



MUTUAL EVALUATION/DETAILED ASSESSMENT REPORT
ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF
TERRORISM

REPUBLIC OF ZIMBABWE

AUGUST 2007

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Preface - information and methodology used for the evaluation

The evaluation of the Anti-money Laundering (AML)¹ and Combating the Financing of Terrorism (CFT) regime of The Republic of Zimbabwe (Zimbabwe) was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004. The evaluation was based on the laws, regulations and other materials supplied by Zimbabwe and information obtained by the evaluation team during its on-site visit to Zimbabwe from 8 – 19 May 2006. During the on-site visit the evaluation team met with officials and representatives of all relevant Zimbabwe government agencies and the private sector. A list of the bodies met is set out in Annex 2 to the Mutual Evaluation Report (MER).

The evaluation was conducted by an assessment team which consisted of members of the ESAAMLG Secretariat and ESAAMLG experts in criminal law, law enforcement and regulatory issues: Mr. Wayne Blackburn and Mr Fernie Kweka from the ESAAMLG Secretariat, Mr S. K. Rono from The Central Bank of Kenya, who participated as a financial expert; Mr. S Kazavanga from the Attorney General's Department of Namibia who participated as a law enforcement expert; Ms I. Rugemalila from the Ministry of Finance, Tanzania who participated as a legal expert. Mr. S.K. Rono from Kenya and Mr. Wayne Blackburn made a second onsite visit between 29th of January and the 2nd of February 2007 to collect more data and clarify issues related to the first draft report. The assessment team reviewed the institutional framework, the relevant AML/CFT laws, regulations, BUPSML Guideline No. 01-2006 and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems.²

This report provides a summary of the AML/CFT measures in place in Zimbabwe as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, and provides

¹ See Annex 1 for a complete list of abbreviations and acronyms.

² See Annex 2 for a detailed list of all bodies met during the on-site mission.

See Annex 3 for copies of the key laws, regulations and other measures. Annexure 2,3, and 4 are not attached to the report

See Annex 4 for a list of all laws, regulations and other material received and reviewed by the assessors.

recommendations on how certain aspects of the system could be strengthened (see Table 2). It also sets out Zimbabwe's levels of compliance with the FATF 40+9 Recommendations (see Table 1).³

³ Also see Table 1 for an explanation of the compliance ratings (C, LC, PC and NC).

EXECUTIVE SUMMARY

1. Background Information

1. This report provides a summary of the AML/CFT measures in place in Zimbabwe as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). It also sets out Zimbabwe's levels of compliance with the FATF 40+9 Recommendations (see Table 1).⁴

2. Serious crime in Zimbabwe has been characterised by the following general trends: various violations of exchange control rules, underground banking, cross border crime, organised syndicates both domestic and international, and increased co-operation between criminal networks and links with legal business activity resulting in serious corruption and bribery. The most common types of crimes considered to be the major source of illegal proceeds in Zimbabwe are:
 - Drug trafficking;
 - Illegal trade and smuggling of precious minerals, metals and stones;
 - Parallel market activities involving foreign currency and commodities by individuals and companies;
 - Corruption, in particular practices in the fuel industry involving both private and public institutions;
 - Misrepresentation of quality, nature and value of exports;
 - Armed robbery and theft of motor vehicles and stolen vehicle re-registration

3. Drug trafficking in Zimbabwe characterised the domestic use of African cannabis and some harder drugs such as heroin and cocaine and the trade of illicit drugs in which Zimbabwe is used as a transit point for cannabis and South Asian heroin, mandrax and methamphetamines destined for the South African and European markets. Zimbabwe is being used by international drug traffickers as a transshipment country; local drug use is not perceived as a problem.

⁴ Also see Table 1 for an explanation of the compliance ratings (C, LC, PC and NC).

4. Parallel banking operations also pose a problem, for instance underground banking which appears to be gaining momentum and is used by criminal syndicates to launder their funds. Trading in precious minerals, metals and stones has not been properly regulated or supervised for AML/CFT purposes and also provides a means of moving proceeds of crime. Smuggling of stones and gold is easy to carry out and the border posts have been alerted of the increase in the smuggling of these items. . Violations of the Exchange Control Act extend to false declaration and trade in foreign currency, as well as dishonest exporters providing commission deductions above the standard 7.5% limit without prior authority of the Exchange Control to justify the commission payments. . Trading activities in the form of exports and imports involve externalizing funds through the source of high value exports in the country in which they are resident, for once off export to the proposed destination. Imports are overstated in order to facilitate the laundering of funds by payment of excess amounts into trust accounts. There are also problems regarding illegal immigrants entering Zimbabwe, in particular immigrants avoiding prosecution in neighbouring countries. The Police and Ministry of Home Affairs at large are working together to treat each illegal immigrant on a case by case basis.
5. In Zimbabwe, money seems to be laundered primarily through the banking system, underground banking networks, and through the purchase of assets. Assets purchased can later be sold and the proceeds laundered through the banking system. The Real Estate industry and services provided by Lawyers are vulnerable to money launderers since they have not implemented an effective AML/CFT regime and appear to be used as a vehicle to launder proceeds of crime. For instance in the Real Estate industry attention only appears to be given to transactions which have declared and paid tax on either the purchase or sale of a property. As long as the individual has shown payment of tax, the authorities don't feel the need to investigate any dealings with the transaction that may contain unscrupulous activity attached to it.
6. All Banks in Zimbabwe provide on the job training to new staff who are in contact with customers regarding KYC and record keeping procedures. Examples of companies giving this training are Standard Chartered Bank, Stanbic Bank, First Bank, Commercial Bank of Zimbabwe and Zimbabwe Allied Banking Group.
7. Other institutions that are vulnerable to being utilized by launderers in Zimbabwe are building societies, moneylenders, insurance brokers. Building societies include the Beverley Building

Society and FBC Building Society. Examples of insurance companies are March Insurance Companies and Jupiter Insurance Companies. Examples of official non-banking moneylenders are Tazmac (Pvt) Limited and Baur Investments (Pvt) Limited.

8. The Reserve Bank of Zimbabwe (“RBZ”) carries out examinations where emphasis is placed on increased customer due diligence and Know Your Customer (KYC) procedures, the need to establish the origin of the source of funds as well as identification and reporting of suspicious transactions to the Financial Intelligence Inspectorate and Evaluation Unit (“FIIES”) located within the RBZ. The FIIES is established under the Bank Use Promotion and Suppression of Money Laundering Act Guidelines 2002 (BUPSML) Act, 2002 and has received 200 suspicious transaction reports since its establishment. Complementing the (BUPSML) Act, 2002, are the Bank Use Promotion and Suppression of Money Laundering Act Guidelines 2002 (BUPSML) Guidelines No. 01-2006 on ML and TF (henceforth referred to as BUPSML Guidelines) that are provided to FIs and most DNBFPs. The FIIES also provides anti-money laundering compliance examination guidelines to FIs to review and analyse managements AML risk assessment of all major business lines and products to determine if the institution engages in activities that could expose it to potential money laundering activities.

9. The following types of financial institutions are authorised to operate in Zimbabwe: commercial banks, merchant banks, finance houses, discount houses, building societies, money transfer agencies and branches of foreign financial institutions. Commercial banks, acceptance houses, discount houses, money transfer agencies, and finance houses are registered under the Banking Act, 2001 and are supervised by the RBZ. Building Societies are registered in terms of the Building Societies Act [Chapter 24:02] and are supervised by The Reserve Bank of Zimbabwe. The Post Office Savings Bank (now known as the People’s Own Savings Bank) is also authorized to operate under the Post Office Savings Bank Act [Chapter 24:10] and is supervised by the Reserve Bank of Zimbabwe. Pension funds, life and non-life insurance services are offered in Zimbabwe and are registered under the Insurance Act (Chapter 24:07), and are supervised by the Commissioner of Insurance under The Ministry of Finance. The Pension Association has been established by members, and is an umbrella body of Pension funds with intention and mandate to update and advise its members on any development that are likely to affect pension. All banking institutions belong to the Banker’s Association and have received some training on financial crimes.

The Association expresses dissuasive action for errant members who show poor compliance by disassociating themselves from such institutions. Moral suasion is the method used to ensure compliance.

10. Zimbabwe has a Stock Exchange that is governed by the Stock Exchange Act (1974). The Zimbabwe Stock Exchange is managed by a committee which reports to the Ministry of Finance. The Stock Exchange has a Charter that works as a code of conduct for its members. The Charter also provides for the registration and listing of companies. There are 17 registered Stock Brokers and there are 80 listed companies in the Stock Exchange market. The Stock Exchange is self regulatory and it provides monthly reports to the Minister of Finance. The reports cover capital adequacy, risk management and structure of their business operations.
11. The following types of non-financial businesses and professions operate in Zimbabwe: real estate agents registered in terms of the Estate Agents Act (Chapter 27.05), accountants registered in terms of the Public Accountants and Auditors Act (Chapter 27.12), legal practitioners registered in terms of the Legal Practitioners Act (Chapter 27.07) and supervised by the Law Society, and dealers in precious metals and stones are also licenced by Government. Lotteries, casinos (including Internet casinos) operate in Zimbabwe. Zimbabwe citizens may gamble on Internet casinos that are operated from a server located in another country, and Zimbabwe may offer such a service in Zimbabwe from outside Zimbabwe. Lawyers and auditors normally provide trust and company services. Trust and company services providers are not recognised as separate businesses. Trusts and company service providers can be independent entities although in terms of registration of a trust a lawyer is needed.
12. The types of legal persons existing in Zimbabwe are: limited companies, public limited companies (shareholders have limited liability), general partnerships, general partnerships with shared liability (partners have unlimited liability), limited partnerships (some partners have unlimited liability, others have limited liability), house building co-operatives, housing co-operatives, co-operative societies, foundations, savings banks and associations. All have legal persona. Foreign legal entities are not prohibited from having their main seat in Zimbabwe or from conducting business in Zimbabwe. Once a foreign trust is approved by the Zimbabwe Investment Centre (ZIC) for a foreign company it can legally operate in Zimbabwe.

2 Legal System and Related Institutional Measures

13. Zimbabwe has criminalised money laundering under Sections 63 and 64 of The Serious Offences (Confiscation of Profits) Act enacted in 1990 and further amended in 2001. Money Laundering is also stated as a specified offence under Section 2 in the Act in which money laundering is referred to in relation to the proceeds of a serious narcotics offence.
14. The penalty for the offence of money-laundering in terms of an individual is a fine not exceeding \$ZWD20,000.00 or twice the value of the property, which ever is greater, or to imprisonment for a period not exceeding 10 years or to both fine and imprisonment. As for corporate persons, a penalty of a fine not exceeding \$ZWD500 000.00 or three times the value of the property, which ever is the greater is prescribed.
15. The Bank Use Promotion and Suppression of Money Laundering Act 2002 (“BUPSML”) under Chapter 24:24, also criminalises money laundering and requires the institutions designated in terms of the BUPSML to identify customers and maintain records of transactions. It also provides for confiscation, seizure and forfeiture of proceeds of crime. The Act also prohibits dealings, acquiring and holding of tainted property. The BUPSML Guidelines provide in detail ways in which the BUPSML Act, 2002, needs to be implemented by all accountable institutions to include FIs and most DNFBPs. The extent to which the BUPSML Guidelines are enforceable is limited since the BUPSML Guidelines only recently came into force in April 2006 and as yet no sanctions have been taken against institutions for non-compliance.
16. The physical and material elements of the ML offence in the Serious Offences (Confiscation of Profits) Act, 1990 satisfy the Vienna and Palermo Conventions which require that conversion of transfer, concealment, possession, acquisition, and participation in, association to commit ML are stated clearly in the law. However a list of predicate offences for ML are not provided in either the Serious Offences (Confiscation of Profits) Act, 1990, nor the BUPSML Act and this creates some confusion as to how the authorities can prosecute a wide range of ML offences without a legal association of predicate offences to ML. The proceeds of a serious narcotic offence are the only proceeds referred to in the Serious Offences (Confiscation of Profits) Act 1990 that would provide some scope for prosecution of ML relating to narcotics offences.

17. The law does not provide that a person must be convicted of a predicate offence before a person can be convicted of the offence of ML. Hence a person may be convicted of the offence of ML even though no one has been convicted of the predicate offence.
18. The definition of proceeds of crime is stated in Section 2 of the Serious Offences (Confiscation of Profits) Act, 1990. The Act provides:
- “proceeds of crime” means any property that is derived or realized, directly or indirectly, by any person from—
- (a) the commission of any serious offence; or
 - (b) any act or commission which occurred outside Zimbabwe in relation to a narcotic substance and which, had it occurred in Zimbabwe would have constituted a serious narcotic offence;”
19. The said term covers an offence punishable in Zimbabwe or in a foreign country by imprisonment for a period of twelve months or by a more severe punishment; or (b) the value of the property derived or obtained from the commission of which is or is likely to be not less than twenty thousand dollars ZWDor such greater or lesser amount as may be prescribed. However a conviction must be made before confiscation of the proceeds can be effected by the Zimbabwe authorities.
20. ML committed abroad is punishable under Section 63 of the Serious Offences (Confiscation of Profits) Act in which a person is guilty of ML whether he is in or outside Zimbabwe and which involves the removal into or from Zimbabwe money or property which is the proceeds of crime. However predicate offences for ML are not provided for in the legislation making it difficult to punish criminals abroad for predicate offences for the purposes of money laundering.
21. The main pieces of legislation relating to terrorism and partly terrorist financing are the Public Order and Security Act, 2002, the Serious Offences (Confiscation of Profits) Act, 2001, and the Criminal Matters (Mutual Assistance) Act. In particular the Public Order and Security Act, 2002 provides for offences relating to recruiting or training terrorists, training as a terrorist, supplying weaponry or possessing weaponry to be used for terrorism, harbouring, concealing or failing to report terrorists. The Public Order and Security Act, 2002 does not clearly criminalise terrorist

financing as defined by FATF recommendations SR1 or refer to any acts by organizations or any listed terrorist organizations.

22. The Suppression of Foreign and International Terrorism Bill 2004 (“SFIT Bill”) criminalizes the financing of terrorism. This bill adds to new legislation and consolidates all the relevant anti terrorism legislative provisions which were scattered in different pieces of legislation. The Bill outlines issues relating to anti-terrorism which include criminalisation of financing of terrorism, freezing, seizure and forfeiture of assets of both individuals and organisations related to terrorist activities.
23. Zimbabwe has focussed on measures that could enhance its ability to deprive criminals of the proceeds of crime. The law provides for two types of provisional measures—charging and seizing (which in practice, operates like a freezing mechanism for certain types of assets, such as funds in a bank account) and these measures are sufficient in most cases, though some minor enhancements such as the power to make seizing/charging orders against all of a defendant’s property could make it even more effective. The police and the prosecution authorities have a full range of powers to identify and trace assets.
24. In Zimbabwe, as at on-site visit there are generally no provisions in the law that expressly provide for the confiscation of the property of organizations that are found primarily criminal in nature. However, the Standing Act of the Serious Offences (confiscations of Profits Act) provide forfeiture orders to be made in respect of property owned or controlled by, or on behalf of, a terrorist group.
25. There are no provisions for the confiscation of property of corresponding value in the event that property that is subject to the forfeiture order is not available.
26. The SFIT Bill provides that a judge can make a forfeiture order upon an application, if on a balance of probabilities the judge is satisfied that the property comes within subsection of the laws, since the burden of proof is that of a civil standard rather than that of a criminal standard.
27. Under Section 2 of the Serious Offences (Confiscation of Profits) Act, 2001, the authorities may freeze any “tainted property” which can include bank accounts if assets from money laundering are suspected to be held in such accounts. Under Section 40 of the BUPSMML Act, police may

seize and detain any currency which is being imported into or exported from Zimbabwe if such currency was derived from the commission of a serious offence or is intended to be used in the commission of a serious offence.

28. United Nations Security Council Resolution (UNSCR) S/RES/1267(1999) and its successor resolutions have yet to be properly implemented. The current laws provide some of the necessary measures by providing an authority to freeze, automatically incorporating any changes to the lists into the legal system, prohibiting anyone from making any funds available to entities listed, and providing for penalties of fines or imprisonment. Freezing can be legally challenged using normal legal mechanisms for challenging government decisions. Despite this, there is a lack of guidance to institutions and persons holding targeted assets, and no measures to monitor compliance. The effectiveness of the regime is noticeably reduced by the absence of any policies and procedures to handle freezing cases. Bank accounts have been frozen using the Serious offences (Confiscation of Profits Act) and The Bank Use Promotion and Suppression of Money Laundering Act. The provisions are in line with S/R/1267 (1999). No accounts have been seized using S/RES/1267(1999).
29. Zimbabwe has not implemented S/RES/1373(2001). There is a provision in the Public Order and Security Act, 2002 Act that allows property to be frozen when a person is suspected of terrorist offences. The decision to freeze is not based on a list, but on a case-by-case assessment based on evidence (to the criminal standard) that the person has directed or used particular funds/assets to support a terrorist act. This approach would make it very difficult to freeze on the basis that a person associates with a terrorist organisation or is known to finance terrorism in general, but cannot be connected to any specific act of terrorism.
30. The Bank Use Promotion and Suppression of Money Laundering Act provides guidelines and monitoring conditions to financial Institutions in Part IV and Part V of the Act and Section 14 of the Guidelines issued. Guidance to entities that may be holding assets covered by such a freezing action, and monitoring compliance is also provided. Implementation of S/RES/1373(2001) is premature in that the high burden of proof and tight timelines impede the effectiveness of the system and, in fact, use of these provisions has been unsuccessful up to now.
31. Overall, the freezing regime in Zimbabwe has implemented only few of the elements of Special Recommendation III. There is a lack of clear procedures for unfreezing and de-listing requests,

authorising access to assets on humanitarian grounds, monitoring compliance and applying sanctions. An effective system for communication between government and the private sector needs to be established, and clear guidance provided to financial institutions.

32. Zimbabwe's capacity for the operation of a Financial Intelligence unit is provided by the FIIES located within the RBZ with a total staff compliment of 48. The FIIES is divided into various departments (1) Anti-Money Laundering, (2) Compliance/Bank Use Promotion which deal with the encouragement of cash transactions through banks, (3) investigations, (4) Precious Metals and Stones Monitoring. Suspicious transaction reporting in Zimbabwe takes place in two stages: (a) where a reporting entity suspects that a transaction is associated with the proceeds of crime, it must make further inquiries; (b) if those inquiries do not dispel the suspicion, then an STR has to be made to the FIIES. The transaction can be temporarily frozen by the Financial Intelligence Unit, but this power is rarely exercised.

3 Preventive Measures - Financial Institutions

33. During the past years, the authorities have adopted several measures in an effort to prevent the proliferation of money laundering and financing of terrorism, the details of which are listed below;

- During on-site examinations of financial institutions, RBZ examiners evaluate whether adequate AML procedures are in place and compliance to the BUPSML Act and BUPSML Guideline No. 01-2006.
- To be in line with the FATF's 9 Special Recommendations against Terrorist Financing, the SFIT Bill was drafted in 2006.
- Following the presentation on AML issues given to financial institutions, awareness appears to have developed among the institutions as evidenced in the number of suspicious transactions reported to FIIES.
- Enforcement agencies like the Police, Immigration, National Economic Conduct Inspectorate (NECI), Zimbabwe Revenue Authority (Customs and Tax Departments) and the Airport Services have increased their vigilance at the country's main points of entry and exit and this has had the effect of making it more difficult for drug traffickers to be able to get their illegal narcotics into the country. The installation of scanners at main points of entry and exit have enhanced the detection of contraband.

- Staff from the supervisory and enforcement agencies like the RBZ, the FIIES, NECI, ZIMRA, the Police and prosecutors from the Ministry of Justice have participated in regional meetings and seminars on AML/CFT and are committed to attending more in the future.
- The BUPSMML Act establishes a Financial Intelligence Unit (the “FIIES”) whose main role is to receive, analyze, investigate and disseminate suspicious transaction reports for prosecution.
- The Department of Anti -Corruption and Anti-Monopolies was established in 2004 in the Office of the President and Cabinet (OPC). The Anti Corruption Commission (ACC) was established by the Government of Zimbabwe in terms of section 108 A of the Constitution of Zimbabwe. The day to day operations of the ACC are governed by the Anti Corruption Commission Act Chapter 9:22. In turn the department established the Anti-Corruption commission in terms of the anti corruption commission act to investigative cases of corruption. The department established an inter ministerial task force on the fight against corruption. It comprises of representatives from the Ministries of Justice, legal and Parliamentary Affairs, Defence, Finance, Information and Publicity, State Security, Home affairs and Reserve Bank, ZIMRA and NECI.
- AML/CFT Training has been provided to most of the stakeholder agencies in Zimbabwe with the exception of the legal profession in Zimbabwe.

