

# Anti-money laundering and Counter-terrorist financing measures

## Zimbabwe

### Technical Compliance Re-Rating

September 2019

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](http://www.esaamlg.org)

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Citing reference:

ESAAMLG (2018), *Anti-money laundering and counter-terrorist financing measures - Zimbabwe*, 6<sup>th</sup> Follow Up Report and Technical Compliance Rating, ESAAMLG, Dar es Salaam

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**Fax No: +255 22 2668745**

**Email: [executivesec@esaamlg.or.tz](mailto:executivesec@esaamlg.or.tz)**

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## ZIMBABWE: 6<sup>th</sup> ENHANCED FOLLOW-UP AND RE-RATING REPORT

### I. BRIEF BACKGROUND INFORMATION

1. The ESAAMLG evaluated the anti-money laundering and combating the financing of terrorism and proliferation financing (AML/CFT) regime of the Republic of Zimbabwe under its Second Round of Mutual Evaluations from 13-25 July 2015. The Mutual Evaluation Report (MER) was adopted by the ESAAMLG Council of Ministers in September 2016.
2. According to the MER, Zimbabwe was Compliant (C) with 11 Recommendations, Largely Compliant (LC) with 9 Recommendations, Partially Compliant (PC) with 14 Recommendations and Non-Compliant (NC) with 6 Recommendations. Out of the 11 Immediate Outcomes (IOs), Zimbabwe was rated Moderate Level of Effectiveness on 2 IOs and Low Level of Effectiveness on 9 IOs. Details of the MER ratings are provided in the Tables below:

**TABLE 1: Technical Compliance Ratings**

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

3. Subsequent to the adoption of the MER, Zimbabwe submitted its first request for re-rating of Recommendations 4, 10, 12, 14, 15, 16, 18, 19, 22, 23 and 33. The Task Force approved the re-rating of Recommendations 4, 10, 12, 14, 15, 16, 18, 19, 22 and 23 in April 2019 and these were published on the ESAAMLG website as shown in Table 1(a) below:

**Table 1 (a): Re-Ratings, April 2019**

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

4. In accordance with ESAAMLG’s Second Round Mutual Evaluation Procedures and the Terms of Reference (as approved by the Council of Ministers in September 2014), Expert Reviewers have analyzed the progress made by Zimbabwe for Recommendations which the country has requested technical compliance re-ratings (Recommendations 1, 7, 8, 10, 16, 22, 25, 26, 28, 29, 33 and 34.) using the information provided by Zimbabwe.
5. The assessment of Zimbabwe’s request for technical compliance re-ratings and the preparation of this report were undertaken by the following experts:
  - Bheki Khumalo (eSwatini)
  - Nokwazi Mtshali (South Africa)
  - Masautso Ebere (Malawi)
  - M. Roopchand (Mauritius)
  - Matla Dlamini (Lesotho)
  - Agnes Sentala (Malawi)
6. Section II of this report highlights the progress made by Zimbabwe and analysis undertaken by the Reviewers. Section III sets out the conclusion and a table showing which Recommendations have been approved for re-rating.

## II. DETAILED ANALYSIS OF PROGRESS

### 2.1 Recommendation 1 – Assessing risks & applying a risk-based approach (Originally rated PC – no re-rating)

7. Under its Second Round MER, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. The major deficiency was that Zimbabwe had no mechanism(s) to communicate results of the NRA including making publicly available the findings in order to reach out to as many public and private sector entities as possible. 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. Further, there is no specific requirement for FIs and DNFBPs to include information on high risk areas into their risk assessments; to apply reduced CDD measures where low risk is determined; 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; 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; and no specific obligation for financial institutions and DNFBPs to apply simplified measures on the basis of the level of risk. In addition, it was also noted that supervisors in Zimbabwe are yet to apply risk-based approach to comply with AML/CFT requirements. The FIU had in place a basic risk-based approach but it was not being applied satisfactorily when carrying out supervisory activities.
8. In order to address the deficiencies identified under this recommendation, Zimbabwe disseminated the summary of the NRA results directly to all competent authorities, FIs and DNFBPs. This was done by way of sending hard copy summary reports under covering letters. The summary findings were also published on the FIU website in order to allow both competent authorities and reporting entities including the general public to publicly assess the results of the NRA.
9. With regards to application of a risk-based approach, Zimbabwe has developed a risk-based supervision framework and based on the framework, has also come

up with basic excel based risk rating tools that are being used by supervisory authorities to risk-rate entities in their sectors based on a number of AML/CFT variables. The country has also requested all reporting entities to undertake risk-based institutional assessments in order for them to understand the risks posed by products they offer, different categories of customers in their portfolio, geographical locations and distribution channels. While the efforts by Zimbabwe towards application of a risk-based approach is commendable and despite the RBS framework being in place, the country have not sufficiently demonstrated how the framework and the tools in place are being used to allocate resources and implement measures to prevent or mitigate ML/TF on a risk-based approach. It is also not clear if all the supervisors have started applying the RBS framework and the rating tools when carrying out their supervisory function.

