support ML investigations) of the requests were. Overall, there is very little attention paid to identification and investigation of ML cases by the Police and the other LEAs, as the authorities indicated that they were still familiarising themselves with the expanded scope of the ML offences under the MLPC Act. More concerning is that, the Police and the other LEAs advised that they had not yet increased their appetite for ML cases, and thus still had tendencies of pursuing predicate offences, as they still required training on the new MLPC Act to improve their expertise. Notably, there has been very few investigations of ML cases, which were eventually successful.
24. As regards TF, the competent authorities responsible for detection and investigation of TF cases have a good understanding of TF risks facing the country. The assessors observed that competent authorities were aware of the urgency with which matters relating to terrorism and its financing must be forwarded, when identified, to the relevant competent authorities, which were also aware of the need to immediately conduct investigations including co-opting other relevant stakeholders upon receipt.
25. The number of ML prosecutions undertaken are starting to emerge, though from a low base. Notably, the NPA advised of an ML case prosecuted under the MLPC Act in the Supreme Court of Appeal after a conviction at a lower court was appealed by the defendant. The authorities consider this case a “*test case*” for the investigative and prosecutorial agencies and the courts, particularly as it could set a tone for the interpretation of the expanded offence of ML under the MLPC Act.

26. Pursuant to the MLPC Act the authorities are currently setting up a specialised unit in the NPA called the Asset Forfeiture Unit which will report to the Prosecutor General. The new Unit will be responsible for freezing and confiscation of assets.
27. There has not been any freezing or confiscation of property specific to ML or TF undertaken in Zimbabwe. In general, there is very little appetite in Zimbabwe to apply the freezing and confiscation measures, even in the face of the high number of statistics or information on investigation and prosecution of predicate crimes. The assessors attributed this finding to a lack of specialised expertise to conduct parallel financial investigation with a view to identifying and investigating potential ML cases and for consideration by the NPA.
28. Overall, implementation has been constrained by the limited resources facing the competent authorities and the courts, to effectively carry out their mandate in the fight against ML and TF. Zimbabwe should invest heavily in ML/TF specific capacity-building programmes and set aside sufficient financial resources to ensure effective implementation and achievement of the desired AML/CFT outcomes.

### *C.3 Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)*

29. The level of TF risk in Zimbabwe is low based on consideration of a number of factors including sound CFT legal and regulatory framework, a generally low level of terrorism activities in the region, good understanding of TF threats and risks by relevant competent authorities and good understanding of inherent TF risks by FIs (see, IO.9(a) for more details). Zimbabwe in mid-2013 adequately criminalised TF and passed regulations to implement United Nations Security Council Resolutions (UNSCRs) 1267 and 1373 (and successor resolutions) to combating financing of terrorism. Zimbabwe has put in place practical implementation measures to give effect to the UNSCRs 1267 and 1373. There has not been any positive match found to freeze asset under the UNSCR 1267/2253 or received a request from a third party to freeze in respect of the UNSCR 1373.
30. There is no legal framework nor administrative arrangements to implement the UNSCRs on proliferation financing in Zimbabwe.
31. The Private Voluntary Organisations Registrar's Office is responsible for regulating NPOs in Zimbabwe. Zimbabwe has a weak TF legal and regulatory framework for NPOs. There are approximately 1239 NPOs in Zimbabwe predominantly engaged in agriculture, health and food programmes of which about 90 have international affiliations. The NRA estimated the GDP contribution by the NPO sector to be 1 percent (USD 130 million) in 2013. The authorities have not undertaken any activity (e.g. outreach or risk assessment) with a view to identifying high risk NPOs for proper monitoring and protection from TF activities. In general, Zimbabwe currently relies almost exclusively on the network of intelligence and security services to monitor the activities of the NPOs for any involvement in terrorist activities. It is essential for the authorities to immediately review

the legislative framework, provide resources to the regulator, and carry out a risk assessment and outreach to identify high risk NPOs exposed to TF and apply commensurate measures against the identified risks.

#### *C.4 Preventive Measures (Chapter 5 - IO4; R.9-23)*

32. Compared to findings on the the legal and regulatory framework in the 2007 MER, Zimbabwe now has relatively strong AML/CFT requirements under the MLPC Act. Implementation of the requirements across the FIs and the DNFBPs is markedly varied. The FIs and the DNFBPs consider both the MLPC Act (introduced in mid-2013) and the NRA (released in July 2015) as being very recent for them to have put in place appropriate AML/CFT mitigating control measures, and demonstrate effectiveness. However, the large-sized banks and FIs affiliated to international financial group have an understanding of the ML/TF risks that apply to them, and have implemented modest control measures than the rest of the FIs. However, there is an urgent need across the board to set up well-resourced compliance functions and specialised AML/CFT training commensurate to the size of the business operations and ML/TF risks. The DNFBP sector has very little or no appreciation of ML/TF risks, and ultimately have poor mitigating controls in place.
33. Zimbabwean laws do not provide for sufficient obligation for FIs and DNFBPs as well as Registrars of Companies and of Deeds to collect and verify the true identity of ultimate beneficial ownership information. Application of basic CDD measures is reasonable but there are areas of improvement in respect of introduced businesses and high-risk customers such as PEPs. Application of CDD measures in the DNFBP sector is less developed due largely to lack of understanding and supervision. The banks lead the way on filing of STRs and modestly followed by non-bank FIs. With the exception of the real estate sector (3 STRs) which started reporting in July 2015, the rest of the DNFBP sector have not reported. This is a major ML concern in view of the high volume of transactions (largely cash) carried out by precious stones dealers and real estate agents, as the STRs will contribute to identification of potential ML cases.

#### *C.5 Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)*

34. Zimbabwe has a sound legal and institutional framework for licensing and registration, supervision and monitoring of FIs and DNFBPs for compliance with AML/CFT requirements. In terms of the MLPC Act, the BUPSM Unit is in charge of regulation and supervision of AML/CFT requirements in cooperation with competent supervisory bodies in which each supervisor is responsible for supervising and monitoring their regulated entities for compliance with the AML/CFT requirements. In this way, Zimbabwe has created a decentralised yet coordinated supervision model in which the BUPSM Unit provides leadership and direction to ensure uniform application of the AML/CFT requirements (i.e., the BUPSM Unit is the 'super-supervisor'). In practice however, the BUPSM Unit is in charge of supervision of banks and DNFBPs. The main

area of concern is the absence of risk-based approach supervision of the financial sector necessary to optimise resources.

35. To date, the BUPSMML Unit is the only supervisor which has conducted supervision. In respect of the other supervisors, the BUPSMML Unit has carried out joint inspections as part of its role to assist them to build supervisory capacity. This means that in practice all supervisors are yet to conduct monitoring of compliance on their own, as they are currently establishing supervisory capacity.
36. The BUPSMML Unit and the other competent supervisory bodies have identified and assessed ML/TF risks. They are currently taking reasonable steps to understand the ML/TF risks facing their regulated entities and to carry out supervisory actions to mitigate the identified risks. Before the NRA results, the BUPSMML Unit had developed and applied a basic risk-based model for supervision but this falls short of the required elements prescribed under the FATF Standards. For instance, the manner in which the BUPSMML Unit undertakes compliance activities does not appear to be on a risk-sensitive basis guided by the strength of the compliance reports provided. While serious non-compliance areas have been identified by the BUPSMML Unit, there has not been proportionate enforcement actions taken. The assessors noted that the BUPSMML Unit had so far only issued corrective orders in cases of non-compliance. The remedial actions taken by the BUPSMML Unit are not proportionate and dissuasive enough to positively impact on compliance attitude. It is also important to note that in the beginning Zimbabwe had generally adopted an approach of working closely with the FIs and DNFBPs on the identified deficiencies to help them understand and implement interventions to comply with AML/CFT requirements rather than impose sanctions.

#### *C.6 Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)*

37. Zimbabwe has inadequate legal and regulatory framework for transparency of legal persons and arrangements relating to obtaining and maintaining beneficial ownership information. Except for when conducting a prescribed transaction under the MLPC Act, there is no requirement in law or other enforceable means which imposes an obligation on FIs and DNFBPs to identify and verify beneficial ownership information on customers and transactions. In the alternative, there is no law that requires Registrars of Companies and of Deeds to establish and verify beneficial ownership information on legal persons or arrangements.
38. The Registrar of Companies (legal persons) and Registrar of Deeds (legal arrangements) have basic information including on shareholders and directors which is readily available for access and use. There is evidence of competent authorities using their own statutory powers to request and access the information held by the Registrars. Further, there is evidence of the Registrars providing information on request from law enforcement agencies for enquiries on behalf of foreign counterparts.

39. There is, however, a concern on the accuracy and relevance of the information held as it is not regularly kept up-to-date, mainly because there are resources constraints at the Registrars to monitor and enforce the requirements.
40. The authorities are yet to assess ML/TF risks in relation to legal persons and arrangements to identify and mitigate the vulnerabilities identified. The urgency to conduct ML/TF risk assessment in this area is amplified by reference in the NRA to predicate crimes being committed through legal persons and arrangements and the requests by law enforcement agencies to the Registrars for information required in investigations.

#### *C.7 International Cooperation (Chapter 8 - IO2; R. 36-40)*

41. Zimbabwe has a sound legal and institutional framework to provide international cooperation in respect of mutual legal assistance (MLA) and other forms of cooperation. However, there are cross-cutting issues in other relevant areas of the regime such as low resources capacity to conduct ML investigations (e.g., IO.7) from which information for MLA and other forms of cooperation must be requested or sought, but cannot be provided. The proceeds from the top five predicate crimes in Zimbabwe showed destinations to and from neighbouring, regional and overseas jurisdictions. Despite this, there were no requests made or received on ML investigations either by Zimbabwe or from the other jurisdictions. There is no evidence in respect of the use of other forms of cooperation relating to requests made or received specific to ML/TF at the time of the on-site assessment. As already indicated above, the authorities pay less attention to ML cases necessary to initiate MLA proceedings, as they still focus on investigation of predicate crimes.

#### ***D. Priority Actions***

42. Zimbabwe should implement the following priority actions to improve implementation of its AML/CFT system and raise the level of effectiveness:
  - a) Intensify outreach activities to improve the implementation of the relatively new AML/CFT framework particularly in respect of the MLPC Act, 2013 and the NRA, and ensure that all the stakeholders (e.g. government policy-makers, BUPSMIL Unit, LEAs, Supervisors, FIs and the DNFBPs) understand and effectively carry out their responsibilities;
  - b) Put in place a legal framework that provides for the operational independence and autonomy of the BUPSMIL Unit so that it is able to obtain the required resources to properly carry out its core functions. This requires legislative review of the BUP Act and MLPC Act to strengthen the autonomy and operational independence of the BUPSMIL Unit by, amongst other things, providing legal authority for the BUPSMIL Unit to employ its own staff and legal certainty on the Director's security of tenure.

- c) Investigating and prosecuting authorities should be provided with adequate resources to strengthen capacity-building activities involving specialised ML/TF investigations to initiate ML/TF investigations or request information to support on-going ML/TF investigations initiated by the LEAs, and to increase focus on ML/TF prosecutions and, ultimately, confiscation of criminal property. The authorities should strengthen coordination and cooperation nationally on AML/CFT issues especially in relation to investigation and prosecution of ML/TF cases.
- d) Zimbabwe should take steps to build capacity of competent authorities, including in respect of supervision, financial intelligence analysis, financial investigations and prosecution of ML cases, necessary to effectively implement the AML/CFT measures to achieve the desired outcomes.
- e) LEAs should carry out parallel financial investigations to identify and investigate ML cases using financial intelligence and other information received from the BUPSMU Unit.
- f) Appoint Commissioners and provide adequate resources to ensure that ZACC is fully operational
- g) Zimbabwe should adopt and implement a risk-based approach on the basis of the NRA findings and implement mitigating controls across the board. On the basis of a common understanding of the ML/TF risks, Zimbabwe should apply mitigation controls consistent with the risk profile of the country.
- h) To improve common understanding of the requirements to beneficial ownership by competent authorities, DNFBPs, and some FIs. Zimbabwe should introduce a legal requirement for FIs and DNFBPs, or Registrars of Companies and of Deeds to obtain and maintain information on beneficial ownership in respect of legal persons and arrangements.
- i) Undertake an urgent review of the legal and regulatory framework on legal persons and arrangements to promote transparency by providing for adequate obligations to obtain and maintain ultimate beneficial ownership information to FIs and DNFBPs and to ensure that it is kept accurate and up-to-date by regularly updating the information. More importantly, the authorities should undertake ML/TF risk assessment of the sector to ensure that the Registrars understand which types of legal persons and arrangements are most vulnerable and should prioritise resources particularly as resources are currently a major concern in Zimbabwe.
- j) Prioritise provision of adequate resources to competent authorities across the board (budget, expertise and technical) for effective implementation of the AML/CFT measures to achieve the desired outcomes.
- k) Determine the TF risks associated with the NPO sector, and identify the NPOs which could be exposed or vulnerable to the TF risks and take appropriate mitigating measures without unnecessarily disrupting the legitimate business of the NPO(s). Conduct outreach activities to NPOs to build awareness on how vulnerable the sector is to TF and urge NPOs to have measures to protect themselves from possible terrorists' abuse.

l) Zimbabwe should take the necessary steps to introduce and implement measures against proliferation financing consistent with FATF Standards.

43. Zimbabwe should continuously monitor emerging risks and trends to ensure that its AML/CFT regime is consistent with ML/TF risks and they are mitigated.

### *E. Effectiveness & Technical Compliance Ratings*

<b>IO.1</b> Risk, policy and coordination	<b>IO.2</b> International cooperation	<b>IO.3</b> Supervision	<b>IO.4</b> Preventive measures	<b>IO.5</b> Legal persons and arrangements	<b>IO.6</b> Financial intelligence
<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>
<b>IO.7</b> ML investigation & prosecution	<b>IO.8</b> Confiscation	<b>IO.9</b> TF investigation & prosecution	<b>IO.10</b> TF preventive measures & financial sanctions	<b>IO.11</b> PF financial sanctions	
<b>Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Moderate</b>	<b>Low</b>	

### *Technical Compliance Ratings*

#### **AML/CFT Policies and coordination**

<b>R.1</b>	<b>R.2</b>
<b>PC</b>	<b>LC</b>

#### **Money laundering and confiscation**

<b>R.3</b>	<b>R.4</b>
<b>C</b>	<b>PC</b>

#### **Terrorist financing and financing of proliferation**

<b>R.5</b>	<b>R.6</b>	<b>R.7</b>	<b>R.8</b>
<b>C</b>	<b>C</b>	<b>NC</b>	<b>NC</b>

### Preventive measures

R.9	R.10	R.11	R.12	R.13	R.14
C	PC	C	PC	LC	PC
R.15	R.16	R.17	R.18	R.19	R.20
NC	PC	LC	PC	NC	C
R.21	R.22	R.23			
C	PC	PC			

### Transparency and beneficial ownership of legal persons and arrangements

R.24	R.25
NC	NC

### Powers and responsibilities of competent authorities and other institutional measures

R.26	R.27	R.28	R.29	R.30	R.31
PC	LC	PC	PC	C	LC
R.32	R.33	R.34	R.35		
LC	PC	PC	LC		

### International cooperation

R.36	R.37	R.38	R.39	R.40
C	C	LC	C	LC

## MUTUAL EVALUATION REPORT

### *Preface*

44. This report summarises the AML/CFT measures in place in Zimbabwe as at the date of the on-site visit. It analyses Zimbabwe's level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system, and recommends how the system could be strengthened.
45. This evaluation is based on the 2012 FATF Recommendations, and is prepared using the 2013 Methodology. The evaluation is based on information provided by Zimbabwe, and information obtained by the evaluation team during its on-site visit to Zimbabwe from 15-24 July 2015.

#### **Assessment Team:**

- The evaluation was conducted by an assessment team consisting of: Mr. Phineas Moloto (Team Leader, Technical Advisor to the ESAAMLG Secretariat, FIC South Africa), Mr. Joseph Jagada (Secretariat, Law Enforcement Expert), Mr. Muluken Yirga (Secretariat, Legal Expert), Ms. Elizabeth Onyonka (Secretariat, Financial Sector Expert), Ms. Audrey Annette (Financial Sector Supervision, Seychelles FIU) and Mr. Bheki Khumalo (Financial Sector - Preventative Measures, Central Bank of Swaziland), Ms. Atuwani Phiri (Law Enforcement/Financial intelligence, Malawi FIU), Ms. Mary Chirwa-Sikazwe (Law Enforcement, FIU Zambia), James Manyonge (Legal, Kenya FRC ), and Ms. Koongalele Sibi Chube (Observer, Botswana FIA).

#### **Reviewers Team:**

- The report was reviewed by the FATF Secretariat; Ms. Ntema Modongo, Manager Investment Institutions, Non-Bank Financial Institutions Regulatory Authority (Botswana) Mr. Joseph Munyoro, Assistant Director, Examinations & Surveillance, Bank of Zambia (Zambia); Mr. Titus Mulindwa, Deputy Legal Counsel, Bank of Uganda (Uganda), and Mr. Ramakhala Mofokeng, Legal and Information Officer, Lesotho FIU (Lesotho).
46. Zimbabwe previously underwent an ESAAMLG Mutual Evaluation in 2007, conducted according to the 2004 FATF Methodology. Zimbabwe's 2007 MER concluded that the country was compliant (C) with 3 Recommendations; Largely Compliant with 4; Partially Compliant with 32; and Non-Compliant with 10. Zimbabwe was rated Compliant or Largely Compliant with 2 (formerly R.5 and R.10) of the 16 Core and Key Recommendations. Zimbabwe entered into the follow-up process in August 2010 and exited the process in March 2015 with outstanding deficiencies on R.35 (now R.36) and SR.III (now R.6). The reason for Zimbabwe exiting the follow-up process was due to the country undergoing an assessment under the 2013 Methodology in July 2015. The 2007 mutual evaluation report has been published and is available at [www.esaamlg.or.tz](http://www.esaamlg.or.tz).

## 1. ML/TF RISKS AND CONTEXT

47. Zimbabwe attained independence from British colonial rule in 1980, following an armed nationalist struggle. Robert Gabriel Mugabe the nation's first Prime Minister, has been the country's President since 1987. Harare is the country's capital city. Zimbabwe is a landlocked country and comprises a total area of 390,580 sq km in which land constitutes 386670 sq km and water 2,910 sq km. Zimbabwe borders Mozambique to the east (land boundary 1,231 km), South Africa (225 km) and Botswana (813 km) to the south and to the west Zambia (797 km) in which the Zambezi River forms a natural riverside boundary between the two countries. Zimbabwe is divided into 10 administrative provinces. The Provinces are Manicaland, Mashonaland Central, Mashonaland East, Mashonaland West, Masvingo, Matabeleland North, Matabeleland South, and Midlands and the two Metropolitan provinces of Harare and Bulawayo. The population is estimated at 13 million with the last census undertaken in 2012 giving the official figure of 13 061 239. Ethnic groups comprise of 98% African (Shona 82%, Ndebele 14%, other 2%), mixed and Asian 1% and whites less than 1%). English is the official language while Shona and Sindebele are the two major indigenous languages. Christianity is the most predominant religion. The four main pillars of Zimbabwe's economy are mining, agriculture, tourism and manufacturing. Since 2009 when the Zimbabwe dollar fell into disuse, Zimbabwe officially adopted a basket of international and regional currencies, with the US dollar and the South African Rand being the most commonly used currencies for day to day transactions.
48. Zimbabwe's system of government is a Parliamentary Democracy. Executive Authority vests in the President, who holds the titles of Head of State and Government as well as Commander in Chief of the Defence Forces. Under the new constitution that came into force in 2013, the President is elected by popular vote and holds office for a five year term. Legislative authority vests in a bi-cameral Parliament, consisting of the National Assembly (the lower house) and the Senate (upper house). Of the 270 members of the National Assembly, 210 are elected by voters from each of the 210 electoral constituencies, while a further 60 members must be women, who are appointed under a system of proportional representation, based on the percentage of votes casts for each political party. Of the 80 Senators, 60 are also appointed under the proportional representation system, while 16 are traditional chiefs (two representing each of the eight provinces other than the two metropolitan provinces of Harare and Bulawayo) while the remaining 2 Senators are elected to represent persons with disabilities.
49. The legal system is a mixture of Roman-Dutch and English Common Law. The Judiciary comprises the Constitutional Court, Supreme Court, High Court, Administrative Court, Labour Courts, Magistrates Courts and Local Courts. The process of passing a law involves the sponsoring Ministry presenting the initial draft of the bill to the Cabinet Committee on Legislation. The bill needs to be passed by the House of Assembly and

then by the Senate. Thereafter, it must be assented to and signed by the President to become law. After the President's assent, the law must be published in the Government Gazette. Subsidiary legislation is passed under powers delegated by Parliament through primary legislation. Such subsidiary legislative powers are normally delegated to cabinet ministers and are exercised through the passing of statutory instruments within the parameters set out by the primary legislation.

### ***1.1 ML/TF Risks and Scoping of Higher-Risk Issues-Overview of ML/TF Risks***

50. In July 2015, a few weeks before the on-site visit, the authorities in Zimbabwe completed and presented the findings of their national risk assessment (NRA) to the FIs, the DNFBPs and the competent authorities. As the overarching analysis of ML/TF threats in Zimbabwe, the NRA identified top five predicate crimes posing the highest risks in 2013, namely (in order of volume of proceeds), smuggling, illicit gold and precious stones dealings, corruption, fraud, tax evasion including externalisation of currency. There are no official estimates on the total value of the proceeds of all predicate crimes. The authorities estimated the total monetary value of the proceeds generated by the total 16 predicate offences analysed was about USD 1.8 billion in 2013. According to the NRA findings, it represents about 56 percent of the country's GDP.
51. In 2009 Zimbabwe adopted a multi- currency<sup>2</sup> system when the Zimbabwean Dollar (ZWD) was abandoned due to lack of public confidence . The economy increasingly became highly cash-intensive and informal, as citizens shunned the formal economy. This ultimately led to a number of unrecorded transactions which leave no '*paper-trail*' necessary for any monitoring or investigation by competent authorities. This situation potentially raised the country's exposure to ML/TF risks. In practice, the South African Rand (ZAR) and United States of America Dollar (USD) are the main currencies widely used for payment of goods and services. The USD is the settlement currency for Real Time Gross Settlement (RTGS) and Central Securities Depository (CSD) systems.
52. The authorities reported a surge in illicit cross-border currency transportation, as receipts or payments for smuggling activities. The most prevalent commodities affected are precious stones and metals, cigarettes and general tradable goods. Most of the proceeds are exchanged in the informal, unregulated foreign currency market, mostly converting the ZAR and the Botswana Pula to USD. The authorities advised of the difficulty in monitoring this situation after Zimbabwe adopted a multi-currency system. ZIMRA has adequate measures to implement cross-border currency and Bearer Negotiable Instruments (BNI). However, the BUPSM Unit does not have direct access to this information and data for further analysis. ZIMRA can only make this information

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2 Australian Dollar, Botswana Pula (BP), British Pound Sterling, Chinese Yuan/Renmimbi, EURO, Indian Rupee, Japanese Yen, South African Rand (ZAR) and United States of America Dollar (USD).

available to the BUPSML Unit upon request. Without the BUPSML Unit having a mechanism to enable direct access to this information the associated risk of ML/TF and proceeds of predicate crimes remain.

53. The most vulnerable entities are the banks and the DNFBP sector, most notably precious stones and precious metals dealers and real estate sector. The authorities indicated that these sectors can be highly cash-intensive. Real estate agents confirmed that although there were no total official figures, most sales were in large cash transactions. Meetings held with the Fidelity Printers and Refineries (a subsidiary of the Reserve Bank of Zimbabwe with the sole mandate to buy and sell gold in Zimbabwe) confirmed that payments to small-to medium-sized gold dealers were paid for in cash, capped at USD 25,000.00 per transaction. The authorities indicated that the dealers preferred to sell their gold to illegal buyers than use the formal banking sector, which was why the Fidelity and Printers and Refineries paid in cash to “avoid” the gold falling in the hands of illegal dealers.
54. The risk of TF was regarded as low and the authorities continued to monitor any potential activities that may result in or support terrorism and its financing. This conclusion is based on consideration of, inter alia, low level of TF in the region, generally compliant CFT legal framework, understanding of TF risks and threats by relevant competent authorities and FIs through their own ML/TF risk assessments (see, IO.9(a) for more details).
55. Since the late 1990s there has been a growing number of migrants from Zimbabwe to neighbouring and overseas jurisdictions in the face of a major decline of the economy. This brought a sharp rise in the inflow of remittances (estimated at around 5.9 percent of GDP) and use of money or value transfer services (MVTs) providers. Generally, the MVTs are licensed or registered money transfer services providers but there exist informal, unlicensed MVTs including linkages with unlicensed foreign currency exchangers<sup>3</sup>. There is no evidence of reasonable measures being taken to identify, monitor and sanction the unlicensed, unregulated MVTs. These sectors are less supervised for ML/TF purposes.
56. Although Zimbabwe criminalised ML and TF in the early 2000s, the AML/CFT regime is very recent following a comprehensive review in 2013. The primary legislation, the MLPC Act, 2013 is in the early stages of being implemented. The TF offence was recently supplemented by the introduction of the Statutory Instruments (SI) 76 of 2014 issued under the Suppression of Foreign and International Terrorism Act, 2006 to give effect to the United Nations Security Council Resolutions (UNSCRs) 1267 and 1373 and its Successor Resolutions. The FIs and the competent authorities are aware of the obligations,

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<sup>3</sup> Page 94 NRA, 2015.

and have measures in place to implement the requirements. However, no assets have been identified for freezing under the SI. The DNFBPs sector demonstrated very little or no awareness of the measures.

57. There is generally low resources capacity in the public institutions responsible for implementation of AML/CFT measures. For instance, the entire financial intelligence analysis-investigation-prosecution value-chain has inadequate capacity to counter ML/TF risks effectively. More specifically, the assessors noted that the use of financial intelligence and other relevant information for investigation of suspected TF activities is better developed in comparison to ML. The courts have not yet been sufficiently tested on presiding over ML cases, therefore their capacity to hear ML/TF cases is yet to be determined.
58. Zimbabwe has a relatively sound legal and regulatory framework for AML/CFT requirements. There is a marked variance in the application of AML/CFT controls. The large-sized banks and FIs affiliated to international groups have a relatively good understanding and application of the requirements. The DNFBP sector remains at a risk as enforcement of AML/CFT requirements have not yet taken place.
59. Laundering of the proceeds of corruption (derived mostly from the abuse of public sector resources) is a concern in Zimbabwe. There is lack of political commitment, strategy and resources to tackle the problem. Zimbabwe constitutionally established an anti-corruption agency known as Zimbabwe Anti-Corruption Commission (ZACC) in 2005. At the time of the on-site, there were no commissioners statutorily appointed by the Government. Since the functions of the ZACC are driven by the work and statutory powers bestowed on the Commissioners, the absence of commissioners effectively incapacitates the institution to carry out its constitutional mandate against corruption. In addition, the ZACC has not been sufficiently allocated adequate resources. Only 32 percent of the approved establishment is in place and there is urgent need for adequate resources to fight corruption. As a consequence, since 2013 the ZACC has not conducted any investigations despite corruption being regarded as a high ML risk.

*a) Scoping of Higher Risk Issues*

60. Before the on-site visit, the assessment team received and reviewed materials from the authorities on their AML/CFT system. These included the detailed assessment questionnaire, the NRA and other information from publicly available sources. The assessment team used this information and information independently obtained from other sources to decide on and pay more attention to the six high-risk issues listed below, as follows:

- **Generally poor domestic economic condition characterised by a multi-currency system** (potential ground for conversion and movement of illicit proceeds) **and unprecedented rise in inflow remittances** (a large Zimbabwean Diaspora remit funds through various payment channels) have increased the potential for ML/TF and the associated predicate crimes to occur.
- **ML/TF risks arising from smuggling in Zimbabwe.** While it involves all types of goods, the main focus was on precious stones and metals (largely gold and diamond), tobacco/cigarettes, and currency. This problem is persistent and growing, taking advantage of the country's large borders and less developed detection systems.
- **Tax evasion** which involves 1) company transferring funds as payments for expensive imported items (over-pricing), 2) individuals using personal accounts to externalise company funds to avoid paying tax, and 3) under-valuation of imported goods or smuggling of goods to avoid paying duty.
- **The low understanding of the new AML/CFT laws by FIs and DNFBPs** and inadequate application of mitigation controls consistent with the risk profiles.
- **The low understanding by competent authorities of the new offences of ML and TF** and the impact of low institutional capacity to conduct parallel complex financial investigations and prosecutions of ML/TF and the associated predicate crimes consistent with the risk profile.
- **For more than three years Zimbabwe's anti-corruption agency (the ZACC) has not investigated a single case of corruption due to the lack of statutory appointments of commissioners by the Government and insufficient allocation of resources.** This is despite the proceeds of corruption being regarded as high-risk for ML in Zimbabwe, and widely agreed by the authorities that effective implementation of the anti-corruption measures could contribute to a sound implementation of AML/CFT measures.

## ***1.2 Materiality***

61. The financial sector in Zimbabwe is slowly rebounding – but from a low base – after a sustained period of economic downturn since the late 1990s. With a total assets base of USD 7.2 billion, the financial sector contributes 7 percent to GDP. In the financial sector the banking sector far dominates, distantly followed by the insurance and pensions sectors at about USD 2 billion. Due to the subdued economic climate, banks and other FIs have liquidity problems. Commercial banks (which account for 80 percent of the banking

sector) with foreign ownership or control dominate the financial sector at 52 percent of total assets.

62. It is estimated that around 77 percent of Zimbabweans have access to formal financial services, and 30 percent of those accessing the formal financial products do so through transactional and savings products of banks. Zimbabwe has recorded rising financial inclusion figures, from 60 percent in 2011 to 77 percent in 2014, largely driven by mobile money services. Zimbabwe has seen an increase in formal domestic money remittances due to high mobile money usage and other independent money or value service providers such as Mukuru and Western Union. About 45 percent of adults use mobile money services, dominated by sending and receiving of funds<sup>4</sup> services. The dominant platforms for providing mobile money service are telecommunications networks and banking sector, which rely on a large network of agents countrywide.
63. All categories of DNFBPs as defined by the FATF operate in Zimbabwe. The country has abundance of precious stones and precious metals contributing more than 11 percent to GDP (USD 3.7 billion) in 2013. Platinum metal group accounts for half of the earnings, with gold and diamond (in this order) sharing the balance. Government has a specialised subsidiary in the Reserve Bank of Zimbabwe known as Fidelity Printers and Refiners which is the sole buyer of gold in the country. The subsidiary has an arrangement with a company in a foreign jurisdiction to sell all Zimbabwean gold to foreign markets. In terms of the real estate sector, Zimbabwe has experienced a significant rise in real estate transactions over the past 3 years. However, there were no official figures to quantify the contribution made by the real estate sector to the GDP. Nonetheless, the Deeds' Office estimated that in 2014, 8000 property sales valued at USD 349 million.

### ***1.3 Structural Elements***

64. There are relatively strong structural elements necessary for implementation of an effective AML/CFT system in Zimbabwe. The country promulgated a new Constitution in 2013 which paved way for a new Administration which replaced the Government of Nation Unity (GNU) formed through a power-sharing deal signed on 15 September 2008. The political tensions before and during the GNU appeared to have diverted high-level political commitment to certain key AML/CFT decisions (e.g., the need to address key recommendations in the 2007 MER), and delayed overall implementation process. One of the significant consequences of this situation was the identification by the FATF-ICRG of

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<sup>4</sup> FinScope Consumer Survey Zimbabwe, 2014

Zimbabwe as a country with strategic deficiencies in its AML/CFT system, a process which it exited in February 2015. In addition, there was a sustained economic downturn during this period which affected availability of resources to adequately implement AML/CFT measures.

65. The new Constitution strengthened the rule of law, the judicial system and a broad range of competent authorities responsible for implementation of AML/CFT system under a new AML/CFT legal and institutional framework. The effectiveness of the new system, however, has been limited by the lack of implementation due mainly to resource constraints.
66. There exist a concern about Zimbabwe's political commitment to fight corruption, as already explained in 1.3 (a) *Scoping of Higher Risk Issues*. The fact that the ZACC is not operational continues to undermine oversight over public sector use of resources and the efforts to promote transparency and accountability as key components to a sound framework to implement AML/CFT measures.

#### **1.4 Background and other Contextual Factors**

67. Zimbabwe has an emerging AML/CFT regime despite having started implementation in the early 2000s. Zimbabwe was subjected to enhanced review by the FATF (which it exited in February 2015) for failing to address a number of deficiencies identified in its 2007 MER by ESAAMLG. This increased the momentum for a high-level political commitment, resulting in the comprehensive review of the AML/CFT system in Zimbabwe which included the passage of the MLPC Act as the primary legislation for AML/CFT in the country.
68. Zimbabwe's biggest challenge is the lack of resources across the spectrum, affecting the capacity of the competent authorities to implement the new AML/CFT regime. This is attributed to the country's prolonged economic slump which started in the late 1990s.
69. Zimbabwe released the findings of its NRA a few weeks before the on-site visit, making it too early for the FIs, the DNFBPs and the competent authorities to develop a common understanding of the ML/TF risks, and application of commensurate mitigating controls. It does however offer an opportunity for the authorities to design and introduce a risk-based approach across the board, promote cooperation and coordination nationally and better prioritisation of resources to enforce AML/CFT measures.

70. From the discussions held with the authorities and the analysis of the NRA results, corruption, especially the misuse of public resources, is of serious concern. The assessment team and the authorities are in agreement that the low attention given to the ZACC by the Government does not auger well to promote transparency and accountability in the use of public resources and therefore continues to undermine the sound functioning of governance systems in the public sector, some of which have a direct implication on effective implementation of the country's AML/CFT regime.

71. Zimbabwe has a significantly large cash-intensive and informal economy, as a result of the loss of public confidence in the formal financial system caused by hyperinflation. This situation led to the erosion of the local currency and its subsequent replacement with the multi-currency system introduced in 2009.

*a) Overview of the legal & institutional framework and AML/CFT strategy*

72. Zimbabwe recently criminalised the offences of ML and TF in the MLPC Act and the associated predicate offences in various statutes. In general, the same laws provide for the salient features of a sound AML/CFT regime based on application of AML/CFT obligations, freezing and confiscation of proceeds, broad institutional framework, and coordination and cooperation (national and international). The low resources capacity situation in Zimbabwe remains the single most important concern for prospects of proper implementation of the legal system and the new AML/CFT strategy by the various institutions.

73. Zimbabwe has a broad range of key ministries, authorities and agencies responsible for implementation and overseeing of the AML/CFT regime, namely:

- a) Ministry of Finance and Economic Development - responsible for AML/CFT policy direction and oversees development of AML/CFT strategies and implementation.
- b) Ministry of Justice – in charge of upholding the rule of law, good governance, ensuring access to courts for all citizens and residents, providing legal advice and services to all government and public bodies and overseeing administration of the courts.
- c) Ministry of Home Affairs - in charge of maintaining stability, peace, law and order (incl. terrorism and its financing) and movement of people in and outside Zimbabwe.
- d) The Ministry of Public Service Labour and Social Welfare - responsible for registration and monitoring of NGOs.

- e) The National Task Force for Anti-Money Laundering and Countering Financing of Terrorism – the national coordination and cooperation body comprising almost all stakeholders in public and private sectors relevant for implementation of AML/CFT matters.
- f) Bank Use Promotion and Money Laundering Unit – a statutory central agency for the receipt, analysis and dissemination of financial intelligence and other information to the Police. It also performs the following key tasks: Chairs the National Task Force on AML/CFT and Anti-Money Laundering Advisory Council, the Secretariat of the NRA Committee and oversees the implementation of the United Nations Security Council Resolutions 1373 and 1267/2253. The BUPSMU Unit is responsible for regulation and supervision of FIs and DNFBPs for compliance AML/CFT obligations in collaboration with the competent supervisory bodies. It is the AML/CFT supervisor for all banks.
- g) National Prosecuting Authority - is a constitutional body responsible for instituting all criminal litigation in the courts of Zimbabwe including on ML and TF matters.
- h) Zimbabwe Republic Police - responsible for maintaining law and order. It comprises several specialised departments including the Criminal Investigation Department (CID) in which the Serious Fraud Squad is established. The CID is mandated to investigate ML and serious commercial crimes. The Law and Order Unit is responsible for investigating terrorism and its financing. Additionally, the Department through its Interpol Unit facilitates international and regional cooperation in the fight against extra-territorial crimes including ML/TF.
- i) Zimbabwe Anti-Corruption Commission – responsible for investigation of corruption crimes both the private and public sectors. It also promotes and fosters the rule of law, promotes accountability, transparency and good governance.
- j) Reserve Bank of Zimbabwe - responsible for supervising banks, MVTs, forex bureaus and mobile money service providers. The Exchange Control and the National Payment Systems have AML/CFT supervision mandate of the non-bank financial services licensed by the RBZ.
- k) Securities and Exchange Commission of Zimbabwe - regulates capital markets, oversees the licensing of brokers, dealers and investment advisors with the intention of ensuring protection of the investor's interest. It is charged with ensuring compliance with requirements of establishing Securities Exchanges, conduct of business, advertisements, maintenance of registers of interests in securities, accounting and financial requirements and licensing of all the market operators including compliance with prospectus requirements. It is the AML/CFT supervisor for all entities licensed by it.
- l) Insurance and Pensions Commission - regulates, supervises and monitors the business of insurance such as non-life and life insurance providing life policies, annuities, liability and general risk. It regulates, supervises and monitors private insurance including their agencies and brokers as well as loss assessors' and adjustors. It aims at protecting the interests of the consumers of insurance products, who are mostly policy holders. It is the AML/CFT supervisors for all the entities licensed by it.

- m) Ministry of Minerals – responsible for regulating all mining activities including those of gold and diamond in Zimbabwe.
74. Others include the Ministry of Foreign Affairs; the Registrar of Companies; Deeds’ Office, Immigration, ZIMRA; financial sector associations and regulators of DNFBPs.
75. Generally, authorities in Zimbabwe are not always required to sign MoUs with each other to cooperate and exchange information. There are instances where agencies have signed MoUs between them such as the BUPSML Unit and other financial sector supervisors to facilitate AML/CFT supervision of the FIs. There is, however, a challenge to obtain information from ZIMRA due to statutory confidentiality restrictions relating to exchange of tax information. The authorities have indicated that often “high-level engagements” between heads of the competent authorities concerned have made it possible in some instances to access and exchange the necessary required information.
76. Zimbabwe released its National Risk Assessment as well as a National AML/CFT Strategy in July 2015. The authorities are still working on the modalities to entrench a risk-based approach by the FIs, the DNFBPs and the competent authorities. Due to the recent nature of the NRA, there is no common understanding of risks nor a coordinated approach to mitigate the identified risks. It is therefore necessary for the authorities to use the results of the NRA (which must be updated on a regular basis) as the basis to prioritise allocation of resources and to provide adequate guidance to curb identified high ML/TF risks.
77. Zimbabwe has a broad range of institutions responsible for AML/CFT matters including supervision, investigation, prosecution and freezing and confiscation of assets. However, the lack of resources has resulted in inadequate implementation of AML/CFT measures by competent authorities. As a consequence, law enforcement agencies still focus on predicate offences, and conduct very little parallel financial investigations including ML investigations, while competent supervisory bodies are yet to adequately supervise FIs and DNFBPs for ML/TF purposes.

*b) Country’s Assessment of Risk*

78. Zimbabwe completed its NRA in July 2015, just a few weeks before the on-site visit. This was the first-ever nationally coordinated assessment of ML/TF risks involving a broad range of FIs, DNFBPs, LEAs, supervisors, industry associations and policy-making bodies. The NRA also analysed the threats and vulnerabilities of the different types of products, transactions and channels offered by the FIs, the DNFBPs and, to a lesser extent, the informal sector. The methodology used addressed ML/TF threat and vulnerability analysis at a national level. This generally covered a broad range of issues necessary for conducting an NRA. In general, the involvement of a relatively diverse stakeholders promoted close coordination and cooperation, and increased the use of a

number of sources of information. There are some concerns about over-reliance on STRs, in some instances, when information or data could not be obtained to assess a specific threat or vulnerability. This is due to the lack of appropriate statistics, and it has been acknowledged by the authorities as a challenge they need to address as a matter of urgency. Despite this, the assessment team is of the view that the findings of the NRA are a useful source of information to Zimbabwe to begin a process of understanding ML/TF risks and applying an informed AML/CFT risk-based approach.

*c) Overview of the financial sector and DNFBPs*

79. The financial sector in Zimbabwe has for over a decade experienced liquidity challenges. The primary FIs in Zimbabwe are banks, micro-finance, insurance, money or value transfer, financial leasing, stock brokerage, and asset management.
80. The Reserve Bank of Zimbabwe regulates and supervises banks on prudential matters. The financial sector is dominated by banks, with a total asset value of USD 7.2 billion. It comprises 14 commercial banks, a merchant bank, 4 building societies, 2 development institutions and a savings bank. In terms of contribution to economic growth, the dominant financial services (banking and insurance) contributed 11.3 percent in 2013. Of the 21 banks, only four have foreign-majority ownership. In terms of 2013 figures, foreign-majority owned banks occupy 48 percent of the total assets, 43 percent is owned by -owned banks and the remainder by the government. The banking sector showed some high degree of market concentration, with 52 percent of the total banking assets in the hands of the top 5 banks.
81. There are a total of 150 credit only micro-finance institutions (total assets USD 203 million), with the top 10 controlling about 63 percent of the total assets. In addition, the largest MFI accounts for about 20 percent.
82. The insurance and pensions sector have a total assets of USD 3.9 billion. There are a total of 36 insurers, comprising 11 life insurance (USD 1.5 billion) and 25 general insurance (USD 171 million). The Insurance and Pensions Commission regulates and supervises the sector.
83. The Securities and Exchanges Commission of Zimbabwe is the regulator for capital market players. The Zimbabwe Stock Exchange is the sole stock exchange in Zimbabwe with market capitalisation of USD 5.2 billion (about 38% of GDP) and the value of shares trade was 3.6 percent to GDP. There are a total of 68 regulated entities operating within

the securities sector, comprising 13 stock brokers, 3 securities transfer secretaries, 6 custodial companies, 26 investment advisors, 15 investment managers, 3 securities trustees and a central securities depository.

84. There are a total of 24 MVTS (9 by banks). This sector has grown significantly over the years (about 5.9 percent of GDP) driven by the large number of Zimbabweans in the Diaspora. Zimbabwe introduced a drastic policy change by allowing some MVTS to conduct cross-border transfers as “Authorised Licensed Dealers”. At the time of the on-site visit, there was no MVTS licensed to carry out outbound international money transfers.
85. Foreign currency exchange services experienced a sharp drop since the introduction of the multi-currency system in 2009. There are currently 4 bureau de changes companies (with 3 branches) operating in Harare City and one in Bulawayo City.
86. Zimbabwe has presence of all DNFBP categories under the FATF glossary. Although at law the DNFBPs are subject to AML/CFT requirements, there is no implementation nor supervision for compliance with requirements. All DNFBP sector are either licensed or registered by a competent authority. The BUPSMU Unit has issued sector-specific guidelines to all DNFBPs except lawyers and accountants.
87. Lawyers in Zimbabwe provide a number of services including criminal and civil litigation, conduct transactions on behalf of clients such as setting up and managing client trust accounts, and conduct real estate and securities transactions. There are 1229 legal practitioners and 267 law firms registered with the Law Society of Zimbabwe.
88. The Public Accountants and the Auditors Board is the statutory regulatory body for accountants. However, there are members belonging to the Association of Chartered Certified Accountants and the Chartered Institute of Management Accountants regulated by international standards. They generally offer services ranging from accounting, auditing, tax consultancy, business advisory and other assurances services.
89. The casino industry is very small in terms of value and all participants are local. No internet casino operations are allowed. There are a total of 10 licensed casinos operating in 24 locations. The big casinos have about 3 tables. There are 21 gaming houses mostly located in the casinos. They are licensed by the Lotteries and Gaming Board.