34. Zimbabwe AML legislation does not yet take into account the full obligations set out in the revised FATF Recommendations (2003). The definition of predicate offences and a list thereof does not appear in any of the AML legislation which would provide for wider prosecution of money laundering in which the proceeds of crime from all serious offences can be prosecuted as money laundering offences. While AML measures under the BUPSMML Act and BUPSMML Guidelines apply to all the banking institutions, insurances, legal practitioners, real estate agents, accountants, stock brokers, futures brokers, gaming houses, casinos and lotteries, it was evident during the evaluation that the BUPSMML Guidelines are not enforced by several of these entities nor was there any evidence for sanctions taken against these entities for non-compliance. Moreover traders in precious metals, minerals and stones are omitted from the BUPSMML Guidelines and are therefore not monitored for AML/CFT.

35. Although Zimbabwe has implemented basic customer identification obligations, it has not implemented full customer due diligence (CDD) requirements for all FIs and DNBFs.

Reporting FIs are required to identify permanent and occasional customers (for large value transactions). A natural person's identity is normally verified by producing a document issued by a public authority, which normally contains full name, signature and photograph. A legal person's identity is verified by checking certain Registers. Where the customer is unable to produce the required identity documents, the Reporting FI should generally refuse to establish a customer relationship. Overall, there are weaknesses regarding the implementation of Recommendation 5, as the only measure currently in place for some FIs and NBFIs is a requirement to identify customers. Elements going beyond the initial establishment of the customer relationship such as beneficial ownership and other elements of CDD are either not required or very limited. These deficiencies need to be addressed as a matter of priority. In addition, specific identification requirements and procedures should be introduced that are tailored to the business practices of sectors other than banking for instance NBFIs. Zimbabwe has implemented the applicable measures for politically exposed persons (PEPs) in the BUPSMML Act, and further enforced by the BUPSMML Guidelines under Section 11.

36. The BUPSMML Act does not prohibit where a customer is introduced by one part of a financial institution's group from outside Zimbabwe to another, provided the identity of the customer has been verified by the introducing branch or subsidiary in line with requirements equivalent to those of Zimbabwe and those identification records are freely available on request to the other parts of the group on request, it is not necessary for identity to be re-verified or for the records to be duplicated.
37. Normally, the establishment of non-face-to-face business relationships is not allowed and the customer must physically appear either at the Reporting FI where identification and verification is performed.
38. A legal duty of confidentiality requires employees of financial institutions to keep customer information confidential, but does not inhibit disclosure of information, nor impede the RBZ in performing its supervisory role.
39. Record keeping requirements are generally satisfactory, with Reporting FIs being obligated to retain copies of any documents used to verify the customer's identity for more than five years after termination of the customer relationship, and to keep transaction records for five to ten years. There is no minimum retention period stipulated in the Bank Act or Banking Regulations.

However banking institutions, like other companies are compelled to retain financial records for at least five years in terms of the Income Tax Act [Chapter 23:06]. Some financial institutions have internal policies which stipulate retention periods for more than seven years.

40. The legal system for reporting is generally satisfactory, but there are some issues concerning its effectiveness. Monitoring of unusual transactions is conducted. Reporting FIs are required to report transactions to the FIIES. Employees are not liable to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for reporting any information in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of money-laundering or serious offence.
41. “Tipping off” a customer or any third party in connection with reporting a Suspicious Transaction Reports (STR) is prohibited. Banks and Monetary Value Transmission Service Providers (MVTs) report the largest number of STRs, though none of them were related to terrorist financing. The number of STRs being reported by other non-bank financial institutions is very small. There are also some other effectiveness concerns and a need to ensure that appropriate action is taken in cases of non-compliance.
42. Zimbabwe has published in the BUPSML Guidelines the FATF List of Non-Cooperative Countries and Territories and it was stated by the banks interviewed that they paid attention to the NCCT list. Zimbabwe has enacted the NCCT list under the RBZ regulations. Additional NCCT countermeasures do not appear to have been applied by the non-banking institutions such as the insurances, legal practitioners, real estate agents and public accountants.
43. Controls and Monitoring of Cash and Cross Border Transactions Under the Exchange Control Act (no Zimbabwe resident is permitted to take cash outside of Zimbabwe, notes of the value totalling - \$1000.00 USD or \$100,000.00 ZWD. Cross border monitoring of Cash is enforced by the Zimbabwe Revenue Authority.. There is a legislative frame work which provides for the reporting of suspicious cross-border transportation of currency. As a result currency crossing the Zimbabwe borders under suspicious circumstances is investigated by the Zimbabwe Revenue Authority (ZIMRA) and they will pass the investigation on to the Zimbabwe Republic Police. However the FIU needs to be included in the investigative process.

44. The Police may search any person suspected of being in possession or having in his possession anything unlawfully obtained. There are large cash transactions reporting requirements including large foreign exchange transactions. Aggregate data on foreign exchange transactions is provided by the local banks and provided to the RBZ. .

45. Cash plays a major role in Zimbabwe cash based economy. Transactions involving financial institutions are mostly conducted by cash or cheques however the use of debit cards for point-of-sale transactions and ATM cash withdrawals is rising. There are a total of 20 financial institutions which offer Automated Teller Machine (ATM) services across the country as indicated below.

- Commercial Banks **14**
- Building Societies **4**
- Merchant Bank **1**
- Savings Bank **1**

46. There are no requirements to report cross-border movements of gold or other high value items such as diamonds or gems as long as they are for personal use. There is large scale trade of gold, diamond and gemstone in Zimbabwe and permits are required for the exportation of such items for business purposes. These must be declared to ZIMRA or else they could be seized and subsequently confiscated.

47. The Police conduct searches in the country of persons suspected of being involved in parallel market operations. If found to be in possession, of foreign currency with unlawful intent the foreign currency can be forfeited by the court under Section 7 of the Exchange Control Act, 1975.

48. Some local commercial banks have an internal policy whereby all large deposits above a set threshold, is reported to either management or to the MLRO who reviews the report and after carrying out further investigations as to the source of the funds, decides whether to refer the transaction to the FIIES for investigation.

49. All Reporting FIs must establish certain internal control and communications procedures, and appoint an AML officer. Some Reporting FIs must have an internal audit function and designate a compliance officer within senior management. The Compliance Officer is required to 'establish an audit function to test its anti-money laundering and financing of terrorism procedures and systems. Special training programmes for employees and other relevant persons on AML/CFT obligations are required. While these measures are generally satisfactory regarding checking the existing laws, they do not implement the full range of measures required under the Recommendations and it appears that institutions have not voluntarily implemented higher standards. There are five foreign branches of Zimbabwe institutions in southern and eastern Africa. Information on these institutions was supplied at the final report discussions on 20 July 2007. It should be noted that during the onsite the team was advised there were no Ifs outside of Zimbabwe with head office in Zimbabwe. As a result no follow up questions were given.
50. The RBZ is the regulator of financial institutions in Zimbabwe. These include banking institutions and money transfer agencies. The RBZ is the authority responsible for administering the Banking Act, 2001 and the BUMSML Act, 2002. When a financial institution is granted a licence, checks are conducted to ensure that the general manager and directors meet fit and proper requirements. Fit and proper checks for directors are done before the institution is licensed in terms of the Banking Act [Chapter 24:20] and the Banking Regulations, SI 205 of 2000.
51. The RBZ has adequate powers to supervise and inspect the policies, practices and internal controls of Reporting FIs. It is also authorised to impose a broad range of administrative sanctions for non-compliance, from letters requesting corrective action through to fines or de-licensing. Sanctions can be applied against both institutions and officers/employees. To date the RBZ has not imposed any sanctions for breaches of AML/CFT obligations (beyond issuing letters requesting that corrective action be taken), though there have been sanctions taken against financial institutions for other offences for instance the collapse of Time Bank.
52. At the end of 2005, the RBZ had 1676 employees. Its supervisory department is responsible for supervising commercial banks (14), merchant banks (5), finance houses (3), discount houses (6) including designated non-financial businesses (e.g.: Money Transfer Agencies, Bureau De Change). The RBZ is understaffed and requires more staff to assist with conducting supervision of FIs registered under the Banking Act, 2001. The Reserve Bank conducts two types of on site

inspections i.e. targeted examination and full scope examination. Targeted inspections are generally ad hoc and focus on identified areas of supervisory concern while risk based onsite examinations are scheduled and conducted according to a predetermined supervisory plan. On average nearly 5% of banking institutions are inspected every one to two years which translates to over 30 examinations in a calendar year. The frequency of examinations on a specific institution is also dependant on the condition and risk profile of the institution and its systemic importance in relation to the banking system.

53. The RBZ has, as its primary goal, the maintenance of the internal and external value of the Zimbabwean currency. In this regard, the RBZ is responsible for the formulation and implementation of monetary policy, directed at ensuring low and stable inflation levels. A further core function of the Bank is to maintain a stable banking system through its supervisory and lender of last resort functions. Other secondary roles of the Bank include the management of the country's gold and foreign exchange assets. The bank is the sole issuer of currency and acts as banker and advisor to Government. Although AML/CFT assessments are integral part of the RBZ's regular visits, they seem to be too limited in scope and not conducted frequently enough. AML/CFT assessments are not held annually, but only when there are indications that an assessment would be necessary. Only one thematic inspection focusing solely on AML issues has been conducted starting in December 2006. No certificate for compliance has been issued as yet. Check lists specifically tailored for AML/CFT are not used by the RBZ on site Bank Supervision team. This situation needs to be reviewed. The RBZ should consider how it can best enhance focus on AML/CFT issues, for example, by having a team of examiners that checks compliance with AML/CFT on an ongoing basis for all supervised entities.

54. Some steps have been taken concerning guidance. The BUPSML Guidelines are issued to financial institutions and non-financial institutions by the RBZ by virtue of powers conferred it by sections 24 and 26 of the BUPSML Act, 2002. The BUPSML Guidelines came into force on 1st April 2006 and are binding. They are also a statement of the minimum standards expected of all financial and non-financial institutions. The RBZ in the exercise of its supervisory duties will monitor adherence to these Guidelines and failure to measure up to the standards contained in these BUPSML Guidelines will be dealt with in line with the appropriate penalties. It is a criminal offence for financial institutions and non-financial institutions to fail to take measures as contained in the BUPSML Guidelines to prevent their institutions or the services their institutions offer from being used to commit or to facilitate the process of money laundering. The

BUPSML Guidelines offer some guidance on the manner of reporting but this applies to financial institutions and only some non-financial institutions. The BUPSML Guidelines also contain notes on the detection of complex and unusual transaction reports.

55. DNFBPs are not equally supervised for AML/CFT. Most DNFBPs are accountable for AML/CFT under the BUPSML Act, 2002 and BUPSML Guidelines, they include insurances, legal practitioners, real estate agents, accountants, stock brokers, futures broker, gaming houses, car dealers, jewellers, casinos and lotteries. Traders in precious metals and stones are designated by the BUPSML Guidelines. The guidance seems to be premature and ineffective since the BUPSML Guidelines only came into force in April 2006 and reporting entities (both financial institutions and DNFBPs) met by the assessment team asked for additional and more sector-specific guidance (particularly in the area of typologies). Such guidance should be provided, as should increased outreach to DNFBP sectors. Additionally, the RBZ should enhance its general and specific feedback concerning the status of particular STRs and the outcome of certain specific cases.
56. Unauthorised MVTS providers are illegal, and Zimbabwe has detected some underground banking. Regulated MVTS providers (banks) are subject to the FATF Recommendations, albeit not adequately. This negatively impacts on the effectiveness of AML/CFT measures in the MVTS and other financial institution sectors. Zimbabwe should take steps to properly implement Recommendations 5-7, 15 and 22, and SR VII overall. The RBZ is responsible for monitoring MVTS operators however there are concerns about the effectiveness of this supervision. The RBZ should take immediate steps (including applying sanctions if necessary) to correct these problems.

4 Preventive Measures – Designated Non-Financial Businesses and Professions

57. The following DNFBP are subject to AML/CFT obligations: real estate agents, lawyers and other independent legal professionals, auditors and accountants, auctioneering firms and commission agents in connection with cash transactions and pawnshops. Land-based casinos, trust/company service providers (as a separate defined business sector) exist in Zimbabwe. All trust/company services are handled by registered lawyers using their designation as a notary public. There is a legal prohibition from other persons establishing such businesses in Zimbabwe..

58. AML/CFT obligations for Reporting FIs/DNFBPs are generally not the same. Consequently, the same serious deficiencies in the implementation of customer identification requirements (Rec.5) exist; customer identification requirements and CDD requirements for FIs have been implemented, but reliable customer identification and full CDD requirements for DNFBPs have not. Zimbabwe should correct these deficiencies as a matter of priority. Dealers in precious metals/stones are required to obtain a licence from the government of Zimbabwe. They are required to maintain a register on how much they produce. The register is checked on a regular basis by the CID Gold Squad and the Mineral Marketing Corporation of Zimbabwe. Failing to maintain balanced records under The Gold Trade Act and the Precious Stone Trade Act is a prosecution offence. The dealers in precious metals and stones are only legally authorized to sell to the Government of Zimbabwe. Occasional customer rules do not apply to lawyers, independent legal professionals, real estate agents, accountants or auditors since, due to the nature of their work, they do not have occasional customers.
59. In general, Reporting DNFBPs have not satisfactorily implemented record keeping requirements. Although Reporting DNFBPs are not allowed to establish non-face-to-face business (customers must physically appear at the Reporting DNFBP or its agent/outsourcer for identification and verification), there are some concerns about the effectiveness of this system in practice.
60. Reporting DNFBPs must monitor their accounts and report suspicious activity to the supervisory authority. Lawyers are obliged to report suspicious transactions of any nature except for privileged information. So far, there are no lawyers, accountants, auditors and real estate agents who have filed STRs. There are preliminary concerns about AML/CFT effectiveness because most of the DNFBP sectors met during the on-site visit (particularly real estate agents, lawyers, and dealers in precious metals/stones) had premature measures in place to deal with AML/CFT. While most DNFBPs are listed in the BUPSML Guidelines as Accountable Institutions, many have not developed their own internal policies and procedures for dealing with AML/CFT. More tailored and sector-specific AML/CFT guidance should be issued to the Reporting DNFBPs as soon as possible to address these concerns.
61. Real estate agents, accountants and auditors must collectively be licensed by an independent authority in order to be authorised to carry out their business. An entity needs to supervise these entities, issue guidance to them on an ad hoc basis and be empowered to apply administrative

sanctions. This authority needs to conduct audits on a yearly basis. Furthermore law firms need to be properly supervised by the Law Society for non-compliance for AML/CFT compliance.

62. There are land-based casinos in Zimbabwe and they are closely regulated.

5 Legal Persons, Arrangements & Non-Profit Organisations

63. A number of publicly available registers contain some information concerning the ownership and control of Zimbabwe legal persons. All Zimbabwe legal persons must register with the Zimbabwe Registrar of Companies in terms of the Companies Act, Chapter 24:03, which provides all new companies with ID used to identify the legal person in all public business and industry registers. Numerous other registers are specifically associated to the Central Co-ordinating Register and collect their information from it. Although foreign companies are not obligated to keep information on ownership and control available in Zimbabwe, any foreign company conducting business in Zimbabwe must register in the Business Register. Private and public limited companies must maintain a publicly available shareholder register that includes information about the legal control of the entity.

64. Charitable organisations are obligated to register with the Ministry of Public Service, Labour and Social Welfare. They can operate bank accounts in their corporate or legal name. Signatories must be settlers or board of Trustees members. When a charitable organization is registered it is then the registered name which is used officially in business. If they are not legal entities they are not allowed to operate. The RBZ specifically advises reporting FIs that collection accounts for charitable organisations should not be exempt from the requirements to produce identity documents. Zimbabwe has not reviewed its laws/regulations relating to non-profit organisations (NPOs) as required by Special Recommendation VIII. Zimbabwe should do so, and implement appropriate CFT measures in this sector.

65. Zimbabwe law recognises the legal concept of a trust or similar legal arrangements, including trusts created in other countries. Zimbabwe lawyers do occasionally handle trusts established abroad. Zimbabwe reports that when doing so, they are not subject to the full range of AML/CFT obligations; and existing AML legislation would benefit from being clarified in that regard. Once Trusts are registered in Zimbabwe they become legal entities.

6 National and International Co-operation.

66. Zimbabwe has partially implemented the elements of the Vienna, Palermo and Terrorist Financing Conventions that are relevant to the FATF Recommendations. Zimbabwe has partially implemented the basic legal provisions of S/RES/1267(1999), but should implement measures to monitor or supervise for compliance with these requirements. Zimbabwe's implementation of S/RES/1373(2001) is inadequate, and should be improved.
67. On an operational level, the NECI is authorised to co-operate with other domestic supervisors, law enforcement authorities and foreign supervisors for AML/CFT. Several informal mechanisms, including regular contact meetings and forums exist to improve interagency co-operation between the police, Prosecution Authority, customs and ZIMRA and supervisors with regards to AML/CFT. However, solid outcomes do not always seem to result. Although a recent government action plan sets out a strategy for enhanced co-operation and co-ordination among all government bodies with regards to the implementation of AML/CFT measures, actual implementation of these recommendations will be problematic if implementing AML/CFT measures is not prioritised when allocating budgetary resources to law enforcement/prosecutorial authorities. Zimbabwe should improve co-ordination, particularly at the operational level and with regards to allocation of budget and human resources.
68. Mutual legal assistance and extradition measures apply to money laundering since money laundering is a criminal offence and both the Criminal Matters (Mutual Assistance) Act and the Extradition Act provide that measures must be taken against "any" criminal offence. However since terrorist financing has not yet been criminalized there is no scope for mutual legal assistance or extradition. Zimbabwe can only respond to both mutual legal assistance and extradition requests regarding other serious offences and in the absence of an applicable treaty. Mutual legal assistance is regulated by the Attorney General's Department of Zimbabwe.
69. Although in general, there are no legal or practical impediments to rendering assistance, provided that both Zimbabwe and the requesting country criminalise the conduct underlying the offence, the application of dual criminality may create obstacles to both mutual legal assistance and extradition where the underlying offence relates to the following types of money laundering/terrorist financing activity that have not been properly criminalised in Zimbabwe: (i) conspiracy to commit money laundering or terrorist financing outside of the context of an organised criminal group; and

(ii) obtaining or collecting funds/assets to be used by a terrorist organisation/individual terrorist where their use/intended use cannot be connected with a specific terrorist act. Zimbabwe should take measures to address this problem, in particular, by properly criminalising these activities.

70. Generally, mutual legal assistance requests are forwarded through the Attorney General's Department. Zimbabwe reports that requests are given priority; however, there are no statistics concerning the length of processing times for either mutual legal assistance or extradition requests. Duties of confidentiality do not impede mutual legal assistance. Assistance can be provided even where the offence is considered to involve fiscal matters. A wide range of mutual legal assistance can be provided, including compelling witness testimony, order the production of documents and seizing evidence.

71. Where a foreign state (that is not a signatory to the Vienna or Strasbourg Conventions) requests Zimbabwe to execute a foreign freezing/seizing/confiscation order, Zimbabwe can only recognise the order, but cannot give effect to it without starting its own proceedings. A procedure that requires a case to be made out before a local court on the basis of foreign evidence is inherently less effective than one where Zimbabwe court satisfies itself that a foreign court has made a freezing/seizing/confiscation order, and then simply gives effect to that order. Zimbabwe should enhance the effectiveness of its system by enacting legislation that would clearly allow for confiscation in situations other than those covered by the Vienna Convention and should consider enacting measures that would allow it to give effect to a foreign freezing/seizing/confiscation order without the necessity of starting its own domestic proceedings. Although there are no special permanent arrangements for co-ordinating seizure/confiscation actions with other countries, Zimbabwe does co-ordinate on a case-to-case basis. No asset forfeiture fund exists.

72. Zimbabwe is party to the following conventions relating to international co-operation:

- UN Convention on Psychotropic Substances Vienna, 1998
- UN Convention against Transnational Organized Crime (Signed: 12 December 2000)
- UN Convention against Corruption (Signed: 20 February 2004)
- Africa Union Convention on Preventing and Combating Corruption (in process of being prepared for signature)

- Memorandum of Understanding on Anti-Money Laundering with members of ESAAMLG (signed 1999)
- Southern African Regional Police Chiefs Cooperation [SARPCCO] signed on 1 Oct 1997
- Memorandum of Understanding between FIIES and FIC of the Republic of South Africa (signed February 2006) and Egypt.

73. Zimbabwe has not signed the International Convention for the Suppression of Financing of Terrorism.

74. Zimbabwe has not collated statistics on the number of requests for mutual legal assistance, extradition, freezing/seizing/confiscation and requests from foreign FIUs. Zimbabwe needs to establish a register that provides these statistics including those relating to the nature of mutual legal assistance/extradition requests, whether the request was granted/refused, and how much time was required to respond.

75. Zimbabwe law enforcement authorities are authorised to conduct investigations on behalf of foreign counterparts. Information is exchanged with foreign counterparts on the condition that it only be used for professional purposes, and is not made subject to disproportionate or unduly restrictive conditions. Generally, the attitude of Zimbabwe law enforcement is to respond rapidly to requests from co-operating agencies abroad.

