

Anti-money laundering and counter-terrorist financing measures

Ethiopia

**5th Enhanced Follow Up Report and
Technical Compliance Re-Rating**

September 2018

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.

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1. BRIEF BACKGROUND INFORMATION

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. This report also analyses progress made in implementing new requirements relating to FATF Recommendation 8 which have changed since the MER was adopted. 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

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

Table 1: MER Ratings, June 2015

Recommendations	1	2	6	7	8	14	19	24	28	32	33	34	36	40
MER Ratings	NC	PC	NC	NC	PC	PC	PC	PC	PC	PC	PC	PC	PC	NC
Immediate Outcomes	1	2	3	4	5	6	7	8	9	10	11			
Ratings	L	M	L	L	M	L	L	L	L	L	L			

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Part 3 of this report highlights the progress made by Ethiopia and the analysis made before procedures for re-rating were adopted. Part 4 summarises the progress and request for re-rating made after the adoption of the procedures for re-rating. Part 5 sets out conclusions and contains a table of Recommendations which were considered for re-rating.

3. **OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE**

This section summarises the progress made by Ethiopia to improve its technical compliance by:

- Addressing the technical compliance deficiencies identified in the MER, and
- Implementing new requirements relating to Recommendations 8 which have changed since the MER was adopted.

3.1 **Re-ratings Adopted by Previous Task Force Plenary Meeting**

Ethiopia has made progress in addressing some technical compliance deficiencies identified in the MER for Recommendation 6. Given the progress made, the Task Force Plenary approved re-rating of Recommendation 6 from Non-Compliant (NC) to Largely Compliant (LC) during its meeting in September 2016 in Victoria Falls, Zimbabwe. This re-rating was made before the FATF issued the revised Universal Procedures which outline the procedures for processing requests from assessed countries for re-rating. In view of this, this Recommendation is being submitted for the '*Quality and Consistency Review process*'.

3.1.1 **Recommendation 6 (Targeted Financial Sanctions Related to Terrorism and Terrorist Financing): Originally rated NC- re-rated to LC**

In the MER, Ethiopia was rated Non-Compliant with R.6. The main technical deficiency was absence of legal and regulatory framework in force and effect at the time of the onsite visit to implement the UNSCRs. Ethiopia subsequently issued Procedures for Freezing of Terrorist Assets Regulation No.306/2014 (TAFR) to facilitate implementation of UNSCRs 1267 and 1373 and address the deficiencies identified in the MER. Discussion of specific criterion and progress made to address the deficiencies are provided below.

3.1.1.1 The MER indicated that Ethiopia did not have a competent authority responsible for proposing persons or entities to the 1267 Committee and 1988 Committee for designation (c.6.1a). Article 21 (1) of TAFR designates the FIC (through Ministry of Foreign Affairs) as a responsible authority for proposing designations of terrorists to the 1267/1989 and 1988 Committees. This Article adequately addresses the deficiency identified in the MER under c.6.1a. **However, TAFR has not set forth a mechanism for identifying targets for designation based on the criteria set out in relevant UNSCRs (c.6.1b).**

3.1.1.2 The MER indicated that Ethiopia did not have a competent authority with a responsibility for designating persons or entities as terrorist or terrorist organisations under UNSCR 1373 (c.6.2 a and b). In relation to this, Proclamation No 652/2009 designates the House of Representatives as the competent authority responsible for designations under UNSCR 1373. Article 25(2) of Proclamation No.652/2009 provides that any organization shall be proscribed as terrorist organization if it directly or indirectly: commits acts of terrorism; prepares to commit acts of terrorism; supports or encourages terrorism; or is otherwise involved in terrorism. As for designation of individuals, the responsibility falls under the Federal High Court. Furthermore, under Articles 38-51 of Proclamation No.780/2013 and Article 22 (4) of TAFR, if the FIC is satisfied on a standard of reasonable grounds that a third party request be granted, it is mandated to forward the request within a reasonable period to the competent authorities for execution or determination. In terms of Article 2(7) of the Regulation, the Competent Authorities are NISS, police, public prosecutor, ERCA, or other investigative body (c.6.1.2 c and d). **However, it is noted that the process for exchanging information with foreign authorities in this context relies on the traditional mutual legal assistance procedures. In addition, there is no**

clear provision on how requests made by Ethiopia to other countries can be handled.