90. The Ministry of Mines and Mining Development is responsible for the regulation of the precious stones and metals dealers, and earned USD 3.7 billion from 2013 to the time of the on-site visit. The Zimbabwe Investment Authority (state entity) exclusively handles all applications for gold and mining activities in Zimbabwe. Between 2009 and July 2014 the monetary value of the application was about USD1.3 billion for diamond and USD 729 million for gold. There are a total of 60, 107 gold mine title-holders, of which 90 percent are small-scale miners. The small-scale mines contribute about 26 percent of gold production in the country. However, the number of registered miners who deliver gold to the Fidelity Printers and Refineries (FPR) were 2257 only. The remaining majority engage in illicit gold sales. Between 2013 and July 2014 the FPR are engaged in 46, 371 transactions on gold delivered by miners, which is about 14.371 tons of gold. Diamonds are marketed and sold by a statutory body known as the Minerals Marketing Corporation of Zimbabwe. There are eight diamond producing companies which are all Kimberly Process Certification Scheme compliant. There are 10 registered diamond cutters and polishers. The authorities indicated that 98 percent of the transactions in the diamond sector involve foreign buyers, and payment was all made through wire transfers.
91. Real estate business entails valuation, auctioning, sales, management and leasing of immovable property. There are 230 registered estate agents located mostly in Harare and Bulawayo. They are regulated by the Estate Agents Council of Zimbabwe established under the Estate Agents Act. The industry has a sizeable number of unregistered agents who work independently or with other registered agents or lawyers and conveyancers who pay them commission.

**Table 1: Types of financial institutions in Zimbabwe as at June 2015**

<b>Financial Activity by Type of Financial Institution</b>			
<b>Type of Financial institutions (see the glossary of the FATF 40 Recommendations)</b>	<b>Type of Financial Institution that performs this activity</b>	<b>AML/CFT Requirement</b>	<b>AML/CFT Supervisor/Regulator</b>
Acceptance of deposits and other repayable funds from the public	Banks	MLPC Act	BUPSML Unit
Lending	Banks	MLPC Act	BUPSML Unit/Exchange Control Division of the RBZ
Financial leasing	Banks	MLPC Act	BUPSML Unit
Transfer of money or value	Banks and MVTs	MLPC Act	BUPSML Unit and National Payment Systems Division
Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money)	Banks	MLPC Act	BUPSML Unit
Financial guarantees and commitments	Banks	MLPC Act	BUPSML Unit
Trading in Money market instruments (cheques, bills, CDs, derivatives etc.)	Banks	MLPC Act	BUPSML Unit
Trading in Foreign exchange	Banks and Bureaux de change	MLPC Act	BUPSML Unit and Exchange Control Division
Trading in Exchange, interest rate and index instruments	Banks	MLPC Act	BUPSML Unit

<b>Type of Financial institutions (see the glossary of the FATF 40 Recommendations)</b>	<b>Type of Financial Institution that performs this activity</b>	<b>AML/CFT Requirement</b>	<b>AML/CFT Supervisor/Regulator</b>
Trading in Transferable securities	Securities firms and banks	MLPC Act	BUPSML Unit Securities & Exchange Commission of Zimbabwe
Trading in Commodities	Securities	MLPC Act	BUPSML Unit and Securities & Exchange Commission of Zimbabwe
Participation in securities issues and the provision of financial services related to such issues	Securities firms and banks	MLPC Act	BUPSML Unit Securities & Exchange Commission of Zimbabwe
Individual and collective portfolio management	Investment managers	MLPC Act	Securities & Exchange Commission of Zimbabwe
Safekeeping and administration of cash or liquid securities on behalf of other persons	Custodian firms	MLPC Act	Securities & Exchange Commission of Zimbabwe
Otherwise investing, administering or managing funds or money on behalf of other persons	Investment managers	MLPC Act	Securities & Exchange Commission of Zimbabwe
Underwriting and placement of life insurance and other investment related insurance	Life assurance companies and banks	MLPC Act	Insurance & Pensions Commission
Money and currency changing	Bureau de Change and Banks	MLPC Act	Exchange Control Division

**Table 2: Types of DNFBPs in Zimbabwe as at June 2015**

Designated non-financial businesses and professions (DNFBPs)	Supervisor	Number of institutions
Casinos (Not Internet casinos)	BUPSML Unit	10
Real estate agents		230 registered firms
Dealers in precious stones/metals		60,118 mines <sup>5</sup>
Lawyers		267 law firms
Legal professionals		1229
Notaries		267
Auditors		Unknown
Accountants		Unknown
Trust and company service providers		Unknown

*d) Overview of preventive measures*

92. The current primary legislation for AML/CFT requirements is the MLPC Act, 2013. The Act covers all the DNFBPs and the FIs as required by the FATF. The scope of the AML/CFT is largely in line with the FATF Standards. The most notable deficiencies are the absence of a requirement for a risk-based approach to implement the measures and. The present AML/CFT framework in Zimbabwe is vastly different to the one assessed in the 2007 MER. As a result, the assessment paid less consideration to the conclusions or the findings of the 2007 MER.
93. It was noted that the BUPSML Unit had issued a few guidelines under the BUP Act which covered requirements which were not provided for in the Act. The assessment team deemed some specific provisions *ultra-vires* to the Act when assessing technical compliance but considered them for effectiveness assessment. The BUPSML Unit has issued guidelines and Directives to facilitate understanding and implementation of the new MLPC Act.
94. The assessment team considers the lack of a specific requirement for FIs and DNFBPs to apply AML/CFT requirements on a risk-sensitive basis, and practical understanding of beneficial ownership verification procedures as major areas of concern for urgent attention.

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<sup>5</sup> 60,107, gold; 8, diamond; and 3, Platinum.

*e) Overview of supervisory arrangements*

95. The BUPSMML Unit bears the primary and general responsibility for ensuring compliance with AML/CFT requirements by reporting entities in consultation with competent supervisory bodies. In essence, it makes the BUPSMML Unit a 'super-supervisor' of all reporting entities. The Unit deal directly with the reporting entities without seeking any authorisation or notifying the concerned regulator. Therefore, Zimbabwe has a decentralised but coordinated supervision framework for AML/CFT under the leadership of the BUPSMML Unit in which the Competent Supervisory Bodies in terms of s.2 and Part II of the First Schedule to the MLPC Act are responsible for ensuring compliance with the AML/CFT requirements alongside the BUPSMML Unit as set out in s.3(2). In practice however, the BUPSMML Unit is responsible for AML/CFT supervision of banks and DNFBPs. The Banking Supervision Division (BSD) of the Reserve Bank of Zimbabwe is responsible for prudential supervision of all banks. The National Payment System (NPS) and the Exchange Control Division (EXCON) of the Reserve Bank of Zimbabwe is responsible for prudential and AML/CFT supervision of MVTS and bureau de change. All the non-bank financial sector competent supervisory bodies (such as insurance, pensions and securities) are responsible for both prudential and AML/CFT monitoring of their regulated entities. All financial sector competent supervisory bodies apart from the NPS have signed MoUs with the BUPSMML Unit to facilitate exchange of information from inspections and conduct joint inspections.
96. The BUPSMML Unit has undertaken inspections on banks and non-bank FIs. The FIU had conducted joint inspections with the SECZ, the IPEC and the Exchange Control Division as part of building their internal capacity. At the time of the on-site visit, none of the competent supervisory bodies had conducted inspections of the regulated entities they supervise on their own for compliance with AML/CFT obligations.
97. The MLPC Act provides for a range of penalties for the BUPSMML Unit to issue sanctions in consultation with the competent supervisory bodies for non-compliance with AML/CFT requirements. Each supervisory body may impose sanctions which must be issued through a Directive issued by the Director of the BUPSMML Unit. In effect, supervisory bodies must first consult the BUPSMML Unit before issuing any sanction for non-compliance.
98. At the time of the on-site visit, there were no challenges observed relating to supervision in respect of exchange of information. In fact, the assessment team was informed of the

mentoring being carried out by the BUPSMML Unit on on-site inspections to the other financial sector supervisors. In addition, the supervisors liaise with the BUPSMML Unit when processing license applications, and the BSD advised of the requests for information it makes to the BUPSMML Unit before undertaking prudential supervision of banks. There is room for improvement once all supervisors are fully undertaking inspections especially as FIs in Zimbabwe offer a number of services licensed by the different regulators.

*f) Overview of legal persons and arrangements*

99. Zimbabwe established the Registrar of Companies under the Companies Act which is responsible for registration of different types of legal persons. There are other statutes for legal persons such as Cooperative Societies Act and Private Business Corporation Act. The most common types of legal persons that can be established in Zimbabwe are 1) public company, 2) private company, and 3) cooperative company. The act of registering a company is formalised once the prospective company submits to the Registrar of Companies, its memorandum and articles of association and issued with a certificate of incorporation by the Registrar. There were 4 599 registered private companies, 2 registered public companies, 2 344 private business corporations registered in terms of the Private Business Corporations Act, 4 registered companies limited by guarantee and 11 registered foreign companies at the time of the on-site visit. Companies are required to maintain a register of members and shareholders which must be filed with the Registrar and also be kept at the companies' registered office address. However, a person wishing to obtain access to the information must satisfy the internal procedures of the Registrar.
  
100. Legal arrangements that can be created in Zimbabwe include express trusts formed through registration of a deed and established by operation of common law. They are registered with the Registrar of Deeds. The authorities indicated that lawyers and accountants provide trust and company formation services, which are registered with the Registrars of Companies and of Deeds. The common purpose of trusts in Zimbabwe is protection of family assets. At the time of the on-site visit, there were 504 express trusts registered in Zimbabwe. Information on creation and types of legal arrangements is not available on any official website. This was confirmed by the Registrar of Deeds who mentioned that, it would require someone with a sound understanding of trusts in Zimbabwe to obtain that information.

101. The legal framework in Zimbabwe in respect of legal persons and arrangements does not provide for requirements to obtain and maintain ultimate beneficial information. The MLPC Act is the only law which requires FIs and DNFBPs to obtain and verify ultimate beneficial ownership information when establishing business relationships or conducting a transaction with a legal person or arrangement only in respect of prescribed transactions. Due to capacity constraints, the Registrar of Companies and Registrar of Deeds have not yet identified the risks that apply to legal persons and arrangements nor are they being properly supervised and monitored to ensure full compliance with the requirements under the applicable laws. The NRA did not extensively cover risk relating to legal persons and arrangements. The assessors noted that the use of “proxies” and “nominees” may present potential risk particularly in the absence of legal requirements on collection and verification of ultimate beneficial ownership information by the Registrars of companies and of Deeds as well as FIs and DNFBPs.
102. The assessors noted that there was variance in terms of understanding of ultimate beneficial ownership requirements. While the large-sized banks and the FIs affiliated to international financial groups demonstrated a good understanding and took reasonable steps to identify and verify the identity of a beneficial owner, the domestic small to medium sized FIs and the DNFBPs had a less developed understanding of beneficial ownership requirements. Furthermore, while the regulators have beneficial ownership information requirement as part of their licensing framework, in practice however, there is less understanding of the application of requirements. It has been noted that generally there is lack of understanding of the concept of beneficial ownership by some FIs , DNFBPs and also amongst the competent authorities, which affects the quality and availability of accurate and relevant beneficial ownership information that can be accessed in a timely manner.

*g) Overview of international cooperation*

103. Zimbabwe has a legal and institutional framework to cooperate and exchange information with foreign counterparts. The LEAs and the DPP (handles MLA requests) have made and received requests on cases with their foreign counterparts but are not related to ML/TF. The FIU has signed MoUs, though not a prerequisite, predominately with FIUs in the Eastern and Southern African region on the basis upon which requests for exchange of information are made. Between 2014 and July 2015, the BUPSM Unit has exchanged information with counterparts such as in Botswana, South Africa and Mauritius. Financial sector supervisory bodies cooperate and exchange prudential

information with counterparts. However there was no exchange of information related to ML/TF.

104. Zimbabwe has ratified all the international instruments (Vienna, Palermo, CFT and UNCAC) relevant to AML/CFT, which it has domesticated to support its international cooperation requirements. In addition, Zimbabwe has entered into bilateral and multilateral agreements (e.g. the Harare / Commonwealth MLA Scheme and SAPRCO for regional police) with other countries to facilitate international cooperation.

## 2. NATIONAL AML/CFT POLICIES AND COORDINATION

### 2.1. *Key Findings and Recommended Actions*

#### ***Key Findings:***

- Generally, Zimbabwe has a good AML/CFT coordination and cooperation framework for policy development, but is yet to apply these on implementation of measures based on a common understanding of ML/TF risks.
- Zimbabwe has recently assessed and identified its ML/TF risks, through an NRA and released the findings a few weeks before the on-site visit. It is, therefore, too early to rely on the NRA findings to gauge the competent authorities' understanding and implementation of the findings of the NRA. Owing to the recently completed NRA, the authorities did not demonstrate a common understanding of the ML risks.
- The authorities demonstrated sound understanding of TF risks, though not predicated on the findings of the NRA. This understanding is not reflected in the findings of the NRA. The authorities demonstrated good coordination when the Police, national security/intelligence services, the BUPSMU Unit and the NPO regulator jointly investigated a suspected TF case.
- Large-sized banks and FIs affiliated to international financial groups have a better understanding of inherent ML/TF risks than the rest of the FIs. The DNFBP sector demonstrated little or no appreciation of ML/TF risks.
- There is low resources capacity in supervision, investigation and prosecution which has affected the competent authorities' ability to understand ML/TF risks that apply to them and to carry out their respective AML/CTF mandate.

#### ***Recommended Actions:***

Zimbabwe should take the following actions:

- Take immediate action to promote common understanding of ML/TF risks across all stakeholders to inform implementation the AML/CFT strategy and policies on a risk-based approach In addition, the authorities should on regularly basis review and update the NRA to

identify emerging ML/TF high risk areas including conducting risk assessments in relation to companies and NPOs to ensure that commensurate mitigating controls are put in place and strengthen AML/CFT policy development consistent with the findings of the NRA.

- Establish proper mechanisms or channels to enhance coordination and cooperation by, inter alia, removing the existing legal and operational impediments, particular at ZIMRA, to exchange information. The authorities should develop a feedback mechanism among the competent authorities necessary to review and improve the effectiveness of the system.
- Invest in the capacity (provision of adequate financial, human and technical resources) of the competent authorities responsible for supervision, investigation, prosecution and judicial activities consistent with the identified risks.
- Re-orientate supervisory programmes (tools, procedures and processes) to adapt to risk-sensitive actions and ensure that supervisors maintain a coordinated approach to promote efficiency.
- Introduce a coordinated and systematic process for collection and maintenance of statistics on ML/TF activities (e.g., investigations, prosecutions, convictions) necessary for the authorities to understand ML/TF risks and help review the effectiveness of the measures in place.
- Raise awareness and understanding of ML/TF risks by the small to medium banks and domestic FIs and, more so, the DNFBBs with more focus on the high-risk sectors to enable them to apply commensurate mitigating controls .
- Refocus investigations and prosecution policies and actions away from just the predicate crimes to conduct parallel (including complex) financial investigations to identify and investigate ML consistent with the country's risk profile.

105. The relevant Immediate Outcome considered and assessed in this chapter is IO1. The recommendations relevant for the assessment of effectiveness under this section are R1-2.

## 2.2. *Immediate Outcome 1 (Risk, Policy and Coordination)*

### *a) Country's understanding of its ML/TF risks*

#### *National Risk Assessment*

106. Zimbabwe conducted a national risk assessment (NRA) to identify, assess and understand ML/TF risks and released the findings in July 2015, a few weeks before the on-site visit. Prior to the release of the NRA, the assessment team noted that there were no sectoral risk assessments which were conducted by the competent authorities as the basis to implement AML/CFT measures. The NRA, which was approved by Cabinet and presented to AML/CFT stakeholders at a workshop organised by the Treasury, was

completed a few weeks before the on-site visit. Zimbabwe formed a NRA Committee under the guidance of the National Task Force on Anti-Money Laundering and Countering Financing of Terrorism (NTF AML/CFT), with the BUPSMU Unit as the lead agency. The Committee comprised all members of the NTF AML/CFT, and had participation from relevant private sector entities.

107. Although there were challenges in obtaining data and information from some participants, this has not affected the reasonableness of the NRA findings. A significant portion of the NRA was focused more on ML than TF risk assessment, which was consistent with the general risk profile of Zimbabwe. The authorities shared with the assessors the difficulties they experienced to obtain sufficient or reasonable data and information to adequately assess and identify ML/TF risks. As a result, the authorities relied on extrapolation of STR information and data for January to December 2013 and qualitative sources of information. The assessment team was concerned that such an approach had made it difficult for the authorities to determine trends and methods based on 2013 figures only, as comparative analysis required a period of more than a year.
108. The assessors noted that the NRA had not covered risks posed by legal persons and arrangements especially in respect of use of proxies and nominees. While there may be questions raised on some conclusions, the overall findings of the NRA, on the strength of the salient structural and general risks in respect of threats and vulnerabilities in Zimbabwe, appeared closer to the generally-held but undocumented view of the prevailing risks of ML, TF and associated predicate crimes in the country.
109. The assessment team was of the view that the findings of the NRA could be used as the basis for developing a common understanding of the ML/TF risks and implementation of risk-based mitigation strategies in Zimbabwe. To achieve this, the authorities should continuously review and update the NRA. Furthermore individual competent authorities should, at a micro-level, establish their own risk assessments to better inform allocation of resources to mitigate the risks prevalent in their area of responsibility. The private sector indicated that they would require sectoral risk assessment by each competent authority to assist them to identify and assess their own risks and to better inform allocation of resources to mitigate the identified risks.
110. Based on the interviews conducted during the on-site visit the assessment team observed that some authorities had a generic appreciation of the identified risks prior to the NRA more than others, but had not documented the risks nor implemented mitigating controls.
111. Overall, authorities in Zimbabwe have assessed and identified ML/TF risks but demonstrated a low level of understanding of the risks. At the moment, the NRA is seen

by the authorities as a starting point to implement a coordinated approach to combat ML/TF. At the time of the on-site visit, the authorities had already used the NRA to develop and adopt the 2015 – 2018 AML/CFT strategy and the Detailed Action Plan to mitigate the identified risks. These include enhancing the capacity of competent authorities to enable them to better implement AML/CFT measures on a risk-sensitive basis, updating and reviewing the legal and regulatory framework and increased monitoring of regulated entities to improve common understanding and promote compliance.

#### *ML risks*

112. Zimbabwe has identified ML as medium high risk. The authorities demonstrated a fragmented and a generic understanding of ML risks in respect of laundering of the unlawful proceeds, the specific methods used and the specific sectors misused for laundering purposes (See IO.4(a) and IO.7(b) for details). The NRA has identified the predicate offences generating the most proceeds (e.g., smuggling, tax evasion and illegal dealing in precious stones and minerals), and customer profiles (in relation to types of transactions, products and customers). As a result, there is no common understanding of the ML risks identified. The results of the NRA were released too close to the on-site visit to bring about any meaningful understanding by all stakeholders of the identified ML risks. Specifically, there is a marked variance in the understanding of the ML risks by the different sectors, independent of the NRA results. The large-sized banks and FIs affiliated to international financial groups (in terms of control or ownership) have demonstrated a good understanding of the inherent ML risks they faced than the small-sized banks and FIs.
113. Generally, the BUPSML Unit and the competent supervisory bodies did not demonstrate an understanding of ML/TF risks and application of the necessary supervisory actions consistent with the risks identified. The Serious Fraud Squad of the Police, more than any other LEA, demonstrated a generally good understanding of the predicate offences generating the largest illicit proceeds. However, the LEAs showed a low level of understanding on how these proceeds are laundered.
114. There is limited or no understanding of ML risks in the entire DNFBP sector, owing largely to the deliberate policy by the authorities, which had initially prioritised banks, and, therefore, roll-out the AML/CFT programmes on an incremental basis.

#### *TF risks*

115. The authorities have identified TF as low risk. This conclusion is based on consideration of, inter alia, low level of TF in the region, generally compliant CFT legal framework, understanding of TF risks and threats by relevant competent authorities and FIs through

their own ML/TF risk assessments (see, IO.9(a) for more details). The assessment team noted that this is a commonly held view both in the public and private sectors. Both the threat of terrorism in Zimbabwe as well as the threat of financing acts of terrorism whether from legitimate or illegal proceeds, was determined to be low. The NRA assessed the level of vulnerability to terrorist attacks and financing of terrorism in terms of available legislation, intelligence gathering, financial intelligence, international cooperation, political environment and the NPO activities. The findings of the NRA indicated that there had not been any terrorism and TF cases in Zimbabwe nor any local funds linked or related to terrorism in Zimbabwe or elsewhere. Other than for the single case which was investigated and found to be a false positive, no NPO in Zimbabwe had been linked with financing of terrorism inside or outside of Zimbabwe during the period under review.

116. With the exception of the specialised units of competent authorities (e.g., national security service and Law and Order Unit of the Police) which demonstrated a good understanding of TF risks, the rest of the public sector entities showed generic appreciation of TF risks by referring to the NRA findings without any context on how the identified risks applied to them. In respect of the private sector, the large-sized banks and FIs affiliated to international financial groups demonstrated a good understanding of the TF risks developed from their own internal ML/TF risk assessment, and have started to consider the findings of the NRA. The assessors are concerned about the lack of appreciation of TF issues relevant to the NPO sector by the regulator and the DNFBP sector. Despite the common view held on the low level of TF risk, there is strong awareness amongst specialised units of competent authorities and large-sized and FIs with foreign links of the distant possibility of Zimbabwe being at a risk of being misused by terrorists to raise and move funds through legitimate and criminal means to support terrorist activities in foreign jurisdictions. This view is based on the potential risks posed by the use of multi-currency system and the sharp rise in cash-intensive businesses over the years.

*b) National policies to address identified ML/TF risks*

117. Zimbabwe developed an AML/CFT Strategy 2015 – 18 and a Detailed Action Plan which set out the strategies and actions to be undertaken to address the ML/TF risks identified in the NRA. as the national basis to implement mitigating controls against the ML/TF risks identified in the NRA. The key components of the Strategy and the Action Plan are continuous review of the AML/CFT framework, increased resources allocation and capacity-building programmes across the spectrum informed by a risk-based approach based on up-to-date NRA. The authorities were in the early stage of implementing policies and programmes based on the Strategy and Action Plan at national level to address the identified ML/TF risks in the NRA. Overall, the Treasury is responsible for AML/CFT policy setting and coordination in the country. The NTF AML/CFT is in charge of coordinating implementation of the NRA findings to mitigate the ML/TF risks. As the secretariat of the NTF, the BUPSM Unit is charged with the responsibility for

coordinating inputs to update the NRA and monitor implementation of mitigating controls by the different stakeholders.

118. As a starting point, the authorities organised a workshop and presented the findings to a large number of key AML/CFT stakeholders from both the public and private sectors. The assessors noted that there were some FIs and DNFBPs met during the on-site visit which were not aware of the NRA and its findings. The key challenge for Zimbabwe is the low resource capacity in all key public sector institutions. At the time of the on-site visit, there were no institution-specific strategies including dedicated internal units as well as specific systems, procedures and processes to address the ML/TF risks taking into account the risks identified in the NRA.

119. To address the institutional capacity concerns, Zimbabwe has secured a three-year institutional capacity-building programme from the UNODC, which includes creation of a Recovered Asset Fund and an Asset Forfeiture Unit pursuant to the MLPC Act.

*c) Exemptions, enhanced and simplified measures*

120. Zimbabwe has financial services it considers as 'financial inclusion' products based on a guideline and two Directives issued to FIs by the BUPSM Unit to promote financial inclusion in the country. This has led to introduction of financial products by banks which include low transactions or monthly account maintenance fees. The authorities intend to use the findings of the NRA to review the current reduced CDD measures with a view to continue promoting financial inclusion.

*d) Objectives and activities of competent authorities*

121. Due to the recent nature of the NRA results, there has not been any significant change to the objectives and activities of the competent authorities to address the identified risks in the NRA. In its 2015-2018 AML/CFT Strategy the authorities require competent authorities to align their objectives and actions consistent with the NRA findings, and seek to increase capacity to properly address the identified risks at a national level. The assessment team concluded that it is too early to make any informed conclusion on how well the measures will be implemented as well as their impact on the identified risks.

*e) National coordination and cooperation*

122. In general, the authorities in Zimbabwe have a working framework for AML/CFT coordination and cooperation. There is a multi-disciplinary NTF on AML/CFT which is in charge of all policy and coordination at a national level. This was further strengthened by the enhanced monitoring of the FATF-ICRG, and, most recently, the successful completion of the NRA.

123. Competent supervisory bodies, led by the BUPSMML Unit, have signed MoUs to coordinate and cooperate on actions to ensure compliance with the AML/CFT requirements pursuant to s.3 of the MLPC Act. The competent supervisory bodies particularly within the RBZ, namely, Banking Supervision Division (banks and micro-finance lenders), the Exchange Control (bureau de change and ADLAS) and the National Payment Systems (MVTs) cooperate and exchange information with the BUPSMML Unit and with each other in relation to prudential and AML/CFT supervision actions including sharing information before and after inspections. The BUPSMML Unit provides assistance including mentoring financial sector regulators to set up internal supervisory capacity.
124. Although it is not very common in Zimbabwe for LEAs to sign MoUs with each other to coordinate and cooperate on criminal matters, there were no operational overlaps or conflicts which were observed, as each LEA understood its mandate and role as well as that of the other LEAs. In terms of the MLCP Act, all other LEAs must refer potential ML cases identified by them to the Police as the designated competent authority to investigate the cases. The CID is the police unit within which the Serious Fraud Squad (SFS) is established as the dedicated unit responsible for investigating the ML cases. The Law and Order Unit within the CID investigates TF cases.
125. The assessors were advised that Zimbabwe followed a prosecution-led investigation strategy in which the NPA gets involved from the beginning of the case to guide evidence-gathering. According to the authorities, this approach applied to all criminal cases, particularly financial crimes cases. There was no evidence provided to the assessors to demonstrate instances where the prosecution-led approach was applied by the NPA working together with the LEAs on ML/TF cases.
126. A major concern noted by the assessors related to the lack of information on the number of referrals to the SFS made by the other LEAs which led to ML investigation and submitted to the NPA for consideration. Moreover, there was no feedback mechanism in place between the other LEAs and the SFS of the Police on the number of referrals made by the former which led to ML investigations. While there is cooperation between the BUPSMML Unit and the SFS, there is no feedback to the former on the results of referrals made.
127. It was, however, unclear to the assessment team on the number and type of ML cases which were investigated as a result of the different coordination and cooperation between the competent authorities. The authorities have provided statistics on the number of requests for information and responses made to the supervisory bodies and the LEAs. However, there is no information on the purpose of the requests and the usefulness of the information provided by the BUPSMML Unit. There is limited or no coordination and cooperation at operational level in relation to ML. The authorities demonstrated through

a case how coordination and cooperation was undertaken by the Police, the FIU, the Security Services and the NPO regulator during an investigation of a suspected TF activity by an NPO.

128. There are concerns arising from prohibition by tax laws for ZIMRA to share tax information with other competent authorities. The NRA has identified tax crimes as one of the top five predicate offences posing high risks for ML, and, therefore, there is an urgent need to address this legal barrier.
129. It is too early for the NRA to have had any meaningful and practical implementation impact to strengthen cooperation and coordination nationally to curb the identified ML/TF risks.

*f) Private sector's awareness of risks*

130. The private sector, most notably the FIs, the DNFBPs and their associations actively participated in the NRA. Once completed the authorities launched the NRA to share its findings with some of the private sector entities. The private sector awareness of the risks is mixed. Generally, the large-sized banks and FIs affiliated to international financial groups are more aware of the risks identified in the NRA (in addition to their own ML/TF risk assessments) than the small to medium FIs.
131. However, due to the recent nature of the NRA, some entities in the private sector are aware of the identified risks only. The entities were yet to develop an understanding of the identified risks. As already indicated, there were some few private sector institutions with a fairly good understanding of risks derived prior to the NRA. These included the large banks and foreign-owned or controlled banks which already had internal ML/TF risk assessments, as required under their respective Group AML/CFT Policy framework.
132. Although generally the FIs have a clear awareness of the predicate offences generating the most illicit proceeds and, to a lesser extent, which vulnerable sectors, they have on various occasions shown uncertainty on how to apply mitigating control measures. They informed the assessment team of their need for adequate ML/TF risk guidances, preferably on a sector basis, to enable them to gain an understanding on how the specific ML/TF risks posed a danger to their own business operations.
133. The DNFBP sector has no understanding of the ML/TF risks except for the generic view of how criminals may target them to generate or launder proceeds. The DNFBPs indicated the need for assistance to enhance their understanding of the ML/TF risks and then apply the necessary mitigating measures.

134. The NRA did not provide for a sectoral breakdown of TF risks. The assessors noted however, that the private sector had a sound appreciation of their inherent risk assessments. As a result, they have put in place measures that are commensurate with those risks.

*g) Overall conclusions on Immediate Outcome 1*

135. The completion of the NRA represents a milestone to the authorities not only to identify and assess risks but most importantly to build a common understanding of the identified risks, and apply mitigating controls commensurate to the risks. Despite the concerns raised earlier on the data and information challenges, the assessment team concluded that that the results of the NRA could be used as the basis for the authorities, the FIs and the DNFBPs to begin having a process of developing a common understanding of the ML/TF risks, develop application of risk-based approach to mitigate the risks, and review the risks as and when emerging risks appear.

136. Since the NRA was completed a few weeks before the on-site visit, it is not possible to test its effectiveness.

137. The authorities should as a matter of urgency to take necessary steps to roll-out the NRA, the AML/CFT Strategy and the Detailed Action Plan for competent authorities, the FIs and the DNFBPs to develop and apply appropriate control measures consistent with their risk profiles. When reviewing the NRA, the authorities should take into account the sectors in which they carried out limited risk assessment such as on TF and where no risk assessment was carried such as on legal persons and arrangements to ensure that the scope of the NRA is adequate.

138. **Zimbabwe has achieved a low level of effectiveness for Immediate Outcome 1.**

### 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

#### 3.1 Key Findings and Recommended Actions

139. The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R4 & R29-32.

##### *Key Findings:*

- There is low analytical capacity within the BUPSMML Unit which has affected its capability to produce quality financial intelligence and other information to initiate or support investigations.
- Contrary to the MLPC Act which authorises the BUPSMML Unit to disseminate analysed reports only to the Police, the Unit disseminates to a broad range of LEAs depending on the suspected types of crime for investigation purposes.
- There is no specialised training of investigators within LEAs to conduct parallel financial investigations essential to identify and investigate ML cases consistent with the risk profile in the country. There is no evidence of use of financial intelligence or information by the LEAs either to develop or support (including requesting information) ML investigations.
- The BUPSMML Unit has access to a wide range of publicly-held databases to enhance the quality of analysis of the reports received. There is statutory prohibition on access to tax-related information held by ZIMRA despite tax crimes being identified in the NRA as posing high-risk of ML. In addition, the BUSPML Unit can request cross-border currency and BNI information from ZIMRA to perform analysis.
- The BUPSMML Unit has good physical security benefiting from being located at the Reserve Bank of Zimbabwe. However, the current ICT system which is part of the Reserve Bank of Zimbabwe exposes the information held by the BUPSMML Unit to unauthorised access by the staff of the Reserve Bank. Further, the manner in which receipt of STRs from reporting entities (both manual and electronic means) and dissemination of analysed reports to law enforcement agencies (manual only) is done, exposes access to (and use of) the information by unauthorised persons.
- There is no feedback provided to FIs and DNFBBPs on STRs filed and on the use of the financial intelligence and other information by LEAs. The BUPSMML Unit provides acknowledgement of receipt only, which is far below what reporting entities should receive under the Standards.
- There is no evidence of the law enforcement agencies requesting of financial intelligence

and other information from the BUPSMU Unit to use in support of or initiate investigations. This might be an indication that the LEAs are not using financial intelligence and other information from the BUPSMU Unit to identify and investigate ML cases.

***Recommended Actions:***

Zimbabwe should take the following actions:

- The authorities should amend the MLPC Act to provide for a broad range of LEAs to which the BUPSMU Unit must disseminate financial intelligence and other information and not just to the Police.
- The authorities should take necessary steps including legislative review to enhance operational independence of the BUPSMU Unit and should ensure that the Unit has adequate data protection systems and procedures in place to safeguard the information in its possession.
- There is an urgent need for the authorities to provide adequate analytical resources in the form of skilled personnel and analysis software, and training of personnel to enable the BUPSMU Unit to generate quality financial intelligence and other relevant information needed to initiate ML/TF investigations or support operational needs of the LEAs.
- The BUPSMU Unit should have direct access to cross-border currency and BNI information held by ZIMRA necessary to conduct analysis using different sources of information including from STRs, CTRs and Cash Returns.
- The authorities should enhance the expertise of the LEAs in the use of financial intelligence and other relevant information to initiate or support ML/TF investigations.

140. The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R4 & R29-32.

***3.2 Immediate Outcome 6 (Financial intelligence ML/TF)***

141. This Immediate Outcome relates to both money laundering and the financing of terrorism. Assessors should note any issues which relate specifically to either ML or TF.

a) *Use of financial intelligence and other information*

142. Under the MLPC Act the Police is the only competent authority to which the BUPSMML Unit is legally authorised to disseminate financial intelligence and other relevant information, but in practice the Unit disseminates to other law enforcement agencies depending on the type of predicate offence involved. The Police has the legal basis to conduct investigation of all ML/TF cases. The other LEAs must only conduct initial financial investigations, and refer potential cases of ML (Serious Fraud Squad of the Criminal Investigation Department) and TF (Law and Order Unit) to the Police. In addition, any TF case is also sent to the Counter-Terrorism Unit of the National Intelligence Service.
143. The BUPSMML Unit has legal basis to access information held by public institutions in Zimbabwe. However, the information due to its nature, the way it is stored and provided is generally insufficient to add value to analysis and investigations done. For instance, the Registrars of Companies and of Deeds do not obtain and maintain sufficient beneficial ownership information on legal persons and arrangements. There appears to be good quality information available held by the Motor Vehicle Registry and the Police for identity verification and ownership and for criminal records respectively.
144. The BUPSMML Unit and the LEAs raised concerns regarding difficulties often encountered to access tax information at ZIMRA due to statutory confidentiality restrictions on sharing of tax-payers information. It is not clear if the law provides for a mechanism that allows for the tax information under specific circumstances to be shared and how often the BUPSMML Unit and the LEAs have used it, especially as tax crimes are regarded as high-risk for ML. The authorities indicated that in some circumstances permission to access tax information has been granted after the involvement of high-level officials of the relevant competent authorities.

Access to Information by BUPSMML Unit

<b>Public Entities</b>			
<b>Source of information</b>	<b>Database</b>	<b>Use of information</b>	<b>Access Time</b>
Motor vehicle registry	Automated	verification of ownership & address	24 hours
Registrar General's Office (Population Registry)	Automated	- identity verification place of origin of suspects for purposes of tracking whereabouts	24 hours
Registrar of Deeds	semi-automated	property ownership	24 hours
Registrar of Companies	semi-automated	company shareholding & directorship info	24 hours

Courts	Manual	court case & outcome information	- instant access <sup>6</sup>
Police (Criminal Investigations Dept.)	semi-automated	criminal records of subject links to on-going police investigation	2 to 5 working days
Immigration	Automated	- establishing travel records of subjects	24 hours
<b>Privately-owned (commercial) database</b>			
<b>Source of info</b>	<b>Database</b>	<b>Use of info</b>	<b>Access Time</b>
Financial Clearing Bureau	Automated	- checking criminal records and subjects location	Instant / online
Mobile telecommunications operators	Automated	- tracing criminal links through call records	24 hours

145. In addition, there is access to different open sources of information obtained through, but not limited to, the internet and newspapers.

146. The BUPSMML Unit has no direct access to cross-border cash and BNI declaration/disclosure data, as a major source to generate financial intelligence and other relevant information to assist the LEAs to identify potential cases of ML and TF particularly in respect of smuggling including cash, precious stones and metals and cigarettes. The BUPSMML Unit can access this information upon request. These crimes are regarded as main proceed generating predicate offences in the NRA. These crimes have been identified by the NRA as major contributors to proceeds that end up being smuggled into Zimbabwe.

*b) STRs received and requested by competent authorities*

147. The BUPSMML Unit is the central agency with the legal mandate to receive (including requesting and receiving additional information) suspicious transactions information from FIs and the DNFBPs related to proceeds of crime, ML and TF (s.35 MLPC Act). This position is well-understood and applied by all stakeholders including the LEAs and the reporting institutions. The FIU receives financial information from three sources, namely, STRs, CTRs, and Weekly Cash Returns. Since inception, the total number of STRs received are overwhelmingly from commercial banks. Discussions with the reporting institutions revealed that the FIs, particularly banks, have a better understanding of what constitutes 'suspicion' for purposes of filing an STR. The situation with the other FIs particularly insurance and MTAs is only emerging in recent months, as evidenced by some reports beginning to trickle in. Further, some of the FIs, in particular banks, have

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<sup>6</sup> Access upon visiting court stations

internal electronic filtering systems to review potential STRs quality before filing with the BUPSMML Unit.

148. A major concern is the glaring absence of STRs from the DNFBPs especially from precious stones dealers (a high risk for ML). The real estate sector (another high-risk area for ML) begun filing STRs (3 in July 2015) after the BUPSMML Unit issued a Directive specific to the sector.
149. The BUPSMML Unit sends as feedback acknowledgement of receipt for every STR received and a notification for every referral sent out to LEAs to a reporting institution. There is however no feedback to the reporting institutions on the quality and usefulness of the STRs information, as the BUPSMML Unit itself does not receive any feedback from the Police and the other LEA. The BUPSMML Unit has issued typologies in relation to the abuse of personal accounts by senior management of companies to move funds to foreign jurisdictions illegally.
150. Since the 1<sup>st</sup> of July 2015, the BUPSMML Unit started receiving Cash Threshold Reports (CTRs) after issuing a Directive<sup>7</sup>. Since the Directive was issued just two weeks before the on-site visit, the assessment team could not determine the level of implementation but suffice to indicate that the reporting institutions especially the FIs were well aware of the 'standard of proof' required (factual rather than suspicion) to file a CTR. Previously, reporting institutions submitted returns on Real Time Gross Settlement (RTGS) transactions and electronic funds transfer reports on a weekly basis. As with STRs, the banks submitted the most returns.. The BUPSMML Unit receives CTRs of USD 5, 000 or more pursuant to a Directive issued to reporting institutions on deposits, withdrawals, and payments. Currently, only banks submit CTRs on a weekly basis (on materiality of transactions), and the other FIs and DNFBPs (less volumes) make submissions on a monthly basis.
151. According to the BUPSMML Unit, it also obtains information as a result of requests it makes to reporting institutions, a) independent of an STR, and b) additional information arising from an STR. However, the BUPSMML Unit does not keep statistics in both cases, and, therefore, effectiveness could not be determined.

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<sup>7</sup> No 01/06/2015 (*Requirement for Cash Transaction Reports for Financial Institutions and Designated Non-Financial Businesses and Professionals*) (ss. 30(6) MLPC Act).

152. The BUPSMML Unit uses the CTRs (in force since July 2015) and other reports to carry out analysis of trends and typologies to identify emerging risks. This has resulted in STRs being filed, the so-called 'self-generated STRs', or request for additional information for further analysis by the BUPSMML Unit. The authorities provided two typology bulletins issued in 2015, one on fraud committed through mobile money transfer services, and, the other, on the use of personal accounts by senior management of legal persons to conduct business transactions to avoid paying tax .

c) *FIU analysis and dissemination*

153. The BUPSMML Unit has a basic analytical capacity for analysis of reports. There is currently no sophisticated analytical software. According to the BUPSMML Unit, installation of go-AML Software is at an advanced stage. The Unit uses normal Microsoft Packages for data capturing and analysis. The STRs are received either manually (hand-delivered by a reporting institution) or electronically (unsecured dedicated email address) by the Personal Assistant to the Director for recording in a specific book. Thereafter the Director assigns either to the Analysis Department or Investigation Department. There is a small number of personnel to analyse the growing number of STRs and other reports since 2012. The assessors were concerned that this posed a potential for human error data capturing and that it may undermine the quality of reports analysed and ultimately disseminated.

154. In general, the BUPSMML Unit conducts analysis in two phases. The first involves receipt of STRs by the Analysis Department, which comprises a manager and two analysts. It is then manually recorded in the Master Register and an acknowledgement of receipt is sent to the reporting institution. The analysts follow a process set out in the analysis manual to conduct initial screening to identify 'normal STRs' and 'sensitive STRs' through which each report is rated on a scorecard. At this stage, all STRs are checked for basic substance and completeness consistent with the applicable STR form (e.g. description of circumstances that gave rise to the suspicion and factual information such as the identity of the subject, nature of transactions, etc). The report is firstly checked against internal database (i.e., Master Cash Register) to determine any connections that may exist with previous reports, and then access other sources of information referred to previously. The Analyst at this stage files requests for additional information, where necessary, to the reporting institution which filed the STR and to other reporting institutions, even if the STR was not filed by them (s.36 of the MLPC Act). At the end of the initial screening, all reports scoring less than five will undergo a normal analysis process.

155. The second phase of the analysis begins when a report scores a rating of five and above, the report is assigned to the Investigation Department. The Department is headed by a former police officer, with four analysts/investigators, who conduct *pre- investigations*, which include having face-to-face interviews which may involve sensitive subjects (e.g., organised crime or transaction relating to PEPs) to improve the quality of reports disseminated to the LEAs. The Department gathers additional information such as telephone records and shareholding or other assets ownership platforms, to enrich the value of the disseminated reports. There are concerns about the potential for tipping-off the subject arising from conducting the “*pre-investigations*”.
156. The LEAs have a clear understanding of the intelligence nature of the BUPSMIL Unit reports which still require to be turned into evidence through formal investigations for presentation before the courts, if necessary. However, financial intelligence received from the BUPSMIL Unit was not used to investigate or support money laundering cases by law enforcement authorities. This is an indication that financial intelligence is not being used to identify potential money laundering cases, due mainly to lack of expertise to pursue ML cases..

Number of STRs Received and Analysed, 2012-2014

<b>Number of STRs Received and Analysed</b>			
	2012	2013	2014
Received	184	505	487
Analysed	184	505	487
Disseminated	29	32	87

Number of disseminations per agency

<b>Agency</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>July 2015</b>
Police – Serious Fraud Squad	7	12	24	28
Police – Minerals and Border	1	7	5	5
Police – Drugs & Law and Order	0	1	1	2
National intelligence service	5	0	0	1
ZIMRA (all tax matters)	12	12	57	16
ZACC	0	0	0	0
Other	5	0	0	1

157. The ICT system including computing and data storage facilities of the BUPSMIL Unit is on the network of and managed by the ICT department of the RBZ. There are no specific access control measures in place, including having dedicated personnel, in place between

the RBZ and the BUPSM Unit to ensure that only authorised personnel can have access to the information of the BUPSM Unit. The manner in which the information of the BUPSM Unit is stored as well as lack of control over access of the information from the staff of the RBZ has resulted in unauthorised access to the information.