76. Under The Banking Act, 2001, RBZ may on a reciprocal basis exchange information on supervisory matters whether based on a Memorandum of Understanding or not, with supervisory authorities in other countries. Under Section 46 of the Banking Act, 2001, RBZ Bank Supervision Unit may enter into a MOU with foreign supervisory authorities setting out the scope, procedures and further details for the exchange of information on a reciprocal basis. The exchange of such information may include confidential information provided that the RBZ has satisfied itself that the information submitted shall remain confidential at the foreign supervisory authority.

77. So far, no MOU has been entered into with any foreign supervisors with regard to carrying out any on-site inspections. It should be noted that International Banks conduct regular audits and inspections on branches in Zimbabwe. The most recent request that Zimbabwe has received

relating to ML was at the beginning of 2006 from the United Kingdom involving a convicted person, a Zimbabwean currently resident in the UK who was involved in fraudulently obtaining student permits for students intending to study in the UK and using the proceeds from such acts to purchase several assets in Bulawayo, Zimbabwe. Upon request being granted the UK authorities managed to identify several of the properties in Bulawayo and to record several statements for purposes of supporting the forfeiture application in the UK which is still to be finalized.

78. The Attorney General’s Department has received one request for assistance from non-Commonwealth country, that being Brazil. The request was for evidence gathering by Brazil in a case involving a Nigerian National using a fake Malawian passport in Brazil. It was believed he was in Zimbabwe at the time of the request. Unfortunately due to the nature of the request, assistance could not be given. Requests for Mutual Legal Assistance have been denied because there are no MOUs in place. The denials have not involved ML or FT cases to date. The below chart reflects the statistics on mutual assistance requests received from Commonwealth Countries including extradition requests.

Year	2003	2004	2005	2006
Number of cases	0	4	3	4

79. Zimbabwe has received several requests for Mutual Legal assistance from Commonwealth countries and to date there has been no denials of cooperation. However requests by Zimbabwe to other countries have been returned with no assistance given. Statistics on the number of cases of Mutual Legal Requests received by the Attorney General’s Office on suspected cases of Money Laundering and Extradition are as follows.

Mutual Legal assistance requests	2004	2005	2006
To Zimbabwe	3	1	2
From Zimbabwe	4	4	3
Total	7	5	5

Extradition Requests	2003	2004	2005	2006
To Zimbabwe	0	3	1	3
From Zimbabwe	1	1	0	1
Total	1	4	1	4

MUTUAL EVALUATION REPORT

1 GENERAL

1.1 General information on The Republic of Zimbabwe

80. Zimbabwe's struggle for independence from British rule was realised in 1979 when UN Sanctions and a guerrilla uprising finally led to free elections and independence in 1980. Robert Gabriel Mugabe the nation's first Prime Minister, has been the country's President since 1987. The capital of Zimbabwe is Harare.
81. Zimbabwe is landlocked 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 (land boundary 797 km) in which the Zambezi River forms a natural riverside boundary between the two countries. Zimbabwe is divided into 8 provinces and 2 Metropolitan provinces. The Provinces include Manicaland, Mashonaland Central, Mashonaland East, Mashonaland West, Masvingo, Matabeleland North, Matabeleland South and Midlands. The two Metropolitan provinces are Harare and Bulawayo.
82. The population is estimated at 12,236,805 with a growth rate of 0.62%. Life expectancy is low compared to developing countries in which the average age for males is 40.39 years and females 38.16 years. Ethnic groups are comprised of 98% African (Shona 82%, Ndebele 14%, other 2%), mixed and Asian 1% and whites less than 1%. English is the official language followed by Shona, Sindeble and numerous other ethnic dialects. Religious worship comprises syncretism (part Christian, part indigenous beliefs) 50%, Christian 25%, indigenous beliefs 24%, Muslim and 1% other. Natural resources include coal, chromium ore, asbestos, gold, nickel, copper, iron ore, vanadium, lithium, tin, platinum group metals.
83. Zimbabwe's government is described as a Parliamentary Democracy. The current Chief of State and Head of State and Government is President Robert Gabriel Mugabe President (since December 1987), the Vice President Joseph Msika (since December 1999) and Vice President, Joyce Mujuru (since December 2004), the Cabinet is appointed by the president; responsible to the House of Assembly. Elections involve presidential candidates nominated with a nomination

paper signed by at least 10 registered voters (at least one from each province) and elected by popular vote for a six-year term; election last held 9-11 March 2002 (next to be held March 2008); co-vice presidents are appointed by the president.

84. The legislature in Zimbabwe consists of the lower house, the house of Assembly (Parliament) and the upper house (the Senate). The lower house is made up of one hundred and fifty (150) members of Parliament. One hundred and twenty (120) are elected directly through proportional representation whilst the other thirty (30) are made up of ten Chiefs, eight (8) Provincial Governors and ten (10) other non-constituency members. (All the thirty (30) are appointed by the State President). The lower house debates and passes legislation pending its approval in the Senate. The upper house consists of sixty-six (66) Senators, Fifty (50) are directly elected, six (6) are Chiefs and ten (10) are appointed by the President. The Senate approves legislation from the lower house. Both houses work through a committee system. The lower house has a Politician as a Speaker of Parliament who is the Chief Administrator. The speaker is elected by members of Parliament and is deputized by a Deputy Speaker also elected by Parliament. The Senate is presided over by a President of Senate.
85. Political parties and leaders include Zimbabwe African National Union-Patriotic Front or ZANU-PF [Robert Gabriel Mugabe]; the Movement for Democratic Change or MDC [Morgan Tsvangirai]; United Parties [Abel Muzorewa]; United People's Party [Daniel Shumba]; Zimbabwe African National Union-Ndonga or ZANU-Ndonga [Wilson Kumbula]; Zimbabwe African Peoples Union or ZAPU [Agrrippa Madlela].
86. The legal system is a mixture of Roman-Dutch and English Common Law and the Judicial branch comprises a Supreme Court, High Court, Courts of Appeal and District Courts. The process of developing a bill involves the sponsoring Ministry to provide a layman's draft of proposed legislation. Public awareness campaigns are launched to get public input. The layman's draft is sent to the Ministry of Justice draftsmen who will come up with a bill which goes to the Cabinet committee on legislation. Once the Cabinet committee on legislation has approved the bill it is gazetted and taken to Parliament for three (3) readings. If it is approved by the parliament it will go to the Senate for final approval before it goes to the President for signing into law.
87. Zimbabwean currency is the Zimbabwean Dollar (\$ZWD). The exchange rate for Zimbabwean dollars per US dollar fell from 24 Zimbabwean dollars per US dollar in 1998 to 96,000 in mid-

January 2006. During recent years the country has experienced hyperinflation ranging from 1200% through 1500% per year.

88. Industries include mining (coal, gold, platinum, copper, nickel, tin, clay, numerous metallic and non-metallic ores), steel; wood products, cement, chemicals, fertilizer, clothing and footwear, foodstuffs, beverages. Agricultural products include corn, cotton, tobacco, wheat, coffee, sugarcane, peanuts; sheep, goats, pigs. GDP (purchasing power parity) is \$28.37 billion (2005 est.), the GDP (official exchange rate) is \$3.207 billion (2005 est.) GDP - real growth rate is -7% (2005 est.). The GDP - composition by sector is agriculture: 17.9%, industry: 24.3%, services: 57.9% (2005 est.) Labour force, 3.94 million (2005 est.) The national budget states revenues at \$1.409 billion and expenditure at \$1.905 billion; including capital expenditures of Z\$ (2005 est.)
89. Inflation rate (consumer prices): 585% official data; private sector estimates are much higher (yearend 2005 est.). Exports are \$1.644 billion f.o.b. (2005 est.) and include cotton, tobacco, gold, ferroalloys, textiles/clothing to South Africa 31.5%, Switzerland 7.4%, UK 7.3%, China 6.1%, Germany 4.3% (2004). Imports are \$2.059 billion f.o.b. (2005 est.) and include machinery and transport equipment, other manufactures, chemicals, fuels from South Africa 46.9%, Botswana 3.6%, UK. 3.4% (2004)
90. Zimbabwe membership of regional and international organizations includes African Union, COMESA, ESAAMLG, FAO, G-15, G-77, IAEA, IBRD, ICAO, ICCt (signatory), ICFTU, ICRM, IDA, IFAD, IFC, IFRCs, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ISO, ITU, MIGA, NAM, OPCW, PCA, SADC, UN, UNCTAD, UNESCO, UNIDO, UNMIS, UPU, WCL, WCO, WFTU, WHO, WIPO, WMO, , WTO.
91. The unemployment rate stands at 80% (2005 est.) with more than two-thirds of the population living below the poverty line. The government of Zimbabwe faces a wide variety of difficult economic problems as it struggles with a large fiscal deficit, an overvalued exchange rate, and soaring inflation. The official annual inflation rate rose from 32% in 1998, to 133% at the end of 2004, and 585% at the end of 2005, although private sector estimates put the figure much higher.
92. All case documents of public administrations are public, unless an exception is made by or pursuant to statute. The official Secrets Act makes releases of certain public documents for stipulated periods unlawful.

1.2 General Situation of Money Laundering and Financing of Terrorism⁵

93. In general, serious crime in Zimbabwe has been characterised by the following general trends: various violations of exchange control rules, underground banking, cross border crime, organised syndicates both domestic and international, and increased co-operation between criminal networks and links with legal business activity resulting in serious corruption and bribery. The most common types of crimes considered to be the major source of illegal proceeds in Zimbabwe are:

- Drug trafficking;
- Illegal trade and smuggling of precious minerals, metals and stones;
- Parallel market activities involving foreign currency and commodities by individuals and companies;
- Corruption in particular practices in the fuel industry involving both private and public institutions;
- Misrepresentation of quality, nature and value of exports
- Armed robbery and theft of motor vehicles and stolen vehicle re-registration.

94. Drug trafficking in Zimbabwe is characterized by the domestic use of African cannabis and some harder drugs such as heroin and cocaine and the trade of illicit drugs in which Zimbabwe is used as a transshipment country for cannabis and South Asian heroin, mandrax and methamphetamines destined for the South African and European markets. There is a limited drug problem in Zimbabwe. Armed Robbery seems to be increasing with 103 accused armed robberies in the first half of 2006. Instances of theft of motor vehicles and stolen vehicle re-registration appear to be at a very significant level with 329 persons accused half way through 2006.

95. Parallel banking operations also pose a problem, for instance underground banking which appears to be gaining momentum and is used by criminal syndicates to launder their funds. Hawala activities have been observed. Value transfers are made where a foreign resident banks money in the account overseas and then faxes a copy to the local Hawala who then pays out local currency to the local beneficiary. Funds can also be remitted locally by way of importing fuel by Zimbabwe nationals. Trading in precious minerals, metals and stones is not properly regulated or

⁵ The information in this section was provided by Zimbabwe and was not evaluated by the assessors.

supervised for AML/CFT purposes and also provides a means of moving proceeds of crime. Smuggling of stones and gold is easy to carry and the border posts have been alerted of the increase in smuggling these items.. Violations of the Exchange Control Act extend to false declaration and trade in foreign currency, as well as dishonest exporters providing commission deductions above the standard 7.5% limit without prior authority of the Exchange Control to justify the commission payments. Trading activities in the form of exports and imports involve externalizing funds through the source of high value exports in the country in which they are resident, for one off export to the proposed destination. Imports are overstated in order to facilitate the laundering of funds by payment of excess amounts into trust accounts. There are also problems regarding illegal immigrants entering Zimbabwe, in particular immigrants avoiding prosecution in neighbouring countries. The Police and Ministry of Home Affairs are working together to treat each illegal immigrant on a case by case basis. Human trafficking has also been identified, however the number of cases is few and lack of reporting makes it difficult to ascertain the extent of this crime.

96. In Zimbabwe, money seems to be laundered primarily through the banking system, underground banking networks, and through the purchase of assets. Assets purchased can later be sold and the proceeds laundered through the banking system. The Real Estate industry and services provided by Lawyers are vulnerable to money launderers since they have not implemented an effective AML/CFT regime and appear to be used as a vehicle to launder proceeds of crime. For instance in the Real Estate industry attention appears to be given to transactions which have declared and paid tax on either the purchase or sale of a property. As long as the individual has shown payment of tax, property that is undervalued or alternatively over-valued draws little attention from the authorities.
97. In the last 10 years, Zimbabwe has seen an increase in profit-motivated crime (especially drug-related and economic crime). Economic crimes, including various types of foreign exchange violations, underground banking and fraud against the state or against public and private business entities have increased. All these crimes are subject to money laundering. They are however not mentioned as predicate offences for money laundering in any of the legislation. To-date there have been three convictions for money laundering and none for terrorist financing.
98. Zimbabwe at the highest level has taken action against Ministers and Financial Institutions for unscrupulous activities. Time Bank's directors were on trial for fraud involving Z440 billion (\$4,446,916.00 USD). Time Bank did collapse and was placed under curatorship in 2004. The

Office of the Attorney General is said to be considering bringing criminal charges against the directors, shareholders for their role in the Bank's collapse, acts of fraud and externalisation of foreign currency. Time Bank and the RBZ are reported to be pursuing various options to resolve its disputes which include mismanagement of US15 million credit facility extended to Time Bank by PTA in 2000 (Time Bank attributes its financial crisis to this action taken by the RBZ) as well as Time Bank's challenge of its placement under curatorship. When Time Bank failed in 2004, the institution was placed under the management of a curator. The Reserve Bank took the necessary supervisory actions and has since cancelled the license after determining that the institution was no longer in condition to resume operations. Time Bank depositors have since been paid. The police and prosecution are charged with evaluating criminal acts and possible charges in this matter.

99. The authorities are not aware of the existence of any terrorist financing activities in Zimbabwe. In the future, the authorities anticipate more changes in the form of increased cooperation between neighbouring countries.
100. There are statistics available concerning the extent of organised crime within Zimbabwe. In most cases, these organisations are led by criminals who live and operate abroad, while co-operating with criminals or criminal groups in Zimbabwe. This is especially true for crimes related to smuggling and dealing in drugs and illegal commodities.
101. Zimbabwe maintains criminal statistics on types of offences. Zimbabwe does not encourage or maintain statistics based on race. However, members of some ethnic groups do dominate in certain types of serious crime, such as smuggling of drugs and trafficking in human beings. Their ethnic background makes it highly probable that some of the illegal proceeds are being transferred out of Zimbabwe through a traditional remittance system or by cash couriers. Non-ethnic Zimbabwe's (such as immigrants, asylum-seekers/refugees) are represented in about 30 % of the suspicious transaction reports (STRs) received.
102. The globalisation of economies has made it easier for international criminal organisations operating towards and inside Zimbabwe to channel their illegal financial gains out of reach of the national authorities in the country where the crimes have been committed towards safe havens abroad. Zimbabwe states that it has reason to believe that a larger proportion of the illicit gains are transferred to accounts located outside of Zimbabwe. This may occur through private cash

intensive companies, and then onwards through other companies within Zimbabwe and abroad by means of fictitious invoicing, fictitious loan agreements, transfer pricing and other means.

103. The criminal investigation department of the Zimbabwe Republic Police has investigated major criminal offences and the charts below give a break down of crime for 2006 and also a break down of statistics for Drug trafficking and money laundering for 2003-2006.

NUMBER OF SERIOUS OFFENCES IN ZIMBABWE FOR 2006

Type of Offence	No. of Accused	Sentence	Total Economic Loss
Drug Trafficking	50	Between 1-9 years	\$35,198,869.00 ZWD
Externalisation (Exchange Control)	67	Fines between \$300 - \$381 million	\$69000000.00 ZAR1035 119.00 USD21 642 038.00 EUR150100.00 GBP 9234.00
Fraud	455	Between 3 months to 20 years plus fines	\$751 085 831.65 ZWD
Precious Minerals	2	Custodial and fines	\$24 733 941.33 ZWD
Armed Robbery	103	Between 3 months – 20 years	\$4.066 Billion ZWD
Robbery Motor Vehicles	329	Between 3 months – 20 years	\$27 507 950 000.00 ZWD

Number of Serious Offences from 2003 to 2005

Type of Offence	2003	2004	2005	2006
Drug Trafficking	2	1	3	3
Money Laundering	0	0	2	2

104. The current Situation of Money Laundering in Zimbabwe is described as follows:

- Drug trafficking continues to pose a serious threat especially in view of the slight move from softer drugs to harder drugs. Policing of the points of entry by enforcement agencies needs to be enhanced to make it more difficult for drugs to get into the country. However, since last year, several Zimbabwe nationals have been arrested in foreign countries such as South Africa, the UK and Thailand on charges of drug trafficking.
- Proceeds generated from parallel market operations appears to have increased with the scarcity of foreign exchange. With more enforcement and policing of the country's main points of entry and exit, several individuals found to be illegally dealing in foreign exchange were arrested and court cases brought against them. Some of the cases have ended with the proceeds being forfeited to the state.
- Since April 2004 the FIIES Unit has received a total of 201 Suspicious Transactions Reports. 196 STRs were received from banking institutions, 4 STRs from Insurance companies and 1 STR from the whistle blower center. Most of these transactions were in the form of large cash withdrawals, large cash deposits and electronic transfers. This is mainly due to the fact that Zimbabwe's economy is largely cash based as evidenced by most transactions being settled in cash.
- Other designated DNFBPs for instance real estate agencies, accountants and other corporate vehicles such as accounting firms and law firms have not been forthcoming in complying with the need to report STRs. This is attributed to lack of awareness and adequate training on their role in the fight against money laundering and terrorist financing. The Law Society differs in principle with the FIIES requirement on client confidentiality. The matter before the Supreme Court and both parties to negotiate a solution to the issue.

Number of Suspicious Transactions Cases Reported to FIIES and Referred to Police

	Number of Cases Reported	Number Referred to Police
Since 2004	201	103
Total	201	

Ways in which Money is Laundered in Zimbabwe:

105. In Zimbabwe, money seems to be laundered primarily through the banking system, underground banking system and through the purchase of assets. Assets purchased can later be sold and the proceeds laundered through the banking system. Consequently this has increased the awareness among banks' staff particularly with respect to identifying and reporting suspicious transactions.

Types of Institutions Used to Launder Funds:

106. The principal institutions utilized by money launderers in Zimbabwe would tend to be financial institutions. However, the insurance industry is also prone to be utilized by money launderers. Insurance Sector is not aware of any money laundering occurring within the industry.
107. Traders in Precious Minerals, Metals and Stones, Casinos, Real Estate Agents, Accountants and Lawyers are also vulnerable to being utilized by launderers.
108. The authorities are not aware of the existence of any terrorist financing activities in Zimbabwe. In the future, the authorities anticipate more changes in the form of increased cooperation between regional neighbouring countries.

1.3 Overview of the Financial Sector and DNFBP

a. Overview of the Financial Institutions sectors

109. The following types of financial institutions are authorised to operate in Zimbabwe: commercial banks (14) to include Agricultural Development Bank of Zimbabwe, Barclays Bank of Zimbabwe Limited, Commercial Bank of Zimbabwe Limited, FBC Bank Limited, Intermarket Banking Corporation, Kingdom Bank Limited, MBCA Bank Limited, Metropolitan Bank of Zimbabwe Limited, NMB Bank Limited, Stanbic Bank Zimbabwe Limited, Standard Chartered Bank Zimbabwe Limited, Zimbabwe Allied Banking Group, Zimbabwe Banking Corporation Limited, and CFX Bank.
110. Merchant Banks (5) include African Banking Corporation Limited, Genesis Investment Bank Limited, InterFin Merchant Bank, Premier Banking Corporation, and Renaissance Merchant Bank. Finance houses (3) include ABC Asset Finance, Trustfin (Private) Limited, ZDB

Financial Services Limited. Discount houses (6) include ABC Securities Limited, Discount Company of Zimbabwe Limited, Highveld Financial Services Limited, Intermarket Discount House Limited, National Discount House Limited and Tetrad Securities Limited. Building societies (4) include Beverley Building Society, Central Africa Building Society, FBC Building Society, and Intermarket Building Society. Money Transfer Agents (MTA) including Western Union and Banks operating in Zimbabwe as MTAs.

111. Commercial banks, accepting houses, discount houses and finance houses are registered under the Banking Act, 2001 and are supervised by the RBZ. Money transfer agencies are created by a statutory instrument to cater for Zimbabweans in the Diaspora to facilitate home remittances. Money transfer agencies must be insured, have sufficient liquidity and must have a foreign partner duly licensed in the home country. Western Union and wire transfers are dealt with the Exchange Control Division of the RBZ. Weekly forex is remitted to the RBZ and agency receives the equivalent in local currency, the agency is not permitted to remit it outwards. Building Societies are registered in terms of the Building Societies Act [Chapter 24:02] and are supervised by The Reserve Bank of Zimbabwe. The Post Office Savings Bank (Now known as the Peoples own Savings Bank) is also authorized to operate under the Post Office Savings Bank Act [Chapter 24:10] and is supervised by The Reserve Bank of Zimbabwe.