3.1.1.3 The MER indicated that there was no legal basis to freeze assets without delay (c.6.4). Under Parts 3 and 4 of the TAFR, after a designation and/or conviction of individuals or entities as terrorists either by the UN Sanctions Committee, the House of Peoples' Representatives, a Foreign Jurisdiction, or the Federal High Court, the FIC is under a mandate to take freezing measures without delay. The FIC receives the designations and communicates the list of those designations directly to all 'accountable person' (reporting entity) in accordance with the Terrorist Assets Freezing Regulation (TAFR) without delay. The accountable person is obliged to freeze any asset without delay and make a report to the Centre in a form of suspicious transaction.

3.1.1.4 The MER indicated that Ethiopia did not have procedures for de-listing, unfreezing and providing access to frozen funds or other assets. In relation to these deficiencies, Articles 6-14 of the TAFR cover procedures with respect to the delisting, unfreezing and providing access to frozen assets. According to the TAFR and the Criminal Procedures, the Public Prosecutor 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. **However, there are no provisions prohibiting nationals or any person from making any funds or other assets available directly or indirectly to designated persons or entities. Furthermore, there are no measures to protect the rights of bonafide third parties acting in good faith when implementing the obligations under Recommendation 6.**

Overall review of the progress shows that most of the deficiencies identified in the MER have been addressed. On that basis, the Task Force approved re-rating of R.1 to Largely Compliant.

4.1 Analysis of Current Progress to Address Technical Compliance Deficiencies

Ethiopia has also made progress to address the technical compliance deficiencies identified in the MER in relation to Recommendations: 1 which was rated NC and 14, 19, 28 and 33 which were rated PC. Given the progress made, Ethiopia's ratings have been revised for these Recommendations. ESAAMLG welcomes progress made by Ethiopia to improve its technical compliance with regard to R 2, 8 and 34. However, the progress is not sufficient to justify upgrading the ratings for these Recommendations.

4.1.1 Recommendation 1 (Assessing risks and applying risk-based approach): Originally rated NC

In the MER, Ethiopia was rated non-compliant with R.1. The main technical deficiencies were that: the country had not identified and assessed its money laundering/ terrorist financing (ML/TF) risks; there were no mitigation measures put in place to allocate appropriate resources to areas of identified risk; the risk factors which financial institutions (FIs) and designated non-financial businesses and professionals (DNFBPs) were to consider when determining the level of overall risk were limited to technological/new products risk and the DNFBPs were not required to take risk mitigation measures.

The MER noted that Ethiopia had not identified and assessed its ML/TF risks (c.1.1). Ethiopia carried out a national risk assessment (NRA) in 2016. According to the NRA report, the overall ML risk was classified as medium with medium ML threat and medium vulnerability level while terrorist financing was rated medium high. **Based on this report, Ethiopia has identified and assessed its ML/TF risks and therefore addressed the deficiency highlighted under c.1.1.**

With regard to c1.5 the Authorities developed a National Money Laundering and Terrorist Financing Risk Mitigation Action Plan (NAP) in March 2017 based on the outcome of the NRA. The NAP also took into account the recommended actions set out

in the country's mutual evaluation report (MER). According to the NAP, authorities shall prioritise key actions in accordance with the level of vulnerability or threat. This will help competent authorities such as the law enforcement agencies, supervisory authorities and private agencies to take enhanced measures to manage and mitigate situations in which the ML/TF risk is higher while exemptions or simplified measures may be applied in low risk situations. Furthermore, the Authorities have issued *the Financial Anti Money Laundering and Countering the Financing of Terrorism Compliance Directives* and a *Banking Sector Money Laundering & Terrorism Financing Risk Based Approach Guideline* with a view to assist reporting entities in applying AML/CFT measures. This demonstrates that Ethiopia has developed a strategy based on its understanding of the ML/TF risks which indicates mitigating measures to be applied on the basis of the risks and the allocation of resources at country, sectoral and agency level is also influenced or guided by the level of ML/TF risks. **On this basis, the country has addressed the deficiency noted under c.1.5.**

The MER indicated that obligations in relation to risk mitigating measures (c1.11) were not extended to DNFBPs. Pursuant to Article 11 (1) of Proclamation 780/2013, DNFBPs are required to *'establish and implement internal policies and controls against money laundering and financing of terrorism that manage and mitigate effectively the risks identified under Article 6(1) or by the Center under Article 13(1) of this Proclamation, and monitor the implementation of such policies and controls and if necessary enhance them'*. **This provision has adequately addressed the deficiency.**

Overall review of the progress shows that the deficiencies identified in the MER have been addressed. On that basis, the Task Force Plenary approved re-rating of R.1 to 'Compliant.'