*d) Cooperation and exchange of information*

158. The interaction between the BUPSM Unit and the LEAs is largely limited to dissemination of financial intelligence and within the formal AML/CFT coordination structures such as the NTF on AML/CFT. The BUPSM Unit has exchanges of financial intelligence on gold and fraud related crimes with the specialised units of the Police. There is more effort required with the ZIMRA, since tax crimes are high-risk for ML. There is no feedback mechanism from the LEAs to the BUPSM Unit on the usefulness of the financial intelligence provided to either initiate or support financial investigations and ML/TF cases. Such feedback has potential to improve the quality and the relevance of the financial intelligence disseminated to the LEAs and ultimately the reports filed by the reporting institutions. There are no explicit mechanisms to secure and protect the information exchanged between the BUPSM Unit and the LEAs.

*e) Resources*

159. There are major resources constraints, particularly in respect of IT analytical solutions and analysis staff. There are only two dedicated analysts, who are supplemented by investigators and compliance officers to perform analysis of all types of reports in the BUPSM Unit. This is further compounded by the fact that the BUPSM Unit uses the same personnel to carry out its supervisory functions. The resources aspect affected the rigour of analysis, quality and usefulness of the reports disseminated to initiate or support ML/TF investigations.

*f) Overall conclusions on Immediate Outcome 6*

160. Although in existence for nearly a decade, the BUPSM Unit has low resources capacity (human, financial and technical) to enable it to properly carry out its core functions. There is no information to determine the quality of financial intelligence and its usefulness to initiate or support investigations for ML and TF and associated predicate offences, making it difficult to assess effectiveness. The BUPSM Unit and the LEAs have varied access to external sources of information, which they use to augment the value of financial intelligence and other information necessary to identify potential cases of ML and TF and the associated predicate crimes. The BUPSM Unit can access, upon request,

access cross-border currency and BNI information held by ZIMRA to augment its analysis

161. **Overall, Zimbabwe has achieved a low level of effectiveness for Immediate Outcome 6.**

### ***3.3 Immediate Outcome 7 (ML investigation and prosecution)***

#### ***Key Findings:***

- The CID is not technically equipped in terms of skills to conduct parallel financial investigations, and identify and investigate ML cases. The other investigative agencies also have low capacity to conduct parallel financial investigations, and identify ML cases.
- The CID has no feedback mechanism to inform the BUPSM Unit and the investigative agencies about the progress made on potential ML cases referred to it.
- The ZACC is not carrying out its mandate to investigate corruption cases due to several constraints including absence of statutory appointments of Commissioners necessary to institute investigations and acute lack of resources (human, financial and technical) in general.
- The NPA does not have adequate capacity and expertise to guide investigations and prosecutions of ML cases.
- There is no credible, reliable and comprehensive statistics on the number of types of ML investigations and prosecution, and therefore effectiveness cannot be determined.
- In the absence of data or information on ML convictions, effectiveness of the sanctions cannot be tested.

#### ***Recommended Actions:***

Zimbabwe should take the following actions:

- Provide adequate capacity (human, financial and technical resources) to the CID, other law enforcement agencies, to enable them to effectively use financial intelligence and appreciate other information to initiate or support parallel financial investigations, and ML investigations and prosecutions.
- The authorities need to pay more attention to the problems affecting the proper functioning of the ZACC so that it can properly implement its mandate including initiating parallel financial investigations where necessary.
- The NPA should be capacitated to enable it to properly guide investigations and prosecutions on ML cases.
- The magistrates and judges should be exposed to more cases of ML and there should be capacity building initiatives on ML for the judiciary.
- The CID must design and implement a feedback mechanism to notify the BUPSM

Unit and other investigative agencies on the status of potential ML cases referred by them to CID. This is necessary action as it will promote better utilisation of financial intelligence and prioritisation of investigations.

- The LEAs should have proper mechanisms and trained personnel to maintain statistics and other necessary information on predicate offences, initiated parallel financial and ML investigations carried out and still under way in their respective sectors.
- The NPA should also maintain proper detailed statistics on all predicate offences and ML cases brought to them by the different LEAs for consideration and eventual prosecution. The cases finalised and the sanctions applied by the Courts.

*a) ML identification and investigation*

162. Nationally, there is low capacity in the Police and other LEAs to conduct parallel financial investigations and ML investigations. As a result, there is more focus on investigations of predicate crimes with the element of furthering the investigation to identify potential ML cases still missing in the majority of cases (i.e., there is no ‘following the money’ approach to investigation of predicate offences). The authorities indicated that they were still familiarising themselves with the recently broadened scope of ML under the MLPC Act. In practice, investigation of ML cases had occurred in very few cases, which were eventually successfully prosecuted<sup>8</sup>. At the time of the on-site visit, the authorities submitted three cases of ML which were before the courts and four cases involving fraud, corruption and theft, which were still under investigation.
163. Despite the capacity constraints, the CID, the other LEAs and the NPA adopted a prosecution-led investigation approach to all financial crimes since the MLPC Act came into force. In this regard, a prosecutor is always assigned to the investigators to assist in evidence-gathering throughout the life-span of a case. This approach has the potential to enhance cooperation among the investigative authorities and the prosecution office, and will contribute to efficient use of scarce resources. However, the approach is yet to be applied on ML cases.

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<sup>8</sup> S vs Mambo 1995 (1) ZLR 50 (SC); S vs Wickneil Chivhayo\_ Judgment No. SC. 94/05, [REPORTABLE ZLR (78)].

164. The ZACC which is a constitutional institution responsible for investigation of corruption cases was not fully operational at the time of the on-site visit. The authorities explained to the assessors that amongst others there was lack of adequate funding which had significantly reduced the ZACC staff compliment to below the approved staff numbers. At the time of the on-site visit, only 32 percent of the approved staff establishment were in post. The view of the authorities is that the fact that the ZACC officers fall within civil servants category, this exposed them to potential corruption.
165. Further, ZACC did not have funding for witness protection, which is crucial in big corruption cases, as well as a whistle-blower fund. Due to resource constraints, the offices were not decentralised but only located in Harare. It was further indicated to the assessors that ZACC had not undertaken any investigations since September 2013, as Commissioners who were supposed to authorise investigations had not been appointed as required by the Anti-Corruption Commission Act. Corruption cases were referred to the Police for investigation, but there was with little or no feedback provided to the ZACC. A The assessors were informed that in the past, corruption cases were vetted by the legal department in the ZACC before they were referred to the Police.
166. Furthermore, the authorities indicated that there was need to align laws on powers to conduct investigations in relation to the Police, the ZACC and the new Constitution, as currently only the Police have the authority to submit potential cases to NPA for consideration. The ZACC is of the view since they are not by law allowed to refer cases directly to the NPA, this impacted negatively on their operational independence and effectiveness No specialised investigative techniques had been used in corruption cases by the ZACC or any other investigating authority.
167. The CID within the Police and the other LEAs informed the assessors that they used financial intelligence from the BUPSMU Unit; informants; other forms of intelligence; whistle-blowers and the general public as primary sources of identification and investigations of financial crimes such as ML for investigations.. Besides the reports provided by the BUPSMU Unit, there was no evidence provided to the assessment team on the use of the other sources of information to identify and investigate ML cases.

Number of investigations involving ML

Year	2011-12	2013	2014	2015 July
Sources of STRs	0	4	4	2

that have triggered ML investigations	Information collected by Investigative agencies from other sources	0	4	5	25
Total		0	8	9	27

168. The table above shows that since 2012 the CID and the other LEAs had started begun use financial intelligence from the BUPSMU Unit to identify and investigate ML cases. The table further shows that the LEAs had identified and investigated ML cases on their own without relying on financial intelligence from the BUPSMU Unit. It was, however, not clear to the assessment team whether the reports from the BUPSMU Unit were used by the Police to initiate or support ML investigations, or which other LEA had initiated investigated and referred ML cases to the Police and which associated predicate crime was involved. The CID does not have a feedback mechanism and therefore does not provide feedback on investigations referred to it by the other LEAs, and does not keep statistics of such kind of cases.

*b) Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies*

169. Zimbabwe issued a new National AML/CFT strategy in July 2015 as a blue-print for coordination and implementation of investigation and prosecution strategies against ML and associated predicate crimes based on the findings of the NRA. As already highlighted under IO.1, a substantial share of illicit proceeds in Zimbabwe are generated mostly through five main predicate offences. Although, the NRA estimated that 16 predicate crimes generated around USD1.8 billion in 2013, there was no reliable data and information on ML investigations and prosecutions (including tracing and confiscation of illicit proceeds) conducted which involved the five major predicate crimes.

170. Through discussions with the CID and the other LEAs and information from the NRA findings, the assessment team identified that a large portion of the illicit proceeds find their way into the banking sector, illegal MVTS, real estate sector, gold dealers and MVTS – a conclusion which is based on materiality and weaknesses in the implementation of AML/CFT mitigating measures. The assessment team received case examples showing successful investigations arising from use of financial intelligence from the BUPSMU Unit regarding abuse of the banking sector by foreign nationals attempting to move (i.e., externalise) proceeds of illegal gold offshore. It is, however, not clear to the assessment

team as to the number of ML investigations (and subsequent prosecutions by the NPA) undertaken by the CID involving the five major predicate crimes necessary to identify ML cases.

171. In order for Zimbabwe to properly identify and investigate ML cases consistent with its national ML/TF risk profile set out in the NRA, the capacity of LEAs should be strengthened through provision of sufficient budget, trained and skilled personnel and technical equipment necessary to combat priority crimes.

*c) Types of ML cases pursued*

172. Zimbabwe only recently started developing interest in pursuing prosecution of ML cases. Based on the results of the NRA, most of the proceeds being laundered in their various forms in Zimbabwe are generated from local predicate offences. In particular, the proceeds are from illegal trade in precious stones and other minerals which cover transactions from both local and foreign proceeds laundered. However, ML investigations and prosecutions cases were limited, which generally showed that the authorities do not pursue ML cases.
173. The MLPC Act provides for, a) different types of ML, b) wide-range of powers for the CID and investigative agencies to pursue investigation of ML cases, and c) designates the National Prosecuting Authority (NPA) as the competent authority for prosecution of ML cases. The assessment team noted that, in theory, the CID, the other investigative agencies and the NPA understand these different types of ML, namely, self-laundering, third-party laundering, stand-alone ML offence, and their respective powers under the new law. There is a general concern, however, about the inadequate capacity including specialised prosecutorial expertise to guide investigations and prosecute different types of ML cases.
174. Although the NPA had previously under the Serious Offences Act (Confiscation of Profits), which was repealed, pursued a few ML cases, it had started to apply the ML offences under the MLPC Act only in the last two years, as it considers the ML offences recent in nature to have developed sufficient expertise to apply them. At the time of the on-site visit, there were three cases of ML under the MLPC Act before the High Court at different stages of prosecution<sup>9</sup>. The NPA also made reference to a ML case which was on appeal before the Supreme Court of Appeal, after the defendant appealed against his conviction by a lower court. The authorities regard the appeal case as a “test case” for correct application of the ML offence under the MLPC Act. The assessment team was not

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<sup>9</sup> Details of the cases were provided to the prosecutors but could not be cited as the trials were not yet finalised.

provided with information on the type of ML charges which were being faced by the appellant in the case and whether the case had originated from the financial intelligence provided by the BUPMSL or investigation by an investigative agency.

175. The NPA expressed the need to capacitate the judiciary to enable them to have an interest in ML cases. Already the Ministry of Justice has a Strategic Plan to provide specialised ML training to judges and magistrates as well as creating a library of ML jurisprudence from other jurisdictions with similar legal system as in Zimbabwe.

*d) Effectiveness, proportionality and dissuasiveness of sanctions and use of other criminal justice measures*

176. There are no completed ML cases under the new MLPC Act to determine the effectiveness of the available sanctions. In the absence of any concluded ML cases, the assessment team could not definitively determine the application of the ML sanctions under the MLPC Act. Furthermore, the authorities had not applied other criminal justice measures in respect of possible ML cases particularly as they are in the early stages of focusing on ML cases in place of predicate offences.

*e) Overall conclusions on Immediate Outcome 7*

177. In general, LEAs are yet to actively pursue ML cases to implement the MLPC Act. The general approach is to focus on the investigation of predicate crimes even though the expanded scope of ML offences under the MLPC Act provides the LEAs with adequate powers to pursue the widest range of ML offences.
178. The ZACC is almost non-functional. There is lack of adequate expertise to properly guide ML investigations and prosecutions in the office of the NPA. The LEAs require more training in investigating different types of ML cases and to effectively use financial intelligence from the BUPMSL Unit to initiate or support parallel financial investigations and ML investigations. The NPA still needs more training in conducting prosecution led investigations in order to properly compliment the ML investigation efforts being made by LEAs. Despite the capacity challenges, there were three ML cases under the MLPC Act pending in the High Court of Zimbabwe which indicated that the authorities had started to apply the ML offences under the same Act. There is no feedback mechanism by the CID to other law enforcement agencies and the BUPMSL Unit on the progress of ML cases referred to it.
179. **Zimbabwe has achieved a low level of effectiveness for Immediate Outcome 7.**

### 3.4 Immediate Outcome 8 (Confiscation)

#### **Key Findings:**

- The Zimbabwe does not prioritise confiscation of proceeds in any form as a policy objective at a national level. As a consequence, there is a lack of clearly-defined strategy, procedures and supporting information to demonstrate actions, whether past or present, of the Attorney-General's Office, the NPA, Serious Fraud and Economic Crimes Unit of the Criminal Investigation Department in the Zimbabwe Republic Police on freezing and confiscation.
- Zimbabwe is in the process of establishing a dedicated asset forfeiture unit to promote and coordinate confiscation measures on proceeds pursuant to the MLPC Act.
- There are inadequate resources (expertise, financial and technical resources) in the entire value-chain linking investigators, prosecutors, magistrates and judges to implement the broad freezing and confiscation measures.
- There is a general lack of cases dealing with confiscation of proceeds of crime brought before the courts.
- There are no credible, reliable and comprehensive statistics or qualitative information on seizure and confiscation throughout the value-chain (from the BUPSM Unit to the magistrate/judges, and the management of the recovered asset funds at the RBZ) essential to review the systems and improve effectiveness.
- ZIMRA obtains disclosure information, however, in practice, it does not provide access to the information to the BUPSM Unit.

#### **Recommended Actions:**

Zimbabwe should take the following actions:

- As a matter of urgency finalise the on-going actions to set up a dedicated asset forfeiture unit and ensure that it is properly funded and well-resourced to acquire competent personnel and technical capabilities.
- Take into account the findings of the NRA as the basis to develop and implement a nationally coordinated confiscation policy and strategy.
- Implement (and where necessary, seek external technical sponsor) comprehensive capacity-building programmes, targeting the BUPSM Unit, the specialised units of the CID specifically the Serious Fraud Squad and the Economic Crimes Unit, Customs, prosecutors and judges so as to develop a common understanding of the confiscation and provisional measures in the MLPC Act and enhance training.
- Aggressively pursue freezing and confiscation of proceeds of crime, ML and TF irrespective of the country of origin or destination, and commensurate to Zimbabwe's risk profile.
- Gather, keep and maintain statistics and other qualitative information on confiscation and provisional measures through-out the value-chain to enable the authorities and other concerned parties to review the effectiveness of the system to deprive criminals of the ill-gotten gains.

*a) Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective*

180. In general, Zimbabwe has sound legal framework for provisional and confiscation measures related to ML, TF and associated predicate crimes. The CID is responsible for the identification and the seizure of proceeds of crime. A major concern is the lack of necessary expertise and other resources to implement the measures on freezing and confiscation of proceeds of crime. As already discussed under IO.7, the focus of the CID and other investigative agencies is on parallel financial investigations to identify illegal property subject to confiscation measures. At the time of the on-site visit, a dedicated asset forfeiture unit was being set-up. The current process is that the NPA applied to the courts for an order of the court to freeze and confiscate proceeds of crime under the MLPC Act. In the absence of statistics or information on the actual number or values of confiscations deposited into Asset Recovery Fund at the AG's Office, the assessment team could not determine the number/value of confiscation court orders against the actual amounts confiscated and deposited into the Fund, and ultimately the management of the Fund. The Fund is held at the RBZ on behalf of the Minister of Finance.
181. With the enactment of the MLPC Act, the authorities indicated that the Prosecutor General had started to make civil forfeiture applications in courts. At the time of the on-site visit, the authorities provided a case example where one of the parties had used immovable property which was subject of a court order to register a mortgage bond in favour of another party against a debt which had been incurred with the knowledge of the existing court order<sup>10</sup>. Apart from this case, there were no other indications that the authorities pursue, as a policy objective, confiscation of proceeds and instrumentalities of crime.
182. The NRA shows that in the period 2013, there were criminal proceeds amounting to USD335,777,325.00 of which property or assets amounting to USD60,854,953.00 were confiscated, translating to about 18% of the value of the proceeds<sup>11</sup>. The authorities indicated that the proceeds confiscated included: property taken from the unlawful ownership of the accused and restored to the rightful owner, or forfeited to the State, or destroyed pursuant to a court order in terms of the country's laws.

*b) Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad*

183. The authorities do not have consistent, reliable and comprehensive data and qualitative information (case examples) regarding confiscations or freezing of associated proceeds

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10 Prosecutor General vs Choga & Others (HC 3471/14)(2015) ZWHHC 255.

11 Table at pg. 28 of the NRA Report

regardless of origin or destination. The only available confiscation information was for 2013. Although the NPA was in charge of obtaining confiscation court orders, there does not appear to be coordination on actions taken by the CID and investigative authorities on property subject to freezing and confiscation measures.

184. The authorities provided confiscation statistics relating to sixteen different predicate crimes, as demonstrated below, prosecuted during 2013 which were also listed in the NRA report. As indicated above, there were no statistics for any other period. Due to the poor details in the statistics provided and that they only related to one year, it was impossible for the assessment team to conduct trend analysis and to determine how well the authorities were pursuing confiscation of proceeds of crime, regardless of the country of origin.
185. The authorities provided case examples, largely, relating to precious stones and metals and motor vehicles in which they traced and confiscated illegal property, with foreign connections, namely, to South Africa (traced assets belonging to a syndicate involved in the smuggling of precious stones and precious metals on the request of South Africa. No details on the outcomes of the request were provided), Israel (involved in diamond smuggling using an airplane, which was later repatriated to South Africa), United Kingdom (three cars confiscated on UK's request and given to Zimbabwean's LEAs), Malawi (repatriated a motor vehicle) and Botswana (repatriated two cars and unidentified goods). Further, the authorities confiscated as an instrumentality to commit an offence, a motor vehicle which was used to smuggle gold.

*c) Confiscation of falsely or undeclared cross-border transportation of currency/BNI*

186. The legal framework in Zimbabwe to implement cross-border currency and BNI requirements appears sound but there are no statistics or case examples to demonstrate implementation and effectiveness. Travellers leaving or entering Zimbabwe are allowed to take with them foreign currencies of up to USD 5,000.00 and any excess currency (whether legal or not) is subject to confiscation. The Exchange Control Act prohibits the exportation of cash, with a value higher than USD 5,000.00, and ZIMRA officials are required to confiscate any cash above the prescribed limit.
187. Competent authorities closely work together by coordinating their respective powers to curb and confiscate falsely or undeclared cross-border currency and BNI. The NRA and the discussions held with the BUPSMU Unit and the law enforcement agencies indicated that due to the multi-currency system, there had been a significant increase in offences relating to false declaration and smuggling of currency into and out of Zimbabwe. The authorities, especially Customs indicated that they regularly coordinate and collaborate with their counterparts in the neighbouring countries in joint exercises and exchange of

information to apprehend offenders, and seize and confiscate cash and other monetary instruments. There were no statistics on seizures or confiscation or case examples provided to the assessors, as the authorities do not maintain reliable statistics.

*d) The extent to which confiscation results reflect ML/TF risks and national AML/CTF policies and priorities.*

188. There was no evidence to suggest existence of national policies making confiscation of proceeds of crime in any form, a priority and objective of the country. In addition, the estimated values of proceeds which could not be detected expressed in the NRA report were quite high compared to the actual number of confiscations<sup>12</sup> for the major five predicate offences (smuggling, illegal dealing in precious stones, corruption, fraud and tax crimes). From the major predicate offences highlighted in the NRA report, it was apparent that the authorities were aware of the offences likely to generate proceeds that could be laundered but what the authorities could not demonstrate to the assessors were the policies and strategies which were in place to prioritise these offences as means of mitigating the ML/TF risks associated with them.

*e) Overall conclusions on Immediate Outcome 8*

189. While Zimbabwe has a sound legal framework for freezing and confiscation of criminal property, in general, the implementation of the measures was not being done. This was coupled by the absence of a clearly-defined national policy prioritising confiscation of all types of proceeds of crime and the lack of adequately resourced competent authorities to enable asset tracing and confiscation. There was also poor retention of statistics related to both provisional and confiscation measures taken. Although the major proceed generating offences have been identified there were no measures which were taken to mitigate the ML/TF risks which they posed. Although, the authorities were of the view that the situation would improve, as the process of familiarizing themselves with the provisional and confiscation measures under the MLPC Act continued to permeate through the operational frameworks of the different investigative agencies, this could only work if more test cases were brought before the courts with the intention to confiscate the proceeds concerned.

190. **Zimbabwe has achieved a low level of effectiveness on Immediate Outcome 8.**

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<sup>12</sup> Pages 27-28 of the NRA Report.

## 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### 4.1 Key Findings and Recommended Actions

#### *Key Findings:*

#### **IO.9 – Terrorist Financing**

- Zimbabwe has identified TF as low risk based on internal and external considerations directly impacting on the TF threats in the country. These included that Zimbabwe has a sound CFT legal framework, good cooperation and coordination on TF investigations, inherent risks are well understood by FIs and relevant competent authorities, there has not been incidents of terrorism and its financing in Zimbabwe and generally in the region.
- Zimbabwe has sound legal and institutional framework to identify and investigate TF cases. There is, however an urgent need to improve allocation of resources, in particular, technical expertise to enhance the capacity of competent authorities to handle possible complex TF cases should they arise.
- Although there has not been any TF case in Zimbabwe on which to apply the UNSCRs on freezing of terrorist property, competent authorities and FIs have a good understanding and application of the measures. The DNFBP sector have little or no understanding and implementation of the targeted financials.
- There has been no prosecution of TF cases in Zimbabwe and, as a result, no seizures or confiscations have been made.
- Zimbabwe has not conducted risk assessment of the NPO sector to identify those NPO which are exposed to high risk of TF. In addition no outreach and review of the legislative and/or regulatory framework applicable to this sector have taken place. Although Zimbabwe has measures in place to prevent the NPO sector from being abused to finance terrorism activities, the oversight and monitoring of the NPO sector by the regulator is less developed.
- Zimbabwe has sanctions for commission of TF offences. The sanctions appear proportionate and dissuasive, but effectiveness could not be determined in the absence of a case.

#### **IO.11 – Proliferation Financing**

Zimbabwe does not have in place legal or regulatory framework and institutional capacity to implement the obligations under the UNSCRs on financial sanctions relating to proliferation financing (R.7).

#### *Recommended Actions:*

Zimbabwe should take the following actions:

#### ***IO.9 – TF Investigations***

- There is urgent need for specialised training to the Law and Order Unit of the CID and the Counter-Terrorism Unit of the National Security Service on large and complex parallel financial investigations especially in respect of misuse of legitimate businesses to raise and move funds for TF purposes.
- Provide adequate resources to law enforcement agencies responsible for investigation of TF cases to enhance their investigative capacity particularly technical expertise in respect of complex TF cases.

#### ***IO.10 – Terrorist Financing***

- Conduct risk assessment of the NPO sector to identify high risk NPOs and carry out outreach activities, review the laws, and adequately monitor compliance by the high risk NPOs with applicable mitigating measures.
- Take steps to ensure that the NPO regulator has adequate capacity to supervise and monitor the activities of NPO for any possible abuse for any TF purpose.
- Ensure that all FIs and DNFBPs, irrespective of size and level of sophistication, are aware of, understand, and fully implement the requirements of the SI in respect of the UNSCRs to freeze terrorist property.

#### ***IO.11 – Proliferation Financing***

- Zimbabwe should put in place specific legal and institutional framework for implementation of financial sanctions in respect of financing of proliferation of weapons of mass destruction.

191. The relevant Immediate Outcomes considered and assessed in this chapter are IO9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8

#### ***4.2 Immediate Outcome 9 (TF investigation and prosecution)***

##### *a) Prosecution/conviction of types of TF activity consistency with the country's risk-profile*

192. TF risk is regarded as low in Zimbabwe after considering domestic and external factors including, i) that Zimbabwe is in Southern Africa region which generally has not had terrorism incidents in many years compared to the other parts of the African continent, ii) competent authorities, FIs and, to a lesser extent, DNFBPs understand their inherent TF risks and are able to detect them, iii) framework for implementation of UNSCRs 1267/1373 is sound and no match has been found, iv) NPOs are less vulnerable as shown by one case, which was a “false positive”, identified and investigated, v) only one STR which was “false positive” was filed to date.

193. The Police, in conjunction with national security/intelligence services and the BUPSMML Unit, conducted a joint investigation of an NPO which was suspected of being involved in financing of terrorism. (See IO.10 for more details). The investigation revealed that the funds sent to the NPO were legitimate and used to support lawful community development projects. The case was therefore not forwarded to the NPA for possible prosecution.
194. In addition, competent authorities specifically the NPA demonstrated a good awareness and understanding of the potential risk posed by the multi-currency system and the cash-intensive nature of the economy to businesses to be used to raise or move funds to support terrorist-related activities within and outside of the Zimbabwe. The assessors concluded that so far the TF case investigated appears (no commission of crime was detected and therefore the case was not referred to prosecution) consistent with the country's TF risk profile.

*b) TF identification and investigation*

195. In general, Zimbabwe has a good understanding of TF risks as demonstrated by the joint investigation of an NPO organisation which was based on financial intelligence from the BUPSMML Unit. There has been no terrorism cases in Zimbabwe. The assessors noted that there has only been one TF case identified and investigated in Zimbabwe. The BUPSMML Unit provided financial intelligence from an STR to the Police and national security/intelligence service for investigation. Different competent authorities led by the Police formed a joint investigation team so as to leverage off the different powers and investigative techniques including the BUPSMML Unit to provide further financial information. The joint investigation team successfully established the true identity of the suspected organisation and natural persons involved, the amount and other related transaction, mode of transfer of funds and some foreign links or association with organisations or individuals engaged in similar work in another jurisdiction. The authorities advised on their awareness of the high significance attached to terrorism and TF cases such that any suspicion or knowledge formed should immediately be reported to relevant competent authorities. The authorities however indicated that they needed specialised TF investigation assessors to identify and investigate TF cases.

*c) TF investigation integrated with -and supportive of- national strategies*

196. Zimbabwean authorities applied joint investigations strategy in the investigation of financing of terrorism and terrorism, as demonstrated in the case described above. The assessors were advised that generally the Police's Law and Order Unit takes charge and also coordinates TF investigation and have in the recent past started involving the BUPSMML Unit to provide financial intelligence on TF cases. Although there has not been any ground to designate domestically or make a referral to a relevant UNSCRs Committee any individual or organisation suspected of involvement in financing of terrorism, the assessors noted that the designation mechanisms are well understood and

that there are practical processes and procedures in place to apply them should it become necessary.

197. Just a few weeks before the on-site visit, Zimbabwe had completed a new National Anti-Money Laundering and Combating of Financing of Terrorism Strategic Plan for 2015-2018 which was released at the same time as the findings of the NRA. Implementation has however not yet started. The Strategic Plan seeks to review the TF risks on an on-going basis, increase operational capacity of competent authorities to investigate and prosecute cases and confiscate assets related terrorism and its financing.

*d) Effectiveness, proportionality and dissuasiveness of sanctions*

198. Since no sanctions were issued, effectiveness could not be determined.

*e) Alternative measures used where TF conviction is not possible (e.g. disruption)*

199. The authorities indicate that they trace and monitor suspected TF individuals and organisations especially in the NPO sector applying special techniques such as informants and surveillance to disrupt possible financing of terrorism activities in general when it is difficult to pursue the matter through the normal criminal justice measures.

*f) Overall Conclusion on Immediate Outcome 9*

200. The TF risk profile in Zimbabwe is low taking into account internal and external dynamics with influence on the country's TF profile. Zimbabwe has not had known incidents of terrorism and financing of terrorism as evidenced by the one case so far identified and investigated. The authorities maintain vigilance on potential financing of terrorism activities within the country as competent authorities are aware and understand the importance of identifying and sharing terrorist financing information. The authorities have composed a joint investigation team to investigate the affairs of an organisation which was suspected of receiving foreign funds for possible use in terrorism-related crimes within and outside of the country. The assessors have noted that going forward Zimbabwe will be guided by the National AML/CFT Strategy adopted alongside the NRA to identify and investigate TF offences. Competent authorities advised of the urgent need to receive specialised training in relation to TF investigations to achieve the outcomes of the national Strategy.

201. **Zimbabwe has achieved a moderate level of effectiveness on Immediate Outcome 9.**

### 4.3 Immediate Outcome 10 (TF preventive measures and financial sanctions)

#### a) Implementation of targeted financial sanctions

202. In general, Zimbabwe has a good legal and regulatory framework based on a clear understanding of the targeted financial sanctions requirements and procedures by the different stakeholders. Zimbabwe introduced the Statutory Instrument 76 of 2014 (SI) to implement designations under the United Nations Security Council Resolutions (UNSCRs) 1267, 1988/1989 and 1373, 2001, and the Zimbabwe List (Domestic List). The SI sets out the procedures for proposing designations, managing frozen assets, and delisting identified natural or legal persons. There has not been any case to apply the SI, except on updates disseminated to competent authorities and FIs related to the UNSCR 1267.

#### UNSCR 1267

203. The designation process is implemented by a Special Task Force, comprising relevant Government Ministries, Departments and Agencies. The process is as follows:
204. The Multi-Lateral Department of the Ministry of Foreign Affairs receives the UNSCR 1267 List from the Zimbabwe United Nations (UN) Representative in New York, USA. The Department also checks the UN website twice a day, in the morning and afternoon, for any new designations. There is a UNSCR List Register on which the officer on duty signs each time to confirm checking the website and submits to a superior to counter-sign. All the relevant government institutions check the UN website on their own, and keep a Register to demonstrate that they are regularly doing it. This process has even filtered through the normal annual performance contracts and appraisals agreed to between a junior officer and a senior officer in a workplace, to ensure that the process is diligently followed. The assessment team was provided with copies of the Registers. The Zimbabwe UN Representative at the UN is consulted, when necessary, to clarify any alterations on the List.
205. Where there is addition or deletion on the UNSCR 1267 List the Department sends by email the List to the Legal Services Department in the Ministry of Home Affairs and follow up with a telephone call to confirm receipt, and thereafter sends the List to the BUPSMML Unit by email within 1-2 hours of receipt. The Director of the BUPSMML Unit issues a Directive using a designation template to the FIs and the DNFBPs, which must confirm receipt. The same List is copied to the ESAAMLG Secretariat as evidence of implementation. Where there is no match the FIs and the DNFBPs must send a “*nil return*” to the BUPSMML Unit.

206. The BUPSMML Unit sends the Directive to all financial sector supervisors to send onwards to their regulated entities. The entities must confirm with the supervisors receipt and actions taken within 24 hours. At the time of the on-site visit, the latest UNSCR 1267 List was SC/11948, 26 June 2015. If there is a match they immediately advise the Immigration Department of the Ministry of Home Affairs to effect the necessary restriction such as travel ban. The authorities advised of an investigation into what they referred to as a “False Positive” (see case below).
207. The assessment team was satisfied upon discussions with the authorities and the FIs that there is a sound understanding of the requirements particularly in respect of 1) that issuance of a Directive by the BUPSMML Unit is an order to freeze, 2) the freezing order is indefinite, 3) it is mandatory, 4) must be done without delay, and 5) failure to implement all measures attracts sanctions.
208. In general, the DNFBP sector has insufficient understanding to implement the measures. The authorities are yet to put in place programmes to enable the DNFBP sector to comply with the obligations under the UNSCRs. In addition, the DNFBPs have not taken initiatives to have in place own internal measures to comply with the UNSCRs obligations on freezing of terrorist assets.

*UNSCR 1373 ('Third Party Requests')*

209. Zimbabwe has clear channels or procedures for receiving UNSCRs 1373(2001) requests. The requesting jurisdiction must send to a designated Zimbabwean diplomatic representative in that country, or through its foreign affairs ministry for transmission to the Ministry of Foreign Affairs in Zimbabwe. The request is considered by the Prosecutor-General on '*reasonable grounds to suspect*' standard whose order to freeze may be renewed by a court when the initial six months granted expires. The circulation of the freezing order follows the same process for the UNSCRs 1267 explained above. Zimbabwe has not received from or made a request to designate any person or entity, and, as a result, effectiveness of the measures cannot be determined.

*(Zimbabwe List)*

210. In respect of a Zimbabwe List (domestic) the Counter-Terrorism Unit of the National Intelligence Service initiates the listing for the Director of the BUPSMML Unit to include in a Directive for the Ministry of Home Affairs' ratification, and forwarding to the President of the country to make a declaration. There is a National Joint Counter-Terrorism Task Force comprising the Police, Airforce, state security agencies and the Army which must conduct their own investigations and report to the Task Force. Zimbabwe has not designated any person or entity at a national level. Effectiveness of the measures cannot be tested.

*b) Abuse of the non-profit sector*

211. Zimbabwe has approximately 1239 NPOs on its Private Voluntary Organisation (“PVO”) register, consisting of 90 internationally affiliated NPOs and the rest are local. According to the PVO Registrar’s Office, which is in charge of registering, regulating and monitoring the NPOs, most of the NPOs are involved in health programmes and providing food relief to communities.
212. Although Zimbabwe’s NRA looked at the NPO sector, the findings summarised in the report are not detailed enough to determine whether a proper TF risk in the NPO sector was undertaken and the risks identified. The main concern raised in the report relating to NPOs is the threat posed by the dominance of high-cash transactions in the sector. At page 149 of the NRA report the size of the NPO sector is estimated to be 1% of the GDP with estimated amounts of US\$60 million from churches, which makes the largest number of the NPO sector, US\$40 million from mosques and US\$30 million from the rest of the NPOs. However, during the interviews with the representatives of the PVO Registrar’s Office, it was indicated to the assessors that assessment and review of the TF risk in the NPO sector is yet to be carried out but it was now under consideration due to the increased awareness on the TF risk. There is a Foreign Recruitment Committee, comprising different law enforcement agencies, intelligence/security services and ministries which helps in vetting applications of NPOs before they are registered. The members of this Committee, particularly the intelligence officers, have a sound understanding of the sector and are well informed of the possible TF risks associated with NPOs. Notwithstanding, they also confirmed that an assessment of the sector needs to be carried out using a documented and systematic methodology to identify the characteristics of the NPOs in Zimbabwe and determine which NPOs are likely to be vulnerable to TF. However, it is acknowledged that this Committee carries a lot of background and due diligence checks on the NPOs to be registered, including checking the identity of the people looking to form the NPO, their qualifications and those of the Board, criminal records, country of origin, source of funding and CVs. The PVO Registrar’s Office also indicated that it monitors NPOs through the information they submit as part of their annual obligations such as the audited and financial statements which are submitted to it annually by the NPOs to determine the source of funding and compare it to the narrative which the NPO will have given to the Office to see whether there is consistency. No additional measures are imposed on NPOs who are vulnerable to being used for TF.
213. The authorities have not yet commenced engaging and doing outreach to NPOs to sensitise them on TF risks. The PVO Registrar’s Office does not adopt a risk sensitive approach, supervise and monitor NPOs that are at risk from terrorist and TF abuse. As no sensitisation has been conducted to the NPO sector on their possible vulnerability to TF abuse, it was difficult for the assessment team to determine to what extent the NPOs

understand their vulnerabilities to TF and the kind of measures they could be taking to protect themselves from the possible exposure to terrorist abuse.

**Box 1: “False Positive” NPO TF Investigation**

*Identification of the TF suspicion – STR information*

In February 2015 the BUPSM Unit disseminated financial intelligence to Zimbabwe Republic Police relating to suspicion of terrorist financing activities by a registered NPO in Zimbabwe. The NPO had links with a foreign NPO in country A and had therefore received funds by telegraphic transfer through a licensed reporting entity in Zimbabwe. The reporting entity had submitted a suspicious transaction report to the BUPSM Unit.

*Investigation of the suspicion – Police and Intelligence Services*

Upon receipt of the analysed report, the Police and Intelligence Service working closely with the NPO Regulator and the BUPSM Unit immediately conducted joint investigations, including monitoring of the affairs of the NPO, to determine the extent to which the activities of the NPO could be involved in terrorism and its financing in Zimbabwe and elsewhere. The investigations revealed that the foreign NPO based in Country A (which had transferred the funds to the local NPO) was declared as a terrorist group by Country B on the basis that it was suspected of having links with an undesirable organisation in Country C. It was further revealed that the foreign NPO was registered with the United Nations as a legitimate International Humanitarian and Relief Organisation. Lastly, it was revealed that in Zimbabwe the local NPO had carried out its operations consistent with its license and registration requirement, and it was found not to be engaged in actions that constituted terrorism and its financing within and outside Zimbabwe. The Police provided in writing feedback to the BUPSM Unit and instructed the latter to continue monitoring the accounts of the NPO and report any suspicions. On their part, the Police advised that they are closely monitoring the NPO so as to detect any terrorism-related activities that may arise in the future.

214. On the basis of the case example in Box 1, the assessment team concluded that the manner in which the authorities had carried out the investigations on this matter would have resulted in identification and freezing of terrorist property had it been a “real case”. Furthermore, the authorities advised that, as a matter of standard practice, all competent authorities understand terrorism and its financing as being a national security matter, and, therefore, every suspicion, regardless of its nature and degree, must be reported as soon as it is formed, to relevant competent authorities.

*c) Deprivation of TF assets and instrumentalities*

215. There has not been TF cases that warranted the authorities to freeze assets related to terrorist activities which could be attributed low TF risk. However, based on the case mentioned in (b) above it would appear that the terrorist property freezing mechanism in Zimbabwe would have been able to freeze such property if identified and that

investigations or inquiry would have been undertaken to determine the true nature of the assets.

*d) Consistency of measures with overall TF risk profile*

216. The actions taken by Zimbabwe appear consistent with the TF risk profile of the country. Zimbabwe has specialised anti-terrorism units such as within the Police and national security agencies to apply counter-measures in relation to terrorism and terrorist financing activities. The Units may co-opt any relevant competent authority deemed necessary to constitute a forum or joint task team on any TF matter. The case discussed above demonstrate this conclusion. The authorities advised that they focussed on promoting vigilance amongst all competent authorities to ensure that any terrorist-related activity will be detected and disrupted beforehand. Further, the authorities advised that they continuously apply special preventative measures such as intelligence gathering, surveillance and other investigative techniques as well as sharing of information on terrorism and TF. Furthermore, Zimbabwe has a fairly good and practical mechanism in place to freeze TF property consistent with the requirements of the UNSCRs.

*e) Overall conclusion on Immediate Outcome 10*

217. Zimbabwe has a relatively sound legal and institutional framework, bar the NPO sector, necessary to apply counter-measures consistent with its risk profile. Zimbabwe has just completed an NRA which, although limited in TF focus, has highlighted concerns on the country's TF vulnerable areas relating to a weak legal framework and institutional capacity to supervise and monitor NPO activities. The UNSCRs framework is well understood and applied by competent authorities and FIs, bar the DNFBP sector which require more attention. In the only "False Positive" case referred to above, it was very clear that from the filing of the STRs through to the formation of the joint investigation team, that Zimbabwe understood and applied its processes on time and effectively to investigate the matter, and report back in writing to the entity that had filed the initial report. The assessment team is of the view should the risk profile change from low, the authorities would be able to effectively deal with the change given the framework in place.

218. **Zimbabwe has achieved a moderate level of effectiveness for IO.10.**

*Immediate Outcome 11 (PF financial sanctions)*

219. Zimbabwe has no legal and institutional framework in place to implement UNSCRs on proliferation of weapons of mass demonstration, and therefore has no measures nor mechanisms in place to identify, deprive resources, and prevent entities or persons from

raising, moving, and using funds or other assets for the financing of proliferation. Due to this deficiency, the competent authorities and the FIs and the DNFBPs in Zimbabwe do not have systems and procedures in place to enable them to comply with the obligations under the UNSCRs on PF. As a result, FIs and DNFBPs are not searching or freezing in relation to the names included in UNSCR relating to proliferation financing including UNSCR 2231 (Iran) and UNSCR 2270 (DPRK).

220. **Zimbabwe has achieved a low level of effectiveness for Immediate Outcome 11.**

## **5. PREVENTIVE MEASURES**

### ***5.1 Key Findings and Recommended Actions***

#### ***Key Findings:***

- There is no legal or regulatory framework for FIs and DNFBPs to apply a risk-based approach when implementing AML/CFT requirements in Zimbabwe.
- Notwithstanding the above, large-sized banks and FIs affiliated to international financial groups have identified and assessed ML/TF risks facing their businesses, and, as a result, have demonstrated a good understanding of their inherent ML/TF risks. Generally, the remaining FIs and entire DNFBPs had not yet conducted ML/TF risks and therefore demonstrated a low level of understanding of risks that apply to them. As a result, this category of entities do not apply AML/CFT requirements in a risk-sensitive basis.
- Although the large banks and the FIs affiliated to international financial groups understand their ML/TF risks, the only concern is that the size of their compliance function is not commensurate to the size, risk, and the complexity of their business operations. The DNFBP sector is yet to set up compliance function to comply with AML/CFT requirements.
- Zimbabwe has a good basic identification system for natural and legal persons and arrangements for purposes of performing basic CDD procedures. There are however, challenges in understanding requirements related to procedures to verify customers including beneficial ownership information, and apply EDD measures in relation to high risk customers.
- However, the legal framework does not require the Registrar of Companies and Registrar of Deeds nor the FIs and the DNFBPs to obtain and maintain beneficial

ownership information. The large banks and the FIs affiliated to international financial groups however have systems in place that enable them to take reasonable steps to identify and verify the beneficial owner.

There is over-reliance on CDD information obtained through introduced customers or businesses without taking reasonable steps to conduct CDD procedures under a principal-agent arrangement especially when the customer holds a bank account.

- Large-sized Banks and FIs affiliated to international financial groups have systems in place to detect and file suspicious transactions reports. Most of the reports are from the banking sector, distantly followed by the MVTs. There is low investment in electronic transactions detection and monitoring systems which has contributed to the low level of STRs. With the exception of real estate sector, no STRs were filed by the other DNFBPs including precious stones and metals which are regarded as high risk for laundering of proceeds.
- Senior management officials of companies use personal accounts to move company funds by channelling the funds through cross-border wire transfers conducted at commercial banks against the laws of Zimbabwe, to avoid paying tax.

#### *Recommended Actions*

Zimbabwe should take the following actions:

- Require all FIs and DNFBPs to carry out internal risk assessment and implement AML/CFT measures on a risk sensitive basis to ensure that mitigating controls are being applied on areas identified as high risk.
- Engage in outreach programmes and ensure application of AML/CFT requirements focusing on establishment of internal controls, reporting of suspicious transactions, identification and verification of ultimate beneficial ownership and enhanced CDD measures in general, and consider issuing specific guidelines to facilitate proper implementation.
- The medium to small FIs and the entire DNFBP sector should identify, assess and understand ML/TF risks that apply specifically to them using the NRA as a starting point, and should implement mitigating controls consistent with the risks identified.
- Banks should apply appropriate CDD measures including EDD and on-going monitoring to ensure that companies do not use their senior management personal accounts to move company funds out of Zimbabwe through cross-border wire transfers.
- Ensure through supervision programmes that FIs and DNFBPs have compliance functions commensurate to risks and size of business to properly implement AML/CFT requirements.

221. The relevant Immediate Outcome considered and assessed in this chapter is IO4. The recommendations relevant for the assessment of effectiveness under this section are R9-23.