112. Zimbabwe has a Bankers Association (currently chaired by the Chief Executive of Stanbic Bank of Zimbabwe) of which all financial institutions are members and are required to abide by a code of conduct. The chair of the Banker's Association informed the evaluation team that money laundering is a complex issue and requires dedicated human resources to deal with ML/FT compliance. The Banker's Association has not carefully looked at the vulnerability of Trust Accounts though it is expected that if there is a breach that Banks are supposed to inform the Banker's Association of any unscrupulous activities. Anti-money laundering has been made a core function in managing Banks and is part of risk control measures. Members are required to produce a quarterly report to the board on areas that they are required to comply. There have been some internal measures provided by the Bankers Association such as awareness training to sensitize its members with the current legislation and financial guidelines on identification of suspicious transactions and reporting procedures. The Association expresses dissuasive action for errant members who show poor compliance by disassociating themselves from such institutions. Moral suasion is the method used to ensure compliance.

113. Banks are required to open accounts at their branches and take client's information Know your Customer (KYC). KYC is done first before any money is accepted for deposit such as sources of funds, if an individual is from the company who are the directors, addresses and previous Bankers. Currently KYC is done manually. All banks conduct full Customer Due Diligence CDD on clients and seek an opinion from the Financial Clearance Bureau. In particular the two banks interviewed Stanbic Bank Zimbabwe and Kingdom Bank of Zimbabwe have adopted full CDD for all clients.
114. The major role of Banking Supervision is to supervise banks and financial institutions as provided under the Banking Act, 2001. There are Guidelines issued by the RBZ to Banks and financial institutions on the required compliance. They include Know Your Customers (KYC) under the due diligence and record keeping requirements to maintain records for six years. Banking Supervision does on site inspection for FATF compliance, check on the Bank policy and Internal Audit report. During on site inspection no checklists specifically tailored AML/CFT are used in the event any deficiencies are found, Banking Supervision provides to the FI itemized instructions to be followed. Banking Supervision conducts target inspections one to two a year. During on site visits, inspectors team up with experts of various knowledge such as legal professionals people and compliance officers. In most cases accounts are open face to face and the appropriate documentation for customer ID are completed. Every Zimbabwean has an identity document and when an application is made this document must be provided. There are no particular training programmes on ML and FT however sensitization has been conducted on these issues.
115. Banking Supervision does not issue guidelines on banking relationships established with other Banks (corresponding banking) since they are taken as a business decision. Where the Bank in Zimbabwe operates in other countries there are Memoranda of Understanding (MOU) entered between the supervising banks of the countries concerned. Subsidiary Branches (outside Zimbabwe) are supervised by Banking Supervision; Supervision is actually done onsite.
116. Both the BUPSML Act, 2002 and the BUPSML Guidelines refer to the treatment of Politically Exposed Persons (PEPs) with regards to enhanced due diligence. In particular the Guidelines under Section 11 provides individuals holding important positions and with persons or companies clearly related to them may expose a bank or cash dealer to significant reputation and/or legal risks. Such PEPs are individuals who are or have been entrusted with prominent

public functions, including heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of publicly owned corporations and important political party officials. The possibility exists that such persons may abuse their public powers for their own illicit enrichment through the receipt of bribes, embezzlement. Accepting and managing funds from corrupt PEPs is tantamount to money-laundering

117. The BUPSML Act, 2002 and BUPSML Guidelines (under Clauses 13 and 15) provide for a Money Laundering Reporting Officer (MLRO) and states that banks and cash dealers should ensure a MLRO is appointed. In the absence of a MLRO no member of the Internal Audit Department of the bank or cash dealer perform the duties of the MLRO as this will create a conflict of interest. However any person in a management position can play the role of a MLRO.
118. The MLRO is endowed with a significant degree of responsibility and independence. He/she is required to determine whether the information or other matters contained in the transaction report he/she has received give rise to knowledge of reasonable suspicion that a customer is engaged in money laundering or the financing of terrorism. There is an obligation on all staff to report in writing to the MLRO suspicious activity of money laundering and terrorist financing. Records of all internal reports made to the Money Laundering Reporting Officer and also all reports made by the MLRO to the FIIES are retained for a period of not less than 10 years after the date of reporting.
119. Pension funds, life and non-life insurance services are offered in Zimbabwe and are registered under the Insurance Act (Chapter 24:07), and are supervised by the Ministry of Finance. In the Insurance industry there is a limitation of money coming in and cash is not accepted unless it is deposited through a Bank. Zimbabwe has a system in place that monitors life cover so that an individual does not take out policies in several insurance companies for him/herself. The Pension Association is an umbrella body for Pension funds; its purpose is to update its members on any developments that are likely to affect pension funds. The Pension Association does not regulate the pension funds but the Ministry of Finance under the Registrar of pension funds. The conditions for registration require payment by employers of 7.5 per cent of the employees income and pension funds once registered can not be dissolved unless by the permission of the regulator. Under the Pension and Provident Fund Act, it is a criminal offence if the employer does not submit the contribution within the prescribed time. Pension Funds have limitation of borrowing by the employer. In every pension fund there is board of Trustees who are entrusted

with the money and make decisions on how the money can be invested. The board of trustees comprises employer and employee representatives. There are rules that govern administrative issues on the pension funds such as code of conduct that provides for ethical requirements. Regulations covering Pension fund management are found in the Pension and Provident Funds Act.

120. One of the companies visited by the Mutual Evaluation Team was ZIMNAT which is a company dealing with life and asset insurance. Products that are offered include individual life insurance (till death or endowment for fixed period), Group Life Insurance (in the event of death or lump sum paid to survivors), corporate insurance, retirement arrangement, group life assurance arrangement, pension funds, and funeral arrangements (this is a minor product). ZIMNAT has taken ML issues seriously and appointed a compliance officer to perform the functions of a MLRO. ZIMNAT also recognizes legislation and instruments prohibiting ML activities such as the BUPSM Act and the BUPSM Guidelines. Monthly reports are provided to the RBZ and to the Audit and Risk Management Committee. Quarterly reports are provided to the Board's Audit Committee. Full KYC and CDD rules are applied when establishing a relationship. For account opening, all clients particularly investors are required to disclose source of funds and provide ID and proof of residence that should not be more than three months old. ZIMNAT seeks to verify identification both residential and business by verifying addresses on utility bills, articles, and registration certificates. Contributions/premium payments must be within the contracted amount and payments must be made through an FI, cash payments directly made to ZIMNAT are not permitted. ZIMNAT have in place a code of professional conduct. There is an internal audit that identifies any transaction that is suspicious and gives a report thereof. Suspicious transactions or behaviour is red flagged by a number of factors to include: staff financial behaviour, cashbooks with unexplained suspense accounts, lack of justification for the cover that one wants to take and affordability for the cover, or invalid limit that one invests as a lump sum in an annuity or retirement scheme. PEPs are dealt equally to other individuals based on laws, rules and regulations governing Insurance industry. ZIMNAT does not do business electronically, however it has its website where relevant information can be obtained by the public. ZIMNAT have a cooperative relationship with the RBZ and FIIES on ML issues.
121. In the retail environment, account holders can make purchases in street shops, restaurants and service stations. E-gold users can also send or receive money through their e-gold account, or deposit and withdraw cash (as e-money can be redeemed for real money). Mobile e-cash is

funded by the user from his/her bank account or by receiving a payment from another user, and is stored in an extra electronic account available for the customer at any time, anywhere. The mobile e-cash is linked to the user's mobile phone number, but the transactions are not charged to the person's mobile phone bill. Instead, it is deducted electronically from the separate account. After e-money has been purchased and stored in the user's e-money account, the user's mobile phone can serve the same function as traditional payment forms such as payment cards or cash.

122. The following chart sets out the types of financial institutions that are authorised to carry out the financial activities that are listed in the Glossary of the FATF 40 Recommendations.

TYPES OF FINANCIAL INSTITUTIONS AUTHORISED TO CARRY OUT FINANCIAL ACTIVITIES LISTED IN THE GLOSSARY OF THE FATF 40 RECOMMENDATIONS	
Type of financial activity (See the Glossary of the 40 Recommendations)	Type of financial institution that is authorised to perform this activity in Zimbabwe⁶
Acceptance of deposits and other repayable funds from the public (including private banking)	Banks
Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting))	Banks, finance companies, insurance companies, investment firms (purchase of securities).
Financial leasing (other than financial leasing arrangements in relation to consumer products)	Banks, Finance Companies
The transfer of money or value (including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds)	<u>Domestic: Bank, Finance Companies</u> <u>Alternative Remittance Not Regulated</u> (The activities of financial institutions are regulated as indicated above). <u>Cross-border:</u> Banks, finance companies. <u>Alternative Remittance Not Regulated</u>
Issuing and managing means of payment (e.g. credit and	Banks, finance companies, e-money issuers

debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money)	
Financial guarantees and commitments	Banks, finance companies
Trading in: (a) money market instruments (cheques, bills, CDs, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading	(a) Banks and investment firms (intermediaries) (b) Banks and investment firms (intermediaries) (c) Banks and investment firms (intermediaries) (d) Investment firms (intermediaries) (e) Not regulated
Participation in securities issues and the provision of financial services related to such issues	Investment firms, banks with an authorisation to provide investment services.
Individual and collective portfolio management	Individual portfolio management: Investment firms and management companies for securities funds Collective portfolio management: Management companies for securities funds.
Safekeeping and administration of cash or liquid securities on behalf of other persons	Banks and investment firms
Otherwise investing, administering or managing funds or money on behalf of other persons	Banks, Insurance, Brokers
Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers))	Life-Insurance Companies
Money and currency changing	Banks

Overview of the Non-Financial Businesses and Professions sectors⁷

123. The following types of non-financial businesses and professions operate in Zimbabwe: real estate agents, accountants, legal practitioners, and dealers in precious metals and stones.

Lotteries, casinos (including Internet casinos) operate in Zimbabwe. Zimbabwe citizens may gamble on Internet casinos that are operated from a server located in another country, and Zimbabwe may offer such a service in Zimbabwe from outside Zimbabwe. Most DNFBPs are required by legislation to engage in AML/CFT measures. Under Section 2(1) of the BUPSM Act, 2002, a financial institution, other than the RBZ includes:

- A person registered as an insurer in terms of the Insurance Act [*Chapter 24:07*].
- A person registered as a legal practitioner in terms of the Legal Practitioners Act [*Chapter 27:07*].
- A person registered as a public accountant in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].
- A person registered as an estate agent in terms of the Estate Agents Act [*Chapter 27:05*].
- A cash dealer.
- A moneylender in terms of the Money Laundering Rates of Interest Act, [*Chapter 14:14*].
- A pension fund registered in terms of the Pension and Provident Funds Act [*Chapter 24:09*].
- A person carrying on the business of import/export.
- A person carrying on the business as a manager or trustee of a unit trust or other collective investment scheme in terms of the Collective Investment Schemes Act, [*Chapter 24:19*].
- A person, other than a financial institution, who carries on the business, whether formally or informally, of providing money transmission services.

124. Lawyers and auditors normally provide trust and company services. Trust and company services providers are not recognised as separate businesses.

125. The types of legal persons existing in Zimbabwe are: limited companies, public limited companies (shareholders have limited liability), general partnerships, general partnerships with shared liability (partners have unlimited liability), limited partnerships (some partners have unlimited liability, others have limited liability), house building co-operatives, housing co-operatives, co-operative societies, foundations, savings banks and associations. All have legal persona. Foreign legal entities are not prohibited from having their main seat in Zimbabwe or from conducting business in Zimbabwe.

Casinos:

126. Casinos operate in Zimbabwe and are established under the Lotteries and Gaming Act, 2000. . The registrar of Casinos falls under the Ministry of Home Affairs. The Casino Board comprises 9 members who report to the Minister of Home Affairs. There are 2 casinos in Kariba, 2 in Victoria Falls, and 2 in Mutare. Onsite casinos have applied surveillance equipment and cash points are properly secured, Casinos are covered by the BUPSMML Act, 2002 and the Guidelines as being accountable for AML/CFT. Assessment of compliance provides for 2 visits annually. There are only 3 inspectors who conduct these assessments and a further two more inspectors are required. Inspectors are trained mainly in South Africa on machine operations, Internet gambling, surveillance, money laundering and on how to conduct checks. Onsite inspections for compliance are conducted once every six months by the regulator with assistance of the police. For an individual to apply for a casino licence the entry rules include: submission of building plans, ownership of a at least a 50 room hotel, satisfactory police background check, adequate funding/capital to operate, satisfactory physical inspection check of the premises, and completed quarterly returns on revenues, levies paid, taxes, cases/disputes handled etc. Before purchasing a locket, a purchaser is not required to ID him/herself. CDD is not fully applied to gambling and there is no limit on the purchase or surrender of tokens as yet. The regulator needs to be sensitized as to the commissions responsibility to regulate casinos in relation to AML/CFT. At times the police have been required to investigate the casinos for mistreating of employees by employers, and the cheating of customers. The casinos have not forwarded any suspicious transactions to the FIIES. Lotteries are registered under the Lotteries and Gaming Act, 2000 and include Lotto, Scratch card and Ticketing. There are in Zimbabwe a National lotto and the National lotteries, Nyanga Casino, Caribbean Bay Casino, Kingdom Hotel Victoria Falls Casino.

Real Estate Agents:

127. Real estate agents are registered under the Estate Agents Act (Chapter 27:05). Real estate services are also provided by lawyers who have provided security for real estate agency and housing co-operatives that are in the business of brokering co-operative flats. Real estate agents are licensed and supervised by the Real Estate Agency Council (a statutory body) established under the Justice Ministry. The Council has six members of whom three are professionals. Disciplinary action can be taken by the Council which includes cautions, deregistration, non-renewal of license for a year, fines and non-reinstatement. Operations are guided by the law

especially how funds move between agent and client. Agents must be qualified to be licensed and practice. Requirements include trust accounts for deposits and withdrawals, appointed auditors, and audits to be conducted annually. Section 54 of the Real Estate Act provides for the control and operation of a trust account. Once a purchase has been made money received by the real estate brokers is deposited into a trust account. KYC is observed when the money is received since the account opened by Real Estate brokers must have a name and identification to support the name of the account. The trust accounts are audited by auditors to check if there are problems such as an overdraft or any suspicious transaction. All transactions made under real estate are taxed and are allocated a tax number so it is difficult to conduct a business transaction out of the system. It appeared from the interviews that as long as tax is paid on the purchase or sale of property little attention is drawn to the transaction of the sale. This provides a loophole for unscrupulous activity in which the value of property can be manipulated and used as a means to launder money. Real Estate Agents are designated under the BUPSMML Act and Guidelines as accountable for AML/CFT.

Dealers in Precious Metals and Dealers in Precious Stones:

128. In Zimbabwe for a person to deal in gold and other precious metals and stones he must obtain a license that is issued by the Minister for Mines. It is an offence to possess gold without a license. Entry rules include a background check on application and a criminal record check for dealers and mining. The CID Specialised Gold Unit was established in 1980 is focused on preventing gold and other minerals from being smuggled out of Zimbabwe. The units are stationed in Harare, Bulawayo, Kwekwe, Gwanda, Kadoma and Zvishavane. The CID is not yet fully computerized. Dealers are covered under the BUPSMML Act and are mentioned in the BUPSMML Guidelines as being accountable for AML/CFT.

Stock Exchange:

129. Zimbabwe's Stock Exchange was founded in 1896 and was properly established under the Stock Exchange Act, 1974. The requirements for registration for individual and corporate membership is provided for under the Stock Exchange Charter. The Stock Exchange is managed by the Committee that reports to the Ministry of Finance. A Securities Commission has recently been established under the Act but requires funding to be functional and awareness raising sessions on AML/CFT. The Stock Exchange has a Charter that provides as a code of conduct for its

members. The Charter also provides for the registration and listing companies. The Stock Exchange market capitalization has US 4 Billion dollars. There are 17 registered Stock Brokers and there are 80 listed companies in the Stock Exchange market. The Stock Exchange is self regulatory and it provides monthly reports. The report covers capital adequacy, risk management and structure of their business operation. Each client is required to sign a mandatory form providing all details and relevant information as part of the Stock Exchange KYC policy. The Stock Exchange doesn't accept cash payments; all payments are required to go through a bank and normally payment is settled after seven (7) days for institutional investors. On the settlement date the payment is done through banking system and there are no third party payments. The Stock Exchange provides for the monthly returns that require companies to report on their income statement and balance sheet, broker to broker open position and broker to client open position. Investments comprise of 90% institutional investors (mostly fund managers), 8% individuals, and 2% foreigners.

130. The Stock Exchange is aware of the guidelines on money laundering that have been issued by RBZ (the BUPSML Guidelines) but they have not officially implemented them. There are sanctions in case a member defaults as they can be suspended or deregistered from the registration. Some progress has been made where the Stock Exchange has blacklisted entities that do not comply and there are statistics on brokers and entities that have been sanctioned and in one example Old Mutual Shares were flagged when a request was received to transfer the shares outside of the country. There is a requirement for monthly returns also allow for investigation of the member operation system. (4th sentence is ambiguous) In the monthly return a compliance officer check a compliance testing is manually done. The Stock Exchange of Zimbabwe is a member of the Community of SADC Exchanges.. It is also a member of the community for Insurers and non Bank Communities.

Lawyers:

131. Lawyers are registered in terms of the Legal Practitioners Act (Chapter 27:07) and are supervised by the Law Society. Lawyers may give legal assistance to others, and conduct cases in the lower court and the appeal court. There are approximately 3000 lawyers operating in Zimbabwe. Lawyers are designated under the BUPSML Act and BUPSML Guidelines as accountable for

AML/CFT. However the Law Society is in negotiations with RBZ implementation of AML/CFT measures by lawyers and law firms.

Notaries:

132. Notaries do exist in Zimbabwe. Some lawyers are also registered as notaries and practice as conveyancers. Many of the services that would otherwise be provided by notaries (like legalising the title for transferring ownership of registered property or establishing a will) are part of normal civil contracts.

Other independent legal professionals:

133. Approximately 1000 Graduates in Law work as assistant advocates to licensed lawyers.

Accountants:

134. There are 300 natural persons and firms registered under the Public Accountants and Auditors Act (Chapter 27:12). The registrar is responsible for licensing, registering and supervising external accountants (both natural and legal persons). There is also a Registrar under the Public Accounts and Auditors Act Chapter 27:12.

Auditors:

135. Auditors are registered under the Accountants and Auditors Act (Chapter 27:12) and are authorised to provide statutory auditing services in Zimbabwe. Auditors are regulated by the Registrar of the Public Accountants and Auditors Board.

Trust and company service providers:

136. In Zimbabwe, trust and company services providers are not recognised as separate businesses or professions. Lawyers and auditors normally provide trust and company services. There are also companies which deal with company formations.

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

137. A wide variety of legal persons exist in Zimbabwe: (a) Companies – limited companies and public limited companies (shareholders have limited liability); (b) Partnerships - general partnerships and general partnerships with shared liability (partners have unlimited liability), and limited partnerships (some partners have unlimited liability, others have limited liability); (c) Societies - house building co-operatives, housing co-operatives and co-operative societies; and (d) Organisations – Foundations, savingsbanks and associations. All have legal persona and can hold a bank account or own property in their name.
138. Limited companies and public limited companies must have memorandum and articles of association that identify (among other things) the name, address and type of business of the company and the board members. The minimum start up capital is \$10,000.00.ZWD. The managing director and at least one of the board members must be residents of Zimbabwe. All directors must be natural persons. There must be at least one shareholder, and both natural and legal persons can own shares. An auditor must be retained. It is common practice in Zimbabwe for lawyers or accountants to incorporate “shelf companies” for sale. Where required, the lawyers/accountants could remain as directors of these companies, if requested by the shareholders.
139. All forms of partnership must have a partnership agreement that, inter alia, identifies the name and address of the partners (the partners are the owners of the assets of the partnership), the municipality where the company has its main office and the purpose of the partnership. There are no residency/nationality requirements concerning the partners, and partners can be either natural or legal persons. For a limited partnership, if the general partner is a legal person, an auditor must be appointed. All types of partnerships (general partnerships, general partnerships with shared liability and limited partnerships) have their own legal personality, both with respect to procedural law and substantive law.
140. Societies are required to have a board of directors and to appoint an auditor. The members of the society are generally the persons that have an ownership interest in the assets of the society. Organisations are required to have a board of directors, and foundations and savings banks must also appoint an auditor. Foundations are private entities that hold the assets donated to them for the purposes set out in the documents establishing the foundation (commercial and non-

commercial purposes). Associations are bodies formed by several natural or legal persons for a common non-profit purpose. Unregistered Associations and Partnerships do not have legal capacity in Zimbabwe.

141. Zimbabwe law does not prohibit foreign legal entities from having their main seat in Zimbabwe or from conducting business in Zimbabwe.

1.5 Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT Strategies and Priorities

142. Zimbabwe is in the process of developing a comprehensive AML/CFT strategy to be adopted and implemented by the Government.