4.1.2 Recommendation 2 (National cooperation and coordination): Originally rated PC

Ethiopia was rated Partially Compliant with R.2. The main technical deficiencies were that: The country did not have national AML/CFT policies informed by identified ML/TF risks; not all DNFBP regulators or government bodies that license DNFBPs (notably to regulate the real estate sector) were included in the National Committee; and there was no cooperation/ coordination mechanism to combat the financing of proliferation of weapons of mass destruction.

The authorities submitted a National Action Plan (NAP) to address the deficiency identified in the MER in relation to AML/CFT policy. While the NAP is commendable, it does not constitute a national AML/CFT Policy but an action plan as it is described in the introductory part of the document.

The MER noted that not all DNFBP regulators were part of the National Committee and therefore in order to address this the government of Ethiopian has assigned the Head of the Office of the Prime Minister, with a ministerial portfolio (who is empowered to monitor the activities of the Ministry of Mining (MoM), Ministry of Transport (MoTR) and Ministry of Trade (MoT), to be a member in the National Committee. In addition, the Deputy Director General of the National Intelligence and Security Service (NISS) has become a member of the National Committee (c.2.3). MoT is the licensing authority of real estate agents. **Although it is not explicitly clear, it can be assumed that this committee is responsible for AML/CFT policies and therefore this deficiency is considered to have been addressed.**

The MER also noted that there were no similar coordination mechanisms in relation to combating the financing of proliferation of weapons of mass destruction (c.2.4). The Task Force noted that the instrument to facilitate cooperation/ coordination mechanisms to combat the financing of proliferation of weapons of mass destruction is in draft form and therefore this deficiency remains outstanding.

Ethiopia has not provided adequate information/ documents to assist the Task Force determine whether or not Ethiopia has implemented the recommendations in relation to c.2.2 and therefore Task Force determined that the PC rating should be retained.

4.1.3 Recommendation 8 (Non-Profit Organisations): Originally rated PC

Recommendation 8 was rated PC and the key deficiencies were: lack of provisions permitting sharing of information between authorities; Ethiopia had not reviewed the adequacy of its laws for entities that can be used for TF, nor had it undertaken a domestic review of its NPO sector and identified where the possible vulnerabilities were; lack of requirements to collect information on associated NPOs and to maintain records on activities and ownership for a period of five years. However, Recommendation 8 and its Interpretive Note were changed substantially in June 2016 and therefore analysis of progress was carried out based on what the country has done in relation to the revised requirements.

Article 12 of Proclamation 780/ 2013 states that NPOs that collect, receive, grant or transfer funds or properties as part of their activity (charities) are subjected to appropriate oversight by the FIU in collaboration with the licensing authorities. The charities are considered to be at the risk of terrorist financing abuse. For this purpose, they are subject to monitoring by the FIU to ensure that the funds collected from these charities are not misused for the purpose of TF (c.8.1 a). According to the results of the national risk assessment, the NPO sector was rated medium low. In addition to the NRA, authorities conducted a risk assessment of the NPO sector and based on the threats and vulnerability levels, identified types of charities which are likely to be abused for TF purposes. However, authorities have not indicated how frequently they intend to conduct similar assessment in the wake of new information.

Ethiopia has developed legal and regulatory measures aimed at mitigating the risk of abuse of the NPO sector for TF purposes, which includes market entry control and ongoing monitoring. However, the authorities have not provided evidence that they have reviewed the adequacy of measures applied to the sub-sector which may be abused for TF with a view to help in developing risk-based actions.

The authorities have prepared an NPO Risk Assessment Report which recommends some of the measures to be employed to ensure financial accountability. However, the jurisdiction is yet to prepare policies that promote accountability, integrity and public confidence in the management and administration of the NPO's. The authorities have not provided evidence that they assessed the adequacy of measures including laws and regulations that relate to the subset of the NPO sector at the risk of TF abuse. The Authorities have noted demonstrated that they have conducted outreach and education programmes to raise awareness of TF issues.

While it is appreciated that Ethiopia has made progress, which includes carrying out the NPO sector risk assessment, authorities have not addressed some of the obligations under the revised Recommendation 8 and therefore the Task Force determined that there is no adequate basis for considering favourably the request for re-rating.