## **5.2 Immediate Outcome 4 (Preventive Measures)**

### *a) Understanding of ML/TF risks and AML/CTF obligations*

222. Without a legal basis, the BUPSMU Unit issued sector-specific guidance to FIs requiring them to identify and assess ML/TF risks specific to their business operations. This did not apply to all of the FIs and to any DNFBPs. The assessors observed however that while the majority of the FIs either had AML/CFT policy approved by their own Board in place or were in the process of finalising one, only large-sized banks and some FIs affiliated to international financial groups had an internal risk assessment process in place. There is no requirement in law in Zimbabwe which requires all FIs and DNFBPs to identify, assess, understand ML/TF risks and apply commensurate mitigating controls in respect of risks identified. FIs and DNFBPs are required to apply risk-sensitive approach only in two circumstances, namely, i) accounts which existed before the MLPC Act came into force and, ii) high-risk customers (s.20 MLPC Act). The Act does not define nor provide any indicators of what constitutes “high-risk customers”. In respect of the FIs and DNFBPs not covered by the requirements of the guidance issued, they indicated that they await guidance from the authorities, as they were aware of the process of the NRA.
223. The large-sized banks and FIs affiliated to international financial groups demonstrated an understanding of ML/TF risk that applied to them. This understanding existed prior to the NRA. The rest of the FIs had no ML/TF risk assessment in place and, as a result, demonstrated little or no understanding of ML/TF risks facing them. Instead, the rest of the FIs demonstrated a generic awareness of ML/TF risks identified, as they simply mentioned the risks in the NRA without indicating how they understood the risk applied to them.
224. The assessors noted that the FIs with a relatively good understanding of the ML/TF risks have demonstrated a better application and implementation of the AML/CFT requirements, and vice versa. This finding was further supported by the assessors’ analysis of the inspection reports which showed that the FIs with risk assessments had better compliance levels than those without. The assessors further observed that since the supervisors do not include risk assessment in their inspection scope (see IO.3(b) for more details), the domestic FIs had no incentive to systematically identify, assess and understand their risks with a view to applying appropriate mitigating controls consistent with the identified risks and thereby improve their application of the AML/CFT requirements and bring about a level playing field.

225. As for the DNFBP sector, there was little or no understanding of ML/TF risks that applied to them.
226. The only weakness noted in respect of the large banks and the FIs affiliated to international financial groups was that, the size of their compliance function were not commensurate to the size, complexity of the business operations and their ML/TF risks. During the economic downturn, banks had diversified their business portfolios by getting licenses to offer other financial services (e.g. securities and insurance) in a move to attain economies of scale. This grew the size of the business but there was no proportionate increase in the size of their compliance function, thereby affecting the ability to monitor the identified and emerging risks effectively.
227. The transactions, customers and products which were largely identified by banks and FIs affiliated to international financial groups as posing high ML/TF risks in Zimbabwe were cash-intensive sectors such as real estate, second-hand motor vehicle dealers and gold dealers; use of personal accounts for business transactions; outbound wire transfers through banks to high-risk jurisdictions; domestic PEPs, foreign government embassies, and private wealth management products. As already indicated above, the rest of the FIs and the DNFBPs simply mentioned the results of the NRA with no understanding of how they applied to them.

*b) Application of enhanced or specific CDD and record keeping requirements*

228. FIs and DNFBPs are aware of the CDD obligations under the MLPC Act, albeit at varying degree, with the large-sized banks and FIs affiliated to international financial groups demonstrating a better understanding than the other FIs. The DNFBP sector has a very basic understanding and application of CDD measures. In Zimbabwe, by law, all companies must be registered with the Registrar of Companies to obtain certificate of incorporation and all nationals must obtain identity document at the age of majority at the Registrar General's Office (population registry). The authorities have adequate capacity to provide the services and make the information available for purposes of performing CDD procedures.
229. As a starting point, FIs apply CDD measures before entering into and during the course of a business relationship or when conducting a transaction either as once-off or within a business relationship. There is a concern, though, that generally the CDD measures are applied in a prescriptive manner and, where there is variance, it is largely due to the size, the ownership/control, and the level of sophistication of an FI rather than the specific requirements based on a customer's risk profile. The large banks and the FIs affiliated to international financial groups particularly banks, securities, MVTs and insurers apply risk-based models to categorise the customers or transactions, and apply reasonable CDD

measures. Generally, FIs undertake measures to establish the identity of their customers during the on-boarding by requiring KYC information such as national identification document, proof of residence and source of income for individuals and certificate of incorporation, memorandum and articles of association, tax clearance and identification of directors for companies.

230. On the basis of the samples of inspections reports provided to the assessment team, the BUPSM Unit agreed with the findings that there were considerable deficiencies in the application and understanding of the CDD measures in a number of FIs. It appears to the assessment team that the large-sized banks and the FIs affiliated to international financial groups were coping relatively well with the transition from the old to new CDD requirements under the MLPC Act. The authorities require a concerted effort (e.g. training and sector-specific and thematic guidelines) to ensure a level playing field in the implementation of CDD measures under the MLPC Act consistent with the risk profile of a customer or a transaction.
231. The assessment team confirmed during the interviews with the BUPSM Unit, the representatives of FI associations and the FIs, that all legacy accounts have been verified on a risk-sensitive basis as required by the MLPC Act. Amongst other things, the remediation process required basic CDD information such as obtaining proof of residence, tax clearance for legal persons and police clearance for natural persons to update the records consistent with the risk profile of a customer.
232. The concept of ultimate beneficial ownership is generally not well understood in Zimbabwe, and, as a result, most FIs and all DNFBPs do not conduct beneficial ownership procedures when carrying out CDD. The assessment team, however, found that large-sized banks and FIs affiliated to international financial groups understood and therefore took reasonable steps to verify the identity of beneficial ownership by going as far as tapping into the information networks of parent companies to verify ultimate beneficial ownership information. The BUPSM inspection reports on FIs confirmed the lack of internal procedures and processes to comply with beneficial ownership requirements. The assessment team noted, as described under IO.5, that there is no legal requirement for the Registrar of Companies and of Deeds to obtain and maintain beneficial ownership information. The MLPC Act has insufficient obligation for FIs and DNFBPs to obtain and maintain beneficial ownership information, as it applies to prescribed transactions only.
233. There is an obligation to put in place specific AML/CFT control measures on high risk customers (s.20 of the MLPC Act). The BUPSM Unit issued a Guideline and three

Circulars<sup>13</sup> to FIs and DNFBPs to apply reduced CDD measures where there is proven low risk on customers or transactions. Although the guidelines themselves do not provide any guidance on what constitute 'low risk' for purposes of simplified CDD, the Circulars require the banking sector to apply simplified CDD measures on the basis of a proven low risk. They also put an obligation on banks to apply on-going monitoring measures on the accounts as part of mitigating risks that may arise. The 2015 Circular sets the opening deposit at USD 5 and upper limit of USD 300. The banks advised that they introduced products which require only the National Identification Document to open an account, some with an upper transactional limit of USD 30. On the basis of the Circulars, banks advised that as a standard practice, once the account 'graduates' out of financial inclusion category such an account is subjected to normal CDD account opening procedures.

#### *Enhanced Due Diligence*

234. There is mixed understanding and application of enhanced due diligence measures on high-risk customers by FIs and DNFBPs in Zimbabwe (s.20 MLPC Act). The large-sized banks and the FIs affiliated to international groups have a better understanding and application of enhanced due diligence and on-going transactions monitoring measures of high risk customers using sophisticated transactions monitoring systems. The rest of the FIs have little or no appreciation of the concepts of enhanced due diligence and on-going monitoring of transactions, and, as a result, do not form part of their CDD measures. In one particular inspection report, a medium-sized bank applied basic CDD measures which allowed individuals and a web of companies to conduct high-value outward transfer of funds over a period of time without carrying out enhanced due diligence and/or applying on-going monitoring of transactions. The transactions were conducted on a regular basis by the same customers (individuals and companies), remitting funds to jurisdictions which are known for posing a significant ML and TF risk.
235. In general, FIs classify or consider PEPs, whether domestic or foreign, as high risk customers. The BUPSML Unit has since July 2004 required FIs to implement specific CDD measures in relation to PEPs (as the AML law at the time did not provide for PEPs requirements) in a number of sectoral guidelines before the current PEPs requirements were introduced in the MLPC Act. Despite this, there is a concern by supervisors about the general lack of proportionate AML/CFT control measures applied on PEPs. There are exceptions with regards to large-sized banks and some FIs (insurance and securities) affiliated to international financial groups. They have invested in systems and procedures to obtain and verify information relating to identification of a customer who is a PEP. The assessment team identified that large-sized banks have specialised business units

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<sup>13</sup> AML/CFT guidelines for financial institutions and DNFBPs (2006); Circular 1 of 2011; Circular 2 of 2011; and Circular 2 of 2015. All on low risk customers

responsible for managing business relationships involving PEPs on a regular basis, and rely on head office for verification of PEPs. Other measures relate to accessing other independent, reliable commercial databases such as World-Check screening, government publications such as listings in the Government Gazette, and publicly available sources of information like newspapers, to identify PEPs for purposes of putting mitigating controls against the risks.

236. The assessment team also found that FIs, irrespective of size and sophistication, lacked sufficient systems to detect domestic PEPs in public offices below the central government sphere (e.g. municipal officials). Inevitably, a large number of senior public officials in lower levels fall through the cracks. This renders high-risk PEPs outside of the scope of enhanced due diligence measures. While the other types of banks are aware of the high risks posed by PEPs and appreciate the requirement to conduct enhanced due diligence, there is generally a low appetite to invest in IT systems and human resources consistent with the size and risks of the business operations.
237. Discussions held with insurance companies identified that almost all transactions were paid into the bank accounts of the entities, either as monthly cash deposits or deductions from the customers' bank account. In addition, insurance brokers and asset managers handle clients on behalf of the insurance companies but the assessment team identified that the latter places heavy reliance on the risk profile provided by the former without taking any additional steps under any circumstances, to independently check the information provided. This raises concerns about the adequacy of CDD measures applied on customers that came through a third party, as insurance companies, brokers and asset managers appear to relax the robustness of due diligence once a customer confirms holding an account with a bank. This class of FIs are of the strong view that since they do not 'directly' handle the payments, they are not 'concerned' by the ML/TF risks that may arise from the monthly payments, as the customers belong to a bank which by law is required to conduct KYC requirements. As already explained above, there is low level of understanding of ML/TF risks in all sectors except for large-sized banks and FIs affiliated to international groups.
238. For correspondent banking relationships requirements, it was unclear to the assessment team as to whether enhanced due diligence measures were applied by banks in Zimbabwe. Banks, in general, conducted 'fit-and-proper' exercise based on initial standard questionnaire to obtain information necessary before entering into a correspondent relationship. For instance, one bank indicated that it used similar procedures and processes to carry out due diligence when it entered into two correspondent banking relationships in jurisdictions with seemingly different risk profiles. Further, the bank expressed a view that it seemed unnecessary to have concerns in both cases about any potential ML/TF risks emanating from the relationship as the two

jurisdictions have higher AML/CFT control measures than Zimbabwe. To illustrate this further, a bank which is part of an international financial group indicated that it was only involved in the initiation of a correspondent banking relationship and obtains information through the standard questionnaire but was not aware of any additional CDD processes at the head office being applied; and if any, whether it included, or triggered the application of enhanced due diligence measures where the risk is high. The inspection reports done by the BUPSM Unit do not cover correspondent banking relationship, and, therefore, the assessors could not rely on them to clarify this issue.

239. Zimbabwe has a number of deficiencies in relation to measures to comply with cross-border wire transfers as set out in R.16. The NRA and interviews with banks and the authorities revealed that cross-border wire transfers are being used by companies to avoid paying tax. The companies use personal accounts of senior management to move business funds out of the country to foreign jurisdictions. In addition to the normal KYC information obtained through the SWIFT messaging platform, banks apply enhanced due diligence measures on originator and beneficiary information. This is screened through CDD databases at the branches, country head office and parent company head office. Banks further indicated that they applied enhanced due diligence measures on all originator and beneficiary information which is screened through CDD databases at branch, country head office and parent company head office. One bank indicated that they have a specialised cross-border wire transfers unit, SWIFT/Reconciliations Department at Head Office for screening of all transactions including verification of details before final transmission to ensure compliance with the Exchange Control requirements of the RBZ. These measures have enabled banks to identify and mitigate risks associated with cross border wire transfers.
240. There is generally a good awareness and implementation of record keeping in the entire financial sector. This applied as well to the FIs with extensive branch network as they have systems in place to ensure that all customer data and information is transferred to the central office database as soon as possible. The FIs did indicate that at some point there could be systems delays (which is expected for FIs with a large branch network) but the FIs appeared to have systems in place for the central office to access the information in real time at a branch level if not already transferred into the central office database, should a need arise. They advised that they could use other forms of transmitting the required information such as scanning and faxing or emailing documents electronically, if a need arises. The FIs keep records in both hardcopy and electronic medium, and the database is accessible to all staff depending on specific information needs. All FIs indicated that they kept records for more than the prescribed minimum period of five years and may keep them beyond this time. Law enforcement agencies, supervisors and the BUPSM Unit confirmed that they received the information requested within a reasonable time-frame.

c) *Reporting obligations and tipping off*

241. FIs occupy more than 95 percent of the total STRs filed with the BUPSM Unit, of which the majority of the STRs originate from commercial banks affiliated to international financial groups. For instance, in 2014 one such a bank contributed about 20 percent of the total STRs. In contrast, non-bank FIs and DNFBPs have extremely low reporting levels. Only the real estate sector since July 2015 have filed three STRs in the entire DNFBP sector.
242. As already indicated, the authorities adopted a policy of implementing the AML/CFT requirements on an incremental basis, starting with banks, and have only recently started focusing on DNFBPs as well. At the current basic level of analysis, the BUPSM Unit is satisfied with the quality of STRs it receives. It appeared that the STRs filed were not focused on high-risk areas that were generating the most proceeds of crime. In the absence of this information at the BUPSM Unit, it was not possible for the assessors to determine if the STRs being reported were related to the types of predicate offences identified in the NRA as generating the most proceeds in Zimbabwe. Only one report relating to TF was reported by a bank to the BUPSM Unit (see IO.10(b) for more details).

*STR filed to the BUPSM by sector*

<b>Sector</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>June 2015</b>
Banks	184	505	487	379
MVTS	-	-	22	12
Securities	-	-	2	-
Insurance	-	1	-	4
Real Estate	-	-	-	3
<b>Total</b>	<b>184</b>	<b>506</b>	<b>511</b>	<b>398</b>

243. The main reason for the overall low STRs levels over the years is that, the majority of the reporting institutions lack awareness on implementation of the AML/CFT control measures. There is also a lack of understanding of the protection offered under the MLPC Act in relation to reporting of suspicious transactions, and this has led to apprehension by some FIs especially the small-to-medium, to report for fear of reprisals or their identity being revealed.

d) *Internal controls*

244. The requirement to put in place internal control measures for AML/CFT purposes are very recent in Zimbabwe following the coming into force of the MLPC Act, 2013. The assessment team found that across the spectrum internal control measures, particularly compliance functions, are inconsistent with the size and risks of the business operations in the financial sector and non-existent in the DNFBP sector.

245. In general, there is a misconception on the function of the MLROs as envisaged under the MLPC Act. To a large extent, a “*Money Laundering Reporting Officer*” is considered by the banks as being responsible for filing (i.e., ‘reporting’) transactions reports to the BUPSM Unit. This seems to have limited the responsibilities of the MLRO to just STR reporting instead of being responsible for the entire AML/CFT implementation. The BUPSM Unit explained this as a legacy problem which started in the 2000s when the financial sector experienced liquidity problems. During this time, the primary function of bank’s MLROs appeared to have been to detect, monitor and report out-going transactions to the RBZ. As at the time of the on-site visit, the assessment team noted that this view is still prevalent, except that now the reports are filed to the BUPSM Unit. The BUPSM Unit and the banks agreed with the assessment team that there is still a lot of guidance required to the banks, and the financial sector at large, to understand the importance of establishing well-resourced AML/CFT compliance functions commensurate to the size and nature of the business to comply with AML/CFT mitigating controls. Banks indicated that they had MLROs at each branch who report directly to the MLRO at the head office.
246. The inspections reports conducted by the BUPSM Unit identified the lack of internal controls and procedures particularly by insurance, small to medium banks, agents of international MVTS and bureau de change. For the MVTS sector, this is a major concern given the huge agent network of international service providers across the country, as they need monitoring. The assessors were informed by the agents that they are being monitored for compliance with AML/CFT programmes by their principals, and failure to comply with AML/CFT programmes may result in suspension, cancellation of the agreement or put on training program until the deficiencies are addressed. The Authorities indicated that they are yet to apply sanctions as there were no cases where deficiencies of that nature were identified. In terms of the agency agreement each agent is required to have a person responsible for communicating AML/CFT issues to the AML/CFT compliance manager at the head office. The assessors were advised that the training program during on-boarding of all agents includes KYC procedures, transactions monitoring, reporting obligations and identification of fake notes. External trainers in the form of consultants are engaged from time to time.
247. There is generally low AML/CFT skills level in the financial sector with the exception of the large banks and FIs affiliated to international financial groups. However, the assessors found that while the large banks and the FIs affiliated to international financial groups had knowledgeable personnel on AML/CFT, the number of AML/CFT officers were not proportionate to the size of business. In all the interviews conducted and the analysis done on the inspection reports provided by the authorities, it is clear that the lack of understanding of AML/CFT obligations contributed significantly to the low level of compliance with the overall AML/CFT control measures in Zimbabwe. The nature and extent of training provided by the BUPSM Unit (which is generally awareness-raising) and the FIs (internal training conducted by MLRO, and on-line training for large-size

banks) is very basic, and therefore insufficient to equip staff with reasonable expertise to adequately implement AML/CFT requirements.

*Overall conclusions on Immediate Outcome 4*

248. There is a marked variance in the awareness and application of AML/CFT preventative requirements in the FIs and the DNFBPs. Overall, the application of the preventative measures by FIs and DNFBPs in Zimbabwe is still in the early stages of implementation, with the large banks and the FIs affiliated to international financial groups ahead of the rest.
249. There is no legal framework for FIs and DNFBPs to conduct ML/TF risk assessment in Zimbabwe, however, large banks and FIs affiliated to international financial groups have conducted risk assessments in relation to transactions, customers and products applicable to their business operations. As a result, they have demonstrated a good understanding of ML/TF risks that apply to them and have put in place mitigating controls which have improved their compliance levels with AML/CFT requirements. By contrast, the remaining domestic FIs have not undertaken any ML/TF risk assessments and therefore do not understand ML/TF risks that apply to them. As a consequence, they have not applied AML/CFT requirements consistent with their risk profiles and thus demonstrated a low level of compliance with AML/CFT requirements.
250. There are, however, some positives in respect of application of CDD measures though issues relating to inadequate procedures to conduct verification of customers or transactions, EDD and beneficial ownership information are major concerns, and therefore require urgent attention.
251. More specific improvement is required in respect of diversity of entities filing STRs, identity verification of PEPs and beneficial ownership, third party reliance or introduced business and wire transfer requirements.
252. Of a particular concern is the absence in all reporting entities of well-resourced compliance functions commensurate with size of business operations and risks across all the FIs. This is seen to impact on the effectiveness of the compliance function in applying measures and mitigating controls.
253. There is virtually no implementation of the AML/CFT measures in the DNFBP sector. This is another major area of concern considering that dealers in precious stones and precious metals and real estate agents have been identified as high risk for ML.
254. **The overall rating is low level of effectiveness for Immediate Outcome 4.**

## 6. SUPERVISION

### 6.1 Key Findings and Recommended Actions

#### *Key Findings:*

- Competent authorities responsible for licensing or registration of FIs and DNFBPs have put in place sound licensing or registration framework including manuals, procedures and processes as the basis to give permission to FIs and DNFBPs to conduct lawful business activities in Zimbabwe. Although the licensing and registration framework requires the prospective licensees to provide beneficial ownership information, there is no sufficient understanding of the concept of beneficial ownership by the competent supervisory authorities to enable them to effectively identify and verify beneficial owners.
- Zimbabwe has a sound institutional framework in which each regulator has the responsibility to ensure compliance with AML/CFT requirements under the MLPC Act working closely with the BUPSMU Unit (as the primary AML supervisor), which is charged with the responsibility for coordination of supervision and provision of guidance to the other supervisors. The supervisory arrangement was found to be in the early stage of development as the BUPSMU Unit was providing mentoring and support to the other supervisors in respect of AML/CFT. At this early stage, the arrangement was found to be resource-effective, well-coordinated with no duplication of supervisory actions being taken.
- There is generally low resources capacity particularly in respect of internal supervisory capacity in all supervisors of FIs and DNFBPs to apply adequate supervisory action including the BUPSMU Unit, which is currently responsible for banks and DNFBPs.
- RBA to AML/CFT supervision is not sufficiently developed by the BUPSMU Unit and is yet to be adopted by the other supervisors. The supervisors have insufficient understanding of ML/TF risks across the different sectors and institutions they supervise. This means that mitigation measures do not take into account specific ML/TF risks which exist in Zimbabwe. The supervisors are still considering the findings of the recently completed NRA to develop and apply a risk-based approach to supervision and monitoring of the FIs and the DNFBPs.
- While instances of non-compliance with AML/CFT obligations are identified through on-site inspections, the actions taken in the form of corrective orders are negligible and the follow-up process on remedial actions issued, is not sufficiently thorough and consistent. As a result, there is very little evidence of effectiveness from the supervisory actions.

#### *Recommended Actions:*

Zimbabwe should take the following actions:

- The competent authorities responsible for licensing or registration should take necessary steps to develop sufficient understanding of beneficial ownership and apply it in the licensing or the registration of FIs and DNFBPs in Zimbabwe.

- As a matter of urgency provide sufficient resources (financial, human and technical) to the supervisory authorities to develop capacity for supervision and monitoring of FIs and DNFBPs on a risk-sensitive basis. Further, the supervisors should take steps to develop AML/CFT supervisory framework including putting in place inspections manuals and processes for adequate supervision and monitoring of compliance by FIs and DNFBPs taking into account the specific risks across the sector.
- Supervisors led by the BUPSMU Unit should take necessary steps to share the findings of the NRA and develop a common understanding of the ML/TF risks in Zimbabwe, and develop coordinated supervisory actions consistent with the risks identified.
- The BUPSMU Unit should continue with the awareness—raising activities, and carry out supervision and monitoring actions in the DNFBP sector taking into account the priority ML/TF high-risk precious stones and precious metals and real estate sectors.
- The BUPSMU Unit should issue guidance to FIs and DNFBPs on measures to be applied in respect of high risk areas.
- Using the existing MoUs, develop practical mechanisms or forums to share experiences and exchange information particularly the results of compliance findings. This is very important for Zimbabwe as there is a strong consolidation of financial services by FIs seeking to achieve economies of scale.
- AML/CFT supervisors should access the internal ML/TF risk assessments of the FIs and the DNFBPs when carrying supervision and monitoring actions to promote better understanding of ML/TF risks across the different sectors and at institutional level to enable the supervisors to focus at the FIs and DNFBPs with high-risk indicators.
- The BUPSMU Unit should apply dissuasive sanctions particularly in cases of serious breaches and should put in place a follow-up process for the corrective orders issued to impact positively on compliance levels by FIs and DNFBPs.

255. The relevant Immediate Outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R26-28 & R.34 & 35.

## **6.2 Immediate Outcome 3 (Supervision)**

### *a) Licensing, registration and controls preventing criminals and associates from entering the market*

256. Zimbabwe has a licensing and registration framework applied by the different sector-regulators to a variety of FIs and DNFBPs conducting business in the country. The licensing requirements are extensive across the different sectors and require a host of information and documentation for a natural and legal persons before license is granted.

These include memorandum and articles of association and certificate of incorporation from Registrar of Companies, police clearance, tax clearance certificate from ZIMRA, audited financial statement, academic and professional certificates, identity particulars for natural persons, and affidavits of individual shareholders, directors and senior management officers.

257. Although the licensing and registration framework provides for identification and verification of beneficial owners, there is generally low level of understanding of the application of ultimate beneficial ownership requirements by regulators and the Registrars of Companies and of Deeds. During the interviews conducted at the time of the on-site visit, the regulators and the Registrar of Companies and of Deeds considered a “shareholder” and an “ultimate beneficial owner” as synonymous under any circumstance, with the potential to undermine the licensing authority to establish the true identity of the natural person who ultimately benefits from the business interest.
258. The assessment team is concerned by this situation as the practice of using “nominees” or “proxies” exists in Zimbabwe (confirmed by most entities met by the assessment team during the on-site visit), as it has a potential to allow criminals or their associates to own or control a legal entity. The general company registration information is obtained as well as statutory company documents issued by the Registrar of Companies. This includes Memorandum and Articles of Incorporation, details of significant shareholding (for banks, it is 5 percent threshold) and details of directors (See, IO.5 for more details).
259. The RBZ has three Divisions responsible for licensing or registration of financial services offered under its purview: 1) Banking Supervision Division (BSD) –which licenses all banking business. Foreign-ownership of a bank is allowed on condition that the licensee that is an incorporated entity in Zimbabwe, and it holds an existing license from the country of origin and it is well-supervised and regulated, 2) Exchange Control Division – licenses or registers three types of financial services providers known as Authorised Dealers with Limited Authority (ADLAS). These are foreign currency exchange businesses and money or value transfer service providers, namely Money Transfer Operators (MTOs) and Money Transfer Agents (MTAs), and 3) National Payment System – licenses or registers strictly MVTS using mobile network operators including mobile banking and e-money. Mobile banking license is only granted a license where the applicant has entered into a partnership arrangement with an existing licensed bank prior to the submission of the application for the license. As part of the banking license application, the BSD requires the assistance of the BUPSM Unit to review and consider the AML/CFT policies of the applicant and provide assurances to the former on the quality of the proposed policies and mitigation controls before granting the license. In respect of insurance, pensions and securities financial services the licensing requirements are generally the same to that of the banks, with few exceptions taking into account the specific differences of the types and channels of financial products provided.

260. There are licensing or registration requirements to satisfy before an entity can conduct a lawful non-financial business. Zimbabwe has established statutory bodies as competent authorities or Self-Regulatory Bodies (SROs) under which all DNFBPs must first apply for a license to operate a business in Zimbabwe. With the exception of the real estate and the precious stones and metals sectors, there are no known unlicensed or illegal DNFBP operators. In the precious stones and precious metals sector, there are illegal dealers. The Minerals Marketing Corporation of Zimbabwe and Fidelity and Printers Refineries, a subsidiary of the RBZ, are responsible for licensing or registering diamond buyers and gold sellers respectively but the low capacity and the lack of effective enforcement on illegal operators has allowed a significant number of unlicensed or unregistered buyers or sellers to actively participate in the precious stones and metals sectors. The Real Estate Agents Council (REAC) advised the assessment team during the on-site visit of the active participation of a sizeable number of agents, some of whom conduct business with the licensed companies. The REAC has no capacity to deter the problem but instead reported instances of detections to the police. There is no evidence of any operators being sanctioned for operating real estate business without a duly issued license by the REAC. The licensing requirements for the legal practitioners, which include the application of fit and proper criteria, are set out under the Legal Practitioner's Act. The criteria disqualify persons who are declared insolvent or have a criminal record, from registering as a legal practitioner.

*b) Supervisors' understanding and identification of ML/TF risks*

261. The BUPSMML does not identify ML/TF risks for supervision purposes and did not demonstrate a sound understanding of risks across the sectors and across the different FIs. ML risk identification is carried out to a limited extent by the BSD across the banking sector, when considering operational risks. The model used however is largely skewed towards prudential risks and does not contribute to the BSD's ML/TF understanding of risk. ML/TF risk identification is not carried out by the other ML supervisors, who did not demonstrate a sound understanding of risks across their respective sectors and supervised institutions. The assessors observed that the supervisors demonstrated an appreciation for the manner in which their supervised entities could be used to commit criminal conduct in particular defrauding clients and facilitating money laundering.

262. As already indicated, the ML/TF risks in Zimbabwe were recently identified through the NRA process. At the time of the on-site visit, the findings of the NRA had only just been finalised and had just been made available to the relevant AML/CFT supervisors during a workshop organised by the BUPSMML Unit. It is too early to attribute any form or level of understanding of ML/TF risk in Zimbabwe to the recent results of the NRA. This applies to the types of the most prevalent predicate crimes and vulnerable sectors identified by the NRA and the typologies of laundering the proceeds through the formal financial system.

c) *Supervising Compliance with AML/CFT requirements on a risk-sensitive basis*

263. The BUPSML Unit, in cooperation with other supervisors, has the primary responsibility to ensure compliance by all reporting institutions (s.3 of the MLPCA). As a result, in order to establish and facilitate the implementation of a coordinated AML/CFT supervisory framework, the BUPSML Unit has entered into MOUs with the SECZ, the IPEC, and the NPS and the Exchange Control Division of the RBZ. The BUPSML Unit is responsible for all banks and DNFBPs. This has created an AML/CFT supervisory regime which is generally decentralized but coordinated, whereby each supervisor as defined under s.2 of the MLPC Act, as read together with the List under Part II of the Schedule to the same Act, is responsible for ensuring compliance by their regulated entities. The biggest concern is the low resources capacity in all the supervisors to carry out supervision activities and monitor compliance with AML/CFT requirements on a risk-sensitive basis.
264. The supervision unit in the BUPSML Unit has only two compliance officers, and has insufficient skills and expertise to conduct supervision on a risk-sensitive basis. Moreover, the staff with no expertise in supervision from other units in the BUPSML Unit are frequently co-opted into supervision activities. In addition, the BUPSML Unit is expected to provide mentoring and participate in joint-inspections with the other supervisors as part of skills transfer under the existing MoUs.
265. The BUPSML Unit and the SECZ have already undertaken joint-inspections in the securities sector. The other supervisors will consider the NRA as they develop AML/CFT supervision capacity. Prior to the results of the NRA, the BUPSML Unit had developed a basic risk-based model using very limited information sources to inform the risk model.
266. The assessment team observed that the supervisors had not identified and assessed inherent risks of the entities they supervise, for purposes of applying supervisory and monitoring activities consistent with the risks identified. The AML/CFT supervisory approach has therefore not been tailored on the basis of ML/TF risks and supervisory efforts and resources not focused on entities and areas of higher risk.
267. This is also reflected in the manner which the supervisors determine where to target their supervisory effort through AML/CFT on-site inspections and the scope of these inspections. The BUPSML Unit is only carrying out routine full scope on-site inspections following normal 2-3 year cycles. The inspections are not being driven by risk determinants. Between 2011 and 2015, the BUPSML Unit conducted 25 on-site inspections of financial institutions, the details of which can be found in the Table below. On the basis of the sample of inspections reports provided to the assessment team, it can be seen that supervision is not risk-based and the reports of those inspections do not address the specific ML/TF risks identified for each FI. It should be noted that the scope of the

inspections also covers asset freezing requirements pursuant to UNSCRs List (See, IO.10 for more details).

268. The assessors reviewed the sample inspections reports provided including the reports of the two examinations carried out jointly by the SECZ and the BUPSMML Unit. From the reports provided and also other information obtained on-site, it is clear that the choice of entities to supervise were not determined by any level of ML/TF risks identified and the findings of the reports are not tailored to the specific ML/TF risks inherent to the entities inspected.
269. Further, the BUPSMML Unit receives weekly reports of cash transactions above a threshold of USD 10,000 from FIs, but do not use this information to inform their understanding and level of ML risks across the FIs. Instead, in practice, a more generic rules-based approach has been applied to identify institutions to target for supervisory action.
270. Notwithstanding, it is the finding of the assessors that the larger banking institutions holding international affiliations or operating within a group framework, are carrying out internal ML/TF risk assessments, the finding of which were not being accessed by the BUPSMML Unit in its supervision activities. The BUPSMML Unit needs to understand ML/TF risks arising from cash-transactions and the characteristics of each institution it supervises. Such information will enable classification of ML/TF risk profile for each institution.
271. Owing to the times of liquidity challenges in Zimbabwe, most of the larger FIs acquired different licenses as part of business diversification strategy, and, as a result, created a number of consolidated business structures operating across different sectors. Given this business model, the size, the complexity and the diversity of business operations, it is a concern that ML risks across consolidated groups are not being considered also at the consolidated level, and supervision activities are not driven by a common understanding of ML risks across the consolidated business operations (See IO.4 for more details). It is important that the supervisors obtain a common understanding of the ML/CFT risks of the consolidated structures, and assess on a consolidated level, the extent to which control and systems, the Group governance structure and compliance function, sufficiently addresses all the AML/CFT risks of the group.

Types of FIs	Number of Inspections carried out					
	2011	2012	2013	2014	July 2015	Total
Banks	2	3	4 (NRA page 58 states 15)	5	3	7
Money remittance companies/Forex Bureaus	0	0	0	6	0	6
Insurance	0	0	4	0	0	4
Securities	0	0	0	0	4	4

272. In respect of the DNFBP sector, it was indicated to the assessors that the AML/CFT supervisors including the BUPSM Unit, have not commenced with supervision. This is further reflected by the table above. This is a concern for the assessors, particularly in relation to the precious stones and precious metals and the real estate sector which the authorities have identified as high risk for ML.

*d) Remedial actions and effective, proportionate, and dissuasive sanctions*

273. Zimbabwe has a sound legal and regulatory framework to impose sanctions for breaches of AML/CFT obligations. The sanctions regime applies to legal and natural persons and comprise administrative, civil and criminal sanctions (s.4-6 of the MLPCA). The BUPSM Unit is the only supervisor which has so far undertaken inspections to determine the extent of compliance with the AML obligations. The general approach by the BUPSM Unit is still largely focused on encouraging supervised entities to understand their AML/CFT obligations. The Table below as provided, shows fines issued by the BUPSM Unit for breaches of non-compliance. It is to be noted that the actual value of the fines administered were not provided to the assessors. As a result, the assessors were not able to determine whether the fines were effective, proportionate and dissuasive. In addition, from the sample of inspection reports provided to the assessors, it is to be noted that fines were not issued in some instances of major compliance breaches. Instead, the authorities issued corrective orders which the BUPSM Unit require implementation plans and progress reports on how the deficiencies are being addressed by the inspected entity.

Year	Sanctions	FIs	Nature of violation	Type of sanction
2014	1	Insurance	No AML/CFT systems	Warning and suspended fines
July 2015	3	Not detailed	Failure to report STRs	Fine

274. In addition, it is further noted that the sample of inspection reports provided to the assessment team showed that several major breaches were identified as findings of the inspections carried out, however financial sanctions were not issued or criminal procedures initiated against the entities in question. In general, for non-compliance breaches the BUPSMML Unit uses remedial action directing the FI to implement a plan of action to rectify the non-compliance areas. There is no evidence provided of the follow-up actions being taken by the BUPSMML Unit to verify implementation of the action plan and check the extent to which the breaches for non-compliance were rectified.

*e) Impact of supervisory actions on compliance*

275. The FIs interviewed during the on-site visit displayed a better level of awareness of AML/CFT requirements than the DNFBP sector. This showed that the supervisory effort and actions taken across the FI sectors was beginning to yield positive results. The emerging level of understanding and application of the AML/CFT requirements, albeit from a low base, in some sectors is a direct result of combination of the inspections carried out, the workshops and the sensitisation sessions organised for the different sectors and the issuance of guidelines and directives to assist FIs to comply with the AML requirements. The impact of supervisory actions on compliance is however reduced by the low level of inspections, the type of remedial action taken by the supervisor for rectification of compliance issues, not having a process in place to follow-up on corrective actions and not issuing sanctions for major breaches. In addition, there has been no supervision in the DNFBP sectors. The assessors urge the supervisors to strengthen supervision efforts both in the FIs, particularly the domestic FIs, and DNFBP sectors.

*f) Promoting a clear understanding of AML/CTF obligations and ML/TF risks*

276. The BUPSMML Unit has undertaken a number of initiatives to inform the FIs and DNFBPs of their AML/CFT obligations. These have included issuing of sector specific guidance co-jointly with the other supervisors, as well as conducting sensitisation sessions and AML workshops to raise awareness and sensitise the FIs and the DNFBPs on their AML/CFT obligations. The AML sessions and workshops are organised for FIs and DNFBPs both in and outside of Harare and are tailored generally around the AML statutory requirement and general category of ML/TF high risk areas identified by the FATF such as PEPs. Following the finalisation of the NRA, going forward efforts need to be placed on promoting the understanding of ML/TF risks both at country level as well as those risks which are inherent to the specific sectors.

*g) Conclusions on Immediate Outcome 3*

277. ML/TF risks have been assessed and identified in Zimbabwe through the NRA. However, at the time of the on-site visit the findings of the NRA had only just been communicated to the relevant supervisors and therefore had not been used to inform the supervisory processes and actions. The AML/CFT risk-based approach of the BUPSMML is still in the

early stages of development. The supervisors have not adopted a risk-based approach to supervision and the on-site inspections carried out are not triggered by level of ML/TF risks and other indicators and are not tailored according to the specific risks of the supervised entities and sectors. The BUPSML Unit had undertaken on-site inspections on its own and jointly with the other supervisors to determine level of compliance with AML/CFT obligations.

278. The remedial actions taken in cases of non-compliance were addressed by the issuing of corrective orders by the BUPSML Unit, with no follow-up process put in place however to check whether these were substantively rectified. There were no sanctions that have been issued, even in cases where serious breaches were identified.
279. There is room to improve coordination and cooperation amongst the different AML/CFT supervisors based on the NRA findings particularly as the majority of the banks have consolidated their business operations.
280. **Zimbabwe has achieved a low level of effectiveness for Immediate Outcome 3.**

## 7. LEGAL PERSONS AND ARRANGEMENTS

### 7.1 Key Findings and Recommended Actions

#### *Key Findings:*

- The authorities are not sufficiently aware of the risk of possible misuse of legal entities in Zimbabwe. There are no cases where foreign legal entities or arrangements have been used in domestic ML schemes.
- Basic information on legal persons incorporated in Zimbabwe is readily accessible by competent authorities (as well as reporting entities) at the Registrar of Companies and from the registered offices of the companies. The information available includes information on the form and type of the legal entity, the shareholder, director and company secretary information, shareholder information which has to be updated whenever there are changes (kept at the legal person's registered office), and the registered office of the legal entity. This information in practice is however not updated on a timely basis and therefore may not be at all times accurate. This is particularly relevant because there is a tendency to use pre-registered or "shelf" companies.
- There exists the practice of using "nominee" shareholders in Zimbabwe when structuring company ownership to circumvent statutory restrictions on ownership.
- The concept of beneficial ownership is not very well understood by competent authorities, FIs (except for large banks and FIs affiliated to foreign financial groups) and DNFBPs. This has hampered the type and quality of information collected on beneficial owner and in some cases it is doubtful whether the information is collected at all and is therefore available.
- Company Registrar is under resourced and cannot therefore monitor non-compliance issues in respect of companies and take appropriate actions accordingly.
- Sanctions are not being applied consistently or at all where instances of non-compliance are identified

#### *Recommended Actions:*

Zimbabwe should take the following actions:-

- Amend the Companies Act to create obligation on the Registrar of Companies to obtain information on beneficial ownership, or amend the MLPC Act to require FIs and DNFBPs to obtain and maintain sufficient beneficial ownership information.
- Introduce a legal framework which will enable the Registrar of Deeds to obtain information

on beneficial ownership to trusts.

- Implement mechanisms to ensure that Registrar of Companies maintains updated and reliable basic information on legal entities.
- Provide adequate resources to the Registrar of Companies, including building awareness on beneficial ownership issues.
- Broaden the understanding of the Competent Authorities on the concept of beneficial ownership.
- Conduct outreach to banks and non-banks which are not foreign owned or which have no foreign control and DNFBPs on obligations to collect beneficial ownership information to foster a greater understanding of the concept of beneficial owner.
- Strengthen the process for the identification of the beneficial owner across both the FIs and the DNFBPs.
- Ensure that beneficial ownership information is available and that competent authorities always have timely access to this information.
- Conduct a risk assessment with a view of identifying the ML/TF risk associated with the use of legal persons and legal arrangements including on the use of “nominees” when structuring companies.

281. The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25.

## ***7.2 Immediate Outcome 5 (Legal Persons and Arrangements)***

*a) Public availability of information on the creation and types of legal persons and arrangements*

282. According to the Zimbabwean authorities, the most common form of legal persons that are established are companies under Companies Act<sup>14</sup>. The companies can be either Private company (s.33) with 4 599 registered in 2015, Public company (s. 33) with 2 registered in 2015, private business corporations registered in terms of the Private Business Corporations Act with 2344 registered in 2015, companies limited by guarantee with 4 registered in 2015 and foreign companies with 11 registered in 2015. All these

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<sup>14</sup> Chapter 24:04.

companies are registered with the Registrar of Companies. There are also statutory public companies, often referred to as *parastatals* where the Government owns all the shares or is the majority shareholder. These are established through specific statutes of Parliament and are administered through Ministries responsible for the area they are involved in. At the time of the on-site visit, the authorities did not provide detailed information about these types of companies.

283. Legal arrangements that can be established in Zimbabwe include express trusts constituted through registration of deed and established by operation of common law. On application to register a Trust, three copies of the Notarial Deed of Trust are submitted by a Notary Public to the Deeds Registry for registration. Upon registration, the Notarial Deed of Trust becomes legally valid and a Notarial Deed of Trust registration number is issued. The Registrar of Deeds retains one copy of the Notarial Deed of Trust as a record and the other two copies are returned to the Notary Public. The maintained Notarial Deed of Trust by the Registrar of Deeds can only be amended by the Public Notary lodging a Resolution signed by the Trustees with the Registrar who has power to examine the amendments being proposed and depending on the nature of the amendment, the Registrar can refuse to make the changes. The same process is followed if the Trust has to be dissolved. At the time of the on-site there were 504 express trusts registered in Zimbabwe. Trusts are used mostly in the family context for asset protection. It has to be noted that both the Registrar of Companies and that of Deeds report to the Chief Registrar.

284. The information on the creation and types of legal persons is available through the different legislations that make provisions for their incorporation or registration.. Information on the creation and types of legal arrangements in Zimbabwe is not publicly available as it mostly under common law. S. 5 of the Deeds Registry Act has general provisions on registration of deeds but does not specifically provide for registration of a notarial deed of trust.

b) *Identification, assessment and understanding of risks and transparency of legal persons and arrangements*

285. Zimbabwe considered the transparency of legal persons and arrangements as part of its national risk assessment and assigned a rating of medium high (0.6) to the input variable. The NRA however did not comprehensively identify and assess the threats and vulnerabilities of legal persons and arrangements. The NRA noted that since 2006,

banking institutions are required to identify beneficial owners of corporations and trusts. However, the banks themselves have admitted that they do not have all the information required under the law on the legal persons and arrangements. This has been confirmed through the findings of inspections carried out. Other conclusions were to the effect that data storage at both the Registrar of Companies and that of Deeds was still being done manually with both Registries having only started to file some of the information electronically, which made it difficult to easily and quickly access information kept by both Registries.