143. Zimbabwe bases its AML control policies and objectives both on regional and international initiatives. Regional initiatives include participation in ESAAMLG which mandates under its Terms of Reference that members must implement the international best practice standards on AML/CFT, international initiatives include the FATF 40 Recommendations and the 9 Special Recommendation on Terrorist Financing, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substance 1988 (The Vienna Convention) UN Convention against Transnational organized Crime (Palermo) and the UN Convention against Corruption. Both regional and international initiatives are complementary.

144. Zimbabwe acceded to the UN Convention against illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) on 30 July 1993. Zimbabwe signed the UN Convention against Transnational Organised Crime on 12 December 2000, and has also signed the UN Convention against Corruption, 2003. Zimbabwe has not yet signed the International Convention for the Suppression of the Financing of Terrorism, and is not compliant with UN Resolutions on Terrorism and Terrorist Financing.

145. Zimbabwe's CFT policies and objectives are based primarily on the United Nations Security Council Resolutions, the United Nations Convention for the Suppression of the Financing of Terrorism (1999) the Terrorist Financing Convention (SFIT) though not signed or ratified and, to a certain extent, the FATF 9 Special Recommendations (SRs). Once Zimbabwe has passed the

SFIT Bill further progress will be made in the fight against terrorism and the financing of terrorism.

146. In particular, Zimbabwe has prioritised AML measures relating to (a) increasing the risk of detection and prosecution for everyone involved with the proceeds of crime; (b) improving the process of tracing and confiscating illegal proceeds; and (c) facilitating international co-operation.

b. The institutional framework for combating money laundering and terrorist financing

(i) Ministries

147. Several ministries have responsibilities that are related to AML/CFT: the Ministry of Finance, the Ministry of Justice & Ministry Home Affairs.

Ministry of Finance:

148. The Ministry of Finance is responsible for planning and implementing economic policy; co-ordinating the preparation of the national budget, ensuring government revenues by maintaining and developing the system of taxes and duties and monitoring financial markets; and drawing up regulations. The Ministry of Finance engages itself directly with money laundering issues. The National Economic Conduct Inspectorate (NECI) conducts investigations on economic crimes. NECI liaises with the RBZ on ML and TF issues.

149. Within the Ministry of Finance, the Commissioner of Insurance and Pension Funds is responsible for registering Insurance, Pension Funds, Brokers and Multiple Agencies (which are neither brokers nor agencies but perform similar functions). The entry rules for registration are provided for under the Insurance Act, Provident and Pension Fund Act and also in the Companies Regulations.

150. The Insurance companies, Pension Funds, Brokers and Multiple agencies are checked for compliance through their returns and sometimes on site inspections are conducted. The Commissioner of Insurance and Pension Funds located within the Ministry of Finance acts as regulator and stated that there is a need for awareness and training programs on Money Laundering and Financing of Terrorism and that ML officers need to be appointed to check on compliance. It was also stated that since FIIES is conversant with these issues there is a need for

resource person to sensitize this industry. As a Regulator, the issue of money laundering is difficult to check whether this area is compliant. There is a need to define roles between FIU and Commissioner of Insurance and Pension Funds.

Zimbabwe Republic Police:

151. It was noted that although the legislation prohibiting money laundering has been passed, offenders have found loopholes in existing laws that permit them to commit crimes. Some offences are not designated as money laundering offences. The Police feel that AML laws need to be amended to capture the existing crimes that are predicate offences generating funds which are subject to money laundering. Predicate offences to money laundering are prosecutable with the same weight as money laundering offences. The office of the Commissioner of police stated that corruption is still a problem in Zimbabwe and high level officials such as Ministers and Commissioners have been investigated and prosecuted for corruption offences. The Police have established cooperative relationships with ZIMRA, RBZ, NECI, and the Anti Corruption Commission.
152. The Zimbabwe Republic Police employ a range of techniques to access records in the course of an investigation. In terms of the Criminal Procedure and Evidence Act, the Police are legally permitted to engage in an undercover operation in order to detect, investigate or uncover the commission of an offence. In the event of telephone interceptions (“TIs”) a court order or warrant must be provided to the Court before a TI is applied if the evidence obtained is to be presented in court. Interception of communication is permitted by the Post and Telecommunications Services Act. The Police are also able to compel production of bank account records, financial transaction records, customer identification records from financial institutions through The Criminal Procedure and Evidence Act and Serious offences (Confiscation of Profits) Act.
153. Within the Police there is a Serious Fraud Squad with offices in Bulawayo and Harare. The Court can authorize freezing and seizure of property and this is done through an application in Court whereby the police can seize property. Where assets or money is found in connection with the commissioning of crime pending investigation, the assets or money are put into Police custody. Where money is frozen, the FIIES opens an account called Cash Tender Account and the frozen funds are deposited in that account. When funds are forfeited, the funds go to the

Treasury Department. The Zimbabwe Republic Police maintain statistics for all criminal offences. There are currently no statistics for terrorist financing investigations.

Offence	Cases taken Over	Cases Detected	Value of loss/ Stolen	Value Recovered	Accused Arrested	Percentage Detected	Number convicted
Externalization Of funds	98	92	\$92,754,688,917 ZWD \$12,364,691.00 US R 2,86,490 ZAR	\$3,448,000 ZWD \$2,110,000 USD R 1,000,000 ZAR	90	94%	48
Fraud	671	412	\$153,730,011,484 ZWD \$5,867.00 USD R 130,000.00 ZAR	\$344,748,621 ZWD	276	61%	86
Armed Robbery	732	171	\$1,323,782,566 ZWD	0	497	23%	9
Theft of Motor Vehicle	1803	488	\$26,822,511,183 ZWD	288 Motor Vehicles Recovered	994	27%	5
Car Jacking	147	81	\$99,593,944,450.00 ZWD	Not given	66	55%	0
Money Laundering	4	4	\$72,886.00 ZWD	0	4	100%	3
Prevention of Corruption Act	34	32	\$50,897,221,569.00 ZWD	0	29	94%	5
Dangerous Drugs Act	359	359	\$35,198,869.00 ZWD	Not Given	363	100%	78
Theft by False Pretences	28	16	\$1,760,045.00 ZWD	\$252,500.00ZWD	81	57%	12
Forgery	4	3	Nil	Nil	4	75%	1
Bank use Promotion and	0	0	0	0	0	0	0

suppression of Money laundering Act							
Smuggling of Precious Stones	0	0	0	0	0	0	0
Total	3,874	1,664	\$425,158,191,969.00 ZWD \$12,370,558.00 USD 35,910 BP R 2,816,490 ZAR	\$3,700,500 ZWD \$2,100,00.00 US 1,190 BP R 1,000,000,Zar	2,404	43%	247

154. The CID Gold Unit was established in 1980.. The unit investigates illegal dealings in gold and other precious metals and precious stones. The unit is stationed in Harare Bulawayo, Kwekwe, Gwanda, Kadoma and Zvishavane.

Customs and Immigration:

155. Customs & Immigration: Immigration officers question suspicious incoming travelers on the amount of funds they are carrying to meet the costs of their stay in the country and if they are found to be in possession of a large amount of money, they are subject to more detailed questioning and a joint search with customs officials. However there is no restriction on the amount of money being brought into the country. Customs officials also search suspicious travelers for narcotics and other prohibited substances. Customs authorities share information with police when the information is related to a breach of Customs Regulations. Customs Authorities share information relating to breach of Customs Regulations with the police for the purposes of prosecuting offenders. It is possible to pass information to the police where criminal activities are suspected outside Customs Administrative areas though there is no legal obligation to do so. It is not necessary that a suspicion of ML/FT or some other crime exist before making such a report. The status quo will be reviewed and regulations on cooperation may be updated.

156. ZIMRA shares information with other foreign customs authorities through various World Customs Organization instruments such as the Nairobi Convention, The Johannesburg

Convention and through bi-lateral Memorandums of Understanding between them and Zimbabwe authorities.

157. ZIMRA cooperate with police, NECI, RBZ, Anti-Corruption Commission, immigration personnel, airport security and foreign customs authorities from time to time when necessary.

Ministry of Home Affairs:

158. The Ministry of Home Affairs primarily deals with security and law enforcement issues and interacts with other organs in Zimbabwe such as the RBZ, the Anti Corruption Commission, the police and other authorities in enforcing Acts of Parliament. The Ministry of Home Affairs together with the Ministry of Justice conducted research on how to deal with external threats to security and they developed an action plan on how to combat these threats. Currently the Ministry of Home Affairs has prepared the SFIT Bill that addresses terrorism and CFT and covers any other terrorism issues not covered under the Public Order and Security Act, 2002. The Bill also clearly defines acts of commission and acts of omission that can cause an individual or an institution to be declared terrorist. The timeframe for the Suppression of Foreign and International Terrorism Bill to come into operation is 2006/2007.

Attorney Generals Chambers (AG's)

159. The AG's office deals with prosecution of criminal cases including money laundering and financing of terrorism crimes. The AG's office has prosecutors who are responsible for prosecuting cases. Normally if the investigation is not conducted well, the Prosecution side can withdraw the case. The AG's office also deals with matters relating to mutual legal assistance in criminal matters as well as extradition. Zimbabwe has 50 criminal courts that deal with serious crimes and could handle prosecution of ML/FT crimes.

160. There are not sufficient prosecutors from the AG's office with prosecution knowledge on economic and financial crimes since such cases are considered technical and unfamiliar. In most cases prosecutors use common knowledge to prosecute any kind of case and they have no specialized areas for prosecution. Judges are also not sensitized in financial and economic crimes. There is a need for more training on money laundering and financing of terrorism crimes to enable effective prosecution to take place.
161. In the case of a third party engaged in the commissioning of an offence and is presumed innocent, he/she will be called in court to testify his/her innocence or otherwise. In Zimbabwe legal persons may be prosecuted for criminal offences like natural persons. There are some companies that have been prosecuted for related criminal matters.
162. For prosecution of money laundering and terrorist crimes there are various pieces of legislation that can be used:
- Bank Use Promotion and Suppression of Money Laundering Act, (2002)
 - Serious Offences (Confiscation of Profits) Act, (2001)
 - Criminal Procedure and Evidence Act, (2006)
 - Criminal Matters (Mutual Assistance) Act, (2001)
 - Public Order and Security Act, (2002)
 - Prevention of Corruption Act, (2002)
 - Exchange Control Act, Sec 2005
 - Extradition Act,
 - Gold Trade Act
 - Precious Stones Trade Act
163. The AG's office was of the opinion that there are adequate laws to cover ML/FT offences; however with more developments amendments should be made accordingly. It is recommended that Zimbabwe consider consolidating the laws related to AML in one Act.

Director General of Public Prosecutions (Prosecution Authority):

164. The Director of Public Prosecutions is head of the Prosecution Department and is responsible for handling criminal prosecutions, including money laundering and terrorist financing and prosecutions.

Zimbabwe Revenue Authority (ZIMRA):

165. ZIMRA was established 6 September, 2001, and joined the Dept of Customs and The Tax department. It was made progress with combating ML. ZIMRA enforces the Exchange Control Act, 1974 on behalf of the RBZ. It is illegal for an individual to take out USD1000 in cash outside Zimbabwe or 500 Million ZWD Dollars without permission being granted by Exchange Control. ZIMRA cooperates with the RBZ and FIIES on ML issues and also works closely with Interpol, Zimbabwe Republic Police, Anti Corruption Commission, NECI and other enforcement authorities. ZIMRA subscribes to the SADC Regional Code of Conduct. There has been an increase in currency smuggling in view of the recent economic crisis.

166. In an attempt to control bribery, ZIMRA has a whistleblower system that covers both internal and external whistleblowers. Outside whistleblowers are rewarded with 10% of proceeds recovered. ZIMRA also use undercover operatives to unearth unworthy elements. Unannounced search on staff premises has yielded 47 arrests of members of staff in the past. The border with Mozambique has been found to be very porous and vulnerable to smuggling. It allows for easy crossing in the absence of natural barriers, as is the case with the South Africa border (the Limpopo River), Zambia (Victoria Falls and the Zambezi River), the Botswana border (a game reserve). To address this deficiency ZIMRA conducts random patrols with the army and the police and their counterparts in neighbouring countries.

167. ZIMRA has organized training programs for staff on ML issues. There is a code of conduct that governs employees of ZIMRA not to engage or aid commission of crime. ZIMRA participates in International forums on money laundering and there is work in progress with Interpol to be more effective.

Anti Corruption and Anti Monopolies Department (AC&AMD):

168. The Department of Anti-Corruption and Anti-Monopolies was created within the Office of the President and Cabinet. Under the Anticorruption Commission Act the government of Zimbabwe established the Anti Corruption Commission which investigates all allegations of corrupt practices. The AC&AMD is responsible for fighting corruption and unfair business practices. Operating legislation also includes the Prevention of Corruption Act (2002) and other financial and economic legislation.
169. The Prevention of Corruption Act defines a corrupt practice as any act, corruptly soliciting, accepting, obtaining, agreeing to accept, or attempting to obtain from any person a consideration endowment or reward for doing or not for having done or not done any act, in relation to his/her principal affairs or business.
170. All cases of corruption are reported to the AC&AMD through written reports, physical visits and a whistle blower program or via telephone calls. There have been some instances where officers from the AC&AMD have had difficulties in distinguishing between corruption acts and money laundering activities and it was requested that further awareness raising on both topics is provided to officers of the AC&AMD to assist them with accurately processing and investigating the claims that are made.
171. When an investigation is conducted by the AC&AMD; warranting further action the information is passed to the Attorney General's Department for prosecution. Regarding proceeds of corruption the AC&AMD has a legal mechanism whereby search, seizure and confiscation can be done through a Court Order. There is little political interference in the AC&AMD's operation since there is strong political will to fight corruption. For instance there have been cases reported where high level government officials (Ministers, Commissioners and Members of Parliament) were found engaged in corrupt practices and action was taken.
172. The AC&AMD has received cooperation from neighbouring countries within the region such as Mozambique and South Africa. Currently Zimbabwe is making efforts to formalize the process of cooperation. Zimbabwe has not ratified the UN Corruption Convention and as a result it has been difficult to obtain cooperation from other countries for instance the United Kingdom where people with alleged involvement with corrupt practices are resident.

173. An Inter-Ministerial Task Force on the fight against corruption was also established to comprise representatives from the Ministry of Justice, Legal and Parliamentary Affairs, Defence, Finance, Information and Publicity, State Security, Home Affairs, ZIMRA and the Reserve Bank.

(ii) *Financial sector bodies:*

174. The Banking Act, 2001 provides for registration and supervision of commercial banks, acceptance houses, discount houses, wire transfer houses and finance houses. There are no stand alone Bureau de Change offices in Zimbabwe. The banking activities that may be specified in a registration certificate include: receiving deposits, extending credit to include consumer and mortgage credit; factoring, with or without recourse; the financing of commercial transactions; providing money transmission services; subject to the Exchange Control Act [Chapter 22:05], buying and selling foreign currencies, including forward and option-type contracts for the future sale of foreign currencies; issuing and administering means of payment, including credit cards, travellers' cheques and bankers' drafts; money broking; the safekeeping and administration of valuables, including securities; providing services as a portfolio manager or adviser or as a financial agent or consultant; financial leasing; entering into or taking cession of hire-purchase contracts in accordance with the Hire-Purchase Act [Chapter 14:09], buying and selling shares on behalf of customers; providing credit reference services; notes and other documents evidencing an exporter's claims on the person to whom the exports are sent, buying and selling instruments, whether for the account of the banking institution concerned or for the account of its customers, including the underwriting of (i) money market instruments including cheques, bills of exchange and certificates of deposit; and (ii) futures, options and other financial derivatives relating to debt securities or interest rates; and (iii) exchange and interest rate instruments; and (iv) debt securities and equity.

175. The Reserve Bank of Zimbabwe ("RBZ") carries out examinations where emphasis is placed on increased Customer Due Diligence (CDD) and Know Your Customer (KYC) procedures, the need to establish the origin of the source of funds as well as identification and reporting of suspicious transactions to the Financial Intelligence Inspectorate Evaluation and Security ("FIIES") located within the RBZ. The FIIES was established under the BUPSM Act, 2004 and has received 201 suspicious transaction reports since its establishment from mainly banking institutions as of the evaluation date. Complementing the Guidelines which are provided to FIs/DNBFPs, the FIIES have also provided anti-money laundering compliance examination

guidelines to FIs to review and analyse managements AML risk assessment of all major business lines and products to determine if the institution engages in activities that could expose it to potential money laundering activities

176. **FIIES:** 25 FIIES officers are involved in the handling of AML/CFT issues, as of the evaluation date by receiving, analyzing and disseminating Suspicious Transaction Reports received from financial institutions to the Police. Investigative officers from the Police and FIIE are in contact and meet to discuss progress made on STRs submitted. Officers from the FIIES continue to do the investigations with police officers and other law enforcement agents. The RBZ ensures that the financial institutions comply with the requirements of the Banking Act, 2001, BUPSM Act, 2002 and Guidelines by conducting on-site examinations of such institutions.
177. The Zimbabwe Investment Centre (ZIC) is a parastatal made for evaluating foreign investors in a bid to remain abreast with investment trail so as to ensure continued compliance with AML/CFT.

Stock Exchange:

178. Zimbabwe's Stock Exchange was founded in 1896 and was properly established under the Stock Exchange Act, 1974. The requirements for registration for individual and corporate membership is provided for under the Stock Exchange Charter. The Stock Exchange is run by a Committee that reports to the Ministry of Finance. A Securities Commission has recently been established under the Act but requires funding to be functional and awareness raising on AML/CFT. The Stock Exchange has a Charter that provides a code of conduct for its members. The Charter also provides for the registration of listed companies. The Stock Exchange trades market capitalization has US4 Billion. There are 17 registered Stock Brokers and there are 80 listed companies in the Stock Exchange market. The Stock Exchange is self regulatory and it provides monthly reports. The report covers capital adequacy, risk management and structure of their operative business. Each client is required to sign a mandatory form providing all details and relevant information as part of the Stock Exchange KYC policy. The Stock Exchange doesn't accept cash payment. All payments are supposed to go through a bank and normally payment is settled after seven (7) days for institutional investors. On the settlement date the payment is done through banking system and there are no third party payments. The Stock Exchange provides for the monthly returns that require companies to report on their income statement and balance sheet, broker to broker open position and broker to client open position. Investments

comprise of 90% institutional investors (mostly fund managers), 8% individuals, and 2% foreigners.

179. The Stock Exchange is aware of the guidelines on money laundering that have been issued by RBZ (the BUPSMML Guidelines) but they have not been fully implemented. There are sanctions in case a member defaults as they can be suspended or deregistered. Some progress has been made where the Stock Exchange has blacklisted entities that do not comply and there are statistics on brokers and entities that have been sanctioned and in one example Old Mutual Shares were flagged when a request was received to transfer the shares outside of the country. There is a requirement for monthly returns which also allow for investigation of the member's operation system. In the monthly return a compliance officer checks levels of compliance. The Stock Exchange of Zimbabwe is a member in the Community of SADC Exchanges. It is also a member in the community for Insurers and non Bank Communities.

(iii) DNFBPs

Law Society of Zimbabwe

180. Zimbabwe Law Society: All registered legal practitioners are members of the law society. Most of Zimbabwe lawyers are members of the Law Society. The Law Society handles cases concerning possible contraventions of the professional duties and ethics applicable to lawyers, including cases that may lead to the loss or suspension of a lawyer's license. The Law Society is presently challenging the designation of lawyers in court under the BUPSMML Act with regards to Lawyers needing to submit Suspicious Transaction reports on clients. The parties are presently negotiating the solution.

Zimbabwe Institute of Public Accountants:

181. The Zimbabwe Institute of Public Accountants are covered by the Public Accountants and Auditors Act, Chapter 2712 and is the professional body for registered auditors and Accountants in Zimbabwe. There are 300 registered and state authorised auditors and Accountants in Zimbabwe.

C. Approach concerning risk

182. Zimbabwe anti-money laundering legislation and measures were adopted before the 2003 revision of the FATF 40 Recommendations. The BUPSM Act came into effect in 2004. Consequently, Zimbabwe legislation is not based on risk-assessments conducted in the manner or to the extent provided for in the revised FATF Recommendations. Zimbabwe plans to take a risk based approach to compliance with AML issues but to date it has not been implemented. However it is expected to take a similar approach with that of the supervision. Financial Institutions and DNFBP shall be required to put in place risk management programs on AML/CFT issues so as to allow a risk based approach for compliance. They will then need to be trained to implement such a program. Training support will be required for such agencies.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1 Criminalisation of Money Laundering (R.1 & 2)

Description and Analysis

Recommendation 1:

183. Zimbabwe has criminalised money laundering under Sections 63 and 64 of The Serious Offences (Confiscation of Profits) Act enacted in 1990 and further amended in 2001. Money Laundering is also referred to as a specified offence under Section 2 in the Act in which money laundering is associated with the proceeds of a serious narcotics offence.
184. In terms of the Act, money laundering is committed where the person:
- (a) engages directly or indirectly in a transaction whether in or outside Zimbabwe, which involves the removal into or from Zimbabwe of money or other property which is the proceeds of crime or;
 - (b) receives, possesses, conceals, disposes of, brings into or removes from Zimbabwe any money or other property which is the proceeds of crime and he knows or ought to have reasonably known that the money or other property was derived or realised directly, or indirectly from the commission of an offence.
185. The penalty at the time of evaluation for the offence of money-laundering in terms of an individual is a fine not exceeding \$20,000.00 or twice the value of the property, which ever is greater, or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment. Legal persons are liable for criminal conduct in the same way natural persons are. Under Section 65 of the Serious Offences (Confiscation of Profits) Act a penalty or a fine not exceeding \$500 000.00 or three times the value of the property, which ever is the greater is prescribed applies to legal persons. By international standards the monetary penalty appears insufficient when converted to USD. The period of imprisonment is sufficient.