4.1.4 Recommendation 14 (: Originally rated PC – re-rated to C

The MER observed that no appropriate action was taken to identify persons who could be carrying out MVTs without a license and apply proportionate sanctions.

The authorities have taken measures to address this deficiency. First, the money or value transfer services are subject to licensing before providing these services (Article 5 of National Payment System Proclamation). Carrying out the services without obtaining a license or authorization from National Bank of Ethiopia attracts penalties of 10-15 years imprisonment and a fine of Birr 20,000 for each day on which the contravention continues (Article 35(1) of the National Payment System Proclamation No 718/2011).

Authorities have instituted monitoring measures for illegal money transfer services which have been substantiated by the identification, prosecution and conviction of 29 Illegal-hawala cases with sentences of up to 8 years imprisonment of which 7 cases were convicted for ML. The FIU disseminated 248 Illegal-hawala cases to the Ethiopia Federal Bureau of Investigation

(EFBI) as of April 2018. In addition to this, in order to assess the volume and the involvement of criminals in the illegal-hawalla (or unlicensed MVTs), the FIU conducted a strategic analysis report in 2016 which was disseminated to relevant private and government stakeholders.

On the basis of the foregoing, Ethiopia has addressed the deficiencies and therefore the Task Force approved re-rating of R14 to Compliant.

4.1.5 Recommendation 19 (High Risk Countries): Originally rated PC- re-rated to LC

Ethiopia was rated PC on Recommendation 19. The main technical deficiencies were that there was no clear ability to apply countermeasures proportionate to risks when called upon to do so by the FATF or independently of any call by the FATF to do so (c19.2) and there were also no measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries (c19.3).

Articles 9 (2)(b) and 9(4)(b) of Proclamation 780/2013) mandate the FIU to apply countermeasures which are proportionate to the risks when called to do so internationally, which is interpreted to include the FATF. However, the provisions do not state that the country can apply sanctions based on its own assessment of the situation. In relation to keeping the reporting entities aware of weaknesses in the AML/CFT systems of other countries, the FIU issued Circular 04/2018 instructing reporting entities to check on the FATF website in February, June and October for public statements issued at the end of the FATF Plenary. The Public Statement contains high risk and non-cooperating jurisdictions.

Most of the deficiencies identified in the MER have been addressed and only minor deficiencies remain. On that basis, the Task Force approved re-rating of R19 to LC.

4.1.6 Recommendation 28 (Regulation and Supervision of DNFBPs): Originally rated PC- re-rated LC

Ethiopia was rated PC for R.28. The main deficiencies were that: the existence of fit and proper tests to prevent criminals exercising influence over DNFBPs could not be ascertained for each category, notably real estate agents (c.28.4); and, the DNFBP

regulatory authorities had not yet developed risk-based supervisory frameworks for the sector and had not carried out any supervision (28.5).

Authorities have taken appropriate measures in some sectors of the DNFBPs to prevent criminals from holding positions. Article 22 of the AML/CFT Proclamation No. 780/780 generally fulfils C 28.4 (b). Particularly Article 22(4) provides that “Measure that prohibits entirely or in part the manager of an institution from conducting business pursuant to sub-article (3) of this Article or any lifting of such prohibition shall be communicated by the concerned regulatory authority to the appropriate body for the purpose of registration in the commercial register.” **However, the provision is limited to managers and the Authorities have not provided evidence to substantiate the measures for the fit and proper test.**

The Nation Action Plan (NAP) states that authorities should develop supervisory manuals and conduct regular and risk based onsite and off-site supervisions on DNFBPs, mainly focusing on high priority areas. The NAP further states that, based on the NRA results, vehicle dealers, Real estate agents, Dealers in precious metals and stones, and Accountants and Auditors should be supervised a minimum of once in two years’ time. In line with this, supervisory authorities have developed a ML/TF Risk Based Supervision Manual for DNFBPs. Further authorities have carried out vulnerability assessments on Real-estate and Precious-metals companies. In addition, the authorities have developed a questionnaire which they administer to reporting entities aimed at collecting information with regard to the type of Products, Services & Customer Information. The information collected through this question is used to update the risk profiles and to enable supervisors focus on priority areas during the onsite supervision.