10. In July 2018, Zimbabwe passed the Money Laundering and Proceeds of Crime (Amendment) Act, which amended the principal Act. The amendment introduced a new section, 12B to the MLPC Act which requires FIs and DNFBPs to implement measures that are commensurate with the identified risks, including application of enhanced measures for high risk customers, products, services or situations, and simplified or reduced measures for low risk customers, products and services. Further, the new section 12B requires FIs and DNFBPs to assess their ML/TF risks, document the risks and to consider the category of the risk and the appropriate mitigating controls. In addition, paragraphs 18 - 21 of the AML/CFT Directives of 2016 require FIs and DNFBPs to take into account the results of the NRAs in so far as they are relevant and applicable to the institution when conducting their risk assessments. However, the information submitted by the authorities does not cover real estate, lawyers and accountants.
11. Although section 12B requires FIs and DNFBPs to assess their ML/TF risks, document the risks and to consider the category of the risk and the appropriate mitigating controls, there is no requirement for the FIs and DNFBPs to understand their ML/TF risks and have measures to communicate the risk assessments to supervisors. In addition, while section 12B as read with s.25 of the Principal Act requires reporting entities to develop AML/CFT programmes which include internal policies, procedures and controls, the requirements

including those set out in the AML/CFT Directive of 2016 on the risk assessment do not extend to approval of the programmes by senior management to enable them to manage and mitigate the risks and monitor implementation of the controls and procedures with a view to adjusting them when necessary.

*Weighting and Conclusion*

12. Given the deficiencies highlighted above, **there is no re-rating for R.1.**

**2.2 Recommendation 7 – Targeted Financial Sanctions Related to Proliferation (Originally rated NC – re-rated PC)**

13. Under its Second Round MER, Zimbabwe was rated Non-Compliant with the requirements of this Recommendation. The major deficiency was that Zimbabwe does not have measures in place to implement requirements relating to prevention of proliferation financing.

14. In March 2019 Zimbabwe passed the Suppression of Foreign and International Terrorism Regulations, 2019 issued through Statutory Instrument (SI) 56 of 2019 implementing the TFS relating to proliferation financing. The country has also issued AML/CFT Directive 01/06/2019 to reporting entities to assist in implementing the Regulations. Both the Regulations and the Directive have largely addressed deficiencies identified in the MER under this recommendation.

15. Regulation 5 designates the FIU as the legal authority responsible for coordinating and promoting implementation of the Regulations. Whilst Regulations 6 and 8 require freezing without delay of funds and other assets of designated persons and entities, the obligations to freeze do not extend to freezing without giving prior notice. Further, the administrative process for dissemination diminishes the freezing without delay element. When a designation is made by the UN, the Minister of Foreign Affairs forwards to the Minister of Home Affairs and a legal instrument is required to be signed by the Minister before the FIU is required to disseminate to competent authorities and reporting entities. It is uncertain as to when the legal effect of the UN designation occurs (signature by Minister or dissemination by FIU). These may

cause some delays. In the case of a Friday listing with a Saturday bank, Zimbabwe argued that this could happen, but deficiency limited by the fact that banks are required to check the list at the UN website as required by para 3.7 of the 2019 AML/CFT Directive. The timeframes of implementing the sanctions are not clear and the requirement appears not to be a 'must'.