186. As previously stated, Zimbabwe is currently in a state of hyper inflation. As a result fines are not in tandem with the economic changes taking place. At time of writing a \$1.00 USD was equal to \$250.00 ZWD on the official market. One US dollar on the parallel market was equal to \$5,000.00 ZWD dollars. The rate of inflation ranges between 1200% and 1500% per year. The range of penalties for serious offences is shown on the chart below.

SUMMARY OF SENTENCING PATTERNS

Offence	Fines and or Custodial Sentence
Externalization of Funds	Minimum fine of \$1000 to a maximum of 76000000 Custodial Sentence- Nil
Fraud	Minimum fine of \$250 to a maximum of \$10,000 Custodial Sentence minimum of 12 months to a maximum of 13 years
Armed Robbery	Minimum sentence of 4 years to a maximum of 49 years
Theft of M/V	Minimum sentence of 5 months to a maximum of 14 years
Carjacking	Minimum sentence of 12 months to a maximum of 14 years
Money laundering	Minimum fine of \$50,000 to a maximum of \$120,000 Minimum sentence of 10 days and maximum of 14 years
Corruption	Minimum sentence of 3 months to a maximum of 36 months
Dangerous Drugs Act	Minimum fine of \$250 to a maximum of 5 million Minimum sentence of 12 months to a maximum of 14 years
Theft by False Pretences	Minimum sentence of 1 month to a maximum of 4 years
Forgery and Uttering	Minimum 10,000.00ZWD maximum 1 million

	ZWD. Two months in goal to three years
Bank use and Suppression of Money Laundering Act	Minimum fine 1 million ZWD max 90 Million ZWD. 20 months in goal
Smuggling of precious stones	Nothing supplied

187. The knowledge element inferred from objective factual circumstances is covered under Section 63(1)(b) of the Serious Offences Confiscation Act which states that any person who receives, possesses, conceals, disposes of, brings into or removes from Zimbabwe, any money or other property which is the proceeds of crime; and knows or ought to have reasonably known that the money or other property was derived or realised, directly or indirectly, from the commission of an offence, commits an offence.
188. The penalty for attempting, conspiring and incitement to commit money laundering or any other offence against any enacted law or common law, if no punishment is expressly provided in that enacted law or common law, shall be determined against the punishment threshold of the main offence in regard being had to the principals of this section. 191. Laundering the proceeds of crimes committed outside the country and offences which apply to the person who committed the predicate offence (self-laundering) are covered under Section 63 (a) which states that a person who engages, directly or indirectly, in a transaction, whether in or outside Zimbabwe, which involves the removal into or from Zimbabwe, of money or other property which is the proceeds of crime commits an offence.
189. The Serious Offences (Confiscation of Profits) Act, 2001 does not require that a person be convicted of a predicate offence in order to prove that property involved is the proceeds of crime. Where there is no evidence to show that a person participated in the predicate offence but that he/she benefited from the offence, he can still be prosecuted for money laundering without the state necessarily proving his participation in the predicate offence. To-date three persons have not been convicted for a money laundering offence.
190. While the existing laws do not list predicate offences for money laundering, the Serious Offences (Confiscation of Profits) Act, 2001, prescribes a serious offence (potential predicate offence for ML) is punishable by imprisonment for a period of 12 months by a more severe punishment or the value of the property derived or obtained from the commission of the offence of which is likely to be not less than \$20000.00 or such greater or less amount as may be prescribed and includes a specified offence which includes serious Narcotic offences, money laundering offences connected to narcotics offences, conspiring to commit or aiding, abetting, concealing or

procuring the commission of an offence related to the above categories. Serious offences are listed in the sentencing guidelines chart noted above.

191. Ancillary Offences to ML in terms of the definition of a specified offence also include conspiring to commit or aiding, abetting, concealing or procuring under the commission of a serious offence. Similar provisions are also found under Section 360 of the Criminal Procedure and Evidence Act, (2006).
192. Proceeds of crime in terms of the laws of Zimbabwe means any property that is derived or realized directly or indirectly by any person from the commission of a serious offence or any act or commission which occurred outside Zimbabwe in relation to narcotics substance and which had it occurred in Zimbabwe would have constituted a serious narcotic offence.
193. The Bank Use Promotion and Suppression of Money Laundering Act 2004 (“BUPSML”) under Chapter 24:24, also criminalises money laundering and requires the institutions designated in terms of the BUPSML to identify customers, maintain records of transactions, confiscation, seizure and forfeiture of proceeds of crime. The acts also prohibit dealings, acquiring and holding of tainted property. The BUPSML Guidelines provides information on how the BUPSML Act, 2002 needs to be implemented by all accountable institutions which includes FIs and most DNFBPs. While the BUPSML Act, 2002 has been enacted for quite some time the BUPSML Guidelines are a revised version of previous guidelines and have only come into force on the 1st of April 2006. There was no evidence that sanctions have been taken against any institution regarding AML/CFT for non-compliance since the enactment of the BUPSML Act, 2002.
194. The BUPSML Guidelines are enforceable (Section 3). The Reserve Bank of Zimbabwe in the exercise of its supervisory duties will monitor adherence to these guidelines and failure to measure up to the standards contained in these guidelines will be dealt with in line with the appropriate penalties. It is a criminal offence for financial institutions and non-financial institutions to fail to take measures as contained in the guidelines to prevent their institutions or the services their institutions offer from being used to commit or to facilitate the process of money laundering. The following listed accountable institutions can have action taken against them for non-compliance. These institutions are:

- Any banking institution registered or required to be registered in terms of the Banking Act Chapter 24:24
- Any building Society registered or required to be registered in terms of the Building Societies Act Chapter 24.02
- The People's Own Savings Bank established in terms of the People's Own Saving Bank of Zimbabwe Act, Chapter 24.22
- The Reserve Bank
- Cash Dealers (money transfer)
- Casinos (which also includes internet casinos).
- Real estate agents.
- Dealers in precious metals.
- Dealers in precious stones.
- Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to 'internal' professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.
- Trust Companies

195. The Criminal Procedure and Evidence Act 2006 (Chapter 9:07) criminalises any attempt, conspiring aiding or incitement to commit any offence against any enactment

196. Zimbabwe's money laundering offence meets most of the requirements of the Vienna Convention and Palermo Convention which obligate countries to make it a criminal offence to intentionally conceal or disguise, or convert or transfer property knowing that it is derived from a list of enumerated drug offences (in the Vienna Convention). The Police have reinforced these requirements by manning Zimbabwe's entry and exit points as well as relying on communities that often inform them of information of persons engaging in such practices that enables them to carry out searches for Narcotic Substances. However since a wide range of predicate offences for money laundering are not covered in any of the current legislation Zimbabwe, does not yet fully meet the requirements as set out in the Palermo Convention which refers to all serious offences and not just narcotics.

197. The laws of Zimbabwe require that a person be convicted of a predicate offence in order to prove that property involved is the proceeds of crime. Where there is no evidence to show that the person participated in the predicate offence but that he benefited from the offence, he can still be prosecuted for money laundering without the state necessarily proving his participation in the predicate offence.
198. Where the property acquired, held or is being dealt with in any way it is shown to be tainted property, the High Court of Zimbabwe at the instance of an application by the Attorney General shall forfeit such property to the state.
199. Zimbabwe acceded to the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention 1988) in July 1993. Zimbabwe is a signatory but has not yet ratified the UN Convention Against Transnational Organised Crime (Palermo Convention 2000).
200. The steps taken to proceed with a prosecution start with the compilation of a docket which is prepared for the A.G.'s office by the Police. A draft charge is already reflected on the face of the docket when submitted to the AG. A trial date is established and witnesses are called at trial. There are no jury trials in Zimbabwe. If the accused cannot afford a lawyer one will be provided by the state in related to serious offences such as murder, treason and other serious offences. Prior to trial the defence and prosecution agree to issues that will be argued. In court the charge is put to the accused and a plea is entered. If the accused pleads an oral summary of the case will be read into the record. After trial the Judge or magistrate decides on guilt or innocence of the accused. If a guilty plea is entered an agreed summary of facts will be entered into the record. After conviction the state will advise whether it intends to apply for forfeiture of proceeds of crime. Third parties interests are considered at this time. This is the sentencing stage where the court decides on forfeiture.

Recommendation 2

201. The offence of money laundering applies to natural persons that knowingly engage in money laundering activity. The Serious Offences (Confiscation of Profits) Act, 2001 expressly covers both intentional and negligent money laundering (even though the FATF Recommendations only require intentional ML to be criminalised). The concept of *Dolus Eventualis* exists in Zimbabwe

but it seems to become relevant only in murder cases. The concept is rarely used in financial or economic crimes.

202. The Serious Offences (Confiscation of Profits) Act provides that a person shall be guilty of the offence of money –laundering if the person engages directly or indirectly in a transaction be it in Zimbabwe or outside Zimbabwe which involves the removal into or from Zimbabwe, of money or other property which is the proceeds of crime or receives, possesses, conceals, disposes of, brings into Zimbabwe or removes from Zimbabwe any money or other property which is the proceeds of crime and at the time he knew or ought to have reasonably known that the money or the property involved was derived or realised, directly or indirectly from the commission of an offence.
203. The Serious Offences Act provides for inference to be relied on where the circumstances of the case are such that the person involved ought to have reasonably known that the money or property involved was derived or realised directly or indirectly from the commission of a crime. There have been cases using this concept however, it is used on negligence cases rather than ML offences.
204. Legal persons are liable for criminal conduct in the same way natural persons are. Under Section 65 of the Serious Offences (Confiscation of Profits) Act a penalty of a fine not exceeding \$500 000.00 or three times the value of the property, whichever is the greater is prescribed applies to legal persons. However the Act does preclude for legal persons the possibility of parallel, criminal, civil or administrative proceedings in countries where more than one form of liability is available.
205. Section 65 of the Act also refers to the conduct of directors, officers, employees or agents. The Section states that it is “necessary to establish the state of mind of a body corporate in respect of conduct engaged in or deemed, in terms of subsection (2), to have been engaged in, by the body corporate, it shall be sufficient to show that a director, officer, employee or agent of the body corporate, being a director, employee or agent by whom the conduct was engaged in the course of his employment, had that state of mind.
206. Conduct is also defined by any conduct engaged in on behalf of a body corporate, by a director, officer, employee or agent of the corporate body in the course of his employment; or any other person at the direction or with the consent, whether express or implied, of a director, employee or agent of the body corporate, where the giving of the direction or consent is within the scope of

authority of the director, officer, employee or agent; shall, for the purposes of this Act, be deemed to have been engaged in by the body corporate.

207. The Act also covers any conduct engaged in on behalf of a person other than a body corporate by an employee or agent of the person within the scope of his authority; or any other person at the direction or with the consent whether express or implied, of an employee or agent of the first-mentioned person, where the giving of the direction or consent is within the scope of authority of the employee or agent; is deemed to have been engaged in by the first mentioned person.

Recommendations and Comments

208. Zimbabwe has enacted a package of legislation that criminalizes ML. They are the Serious Offences (Confiscation of Profits) Act and the BUPSM Act, 2002. The Serious Offences (Confiscation of Profits) Act provides for inadequate penalties for ML bearing in mind the ZWD Dollar exchange to USD for fines imposed). The laws also provide for record keeping requirements, enforce the duty to report ML/FT, provides for the protection of persons making reports, tipping off, seizure, international co-operation, and other provisions. However the Serious Offences (Confiscation of Profits) Act needs to be amended to reflect the crime of money laundering to all serious offences, as it currently stands ML is criminalized under the law and only associated with serious narcotics offences (without the crime of ML applying to all serious offences).
209. Persons can be prosecuted for ML had the conduct occurred in another country. The intent and knowledge required to prove ML is consistent with the Vienna and Palermo Conventions. Ancillary Offences to ML in terms of the definition of a specified offence also include conspiring to commit or aid in ML. Legal persons are also liable for criminal conduct in the same way as natural persons. However natural and legal persons are only subject to criminal sanctions and as yet are not subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for ML. It is recommended that the Serious Offences (Confiscation of Profits) Act is amended to address this issue. Since there have been a few prosecutions leading to convictions for ML or FT, it is not possible to assess accurately whether the law is effective as a law enforcement mechanism or whether it could serve to deter and detect ML or FT.

210. The law enforcement agencies should increase capacity in this area as soon as possible. This would need to include resources, training and cooperation with the judiciary and supervisors /regulators in the region and at an international level. Regular meetings should be held between these parties to facilitate the implementation of an AML/CFT strategic plan to satisfy the international standards and conventions.
211. Efforts should be made to ratify the 1988 UN Convention. Against Transnational Organized Crime (the Palermo Convention). Zimbabwe also needs to sign and ratify the 1999 UN Convention for the Suppression of the Financing of Terrorism. UN Resolution 1373 needs to be complied with and then complemented by the enactment of the SFIT Bill that should be passed in due course.
212. Zimbabwe needs to allocate more resources for effective implementation of the proposed laws. There is need for capacity building among the law enforcement agencies and AG's Office and the NECI. All though Prosecutors and police officers are trained, like any government department the problems of staffing lie across the board.

Compliance with Recommendations 1 & 2

	Rating	Summary of factors underlying rating
R.1	PC	<ul style="list-style-type: none"> • While ML is criminalized under the Serious Offences (Confiscation of Profits) Act, the offence does not extend to all serious offences and is only referred to serious narcotics offences. • Some of predicate offences listed as serious offences under the recommendation are also not criminalized under current Zimbabwe legislation (for instance trading in gold). (check on gold trading criminalized)
R.2	PC	<ul style="list-style-type: none"> • Natural and legal persons are only subject to criminal sanctions and as yet are not subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for ML

2.2 Criminalisation of Terrorist Financing (SR.II)

Description and Analysis

Special Recommendation II:

213. Currently legislation dealing with terrorist financing is inadequate as it is scattered in various pieces of legislation. Terrorist financing is not adequately criminalized and is not a predicate offence for ML. The main pieces of legislation providing for action against acts of terrorism and in part terrorist financing are the Public Order and Security Act, 2002, The Serious Offences (Confiscation of Profits) Act, 2001, the Prevention of Corruption Act, 2002, the Criminal Procedure and Evidence Act and the Criminal Matters (Mutual Assistance) Act. .

214. The Public Order and Security Act, 2002 (“POSA”) criminalizes acts of terrorism under Section 6 and The Prevention of Terrorism (Special Measures) Regulations 2003 (G.N. No. 14 of 2003) have been enacted to address issues related to terrorism. The Terrorist activities as referred above are as follows:

- Causing or furthering an insurrection in Zimbabwe; or
- Causing the forcible resistance to the Government or the Defence Forces or any law enforcement agency; or
- Procuring by force the alteration of any law or policy of the Government;
- Committing any act accompanied by the use or threatened use of weaponry with the intention or realising that there is a risk or possibility of—
 - (i) Killing or injuring any other person; or
 - (ii) Damaging or destroying any property; or
 - (iii) Inflicting financial loss upon any other person; or
 - (iv) Obstructing or endangering the free movement in Zimbabwe of any traffic on land or water or in the air; or
 - (v) Disrupting or interfering with an essential services; shall be guilty of an offence, whether or not any terrorist act is accomplished.

Where the act of terrorism results in the death of a person, the punishment imposed is a death sentence or imprisonment for life.

215. The POSA also provides for offences relating to recruiting or training terrorists, training as a terrorist, supplying weaponry or possessing weaponry to be used for terrorism, harbouring, concealing or failing to report terrorists.

216. The SFIT once enacted will deal with the issue of mercenaries and will impose more severe penalties against them. At present only immigration laws and possession of arms violations laws as well as POSA can be used to treat mercenaries.
217. The POSA mainly deals with domestic acts of terrorism and does not clearly address or criminalise terrorist financing or provide a wide scope of “funds” used to finance the act. The POSA states that it is a crime to “assist” anyone willing to commit a terrorist act or provide weapons or artillery for terrorist acts, but does not stipulate the provision of any monetary instruments to fund terrorist activities. The provision of weapons and artillery could be classed as assets of every kind, however the POSA needs to be amended so as to include provision of any monetary instruments for FT. Zimbabwe’s response in the questionnaire indicated the POSA does prohibit the providing of and collecting of funds directly or indirectly with knowledge and intention to fund terrorist activities.
218. The Serious Offences (Confiscation of Profits) Act 2001, provides for freezing, seizure, confiscation of any property used in, or in connection with, the commission of a serious offence. The Act also provides for search in emergencies where police are permitted to enter and seize without the authority of an order of the court in circumstances of such seriousness and urgency. Since terrorism is criminalized under the POSA as a serious crime, the Serious Offences (Confiscation of Profits) Act, 2001, could be used to confiscate property or funds related to terrorism. Under Section 40 of the BUPSML Act, police can also seize and detain any currency that is being imported into or exported from Zimbabwe if such currency was derived from the commission of a serious offence or is intended to be used in the commission of a serious offence.
219. Once terrorist financing has been properly criminalized, Section 360 of the Criminal Procedure and Evidence Act will apply which prohibits the incitement conspiracy, attempting, aiding or abetting any offence whether at common law or against any enactment. Furthermore the Criminal Matters (Mutual Assistance) Act will also apply since it provides for international cooperation in evidence gathering, extradition and general information exchange in various criminal matters for all serious offences.
220. The SFIT Bill clearly criminalizes the financing of terrorism. The criminalization of terrorism is not restricted to terrorist or terrorist organization located in Zimbabwe only. The act also criminalizes the financing of terrorist or terrorist organizations that are located outside of

Zimbabwe. The Bill clearly state that a person commits an offence if amongst other things, funds or property are collected or provided for Terrorist Acts. A person who collects or provides funds for the commission of terrorist acts outside Zimbabwe would clearly be committing an offence as long as the collection or the provisions of funds or property was done in Zimbabwe against a Government of a foreign state. The SFIT also deals with the handling of mercenaries.

221. The Public Order and Security Act 2002 and The Prevention of Terrorism (Special Measures) Regulations 2003 (G.N. No. 14 of 2003) have been enacted to address issues related to terrorism
222. Special Recommendation II also requires countries to criminalise a third type of activity—collecting funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. With regards to this third type of activity, it should not be necessary for the collector to intend that the terrorist/terrorist organisation uses the funds to carry out a terrorist act; it should be sufficient to have collected the funds for the terrorist/terrorist organisation with the intention that they be used for any purpose. Nor should it be necessary for the collector to have yet made those funds available to the terrorist/terrorist organisation.
223. It is an offence to: (i) attempt to commit terrorist financing; (ii) participate as an accomplice in a terrorist financing offence) or (iii) enter into an agreement to commit terrorist financing as part of the activity of an organised group or network. However, conspiracy is only an offence if it involves an agreement to commit a serious offence as part of the activity of an organised criminal group). Consequently, the conspiracy offence does not extend to a conspiracy involving only two people, and the requirement for an “organised group” with a particular purpose only applies to certain terrorist financing scenarios. There is no fundamental principle of domestic law that would preclude such conduct being criminalised, particularly given that conspiracy in the planning of a terrorist act and involving only two people is expressly criminalised.
224. Terrorist financing offences should apply, regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organisation(s) is located or the terrorist act(s) occurred/will occur. The terrorist financing offence is subject to the same principles as the money laundering offence concerning: (i) inferring the intentional element of the offence from objective circumstances; (ii) criminal liability for legal persons; and (iii) the possibility of parallel criminal, civil or

administrative proceedings. As with the money laundering offence, these requirements are met for the purpose of the terrorist financing offence.

225. Terrorist Financing is also referred in the BUPSMML Guidelines. However the Guidelines only provide a summary of the shortcomings in dealing with TF and recommends that Zimbabwe takes immediate and strong action to enact appropriate legislation to combat TF.

226. In order to enhance Zimbabwe's efforts at tackling money laundering and terrorist financing there is need to harmonise efforts by moving in tandem with international developments and best practices. Zimbabwe thus has to ensure that international conventions and Resolutions designed to combat organized crime, money laundering and terrorist financing are ratified. They include:

- The convention for the suppression of the financing of Terrorism (1999)
- United Nations Convention Against Transnational Organised Crime (2001) and
- The United Nations Convention against Corruption.
- The compliant with UN Resolution 1373.

227. Law Enforcement authorities and the judiciary require continuous training on TF matters. The AG's office does not have state counsels who are able to effectively carry out prosecution of FT offences as there is no offence at the present time in Zimbabwe. Officers from the RBZ are to ensure during inspections that financial institutions are reporting and recording any instances of TF. To date, there have been no prosecutions or convictions for terrorist financing in Zimbabwe. Nor has the FIIES received any suspicious transaction reports in which it was indicated that the underlying suspicion relates to terrorist financing.

