

Anti-money laundering and counter-terrorist financing measures

Ethiopia

7th Enhanced Follow Up Report and
Technical Compliance Re -Rating

December 2020

Follow-Up Report





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, GIZ, 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.

For more information about the ESAAMLG, please visit the website: www.esaamlg.org

This document and/or any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

This report was approved by the ESAAMLG Task Force of Senior Officials at its virtual meeting in December 2020.

Citing reference:

ESAAMLG (2020), *Anti-money laundering and counter-terrorist financing measures - Ethiopia*, 7th Follow up Report and Technical Compliance Re-Rating, ESAAMLG, Dar es Salaam

<http://www.esaamlg.org>

© 2020 ESAAMLG. All rights reserved.

No reproduction or translation of this publication may be made without prior written permission. Applications for such permission, for all or part of this publication, should be made to the ESAAMLG Secretariat, P. O. Box 9923, Dar es Salaam-United Republic of Tanzania Tel: +255 22 2667895/7679

Fax No: +255 22 2668745

Email: executivesec@esaamlg.or.tz

ETHIOPIA: SEVENTH ENHANCED FOLLOW-UP REPORT & TECHNICAL COMPLIANCE RE-RATING

1. BRIEF BACKGROUND INFORMATION

1. The mutual evaluation of Ethiopia was conducted by the World Bank and the mutual evaluation report (MER) was approved by the ESAAMLG Council of Ministers on the 5th of June 2015. This follow-up report (FUR) analyses the progress of Ethiopia in addressing the technical compliance deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. In General, countries are expected to have addressed most if not all technical compliance deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Ethiopia has made to improve its effectiveness. Progress on improving effectiveness will be analysed as part of a later follow-up assessment.

2. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. Ethiopia's ratings for technical compliance¹ are as set out in Table 1 below. As a result of these ratings, the country was placed under enhanced follow-up.

Table 2.1: MER Ratings, June 2015

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
NC	PC	LC	LC	LC	NC	NC	PC	C	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	C	C	PC	LC	C	C	LC	PC	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
LC	LC	LC	PC	N/A	LC	C	PC	LC	LC
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
LC	PC	PC	PC	LC	PC	LC	LC	LC	NC

¹ There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC) and non-compliant (NC)

3. Subsequent to the adoption of the MER, Ethiopia submitted its first request for re-rating of Recommendations 1, 2, 6, 8, 14, 19, 28, 33 and 34. The Task Force

approved the re-rating of Recommendations 1, 6, 14, 19, 28 and 33 in September 2018 and these were published on the ESAAMLG website as shown in 2.2 below. Ethiopia then made its second request for re-rating on Recommendations 2, 7, 8, 24, 32, 34, 36 and 40 in September 2019. The Task Force approved the re-rating of Recommendations 2, 8, 36 and 40 in September 2019 and these were published on the ESAAMLG website as shown in Table 2.3 below:

Table 2.2: Re-Ratings, September 2018

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
C	PC	LC	LC	LC	LC	NC	PC	C	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	C	C	C	LC	C	C	LC	LC	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
LC	LC	LC	PC	N/A	LC	C	LC	LC	LC
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
LC	PC	LC	PC	LC	PC	LC	LC	LC	NC

Table 2.3: Re-Ratings, September 2019

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
C	LC	LC	LC	LC	LC	PC	LC	C	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	C	C	C	LC	C	C	LC	LC	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
LC	LC	LC	PC	N/A	LC	C	LC	LC	LC
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
LC	PC	LC	PC	LC	C	LC	LC	LC	PC

4. The assessment of Ethiopia's request for TC re-ratings and the preparation of this report were undertaken by the following experts (supported by the ESAAMLG Secretariat: Joseph Jagada and Mofokeng Ramakhala):

- Zenobia Barry (Namibia) - Chairperson
- Susan Mangori (Botswana) – Deputy Chairperson
- Motsisi Mongati (Botswana)
- Didimalang Segaiso (Botswana)
- Titus Mulindwa (Uganda)
- Francesca Brito (Angola)
- Ivans Seziba (Zimbabwe)
- Clara Hwata (Zimbabwe)
- Marina Pascal (Madagascar)

5. Section III of this report highlights the progress made by Ethiopia and analysis undertaken by the Reviewers in respect of Recommendation 7. Section IV sets out the conclusion and a table showing which Recommendations have been recommended for re-rating. Request for re-rating in respect of Recommendations 24, 32 and 34 was not considered as nothing had changed since the last FUR of Ethiopia to warrant a review.