16. In terms of Regulation 11 and 13, there is a prohibition from dealing with funds held or controlled, directly or indirectly by a designated person or entity. It is also an offence under Regulation 13 to make available, directly or indirectly, funds, financial services or other economic resources to or for the benefit of a designated person or entity. The Regulations also provide a clear dissemination mechanism to communicate designations (for both UN Consolidated List and Zimbabwe List) whereby the FIU receives the list of designated persons from the Minister and circulates the list to the financial sector regulators, competent supervisory authority and relevant law enforcement agencies via electronic and surface mail, directing them to identify funds and other assets of the listed individuals or entities in institutions under their supervision. The financial sector regulator, competent supervisory authority and relevant law enforcement agencies are required to immediately, on receipt of the list from the Unit, request for feedback from all relevant institutions. Regulation 10 requires, where an institution identifies a designated person, to block the funds or any other economic resources, or financial services and to raise an STR to the FIU. Attempted transactions are, however, not covered in the Regulations. Protection of rights of third parties acting in good faith when undertaking freezing actions, are adequately provided for under Regulation 8(2).

17. Regulation 5 designates the FIU as the authority to monitor implementation of the Regulations and to issue sanctions for non-compliance with the requirements while Part III and IV sufficiently provide for administrative and criminal sanctions to address violations of the freezing orders. According to Regulations 11-14, authorities can issue a fine of not exceeding USD20,000 or twice the value of the property in question in circumstances where a financial institution of DNFBP makes frozen funds available. There are also penalties of similar amounts if a financial institution or DNFBP fails to notify the FIU when it locates frozen assets. The FIU is also empowered to issue administrative sanctions under Regulation 12(5) where a breach is not deliberate.

18. The Regulations contain procedures for submitting delisting requests to the Security Council for designated persons/entities at a focal point for delisting (R.23). This also includes procedures to unfreeze funds or other assets upon the applicant providing justification. There are, however, no specific provisions to cater for instances where persons/entities with similar names as designated persons or entities, inadvertently affected by a freezing mechanism (false positives), upon verification that the person or entity involved is not a designated person or entity. Zimbabwe allows for access to frozen funds and has procedures to allow for this process although the conditions under which access may be granted are not clearly provided for. Whilst Regulation 20 allows the FIU to circulate the updated lists immediately upon receipt through electronic and surface mails to the relevant law enforcement, regulatory and supervisory authorities, who are also required to disseminate to reporting institutions immediately, there are no clear mechanisms for communicating the de-listings and unfreezings to the financial sector and DNFBPs immediately upon taking such action.

19. Sum of monies or funds accruing to the frozen account, including interests or other earnings due on the account; payments due under contracts, agreement or obligations that were concluded or arose before the account became a frozen account; or funds transferred to the account are permitted under Regulation 17. Such access or payments from a frozen account is subject to the provisions and measures contained in the Regulations.

#### *Weighting and Conclusion*

20. Zimbabwe has moderately addressed the deficiencies identified in the MER through the issuance of Regulations on TFS relating to proliferation. **Zimbabwe is therefore re-rated Partially Compliant with R. 7.**

### **2.3 Recommendation 8 – Non-Profit Organisations (Originally rated NC – re-rated PC)**

21. Under its Second Round MER, Zimbabwe was rated Non-Compliant with the requirements of this Recommendation. The major deficiencies were that Zimbabwe has not conducted a risk assessment to identify high risk NPOs for

monitoring purposes. The country has not undertaken outreach activities and review the legal and regulatory framework. In addition to absence of requirements to obtain and make publicly available beneficiaries, there were no measures to respond to international requests.

22. The requirements of R.8 have changed since the adoption of Zimbabwe's MER. As such, the follow-up review is based on the new requirements.
23. Zimbabwe has conducted a risk assessment of the NPO sector in the country. Based on the assessment, the country has identified six NPOs as posing high risk. The six NPOs funded religious activities, orphans and vulnerable children with funds from countries perceived by the country as high TF risk jurisdictions. The assessment, however, is not comprehensive enough to identify the subset of organizations falling within the FATF definition of NPO and the authorities have not demonstrated that they have considered all sources of information from supervisors, FIU, tax authorities, intelligence, donor organisations or law enforcement, to identify the types of NPOs based on their activities or characteristics, that are likely to be at risk of TF abuse. The country has also not advised whether it has started periodical reassessment of the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures. Zimbabwe is currently in the process of reviewing the adequacy of the Private and Voluntary Organizations Act which governs the registration and operation of NPOs. The proposed amendments are currently undergoing Parliamentary process.
24. With regards to outreaches, Zimbabwe has undertaken two workshops, one in 2018 and another in 2019 in order to raise and deepen awareness among NPOs. The country has however, not demonstrated that it has clear policies to promote accountability, integrity, and public confidence in the administration and management of NPOs. It is also not clear whether the NPOs are being encouraged to conduct transactions via regulated financial channels. Further, there is no information provided to indicate that any targeted risk-based supervision is being conducted in respect of TF risks. The evaluation criteria for the risk of TF abuse are not clear and there is no risk-based strategy developed to prioritise examinations in this regard. However, sanctions (fine, imprisonment, or both) are available under section 23 of the Private Voluntary

Organisation Act for violations of laws and regulations related to the operations of NPOs.