Recommendations and Comments

228. Zimbabwe should ensure that all requirements for SRII are met in the SFIT Bill. Once the Bill satisfies these requirements the Bill needs to be enacted in a timely manner.

229. In the absence of enacted TF legislation, the POSA needs to be amended so that the offence covers: (i) collecting funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation/individual terrorist.

230. The Serious Offences (Confiscation of Profits) Act, 2001 needs to be amended to include TF offences as predicate offence for money laundering.
231. State prosecutors need to have access to AML and FT case laws from other jurisdictions to assist them in successfully prosecuting any cases involving ML or FT. Police officers need to obtain training in advanced investigative techniques on ML and FT.

Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	NC	<ul style="list-style-type: none"> SR II requires countries to criminalise collecting funds in the knowledge that they are to be used (for any purpose) by a terrorist/terrorist organisation. This requirement is not adequately covered in the POSA or complementary legislation. Effectiveness cannot be measured since Zimbabwe has not enacted effective legislation to criminalise and deal with TF and no cases of TF have been brought before the courts.

2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

Description and Analysis

Confiscation

232. Confiscation of the proceeds from any criminal offence (or property of corresponding value) is provided for under Section 33 in the Serious Offences (Confiscation of Profits) Act, 2001 as well as the criminal procedure and evidence Act Chapter 9:07 soon after conviction upon application by state council. Any asset, profit or other benefit derived directly or indirectly from the proceeds shall also be confiscated. To initiate confiscation, the Attorney General may apply to the Court for an interdict when a person has been convicted of a serious offence or is about to be charged with a serious offence to have confiscated any specified property of that person including property acquired after the issue of the interdict. The Court shall not issue such an order unless the application is supported by an affidavit of a police officer alleging the commission of an offence by the defendant or unless the court is satisfied that the matters disclosed in the affidavit disclose reasonable grounds for holding that belief. Once the accused is convicted the property or funds are forfeited to the state.

233. Under Section 2 of the Serious Offences (Confiscation of Profits) Act, 2001, the authorities may freeze any “tainted property” which means:
- Any property used in, or in connection with, the commission of a serious offence; or
 - Any proceeds of a serious offence; or
 - Any property in Zimbabwe which is the proceeds of a foreign specified offence in respect of which an order may be registered in terms of Part VI of the Criminal Matters (Mutual Assistance) Act [Chapter 9:06];
234. Section 25 of the Serious Offences (Confiscation of Profits) Act, provides the police with powers of search and seizure of property which the police officer believes on reasonable grounds is tainted property. The search or seizure action is also provided for under Section 36 of the BUPSM Act, 2002, which permits the FIIES Inspectors to carry out entry, searches, or seizure of cash which is unlawfully held but such an Inspector can only do so when accompanied by a police officer, but where he believes that a delay might cause defeat, the objective of search entry or seizure he shall proceed to search, entry or seize without police officer.
235. Search and seizure can be made with the consent of the person involved, or under warrant or without warrant and the consent of the person concerned shall not be required where the police on reasonable grounds believe that the property involved can be destroyed, concealed, disposed of, or lost. These powers are also extended to Inspectors under the BUPSM Act, 2002.
236. Where property is seized, the Police are required to arrange for the property to be kept and to take all reasonable steps to preserve it while it is so kept until it is required or disposed of in terms of the Act.
237. Under Section 30, a person may apply to the court for an order that the seized property be returned to him/her under the following circumstances:
- Where it appears that the property was seized otherwise than because it may afford evidence of the commission of an offence; or
 - At the end of the period of forty-eight hours after its seizure, the matter has not been laid before a magistrate; or
 - No forfeiture order is made in respect of the property within fourteen days after the conviction of a person in connection with the property;

If the application is successful the Police must arrange for the property to be returned to the person from whose possession it was seized as soon as practicable.

238. A police officer is authorized in terms of the Criminal Matters (Mutual Assistance) Act [Chapter 9:06] to apply for a search warrant in relation to tainted property in respect of a foreign specified offence. If in the course of searching the police officer finds any property that he believes on reasonable grounds to be tainted and relevant to criminal proceedings or provide as evidence of the criminal offence in the foreign country and deems it necessary to seize that property or thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or any other offence, the police officer is authorized to seize that property or thing. Any person who claims an interest in property seized under a warrant issued in respect of a foreign specified offence may apply to court for an order that the property be returned to him/her.
239. Confiscation of instrumentalities used or intended for use in the commission of any criminal offence (or property of corresponding value), or which are the product of such an offence, may be confiscated if this is considered an appropriate penalty for the act). Instrumentalities that belong to a third party (or an amount of corresponding value) may also be confiscated if the third party understood or should have understood that the object was meant for use in a criminal act. Confiscation of goods (including rights and claims) that have been produced by or been the subject of the money laundering (property of corresponding value) is also discretionary.
240. In the case of capital assets, when there is a reason to fear that execution will otherwise be precluded or essentially impeded, the court may decide that a charge for a specific amount should be made on capital assets belonging to a person charged with an offence in order to secure the payment of confiscation orders, for which it is assumed that the suspect will be adjudged liable. This however is normally used in private prosecutions. Charging orders may also be made on assets belonging to third parties. Charging can also be used to secure a value-based confiscation claim, although the charging order itself must be related to specific assets. An order cannot be made to charge all of the defendant's assets as a whole. This may create problems in extended confiscation cases where the prosecution does not know all of the property that is owned or controlled by a defendant at the time of charge. It is unclear whether a court has the power to order a defendant to disclose all of his/her assets. However, law enforcement and prosecution

authorities may gather information about the assets a person has declared to the tax authorities in the context of filing tax returns.

241. The principal rule is that the court takes the decision on charging property following a petition from the Prosecution Authority. However, in urgent cases, the Prosecution Authority may take the decision itself. In both cases, the decision to charge is taken without prior notice to the party concerned. The Attorney General's Office has the possibility to appeal if the court rejects the petition. The Prosecution Authority must notify the court after the execution of the charging order. The court will then summon a court hearing to determine whether the charge on the property shall be sustained. The A.G. can, on occasion, direct the police to arrest an accused.
242. A seizure order applies only to specified assets and cannot be made to seize all of the defendant's assets. Seizure may continue until a final and enforceable decision has been made in the case. The decision to seize and the execution of that seizure are taken without prior notice to the suspect or third party. The principal rule is that notification should be given after the execution of the seizure. The suspect or any third party that has an interest in the property may then ask the court to decide whether the seizure decision should be sustained. Property that has been frozen/seized is not released to meet the defendant's legal expenses, which are met by the State. However an amount may be released to meet the basic living expenses of defendant's dependents.
243. At the airports there is now enhanced screening in which baggage scanners have been fixed for tracing and identifying contraband goods. Most contraband goods confiscated are mainly cigarettes and gold.
244. The Serious Offences (Confiscation of Profits) Act, 2001, the BUPSMML Act, 2002, and the Criminal Procedure and Evidence Act, give the police and the FIIES adequate powers to enable them to identify and trace property.

245. Section 10 of the Serious Offences Act provides protection to any person who has an interest in the property against which an application for forfeiture has been made and where the court is satisfied that the person did not participate in the commission of the offence or acquired the property in circumstances which did not arouse reasonable suspicion that the property was tainted, the Court shall make an order transferring the interest of the State in that property to the other party.
246. Section 6(5) and section 33(4) of the BUPSMML provides the prohibition of hindering, obstructing or making of any false representation to a police officer or inspector during the course of his duties particularly relating to search, entry or seizure of items suspected to be proceeds of crime.
247. Property subject to confiscation, but without a conviction of any person (*civil forfeiture*), in addition to the system of confiscation triggered by a criminal conviction is provided for under Sections 13-18 of the Serious Offences (Confiscation of Profits) Act, 2001.
248. Law enforcement authorities have investigative powers to identify and trace assets. These powers are the same as those which are available to investigate crimes of money laundering and terrorist financing, and include the power to order production of documents, conduct surveillance, search persons and premises, and seize funds and assets.
249. The following chart sets out the total number of confiscation orders granted and the amount of money confiscated by Zimbabwe authorities.

Zimbabwe Confiscation orders issued for Drug Trafficking and Money laundering

Confiscation orders issued on	2003	2004	2005	2006
Drug Trafficking	2	1	3	3
Money Laundering	-	-	2	2

Additional elements:

250. In serious cases (i.e. those which attract a significant penalty of imprisonment and which may result in a considerable gain), the option of extended confiscation or may be used to satisfy the claims of victims of crime.

Recommendations and Comments

251. Zimbabwe could improve the efficiency of its confiscation system by taking steps to improve the awareness of police concerning the need to secure confiscation claims (either by charging or seizure) early on in the case.

252. The legislation is not clear if there is power to freeze or forfeit instrumentalities used in, or intended for use in, money laundering, nor the proceeds of money laundering held by third parties. These requirements need to be clarified in the Serious Offences (Confiscation of Profits) Act.

253. Zimbabwe should consider establishing an Asset Forfeiture Unit to effectively deal with freezing and confiscation of assets as it appears that the Police do not have enough resources to effectively perform this task. Since there has not been any investigation, prosecution or confiscation for FT offences, confiscation authority and implementation is untested.

Compliance with Recommendations 3

	Rating	Summary of factors underlying rating
R.3	PC	<ul style="list-style-type: none"> • There are freezing and forfeiture measures for serious offences (which includes ML) however the system has not yet been tested in relation to ML or TF. • The legislation is not clear if there is power to freeze or forfeit instrument abilities used in, or intended for use in, money laundering held in third parties. These requirements need to be clarified in the serious offences (confiscation of Profits) act.

2.4 Freezing of funds used for terrorist financing (SR.III)

Description and Analysis

254. Zimbabwe has not enacted effective legislation that criminalizes terrorist financing. Freezing property in the terrorist financing context (as in the money laundering context) means preventing anyone from having the property at his/her direct or indirect disposal. Typically, this involves blocking a bank account. The main purpose of freezing property is to temporarily freeze a person's property as a means of preventing him/her from using the funds to carry out terrorist acts. However freezing of funds that could be used to commission a serious offence is provided for in the Serious Offences (Confiscation of Profits) Act.
255. **Freezing action pursuant to S/RES/1267(1999):** United Nations Security Council Resolutions (UNSCR) S/RES/1267(1999), S/RES/1333(2000) and S/RES/1390(2002), adopted by the United Nations Security Council (UNSC), are not adequately addressed by any of Zimbabwe's legislation.
256. The Serious Offences (Confiscation of Profits) Act 2001, provides for freezing, seizure, confiscation of any property used in, or in connection with, the commission of a serious offence. The Act also provides for search in emergencies where police are permitted to enter and seize without the authority of an order of the court in circumstances of such seriousness and urgency. Since terrorism is criminalized under the POSA as a serious crime, the Serious Offences (Confiscation of Profits) Act, 2001, could be used to confiscate property or funds related to terrorism.
257. Under Section 40 of the BUPSMML Act, police can also seize and detain any currency that is being imported into or exported from Zimbabwe if such currency was derived from the commission of a serious offence or is intended to be used in the commission of a serious offence.
258. Mutual assistance in criminal cases is provided for under the Criminal Matters (Mutual Assistance) [Act Chapter 9:06]. The Act covers a wide spectrum of assistance which can be rendered to foreign jurisdictions.
259. The Bank Use Promotion and Suppression of Money Laundering Act provides adequately for the communication of any adopted freezing mechanisms to the financial sector through the creation of an FIU.
260. Under the BUPSMML Act and Serious Offences (Confiscation of Profits) Act countries have effective and publicly known procedures for unfreezing, in a timely manner, the funds or other

assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person.

261. Zimbabwe has appropriate procedures for authorising access to funds or other assets that were frozen and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses. This is provided for in Section 50 of Serious Offences (Confiscation of Profits) Act and BUPSMML Act [Cap.24:24]
262. Zimbabwe has appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge that measure with a view to having it reviewed by a court. This is provided for in Section 29 of the BUPSMML Act Cap.24:24] and section 10 of the Serious Offences (Confiscation of Profits) Act
263. Freezing, Seizing and Confiscation in other circumstances is provided for under the Serious Offences and Criminal Procedure and Evidence Acts. Examples are drug offences, exchange controls and Money Laundering offences.
264. The BUPSMML Act [Cap.24:24] and Section 10 of the Serious Offences (Confiscation of Profits) Act, 2001 provide protection for the rights of bona fide third parties.
265. Section 50 of Serious Offences (Confiscation of Profits) Act and BUPSMML Act [Cap.24:24] authorises access to funds or other assets that were frozen deemed necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses.
266. There are no provisions for the confiscation of property of corresponding value in the event that property that is subject to the forfeiture order is not available.
267. According to the BUPSMML Guidelines, financial institutions and most DNBFPs are obligated to inform FIIES of any transaction that takes place in the course of their business activity which they suspect to be related to the commission of a terrorist act.
268. Law enforcement agencies have the necessary powers to identify and trace property suspected of being the proceeds of crime.
269. The BUPSMML Act 2004, provides for the establishment of an FIU known as the FIIES. The FIIES is located within the Reserve Bank of Zimbabwe.

270. There is no difference between de-listing and unfreezing requests, as far as Zimbabwe's implementation of S/RES/1267(1999) is concerned. The freezing action can be legally challenged by the entity frozen; Zimbabwe authorities also stated that a Zimbabwe Court would have the discretion to overrule the UNSC decisions, by attaching higher weight to other provisions contained in the United Nations Charter in areas not governed by statutes.
271. The courts in Zimbabwe have the authority to judge over UN-based designations made pursuant to S/RES/1267(1999).
272. Zimbabwe has not yet issued guidance to financial institutions and other persons/entities that may be holding targeted funds/assets. The list which has been provided to accountable institutions is the FATF NCCT List.
273. Zimbabwe has not yet frozen any bank accounts in accordance with S/RES/1267(1999) and its successor resolutions.
274. The RBZ has received lists of suspected terrorist individuals or groups and these lists are circulated to all the financial institutions that are required to inform the RBZ in writing whether they operate any such accounts. If any such accounts are identified, arrangements will be made for the seizure and forfeiture of the property under The Serious offences Act.

Freezing action pursuant to S/RES/1373(2001):

275. As soon as possible (and not later than 10 days after the decision to freeze has been made), the Attorney General must bring the case before a court which will (by order) decide whether the decision shall be affirmed. In such cases, the suspect and other persons concerned shall be notified and given an opportunity to express their views. If the circumstances of the investigation necessitate, the court may omit the notice and defer giving information about the order, but shall set a time limit for when information shall be given. Initially, the time limit shall not exceed four weeks, but the court may extend its order by up to four weeks at a time. Once the time limit has expired, the suspect and other persons concerned in the case shall be informed of the order and their right to ask the court to decide whether the freezing action shall be affirmed. The freezing action must be based on evidence that the designated entity has directed or used particular funds to support terrorist acts..
276. Zimbabwe has not issued any guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms issued pursuant to S/RES/1373(2001). (281)
277. Any person who fails to comply with a legally enforceable freezing order would be subject to punishment under the BUPSM Act. This is a general criminal provision which provides that any person “who acts against a legally imposed prohibition” shall be liable to (unlimited) fines or imprisonment.
278. **Freezing actions in contexts other than S/RES/1267(1999) and S/RES/1373(2001):** Freezing, seizing and confiscation laws normally used in other criminal cases can be used to freeze, seize and confiscate terrorist funds in contexts other than S/RES/1267(1999) and S/RES/1373(2001).

Recommendations and Comments

279. Zimbabwe needs to enact the SFIT Bill to allow for a competent authority to freeze without delay the terrorist funds and other assets of persons and entities designated by the UN Security Council 1267 Committee, beyond those funds provided or collected for the purpose of carrying out a specific terrorist act. Zimbabwe also needs to amend existing laws to fully implement S/RES/1373(2001) consistent with its aims and objectives, preferably in a similar way as

S/RES/1267(1999) has been implemented. This would create one single system for designating, listing, freezing, de-listing and de-freezing of terrorist assets.

280. Enact measures that would allow for the possibility of freezing funds or other assets where the suspect belongs to a terrorist organisation or is known to finance terrorism in general (even if the financing cannot be connected to any specific act of terrorism).
281. Consider: (i) reducing the high burden of proof for the authorities in respect of the implementation of S/RES/1373(2001); (ii) extending the range of funds or other assets which could be frozen under S/RES/1373(2001); and (iii) giving clear practical guidance to financial institutions concerning how to implement freezing actions under S/RES/1267(1999) or S/RES/1373(2001).
282. Have measures in place to monitor compliance with both S/RES/1267(1999) and S/RES/1373(2001).
283. Establish an effective system for communication among governmental institutions and with the private sector and should consider options for providing more timely communication to the financial sector and other relevant businesses of designations pursuant to UN Security Council Resolution 1267 and 1373, such as receiving and distributing changes to the lists of designations in electronic form where possible.
284. Provide clear guidance (more than the bare reporting obligation in the BUPSM Act) to financial institutions that may hold terrorist funds concerning their responsibilities under the freezing regime.
285. Create a procedure for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons.
286. Clarify the procedure for authorising access to funds/assets that are frozen and that are determined to be necessary on humanitarian grounds in a manner consistent with S/RES/1452(2002);

Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	NC	<ul style="list-style-type: none"> • Zimbabwe has not criminalized terrorist financing but does provide under other legislation capacity for freezing funds or property used to be used in the commission of a serious offence. • The freezing action can be legally challenged by the entity frozen and the entity frozen can use the same legal mechanisms that any citizen has at its disposal to challenge governmental

		<p>decisions.</p> <ul style="list-style-type: none"> • The freezing action must be based on evidence that the designated entity has directed or used particular funds to support terrorist acts. This is a criminal standard, which rules out the possibility of freezing funds because the suspect belongs to a terrorist organisation or is known to finance terrorism in general, but cannot be connected to any specific act of terrorism. • The court's affirmation of the decision to freeze property must be based on evidence that there is just cause to suspect a person and these facts must be proven to the court on a criminal standard, which implies that direct evidence or a substantial amount of circumstantial evidence as to these facts would be required to convince a court to affirm a decision to freeze property. This, coupled with the fact that a decision to freeze property is aimed at a specific person, would make it very difficult to rely on facts such as that the suspect associates himself or herself with a terrorist organisation or is known to finance terrorism in general, but cannot be connected to any specific act of terrorism. In this way, freezing actions taken pursuant to S/RES/1373(2001) may prove to be difficult to implement in practice. • Zimbabwe has not issued any guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms issued pursuant to S/RES/1373(2001). • Zimbabwe has not implemented any mechanism for examining or giving effect to (if appropriate) the freezing actions initiated pursuant to the S/RES/1373(2001) lists of other countries.
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Authorities

2.5 The Financial Intelligence Unit and its functions (R.26, 30 & 32)

2.5.1 Description and Analysis

Recommendation 26:

287. The FIU in Zimbabwe is known as the Financial Intelligence Inspectorate and Evaluation Unit (FIIES). It has been established within the Reserve Bank of Zimbabwe in terms of Section 3 of the Bank Use Promotion and Suppression of Money Laundering Act (Cap 24:24) BUP & SML Act [Cap.24:24]. Section 4 of the BUPSMML Act provides that the FIIES is required to promote the use by the public of financial institutions for the purpose of mediating, facilitating or obviating cash transactions, to receive reports of suspicious transactions by designated institutions, to analyse the reports and only forward them to appropriate law enforcement

agencies for investigation if the analysis warrants further investigation, compile statistics and records and gather and disseminate information within Zimbabwe or elsewhere on matters relating to the Unit's function, to issue guidelines or directions to FIs on matters relating to its functions, to monitor and enforce compliance with the BUPSMML Act by traders, parastatals, designated institutions and other persons, to create training facilities and provide training to designated institutions.

288. The FIIES has a total staff compliment of 48. Most staff members were recruited from strategic financial and law enforcement sectors so as to access the diverse range of skills and expertise that would enable the FIIES to discharge its functions efficiently and effectively. The FIIES operates independently without undue influence from any quarter. The FIIES has four sections namely:

- i. Anti Money Laundering Section
- ii. Bank Use Promotion Section
- iii. Investigation Section
- iv. Metal and precious stone Section.

289. The Investigation Section has a commissioner who takes Suspicious Transaction Reports (STRs) from Suspicious Transaction Report Section where there is an inquiry especially where there some gaps on the information submitted for investigation. The Investigation Section deals with various reports from exchange control, Money Laundering, Customs declaration forms, exportation of goods and transportation of goods that were supposed to be declared. The Investigation Section constantly liaises with the Police when they need assistance on certain financial issues. It also liaises with the National Economic Conduct Inspectorate and ZIMRA. At times the Police draw on the expertise provided by the FIIES. The FIIES have the authority to stop the execution of a transaction under Section 31(1) of the BUPSMML Act, where any inspector, or member of the Police Force who is accompanied by an inspector, may request a designated institution, after consultation with it, to suspend further action on any transaction for such reasonable period as will enable the Unit or the Police to perform the functions and duties conferred upon them by law.