The supervisors (composed MoT, MoM and EFIC) have developed capacity and have jointly conducted risk based onsite supervision for the real-estates and precious-metal company in 2018. The outcome of the onsite inspections guides supervisory interventions and follow-up actions with a view to improve AML/CFT compliance.

Based on this, the Task Force approved re-rating of R.28 to Largely Compliant.

4.1.7 Recommendation 33 (Statistics): Originally rated PC- re-rated LC

Ethiopia was rated PC in relation to R33. The MER identified the following deficiencies: delays in providing the statistics, and noted inconsistencies in the statistics provided between the different institutions, which could suggest that there was no centralized mechanism/system in place for collecting, maintaining and analysing statistics on ML/TF.

Since the review process begun, the Authorities have provided a number of statistics ranging from STRs, disseminations, ML investigations, prosecutions, convictions, asset freezing, confiscations, mutual legal assistance etc to demonstrate that they are now maintaining the required statistics. However, Ethiopia has not provided evidence on other forms of international information exchanges like between FIUs, supervisory authorities, law enforcement authorities etc.

Given the progress made by Ethiopia in addressing deficiencies under this Recommendation, the Task Force approved re-rating of R.33 to LC.

4.1.8 Recommendation 34 (Guidance and Feedback): Originally rated PC- no re-rating

Ethiopia was rated PC on R.34. The MER identified the following deficiencies: competent authorities, supervisors and self-regulating Bodies (SRBs) had not issued any guidelines; the Financial Intelligence Center (FIC) had not provided guidance to reporting entities on ML trends and techniques; and, the FIC had not started providing feedback to DNFBPs because they had not yet started reporting STRs.

FIC circulated the NRA document to all reporting entities in which ML trends and techniques in connection with predicate crimes are specified which is expected to assist reporting entities to have an understanding regarding the criminal patterns of the high threat predicate crimes. Furthermore, the FIC conducted a strategic analysis and issued a report in 2016 in relation to the illegal-hawalla (or unlicensed MVTs) which depicts patterns of illegal-hawalla including main orchestrators of the criminal activities and the involvement of domestic and foreign operators and techniques to launder proceeds of crime. The FIC also makes presentations to accountable institutions and shares annual typologies reports and issues Public Compliance Statements on various issues. **However, there is no indication that the FIC and the rest of competent authorities have issued guidelines to assist in applying AML/CFT measures apart from detection of suspicious transactions.**

In relation to provision of feedback, the FIC usually meets compliance managers on quarterly basis during which it provides feedback on the overall compliance progress made by the reporting entities. However, authorities have not indicated the list of entities/sectors from where these compliance managers come and therefore it is not possible to determine whether this covers all or most of the reporting entities.

The progress reported is not sufficient to warrant a re-rating and therefore the Task Force determined that Ethiopia continues to be rated Partially Compliant on R.34.

5. CONCLUSION

Ethiopia has made sufficient progress in addressing some of the technical compliance deficiencies identified in its MER. The deficiencies outstanding under R.1 (originally rated NC) have all been substantially addressed and Ethiopia has been re-rated C. The jurisdiction has also addressed the deficiencies in respect of Recommendation 14 (initially rated PC) and the Task Force approved its re-rating to C.

Recommendation 6 has been re-rated LC on the basis of Procedures for Freezing of Terrorist

Assets Regulation No.306/2014 (TAFR) to facilitate implementation of UNSCRs 1267 and 1373. In relation to Recommendations, 19, 28 and 33 (initially rated PC), the Task Force approved re-rating them as LC. Proclamation 780/2013 has legal provisions mandating the authorities to apply counter-measures and the FIC has issued a circular giving guidance to accountable institutions on how they can access information on jurisdictions which have weak AML/CFT systems. In addition, the country has demonstrated improvements on keeping data and statistics. However, minor shortcomings remain outstanding in respect of Recommendations 6, 19, 28 and 33. Although there has been progress on R.2, R.8 and R.34 which were rated PC, it has not been sufficient enough to warrant a re-rating. Hence, these ratings will remain PC.

Overall, in light of the progress made by Ethiopia since its MER was adopted, the Task Force approved re-rating its technical compliance with the FATF Recommendations as follows:

Table 2: Technical Compliance following revision of ratings in September 2018

	R 1	R.2	R.6	R.8	R.14	R19	R.28	R33	R34
MER rating	NC	PC	NC	PC	PC	PC	PC	PC	PC
Proposed re-rating	C	PC	LC	PC	C	LC	LC	LC	PC

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