286. It is considered that the issues of transparency of legal persons and arrangements were not comprehensively and sufficiently covered by the NRA. In any event, the focus on legal entities and arrangements was very narrow and the approach considered the relevant risks from a financial institution obligation point of view through the MLPC Act rather than looking at the different legal framework which establish the legal entities and arrangements. The sufficiency and accuracy of the basic information available at the Registrar of Companies was not considered.
287. The assessment did not cover the full range of legal entities and arrangements that can be established in Zimbabwe including private business companies, cooperatives and trusts. The assessment did not cover transparency of Zimbabwean companies with foreign ownership and the issue of “nominee” shareholders.
288. As mentioned above, the NRA did not comprehensively include an analysis of the transparency of legal persons and arrangements. It is not clear whether an analysis of threats arising from legal persons and arrangements were also covered. An assessment of the risk of misuse of legal persons need to be carried out in the context of the predicate offences considered by the NRA to be more prevalent and the sectors considered to be at most risk to be used for ML. The Registrar of Deeds stated that on average they receive three requests for information as part of police investigation on trusts every year and provided three case examples where they had received such requests. The Registrar also stated that as a matter of practice they obtain information on the donor or founder of the trusts, on trustees who must affix their signature on the execution clauses and on the beneficiaries. Identification includes checking the identification details of those persons including taking their national identity number. The three case examples provided did not relate to investigation of money laundering but of predicate offences. In addition, it is to be noted that with all three cases, the Registrar only provided information on the founders and the trustees and did not provide information on beneficiaries of the trusts.

It is not clear as to whether such information was requested by the law enforcement authority. Bearer shares are not an issue for Zimbabwe as they are not used.

289. Only registered shares can be issued under the Companies Act, although debenture to be issued to “bearer” is allowed.
290. The NRA does not consider the potential misuse of domestic fiduciary arrangements nor does it consider the risk related to foreign companies operating in Zimbabwe. The assessors were informed that in any event, professional services relating to the incorporation of companies and the registration of trusts are provided by licensed or registered entities which fall under the definition of DFNBP’s such as accountants and attorneys.
291. Competent authorities, particularly the Registrar’s office, do not have sound understanding of the risks that arise from the types of legal entities and arrangements and related practices such as “nominee” shareholders and “shelf” companies in Zimbabwe. The private sector, particularly the DNFBP’s offering fiduciary services have a better understanding of those risks.
- c) *Mitigating measures to prevent the misuse of legal persons and arrangements*
292. There are no specific measures implemented to increase the transparency of legal persons incorporated in Zimbabwe although the basic information on companies are publicly available at the Companies’ Registrar and easy access is granted to the authorities. Reasonably easy access is also granted under different circumstances to FIs and DNFBP’s on a timely basis.
293. The Registrar of Companies obtains and retains shareholder and directorship information on companies. According to the Registrar of Companies, basic information on all legal entities incorporated in Zimbabwe is held with their office.
294. The information is provided to the Registrar at the point of incorporation. In addition to the company name, legal form and place of incorporation, it notably includes the name of the directors, secretary and shareholders and the registered address of the company. The information has to be sent “physically” to the Registrar to be entered on the register. The

information obtained by the Registrar includes an individual identifier such as the national identity number.

295. Further, under the Companies Act there is an obligation on companies to annually submit their audited financial statements to the Registrar of Companies and any changes in respect of shareholders and directors of the company and the company's address. According to the Registrar of Companies, the extent of compliance with this obligation is low and because of lack of capacity and limited resources, it is difficult for them to follow-up on all of the non-complying companies. Changes made to the Company structures are not recorded on the Company's register as and when they are made and therefore the Company register may not reflect updated and accurate information about a company at any given point in time. However, it has to be mentioned that the Companies Act requires companies to keep accurate information at their registered offices on shares held by each of the members through a share register and update that information when there are any changes to the shareholding. Since there is no adequate inspection by the Registrar of Companies' Office due to insufficient resources, it could not be verified whether companies are actually keeping such registers as required.

d) *Overview on access to basic and beneficial ownership information on legal persons and arrangements*

296. Basic information is available to both the LEAs and the FIs as well as the general public. Access to the basic information maintained at both Registrars of Companies and Deeds is free for public entities and authorities and access is granted for a set fee for private users including FIs and DNFBPs. The information kept by the companies at their registered offices can also be accessed by the police either by consent of the company or through obtaining a court order. The LEAs interviewed during the onsite visit indicated that they are able to access this information whenever they require it. It was clear during the onsite that both LEAs and FIs regularly consult the information on the Company Register. The same however cannot be said for DNFBPs.

297. Although, there is a requirement under the MLPC Act on FIs and DNFBPs to obtain information on beneficial ownership, the NRA suggests that this requirement is not being complied with. In practice, the FIs are consistent in collecting basic information on their customers when establishing business relationships or providing a service. The DNFBP sector appears to be less consistent in implementing the obligations requiring collection of basic information on their customers when establishing business relationships or providing a service. During the onsite visit, from interviews conducted with the banks

and insurance companies which are foreign owned or controlled, it was observed that they were complying with beneficial ownership requirements and were obtaining such information. There is concern that other than these kind of institutions, the rest of the FI sector and DNFBPs are not complying or effectively complying with the obligation to obtain beneficial ownership information. Some of the DNFBPs interviewed apart from not obtaining such information, were not aware of the obligation. In general, apart from FIs which form part of financial groups, there seems to be a lack of understanding of the concept of beneficial owner across all sectors and including amongst some of the competent authorities themselves. This impacts on the quality and reliability of information that is available on beneficial owners.

298. Prior to 2013, nominees in Zimbabwe were allowed to hold shares on behalf of the real owner or someone else. In 2013, the Securities Commission of Zimbabwe issued a Directive in terms of paragraph 21 of the 1st Schedule to the Securities and Exchange Act [Chap 24:25], which directed Securities Dealing Firms or stock brokers to register all shares under Nominees in the names of the respective owners and deliver them to the clients or in the event of having challenges in delivering scrip, to have them transferred to a licensed custodian within 60 days of the Directive being issued. The Securities Commission informed the assessors that the Directive had been effectively implemented and also to compliment the Directive, the Securities Commission informed the assessors that for listed companies every share traded by them has to be registered in terms of the Companies Act. The Directive creates an obligation on the stock brokers to ensure that all the shares they trade in on behalf of their clients are registered in the name of the natural owner or the person in control of the shares and that records of such information in terms of the MLPC Act are maintained.
299. In Zimbabwe other companies or trusts can be the shareholder in their corporate or legal name of legal entities. When incorporating companies, there is no requirement on the company to identify the natural person who is behind the corporate structure nor is it a requirement to submit this information to the Registrar of Companies. In addition, foreign companies can be legal owners of Zimbabwean companies. This may lead to potentially opaque corporate structures being set up in Zimbabwe.

e) *Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons and arrangements*

300. Basic information is easily accessible through physical verification of either the company or trust's file at the Registrar of Companies' office or at the Registrar of Deeds' office. LEAs, particularly the police have access to this information through making a Form 24 Requisition in triplicate. The requisition will be quoting the reference number of the case, stating the grounds why the information is needed and is served on the Registrar of Companies or Deeds' offices depending on the kind of information required. Depending on the urgency of the matter, the requisition can be served directly on the Registrar or if not urgent, on one of the office's designated officers. The Registrar of Companies depending on the urgency of the matter takes a day to three days to provide the information. The information is provided for free. The LEAs interviewed during the onsite visit indicated that they are able to access this information without any problems whenever they require it.
301. Private users including FIs and DNFBPs, have to approach the offices of either the Registrar of Companies or that of Deeds to request for the information they require. For them to access the information they have to pay a small fee of one dollar and more if the document has to be photocopied and certified. The information can be obtained as soon as access to it has been granted. However, since there are no obligations for either the Registrar of Companies or Deeds to obtain information on beneficial ownership when registering either legal persons or arrangements, such information is not available. Also, due to some of the legal persons and arrangements not updating their records kept at the Registries on time, some of the information maintained by the Registrars might not be accurate and current, therefore not reliable all the time. According to the LEAs interviewed during the on-site, in instances where accurate and adequate basic information had been obtained from either the Registrar of Companies or Deeds, it was of reasonable quality to successfully assist them with their investigations.
302. In order to access information on basic and beneficial information maintained by FIs on both legal persons and arrangements, the police indicated to the assessors that they have to depose to an affidavit stating the reasons why the information is needed. The affidavit will then be used by the NPA to make an ex parte application to court for a court order. Once the order is granted, the police will then serve the order on the particular FI. The process takes less than a day. Through this process, the police in addition to the basic information can also access beneficial ownership information on legal persons and

arrangements kept by the FIs or DNFBPs. The police informed the assessors that they have not had problems with accessing such information where it is available. The LEAs also informed the assessors that they use the same process to access information kept at the registered offices of companies.

*f) Effectiveness, proportionality and dissuasiveness of Sanctions*

303. Sanctions are available, especially in the context of CDD for the reporting entity, but they have not been applied in a dissuasive and proportionate manner. The sample of inspection reports provided contains findings of non-compliance with CDD requirements. The authorities use “moral suasion” rather than apply sanctions against regulated entities for non-compliance.
304. Sanctions for legal persons are also available but these do not appear to be dissuasive and proportionate as they are only of small fines and are not evenly applied as the Registrar of Companies does not have sufficient resources to check which companies are complying with the Companies Act. Further in most cases it does not file a criminal complaint but prefers to impose administrative sanctions.
305. In addition, the Companies Act provides for companies to be struck off for not submitting the required annual returns. This again is not done in a consistent manner by the Registrar of Companies. Information provided indicated that notwithstanding the non-compliance issues, where companies hold assets (for example immovable property), the Registrar as a matter of practice does not strike-off these companies from the register due to limited resources to manage the assets as in the event of it being done a liquidator would have to be appointed to manage and deal with the assets.

*g) Conclusions on Immediate Outcome 5*

306. Although a NRA was done by the authorities of Zimbabwe, it did not focus much on the ML/TF risks inherent with legal persons and arrangements. The NRA process also did not focus on whether any of the five major crimes highlighted in the report as likely to generate proceeds which can be laundered are also associated with companies and trusts. It was not therefore possible to determine the kind of ML/TF risks associated with legal persons and arrangements in Zimbabwe and the extent of the risks as no cases of companies prosecuted on any of the five offences were provided.

307. The Registrars of Companies and of Deeds are not obligated to obtain information on beneficial ownership. Both Registry Offices during the on-site visit exhibited limited knowledge on beneficial ownership and the ML/TF vulnerabilities associated with legal persons and arrangements. This also makes it difficult for both FIs and DNFBPs to verify information on beneficial ownership as part of their CDD processes (notwithstanding the limitation described under IO.5 and criterion 10.5) with either the Registrar of Companies or Deeds. Further, although there is obligation on FIs and DNFBPs to obtain and maintain records including information on beneficial ownership (subject to the limitation under criterion 10.5) not all FIs and DNFBPs are complying with the requirement.
308. There are no clear requirements under the Companies Act to ensure proper accountability for AML/CFT purposes where nominees are used or shareholders are in the name of legal persons. The effectiveness of the Registrar's Office is restricted by the absence of adequate resources which has resulted with the office underperforming its functions including checking companies are registers on shareholders at their registered offices. Despite the Registrar's Office being able to provide information to other competent authorities in a timeous manner such information is only limited to basic information which does not include beneficial information.
309. **Zimbabwe has achieved a low level of effectiveness for Immediate Outcome 5.**

## 8. INTERNATIONAL COOPERATION

### 8.1 Key Findings and Recommended Actions

#### *Key Findings*

- In general, Zimbabwe has a sound legal framework including procedures and processes to provide MLA and other forms of cooperation. However, Zimbabwe has inadequate institutional capacity (e.g. LEAs and Supervisors) to implement the measures for purposes of requesting or providing assistance regarding ML, TF and associated predicate crimes. Although corruption is regarded as high risk for laundering purposes, the ZACC is not operational to enable it to combat corruption through seeking and providing international cooperation and exchange of information from and to foreign jurisdictions.
- Zimbabwe has not made nor received any MLA request for ML or TF. All MLA or other forms of cooperation requests made or received relate to predicate offences. Further, none of the requests involved beneficial ownership information.
- The information received from the authorities regarding the nature and extent of international cooperation implemented is insufficient in the absence of any reliable and comprehensive statistics or case examples on ML/TF or associated predicate crimes requests made or received to determine consistency with the risk profile of the country.

#### *Recommended actions:*

Zimbabwe should take the following actions:

- As a matter of urgency provide adequate resources to the relevant competent authorities (e.g. the NPA, Special Crimes Unit of the CID and supervisors) responsible for providing MLA and other forms of international cooperation.
- The authorities should, as a matter of urgency, ensure that the ZACC is fully operational to combat corruption at a national level so that it can be able to seek and render international cooperation against proceeds of corruption.,
- Should actively seek and respond to MLA requests given the nature and extent of cross-border criminal activities especially with those containing organised criminal elements.
- Should keep and maintain statistics on MLA and other forms of cooperation necessary to review implementation of measures in place through the establishment of an automated case management system that would enable the authorities to collect and maintain relevant statistics on requests that have been made and received.
- Zimbabwe should use greater use of MLA and other forms of cooperation to make requests for ML/TF, where necessary.

310. The relevant Immediate Outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.

## 8.2 *Immediate Outcome 2 (International Cooperation)*

a) *Providing and seeking MLA and extradition to pursue domestic ML, associated predicate crimes and TF*

311. The MLA framework in Zimbabwe is based on three arrangements: i) the 1990 Harare Scheme generally applicable to Commonwealth Countries, which is yet to be domesticated ii) the SADC Protocol on MLA and Extradition, and iii) Reciprocity for jurisdictions not covered by categories (i) and (ii). Zimbabwe regards international cooperation as an important component of its fight against crime in general, as the majority of the criminal activities have a cross-border element particularly within the Southern Africa region and certain parts of East Asia. In this respect, provision of mutual legal assistance (MLA) on ML, TF and predicate crimes is provided for in the legal and institutional framework of Zimbabwe.

312. The National Prosecuting Authority (NPA) through the Department of Economic Crimes and International Cooperation (DECIC), is the central authority for requesting and receiving of MLA. The Department has ten officers who are all responsible for handling MLA matters, and have been trained within (e.g. Southern African Development Community Mutual Legal Assistance and Extradition Protocol) and outside (e.g. various Commonwealth Schemes on MLA and Extradition, ARINSA, UNODC Asset Recovery Agency) of the region.

313. Zimbabwe has good procedures and processes to provide MLA. There are two channels used to make or receive MLA requests in Zimbabwe.

314. Formal requests for MLA come through the designated channels and go through the Ministry of Foreign Affairs. Zimbabwe often uses informal channels of communication (e.g. e-mail or telephone) to clarify certain matters or facts on the request rather than follow the normal channels which can unnecessarily delay the process.

315. "Informal requests" MLA (agency-to-agency) are received either by the DECIC or the CID Special Crimes in the Police. Once the DECIC receives a request, it vets it for consistency with the requirements of MLA and other applicable laws, and thereafter

enters it in an index book (manual case management system) where after it is allocated to an officer to process. If it is a criminal matter, a formal letter is written to the Commissioner of Police to send the request to the National Central Bureau at the HQ for the attention of the CID to conduct investigations. If the matter relates to freezing or confiscation of assets, the DECIC takes the matter to court on behalf of the requesting state once all information is received. If the request is received by the CID Special Crimes, it is referred to the DECIC, which follows a similar process.

316. In all instances, the receiving domestic agency conducting the investigations must formally acknowledge in writing, indicating the timeframe to finalise the investigation. There is in place a system to prioritise cases marked “urgent” particularly those involving freezing or confiscation of assets. Depending on the type of request received, the MLA response can be disseminated either by the NPA or the Police.
317. The authorities indicated that, in general, they respond to foreign MLA requests timeously, in an average of two weeks depending on the type of request received. The statistics provided by the authorities corroborated this though in one complex case, it took about six months to process the request due to delays in collection of the information.
- b) Seeking timely legal assistance to pursue domestic ML, associated predicate and TF cases with transnational elements*
318. Zimbabwe has not made or received any MLA request on ML or TF in the last four years. During this review period, all MLA requests were on predicate offences, mostly relating to fraud, cross-border smuggling of goods and minerals. The authorities, however, indicated that though most requests made to Zimbabwe did not directly state “ML”, from the circumstances set out in the requests, the authorities could discern/infer elements of ML offences.
319. Most of the MLA requests by Zimbabwe were made to countries in the region, with South Africa being the main recipient. There were also a number of requests made to jurisdictions outside the region, with Japan being the main recipient.
320. The table below shows the number of MLA requests made by the NPA and responses received from foreign jurisdictions. The majority of the MLA request involve South Africa (a significant number), Botswana, Malawi, Mozambique, DRC, Tanzania, Zambia and

Namibia (all from the region). There are some requests from the United Kingdom, Japan and Hong Kong China.

321. The assessors noted that there was a significant decline in the number of MLA requests and responses in 2014. The authorities attributed this to the amendment made to the Criminal Matters (Mutua Legal Assistance) Act by the MLCP Act which allowed the NPA more discretion on whether to apply other forms of international cooperation or MLA processes in some cases. As a result, the NPA relied more on other forms of cooperation in most cases which in the past would have applied MLA processes.

#### **Statistics on MLA Requests**

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Number of MLA Requests made by the NPA	156	124	111	33
Responses foreign jurisdictions to the MLA requests from NPA	102	103	82	13
Number of MLA Requests received by the NPA	20	32	21	17
Responses provided to foreign MLA requests by the NPA	20	32	21	17

322. Despite the low number of foreign MLA requests received, the NPA provides a response to each foreign request made. However, in the absence of information, it was not clear during the discussions with the authorities whether these responses were 'positive' or 'nil' and the level of quality thereof.
323. Most of the foreign MLA requests to Zimbabwe were from jurisdictions in the region with the majority of the requests coming from South Africa. Zimbabwe made spontaneous MLA disseminations to Zambia and Malawi. The areas of assistance provided by the Zimbabwe authorities usually related to service of documents; service of witness summons; recording of statements; making of arrangements for persons to give evidence or assist in investigations. The authorities indicated that they use the BUPSMU Unit to collect financial information such as statements from the FIs or the DNFBPs. There was however no evidence provided on the nature of requests.
324. There is no reliable data or information on asset recovered and proceeds from the sale of the recovered assets shared between Zimbabwe and a foreign jurisdiction. The authorities

cited case in which a motor vehicle involving a British national was confiscated. The car was later given to the Zimbabwean authorities.

325. Zimbabwe has not provided extradition relating to ML or TF but only on predicate offences involving the following jurisdictions: China, Malawi, Botswana, South Africa and Equatorial Guinea. Zimbabwe has extradited its own nationals, and has not refused any extradition. Except for one jurisdictions (Malawi for cannabis smuggling), there is no data or information on the types of predicate crimes involved, and the results of the extradition as the authorities do not keep statistics and seek or receive feedback on cases they have provided assistance.

#### Statistics on Extradition Requests:

Type	Number
Extradition requests received relating to domestic nationals	36
Extradition requests received relating to foreign nationals	12
Extradition requests granted relating to domestic nationals	36
Extradition requests granted relating to foreign nationals	12
Extradition requests made relating to domestic nationals	79
Requests (made) granted relating to domestic nationals	10

326. Overall, assessment of effectiveness of MLA, extradition and other forms of international cooperation was made difficult due to the lack of comprehensive data and information.

*c) Seeking other forms of international cooperation for AML/CTF purposes and beneficial ownership information of legal persons and arrangements*

327. Zimbabwe has a sound legal framework that promotes international cooperation and exchange of information. Competent authorities have clearly defined procedures and processes to provide international cooperation to their foreign counterparts on AML/CFT matters.

328. The **BUPSML Unit** has several MoUs, mostly with counterparts within the ESAAMLG region (South Africa, Zambia, Malawi, Botswana, Egypt, Sudan, Uganda, Tanzania, Angola, Lesotho, Mozambique, Seychelles and Swaziland). The BUPSML Unit has made and received a number of requests for information in pursuit of ML and associated predicate crimes. The BUPSML Unit has exchanged information with Hong Kong China, Germany, Mauritius and Spain, even though there is no MoU and is not part of the

Egmont Group of FIUs. Between 2014 and July 2015 the BUPSMML Unit received a total of 10 requests (4 each from Botswana and South Africa and 2 from Mauritius) and made a total of 17 requests (14 to South Africa, 2 to Botswana and 1 Mauritius). There were responses provided for all the requests. The BUPSMML Unit provided feedback on the quality of the responses provided to it.

329. The **ZACC** indicated that it can provide international cooperation and share information with foreign counterparts but since no corruption cases were initiated in the last three years, no such requests were made or received. This represents a significant deficiency in Zimbabwe's ability to contribute to international initiatives on combating of corruption, especially since corruption is regarded as one of the top five predicate offences generating the most proceeds that could be laundered.
330. **ZIMRA** confirmed that it can carry out international cooperation and exchange of information activities with counterparts particularly relating to tax and customs violations. ZIMRA has entered into Double Taxation Agreements with some 150 countries including Mauritius, Malaysia, Seychelles, South Africa, Germany, United Kingdom, Poland and Kuwait. No specific data or information was provided upon request to the assessors to determine the nature and extent of such cooperation.
331. **The Immigration Department** is responsible for all immigration and crimes including trafficking and smuggling. The authorities cited several cases including trafficking of persons and credit card fraud involving Angolan and Malawian nationals, respectively.
332. While **supervisors** have the powers to exchange information with foreign counterparts, there was no such exchanges specific to ML/TF at the time of the on-site visit.
333. The **Registrar of Companies and of Deeds** have not made nor received requests for beneficial ownership information to and from foreign counterparts. As already explained under IO.5, the Registrars and FIs and DNFBBPs have no legal authority to obtain and keep such information. Competent authorities indicated that they have requested and obtained on behalf of foreign counterparts basic beneficial ownership information from the Registrars. They have, however also indicated that they do not receive beneficial ownership information from in foreign jurisdiction to their requests.

*d) Conclusions on Immediate Outcome 2*

334. Competent authorities in Zimbabwe have procedures and processes to provide MLA, extradition, and other forms of international cooperation with foreign counterparts to pursue ML, TF and associated predicate crimes. The constraints relating to low resources capacity and limited quality and use of financial intelligence as well as the negligible levels of investigations and prosecutions of ML cases have affected the ability of the country to use the available measures. These are the main underlying causes of the low level of effectiveness under international cooperation.
335. **Zimbabwe has achieved a low level of effectiveness for Immediate Outcome 2.**

## TECHNICAL COMPLIANCE ANNEX

This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations of Zimbabwe in their numerical order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2007. This report is available from [www.esaamlg.org](http://www.esaamlg.org).

The AML/CFT laws and regulations in Zimbabwe have changed materially since the last assessment, and, as such, there is little reliance on the findings of the 2007 MER.

### **Recommendation 1 - Assessing Risks and applying a Risk-Based Approach**

In the First Round of Mutual Evaluations (MEs), there was no requirement for a National Risk Assessment (NRA) or other risk related requirements set out in R. 1

#### *Obligations and decisions for countries*

##### Risk assessment

*Criterion 1.1 (Met)* Zimbabwe has identified and assessed its ML/TF risks contained in its first National Risk Assessment (NRA) issued in July 2015. The NRA was carried out over a period of a year, led by National Risk Assessment Coordinating Committee of the National Anti-Money Laundering Task Force under the Ministry of Finance and Economic Development. Zimbabwe used the World Bank's National Money Laundering and Terrorist Financing Risk Assessment Tool to collect and interpret data and information obtained from a variety of sources including the BUPSMU Unit, law enforcement agencies, supervisory bodies, national prosecuting authority, regional and international organisations, public databases, media reports and questionnaire responses from the private sector.

Due to data and information availability challenges, the NRA generally used data and information for 2013, where it was available. This was caused by either statutory restrictions to share or absence of databases which had such data and information. Zimbabwe Revenue Authority could not share tax information due to legal restrictions despite tax crimes being high risk, while relevant data and information from the DNFBP sector, law enforcement agencies and prosecuting authorities could not be obtained as it is not being kept. Furthermore, information in the informal economy could not be established due mainly to the fact that transactions are in

cash and not recorded. Informal economy has become dominant over the years and, therefore, this situation represented a significant gap in the collection and analysis of ML/TF risks associated with cash-intensive, informal economy in Zimbabwe. To address this, the authorities generally relied on estimates and qualitative sources to determine ML/TF risks.

Despite these challenges the NRA has made reasonable findings. The NRA regards banks, real estate agents, and precious stones and metals as high risk as well as the existence of illegal MVTS. The NRA identified illegal dealings in precious stones and metals, fraud and corruption, externalisation of currency and smuggling of goods as the predicate offences generating the most proceeds in Zimbabwe.

The assessment team concluded that while Zimbabwe experienced some data and information challenges, the findings of the NRA appear reasonable and are broadly within the general expectation of ML/TF risks facing the country, especially considering that there was multi-stakeholder representation and participation which further enhanced inter-agency cooperation and coordination.

*Criterion 1.2 (Met)* Zimbabwe established NRA Coordinating Committee which included other stakeholders which ordinarily are not NTF members. The Bank Use Promotion and Suppression of Money Laundering Unit BUPSML Unit (BUPSML Unit (Zimbabwe's financial intelligence unit) is the lead agency and the Secretariat of the Committee tasked with the overall coordination role of the risk assessment exercise. The Committee comprised a broad range of participants covering the relevant government ministries, supervisors, law enforcement agencies, financial institutions and DNFBPs, and relevant industry associations.

*Criterion 1.3 (Met)* - The NRA in Zimbabwe was up-to date at the time of the assessment, as it was released two weeks before the on-site visit. The NRA Coordinating Committee advises it will review it at least once a year, unless emerging ML/TF risks dictate otherwise.

*Criterion 1.4 (Not Met)*. The results of the NRA were presented to the members of the NRA Coordinating Committee at an official launch led by the BUPSML Unit. Apart from the launch, there has not been any mechanism(s) to communicate the results including making publicly available the findings of the NRA to reach out to as many public and private sector entities as possible. The NRA is classified as a "confidential" document.

### ***Risk mitigation***

*Criteria 1.5 (Not Met)* The authorities did not demonstrate an understanding of the ML/TF risks identified in the NRA, and, as a result, they have not yet designed, adopted, and applied a risk-based approach and allocated resources to prevent or mitigate ML/TF risks. The authorities advised that this is because the results of the NRA came too close to the on-site visit. At the time of releasing the NRA, Zimbabwe released a National Anti-Money Laundering and Combating of Financing of Terrorism Strategy, 2015 – 2018 and a Detailed Action Plan (contained in the NRA) which will inform mitigating strategies against the identified ML/TF risks going forward.

*Criteria 1.6 (N/A)* Zimbabwe has not applied any exemption from its AML/CFT framework with respect to financial activities defined under the FATF Standards. In terms of s.101 of the MLPC Act the Minister may include a financial activity carried out by a financial institution or a DNFBP in the ambit of the AML/CFT requirements, but this power has not been exercised.

*Criteria 1.7 (Partially Met)* s.16(2) sets out requirements for financial institutions and DNFBPs to identify and verify customers with which they had a business relationship before the coming into force of the MLPC Act, on a risk sensitive basis depending on the type and nature of the customer, business relationship, product or transactions. In respect of high risk customers, s.20(a) read with s.26(1)(b)(c) and s.26(2)(b)(c) of the MLPC Act requires application of enhanced CDD procedures to mitigate risks. There is no specific requirement for financial institutions and DNFBPs to include high risks areas into their risk assessments.

*Criterion 1.8 (Not Met)* s.15(3) of the MLPC Act envisages exemption from application of CDD procedures for public companies but there is no specific requirement for financial institutions and DNFBPs to take into account the level of risk.

*Criterion 1.9 (Not Met)* Supervisors in Zimbabwe are yet to apply risk-based approach to compliance with AML/CFT requirements. The BUPSMU Unit has in place a basic risk-based approach but it is not being applied satisfactorily when carrying out supervisory activities.

*Criterion 1.10 (Not Met)* s.20(a) requires financial institutions and DNFBPs to put in place appropriate risk management systems to only identify customers posing a high risk of ML/TF. There is no specific requirement to assess and understand their ML/TF risks, document the risks,

consider the category of the risk and the appropriate mitigating controls, and have measures to communicate the risk assessments to supervisors.

*Criterion 1.11 (Partially Met)* s.26(b) and (c) of the MLPC Act requires that financial institutions and DNFBPs apply enhanced due diligence on non-face-to-face clients, high risk customers and political exposed persons and correspondent banking transactions as well as special monitoring of transactions consistent with the risk profile. There is no specific requirement to develop and adopt procedures, policies and controls at a senior management level to manage and mitigate the risks nor monitor implementation of the controls and procedures with a view to adjusting them when necessary.

*Criterion 1.12 (Not Met)* There is no specific obligation for financial institutions and DNFBPs to apply simplified measures on the basis of the level of risk.

*Weighting and Conclusion:*

Zimbabwe meets criteria 1.1 -1.3, and partially meets criterion 1.11 & 1.7, and does not meet criteria 1.4, 1.5, 1.8 - 1.10 & 1.12. Criterion 1.6 is not applicable. The NRA was released in July 2015, two weeks before the on-site visit. This is too soon to impact on the understanding of ML/TF risks and application of mitigating strategies across the spectrum.

**Zimbabwe is rated Partially-Compliant with R. 1.**

***Recommendation 2 - National Cooperation and Coordination***

In the First Round of MEs, Zimbabwe was rated Partially Compliant for this Recommendation (formerly R.31). The main deficiency was lack of cooperation and coordination in the development and implementation of AML/CFT policies and measures amongst the policy-makers and competent authorities.

*Criterion 2.1.(Met)* – Zimbabwe released its *National AML/CFT Strategy 2015 – 18* in July 2015 alongside the NRA, as the basis to coordinate nationally the implementation of mitigating measures against the identified ML/TF risks. The Strategy reviews the National AML/CFT Strategy, 2010-12 which was not based on any risk assessment. The authorities indicate that the Strategy will be regularly reviewed and updated based on changes to the NRA.

*Criterion 2.2.(Met)* - The Anti-Money Laundering Advisory Committee provides advice to the Minister of Finance and Economic Development on AML/CFT matters (s.9 of the BUPSM Act). The Committee itself is advised by the NTF AML/CFT which is responsible for coordination of all policy-formulation and implementation matters.

*Criterion 2.3. (Met)* – The NTF AML/CFT Committee is the coordination and cooperation mechanism for all AML/CFT matters in the country and comprises a broad range of stakeholders predominantly in the public sector including the Ministry of Finance and Economic Development (responsible for policy-making), Ministry of Foreign Affairs (responsible for relevant United Nations and African Union Conventions) BUPSM Unit (Chairs the NTF and acts as the Secretariat), supervisors, law enforcement agencies, and relevant industry associations. It meets once a month to discuss matters affecting Zimbabwe’s AML/CFT implementation. The NTF was coordinating Zimbabwe’s engagements with the International Cooperation Review Group (ICRG) of the FATF which was completed in January 2015 during the country’s enhanced review by the FATF. The NTF, through the NRA Coordinating Committee, has conducted the NRA and formulated a National Strategy on AML/CFT, 2015-18. In addition, the NTF in collaboration with the Ministry of Finance and Economic Development is a contact point responsible for coordination of the country’s participation by all AML/CFT stakeholders in relation to ESAAMLG or any other international engagements.

*Criterion 2.4 (Not met)* Zimbabwe has no mechanisms in place to deal with proliferation financing.

#### *Weighting and Conclusion*

Zimbabwe has functioning structures which allow for coordination and cooperation nationally, and has sufficiently demonstrated actions taken relevant to the country’s AML/CFT policy and operational direction. Zimbabwe meets criteria 2.1, 2.2 and 2.3, and does not meet criterion 2.4.

**Zimbabwe is rated Largely Compliant with R.2.**

#### ***Recommendation 3 - Money laundering offence***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements to this Recommendation (formerly R.1 & R.2). The main technical deficiencies related to natural and legal persons not being subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for ML.

*Criterion 3.1 (Met)* Zimbabwe has criminalised the offence of ML under s.8 of the MLPC Act consistent with Article 3(1) (b) and (c) of the Vienna Convention, 1988 and Article 6(1) of the Palermo Convention. Under Article 8 of the MLPCA any person who converts or transfers property which is acquired for the purpose of concealing or disguising or assisting another or evade legal consequences commits an offence. Subsection covers concealing and disguising while Subsection (3) covers acquisition, use or possession. Subsection (4) covers participation in, association with or conspiracy to commit, attempt, aiding, abetting, facilitating and counselling the commission of an offence.

*Criterion 3.2 (Met)* Predicate offences for money laundering cover a combined approach of both serious offences under section 2 and all offences under section 8 of the MLPC Act consistent with the Standards.

*Criterion 3.3 (Met)* Zimbabwe applies a combined approach encompassing an all offences approach as well as a serious crimes approach to predicate offences for the ML offence (s.8(1) of MLPC Act).

*Criterion 3.4 (Met)* The offence of ML extends to all types of property, which directly or indirectly represents proceeds of crime, regardless of the value (s.8 MLPC Act).

*Criterion 3.5 (Met)* In order to prove that property is the proceeds of crime, under section 8 (6) of the MLPC Act, it is not necessary for there to be a conviction for the offence that generated the proceeds, or for a specific offence to be proved, rather the prosecution should prove that some kind of criminal activity occurred, or that a particular person committed the offence.

*Criterion 3.6 (Met)* The jurisdiction of predicate offences for money laundering in Zimbabwe extends to conduct that occurred in another jurisdiction, which constitutes crime under the laws of Zimbabwe, (s.8(7) of the MPLC Act). In order to prove that property is the proceeds of crime, under section 8 (6) of the MLPC Act, it is not necessary for there to be a conviction for the offence that generated the proceeds, or for a specific offence to be proved, rather the prosecution should prove that some kind of criminal activity occurred, or that a particular person committed the offence.

*Criterion 3.7 (Met)* Zimbabwean courts<sup>15</sup> have upheld “self-laundering” as an offence. The Zimbabwe Court system and judicial authority is established under Part 8 of the Constitution. It provides that Judicial authority derives from the people of Zimbabwe and is vested in the courts, which comprise— (a) the Constitutional Court; (b) the Supreme Court; (c) the High Court; (d) the Labour Court; (e) the Administrative Court; (f) the magistrates courts; (g) the customary law courts; and (h) other courts established by or under an Act of Parliament. The Constitutional Court is the highest court in all constitutional matters while the Supreme Court is the final court of appeal for Zimbabwe, except in matters over which the Constitutional Court has jurisdiction.

*Criterion 3.8 (Met)* The MLPC Act specifically states in s. 8 (5) that intent and knowledge of the ML offence may be inferred from objective factual circumstances.

*Criterion 3.9 & 3.10 (Met)* A broad range of sanctions (criminal, civil and administrative) for ML offence apply to natural persons and legal persons (s.8. (8) MLPC Act), as follows:

- (a) by a fine not exceeding five hundred thousand dollars (US\$500 000) or not exceeding twice the value of the property involved or the gain derived by the offender, whichever is greater; or
- (b) by imprisonment for a period not exceeding twenty-five years; or
- (c) Both such fine and such imprisonment

A “person” means a natural person and a legal person (s.3 Interpretation Act). Under the MLPCA both the company or corporate body as well as the company’s director are liable to criminal sanctions and fines as may be prescribed. In addition under sections 5 and 6 of that Act, administrative action and civil penalties not exceeding two hundred and fifty thousand dollars (US \$250 000) may be imposed for civil infringements upon any competent supervisory authority, financial institution, designated non-financial business or profession, or any of its respective directors, principals, officers, partners, professionals, agents or employees. Section 277 of the Criminal Law Codification Act provides for criminal liability against companies (Corporate bodies) and its directors.

*Criterion 3.11 (Met)* There is a broad range of ancillary offences to the ML offence (s.8(4) MPLC Act). such as participation in, association with or conspiracy to commit, an attempt to commit, and aiding, abetting, facilitating and counselling the commission of an offence.

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<sup>15</sup> In *State vs Mambo* 1995 (1) ZLR 50 (S), the Supreme Court of Zimbabwe confirmed the accused person’s conviction on a charge of self-laundering.

### *Weighting and Conclusion*

Zimbabwe meets all criteria under this Recommendation

**Zimbabwe is rated Compliant with R.3.**

### ***Recommendation 4 - Confiscation and provisional measures***

In the First Round MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.3). The deficiency mainly related to the absence of a specialized Unit within the Zimbabwe Republic Police in asset investigation and forfeiture since methods used to be employed by Zimbabwe drew heavily on the police resources.

*Criterion 4.1 – (Partially Met)* Under section 50 of the MLPCA, where a person is convicted of a serious offence, the Attorney-General may apply to the court for confiscation against property that is identified as tainted property or terrorist property in relation to that offence. The Act defines tainted property as meaning, (a) proceeds from or instrumentalities of the commission of a serious offence, other than a terrorist act; or (b) property which has been, is being, or is intended to be used to commit a serious offence, other than a terrorist act; or (c) property which has been, is being, or is intended to be used by an organised criminal group; or (d) property owned or controlled by, or on behalf of, an organised criminal group; or (e) property which has been collected for the purpose of providing support to an organised criminal group or funding a serious offence.

From this, under the MLPCA, confiscation can only be undertaken where a person is convicted of a serious offence and the property is tainted property. Confiscation cannot be undertaken on those offences which are not serious offences (any offence that is less than four years) such as illicit arms trafficking, tax crimes, illicit trafficking in stolen and other goods, smuggling and environmental crimes which entail un laundered proceeds of these predicate offenses. The MLPCA defines a serious offence as meaning, (a) a money laundering offence; or (b) a terrorist financing offence; or (c) a terrorist act, under whatever offence that act is prosecuted; or (d) an offence for which the maximum penalty is death or life imprisonment; or (e) an offence for which the maximum penalty is imprisonment of four years or more, with or without the option of a fine; or (f) an offence under the law of a foreign State in relation to any act or omission which, had it occurred in Zimbabwe, would have constituted an offence under paragraph (a), (b), (c), (d) or (e);

The assessors also considered at the provisions of the Criminal Procedure and Evidence Act (CPEA) to determine if those provisions could be used to accommodate the missing offences not deemed as serious offences for purposes of section 50 of the MLPCA. Under section 62 (1) (a) of the CPEA, a court convicting any person of any offence may, declare forfeited to the State

weapons, instruments and instrumentalities: The articles covered by sub section (a) are any weapon, instrument or other article by means whereof the offence in question was committed or which was used in the commission of such offence. The articles that would be subject to forfeiture under 62 (1) (b), would be, any vehicle, container or other article which was used for the purpose of or in connection with the commission of the offences set out in the second schedule. These offences in this schedule relate to, unlawful possession, conveyance or supply of habit forming drugs or harmful liquid; unlawful possession of, or dealing in, precious metals or precious stones; Theft; Breaking and entering any premises with intent to commit an offence used for purposes of confiscation independently. It therefore means that confiscation measure can only be applied to instrumentalities of those aforementioned crimes but not against the proceeds generated by the predicate the crimes.

The net effect of this is that confiscation under section 50 of the MLPCA would only be limited to serious offences and confiscation/forfeiture under s.62 would be limited only to the articles and offences mentioned in that section. This means that in Zimbabwe, any other article or offence not covered by section 62 would still be excluded for purposes of confiscation. Zimbabwean Law does not provide for confiscation of property of corresponding value.

The Assessors are further of the view that the above conclusion (under R4.1) are not inconsistent from the conclusions arrived at under R3.2 and R4.1 for the reason that, for purposes of R3.2, Zimbabwe follows a combined approach encompassing an all offences approach as well as a serious crimes approach. On account of this (combined approach) any predicate offences that would have been omitted when following the serious crimes approach will be taken into account because of the all offences approach.

*Criterion 4.2 –(Largely Met)* The legal framework covers investigative orders to identify, trace and evaluate property subject to confiscation (SS. 72-75 of the MLPC Act and SS.53-57 of the Criminal Procedure and Evidence Act). The elements of “interdict” required for taking provisional measures over property subject to confiscation are provided for (Ss. 40-49, 75 of the MLPC Act and SS.49-52 of the Criminal Procedure and Evidence Act). Under Zimbabwean law, an interdict is an order issued in terms of section 40 of the MLPCA which restrains a person from dealing with property. The legal framework covers investigative orders for civil forfeiture against a property (ss. 92-95 MLPC Act). Criminal forfeiture is covered by sections 40 – 47 in Part II of the MLPCA. . S. 219 of the Zimbabwean Constitution and S. 55 (2) of the Police Act empower the police to carry out other investigative measures including seeking both domestic and international cooperation as well as summoning and interrogating witnesses. There is no specific

provision or measure relating to steps to prevent or void actions that prejudice ability to freeze or recover property that is subject to confiscation.

*Criterion 4.3 (Met)* Zimbabwe provides for protection of the rights of bona fide third parties by the court making any order it considers necessary to protect that person's interest in the property where it considers that a person is a legitimate owner (s.85 MLPC Act).

*Criterion 4.4 (Partially Met)* The Minister is empowered to make prescriptions that enable management of Recovered Assets Funds. The prescriptions have however not been issued to operationalise the Fund (ss.96 – 100 MLPC Act). The authorities have explained the process of confiscating criminal proceeds by using the court retention fund. However, the Court retention fund would only deal with those assets under the jurisdiction of the court and there is no clear mechanism for those assets which are outside the jurisdiction of the court .e.g. assets frozen by other competent authorities.

#### *Weighting and Conclusion*

Zimbabwe meets criterion 4.3, largely meets 4.2 and partially meets criteria 4.1 and 4.4. Zimbabwe's law does not provide for steps to prevent or void actions and confiscation of property of corresponding value and proceeds of crimes such as illicit arms trafficking, tax crimes, illicit trafficking in stolen and other goods, smuggling and environmental crimes. Prescriptions that enable management of Recovered Assets Funds have not been issued.

**Zimbabwe is rated Partially-Compliant with R.4.**

#### ***Recommendation 5 - Terrorist financing offence***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly SR.II). The main deficiencies included the TF not being a predicate offence for ML as the ML offence had not yet been criminalised and the other deficiencies related to effectiveness. The offence of TF has not yet been fully criminalised.

*Criterion 5.1 (Met)* Zimbabwe criminalises TF offence on the basis of the TF Convention (s.9 MLPC Act).

*Criterion 5.2 (Met)* TF offence extends any person who by any means, directly or indirectly, provides or collects funds, or attempts to do so, with the intention that they should be used or in the knowledge that they are to be used in whole or in part to carry out a terrorist act, by a

terrorist, or terrorist organization, regardless of whether the act takes place or not (s.9 (1) MLPC Act). Section 9 (1) (a) as read with section 9 (2) (a) of the MLPC Act provides for the terrorist financing offence in the absence of a specific link to a terrorist act.

*Criterion 5.3 (Met)* Zimbabwe criminalises any funds regardless of origin for the offence of TF (s.9 MLPC Act). The term “funds or other assets” refers to “financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets (s.7 MLPC Act).” There is no any limitation with respect to the origin of funds and, therefore, includes funds from both legitimate and illegitimate sources (s.9 MLPC Act).

*Criterion 5.4 (Met)* It is not necessary for the TF offence to prove that the funds were actually used to carry out or attempt a terrorist act or linked to a terrorist act (s.9(2)(a) MLPC Act).

*Criterion 5.5 (Met)* Intent and knowledge can be inferred from objective factual circumstances for purposes of proving commission of a TF offence (ss. 12, 13, 14, 15 and 17 of the Criminal Law Codification and Reform Act).

*Criterion 5.6 (Met)* Zimbabwe can impose criminal, civil and administrative (a fine or imprisonment, or both) for commission of TF offence. The terrorism financing offence is punishable (a) by a fine not exceeding five hundred thousand dollars (US \$500 000) or not exceeding twice the value of the property that forms the subject of the charge, whichever is greater; or (b) by imprisonment for a period not exceeding thirty-five years; or (c) by both such fine and such imprisonment. The sanctions are broad and the Assessors are of the view that these sanctions are proportional and dissuasive. (s.9(4) (a) to (c) MLPC Act).