25. Zimbabwe has a National Task Force on AML/CFT whose Sub-Committee on Counter Financing of Terrorism meets every two months to discuss and share information pertaining to NPOs. In addition, the Foreign Recruitment Committee 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. The Ministry of Labour participates in the Foreign Recruitment Committee, where information on the status of NPOs is shared including vulnerability to TF abuse. Zimbabwe is in the process of enhancing its investigative expertise and capability to examine those NPOs suspected of TF abuse. The country has not sufficiently demonstrated that it has 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*

26. Zimbabwe has moderately addressed the deficiencies identified in the MER.  
**Zimbabwe is therefore re-rated Partially Compliant with R. 8.**

**2.4 Recommendation 10 – Customer Due Diligence (Originally rated LC – re-rated C)**

27. Under its Second Round MER, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. During its 5<sup>th</sup> Follow-Up Report, Zimbabwe addressed most of the deficiencies identified in the MER under this recommendation and was therefore re-rated to LC. The only outstanding deficiencies related to the absence of a legal obligation for FIs to verify the identity of the beneficial owner, and 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.
28. Zimbabwe introduced the Finance Act No.1/2019 which amended some specific sections of the MLPC (Amendment) Act of 2018. The Finance Act repealed

section 15(3) of the Amendment Act and replaced it with a new section which adequately provides a legal obligation for FIs to verify the identity of the beneficial owner. In the same vein, the Finance Act introduced a new subsection (4) to section 15 of the principal Act, which now requires FIs and DNFBPs 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. The two provisions adequately address the outstanding deficiencies under R.10.

*Weighting and Conclusion*

29. Zimbabwe has fully addressed the remaining deficiencies through the introduction of the Finance Act No.1/2019. **Zimbabwe is therefore re-rated Compliant with R. 10.**

**2.5 Recommendation 16 – Wire Transfers (Originally rated LC – re-rated C)**

30. Under its Second Round MER, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. During its 5th Follow-Up Report, Zimbabwe addressed most of the deficiencies identified in the MER under this recommendation and was therefore re-rated LC. The only outstanding deficiency related to the absence of an explicit requirement for beneficiary FIs to apply a risk-based approach to wire transfers.

31. Section 27(9) of the principal Act was amended by clause 32 of the Finance Act, No. 1 /2019 to extend the RBA requirement to beneficiary FIs. The amendment places an obligation on both intermediary and beneficiary FIs to have in place risk-based policies and procedures for determining when to execute, reject or suspend a wire transfer lacking required originator and beneficiary information; and including appropriate follow-up action. The deficiency has therefore been sufficiently addressed.

*Weighting and Conclusion*

32. Zimbabwe has addressed all the remaining deficiencies identified in the MER under R.16. **Zimbabwe is re-rated Compliant with R. 16.**

## **2.6 Recommendation 22 – DNFBPs – Customer Due Diligence (Originally rated LC – re-rated C)**

33. During its 5<sup>th</sup> Follow-Up Report, Zimbabwe was re-rated Largely Compliant with the requirements of this Recommendation. The deficiencies were those identified under R.10 (CDD).
34. The deficiencies highlighted under R.10 have been adequately addressed (*see analysis on R.10 above*).

### *Weighting and Conclusion*

35. Zimbabwe has addressed all the deficiencies identified in the MER. **Zimbabwe is re-rated Compliant with R. 22.**

## **2.7 Recommendation 25 – Transparency and Beneficial Ownership of Legal Arrangements (Originally rated NC – rerated LC)**

36. Under its Second Round MER, Zimbabwe was rated Non-Compliant with the requirements of this Recommendation. The major deficiencies were that there is no requirement to obtain information on a 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. Professional trustees are not required to maintain relevant information on trusts for at least five years after their involvement with the trust ceases. In addition, the time-frame to lodge change of trustees or any other change to the trust deed is not specified hence affecting accuracy and timeliness of records. It was also found that there is no legal provision in place that do not prevent 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 constitutes a major limitation to comply with the criterion. In the case of any failure by trustees to perform the duties relevant to meeting their obligations, there are no provisions to ensure that they are legally held liable and that appropriate proportionate and dissuasive sanctions are applied.