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by Ethiopia per its request for rerating in respect of Recommendations 7.

2.1 Recommendation 7 (Targeted Financial Sanctions Related to Proliferation Financing): PC- proposed re-rating to LC

7. In the MER, Ethiopia was rated Non-Compliant with R.7. The main technical deficiency was absence of legal and regulatory framework in force and effect at the time of the onsite visit to implement TFS related to Proliferation Financing. Ethiopia has subsequently passed Proclamation 1132/2019 which provides for the prevention and suppression of financing the proliferation of weapons of

mass destruction. Analysis made on the remaining deficiencies of R.7 was done as follows:

8. For measures applicable under c.7.2(a) Reviewers noted that freezing of funds or other assets can take place in two stages. The first would be possible under article 8(1) and (2) of Regulation 306/2014 which requires the Centre to freeze without delay and thereafter communicate the decision to the Council when the freezing would already have taken place. This provision however does not stipulate the “without notice” requirement. The second stage would be in terms of Article 9(1) of the Proclamation No. 1132/2019 where the Council of Ministers is bestowed with power to issue an order that will require natural and legal persons to freeze funds or other assets and economic resources of designated persons. In terms of Article 9(5)(a) of the Proclamation 1132/2019 freezing should take place within 24 hours of publication of the order in the Gazette. Based on the mentioned approach it would appear that Ethiopia has the ability to implement freezing action without delay. The “without notice” requirement is not stipulated in the two legal instruments when freezing action is executed.
9. In relation to c7.2(b) it was noted that, in terms of article 9(1) of Proclamation No. 1132/2019, the freezing obligation extends to any funds and not necessarily those tied to a particular act, plot or threat of proliferation. In terms of art.9(5)(a)(1) the freezing obligation extends to funds, assets and other funds that are wholly or [partially] sic, directly or indirectly owned by designated persons. Moreover, art. 9(5)(a)(2) Proclamation No. 1132/2019 meets the requirements of c.7.2(b)(iii). It was also noted that, in terms of 9(5)(a)(3) Proclamation No. 1132/2019 freezing obligations extend to funds, other assets or economic resources generated from funds of persons acting on behalf of or at the direction of designated persons.
10. As regards c.7.2(c) it was noted that the use of the word “may” in article 8 of Proclamation No. 1132/2019 does not appear mandatory. Authorities indicated that the word “may”, the Amharic version which is the Ethiopian working language reads as “shall” and it is mandatory in the situation when contradiction occurs between the English and Amharic version in terms of article 2/4 of Proclamation No. 3/1995. It was further noted that “may” in the text of article 8 of Proclamation No. 1132/2019 has been couched in a negative form and

as such the obligations in this article are mandatory. The requirements of c.7.2(c) have thus been addressed.