*Criterion 5.7 (Met)* Criminal liability and sanctions apply to both natural and legal person (s. 9 MLPC Act). See criterion 3.10 for definition of a person. In terms of Section 5 of the MLPC Act, civil or administrative Sanctions may be imposed by issuing a directive without derogating from any criminal penalty imposed under the MLPC Act. The administrative actions range from issuing a written warning, barring individuals from employment, suspension or revocation of institutional licenses. The BUPSMU Unit has issued directives for the implementation of this provision of the Act. The civil penalties include fixed penalties up to two hundred and fifty thousand dollars (US \$250 000) and daily penalties of five hundred dollars (US\$ 500).

*Criterion 5.8 (Met)* There is broad range of ancillary offences including participation as an accomplice, organise or directs others, , provision of material support or attempt apply to TF offence (s9 (3) MLPC Act).

*Criterion 5.9 (Met)* As a serious offence, TF offence is a predicate crime for ML (s.2 MLPC Act).

*Criterion 5.10 (Met)* The TF offence has extra-territorial jurisdiction (s.9 (2) (c) MLPC Act).

#### *Weighting and Conclusion*

Zimbabwe meets criteria under this Recommendation

**Zimbabwe is rated is Compliant with R.5.**

### **Recommendation 6 - Targeted Financial Sanctions Related to Terrorism and Terrorist Financing**

In the First Round of MEs, Zimbabwe was rated Non-Compliant with the requirements of this Recommendation (formerly SR.III). The major deficiency was the absence of measures or procedures to implement the UNSCRs relating to freezing and confiscation of a terrorist property. In order to implement the targeted financial sanctions pursuant to the UNSCRs 1267/1989 and 1988 Zimbabwe brought into force *Statutory Instrument 76 of 2014, The Suppression of Foreign and International Terrorism (Application of UNSCRs 1267 1999 and UNSCR 1373 2001 and Successor Resolutions) Regulations*.

*Criterion 6.1 & 6.2 (Met)* Under Regulation 6 of the Statutory Instrument 76 of 2014 Suppression of Foreign and International Terrorism Regulations the BUPSM Unit is the competent authority responsible for proposing persons and entities under the United Nations Security Council Resolutions (UNSCRs) 1267/1989 and 1373/1988 United Nations Sanctions Regimes and communicating the freezing order. It lays down the procedure for proposing and designating persons and entities for each sanctions regimes whereby the Ministry of Foreign Affairs receives the List from the United Nations and then transmit it to Ministry of Home Affairs which in turn submits to the BUPSM Unit for final dissemination to the FIs and the DNFBPs. However, the procedures have not yet been tested. At the time of the on-site there had not been any freeze as no targeted funds or assets had as yet been identified. The standard of proof for proposing and designating a person or entity is *reasonable ground to suspect*, and not a criminal standard (Reg 6 (5) read with Reg 7 (3)). For the 1373 List the Prosecutor-General shall determine on the basis of information provided by the requesting state or locally for the Zimbabwe List, and advise the BUPSM Unit to issue a freezing order against all funds or assets of a person or entity to FIs, DNFBPs and competent authorities to take the necessary actions. The freezing order shall lapse after 180 days, unless the Prosecutor-General applies to a competent court beforehand for an

extension under Part 1 of Chapter V of the MLPC Act, 2013. Under Regulation 7 (4) (b), where the Prosecutor General determines that there are reasonable grounds to designate an entity, he informs the Director who, without delay, provisionally makes an order freezing the assets of the entity or individual. The provisional order lapses on the 180<sup>th</sup> day from which it was made unless the Prosecutor General applies to a competent Court. Under sections 81 (1) & (2) of the MLPCA. The Attorney-General may apply to the court for a property freezing order in respect of property that he or she reasonably believes to be tainted property or terrorist property. The application is supported by an affidavit of an authorised officer indicating that the officer's belief and the grounds thereof namely, that the property which is the subject of the application is tainted property or terrorist property. Under section 84 (4), the court may make a property freezing order to preserve the specified property where it is satisfied that there are reasonable grounds to believe that the property, or part of it, is tainted property or terrorist property.

*Criterion 6.3 (Met)* The BUPSMU Unit is responsible for coordination of the implementation of the measures, and, in this regard, has the authority to request competent authorities to collect information using their own legal powers and procedures relevant to the request for a freezing order to be made by the Prosecutor General (Reg 9(4)). In terms of Reg 8 (6) the Minister or his representative can under the domestic designation apply *ex parte* to a competent court of jurisdiction to obtain a freezing order prohibiting any person from disposing of, or dealing with any interest in funds or assets specified in the Order.

*Criterion 6.4 (Met)* Reg 9 requires that the freezing of assets of designated persons or entities must be carried out "*immediately*". "*Immediately*" is defined in SI.76 as "*spontaneous, instantly rapid, straight away, take action in a timely manner without delay but no later than 24 hours.*"

*Criterion 6.5 (Met)* Under Regs 8, 9 and 11 Zimbabwe has the legal authority and procedures in place and has identified domestic competent authorities responsible for implementing and enforcing targeted financial sanctions. The freezing order under 1267 List takes place immediately after the Minister disseminates the List to the Unit. For 1373 (includes the Zimbabwe List) List the freezing order takes force once the President of the country signs the instruction for the Unit to disseminate to natural and legal persons. The BUPSMU Unit is responsible for dissemination of the 1267 and 1373 Lists and receipts of feedback on the execution of the freezing order from the legal and natural persons, to prepare a report for the attention of the Minister. For the Zimbabwe List Reg 7(9) requires that the BUPSMU Unit creates a website depository which is publicly accessible for all listed persons and entities. The scope of the funds or the assets under the SI 76 of 2014 is broad enough consistent with the FATF definition. Reg 11(1) read with Reg 8(5) makes the freezing order indefinite unless so authorised by a competent authority, and makes it an offence with sanctions against any person who contravenes the freezing order. The rights of *bona fide* third parties to a specified property in a freezing order must be protected in terms of Reg. 8(2). The BUPSMU Unit has the authority to

enforce the freezing order to issue administrative sanctions it deems necessary for any violation of the obligations under the SI 76 of 2014 (Reg 12(4)).

*Criterion 6.6 (Met)* Zimbabwe has mechanisms for de-listing and unfreezing the funds/other assets of persons/ entities which do not, or no longer, meet the criteria for designation under Regs 15, 16 and 18: For assets frozen under 1267 List, the affected person or entity must submit all the required information to the Minister for onward forwarding to the UNSCRs Sanctions Committee. For assets frozen under the 1373 Regime the Minister shall in consultation with the BUPSM Unit approve or reject a request for access to funds under the freezing order. In both instances, the Minister shall notify the applicant of the decisions taken, and where it is granted, the institutions holding the funds or assets shall be notified in writing of the actions required. A person or entity whose property is a subject freezing order may approach the courts for review of the decision (Reg.16(4)).

*Criterion 6.7 (Met)* Reg 15 provides for the procedures that would authorise the access to frozen funds (under UN Resolutions 1373 and 1267 respectively) or other assets which have been determined to be necessary for basic expenses, for the payment of certain fees.

*Weighting and Conclusion*

Zimbabwe meets the criteria under this Recommendation.

**Zimbabwe is rated Compliant with this Recommendation.**

## **Recommendation 7 – Targeted Financial Sanctions Related to Proliferation**

This is a new Recommendation introduced in the revised 2012 FATF Recommendations.

*Criterion 7.1 – 5 (Not Met)* Zimbabwe does not have measures in place to implement requirements relating to prevention of proliferation financing.

*Weighting and Conclusion*

Zimbabwe does not meet criteria 7.1-7.5.

**Zimbabwe is rated Non-Compliant with R.7.**

## **Recommendation 8-Non-Profit Organisations**

In the First Round of MEs, Zimbabwe was rated Non-Compliant with the requirements of this Recommendation (formerly SR.VIII). The major deficiency was a lack of specific legislation and application of TF measures.

*Criterion 8.1 (Not Met)* Zimbabwe has not conducted a review of laws and regulations that relate to entities that can be abused for the financing of terrorism including NPOs since 2006 nor conducted a comprehensive review in order to identify the features and types of NPOs that are particularly at risk of being misused for TF or other forms of terror support. The Foreign Recruitment Committee comprising representatives from the Ministries of Foreign Affairs; Labour and Social Welfare; Small and Medium Enterprises, Healthy, Industry and Commerce, Immigration; and State Security does the domestic review of NPOs, has capacity to get timely information on the activities, size of the NPOs for purposes of identifying the types and features of NPOs that could be at risk for being abused for TF activities. However, it was not very clear whether it also does periodic reassessments to review new information on the sector's potential vulnerabilities to TF activities.

*Criterion 8.2 – (Not Met)* Zimbabwe has not conducted outreach to the NPO sector concerning TF issues.

*Criteria 8.3 – (Not Met)* Zimbabwe does not have clear policies to promote transparency, integrity, and public confidence in the administration and management of all NPOs. The Private Voluntary Organisations Act is intended to promote transparency and monitor the activities of NPOs to prevent their abuse for illicit purposes. Sections 6 and 9 requires submission to compulsory registration requirements for purposes of promoting transparency and accountability of NPOs. In applying for registration, the NPO must lodge its constitution and must publish in a newspaper a notice of its intention to be registered. There are specific measures that the funds received by the NPOs are not abused. Section 15 requires books of accounts and records to be kept by every NPO and to submit prescribed periodic returns to the Registrar. Section 19 requires that books of accounts of every NPO be audited every financial year by a registered public auditor. Section 20 provides for the examination of books of accounts of the NPOs by inspection officers. However, the scope of the provisions is limited in that it does not specifically include requirements intended to deal with TF vulnerabilities.

*Criterion-8.4 (Partially Met)* The purpose and objectives of an NPO must be provided in the Constitution of the NPO when it registers (s. 9(1)) and this information is publicly available at the Registrar's offices. The section does not however require beneficiary information to be obtained other than the board members' information and the information on beneficiaries also is not publicly available. The secretary of every NPO has an obligation to keep the books, accounts and records of that particular NPO to the satisfaction of the Registrar and is required to provide such

prescribed reports and returns to the Registrar within a prescribed period (s. 15). Further, it is mandatory for each NPO, at the close of each financial year of the organisation to have an account of its expenditure and revenue audited by an auditor registered as a public auditor (s.19). All NPOs are required to be registered in order to engage in any activities in Zimbabwe (s. 6(1)). There are no requirements to maintain NPO records nor is a “know your beneficial and associated NPOs” rule followed.

*Criterion 8.5 (Partially Met)* A Minister (Minister of Public Service, Labour and Social Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act) may appoint an inspector in the Public Service to inspect any aspect of the affairs or activities of any NPO and to examine all documents including the books, accounts and other documents relating to the financial affairs of any NPO, and make a report to the Registrar for further consideration. There are sanctions (fine, imprisonment, or both) for failing to provide the required information (s.23 Private Voluntary Organisation Act))

*Criterion 8.6 –(Partially Met)* The Foreign Recruitment Committee, described in criterion 8.1 above, provides for domestic co-operation, co-ordination and information sharing among authorities or organisations that hold relevant information on NPOs. The Registrar of NPOs and the Minister of Labour and Social Services have full access on the administration and management of particular NPOs, although not necessarily intended for TF purposes. The Ministry of Labour participates in the Foreign Recruitment Committee, where information on the status of NPOs is shared including vulnerability to TF abuse.

*Criterion 8.7 (Not Met)* Zimbabwe does not have appropriate contact information and procedures to respond to international requests for information regarding particular NPOs suspected of TF or other forms of terrorist support.

#### *Weighting and Conclusion*

Zimbabwe partially meets criteria 8.4, 8.5 and 8.6, and does not meet criteria 8.1-8.3 and 8.7. There exist material deficiencies in respect of regulation of certain types of NPOs and the absence of monitoring of the NPOs for possible misuse by terrorists.

**Zimbabwe is rated Non-Compliant with R.8.**

## 5. PREVENTIVE MEASURES

### **Recommendation 9 – Financial Institution Secrecy Laws**

In the First Round of MEs, Zimbabwe was rated Largely Compliant with this Recommendation (formerly R.4). The FATF Standard in this area has not changed. The main deficiency indicated was that financial secrecy do not appear to inhibit the disclosure to and sharing of requisite information with the competent authorities, although compliance procedures remain unclear and that Zimbabwe must extend this to other types of reporting entities.

*Criterion 9.1 (Met)* Financial institution secrecy laws does not appear to inhibit the implementation of AML/CFT measures, and there are extensive provisions in law to ensure that adequate information can be shared (s.31 (1) MLPC Act).

#### *Weighting and Conclusion*

Zimbabwe meets criterion 9.1.

**Zimbabwe is Compliant with R. 9.**

### **Recommendation 10 – Customer Due Diligence Laws**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.5). The main technical deficiencies noted were: (i) not all financial institutions were obligated to the carry out the full range of customer due diligence measures; (ii) no prohibition on financial institutions maintaining accounts in fictitious names; and (iii) no requirement for FIs and DNFBPs to carry out enhanced CDD measures on customers posing a higher ML/TF risk.

*Criterion 10.1. (Met)* FIs are prohibited from opening or maintaining anonymous accounts or accounts in fictitious names (s.14 (1) MLPC Act).

#### *When CDD is required*

*Criterion 10.2. (Met)* FIs are required to undertake CDD when establishing business relationships and carrying out transactions, in particular when, i) opening an account or establishing a business relationship with a customer; ii) a customer who is neither an account holder nor in an established businesses relationship with a financial institution wishes to carry out a transaction equal to or above the designated threshold of US\$ 5,000 dollars, iii) a customer who is neither an

account holder nor in an established businesses relationship with a financial institution wishes to carry out a domestic or international wire transfer in the amount of 1,000 dollars or more, iv) there is a suspicion of money laundering or terrorism financing regardless of the value of the transaction involved, and v)when there are doubts about the veracity or adequacy of previously obtained data (s.15 (1) MLPC Act).

*Required CDD measures for all customers*

*Criterion 10.3. (Met)* FIs are required to identify and verify the identity of a customer using an “identity document” from an independent or verifiable source (s.15 MLPC Act). In terms of s.13 of the MLPC Act, an identity document covers;

- **Natural persons:** Any document issued in terms of s. 7(1) or (2) of the National Registration Act, or a passport or drivers’ license issued by or on behalf of the Government of Zimbabwe a certificate or permit issued to a person in terms of the Immigration Act or in terms of any enactment relating to refugees; or any passport, identity document or driver’s license issued by a foreign government, an Act of Parliament or on behalf of the Government of Zimbabwe, or a foreign government (in the case of foreigners).
- **Corporate bodies:** A certificate of incorporation or registration certified by or on behalf of the incorporating or registering authority in which or together with or which the names and address of the directors or members of the board or the other governing body of the corporate body are disclosed; and the memorandum and articles of association of a corporate body disclosing the names and address of the founding members, shareholders or stakeholders of the corporate body.

*Criterion 10.4. (Met)* FIs are required to identify and verify a person who is acting on behalf of customer, including providing evidence that such a person is appropriately authorized to act on behalf of the customer (s.17 MLPC Act).

*Criterion 10.5 (Not Met)* There is no direct obligation for FIs to sufficiently establish and verify the identity of a customer who is a beneficial owner. In addition, there is no obligation to identify a beneficial owner except for when carrying out any prescribed transaction of USD5000.00 [s.15(1)(b), USD1000.00 [s.15(1)(c)], USD3,000 [s.15(2)(c)] and [s.15(2)(d) during the course of a normal KYC process (s.15(3). Furthermore, the beneficial ownership requirement under this subsection covers identification only and does not include the obligation to verify the identity of the beneficial owner. The assessors are of the view that that the obligation to identify a beneficial

owner is limited to prescribed transactions only, which is not consistent with the requirements of this criterion.

*Criterion 10.6. (Met)* FIs are required to obtain information on the purpose and intended nature of each business relationship (s.17 (e) MLPC Act).

*Specific CDD measures required for legal persons and legal arrangements*

*Criterion 10.7. (Largely Met)* FIs are required to conduct on-going due diligence and transactions monitoring in order to ensure that such transactions are consistent with the knowledge of their customer, and the customer's commercial or personal activities and risk profile including the source of wealth and funds. Further, FIs are required to apply these specific measures in respect of high risk customers, PEPs and correspondent banking relationships (s.20 (a) and s.26(1)(b)(c) MLPC Act). There is a general requirement for FIs to keep up-to-date data or information collected through the CDD processes (s.16(3) MLPC Act) but that there is no specific requirement for FIs to undertake reviews of existing records, particularly for higher risk categories of customers as part of the specific purpose to update the information.

*Criterion 10.8. (Met)* FIs are required to gather sufficient information to identify the ownership and control structure of customers and understand the nature and business of that legal person or legal arrangement (s.17 (b), (c) and (f) MLPC Act).

*Criterion 10.9. (Met)* For customers that are legal persons FIs are required to identify and verify the corporate name; identities of directors, address of the head office; proof of incorporation and similar evidence of the legal status legal form; as well as provisions that bind the legal person and any information that is necessary to understand the ownership and control structure of the legal person or arrangement.

*Criterion 10.10. (Met)* In order to verify the identity of customers that are legal persons, FIs are required to obtain and verify the corporate name, head office address, identities of directors, proof of incorporation or similar evidence of legal status and legal form, provisions governing the authority to bind the legal person, and such information as is necessary to understand the ownership and control of the legal person. (s.17(b) read with s.15(3) MLPC Act).

*Criterion 10.11.(Met)* FIs are required to take reasonable measures to verify the identity of a legal arrangement in respect of every trustee, settlor, beneficiary and any other person with authority to manage, vary or otherwise control the legal arrangement (s.17(c) read with s.15(3) MLPC Act).

#### *CDD for Beneficiaries of Life Insurance Policies*

*Criterion 10.12. (Partially Met)* Under paragraphs 2.2.5 and 2.2.6 of the *Guidelines on Anti-Money Laundering and Combating Financing of Terrorism for Insurers 2012*, verification of the identity of the beneficiary of an insurance policy may take place after the business relationship has been established, provided that it takes place before the beneficiary exercises any right under the policy or prior to a pay-out. There is no explicit requirement for FIs to verify by name, the beneficiary of a life insurance policy that has been specifically identified as a natural person, legal person or legal arrangement.

#### *Timing for verification*

*Criterion 10.13. (Not Met)* There is no requirement for FIs to consider the risk of a beneficiary of a life insurance to determine if enhanced customer due diligence should be applied.

*Criterion 10.14. (Met)* FIs are required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers; or may complete verification after the establishment of the business relationship (s.16 (1) MLPC Act), provided that the Director issues a Directive requiring that, i) this occurs as soon as reasonably practicable; ii) this is essential not to interrupt the normal conduct of business; and iii) the ML/TF risks are effectively managed.

*Criterion 10.15. (Not Met)* There is no explicit requirement for FIs to put in place risk-based systems and controls that would guide determine the circumstances under which a customer may utilise a business relationship or carry out a transaction prior to verification of their identity. However, there is prohibition for FIs to establish a business relationship or conduct a transaction with a customer if there is suspicion of ML, TF or doubt about the veracity or adequacy of previously-obtained identity documents (s.16(1) MLPC Act).

### *Existing customers*

*Criterion 10.16. (Met)* FIs are required to apply the identification and verification requirements to customers or beneficial owners (c.10.5 limitation applies) with which they had a business relationship at the time of coming into force of the Act on a risk sensitive basis (s.16 (2) MLPC Act).

### *Risk-Based Approach*

*Criterion 10.17. (Met)* FIs are required to perform enhanced due diligence where the ML/TF risks are high (s.20(a) MLPC Act).

*Criterion 10.18. (Not Met)* There is no specific obligation for FIs to apply simplified due diligence where there is proven low risk, or any circumstance.

### *Failure to satisfactorily complete CDD*

*Criterion 10.19. – (Met)* In the event that FIs are unable to fulfil their obligations with respect to identifying the customer or beneficial owner (limitation of c.10.5 applies), it may not enter into or continue the business relationship, or perform any transaction with the customer and is required to file a report with the BUPSMU Unit (s. 22 MLPC Act).

*Criterion 10.20. – (N/A)* There is no specific obligation that envisages a situation where an FI must discontinue CDD process for fear of tipping-off the customer. The more general provisions in respect of c.10.19 (on filing an STR when CDD is incomplete) and c.21.2 (tipping-off) under the MLPC Act may apply.

### *Weighting and Conclusion:*

Zimbabwe meets criteria 10.1 – 10.4, 10.6, 10.8. - 10.11, 10.16 10.17 and 10.19, largely meets criteria 10.7, does not meet criteria 10.5, 10.15, 10.8, and 10.20 is N/A. Zimbabwe meets a few of the criteria, and does not provide for key criteria including applying CDD procedures on beneficial owners..

**Zimbabwe is rated Partially Compliant with R.10.**

## **Recommendation 11 – Record Keeping**

In the First of Round of MEs, Zimbabwe was rated Compliant with the requirements of this Recommendation (formerly R.10).

*Criterion 11.1. (Met)* FIs are required to maintain account files, records on transactions, business correspondence and CDD documentation for customers and beneficial owners for a minimum of five years following conclusion of transaction (s.24 MLPC Act).

*Criterion 11.2. (Met)* FIs required to maintain all records obtained on customer identification, account files and business correspondence and results of any analysis undertaken for at least 5 years after closure of an account or after the date of the occasional transaction (s.24 MLPC Act).

*Criterion 11.3. (Met)* FIs are required to establish and maintain records in a manner that would enable the reconstruction of individual transactions for both account holders and non-account holders, for a period of not less than five years from the date of the transaction (s.24 MLPC Act).

*Criterion 11.4. (Met)* FIs are required to ensure that records and underlying information are available on timely basis to the BUPSMU Unit and other competent authorities (s.24 (1) MLPC Act)

*Weighting and Conclusion:*

Zimbabwe meets criteria 11.1.-11.4.

**Zimbabwe is rated Compliant with R.11.**

*Additional Measures for specific customers and activities*

## **Recommendation 12 – Politically Exposed Persons**

In the First Round of MEs, Zimbabwe was rated Compliant with the requirements of this Recommendation (formerly R.6).

*Criterion 12.1. (Not Met)* FIs are required to put in place appropriate risk management systems to determine if a customer or beneficial owner, seek senior management approval, establish source of wealth and funds, and conduct enhanced monitoring in respect of PEPs. However, the scope of a foreign PEP is restricted only to a senior office-bearer of a political party in a foreign country

(s.13 MLPC Act read with s.169 Criminal Law Codification and Reform Act). A PEP is defined as “any person who is or has been a “public officer” as defined in section 169 of the Criminal Law Code; or any person who is or has been a manager, chief executive officer, chief financial officer, corporate secretary, member of a board of directors or holder of a similar post in any statutory corporation or State-controlled company; or any person who is or has been a senior office-bearer in a political party in any country; and includes any immediate family member or close associate of any of the foregoing persons”

*Criterion 12.2. (Largely Met)* FIs are required to take reasonable measures to determine whether a customer or beneficial owner is a domestic PEP, put in place a risk management system in place, seek senior management approval before establishing a business relationship with a customer, or later, as soon as an existing customer or beneficial owner is identified as a PEP, identify the source of wealth and other assets, and conduct enhanced on-going monitoring on that relationship (s.20(a) and (b)). There is no specific requirement relating to persons who have been entrusted with a prominent function in an international organization.

*Criterion 12.3. . (Largely Met)* FIs are required to apply the measures under criteria 12.1 and 12.2 in respect of family members and close associates. While this provision applies satisfactorily on domestic PEPs, it only applies to a foreign PEP who is a senior officer-bearer of a political party. Therefore the scope issues on foreign PEP identified under criteria 12.1 limits the requirements relating to family and close associates in this regard.

*Criterion 12.4 (Not Met)* There is no specific requirement for FIs to take reasonable measures to determine whether the beneficiaries and/or, where required, the beneficial owner of the beneficiary, are PEPs.

#### *Weighting and Conclusion*

Zimbabwe largely meets criteria 12.2 and 12.3, and does not meet criteria 12.1, 12.4. While Zimbabwe has covered only a senior office-bearer of a political party in a foreign jurisdiction under foreign PEPs and consequently narrows the scope of family and close associates, the country meets a large number of the requirements relating to domestic PEPs, to which more weight has been attached.

**Zimbabwe rated is Partially Compliant with R.12.**

## **Recommendation 13 – Correspondent Banking**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.7). The main deficiencies noted at the time was absence of requirement to FIs to obtain senior management approval prior to establishing new correspondent banking relationships.

*Criteria 13.1. (Met)* FIs are required to identify and verify information on the respondent FIs; assess the respondent bank's AML/CFT controls; obtain senior management approval prior to establishing a correspondent banking relationship; and understand the AML/CFT responsibilities of each party (whether acting as the respondent or correspondent bank) with respect to the correspondent banking relationship (s.21 MLPC Act).

*Criterion 13.2. (Partially Met)* With respect to payable through accounts, FIs are required to satisfy themselves that the respondent financial institution has verified its customer's identity, implemented mechanisms for on-going monitoring with respect to its customers and is capable of providing the relevant identity information upon request (s.21(g) MLPC Act). There are no specific obligation for FIs to satisfy themselves that the respondent bank has performed CDD obligations on its customers that have direct access to the accounts of the correspondent bank; and that it is able to provide the relevant CDD information upon request to the correspondent bank.

*Criterion 13.3. (Met)* FIs are prohibited from entering into, or continuing a correspondent banking relationship with shell banks or a respondent institution that permits its accounts to be used by shell banks (s.21(h) and (i) MLPC Act).

### *Weighting and Conclusion*

Zimbabwe meets criteria 13.1 and 13.3, and partially meets criterion 13.2.

The assessors noted that while there is a requirement for FIs to satisfy themselves with the customer identification information from a respondent bank in respect of "payable-through-accounts", the requirement does not cover whether the respondent bank has performed adequate CDD on its customers that have direct access to the accounts of the correspondent bank; and that it is able to provide the information upon request to the correspondent bank.

**Zimbabwe is rated Largely Compliant with R.13.**

## **Recommendation 14 – Money or Value Transfer Services**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly SR.VI). The main deficiencies was a lack of awareness of AML/CFT obligations in MVTS and AML/CFT supervision of MVTS.

*Criterion 14.1 (Met)* The Exchange Control Division of the RBZ is responsible for licensing and registration MVTS<sup>16</sup> under the Exchange Control Act, 2004 and its Statutory Instrument and Authorised Dealers with Limited Authority (ADLAS) Order. In terms of the legal framework, there are two types of MVTS that can be licensed as ADLAS to carry out both inward and outward money transfer where, i) a local MVTS partners with an international provider (Tier 1), and ii) same as (i) but carries out inward money transfers only.

*Criterion 14.2. (Not Met)* The authorities have identified in the NRA the existence of unlicensed or unregistered MVTS but no action has been taken against them. Despite the offences punishable by a fine or imprisonment or both created by the (s.3(3) Exchange Control Act, 2002) being available for use by the authorities.

*Criterion 14.3. (Met)* MVTS are covered in the scope of the definition of a financial institution subject to AML/CFT obligations (s.2 MLPC Act) and are supervised by the Exchange Control Division of the RBZ for AML/CFT compliance. Furthermore, a certificate or endorsement issued the BUPSML Unit of acceptable AML/CFT control measures is one of the conditions to obtain a license or register a products or service to carry out MVTS operations and appointment of a person responsible to ensure compliance with the requirements under the MLPC Act (paragraph 7.3 Exchange Control Guidelines for Authorised Dealers with Limited Authority).

*Criterion 14.4: (Met)* All MVTS regardless of the type of service provider are required to be licensed or registered by the Exchange Control Division of the RBZ before a service or product enters the market (s.4(1) of Exchange Control Statutory Instrument, 2015 and paragraphs 4 and 5 of the Exchange Control Guidelines for Authorised Dealers with Limited Authority, 2015).

*Criterion 14.5 – (Met)* The licensing and registration procedures in Zimbabwe apply equally to both the MVTS and the agents, as both must seek approval from the Reserve Bank before

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<sup>16</sup>The list of licensed ADLAs are found on <http://www.rbz.co.zw/reserve-bank-of-zimbabwe-authorised-dealers.html>

operations can begin and must provide Anti-Money Laundering Policy of international partner (for agents) and endorsement or certificate of AML/CFT programmes locally by the BUPSMU Unit for all tiers.

*Weighting and Conclusion:*

Zimbabwe meets all criteria under R.14.1, 14.3, 14.4 and 14.5, and does not meet criterion 14.3. This deficiency has more weight as it undermines enforcement of the requirements by ensuring that lawful businesses generate the required identity and transaction records and are being monitored by authorities. The lack of action by the authorities against the unlicensed entities despite having the legal means to do so is a major consideration.

**Zimbabwe is rated Partially Compliant with R.14.**

### **Recommendation 15 – New Technologies**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.8). The main deficiency was a lack of measures to prevent the misuse of new technologies for ML/TF.

*Criterion 15.1 15.2 (Not Met)* There are no specific requirements for competent authorities and FIs to identify and assess the ML/TF risks that may arise in relation to the development of new products or new business practices, and the use of new or developing technologies for both new and existing products.

*Weighting and Conclusion*

Zimbabwe does not meet criteria 15.1 and 15.2.

**Zimbabwe is rated Non-Compliant with R.15.**

### **Recommendation 16 – Wire Transfers**

In the First Round of MEs, Zimbabwe was rated Largely-Compliant with the requirements of this Recommendation (formerly SR.VII).

*Ordering financial institutions*

*Criterion 16.1. (Met)* When conducting cross border wire transfers equal to or above the prescribed threshold of USD 1000.00 dollars, ordering FIs are required to identify and verify the identity of the originator and the beneficiary (ss.15(1)(c) & s.27 of the MLPC Act and read with Rule 3.3(d)&(e) of the RTGS Operating Rules (the Rules) issued in terms of s.5 of the NPS Act. The Rules require ordering FIs to obtain and maintain originator and beneficiary information consistent with the SWIFT messaging requirements. There is COP3 Form issued under the Rules for ordering FIs to provide originator and beneficiary information. Under the MLPC Act and the RTGS Systems Operating Rules originator and beneficiary information must include the account number of the originator or, in the absence of an account number, a unique reference number; obtain and maintain the originator's address or, in the absence of an address, the originator's national identity number or date and place of birth. According to s.27(1)(d) of the MLPC Act ordering FIs must ensure that all originator information is included in the message or payment form accompanying the transfer.

*Criterion 16.2. (Not Met)* According to s.27(4) of the MLPC Act a Directive must be issued to require ordering FIs to bundle cross-border wire transfers coming from a single originator into a batch file for transmission to beneficiary FIs with required and accurate originator information and full beneficiary information, that is traceable within the beneficiary country, and for the FI to include the originator's account number or unique transaction reference number. At the time of the on-site visit, no Directive had been issued.

*Criterion 16.3. (Not Met)* There is no enforceable obligation for ordering FIs to ensure that all cross-border wire transfers below USD 1000 are always accompanied by originator and beneficiary information. In terms of s.27(1) of the MLPC Act, a Directive must be issued to promulgate this provision. At the time of conclusion of the on-site visit, the authorities had not issued the Directive.

*Criterion 16.4. (Met)* FIs are required to verify the information of a customer when there is suspicion of ML/TF regardless of the value of the transaction (s.15(2) MLPC Act).

*Criterion 16.5. (Met)* Pursuant to guideline 6.4.1(a) &(d) of the Exchange Control Guidelines for Authorised Dealers with Limited Authority, 2015<sup>17</sup> read with s.27(1)(d) of the MLPC Act, ordering FIs must obtain originator information which include the identity particulars and physical address when carrying out domestic wire transfers and must include originator information in the transfer.

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<sup>17</sup> The Order is issued in terms of s.35(1) of the Exchange Control Regulations Statutory Instrument of 109 of 1996. The SI is issued in terms of s.2 of the Exchange Control Act, 2004.

*Criterion 16.6. (N/A)*

*Criterion 16.7. (Met)* According to s.24(b) of the MLPC Act, FIs are required to maintain records of transactions which include originator and beneficiary information sufficient to reconstruct each individual transaction for both account holders and non-account holders which shall be maintained for not less than five years from the date of the transaction (s.24(b) MLPC Act). A “transaction” is defined as “any deposit, withdrawal, exchange or transfer of funds in any currency whether in cash or by cheque, payment order or other instrument or by electronic or other non-physical means” (s.13 MLPC Act).

*Criterion 16.8. (Met)* Ordering FIs are required not to accept the transfer and immediately make a report to the BUPSMU Unit when they are unable to obtain complete originator and beneficiary information from the ordering institution or the beneficiary institution (s.27(7) MLPC Act).

#### *Intermediary Financial Institutions*

*Criterion 16.9 (Not Met)* There is no specific obligation for intermediary FIs to ensure that for cross-border wire transfers all originator and beneficiary information that accompanies a wire transfer is retained with it.

*Criterion 16.10. (Partially Met)* Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, there is no specific obligation for intermediary FIs to keep records, for at least five years, of all the information received from the ordering financial institution or another intermediary financial institution. The general record keeping provision under s.24 of the MLPC Act applies to all types of transactions and CDD information obtained by FIs in respect of a customer.

*Criterion 16.11. ( Met)* Intermediary FIs are required to take reasonable measures in respect of wire transfers that do not contain the full originator information to obtain and verify the missing information from the ordering institution or beneficiary (s.27(6) MLPC Act).

*Criterion 16.12. (Not Met)* There is no specific requirement for FIs to apply a risk-based approach to wire transfer transactions under any circumstances.

### *Beneficiary Financial Institutions*

*Criterion 16.13. (Met)* Beneficiary FIs are required to put in place real-time money transfer or reporting system of buying and selling currency and international money transfers which generates a report containing value and purpose of transaction and identities of originator and beneficiary (Order 3(a) Exchange Control (Authorised Dealers with Limited Authority) Order, 2015 and Guideline 6.8 Exchange Control Guidelines for Authorised Dealers with Limited Authority, 2015). The general record keeping requirements set out in s.24 of the MLPC Act applies.

*Criterion 16.14. (Partially Met)* For cross-border wire transfers of US \$ 1,000, or more there is no explicit requirement for the beneficiary FI to verify the identity of the beneficiary. However, the general requirements for verification of customers and record keeping under s.15 and s.24 of the MLPC Act apply

*Criterion 16.15. (Not Met)* There is no explicit requirement for FIs to apply a risk-based approach to wire transfers under any circumstances.

### *Money or value transfer service operators*

*Criterion 16.16 (Largely Met)* According to Guidelines 2.4 and 2.5 Exchange Control Guidelines for Authorised Dealers with Limited Authority, MVTs providers including agents are authorised to enter into agreements with international partners upon approval of the Reserve Bank of Zimbabwe on condition, that at all times, there is compliance with both the Zimbabwean and the country's requirements, including that the international partner is duly registered, licensed in its country of origin to carry out MVTs activities and has a good reputation. The deficiencies identified under this Recommendation shall, where relevant, apply.

*Criterion 16.17 – (Partially Met)* There is no specific requirement which addresses a situation where both the ordering and the beneficiary side of a wire transfer are both controlled by the same MVTs for purposes of identifying and filing STRs. The general obligation of filing STRs described under R.20 apply equally to both sides.

## *Implementation of Targeted Financial Sanctions*

*Criterion 16.18. (Met)* FIs are required to take freezing measures pursuant to UNSCR 1267/1999 and UNSCR 1373/2001 and their subsequent resolutions under SI 74 of 2014, as described under R.6

### *Weighting and Conclusion*

Zimbabwe meets criteria 16.1, 16.4, 16.5, 16.7-8, 16.11 and 16.17, partially meets criteria 16.10, 16.14, 16.17; and does not meet criteria 16.2, 16.9, 16.12 Criterion 16.6 is rated N/A. Zimbabwe does not meet the a number of key criteria for cross-border wire transfers.

**Zimbabwe is rated Partially Compliant with R.16.**

## *Reliance, Controls and Financial Groups*

### **Recommendation 17- Reliance on Third Parties Laws**

In the First Round of MEs, Zimbabwe was rated Compliant with the requirements of this Recommendation (R.9).

*Criterion 17.1 (Met)* FIs may rely on intermediaries or other third-parties to perform customer identification in circumstances where there is no suspicion of ML or TF; where information on the identity of each customer and beneficial owner is provided immediately upon opening of the account or commencement of the business relationship; and where the FIs are satisfied that the third party is able to provide without delay copies of the relevant identity document request and is established, domiciled or ordinarily resides in a compliant jurisdiction or ordinarily resides in a compliant jurisdiction (s.18(1) MLPC Act).<sup>18</sup> FIs relying on a third party to perform CDD bears the ultimate responsibility for compliance with the MLPC Act, including all of the due diligence and reporting requirements. (s.18 (4) MLPC Act).

*Criterion 17.2. (Partially Met)* Where FIs rely on a third party based in another country, there is a specific requirement for the FIs to satisfy itself that the third party is in a compliant jurisdiction (s.18(c)(ii) MLPC Act). Zimbabwe has a list of compliant countries and non-cooperative

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<sup>18</sup> Section 13 of the MLPC Act defines a “compliant jurisdiction” is defined as a State or territory that subjects financial institutions and other persons to requirements equivalent to those specified under the MLPC Act, and supervises such institutions and persons for compliance with those requirements in a manner equivalent to what is applicable in Zimbabwe.

countries appended to Anti-Money Laundering and Combating the Financing of Terrorism Guidelines for Financial Institutions and Non-Financial Businesses and Professions issued 2006. However, the list has not been updated since 2006.

*Criterion 17.3. (N/A)*

#### *Weighting and Conclusion*

Zimbabwe meets criterion 17.1, and partially meets criterion 17.2. Criterion 17.3. does not apply. The high risk jurisdiction lists have not been updated since 2006 to take into account changes in the existing and new risk profiles of countries globally.

**Zimbabwe is rated Largely Compliant with Recommendation 17.**

### **Recommendation 18 – Internal Controls and Foreign Branches and Subsidiaries**

In the First Round of MEs, Zimbabwe was rated Largely-Compliant with the requirements of the former Recommendation 15 and N/A with the former R.22. The main deficiencies were the lack of screening procedures by the FIs to ensure high standard when hiring employees and concerns over effective internal controls, and weaknesses in the legal requirements relating to internal control measures.

*Criterion 18.1. (Partially Met)* FIs are required to implement AML/CFT programme which include: internal policies, procedures and controls to fulfil obligations pursuant to the MLPC Act such as customer due diligence etc.; procedures for screening and hiring of employees to ensure high standards; on-going employee training programmes; policies and procedures to prevent the misuse of technological developments; an independent audit arrangement and the appointment of a compliance officer at management level (s.25(1) MLPC Act). However, there is no specific requirement for FIs to implement AML/CFT programmes that take into account the ML/TF risks and the size of the institution. Furthermore, the law requires that a Directive be issued first for the FIs to implement these requirements (s. 25(4) of the MLPC Act). At the conclusion of the on-site visit, Zimbabwe had not yet issued such a Directive.

*Criterion 18.2. (Not Met)* There are no specific legal or other requirements for financial groups to implement group-wide AML/CFT programmes and to ensure that AML/CFT measures in foreign branches or majority owned subsidiaries are implemented.

*Criterion 18.3. (Met)* Where the minimum AML/CFT requirements of the host jurisdiction are less stricter than those of the home country, FIs are required to ensure that their foreign branches and majority owned subsidiaries implement AML/CFT measures that are consistent with their applicable domestic laws and regulations if the host country so permits. In the event that the AML/CFT laws and regulations of the host country where the branch or majority owned subsidiary is located prevent the FI from complying with the requirements of the MLPC Act, the FI shall advise the BUPSML Unit and shall take appropriate measures to comply with the Act (s.29 MLPC Act).

#### *Weighting and Conclusion*

Zimbabwe meets criterion 18.3, partially meets criterion 18.1, and does not meet criteria 18.2. The main deficiency relates to the lack of a requirement for FIs to implement programmes against ML/TF taking into account ML/TF risks and size of business. In addition, there is no requirement for financial groups to implement group-wise AML/CFT programmes that are applicable to branches and majority-owned subsidiaries.

**Zimbabwe is rated Partially Compliant with R.18.**

### **Recommendation 19 – High Risk Countries**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly Rec. 21). The main weakness was lack of sufficient steps taken to ensure that FIs gave attention to high risk countries.

*Criterion 19.1 (Not Met)* FIs are not required to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons from countries when called to do so by the FATF.

*Criterion 19.2(Not Met)* Zimbabwe does not apply countermeasures under any circumstances, as a Directive under s.26 of the MLPC Act necessary to promulgate the provision in respect of countries identified by the country has not been issued at the time of the on-site visit.

*Criterion 19.3. (Not Met)* Zimbabwe does not have measures in place to ensure FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

#### *Weighting and Conclusion*

Zimbabwe does not meet all criteria under R.19.

**Zimbabwe is rated Non - Compliant with R.19.**

## **Recommendation 20 – Reporting of Suspicious Transactions**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (former Rec. 13 and SR IV). The main deficiency noted was the low level of STRs filed by non-bank FIs and DNFBPs to the BUPSMML Unit.

*Criterion 20.1 (Met)* FIs are required to file STRs that involve the proceeds of crime or is linked to, or is to be used for, terrorism, terrorist acts or by terrorist organizations or those who finance terrorism be reported to the BUPSMML Unit within 3 working days (s30(1) (a) & (b) MLPC Act).

*Criterion 20.2. (Met)* FIs are required to make a report to the BUPSMML Unit on any transaction, including attempted transactions, which could constitute the proceeds of crime or be linked to terrorism and its financing.

### *Weighting and Conclusion*

Zimbabwe meets criteria 20.1 and 20.2.

**Zimbabwe is rated Compliant with R.20.**

## **Recommendation 21 – Tipping-Off and Confidentiality**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.14). The main deficiency noted at the time, was that the prohibition on tipping off was not entrenched in the primary AML/CFT law and there was no statutory protection afforded to senior managers and compliance officers of reporting institutions in relation to filing of STRs.

*Criterion 21.1. (Met)* Directors, officers and employees of FIs are protected from any criminal, civil, disciplinary or administrative proceedings in relation to any reports or information made in good faith (s.33 MLPC Act).

*Criterion 21.2 (Met)* FIs or their directors, officers and employees are prohibited from disclosing to their customers or a third party that STR or any other information that will be or has been submitted to the BUPSMML Unit or that a ML or TF investigation is being carried out (s. 31(2) MLPC Act).

*Weighting and Conclusion*

Zimbabwe meets criteria 21.1 and 21.2.

**Zimbabwe is Compliant with R.21.**

*Designated Non-Financial Businesses and Professions*

**Recommendation 22 – DNFBPs: Customer Due Diligence**

In the First Round of MEs, Zimbabwe was rated Non-Compliant with the requirements of this Recommendation (formerly R.12).

*Criterion 22.1. (Largely Met)* All types of DNFBPs (legal practitioners, legal, accounting or corporate service professionals, estate agent, casino and precious stones and metals dealers as well as creation, operation or management of legal persons or arrangements) are covered under the *First Schedule* to the MLPC Act. They are subject to CDD measures set out under R.10 (s.15(2) &(3) MPLC Act). The deficiencies identified under R.10 also apply to this Recommendation. .

*Criterion 22.2. (Met)* See R.11 (record keeping) for description of measures that also apply to DNFBPs. There are no deficiencies identified.

*Criterion 22.3. (Partially Met)* See R.12 (PEPs) for description of measures that also apply to PEPs.

*Criterion 22.4. (Not Met)* There are no specific measures in place in Zimbabwe in relation to requirements under R.15.

*Criterion 22.5. (Largely Met)* See R.17 (reliance on third parties) for a description of the requirements and the deficiencies that also apply to DNFBPs.

*Weighting and Conclusion:*

The MLPC Act extends requirements relating to CDD (R.10), record keeping (R.11), PEPs (R.12), and reliance on third parties (R.17). It does not at all cover new technologies requirements (R.15). There are a number of deficiencies that affected Zimbabwe's compliance with requirements under R.22 as described under each Recommendations when discussing FIs. Zimbabwe therefore

meets criteria 22.2, and 22.5 and partially meets criteria 22.1 & 22.3, and does not meet criterion 22.4.