37. Clause 19 of the MLPC (Amendment) Act amends the Deeds Registries Act which provides for the registration of trusts. The new section 70A (Registration of deeds of trust) largely addresses deficiencies identified in the MER by providing for registration requirements for a trust including disclosure of identities of the founder, trustee, beneficiaries and persons exercising effective control of the trust, other than a trustee or beneficiary. Subsection (2) further requires every trustee of a registered trust to maintain up-to-date records of information referred to under s.s(1), as well as information on every FI and every DNFBP which is a service provider to the trust. Subsection (4) further requires every trustee of a registered trust to ensure that, where there is a change to any of the particulars recorded in relation to the trust, the change is notified in writing to a registrar at the deeds registry within one month after the change occurred. Section 15(3) was adequately amended to remove the limitation cited in the MER emanating from the use of the phrase “*prescribed transaction*”. Under sub-section (5) trustees are legally held liable for any failure to meet their obligations as the section makes it an offence to contravene the provisions of subsection (2) or (4) and such contraventions calls for appropriate sanctions which include a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment. These provisions have largely addressed the identified gaps in the MER.

38. While amendments to the Deeds Registries Act have addressed most of the deficiencies identified in the MER under this criterion, weaknesses still exist relating mainly to criteria 25.1, and 25.8. In particular, section 70A does not stipulate the minimum time period of 5 years for professional trustees to maintain information after their involvement with the trust ceases. Whereas 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 FIU or a competent supervisory authority for such books or records, the provision does not include other competent authorities such as LEAs acting on a lawful authority.

#### *Weighting and Conclusion*

39. Zimbabwe has largely addressed most the deficiencies identified in the MER.  
**Zimbabwe is re-rated Largely Compliant with R. 25.**

## **2.8 Recommendation 26 – Regulation and supervision of financial institutions (Originally rated PC – no re-rating)**

40. Under its Second Round MER, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. The major deficiency was that Zimbabwe has no specific framework for application of risk-based approach to AML/CFT supervision. Internal controls were merely supervised only for prudential purposes. No evidence of existence and demonstrated application of group-wide supervision mechanism or process in place. Further, it was found that there are no procedures, mechanisms or legal framework to subject FIs to a risk-based supervision and monitoring under any circumstances.
41. In November 2018, Zimbabwe developed a risk-based supervision framework which provides a national AML/CFT framework to guide the supervisory authorities and self-regulatory bodies in the implementation of RBS for both core principal FIs and other financial institutions. The authorities have however, not demonstrated application of group-wide supervision mechanisms or processes.
42. Clause 3 of the MLPC (Amendment) Act introduces a new subsection (3a) to section 3 of the MLPC principal Act. The new provision obligates the FIU and competent supervisory authorities to develop and implement supervision and monitoring programmes taking into account the ML/TF risks among and within FIs and DNFBPs and to direct greater focus and resources to institutions and areas of higher risk. Zimbabwe has also developed RBS framework and basic risk assessment and rating tools. However, the tools and RBS manual provided by the authorities do not adequately take into consideration all the requirements of c.26.5 and c.26.6, in particular, on what informs the frequency and intensity of on-site and off-site AML/CFT supervision and periodically reviewing of the assessment of the ML/TF risk profile of a financial institution or group and when there are major developments in the management and operations of the FI or group.

### *Weighting and Conclusion*

43. Zimbabwe has not sufficiently addressed the deficiencies identified in the MER.  
**No re-rating granted for R. 26.**