11. It was noted that in relation c.7.2(d) article 9(2) of Proclamation 1132/2019 provides that the Council of Ministers shall publish an order for freezing of funds or other assets or economic resources defining the duration, terms and conditions applicable to the freezing order in a newspaper of wider circulation. Moreover, Art.6(3) of Proclamation 1132/2019 obliges the Committee to provide guidance. Thus, the requirements of criterion 7.2(d) are considered addressed through this provision.
12. Ethiopia has measures in terms of article 9(7) and 11(2) of Proclamation 1132/2019 which enables it to protect the rights of bona fide third parties when freezing measures are taken. [c.7.2(f)]. However, the Reviewers' concern is that the measures are limited to freezing and do not extend to implementing the obligations under Recommendation 7. Criterion 7.2(f) is about protecting the rights of bona fide third parties acting in good faith when implementing the obligations under Recommendation 7. The deficiency therefore has not been fully addressed.
13. As regards c.7.4(b), Ethiopia enables inadvertently designated persons to submit application with a proof that they are not the persons listed in the decision in terms of art.9(8) of Proclamation 1132/2019. This application is submitted to the Ethiopian Financial Intelligence Centre and the procedure is publicly known. The procedure is therefore consistent with requirements of c.7.4(b).
14. In regard to c.7.4(d) it was noted that in terms of article 9 (4) of Proclamation No. 1132/2019 the FIU is mandated to communicate both [deletion] sic and delisting of persons to FIs and DNFBPs by letter or through email or other means of communication within 24 hours. Moreover, Art.6(3) of Proclamation 1132/2019 obliges the Committee to provide guidance. These measures are considered consistent with criterion 7.4(d).
15. In relation to c.7.5 (a) it was noted that in terms of Article 13(1) of Regulation 306/2014 Ethiopia may be able to regulate the treatment of contracts, agreements

or obligations which came into force prior to the date on which the accounts became subject to targeted financial sanctions. Moreover, EFIC has a discretion pursuant to Art. 11(4) of Proclamation 1132/2019 to extend exemptions on freezing to payments due under contracts entered into prior to the listing of persons. However, reviewers could not determine whether this discretion would be exercised in line with the requirements of criterion 7.5(b)(i) and (ii) as there was no supporting evidence in this regard. Thus, with this minor deficiency it is considered that criterion 7.5 is not sufficiently addressed.

Weighting and conclusion

16. Overall, review of the progress shows that most of deficiencies which remained following re-rating of R7 in September 2019 have been addressed. In particular, it was noted that Ethiopia is able to implement freezing action of designated persons or entities without delay using provisions of Regulation 306/2014. Under Proclamation 1132/2019 mechanism have been introduced that would enable authorities to communicate with FIs and DNFBPs designations or delisting and there is obligation imposed on the Committee to provide guidance on the implementation of TFS. The use of the word “may” has also been determined to be mandatory in its negative form. It is however, noted that the requirement whether freezing action can take place “without notice” to the designated person or entity has not been provided for in the two legal instrument implementing targeted financial sanctions. Furthermore, although Ethiopia is able to ensure protection of bon fide third parties, this is limited to when freezing action is taken and does not extend to implementing obligations of R. 7. It was noted that Ethiopia is able to ensure that interests or other earnings on the accounts or payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account are added to the frozen account and form part of frozen funds. Although the Centre has a discretion pursuant to Art. 11(4) of Proclamation 1132/2019 to extend exemption on freezing to payments due under contracts entered into prior to the listing of persons, Reviewers could not determine whether this discretion would be exercised in line with the requirements of c.7.5(b)(i) and (ii) of this criterion as there was no supporting evidence in this regard.

17. Ethiopia is re-rated **Largely Compliant with Recommendation 7.**

4. CONCLUSION

18. Considering progress made by Ethiopia since the adoption of its MER, its technical compliance with the FATF Recommendations has been revised as shown in Table 3.1, below.

19. Ethiopia will remain in enhanced follow-up and will continue to report biannually on its progress in improving and implementing its AML/CFT measures.

Table 3.1: Re-Ratings, December 2020

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
C	LC	LC	LC	LC	LC	(PC) LC	LC	C	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	C	C	C	LC	C	C	LC	LC	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
LC	LC	LC	PC	N/A	LC	C	LC	LC	LC
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
LC	PC	LC	PC	LC	C	LC	LC	LC	PC

Note: Four technical compliance ratings are available: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

www.esaamlg.org

December 2020

Anti-money laundering and counter-terrorist financing measures in Ethiopia

7th Enhanced Follow-up Report & Technical Compliance Re-Rating

This report analyses Ethiopia's progress in addressing the technical compliance deficiencies identified in the FATF assessment of their measures to combat money laundering and terrorist financing of June 2015.

Follow-Up Report