### **Zimbabwe is rated Partially Compliant with R.22**

#### **Recommendation 23 – DNFBPs: Other Measures**

In the First Round of MEs, Zimbabwe was rated Non-Compliant with the requirements of this Recommendation (formerly R.16). The main deficiency noted at the time was that most DNFBs had not implemented preventive measures including STR reporting, internal controls, measures to be applied to countries posing a higher ML/TF risks.

*Criterion 23.1. (Met)* See R.20 (suspicious transaction reporting) for a description of the requirements. No technical deficiencies were identified.

*Criterion 23.2.(Partially Met)* See R. 18 (Internal controls and foreign branches and subsidiaries) for a description of the requirements and deficiencies that also apply to DNFBPs.

*Criterion 23.3. (Not Met).*See R.19 (higher risk countries) for a description of these requirements and the deficiencies that also apply to DNFBPs.

*Criterion 23.4. (Met)*(See R.21 (tipping off and confidentiality requirements) for a description of the requirements that also apply to DNFBPs. No technical deficiencies were identified.

#### *Weighting and Conclusion:*

Zimbabwe meets criteria 23.1 and 23.4, partially meets 23.2 and does not meet criterion 23.3. The assessors consider the deficiencies relating to high risk jurisdictions and internal control measures significant. The AML/CFT legal framework extends the preventative measures to DNFBPs in respect of STRs, high-risk jurisdictions, internal controls and tipping off and confidentiality requirements.

### **Zimbabwe is rated Partially Compliant with R.23**

#### **Recommendation 24 – Transparency and Beneficial Ownership of Legal Persons**

In the first round of MEs, Zimbabwe was rated PC with former R.33. Since then the FATF Standards has changed substantially but there has not been significant changes in the legislative framework relating to this Recommendation. The main findings underlying the rating was that,

i) absence of beneficial ownership information and control of companies exercised through nominee directors , ii) no measures to prevent misuse of share warrants for ML and iii) lack of immediate access to information on legal ownership and control of companies held by the Registrar of Companies.

*Criterion 24.1 (Partially Met)* The Companies Act, Cooperative Societies Act, Private Business Corporations Act and various statutes provide for the formation of companies in Zimbabwe. The Registrar of Companies obtains and records basic information on companies which is publicly available. There is, however, no process in place for recording and obtaining beneficial ownership information either by the Registrar or the companies itself. The Companies Act does not provide for such a requirement. The different companies provided for by the laws of Zimbabwe include: 1) private business corporations; 2) private companies; 3) companies limited by guarantee; 4) public companies; 5) partnerships; and 6) foreign companies; 7) non-profit companies; 8) cooperative companies; and state parastatal companies formed pursuant to specific statutory provisions.

*Criterion 24.2 (Not Met)* The ML/TF risks posed by companies in Zimbabwe have not been assessed

*Criterion 24.3 (Met)* In addition, s. 187 requires that a register of the company directors and secretaries be kept at the office at which the register of members is kept. S. 187(2) outlines the kind of information of the directors that has to be kept in the register, including the name and surname as per the recognized identity documents, full residential address, nationality and any other directorship held.

*Criterion 24.4 (Met)* Section 115 of the Companies Act requires for every company to keep a Register of members and the shares they hold. The information should be kept within Zimbabwe, either at the office of the registered company or the office of another person who is making up the register. However, the Registrar General should be informed of where the Register is kept.

*Criterion 24.5 (Met)* In terms of s. 115 (3) and 187(5) of the Companies Act, companies are required to notify the Registrar of Companies of any change in company directorship, its secretary or any other particulars contained in its register within 30 days after the change.

*Criterion 24.6 (Not Met)* There is no obligation for companies or the registrar to obtain and hold up-to-date information on companies' beneficial ownership, as a shares may exist in the name of another company or a nominee and not necessarily in the name of the ultimate natural person who owns the shares or has control over the shares. Section 15(3) of the MLPC Act which provides obligation for FIs and DNFBPs to identify beneficial owners only in respect of prescribed transactions (a major shortcoming) and therefore does not comply with criterion 24.6(c)(i) and (iv). In addition, Zimbabwe has another deficiency created by the absence of a legal requirement for companies to obtain and keep beneficial ownership information as required under criterion 24.6(c)(iii). The authorities did not provide any information on whether any other competent authorities, such as the Customs and Revenue Authority, are not obliged to obtain information on beneficial ownership to enable a determination to be made whether there is compliance with criterion 24.6(c)(ii). Section 115 of the Companies Act requires updates on shareholder information not necessarily that on beneficial ownership. There is no specific provision under the Companies Act of Zimbabwe which requires companies to hold up-to-date information on the companies' BO.

*Criterion 24.7 (Partially Met)* Section 115 of the Companies Act only deals with maintaining of accurate and up-to-date information on members and not with beneficial ownership information. Although it is acknowledged that in a few cases information on members might also capture information on beneficial ownership, there is no guarantee in law that this happens in all cases as it is not a requirement for companies themselves to obtain this information and the authorities did not provide any information to this effect. The obligation for FIs and DNFBPs to take reasonable steps to ensure that it obtains information on beneficial owners only apply to prescribed transactions as restricted by the provisions of s. 15 (3) of the MLPC Act. (Please refer to C. 10.5 for a full description). The deficiency created by s. 15(3) has a pronounced negative impact regarding the circumstances under which FIs and DNFBPs can obtain information on beneficial information when establishing a business relationship with both legal persons and arrangements. There are also requirements to obtain information on beneficial ownership under the Securities & Exchange Act. The only deficiency with these requirements is that these only apply to listed companies and stock brokers which are administered by the Securities Commission under the Act.

*Criterion 24.8 (Not Met)* There is no specific requirement for one or more natural persons resident in Zimbabwe to be authorised by the company and be accountable to provide information on beneficial ownership and other assistance to the authorities. The same applies to DNFBPs. Whilst

ss. 164 and 165 of the Companies Act might be helpful in eventually establishing who the beneficial owner of a share is, but still the two sections do not make a distinction between a person as in a natural person who ultimately owns or is in control of the shares or person as in legal person who in terms of the Interpretation Act of Zimbabwe are also defined as persons and can legitimately own shares.

*Criterion 24.9 (Partially Met)* Although, s. 293 of the Companies Act requires books and documents of a company to be kept for 5 years from the date of the dissolution of the company, such records and documents are not specifically related to beneficial ownership information as there is no requirement under the Companies Act for companies to obtain and keep such information. This would be with the exception of where information obtained by companies on members also apply to the ultimate beneficial owner which is not always the case and the authorities did not provide any information to this effect. S. 24 of the MLPC Act on record keeping complies with the requirement for FIs and DNFBPs to maintain information and records on beneficial ownership for at least five years after the date the company ceases to be a customer of the institution. In addition, this would also be the exception where the information is required to be kept by the FIs and the DNFBPs under s. 15 of the MLPC Act in respect of prescribed transactions carried out. However the requirements under s. 24 of the MLPC Act for FIs and DNFBPs are also limited by the restrictions cited under c. 24.7. The same section creates an obligation the Securities Sector as a reporting entities to also retain information on beneficial ownership for five years. The only deficiency is that this requirement would only apply to listed companies as also described in C. 24.7, above.

*Criterion 24.10 (Partially Met)* Although competent authorities can obtain timely access to information held by the Registrar of Companies which was also confirmed by the Registrar, such information does not cover beneficial ownership. However, law enforcement officials such as the police can obtain information required from companies, FIs and DNFBPs through a court order, in addition to information which can be provided to them by the FIU. The same limitations created by s. 15(3) of the MLPC Act described under C. 24.7 also apply to this criterion. The requirement to obtain information on members, although it might also be the same information on the beneficial owner, the extent of such a coincidence could not be determined as the authorities did not provide any information on this. However, parties related to the companies such as liquidators etc. are reporting institutions and are obliged to maintain the information in terms of s. 24 of the MLPC Act.

*Criterion 24.11 (Met)* Trading in bearer shares or share warrants is not provided for and practised under the laws of Zimbabwe.

*Criterion 24.12 (Partially Met)* In terms of the Directive issued by the Securities Commission in terms of paragraph 21 of the 1<sup>st</sup> Schedule to the Securities and Exchange Act [Chap 24:25] in 2013, it directed Securities Dealing Firms to register all shares under Nominees in the names of the respective owners and deliver them to the clients or in the event of having challenges in delivering scrip, to have them transferred to a licensed custodian within 60 days of the Directive being issued. The assessors were advised of the practice of use of nominee shareholders in the DNFBP sector during the on-site visit, and there is no requirement in this respect. In addition to s. 37 of the MLPC Act, ss. 4 & 5 as read with s. 2A(1) of the Criminal Matters (Mutual Assistance) Act ( Mutual Legal Assistance Act) enable the widest range of information (s. 2A) to be provided foreign competent authorities, including information held by Companies Registrar. In addition to s. 37 of the MLPC Act, ss. 4 & 5 as read with s. 2A(1) of the Mutual Legal Assistance provides the competent authorities using their investigative powers to obtain beneficial ownership information on behalf foreign counterparts.

*Criterion 24.13 (Met)* Ss. 23 (for CDD measures) and 24 (for record keeping) of the MLPC Act provide for dissuasive and proportionate sanctions for non-compliance. The Securities and Exchange Act provides in addition to criminal sanctions, cancellation or suspension of the license (ss. 48 & 49, respectively), application and issuing of a prohibition order by the High Court (s. 109). Ss. 340 – 351 of the Companies Act, among others, provide for criminal, administrative and civil sanctions for any conduct which is in violation of the Act.

*Criterion 24.14 (Met)* In addition to s. 37 of the MLPC Act, ss. 4 & 5 as read with s. 2A(1) of the Criminal Matters (Mutual Assistance) Act ( Mutual Legal Assistance Act) enable the widest range of information (s. 2A) to be provided by foreign competent authorities, including information held by Companies Registrar, as the Registrar of Companies is not compelled by law to keep information on companies' beneficial ownership. In addition to s. 37 of the MLPC Act, ss. 4 & 5 as read with s. 2A(1) of the Mutual Legal Assistance Act enable the widest range of information (s. 2A) to be provided foreign competent authorities, including information held by Companies Registrar on shareholders. In addition to s. 37 of the MLPC Act, ss. 4 & 5 as read with s. 2A(1) of the Mutual Legal Assistance provides the competent authorities using their investigative powers to obtain beneficial ownership information on behalf foreign counterparts.

*Criterion 24.15 (Not Met)* There is no mechanisms to monitor the quality of assistance received from other countries in response to requests for basic and beneficial ownership information.

*Weighting and conclusion*

Zimbabwe meets criteria 24.3 – 24.5, 24.11, 24.12, 24.14, partially meets criteria 24.1, 24.7, 24.9, 24.10 & 24.13 and does not meet criteria 24.2, 24.6 & 24.15. The absence of risk assessment on vulnerable companies, legal requirement and process to obtain and keep up-to-date beneficial ownership information especially represent the greatest deficiencies.

**Zimbabwe is rated Non – Compliant with R.24.**

## **Recommendation 25 – Transparency and Beneficial Ownership of Legal Arrangements**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with this Recommendation (formerly R.34). Since then the FATF Standards has changed substantially but there has not been significant changes in the legislative framework of Zimbabwe relating to this Recommendation. The main findings underlying the rating was that, i) Zimbabwe had no ability to obtain adequate, accurate and current information in a timely manner about the beneficiaries of trusts as a result of obtaining identification of beneficiaries being optional and ii) lack of supervision to ensure availability of adequate, accurate and current information about beneficial ownership and control of legal arrangements.

*Criterion 25.1 (Not Met)* Trusts are registered under s. 5 of the Deeds Registration Act. The application to register a Trust is lodged by a Notary Public with the Registrar of Deeds, the trust deed is prepared in triplicate, with one copy to be kept by the Notary Public, another by the Registrar of Deeds and the third by the Settlor. The section does not require obtaining of information on the natural person exercising ultimate effective control over the trust. Although, information on the beneficiaries might be availed through the trust deed, again there is no direct requirement under this section for such information to be provided, nor is there a requirement for trustees of any express trust to obtain and hold adequate accurate and current information on the identity of the settlor, the trustees, the protector (if any), beneficiaries and any other person exercising ultimate effective control over the trust. The law does not require trustees to keep the information required in criterion 25.1 (b)<sup>19</sup>. There is no legal requirement for professional trustees

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<sup>19</sup> Under common law trustees have obligations to identify beneficiaries, trustees, settlors and protectors of trusts where the context is applicable. However, this information was made available to the assessors

to maintain relevant information on trusts for at least five years after their involvement with the trust seizes.

*Criterion 25.2 (Partially Met)* Trustees are expected to lodge any change of trustees or any other change to the trust deed following a resolution of the Trustees. There is no specific time frame for when the changes should be lodged, which thus affect the accurateness of the information kept as it might not be up to date.

*Criterion 25.3 (Met)* Under the provisions of s. 17 (c) of the MLPC Act FIs or DNFBPs are required to keep information of customers that are legal arrangements. This information includes the names of every trustee, settlor and beneficiary of an express trust and of any other party with authority to manage, vary or otherwise control the arrangement.

*Criterion 25.4 (Not Met)* There is no law nor other enforceable means preventing trustees from providing information to competent supervisory authorities. Section 15 (3) of the MLPC Act requires FIs and DNFBPs to identify beneficial owners as if the beneficial owner was a customer only when carrying out a prescribed transactions. This is constitutes a major limitation to comply with this criterion

*Criterion 25.5 (Largely Met)* Competent authorities, including law enforcement are able to obtain timely access to information held by trustees through obtaining of a court order, applied for in terms of s. 76 of the MLPC Act by the Prosecutor General. Further, s. 24(1) of the MLPC Act requires FIs and DNFBPs to provide information in their records on beneficial ownership and control of trusts to be made available in a timely manner to the BUPSMU Unit and to any other competent authority as prescribed by the Minister. However, the authorities did not provide the competent authorities which have been so prescribed by the Minister. The BUPSMU Unit, in terms of s. 36 of the MLPC Act is also empowered to obtain information from FIs and DNFBPs, which would include that of beneficial ownership and control of trusts. There are still limitations to the information which can be from obtained the trusts in as far as the Registrar of Deeds is concerned.

*Criterion 25.6 (Largely Met)* S. 37 of the MLPC Act empowers the BUPSMU Unit to share information with other foreign counterparts agencies, including facilitating access by foreign counterparts to basic information held by registries or other domestic authorities. In addition,

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during the Plenary discussions of the MER and, in line with the ESAAMLG Mutual Evaluation Procedures, it could not be assessed.

Part I –III of the Criminal Matters (Mutual Assistance) Act provide a wide range of areas where international cooperation relating to sharing of information can be provided and powers of law enforcement agencies to access such information where a court order has been obtained. The information which can be shared can include that on beneficial ownership on trusts and other legal arrangements held by any institution or authority. The only deficiency as already identified under criteria 25.1 to 25.3, not all the information on beneficial ownership might be obtained, be kept and, if kept, it might not be up to date .

*Criterion 25.7 (Not Met)* There are no provisions to ensure that trustees are legally liable for any failure to perform the duties relevant to meeting their obligations and appropriate proportionate and dissuasive sanctions being applied. The obligation to obtain adequate beneficiary information relating to a trust (as a customer), in terms of the MLPC Act is only imposed on FIs and DNFBPs subject to the limitation under 25.3.

*Criterion 25.8 ( Partially Met)* S. 28(1) of the MLPC Act makes it an offence for any person who fails to make information available in a timely manner in response to a lawful request by the BUPSMU Unit or a competent supervisory authority for such books or records. The only limitation to this provision is that it does not include other competent authorities such as law enforcement agencies acting on a lawful authority, although this could have been mitigated if there was a provision allowing law enforcement agencies to request such information from/or through the BUPSMU.

#### *Weighting and conclusion*

Zimbabwe meets criterion 25.4, largely meets criteria 25.5 & 25.6, partially meets criteria 25.2 & 25.8, and does not meet criteria 25.1, 25.3 & 25.7. There are major deficiencies affecting criterion 25.1 as the Registrar of Deeds has got no obligation to obtain information set out under this criterion and yet it has the responsibility to register trusts. Trustees also have got no specific obligation to obtain and retain information which is adequate, accurate and current on the identity of the settlor, the trustees, beneficiaries or natural persons exercising ultimate control over the trust. Further, there is no direct obligation on the Registrar of Deeds to keep information held on trusts, accurate and as up to date as possible and to update it on a timely basis. Although, FIs and DNFBPs have an obligation to obtain and keep full information on beneficial ownership or natural persons who have ultimate control over a trust or any other legal arrangement, for competent authorities in particular law enforcement, such information will not be easy to access as it will not be kept at a central registry and not all the registered trusts might have a relationship with a FI or a DNFBP.

**Zimbabwe is rated Non- Compliant with R. 25.**

## ***Recommendation 26 – Regulation and supervision of financial institutions***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.23). The main deficiency was the lack of supervision of the MVTS sector.

*Criterion 26.1 (Met)* The BUPSMU Unit and competent supervisory authorities (set out in Part II of First Schedule) are responsible for ensuring compliance with the AML/CFT requirements by their regulated entities (set out in Part I of First Schedule) (s.3 (2) (3) MLPC Act).

### *Market Entry*

*Criteria 26.2 (Met)* Different regulatory bodies have authority to license all FIs before carrying any financial service in Zimbabwe. The Exchange Control Division of the RBZ licenses currency and money transfer businesses under the National Payment Systems Act, 2001 and Exchange Control Act, 2004 supported by Statutory Instruments and Guidelines. Under paragraph 3 of the Exchange Control (Authorised Dealers with Limited Authority) Order, 2015 all companies wishing to provide currency or money transfer services must be licensed and registered with the Exchange Control Division. Microfinance Act regulates money lenders/microfinance operations through issuance of licensing by the Registrar of Micro-financiers in the RBZ to qualifying service providers under s.6 of the Microfinance Act, 2013. Insurance and pensions service providers must obtain license to operate from the Insurance and Pensions Commission of Zimbabwe in terms of s.7 of Insurance Act, 2004. Persons wishing to carry out a business of trading and dealing securities must obtain a license in terms of the Securities, 2004 from the Securities and Exchanges Commission of Zimbabwe. All legislations regulating the Core Principles FIs create offences and sanctions for any violation of the applicable provisions including on operating without a licenses or contravening the licensing conditions once issued. Additionally, all regulators have issued, in one form or another, Statutory Instruments, Licensing and Registration Guidelines and Application Forms necessary to determine suitability of applicants. Operation of a shell bank or doing business with it, is prohibited (s.14 (1) MLPC Act).

*Criteria 26.3. (Met)* Regulators in Zimbabwe have a variety of legal and regulatory measures setting out registration, licensing and corporate governance rules which require information necessary to determine fitness and probity of market players.

Pursuant to the Banking Act the RBZ requires that Board of Directors (s.19), senior management (s.20), alteration of constitution or rules of conduct by a bank (s.24), amalgamations and transfers of business (s.25), acquisition of significant interest (s.26), establishment of branches or subsidiaries outside of Zimbabwe by banking institutions (s.27) and setting up of foreign

representative offices in Zimbabwe (s.28) must first obtain approval from the Registrar of Banks. In terms of *Licensing Requirements for Banking Institutions* only companies registered as public companies qualify to apply for a banking license and statutorily disqualify individuals, trustees and nominee companies. Every senior manager, member of board, directors and significant shareholder (5 percent and above) are vetted in terms of *Fitness and Probity Assessment Criteria* (such as tax clearance and police clearance certificates) by the Registrar of Banks. Most importantly, where shares are held by unnatural persons, shareholders are required to submit affidavit on ultimate beneficial owners such that the Registrar is satisfied that the shareholding or ownership structure should not facilitate money laundering. In terms of paragraph 3.4(d) of the Requirements, the Registrar reserves the right to verify the information provided from any other reliable sources. Pursuant to s.48 of the Banking Act the Registrar has a number of options to issue sanctions for violation of the conditions of a licensing bank. Generally the Core Principle FIs (such as securities, currency or money transfer services, money lending services, and insurers) have statutory prohibitions and fitness and probity requirements which broadly require board of directors, senior management, and significant shareholders to be suitable for their duties. The information and documentation required include memorandum and articles of association and certificate of incorporation from Registrar of Companies, police clearance, tax clearance certificate from ZIMRA, audited financial statement, academic and professional certificates, identity particulars for natural persons, and affidavits of individual shareholders, directors and senior management officers.

#### *Risk-based approach to supervision and monitoring*

*Criteria 26.4 (Partially Met)* Whilst there is no specific framework for application of risk-based approach to AML/CFT supervision, all FIs are subject to prudential supervision by their respective supervisors on a risk-sensitive basis to ensure compliance with licensing and registration requirements. However, the assessment team identified that there is no prominence of AML/CFT focus when carrying out monitoring and supervision oversight of FIs by the supervisors. As part of the licence conditions, FIs are required to have internal control framework detailing policies, procedures and processes in a manner that promotes prudent and transparent governance of the FI. While the internal control rules include KYC and reporting of suspicious transactions, these are merely supervised only for prudential purposes. There appears to be sufficient authority to carry out group-wide monitoring and supervision oversight, there was however no evidence of existence and demonstrated application of any mechanism or process in place.

*Criterion 26.5 –26.6 (Not Met)* There are no procedures, mechanisms or legal framework to subject FIs to a risk-based supervision and monitoring under any circumstances.

*Weighting and conclusions:*

Zimbabwe meets criteria 26.1, 26.2 and 26.3 and partially meets criterion 26.4 and does not meet criteria 26.5-26.6. The criteria which are not been met represent significant deficiencies to have adequate framework in Zimbabwe for monitoring and supervision oversight of FIs on a risk-sensitive basis.

**Zimbabwe is rated Partially-Compliant with R.26.**

***Recommendation 27 – Powers of supervisors***

In the First Round of MEs, Zimbabwe was rated Largely Compliant with the requirements of this Recommendation (formerly R.29). The main deficiencies related to self-assessments of FIs which was based on the prudential supervision and had no AML/CFT questions.

*Criterion 27.1. (Largely Met)* Only the BUPSMML Unit is empowered to conduct inspections to ensure compliance with AML/CFT requirements (s.4&5 BUP Act). The BUP Act regards compliance officers appointed under the Banking Act, ZIMRA and National Economic Conduct Inspectorate as inspectors for purposes of compliance with AML/CFT requirements. There are no similar powers for the other supervisors as designated under Part II of the First Schedule to the MLPC Act, to fulfil their supervisory functions under s.3(3) of the same Act.

*Criterion 27.2. (Met)* The BUPSMML Unit and the Reserve Bank are empowered to establish an inspectorate unit and appoint inspections and have powers to conduct inspections for compliance by FIs with AML/CFT requirements under the MLPC Act (ss.4, 5 and 6 BUP Act).

*Criterion 27.3. (Met)* Inspectors have powers to compel production of information relevant to monitoring compliance with AML/CFT requirements by FIs (s.6 BUP Act).

*Criterion 27.4. (Met)* The Director of the BUPSMML Unit has the authority to issue a Directive to FIs specifying the type(s) of sanction(s) (criminal, civil and administrative) for failing to comply with the AML/CFT obligations (s.5 MLPC Act). The Directive may impose a sanction for any specified civil infringement on the part of the FI and/or its employees including senior management and the sanctions. These may include a written warning, an order to comply with a specific instruction, an order to submit reports at specified intervals, a civil penalty order imposing a penalty not exceeding USD 250,000.00 and USD500 for each day of contravention. Natural and legal persons are liable to USD 100,000.00 and/or imprisonment not exceeding three years, or both such fine and imprisonment for failure to comply with AML/CFT requirements. Supervisory bodies may cancel or suspend a license, registration, permit of a natural and legal person.

### *Weighting and Conclusion*

Zimbabwe meets criterion 27.2, 27.3 and 27.4, and largely meets criterion 27.1.

### **Zimbabwe is rated Largely Compliant with R.27.**

### ***Recommendation 28 – Regulation and supervision of DNFBPs***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.24). The main deficiency was that DNFBPs were not subject to adequate AML/CFT supervision.

#### *Casinos*

*Criterion 28.1. (Partially Met)* Casinos are required to be licensed by the Lotteries and Gaming board under section 4 of the Lotteries and Gaming Act [Chapter 10:26] (No. 26 of 1998). The Act also explicitly prohibits operating a casino without a license and provides for related offences (s.30 -38 Lotteries and Gaming Act). Casinos are subject to AML/CFT supervision and monitoring (s.3 (2) (3) of MLPC Act). The regulatory and licensing framework for casinos (the vetting process) requires the disclosure of information on directors of the entity applying for a casino license and the person holding a management function but does not require the disclosure of information on natural persons holding a significant or controlling interest in the casino. Casinos are supervised and monitored by the BUPSM Unit for AML/CFT purposes (s.3 MLPC Act).

*Criterion 28.2 (Met)* Regulators of the DNFBPs and the BUPSM Unit are designated as supervisors for purposes of ensuring compliance with the AML/CFT requirements of the regulated entities (s.3 (2) (3) MLPC Act).

*Criterion 28.3. (Met)* All DNFBP types are subject to AML/CFT requirements (s.13 MLPC Act). All other categories of DNFBPs are subject to AML/CFT requirements under section 13 MLPC Act. These include gaming operators holding a casino licensee, lottery licensee or other person licensed or required to be licensed an estate agent registered or required to be registered under the Estate Agents Act [Chapter 27:17] (No. 6 of 1999), precious stones dealers being a licensed dealer or permit holder, or person required to be licensed or hold a permit, in terms of the Precious Stones Trade Act [Chapter 21:06], a precious metal dealer being any person licensed, permitted or required to be licensed or permitted in terms of the Gold Trade Act [Chapter 21:03],

to deal in gold, engage in gold recovery works, assay gold or acquire or be in possession or dispose of gold including any person engaged in the mining or exportation of, or dealing in platinum or a platinoid metal, any article or substance containing platinum or a platinoid metal (not including a manufactured article which is an article of commerce, an item of jewellery or a work of art) where if such mining, exportation or dealing is authorised or required to be authorised in any way by or under the Reserve Bank of Zimbabwe Act [Chapter 22:15] (No. 5 of 1999), legal, accounting, corporate service or estate administration professional being persons registered or required to be registered in terms of the Legal Practitioners Act [Chapter 27:07], the Chartered Secretaries (Private) Act [Chapter 27:03], the Public Accountants and Auditors Act [Chapter 27:12] (No. 13 of 1995), the Chartered Accountants Act [Chapter 27:02] and the Estate Administrators Act [Chapter 27:20] (No. 16 of 1998) when they buy and sell of real estate, manage client money, securities or other assets, manage a bank, savings or securities accounts, organise the contributions for the creation, operation or management of legal persons, create, operate or manage legal persons or arrangements, and buying and selling of business entities, administer deceased or insolvent estates. In addition it includes trust and company service providers not otherwise registered or licensed or required to be registered or licensed under any law and who, as a business, prepare for or carry out transactions on behalf of customers when they act as the formation, registration or management agent of legal person, when they act for or arrange for another person to act as, a director or secretary of a company or a partner of a partnership, or to hold a similar position in relation to other legal persons, when they provide for services of a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement, when they act or arrange for another person to act as, a trustee of an express trust or other similar arrangement; act as, or arrange for another person to act as, a nominee shareholder for another person.

*Criterion 28.4. (Largely Met)* The BUPSMU Unit, acting with the cooperation of the other competent supervisory authorities, is the supervisor designated under section 3 (2) of MLPC Act responsible for monitoring and ensuring AML/CFT compliance of DNFBPs. Power to exercise its function to ensure compliance and monitor compliance is provided for under section 3 of MLPC Act, complimented by section 4 (b) of BUP Act which sets out the other functions of the unit and makes reference to its function as set out under MLPC Act. Section 5 of BUP Act provides for the creation of the inspectorate unit of the BUPSMU Unit and section 5 (2) provides for the appointment of inspectors by the director. The powers of the inspectors are provided for under section 6 of BUP Act, which include in very broad terms at section 6 (1) (a) to make such examination and inquiry as he or she considers appropriate. The licensing requirements of the DNFBPs differ across the broad range of DNFBPs. All the licensing requirements at a minimum

oblige applicants to disclose information about directors and other persons holding management function and other corporate information about the applicant. The requirements do not always include the disclosure of information on beneficial owners. For attorneys, accountants and auditors the licensing requirements require the person to provide for police clearance and tax clearance certificates and professional accreditation to a recognised body or the self-regulatory organisation administering examinations before entry as a market participant into the sector. Trust and corporate service providers are not required to be licensed in Zimbabwe as this service is offered as part of a licensable activity which is either as carrying on business as attorneys or accountants. The registration requirement for real estate agents focuses on ensuring the proper running of the real estate business, management of client's funds and indigenisation compliance and not specifically on identifying the controlling structure and beneficial ownership. An application for registration is made to the Real Estate Council. Licensing requirements for mining in the precious stones and precious metal sector are administered by the Ministry of Mines. Under section 3 of the Precious Stones Trade Act, licences are required for a person dealing in precious stones as a licensed dealer, a permit holder or the holder of a mining location or a tributor who has lawfully recovered such precious stones. Licensing requirements include the submission of police and tax clearance certificate as well, where the applicant of the indigenization restrictions in Zimbabwe, any applicant who are not natural persons are required to submit details of shareholdings, directors and other persons having management function in the applicant. Similar application disclosures are required for applicants who wish to prospect for and deal in precious metals, including gold. In terms of the range of sanctions that can be applied in respect of DNFBPs, the same mechanisms detailed at 27.4 above applies.

*Criterion 28.5. (Not Met)* There are no procedures, mechanisms or legal framework to subject DNFBPs to a risk-sensitive AML/CFT supervision and monitoring.

#### *Weighting and Conclusion*

Zimbabwe meets criteria 28.2 and 28.3, largely meet criterion 28.4, partially meets criterion 28.1, and does not 28.5. The deficiency is a requirement to supervise and monitor compliance on a risk-sensitive basis.

**Zimbabwe is rated Partially Compliant with R.28.**

## ***Recommendation 29 - Financial intelligence units***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with this Recommendation (formerly R.26). The main deficiencies were related to inadequate operational capacity including expertise and IT software for analysis.

*Criterion 29.1 (Met)* Zimbabwe established the BUPSMML Unit as a statutory body within the RBZ as a national centre for receipt and analysing suspicious transactions reports (STRs) and other information relevant to ML, TF and associated predicate crimes, and dissemination of analysed reports containing financial intelligence and other relevant information (s.3 BUP Act).

*Criterion 29.2 (Met)*. The BUPSMML Unit is the central agency for receipt of STRs from FIs (R.20) and DNFBPs (R.23) (s.30 MLPC Act), and cash transactions threshold and weekly cash returns (s.30(6) MLPC Act<sup>20</sup>) from a range of financial, administrative and law enforcement information that it requires to properly undertake its functions.

*Criterion 29.3 (Met)* The BUPSMML Unit is empowered to require and obtain additional information from FIs and DNFBPs, and access financial, administrative and law enforcement databases to enhance analysis (s.36 MLPC Act).

*Criterion 29.4 (Met)* The BUPSMML Unit conducts analysis of the reports it receives to identify operational targets, follow a trail of transactions and trace proceeds of predicate crimes, ML and TF. It also conducts strategic analysis by integrating operational information with other sources of information, and has produced strategic reports.

*Criterion 29.5 (Partially Met)* The BUPSMML Unit is legally required to disseminate results of its analysis only to the Police, and not to any other investigative authority, to investigate cases related to ML, TF and associated predicate crimes. The dissemination process is done manually or by unsecured email, and thus raises questions on potential unauthorised possession or access to the BUPSMML Unit information (s.35 MLPC Act).

*Criterion 29.6 (Partially Met)* The BUPSMML Unit benefits from the physical security structures at the RBZ. The database of the BUPSMML Unit is exposed to unauthorised access as it uses the IT

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<sup>20</sup> CTR Directive issued on 15 July 2015 pursuant to s.30(5) &(6) of the MLPC Act to FIs and DNFBPs.

infrastructure of the RZB without any measures in place to prevent the staff of the RZB from accessing the reports filed to it.

*Criterion 29.7 (Partially Met)* The BUPSML Unit does not appear to have autonomy and operational independence. The Director has no legal authority on all staff employment matters of the BUPSML Unit. Pursuant to s.4 of the BUP Act staff of the BUPSML Unit consists of officers appointed under s.46 of the Banking Act as designated by the Governor of the RBZ, officers designated by the Commission of ZIMRA, and officers from the National Economic Conduct Inspectorate of the Ministry of Finance as designated by its Director. All these officers are referred as inspectors who are answerable to the Director of the BUPSML Unit. It is not clear to the assessors which authority and exercised by whom, to appoint officers of the BUPSML Unit other than those appointed under s.4 of the BUP Act. In respect of security of tenure of the Director of the BUPSML Unit, there is no legal clarity on the terms under which the Director can be removed from office. The Director of the BUPSML Unit makes decisions regarding analysis, processing of requests and disseminate information to authorised institutions/organisations within and outside of Zimbabwe. Furthermore, the BUPSML Unit is able to engage on its own with domestic stakeholders and foreign counterparts on exchange of information.

*Criterion 29.8 (Not Met)* BUPSML Unit is not yet a member of Egmont Group nor has it made an unconditional membership application to join Egmont Group. The BUPSML Unit is being sponsored by the FIUs of South Africa and Malawi to apply for membership to the Group.

#### *Weighting and Conclusion*

Zimbabwe meets criteria 29.1 – 29.4, partially meets criteria 29.5, 29.6 and 29.7 and does not meet criterion 29.8. The lack of autonomy and operational independence in relation to staffing and Director's security of tenure, narrow scope of dissemination of reports only to the Police to the exclusion of other LEAs, and the lack of protection of information during the process of receipt, storage and analysis and dissemination represents significant deficiencies.

**Zimbabwe is rated Partially-Compliant with R.29.**

#### ***Recommendation 30 – Responsibilities of law enforcement and investigative authorities***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.27). The deficiency was that the Zimbabwe Republic Police had not established a Unit specialising in asset investigation and forfeiture since current methods

draw heavily on the police resources and lack of strengthening cooperative relationships with authorities in other countries other than the SADC region.

*Criteria 30.1 (Met)* Zimbabwe has legal and institutional framework that puts the Police at the centre of all investigations of commercial crimes including ML and TF cases. In terms of s.219 of the Constitution, the Zimbabwe Republic Police is the competent authority responsible for investigating all crimes. The Police have the mandate to receive financial intelligence and other relevant information from the BUPSMIL Unit for possible investigation into cases of ML, TF and associated predicate crimes (s.35 MLPC Act). In this regard, the authorities indicated that the Serious Fraud Squad and Law and Order Units of the CID in the Police are, respectively, responsible for investigating ML and TF cases. The Serious Fraud Squad is a specialised unit within the CID investigating financial crimes, including ML. The Law and Order Unit is also a specialised unit within the CID specifically trained to investigate among other things terrorism and terrorist financing cases referred to it from other sections of the police and suspected TF intelligence reports from the BUPSMIL Unit<sup>21</sup>.

*Criterion 30.2 (Met)* The institutional arrangement for LEAs in Zimbabwe is that while the Police is the designated authority for investigation of ML and TF cases, the other LEAs are authorised only to investigate predicate crimes but must refer potential ML or TF cases to the Police for further investigation.

*Criterion 30.3 (Met)* There are measures in place that provide the LEAs including the Police to identify, trace, and initiate freezing and seizing of tainted property relying on powers under their own statutes (e.g. ZACC (s.13(4) Anti-Corruption Commission Act) or package of relevant laws such as the Criminal Procedure and Evidence Act and the MLPC Act (ss.72,75, 76, 77<sup>22</sup>)). Once the financial investigation is concluded the relevant LEA must submit the information to the Police for freezing and seizing proceedings by the Attorney-General's Office.

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<sup>21</sup> Please see sanitizedcase at page 67.

<sup>22</sup> S. 72 of the MLPC Act empowers the police to apply ex parte for a production order of a property tracking document for production of document relevant to identifying, locating, or quantifying property, s. 75 grants the police through a court order to search for and seize documents relevant to locating of property, s. 76 provides for the courts to grant a customer information order which authorizes an officer to get customer information relating to a person or account specified in the application, and s. 77 provides for monitoring orders..

*Criterion 30.4 (Met)* Zimbabwe has a broad definition of a ‘law enforcement agency’ which includes the Police, Anti-Corruption Commission, ZIMRA and ‘any agency assigned by an enactment to maintain law and enforce a law’ (s.2 MLPC Act). This provides Zimbabwe with a wider range of LEAs to identify, trace property and initiate freezing and seizure proceedings against it.

*Criterion 30.5 (Met)* The ZACC has powers to identify and trace property for freezing and seizure proceedings but has no mandate to investigate ML cases (s.13 ACCA). The information is referred to the Police for further investigation, and forwarding to the Attorney-General’s Office to institute an application for a confiscation order.

#### *Weighting and Conclusion*

Zimbabwe meets all criteria under this Recommendation.

**Zimbabwe is rated Compliant with R.30.**

### ***Recommendation 31 - Powers of law enforcement and investigative authorities***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.28). The main deficiencies related to lack of police training to conduct ML/TF investigations, police not being familiar with UN Instruments on terrorism and terrorist financing and required sensitisation and law enforcement agencies did not provide additional support to the BUPSMU Unit for STR analysis and to provide support to investigations.

*Criterion 31.1 (Met)* There is legal basis for competent authorities to obtain access to all necessary documents and information to assist them with conducting their investigations. In terms of s. 24 of the MLPC Act FIs and DNFBPs must maintain books and records of their customers and business transactions and upon request to make such books and transaction records available to the BUPSMU Unit and other competent authorities including law enforcement and other investigative agencies. S. 36 of the same Act further empowers the BUPSMU Unit to request information from different entities listed in the section<sup>23</sup>, which information can be shared by other competent authorities. The BUPSMU Act, in s. 6 provides inspectors in terms of that Act with powers to request designated entities to produce any book, account, notice, record, list or other document required. The police under the powers to investigate granted to them under s. 219 of the Constitution of Zimbabwe has an administrative process it uses to access information

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23 (a) a law enforcement agency;(b) any competent supervisory authority;(c) any public authority or person;

(d) any corporate body of a public character;(e) a public company or other person or entity in accordance with the Access to Information and Protection of Privacy Act

kept by the Registrars of Companies and of Deeds, which involves a Requisition Form 24 being raised in triplicate and served on the Registrar's Office. The requisition form stipulates the kind of information needed and depending on the urgency of the matter it may be referred direct to the Registrar or to his/her office.

The Criminal Procedure and Evidence Act provides for the search of persons and premises. S. 41 of the CP & E Act provides any peace officer or any person arresting a person with powers to search the person. Further, s. 49 of the same Act provides LEAs with powers to seize certain articles, (a) concerned or on reasonable grounds believed to be concerned with the commission of an offence in Zimbabwe or elsewhere; or (b) which it is on reasonable grounds believed may afford evidence of the commission or suspected commission of an offence, whether within Zimbabwe or elsewhere or on reasonable grounds; or (c) which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence. Pursuant to s. 49, s. 50 provides the police with powers to search any person identified in a search warrant, as well as any premises identified in a search warrant to seize any articles described in section 49 also identified in the search warrant. In circumstances where the police is of the belief that there is reasonable grounds to warrant a search without a search warrant and later apply for it to regularize the search, or where the police is of the view that a delay in obtaining a search warrant would prevent the seizure or defeat the object of the search any person or premises concerned, it can proceed to conduct the search in terms of s. 51 of the CP & E Act. In addition s. 54 of the same Act grants the police powers where during the investigation of an offence or alleged offence reasonably suspects that a person who may furnish information with reference to any such offence is upon or in any premises, he may without warrant but with the consent of the occupier or where there are reasonable grounds that it is necessary for the purpose of investigating or detecting an offence to examine any books, documents or other records, the police may, without warrant, (a) enter any premises for the purpose of examining such books, documents or other records; and (b) require from any person thereupon or therein the production then and there of such books, documents or other records which are or have been upon or in the premises or in the custody or under the control of any person by whom the premises are occupied or used due to the circumstances of the case, enter the premises for the purpose of interrogating such person and obtaining a statement from him.

Ss. 72 and 75 of the MLPC Act, respectively provides for production orders for property tracking documents, and power for competent authorities to search for and seize documents relevant to locate such property. The police, for purposes of conducting a lawful search on any person or premises, has authority in terms of s. 55 of the CP & E Act to use such force as may reasonably be necessary to overcome any resistance against such search or entry, including the breaking of any door or window of the premises provided that the police officer has first audibly demanded admission to the premises and notify the purpose for which he seeks to enter the premises.

Generally s. 219(1)(a) of the Constitution of Zimbabwe provides the responsibilities of the police as detecting, investigations and preventing crime. The police carries out these functions using a number of laws, including the CP & E Act and the MLPC Act and the inherent administrative

powers<sup>24</sup> it derives from its Constitutional mandate to investigate all crimes. In order to ensure that certain established practices are properly managed to supplement the laws enabling criminal investigations, the Zimbabwe Republic Police has a Police Duties and Investigations Manual. Paragraph 32.0 of the Police Duties and Investigations Manual provides guidance to the police on recording of witness statements during investigations. .

*Criterion 31.2 (Largely Met)* There is a package of legislations which provide for the legal basis for competent authorities to apply special investigative techniques for purposes of ML, TF and associated predicate crimes (interception of communication, ss.5-13 Interception of Communications Act, and accessing computer systems, ss. 49 – 55 Criminal Procedure and Evidence Act. Investigative techniques involving undercover operations and controlled delivery are conducted by the police using their administrative powers. Paragraph 35 of the Police Duties and Investigations Manual provides guidance on how to conduct undercover operations. The Police CID Drugs and Investigations Unit is of the view that it would be able to use the administrative powers to conduct a controlled delivery.

*Criterion 31.3 (Met)* The competent authorities have mechanisms or arrangements to identify whether natural or legal persons hold or control accounts or have ownership of property. Section 6 of the MLPC Act empowers the NPA upon reasonable grounds being provided by a competent authority, to apply for a customer information order from the courts for a financial institution believed to have such information to provide among other things information on whether a person holds, or has held, an account or accounts at the financial institution (whether solely or jointly)<sup>25</sup>.

In terms of s. 75 of the MLPC Act, the NPA can make an *ex parte* application on behalf the police for either a warrant to search and seize documents relevant to locating property which become property tracking documents and seize such property as evidence upon being found. S. 77 of

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24 The Zimbabwean authorities explained that the Police Service as an institution created by the Constitution, when exercising its powers it is also supported by s. 342(2) which reads, “*all institutions established by this constitution have all powers necessary for them to fulfil their objectives and exercise their functions*” and s. 342(3) which provides, “*where a power, jurisdiction or right is conferred by this constitution, any other powers or rights that are reasonably necessary or incidental to its exercise are impliedly conferred as well.*”

25 The information would also include: the account number or numbers; the person’s full name; his or her date of birth; his or her most recent address and any previous addresses; the date or dates on which he or she began to hold the account; such evidence of his or her identity as was obtained by the financial institution; the full name, date of birth and most recent address, and any previous addresses, of any person who holds, or has held, an account at the financial institution jointly with him or her; the account number or numbers of any other account or accounts held at the financial institution to which he or she is a signatory and details of the person holding the other account or accounts, etc.

the same Act provides for the NPA to apply ex parte on behalf of the police for a monitoring order. The order if granted directs a financial institution to disclose information to an authorised officer obtained by the institution about transactions conducted through an account held by a particular person with the financial institution.