## **2.9 Recommendation 28 – Regulation and supervision of DNFBPs (Originally rated PC – no re-rating)**

44. Under its Second Round MER, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. The major deficiency was that the regulatory and licensing framework for casinos (the vetting process) does not require the disclosure of information on natural persons holding a significant or controlling interest in the casino. There are no procedures, mechanisms or legal framework to subject DNFBPs to a risk-sensitive AML/CFT supervision and monitoring.
45. Zimbabwe passed the Lotteries and Gaming (Casino Licensing) Regulations, 2019. Regulations 3-4 adequately address the deficiency by requiring applicants for a casino license to disclose beneficial owners holding a significant or controlling interest in the casino, among other requirements. It further provides both administrative and civil penalties for non-compliance with the registration requirements.
46. With regard to procedures, mechanisms or legal frameworks, clause 3 of the MLPC (Amendment) Act introduces a new subsection (3a) to section 3 of the MLPC principal Act. The new provision obligates the FIU and competent supervisory authorities to develop and implement supervision and monitoring programmes taking into account the ML/TF risks among and within FIs and DNFBPs and to direct greater focus and resources to institutions and areas of higher risk. The authorities have also developed RBS framework and a basic risk assessment and rating tool for the DNFBP sector. However, there are no provisions, procedures or mechanisms that clearly require supervisors to take into consideration the frequency and intensity of their AML/CFT supervisory functions and to develop sectoral risk assessments and risk profiles for each entity or group in their sector and, in doing so, to consider the characteristics of the DNFBPs, including their diversity and number.

### *Weighting and Conclusion*

47. Zimbabwe has not sufficiently addressed the deficiencies identified in the MER. **Therefore no re-rating is granted for R. 28.**

## **2.10 Recommendation 29 – Financial intelligence units (Originally rated PC – re-rated LC)**

48. Under its Second Round MER, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. The major deficiency was that the FIU 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 FIU information. Insufficient protection measures for FIU information were also found to be weak. The database of the FIU is exposed to unauthorised access as it uses the IT infrastructure of the Central Bank without any measures in place to prevent the staff of the Central Bank from accessing the reports filed to it. The other major deficiency identified relates to weak legal provisions on the autonomy and operational independence of the FIU. The Director has no legal authority on all staff employment matters of the FIU. In respect of security of tenure of the Director of the FIU, there is no legal clarity on the terms under which the Director can be removed from office. In addition, the FIU is not yet a member of Egmont Group nor has it made an unconditional membership application to join Egmont Group despite it being sponsored by the FIUs of South Africa and Malawi to apply for membership to the Group.
49. Clause 4 of the MLPC (Amendment) Act introduces a new chapter dealing with FIU. New section 6B (1)( c) widens the FIU's powers of dissemination to cover LEAs and other competent authorities. However, the provision goes beyond the Standards by allowing the FIU to also disseminate results of its analyses to FIs, DNFBPs and to foreign counterpart agencies. This requirement is not in line with the FATF Standards under c.29.5 which requires dissemination only to relevant competent authorities. In order to ensure the security of disseminations, the FIU now uses the goAML secure platform. The FIU now has its own servers separate from those of the Central Bank including its own IT function. Central Bank personnel no longer have access to the FIU servers and data.

50. With regards to autonomy and independence of the FIU, the new Section 6A under clause 4 of the MLPC (Amendment) Act which deals with the establishment, composition and location of the FIU sufficiently addresses the identified deficiency. Although the FIU is deemed to be a unit in the administrative establishment of the Central Bank, the new amendment provides that the FIU shall have operational independence from the Central Bank and shall not, in the performance of its functions under the Act, be subject to the direction and control of the Minister or any other person or Authority. In addition, the amended law provides that the FIU shall be headed by a Director-General (appointed by the Governor of the Central Bank in consultation with the Minister), and shall manage the FIU budget independently of the Central Bank, giving him/her the power to appoint staff of the FIU and to take any disciplinary action for any breaches. The Act further provides for the Director General's security of tenure and the limited circumstances under which he / she may be removed from office.

51. Although efforts are under way to seek EGMONT membership and FIU sponsors have been identified, an unconditional application for membership is yet to be submitted.

#### *Weighting and Conclusion*

52. Zimbabwe has largely addressed the deficiencies identified in the MER.  
**Zimbabwe is re-rated Largely Compliant with R.29.**

#### **2.11 Recommendation 33 – Statistics (Originally rated PC –re-rated C)**

53. Under its Second Round MER, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. The major deficiency was that although Zimbabwe had comprehensive statistics relating to STRs received and disseminated, there were no comprehensive statistics to determine AML/CFT effectiveness including on confiscation of property, investigations and prosecution. Following its 5<sup>th</sup> Follow-Up Report, it was noted that Zimbabwe had not made sufficient progress to demonstrate that it collects and

maintains comprehensive statistics and in view of that, no re-rating was granted for this recommendation.