*Criterion 31.4 (Not Met)* There is no specific legal provision or measure for competent authorities to request information from the BUPSMU Unit to carry out investigations for ML, TF and associated predicate crimes.

#### *Weighting and Conclusion*

While the Police is authorised to request information from the BUPSMU Unit for investigation purposes, there is no similar authority to enable the other competent authorities to access information from the BUPSMU Unit. However, the information required for investigations can be obtained by the LEAs using their own powers which mitigates against this deficiency.

Zimbabwe meets criteria 31.1, 31.2 & 31.3, and does not meet criterion 31.4.

**Zimbabwe is rated Largely Compliant with R.31.**

#### ***Recommendation 32 – Cash Couriers***

In the First Round of MEs, Zimbabwe was rated Partially Compliant on this Recommendation (formerly SR.XI). The main deficiency was related to the lack of measures to deal with cross border violations for the illegal purchase of foreign currency.

*Criterion 32.1 (Met)* Section 11(1) of the MLPC Act requires disclosure to a customs official or an inspector when requested to do so, when physically making cross-border transportation, or arranging for transportation by cargo, courier, postal service or any other means, of currency equal to or exceeding fifteen thousand United States dollars or such lesser or greater amount as may be prescribed, bearer negotiable instruments (equal to or exceeding fifteen thousand United States dollars or such lesser or greater amount as may be prescribed) and precious metals or stones whether manufactured or unmanufactured when the quantities cannot reasonably be attributed to or justify personal or family members' use.

*Criterion 32.2 (N/A)* Zimbabwe does not have declaration system but a disclosure system

*Criterion 32.3 (Met)* Section 11(1) of the MLPC Act provides for a disclosure system to be complied with upon request by a customs officer or inspector of BUPSMU Unit. Section 11(3) of

the MLPC Act provides that failure to do so or making a disclosure that is false in any material particular, or fails to make a full material disclosure, is an offence.

*Criterion 32.4 (Met)* Designated competent authorities have the authority to request and obtain further information from the carrier with regard to the origin of the currency or BNIs and their intended use upon discovery of a false disclosure of currency or BNIs or a failure to disclose them (ss. 12(1), 12(2)(b) & 12(3) of MLPC Act)

*Criterion 32.5 (Met)* The offence for failure to disclose or false-disclose cross-border transportation of cash or BNIs is set out in Sections 11(3) and 12 of the MLPC Act and a fine not exceeding one hundred thousand dollars (US \$100 000) or to imprisonment for a period not exceeding twelve months or both such fine and such imprisonment. There are also measures to apply forfeiture of the currency, bearer negotiable instruments and precious metals or stones as sanctions.

*Criterion 32.6 (Partially Met)* Pursuant to Section 11(2) of the MLPC Act, these inspectors are empowered to have access to travellers' information disclosed to an officer of the Zimbabwe Revenue Authority upon request to the Authority which complies with part (b) of the criterion. Under Section 5 of the BUP Act, inspector includes such officers, inspectors or employees of the Reserve Bank referred to in Section 46 of the Banking Act as are nominated by the Governor of the Reserve Bank; such officers of the department in the Ministry of Finance known as the National Economic Conduct Inspectorate as are designated by the Director of the National Economic Conduct Inspectorate; and such officers of the Zimbabwe Revenue Authority whose names are furnished by the Commissioner-General of the Authority to the Director; who shall be answerable to the Director and act in accordance with any directions given by the Director.

*Criterion 32.7 (Met)* It is standard practice at the ports of entry and exit for joint operations in respect of cross-border cash transportation or BNI involving the Police, Immigration, Zimbabwe Revenue Authority (includes Customs), Minerals and Border Control Unit, BUPSMML Unit, Exchange Control Division of the RBZ, Civil Aviation Authority (in case of airports) and National Intelligence Service.

*Criterion 32.8 (Met)* As it is stipulated under Section 12 (1) of the MLPC Act, the BUPSMML Unit or any inspector or officer of the Zimbabwe Revenue Authority may seize or detain part of or the whole amount of the currency, BNIs and precious metals or stones whether manufactured or unmanufactured where an offence under section 11(3) of the MLPC Act is committed or is reasonably suspected; whether or not disclosure of the items is made, if there are reasonable

grounds for suspecting that such items are the proceeds of crime, terrorist property or an instrumentality used or intended for use in the commission of an offence. This also applies when a false declaration is made (ss. 11 and 12 of the MLPC Act).

*Criterion 32.9 (Met)* The Unit or the ZIMRA may provide international cooperation and exchange of information in respect of information obtained through the disclosure (s.12 MLPC Act). S. 11.2 of the MLPC Act requires all the information disclosed (together with all relevant details of the person making the disclosure) to be recorded by the customs officer and to be kept by ZIMRA. Such information can be shared by ZIMRA with its international counterparts in terms of section 12 of the MLPC Act.

*Criterion 32.10 (Met)* There is a general prohibition on the staff of the ZIMRA from disclosing information which they obtain in the course of performance of their duties (s.34A(2) Revenue Authority Act). In addition, the ZIMRA indicated that they had IT systems and physical security procedures in place to ensure that information in their possession does not land in the hands of unauthorised persons.

*Criterion 32.11 (Met)* Travellers engaged in physical cross-border transportations of currency/BNI related to ML/TF or predicate offences are subject to the sanctions applicable the ML/TF offences, as described in R.3 and R.5. Confiscation of smuggled goods including currency is provided for in s.12 (6) MLPC Act). Disclosures of cross-border movement of currency or BNI through cargo or mail in terms of s. 11(1) of the MLPC Act is supposed to be done through a customs officer and non-compliance results in sanctions set out s. 11.3 of the same Act.

#### *Weighting and Conclusion*

Zimbabwe meets criteria 32.1, 32.3, 32.5, 32.7, 32.8, 32.9, 32.10 & 32.11, and partially meets criterion 32.6.

**Zimbabwe is rated Largely Compliant with R.32.**

#### ***Recommendation 33 - Statistics***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.32). The main deficiency was lack of comprehensive statistics to determine effectiveness.

*Criterion 33.1 – (Partially Met)* In general, competent authorities keep statistics on their operations. The assessment team however observed that the statistics often lacked context and were over a

short of period of time to enable any meaningful determination of the effectiveness of the AML/CFT system (see IOs for more information). Further, where requests are made or received (both domestic and international) there is often no information on the nature of the request. As a result, the authorities were only able to provide statistics by competent authority and year. The challenges relating to collection and availability of statistics by competent authorities was highlighted by the NRA.

The BUPSMU Unit keeps comprehensive statistics over a period of four years in relation to STR received, analysed, disseminated; requests made and received both domestic and international. The same applies to its supervisory activities. The only deficiency identified is the lack of sufficient data or information on type of predicate offence involved in dissemination of analysed reports to law enforcement. Information provided by law enforcement agencies was not comprehensive particularly in respect of giving context on specific crimes investigated. There were disparities on the statistics provided by the Police and the NPA on the number of cases investigated, either through own investigation or as a result of disseminations by the BUPSMU Unit, and prosecutions thereof. During the on-site visit and face to face meetings, the Police and the NPA had challenges providing and explaining the statistics on the number of investigations referred to the NPA that led to ML prosecution and the outcome thereof. This may be attributed to limited feedback procedures between the Police and the NPA. Across the board, relevant competent authorities (e.g. Customs, Police, and NPA) in Zimbabwe could not provide useful statistics relating to freezing and confiscation of property. With the exception of the BUPSMU Unit and RBZ (non-AML/CFT inspections) in some areas, supervisors (e.g. IPEC and SECZ) generally keep scanty statistics which could not be relied upon for purposes of the assessment.

#### *Weighting and Conclusion*

The lack of comprehensive statistics by law enforcement agencies and the NPA represents significant deficiencies in the availability of data or information to assess effectiveness of the AML/CFT system in Zimbabwe.

**Zimbabwe is rated Partially Compliant with R. 33.**

#### *Recommendation 34 – Guidance and feedback*

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.25). The main deficiency was that the Guidelines do not cover CFT more broadly, the BUPSMU Unit did not provide regular feedback to reporting FIs and DNFBPs, and there was no guidelines for DNFBPs.

*Criterion 34.1 (Partially Met)* The BUPSMML Unit and supervisors have the legal basis to issue guidelines (BUP Act) and Directives (MLCP Act) to assist FIs and DNFBPs to understand their obligations. The BUPSMML Unit has issued numerous guidelines, circulars and Directives on a range of general and specific AML/CFT issues to ensure compliance by the FIs and the DNFBPs with AML/CFT requirements in the country<sup>26</sup>. These included indicators to assist in identifying and detecting STRs, identification of and measures against high risk jurisdictions, financial products/services prone to abuse and sanctions lists. In addition, the BUPSMML Unit has undertaken a number of general awareness-raising programmes to promote understanding and implementation of the requirements. The authorities indicated even though the NRA was not yet formally made public, they carried out some workshops to ensure that the FIs and DNFBPs understood the findings to develop mitigating controls. The assessors noted that some of the guidelines covered AML/CFT requirements such as PEPs which were not legally enforceable as the BUPSMML Unit recognised the importance of implementing, as far as possible, all Recommendations under the FATF Standards.

The assessment team noted that the authorities still have more work to do following the release of the NRA findings to improve the low levels of understanding of ML/TF risks and to ensure that mitigating controls implemented on a risk sensitive basis. The other supervisors such as SECZ and IPEC are yet to issue guidance to their respective reporting entities. The BUPSMML Unit provides feedback only in the form of acknowledgement of receipt of STRs as well as through feedback report to FIs following every on-site inspection. There is no feedback from the LEAs on the use of financial intelligence or other relevant information received from the BUPSMML Unit which may prove relevant to the nature of feedback provided by the BUPSMML Unit to reporting entities.

#### *Weighting and Conclusion*

While the BUPSMML Unit has issued a number of guidelines on general and thematic issues on a range of AML/CFT requirements, there is still a lot required to strengthen the understanding of risk-based approach and to diversify reporting entities filing suspicious transactions reports. Also, SECZ and IPEC should develop capacity to issue guidance to their respective reporting entities as part of their supervisory functions.

**Zimbabwe is Partially Compliant with R.34.**

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<sup>26</sup> Guidelines and Directives can be accessed on [www.fiu.co.zw](http://www.fiu.co.zw)

### ***Recommendation 35 – Sanctions***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.17). The deficiencies identified was the absence of administrative and civil sanctions for non-compliance with AML/CFT requirements.

*Criterion 35.1 (Largely Met)* s.5 of the MLPC Act provides for a wide-range of sanctions (administrative, civil and criminal) to apply against FIs and DNFBPs for failure to comply with AML/CFT obligations relating to R.6 and R8 to 23. The sanctions for R.8 to 23 appear proportionate and dissuasive (see R.27.4 for more details). The sanctions for non-compliance with the requirements of R.6 (targeted financial sanctions) do not appear proportionate and dissuasive. Any person who is found guilty of commission of ML offence shall be punishable by a fine not exceeding USD500, 000.00 or not exceeding twice the value of the property that forms the subject of the charge, whichever is greater, or by imprisonment for a period not exceeding thirty-five years, or by both such fine and such imprisonment. For commission of the offence of TF the punishment is a fine not exceeding USD500,000.00 or not exceeding twice the value of the property that forms the subject of the charge, whichever is greater, or by imprisonment for a period not exceeding thirty-five years, or both such a fine and such imprisonment.

*Criterion 35.2 (Met)* The sanctions specifically apply to directors, principals, officers, professionals, agents and employees of the FIs and the DNFBPs.

#### *Weighting and Conclusion*

While the sanctions for non-compliance with AML/CFT requirements and commission of offences of ML and TF are deemed adequate by the assessors, there are concerns about the lack of proportionate and dissuasive sanctions for non-compliance with targeted financial sanctions under R.6. Zimbabwe meets the criterion 35.2 and largely meet criterion 35.1 under this Recommendation.

**Zimbabwe is rated Largely Compliant with R.35.**

### ***Recommendation 36 – International instruments***

In the First round of the MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.35). The main deficiency was that Zimbabwe had only signed the Palermo Convention. Further that Zimbabwe had not fully implemented the Vienna or Palermo Conventions, particularly with respect to prosecuting ML for all serious offences freezing and confiscation of the proceeds of crime and international cooperation requirements. In addition, Zimbabwe had not signed the UN Convention on Financing Convention and that Zimbabwe had no mechanisms to implement requirements under UNSCRs 1267 and 1373.

*Criterion 36.1 (Met)* Zimbabwe has acceded to the Vienna Convention on 30 July 1993 and the SFT Convention on 30 Jan 2013, and ratified the Palermo Convention on 12 Dec 2007, and the Merida Convention on 8 Mar 2007.

*Criterion 36.2 (Met)* Zimbabwe has enacted laws to enable domestication of the provisions of the four Conventions relevant to its AML/CFT regime. The MLPC Act criminalises both the ML and TF offences, sets out provisional and confiscation measures. Zimbabwe enacted the Anti-Corruption Commission Act which has established the Zimbabwe Anti-Corruption Commission to combat corruption crimes.

#### *Weighting and Conclusion*

Zimbabwe meet all criteria under this Recommendation.

**Zimbabwe is rated Compliant with R.36.**

### **Recommendation 37 - Mutual Legal Assistance**

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.36 and R.37). The main deficiencies identified were that mutual legal assistance was not available for the investigation and prosecution of the financing of terrorism; dual criminality is required for all mutual legal assistance measures, including less intrusive and non-compulsory measures; the absence of extradition designations or treaties impedes extradition even where both Zimbabwe and the requesting country criminalise the conduct underlying the offence; and Zimbabwe had not signed the UN Convention on Suppression of Financing of Terrorism.

*Criterion 37.1 (Met)* Section 4 of the Criminal Matters (Mutual Assistance) Act provides the legal basis for providing the widest possible range of MLA. Under normal circumstances, the authorities take on average two weeks to process an MLA request for information. The assessment team considers the period of two weeks reasonable as the authorities acted expeditiously and without undue delay.

*Criterion 37.2 (Met)* Sections 2A, 10 and 11 of the Criminal Matters (Mutual Assistance) Act empowers the Attorney-General, as the Central Authority and appropriate authorities to provide the widest possible range of cooperation to each other for purposes of MLA in criminal matters, including in connection with criminal investigations and proceedings related to ML, TF and associated predicate crimes. Zimbabwe has a mechanism in place to prioritise MLA requests

provided the requesting State to clearly give compelling reasons for an expedited attention. There is a manual case management system to record all MLA requests and responses received.

*Criterion 37.3 (Met)* The conditions for refusal of MLA request described in Section 6 of the Criminal Matters (Mutual Assistance) Act do not appear unreasonable and unduly restrictive.

*Criterion 37.4 (Met)* MLA request are not refused on the ground that it has tax crimes. On the contrary, a tax crime is a predicate offence to ML, and, therefore, subject to MLA requests. The MLA law state in s.5 the grounds for refusal of a MLA request, and tax crimes do not fall under this provision. It also provides for the overriding of bank secrecy and confidentiality provisions. The MLPC Act, on the other hand, overrides any secrecy and confidentiality provision relating to information held by FIs and DNFBPs.

*Criterion 37.5 (Met)* Foreign jurisdiction can specify if it requires its request kept in a confidential manner (s.9 Criminal Matters (mutual assistance)).

*Criterion 37.6-7 (Met)* In general, consideration of MLA requests in Zimbabwe does not require dual criminality for it to be attended to, regardless of a request for coercive measures, provided that the underlying conduct is an offence in the requesting country.

*Criterion 37.8 (Met)* s.4 of the Criminal Matters (Mutual Assistance) Act provides for the application of the same powers and investigative techniques envisaged under R.31 used by the Police, LEAs, prosecutors, the magistrate or justice of the peace.

#### *Weighting and Conclusion*

Zimbabwe meets all criteria.

**Zimbabwe is rated Compliant with R.37.**

#### ***Recommendation 38 – Mutual legal assistance: freezing and confiscation***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation (formerly R.38). The deficiencies identified were freezing and forfeiture orders pursuant to mutual legal assistance requests was subject to the same limitations as domestic freezing and forfeiture orders, i.e. they applied only to proceeds of crime/property

derived from money laundering and not to instrumentalities used in, or intended for use in, the commission of an offence. Zimbabwe had not signed the convention on the suppression of terrorism.

*Criterion 38.1 (Largely Met)* s.4 of the Criminal Matters (Mutual Assistance) Act provides authority to competent authorities to receive a request from a competent authority of another State to identify, trace, freeze, seize or confiscate property, funds or property or instrumentalities or other things derived from ML and other crimes and may take appropriate actions to fulfil the request. There is no provision relating to property of corresponding value.

*Criterion 38.2 (Met)* Zimbabwe has legal basis for dealing with non-conviction based confiscation and related provisional measures (s.78-91 MLPC Act), and has mechanism to deal with a perpetrator who dies and absconds (s.51 MLPC Act)

*Criterion 38.3 (Met)* Zimbabwe provides for mechanisms to coordinate foreign orders relating to seizures (s.42) and confiscation actions (s.55), obtaining information from a foreign jurisdiction (s.91), and mechanisms for managing proceeds realised from confiscations (s.96, s.97) under the MLPC Act.

*Criterion 38.4 (Met)* Zimbabwe has legal basis and procedure for sharing of recovered property with other States regardless of whether or not there was a joint operation (s.97 (2) MLPC Act).

#### *Weighting and Conclusion*

Zimbabwe meets criterion 38.2 – 38.4 and largely meets criterion 38.1. Freezing and confiscation measures do not apply to property of corresponding value and therefore there can be no mutual legal assistance in this regard.

**Zimbabwe is rated Largely Compliant with R.38.**

#### ***Recommendation 39 - Extradition***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. The deficiencies identified were that while Zimbabwe had legislation in place that would allow extradition of money launderers to designated Commonwealth Countries and other foreign countries with which the country had an extradition treaty, the absence of any designations or extradition treaties prevents extraditions from taking place. Moreover, mutual

legal assistance was not available for offences relating to financing of terrorism, or terrorist organisations.

*Criterion 39.1 (Met)* Zimbabwe is able to execute extradition without undue delay, and applies to any offence which would constitute an offence including ML and TF punishable in Zimbabwe if the act or omission constituting the offence took place in Zimbabwe (s.14 Extradition Act). Zimbabwe has a case management system, and has set timeframes including having 'fast tracking' procedures for execution of extradition requests. The grounds for granting extradition requests set out in s.15 of the Extradition Act do not appear unreasonable and unduly restrictive.

*Criterion 39.2 (Met)* Zimbabwe can extradite its own nationals by virtue of s.3(2) (b) of the Extradition Act.

*Criterion 39.3 (Not Applicable)* This criterion is not applicable in the case of Zimbabwe as dual criminality is not a pre-condition for extradition by virtue of s.3(2)(a) of the Extradition Act which provides that extradition arrangements can be executed in respect of any offences, regardless of whether they are offences in both Zimbabwe and the requesting country.

*Criterion 39.4 (Met)* Zimbabwe has simplified extradition mechanisms in place based on consent, provisional arrests, and warrants (ss. 19, 24 & 25, Extradition Act, 1982 (as amended))

#### *Weighting and Conclusion*

Zimbabwe meets criterion 39.1, 39.2 and 39.4. Criterion 39.3 is not applicable.

**Zimbabwe is rated Compliant with R.39.**

#### ***Recommendation 40- Other forms of international cooperation***

In the First Round of MEs, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. The deficiencies identified were that the scope of mutual assistance did not extend to terrorist financing, and exchange of information processes were not clearly specified. Moreover, mutual legal assistance was not available to offences relating to financing of terrorism, or terrorist organisations.

*Criterion 40.1 (Largely Met)* The Police (s.219(2)(c) the Constitution of Zimbabwe), the BUPSMU Unit and supervisory bodies (s.3(1)(b), and the Attorney-General (ss.2A(1) and (3) Criminal Matters (Mutual Legal Assistance) Act) have powers to provide the widest range of international assistance and exchange of information to foreign counterparts and, where relevant, to other

international organisations. The AG may use the services of the International Criminal Police Organisation (Interpol) to process requests to obtain information in a timely and expeditious manner. The powers of the AG are limited only to criminal matters. There are no similar powers in respect of which other competent authorities such as Immigration, ZACC and ZIMRA can provide the widest range of international cooperation. Instead, the authorities advised of reliance on bilateral and multilateral arrangements. Although there are no specific procedures with prescribed time-frames, it appears a maximum of two weeks applies in most cases except where the matter is considered 'complex'. In general, the initial response is to send an acknowledgement of receipt which is followed by a preliminary review of the request to determine any information gaps or availability of information, after which the requesting authority is advised on the possible time for providing the requested information.

*Criterion 40.2 (Largely Met)* The Police, the BUPSMU Unit and the AG have legal basis to render international assistance and exchange information, as mentioned above. The AG is legally authorised to provide assistance only on criminal matters. There are no specific legal basis for competent authorities such as ZIMRA and ZACC to entertain requests from foreign counterparts. The authorities advised that they enter into bilateral or multilateral arrangements or agreement on the basis of reciprocity or mutuality and to set out procedures and processes relating to provision, protection and use of information requested and provided. On the basis of the reviews conducted on bilateral and multilateral arrangements (e.g. MoUs) it appears that in general competent authorities lay down the procedures and the processes of giving effect to the statutory powers to request and provide information in MoUs signed on mutual agreement (s.37(1) MLPC Act and s.3 Criminal Matters (Mutual Assistance) Act). For instance, when processing a request the AG issues a declaration through a Statutory Instrument which may set out conditions that apply to the request for information. Similar arrangements were noted between the Immigrations Department of Zimbabwe and Zambia in respect of detecting, investigating and preventing cross-border crimes.

*Criterion 40.3 (Largely Met)* The legal framework for competent authorities in Zimbabwe to cooperate with foreign counterparts is not predicated on prior conclusion of bilateral or multilateral arrangements or any arrangement. In addition, the assessors noted that there appears to be a deliberate practice of competent authorities being members of specialised regional organisations or networks (e.g. SAPRCO, ARINSA and CISNA) for purposes of cooperation on supervision, investigation and prosecution. Competent authorities provide such assistance and exchange such information as may be requested if the purpose of the request meets the set criteria. In respect of timeliness when such arrangements were entered into, the

authorities indicated that there were no set time-frames as generally conclusion of such arrangements were dependent on the nature and the complexity of the subject matter.

*Criterion 40.4 (Partially Met).* The BUPSMML Unit has a mechanism in place to provide feedback upon request to counterparts on the usefulness of the response provided through the Office of the Director and the responsible unit, as demonstrated by a case in which a feedback form from a foreign counterpart was adequately filled and returned on the same date of receipt providing details on the usefulness of the information to the BUPSMML Unit and the Police. While no specific mechanisms were available to the LEAs, the BUPSMML Unit (as the mandated AML/CFT supervisor for dealing with foreign requests) advised that feedback requests on AML/CFT supervision information provided would follow a similar process.

*Criterion 40.5 (Largely Met)* The laws (and any arrangements such as MoUs) regulating relations between competent authorities and their foreign counterparts promote mutual cooperation through information exchange. Section 6 of the Criminal Matters (Mutual Legal Assistance) Act does not allow the grounds set out in this criterion as the basis for refusal of assistance. The only exception where refusal is justified under this Act is where a foreign counterpart applies the same ground(s) to deny assistance to Zimbabwe. The BUPSMML Unit has powers to override any secrecy provision under any law that applies to information held by FIs and DNFBBs to execute its functions (ss.3, 31 & 36 MLPC Act and s.6 BUP Act). The nature or status of the requesting counterpart authority does not appear to impede provision of assistance.

*Criterion 40.6 (Met)* Competent authorities advised that conditions for restrictions on the use of information by a foreign counterpart are generally laid out in arrangements such as MoU, requires that any deviation must be authorised by the competent authority in Zimbabwe. The MoUs provided to the assessors by the authorities contained such a condition (e.g. Zimbabwe-Zambia Immigration Departments and BUPSMML Unit with all foreign counterparts as well as IPEC, SECZ and RBZ as signatories to CISNA Multilateral MoU on the Exchange of Information and Surveillance of Securities, Insurance and Retirement Activities). The authorities further indicated that when the information is provided on arrangement of a case-by-case basis, the restriction on the use of the information is stated on the response letter to the foreign counterpart concerned.

*Criterion 40.7 (Met)* As already explained above, competent authorities in Zimbabwe generally rely on conditions set out in bilateral or multilateral arrangements with foreign counterparts or on a case-by-case arrangement to safeguard and protect information provided. The BUPSMML

Unit is required under s.37(1) of the MLPC Act to protect the information it exchanges and to require a foreign counterpart to have and observe similar standards to safeguard information provided. While it is clear on the basis of this section that the BUPSMML Unit must satisfy itself of the confidentiality and security of the foreign counterpart, it is not clear to the assessors if the other competent authorities can refuse to provide information to a foreign counterpart agency if the information cannot be protected effectively.

*Criterion 40.8 (Partially Met)* As an FIU, the BUPSMML Unit can make enquiries on behalf of a foreign counterpart agency when the request involved is within its authority in a domestic matter. The Unit has a wide-range of powers to access information held by a broad number of private and public institutions such as law enforcement agencies, supervisory bodies and any public authority or person, and these powers include FIs and DNFBPs (ss.36 and 37 MLPC Act). The RBZ has a wide-range of powers to conduct enquiries and collect information from a variety of regulated entities and other competent authorities on behalf of a foreign counterpart (s.53(2) Reserve Bank of Zimbabwe Act). In terms of paragraph 20 of the First Schedule to the Securities and Exchange Act, the SECZ can make enquiries in the scope of cooperation and exchange of information with foreign counterparts or other organisations. The other competent authorities have no similar provision or mechanism to conduct enquiries on behalf of foreign counterparts and exchange all information that would be obtainable by it if such inquiries were being carried out domestically.

#### *Exchange of Information between FIUs*

*Criterion 40.9 (Met)* The BUPSMML Unit has powers to exchange information, on its own initiative or upon request, with foreign counterparts with similar secrecy obligations in respect of the information it receives based upon reciprocity or mutual agreement, regardless of the type of FIU (s.37 MLPC Act).

*Criterion 40.10 (Met)* As already indicated under criterion 10.4, the BUSPML Unit has a mechanism or procedure in place through the Office of the Director to provide feedback upon request on the usefulness of information provided by a counterpart including getting feedback from competent authorities which used the information.

*Criterion 40.11 (Met)* The BUPSMML Unit is authorised to exchange all information required to be accessible or obtainable directly or indirectly by it (in particular under R.29), and any other

information which it has the power to obtain or access, directly or indirectly, at the domestic level, subject to the principles of reciprocity (s.37 MLPC Act).

*Exchange of Information between financial supervisors*

*Criterion 40.12 (Met)* The BUPSM Unit (as a supervisor) has the legal basis to cooperate with foreign counterparts with similar functions to provide assistance and exchange of information relating to FIs. (s.3(6) MLPC Act).

*Criterion 40.13 (Met)* The BUPSM Unit is authorised to exchange information it has available domestically with foreign counterparts, including information held by FIs, for international assistance (ss.3(4) & (6) MLPC Act read with s.6 BUP Act).

*Criterion 40.14 (Largely Met)* As already described above, the BUPSM Unit is the only institution that has the power to engage in cooperation with foreign supervisors in respect of provision of AML/CFT information from FIs. The RZB has the authority to exchange information on prudential matters with foreign counterparts in respect of its regulated entities (s.51(1) Reserve Bank of Zimbabwe Act). In terms of paragraph 20 of the Schedule to the Securities and Exchanges Act the Commission has power to engage with foreign counterparts or organisation to promote better understanding of securities matters in Zimbabwe which does not exclude being able to facilitate shared responsibility for FIs regulated by it. The authorities indicated that the Commission attends supervision colleges for consolidated institutions under its purview. The RBZ has entered into a Consolidated Supervision Memorandum of Understanding based on the *Basel Core Principles of Effective Supervision* with the central banks of Zambia, Tanzania, Mozambique, Malawi and Botswana in respect of a particular bank operating in these countries. There are no similar provision or mechanism to IPEC in respect of insurance and pensions.

*Criterion 40.15 (Met)* The BUPSM Unit has sufficient powers and capacity to conduct enquiries on behalf of foreign counterparts for purposes of combating ML and TF in all FIs (s.3(6) MLPC Act). The authorities advised that procedures and processes for making enquiries may be laid out in bilateral or multi-lateral arrangements such as MoUs on international assistance and information exchange. For instance, Paragraph 6.4(c) of the *CISNA Multi-lateral MoU on the Exchange of Information and Surveillance of Securities, Insurance and Retirement Activities*, in general, provides the IPEC, the SECZ and the RBZ with a mechanism to assist foreign counterparts to obtain information held and accessible by them.

*Criterion 40.16 (Not Met)* RBZ is envisaged to obtain prior authorisation for a foreign supervisor to use or disseminate information exchanged with a third party without prior permission (s.56 Reserve Bank of Zimbabwe Act). However, this requirement does not cover information which is subject to civil, criminal or disciplinary proceedings, or a prohibition against public disclosure (s.57 Reserve Bank of Zimbabwe Act). There are no specific provisions or procedures in place for the BUPSM Unit, the IPEC and the SECZ.

*Exchange of information between law enforcement authorities*

*Criterion 40.17 (Met)* Law enforcement authorities can exchange domestically available information with foreign counterparts on the basis of a bilateral or a multilateral framework for intelligence or investigative purposes in respect of ML, TF and predicate crimes including identification and tracing of assets and instrumentalities of crime. In terms of s.219(b) and(c) of the Constitution of the Republic of Zimbabwe, the Police has the power to cooperate with foreign counterparts on detection and prevention of crimes. The Police is a member of INTERPOL and SARPCCO (regional police organisation in Southern Africa) which enables provision of information to its counterparts in a secured manner. All requests from foreign counterparts are received at Interpol National Central Bureau in the Police Headquarters in Harare, and are channelled to a relevant unit within the Police to investigate using its domestic powers to collect information on behalf of its counterpart. Furthermore, the Police and the NPA are members of Asset Recovery Inter-Agency Network of Southern Africa (ARINSA) which has further links with other asset tracing regional and international networks such as Camden Asset Recovery Inter-Agency Network (CARIN) which they use to identify and trace illicit assets.

*Criterion 40.18 (Met)* Through legal powers and arrangements explained earlier, law enforcement agencies in Zimbabwe can use their respective powers, including investigative techniques available within national laws, to carry out inquiries and gather information on behalf of foreign counterparts. For instance, the Police use cooperation channels within Interpol, SAPRCCO and ARINSA to initiate investigation and obtain information on behalf of foreign counterparts.

*Criterion 40.19 (Met)* Law enforcement agencies in Zimbabwe rely on legal powers and other mechanism such as bilateral and multilateral arrangements to enter into and participate in joint investigative teams with foreign counterparts in relation to ML, TF and predicate crimes. Within SARPCCO's investigation cooperation arrangements, there is Simultaneous Joint Operations in which members can send their police officers in foreign countries, or carry out simultaneous investigation at home on the same matter and provide the information collected to a foreign counterpart. The Police indicated that one such case involved an investigation to counter illicit trafficking of firearms in the region. Pursuant to the s.266A of the CP&E Act which allows for

admissibility of evidence obtained from foreign jurisdiction, law enforcement agencies conduct joint investigations with their counterparts.

*Exchange of information between non-counterparts*

*Criterion 40.20 (Not Met)* There is no legal or regulatory basis which gives authority to the BUPSMML Unit, supervisors and the LEAs to exchange information indirectly with foreign counterparts.

*Weighting and Conclusion*

Zimbabwe meets criteria 40.6, 40.7, 40.9-13, 40.15, 40.17-19, largely meets criteria 40.1-3, 40.5 & 40.14, partially meets criteria 40.4 & 40.8, and does not meet criteria 40.16 & 40.20. Competent authorities in Zimbabwe apply the requirements of other forms of cooperation through laws and other arrangements at a bilateral and multilateral level to provide assistance to foreign counterparts. While Zimbabwe meets the majority of the criteria under R.40, there are deficiencies which weigh less on the overall compliance with the requirements. These include lack of feedback on usefulness of information by competent authorities, generalised timelines to respond to a request, inadequate requirement for the RBZ to seek prior authorisation on the use of information received, and absence of authority to competent authorities to exchange information indirectly with foreign non-counterpart.

**Zimbabwe is rated Largely Compliant with R.40.**

*Summary of Technical Compliance– Key Deficiencies]*

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<ul style="list-style-type: none"> <li>• Narrow dissemination of the results of the NRA.</li> <li>• Mitigating controls are not applied on a risk-sensitive basis.</li> <li>• No requirement to apply reduced CDD measures where low risk is determined.</li> <li>• Supervisors do not ensure that FIs and DNFBPs implement obligations on a risk-sensitive basis.</li> <li>• FIs and DNFBPs are not required to take appropriate steps to identify, assess, and understand their ML/TF risks.</li> <li>• No requirement to develop internal control, procedures and process on a risk-basis and monitor implementation.</li> <li>• No requirement to take enhanced measures to mitigate risks where high risk have been identified.</li> </ul>
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> <li>• No measures to implement proliferation financing.</li> </ul>
3. Money laundering offence	C	<ul style="list-style-type: none"> <li>• This Recommendation is fully met.</li> </ul>
4. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>• All designated crimes under the FATF Standards are not serious offences in Zimbabwe for the purposes confiscation.</li> <li>• Zimbabwe’s law does not provide for steps to prevent or void actions and confiscation of property held by a third party, and property of corresponding value.</li> <li>• Prescriptions that enable management of Recovered Assets Funds have not been issued</li> </ul>
5. Terrorist financing offence	C	<ul style="list-style-type: none"> <li>• This Recommendation is fully met.</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	C	<ul style="list-style-type: none"> <li>• This Recommendation is fully met.</li> </ul>

### Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
7. Targeted financial sanctions related to proliferation	NC	No measures to implement proliferation financing requirements.
8. Non-profit organisations	NC	<ul style="list-style-type: none"> <li>• No outreach activities and review of legal and regulatory framework.</li> <li>• No measures to respond to international request.</li> <li>• No requirement to obtain and make publicly available beneficiaries.</li> <li>• No risk assessment conducted to identify high risk NPO for monitoring purposes.</li> </ul>
9. Financial institution secrecy laws	C	This Recommendation is fully met.
10. Customer due diligence	PC	<ul style="list-style-type: none"> <li>• Insufficient requirement to establish and verify the identity of a beneficial owner.</li> <li>• There is no specific requirement to ensure CDD information is kept up-to-date and relevant through review of existing records particularly for high risk categories of customers.</li> <li>• There is no specific requirement for FIs to verify by name, the beneficiary of a life insurance policy that has been specifically identified as a natural person, legal person or legal arrangement.</li> <li>• There is no requirement for FIs to consider risk of a beneficiary of a life insurance to determine if enhanced CDD should be applied.</li> <li>• No Directive under the MLPC Act has been issued to allow FIs to complete verification of customer and beneficial owner after establishment of the business relationship as soon as reasonably practical, ML risks are effectively managed and essential not to interrupt the normal conduct of business.</li> <li>• There is no specific requirement to adopt risk management procedures for conditions under which a customer may utilise the business relationship prior to verification.</li> <li>• No requirement to apply simplified CDD where there is proven risk.</li> </ul>

### Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
11. Record keeping	C	This Recommendation is fully met.
12. Politically exposed persons	PC	<ul style="list-style-type: none"> <li>• Narrow scope of definition of a foreign PEPs and absence of specific risk management control measures.</li> <li>• Persons entrusted with international organisations are not covered and therefore no specific risk management control measures apply.</li> <li>• The requirement of 'family and close associates' is restricted to a foreign PEP holding a senior position in a political party.</li> <li>• No specific requirement for FIs to take reasonable measures in respect of life insurances to determine whether the beneficiaries and/or beneficial owner of the beneficiary, is a PEP.</li> </ul>
13. Correspondent banking	LC	No requirement for FIs to satisfy themselves that the respondent has performed adequate CDD on its customers that have direct access to the accounts of the correspondent bank; and is able to provide the information upon request to the correspondent bank.
14. Money or value transfer services	PC	No reasonable action taken against illegal MVTS.
15. New technologies	NC	There are no measures to identify and assess ML/TF risks arising from new technologies and apply appropriate mitigating controls.
16. Wire transfers	PC	<p><u>Ordering Financial Institutions</u></p> <ul style="list-style-type: none"> <li>• No Directive issued on requirement to include originator and full beneficiary information in cross-border wire transfer batch files from a single originator.</li> <li>• No Directive issued on requirements for wire transfer below USD1000 threshold was issued as required by the MLPC Act.</li> </ul> <p><u>Intermediary Financial Institutions</u></p> <ul style="list-style-type: none"> <li>• No specific requirements to ensure retention of originator and beneficiary information accompany the transaction.</li> <li>• No requirement on what action to take when technical</li> </ul>

## Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
		<p>limits or prevent originator or beneficiary information from accompanying or being part of any wire transfer.</p> <p><i>Beneficiary Financial Institutions</i></p> <ul style="list-style-type: none"> <li>• No risk-based approach requirement for beneficiary FIs on cross-border wire transfers under any circumstances.</li> </ul> <p><i>MVTS</i></p> <ul style="list-style-type: none"> <li>• There is no specific requirement for a scenario where both the ordering and the beneficiary side of a cross-border wire transfer are controlled by the same MVTS.</li> </ul>
17.Reliance on third parties	<b>LC</b>	<ul style="list-style-type: none"> <li>• No requirement for FIs to consider risk profile of a jurisdiction in which a third party is based.</li> <li>• Outdated list of jurisdictions for third parties to rely on when considering the level of a country's risk profile.</li> </ul>
18.Internal controls and foreign branches and subsidiaries	<b>PC</b>	<ul style="list-style-type: none"> <li>• No Directive under the MLPC Act has been issued to bring into force the requirement that FIs should implement AML/CFT programmes cognisance of ML/TF risks and size of business.</li> <li>• There is no specific requirement for financial groups to implement group-wide AML/CFT programmes and to ensure implementation by foreign branches or majority-owned subsidiaries.</li> </ul>
19.Higher-risk countries	<b>NC</b>	<ul style="list-style-type: none"> <li>• There is no requirement for FIs to apply enhanced due diligence, proportionate to the risks, to business relationship and transactions with natural and legal persons from jurisdictions for which this is called for by the FATF, and apply countermeasures.</li> <li>• Zimbabwe has not applied countermeasures in any form as determined through its own processes and by the FATF.</li> <li>• There is no measure or mechanism in place to advise FIs of concerns about deficiencies in the AML/CFT systems of other jurisdictions.</li> </ul>
20.Reporting of suspicious	<b>C</b>	This Recommendation is fully met.

### Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
transaction		
21. Tipping-off and confidentiality	<b>C</b>	This Recommendation is fully met.
22. DNFBPs: Customer due diligence	<b>PC</b>	Deficiencies identified in respect of CDD (R.10), PEPs (R.12) and third party (R.17) also apply.
23. DNFBPs: Other measures	<b>PC</b>	<ul style="list-style-type: none"> <li>• No requirement for DNFBPs to implement requirements taking into account size of business and ML/TF risks (R.18).</li> <li>• No legal requirements to apply countermeasures when called to do so by the FATF.</li> <li>• No measures to bring to the attention of the DNFBPs weaknesses in AML/CFT systems in other jurisdictions (R.19).</li> </ul>
24. Transparency and beneficial ownership of legal persons	<b>NC</b>	<ul style="list-style-type: none"> <li>• There is no specific legal requirement for the Registrar of Companies to obtain and maintain beneficial ownership information.</li> <li>• No assessment of ML/TF risks on types of legal persons has been conducted.</li> <li>• No requirement for the Registrar or companies to keep up-to-date information on beneficial ownership.</li> <li>• There is no requirement for beneficial ownership to be accurate and kept-up-to-date.</li> <li>• There is no specific requirement for one or more natural person resident in Zimbabwe to be authorised by the company to provide information on beneficial ownership and others assistance to the authorities. The same applies to DNFBPs.</li> <li>• No requirement for beneficial ownership information to be kept for a period of at least five years under any circumstances except for in terms of the MLPC Act once a company terminates its relationship with DNFBP or FI.</li> <li>• There is no mechanism to monitor the quality of assistance received from other countries in response to requests for basic and beneficial ownership information.</li> </ul>
25. Transparency and	<b>NC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to obtain information on a</li> </ul>

## Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
beneficial ownership of legal arrangements		<p>natural person who exercises ultimate control over the trust; trustees of express trusts are not required to obtain and hold adequate, accurate, and current information on the identities of persons involved including the natural person exercising ultimate effective control over the trust, as well as of regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors.</p> <ul style="list-style-type: none"> <li>• There is no specified time-frame to lodge any change of trustees or any other change to the trust deed which affects accuracy and timeliness of records.</li> <li>• There are no statutory provisions to hold legally liable trustees for failure to perform the duties relevant to meeting their obligations.</li> </ul>
26.Regulation and supervision of financial institutions	<b>PC</b>	Supervisors do not subject FIs to a risk-based approach and therefore there can be no review of the assessment of the ML/TF risk profile of FIs or group under any circumstances.
27.Powers of supervisors	<b>LC</b>	Other supervisors (e.g. IPEC and SECZ) do not have the authority to conduct inspections.
28.Regulation and supervision of DNFBPs	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no specific requirement when licensing casinos for disclosure of information on natural persons holding significant or controlling interest in the casino</li> <li>• Supervisors do not subject DNFBPs to supervision and monitoring on a risk-sensitive basis.</li> </ul>
29.Financial intelligence units	<b>PC</b>	<ul style="list-style-type: none"> <li>• BUPSMU Unit is legally authorised to disseminate reports only to the Police and not to other LEAs.</li> <li>• BUPSMU Unit has no sufficient protection measures including ICT to receive, store and disseminate information in a secure and confidential manner.</li> <li>• Lack of adequate autonomy and operational independence including on staffing matters.</li> <li>• There are no explicit terms and conditions under which the Director may be removed from office</li> <li>• BUPSMU Unit is not a member of nor has it made an unconditional membership application to Egmont</li> </ul>

### Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
		Group.
30.Responsibilities of law enforcement and investigative authorities	<b>C</b>	This Recommendation is fully met.
31.Powers of law enforcement and investigative authorities	<b>LC</b>	No specific powers for LEAs to request information from the BUPSMML Unit.
32.Cash couriers	<b>LC</b>	There is no clarity on how ZIMRA protects the information obtained through declaration system.
33.Statistics	<b>PC</b>	No comprehensive statistics to determine AML/CFT effectiveness including on confiscation of property and investigations and prosecution.
34.Guidance and feedback	<b>PC</b>	<ul style="list-style-type: none"> <li>• No Directive has been issued to enforce obligations for high risk customers, wire transfers and CDD.</li> <li>• No sufficient guidance for risk-based supervision.</li> <li>• There is insufficient processes for feedback amongst competent authorities and with FIs and DNFBPs.</li> </ul>
35.Sanctions	<b>LC</b>	Sanctions not proportionate and dissuasive for R.6.
36.International instruments	<b>C</b>	This Recommendation is fully met.
37.Mutual legal assistance	<b>C</b>	This Recommendation is fully met.
38.Mutual legal assistance: freezing and confiscation	<b>LC</b>	<ul style="list-style-type: none"> <li>• Property of corresponding value is not subject to provisional and confiscations measures for purpose of rendering international cooperation.</li> <li>• Narrow scope of confiscation measures for property subject to MLA.</li> </ul>
39.Extradition	<b>C</b>	This Recommendation is fully met.
40.Other forms of international cooperation	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are no set time-frames to provide responses on foreign requests.</li> <li>• No specific procedure on authorisation to share information from a foreign supervisor with a third party.</li> <li>• Competent authorities except the BUPSMML Unit have no procedure or process to provide feedback upon</li> </ul>

### Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
		request by foreign counterpart on usefulness of information provided.