54. Zimbabwe has come up with a legal framework (Finance Act, No. 1 of 2019 added a new paragraph (e1) under section 6B(1) on the functions of the FIU), which empowers the FIU to act as the central agency for the collection and maintenance of data and statistics from all competent authorities. Further, the authorities have provided statistics from various competent authorities (Zimbabwe Anti-Corruption Commission, Criminal Investigation Department, Zimbabwe Revenue Authority, FIU and National Prosecuting Authority) showing both predicate offences and money laundering cases investigated and prosecuted for the years 2018 and 2019. For example, in 2018, CID investigated 36 offences, of which 6 were money laundering cases. 4 cases were prosecuted and 1 case convicted. On the other hand, statistics from the CID Asset Forfeiture Unit show that between January and February 2019, an amount of USD138,000.00 was frozen. ZACC and ZIMRA also provided statistics which demonstrate that Zimbabwe has started maintaining comprehensive statistics.

#### *Weighting and Conclusion*

55. Given the progress highlighted above, **Zimbabwe is re-rated Compliant with R. 33.**

#### **2.12 Recommendation 34 – Guidance and feedback (Originally rated PC – no re-rating)**

56. Under its Second Round MER, Zimbabwe was rated Partially Compliant with the requirements of this Recommendation. The major deficiency was lack of sufficient guidance for risk-based approach. There are insufficient processes for feedback amongst competent authorities and with FIs and DNFBPs. Based on this, it was recommended that the SECZ and IPEC should develop capacity to issue guidance to their respective reporting entities as part of their supervisory functions.

57. The FIU has provided feedback through some strategic analysis reports (Typologies bulletins) done based on the analyses of the STRs received from the

reporting entities. The reports have been shared with the reporting entities as well as published on the FIU website. Some of the published reports include: Cash Dealing Through Tobacco Farmer Pay Outs (2018); Hoarding and Selling Cash for Speculation Purposes (2017), ML Forex Dealing through MTAs Diplomats or NGO Payout Points (2019); Use of Loans in Buying and Selling Cash (2018). Although the bulletins provide good starting point for providing feedback to the reporting entities, the scope is not wide enough to cover other areas apart from cash dealings. Further, the authorities have not demonstrated that they are now receiving feedback from the LEAs on the use of financial intelligence or other relevant information received from the FIU which may prove relevant to the nature of feedback provided by the FIU to reporting entities. Although AML/CFT guidance are centrally issued by the FIU, there is also a need to enhance issuing of updated guidance to the reporting entities taking into account the outcome of the NRA and including guidance on risk-based approach.

#### *Weighting and Conclusion*

58. Zimbabwe has not sufficiently addressed the deficiencies identified in the MER.  
**No re-rating granted for R. 34.**

### **III. CONCLUSION**

59. Zimbabwe has made progress in addressing some of the technical compliance deficiencies identified in its MER. The jurisdiction has fully addressed the deficiencies in respect of Recommendations 10 (initially rated LC), 16 (initially rated LC), 22 (initially rated LC), 33 (initially rated PC), and the expert reviewers agreed to upgrade the rating for each recommendation to C.

60. Reviewers have also evaluated information provided in support of the request for re-rating of Recommendations 25 (initially rated NC) and 29 (initially rated PC). However, while significant steps have been taken to address the deficiencies, minor shortcomings still remain. Therefore, it was agreed to re-rate them as LC.

61. Some steps have been taken to improve compliance with Recommendations 7 (initially rated NC) and 8 (initially rated NC), however, moderate shortcomings

still remain. Therefore, Reviewers recommend re-rating for R.7 and 8 to PC.

62. While the steps taken to address the deficiencies identified under R. 1 (initially rated PC), 26 (initially rated PC), 28 (initially rated PC), and 34 (initially rated PC) have been noted, the information currently provided does not indicate that the country has made sufficient progress to warrant re-rating. On this basis, it was agreed that ratings for R.1, R.26, R.28 and R.34 should remain as PC.

63. Overall, in light of the progress made by Zimbabwe since the adoption of its MER, the re-ratings for its technical compliance with the FATF Recommendations were considered and approved by the ESAAMLG Task Force of Senior Officials Plenary as follows:

Recommendation	R 1	R.7	R.8	R.10	R.16	R. 22	R.25	R26	R.28	R.29	R.33	R.34
MER rating	PC	NC	NC	LC	LC	LC	NC	PC	PC	PC	PC	PC
Approved re-rating	PC	PC	PC	C	C	C	LC	PC	PC	LC	C	PC

64. Based on the approved re-ratings above, Zimbabwe's TC rating status is now as follows:

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