290. The Anti Money Laundering Section deals with other activities such as investigation on data and gives advice to other Sections. The Anti Money Laundering Section has been involved with

training on money laundering issues to financial and non-financial institutions. The Section produces weekly reports, monthly and six monthly reports and provides them to Management.

291. The Legal Section is responsible for giving legal advice on economic and financial issues and assessing cases before investigation to see whether it carries prima facie case. The Section also liaises with the AG's office on prosecution issues and deals with legislative revision to applicable Acts. Currently the Section is reviewing the BUPSMML Act, 2002. It is also involved in training programs and awareness on legal implication of money laundering to the public.
292. The Compliance Section deals with compliance issues to ensure that financial institutions follow rules and regulations on money laundering. For instance there are limits set up that an individual can not withdraw more than 50 million Zimbabwe dollars per day without permission being granted. Banks have to report on weekly bases withdrawals above 50 Million Zimbabwe dollars.
293. Section 8 of the BUPSMML Act [Cap.24:24] compels the FIIES to produce two reports on its activities after the 30th of June and 31st December in each year. The reports are tabled in the Zimbabwe Parliament by the Minister of Finance. Section 6 of the BUP & SML Act [Cap.24:24] empowers Inspectors of FIIES unfettered access to additional information in the discharge of its duties. The FIIES is empowered to disseminate financial information to domestic authorities in terms of Section 4(c) and (e) of the BUP & SML Act [Cap.24:24].
294. The BUPSMML Act provides that the following institutions are accountable to report STRs to the FIIES:
- Financial institutions;
 - Law Firms
 - Accounting Firms
 - Insurance Companies
 - Asset Management Companies
 - Casinos
 - Pension Funds and
 - Real Estate Agencies.

Traders in precious metals and stones are not accountable under the BUPSMML Act even though they are mentioned in the BUPSMML Guidelines, The Act needs to be amended to provide for compliance by traders.

295. The FIIES has standing arrangements with financial, administrative and law enforcement agencies for information sharing on STRs and other related matters. The arrangement is still manual at present but will be computerised in due course. Information also held by FIIES is at present stored manually due to the absence of an appropriate IT platform. However, strict procedures are followed to ensure information security.
296. Under Clause 15 of the BUPSMML Guidelines there is an obligation on all staff to report in writing to the MLRO suspicious activity of money laundering and terrorist financing. However, if the staff considers that the preparation of the report for the MLRO or refusal to carry out the transaction may jeopardize the tracking of the beneficiaries of a suspicious transaction or where it is impossible to prepare such a report, the staff may process the transaction but they must immediately thereafter report the matter to the MLRO who will accordingly lodge a report of the transaction to the FIU.
297. All banks and cash dealers have a clear obligation to ensure that each relevant employee knows to which person he or she should report suspicious transactions and that there is a clear reporting chain under which those suspicious transactions will be passed directly and without delay to the MLRO. Once an employee has reported his/her suspicion to the MLRO, he/she has fully satisfied and discharged his/her statutory obligation.
298. Where there is a business relationship, a suspicious transaction will often be one that is inconsistent with a customer's known, legitimate business or personal activities or with the normal business for that type of account. Therefore, the first key to recognition is understanding the customer and the customer's business to recognize that a transaction, or series of transactions, are unusual.
299. Questions that a bank or cash dealer might consider when determining whether an established customer's transaction might be suspicious are (Clause 14, BUSMPL Guidelines):
- (a) Is the size of the transaction consistent with the normal activities of the customer?

- (b) Is the transaction rational in the context of the customer's business or personal activities?
- (c) Has the pattern of transactions conducted by the customer changed?
- (d) Where the transaction is international in character, does the customer have any obvious reason for conducting business with the other country involved?

300. Anyone who fails to report on activities related to money laundering shall be guilty and liable for a fine not less than \$ 5 billion (Clause 15, BUPSML Guidelines).

301. The BUPSML Guideline No. 01-2006 issued by RBZ to all financial institutions in Zimbabwe contains notes on the detection of complex and unusual transaction reports. Suspicious Transaction Report is generated when a designated institution believes the suspicion warrants further investigation. The Report is to the FIIES through the Director, this can be in electronic or manual form. The report is recorded in the Director's office. The Director forwards the STR to the Deputy Director Compliance (DDC). The DDC is then required to forward the report to the Head of Money Laundering in the FIIES. The Head of ML acknowledges receipt of the STR to the reporting institution. The Head of ML will review the report and do the initial analysis. The report is then passed to the Team Leader who will also review the STR, check for compliance and completeness of information submitted by the bank and then records the STR and assigns a reference number to the report. If more information is required, the Team Leader will request additional information from the Bank. With all the information available the AML team will analyse the report, and come up with some recommendations in the form of a report to the Head of ML. The Head of ML will review the report and then make some additional recommendations. A final report is then made by the DDC who then passes the report to the Director. If there is a need for investigation the Director passes the report to the Investigations section. Further investigations will be done and a report will be made to the Director. The Director will give feedback to the Reporting Institution on the action plan regarding the STR. Normally it takes up to 14 days to complete a report.

302. If the FIIES determines that concrete details support the suspicion of ML/FT, a criminal investigation may be initiated. The FIIES decision to refer information (on the basis of which a new investigation may be initiated) amounts to the opening of a criminal investigation and must therefore be based on reasonable grounds to believe that an offence has been committed.

303. The FIIES also receives reports on suspicious activities from whistle blowers. The FIIES administers a Whistle Blowers Fund whereby members of the public are encouraged to report cases of economic or financial crimes to the FIIES. As at the end of June 2005, the FIIES had received a total of 722 reported cases of which 409 cases had been investigated and handed over for prosecution by the courts. A total of US\$ 1,6 million, GBP1,8 million and BWP200 has been recovered or repatriated. In addition a total of US\$750 million was paid out to whistleblowers who had provided information that led to successful prosecution and recovery of proceeds of crime. Normally such informers are paid 10% of what is recovered. The Governor has the discretion in exceptional cases to authorize payment of a reward to an informer even though there may be no recovery of proceeds. Such payment will be dependent on the critical nature of the information provided, particularly that which leads to major revelations of fraudulent and crippling economic activities.
304. If a suspicion of ML/FT is rebutted, all information about the transaction and the STR itself must be deleted immediately. If the suspicion can be neither rebutted nor confirmed, the STR is filed for intelligence. All information about the transaction must be deleted if no further information of importance is registered, and no investigation or legal measures initiated against the legal or natural person. On the other hand, if new information of importance is registered, a new deadline shall apply from the date of registration. The RBZ places a strong emphasis on the protection of privacy. The information contained in its database can only be accessed by the FIIES staff..
305. Staff of the FIIES is required, in terms of the code of conduct to uphold confidentiality as well as maintaining high levels of professionalism and integrity at all times. This is consistent with the selection of employees for the RBZ. The process is identical to that of the RBZ. This includes being screened by CID prior to appointment to a FIIES position.
306. Appropriate training is being given to staff of FIIES both locally and internationally. However more needs to be completed as the FIIES is still a fairly new institution. Training has been provided by ESAAMLG and South Africa on AML and Forensic Analysis. Most have been trained in compliance.
307. Current efforts are underway to join the Egmont Group. The FIIES upholds the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases. In this regards initiatives are already under way to join the Egmont Group and a MOUs with South Africa's FIU ("FIC") was signed in February

of 2006 to facilitate information exchange. Zimbabwe has signed a MOU with Egypt and information has been exchanged.

308. The FIIES have direct access to a wide range of databases and registers. These including local police registers, Interpol, Registrar of companies, vehicle registration database at Central Vehicle Registry (CVR) and Financial clearing Bureau. They also have access to The Zimbabwe Revenue authority database on a case by case basis.

309. **The Zimbabwe Credit bureau information in Zimbabwe contains certain tax related information such as declared income, declared wealth and declared debt in addition to the normal credit related information. It should be noted that loan information is not able to be accessed.**

a) Suspicious Transaction Reports Received by FIIES

Years Since 2004	Banks	Insurance Companies, agents & Brokers	Bureau de Change	Whistle Blowers Other NBFIs	Total STRs Reported
	196	4	0	1	201
Total Reported					<u>201</u>

310. So far 201 STRs have been submitted of which some have been forwarded to the Police for further action. Of the STR's submitted to the Police, how many have been referred to the AG's Department. None of the STRs submitted have resulted in prosecutions. International banks have reported the highest numbers of STRs. This is attributed to the availability of training information from their Head Offices in other jurisdictions who have been committed to the fight against money laundering and terrorist financing. Zimbabwean Banks are submitting a low number of STRs reported and require stronger awareness raising and monitoring for compliance so as to ensure they are AML/CFT compliant.

311. Although the Unit received some STRs from the Insurance Sector, these were only reported by 2 insurances companies out of a total number of 33 registered with the Commissioner of Insurance. Most of the insurance companies are not aware of what is supposed to be reported. The Unit has

now started carrying out training workshops to all stakeholders and it is hoped that this will result in an improvement in the number of STRs that are going to be reported from the Insurance Sector.

312. With regards DNFBPs and their requirement to report STRs, there are no statistics available which make claim to these entities having reported STRs, many are not sensitized to AML/CFT and others such as the Law Society are in conflict with the requirement to report STRS by legal institutions.
313. Current record keeping is manual. However, initiatives are already underway to have a secure IT platform and appropriate databases for storing annual statistics. Storage of statistics is also currently manual.
314. The RBZ is not in a position to levy administrative fines for non-compliance but it may in the case of a financial institution take additional action under its supervisory powers such as the revocation of a banking license. Sanctions can be imposed for non-compliance but so far, no penalties have been imposed for non-compliance with the reporting requirements.
315. Police and prosecutors have a duty of professional secrecy which applies until a criminal case is opened (i.e. after an investigation has formally been initiated) However, this duty does not prevent the RBZ employees from providing information to, or gathering information from, other public officials in the police and Prosecution Authority, or from co-operating with foreign police or competent authorities, provided that the purpose of the exchange of information is to prevent or uncover violation.

Recommendation and Comments:

316. The FIIES does not have adequate resources provided for through the Reserve Bank of Zimbabwe's budget. The FIIES, although still in its infancy, is well structured, and staffed by 48 persons who perform its functions. The FIIES is currently working on installing an Egmont Group compliant IT platform to ensure access to the Group's secure web for information exchange.
317. It is recommended that Zimbabwe allocate more technological resources to the FIIES as soon as possible. Although staff are professional and highly trained, all staff need to be trained in the use

of analytical tools such as Analysts Notebook. In addition to a system for electronic reporting, the FIIES urgently needs tools to conduct electronic analysis as soon as possible.

318. Zimbabwe should improve the FIIEs statistics collection capabilities by providing it with better technological tools.
319. Descriptions and examples to aid the staff in identifying suspicious transactions are available but a mechanism to ensure that accountable institutions are aware of such examples are lacking. Many of the DNBFPs have not formally adopted the BUPSMML Guidelines for reporting STRs. Traders in precious metals and stones are not accountable under these guidelines. The casinos, stock brokers and exchange, real estate agents, public accountants and lawyers have not as yet submitted any STRs to the FIIES.
320. So far, no sanctions have been imposed on any financial institution for failing to comply with reporting requirements on AML.
321. While it appears the FIIES has provided some training to FIs and DNBFPs and the public the FIIES has so far not published any reports regarding statistics, typologies and trends relating to AML.

Compliance with Recommendations 26, 30 & 32

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	PC	<ul style="list-style-type: none"> • FIIE staff should receive further training in STR analysis, support to financial investigations and other FIU functions. • The FIU should consider conducting outreach programmes to reporting institutions to better understand the process and criteria for making of STRs in order to support higher levels of reporting of STRs. • Technical limitations prevent the FIIES staff to apply analytical tools directly to all of the information collated since the information is currently handled manually and is not yet input into a database. This restricts analysis to the selected extract only and is done without the benefit of allowing sophisticated IT tools to search through an entire STR database. • The FIIES should pursue membership of the Egmont Group
R.30	PC	<ul style="list-style-type: none"> • Much of the FIIES's analytical processes are handled manually and, with its current systems, there is no possibility for the system to automatically draw connections between

		<p>STRs.</p> <ul style="list-style-type: none"> • The FIIES can only work on a few of the STRs that it receives; the rest are simply filed away for future reference. Manual analysis is done, but is often dependent upon the FIIES staff remembering a person's name or a previous STR. This process is clearly very inefficient. • Consequently, Zimbabwe is experiencing difficulty in recruiting lawyers and police officers with adequate professional competence in the area of economic crime. Moreover, there is concern that members of economic crime teams must wait too long to obtain advanced training in economic crime cases. • Considering the number of entities that the RBZ is responsible for supervising, its capacity seems inadequate to achieve supervision effectively.
R.32	PC	<ul style="list-style-type: none"> • The inadequacy of the FIIES statistics collection mechanisms (i.e. its computer systems) has thus impeded its statistics collection capabilities. • Zimbabwe does not maintain statistics concerning sanctions imposed for failing to comply with AML/CFT obligations.

2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, 28, 30 & 32)

2.6.1 Description and Analysis

Recommendation 27

322. Zimbabwe has designated law enforcement and prosecution authorities that have responsibility for ensuring that ML/FT offences are properly investigated, including The Serious Fraud Squad (a permanent unit that is specialised in investigating complicated economic crime, including crime related to money laundering). The Attorney General's Office is responsible for ensuring that ML/FT offences are properly prosecuted, and decides who should have main responsibility for prosecution. Money laundering offences and confiscation cases are investigated by the Zimbabwe Republic Police under the direction of the Commissioner of Police.

323. The Police draw on a package of legislation in their attempt to combat ML and FT. The laws include the Serious Offences (Confiscation of Profits) Act, Chapter 9:13 2001, the BUPSMML Act, 2002, the POSA Act, (2002), the Prevention of Corruption Act, (2002), The Criminal

Matters (Mutual Legal Assistance) Act, the Dangerous Drugs Act, the Criminal Procedure and Evidence and Customs & Exercise Acts.

324. There are measures in place that provide law enforcement or prosecution authorities with an adequate legal basis for the use of a wide range of special investigative techniques when conducting investigations of ML or FT. Joint investigations with appropriate competent authorities in other countries, including the use of special investigative techniques, provided that adequate safeguards are in place exist for example Interpol and MOUs with other jurisdictions. As far as undercover operations are concerned, these are permissible. However, with regards to intercepting of correspondence or other means of communication, a court order is necessary.
325. The Police at a national level shares information on crime with other law enforcement agencies. At the regional level Police share information within SADC through SARPCCO [Southern Africa Regional Police Chiefs Cooperation Organization]. Joint investigations and operations at SADC Regional level are conducted through the auspices of SARPCCO especially in Drug Trafficking, motor vehicle theft and small arms proliferation. At the international level information is shared and obtained via Interpol.

Additional elements:

326. Zimbabwe co-operates with other competent authorities, particularly the countries of New Zealand and the United Kingdom. in drug and other financial crimes. Additionally, Zimbabwe has legislative measures in place that provide law enforcement with an adequate legal basis for the use of the following special investigative techniques when conducting ML/FT or other criminal investigations: (i) secret search; (ii) video surveillance and technological tracking; (iii) concealed video surveillance of a public place (iv) technological tracking when a person with just cause suspected of an act or attempt of an act punishable by imprisonment for five years or more; and (v) Entering for the purpose of placing a technical direction finder, or placing such finders in clothes or bags that the suspect wears or carries, when a person with just cause is suspected of an act or attempt at an act punishable by imprisonment. However, these techniques can only be used for serious offences. Other coercive measures, such as infiltration (undercover) operations and Trapping (i.e. instigating an offence by, for instance, asking someone if they will sell you drugs) are also available; however, these measures are not statutorily regulated. Trapping, for instance, can only be used for intelligence purposes.
327. Police are familiar with AML typologies and trends from their participations in overseas training seminars. Other than that, the officers have limited access locally on ML and FT typologies training. Officers will need to be exposed to further training on the latest typologies and trends in ML and FT. Such specialized training and certification is not available locally. The Police intend to seek technical assistance from international organizations to improve the investigative techniques on ML and FT cases. A register is kept by the police for all cases investigated and offences clearly defined under specialized investigative sections.
328. The authorities are not aware of the existence of any terrorist activities in Zimbabwe. But should they occur, the BUPSM Act and Criminal Procedure and Evidence Act contains provisions for freezing and confiscation of assets related to FT. A register is kept for all cases and offences clearly defined under specialized sections.

Recommendation 28:

329. Section 25 of the Serious Offences (Confiscation of Profits) Act provides the police with powers of search and seizure of property which the police officer believes on reasonable grounds is tainted property. The search or seizure action is also provided for under Section 36 of the BUPSM Act, 2002, which permits the FIIES Inspectors to carry out entry, searches, or seizure of cash which is unlawfully held but such an Inspector can only do so when accompanied by a

police officer, but where he believes that a delay might cause defeat, the objective of search entry or seizure he shall proceed to search, entry or seize without police officer.

330. Search and seizure can be made with the consent of the person involved, or under warrant or without warrant. Where the police on reasonable grounds believe that the property involved can be destroyed, concealed, disposed of or lost. These powers are also extended to Inspectors under the BUPSM Act, 2002.

331. Where property is seized, the Police are required to arrange for the property to be kept and to take all reasonable steps to preserve it while it is so kept until it is required or disposed of in terms of the Act.

Production orders (The Serious Offences and Confiscation of Profits Act):

332. The competent authorities responsible for investigating ML, FT and other underlying predicate offences have the power to compel production of objects that are deemed to be significant as evidence. The word objects means movable property, including documents, electronically stored information and financial information that is held or maintained by financial institutions and other businesses or persons (i.e. transaction records, identification data) obtained through the customer due diligence. To obtain a search warrant, the Attorney General must submit an application to a court. The court may grant the application without prior notice to the charged person or the financial institution. Under pressing circumstances, the Attorney General's Office may compel the information directly, and then submit the case to court as soon as possible for a subsequent approval. The charged person shall be notified when information has been compelled. Production orders can be used to obtain historical data or future information that has not yet been obtained by the financial institution (i.e. future transaction records that the financial institution will obtain through account monitoring). If there is suspicion of a criminal act that is punishable by imprisonment of five years or more the court may oblige a financial institution to submit future information for a period not exceeding four weeks. In such cases, notification to the suspect may be postponed if strictly necessary for the investigation under the Serious Offences Act.

333. Monitoring Orders are provided for under Section 57 of the Serious Offences (Confiscation of Profits) Act, 2002. A police officer may apply to a judge for a monitoring order directing a financial institution to give information to the Police about financial transactions conducted

through an account held by a particular person with that financial institution. A monitoring order shall apply in relation to financial transactions conducted during a period specified in the order. A judge shall not make a monitoring order unless he is satisfied that there are reasonable grounds for suspecting that the person in respect of whose account the information is sought has committed or is reasonably suspected of having committed a specified offence; or was involved in the commission of, or is reasonably suspected of having been involved in the commission of, a specified offence; or has benefited, directly or indirectly, from the commission of a specified offence. A monitoring order shall specify the name or names in which the account is being held and the type of information that the financial institution is required to give. Any financial institution that contravenes monitoring order or provides false or misleading information shall be guilty of an offence and liable to a fine not exceeding level fourteen.

Search:

334. The Serious Offences (Confiscation of Profits) Act and The Criminal Procedure and Evidence Act provides for competent authorities to have the power to search premises for financial records. The objective must be to search for evidence or things that may be seized or frozen. A search of the suspect's person may also be conducted on the same conditions as a search of his premises, provided that there is reason to believe that search may lead to detection of evidence or things that may be seized or frozen. A search may also take place at premises belonging to a third party provided that there is just cause for suspecting that a criminal act punishable by imprisonment is committed and: (i) the criminal act was committed or the suspect was arrested on the premises; (ii) the suspect was there under pursuit when caught in the act or on finding fresh clues; (iii) or there are particular reasons to believe that the suspect may be arrested there or evidence/things found that might be seized or frozen. Third parties can be searched when a criminal act that is punishable by imprisonment of more than six months is suspected, and there is a particular reason to conduct the search.

335. As a general rule, the court has powers to issue a search warrant without prior notification to the suspect. A police officer can search premises without decision from the court or the Prosecution Authority if the suspect is caught in the act of committing a crime or there is a danger that a search (which relates to a strong suspicion of a criminal act that is punishable by more than six months imprisonment) might otherwise be spoiled. The principal rule is that the search should be carried out in the presence of a witness and the suspect.

Seizure:

336. The competent authorities have the power to seize financial records, etcetera provided that those records may have significance as evidence. The principal rule is that the Attorney General's Office takes the decision on seizure; however, the police may take the decision when the suspect is caught in the act, pursued when caught in the act, or on finding fresh clues. In such cases, the Court must be notified as soon as possible and must decide whether the seizure should be sustained. The decision on, and execution of seizure is taken without prior notice to the suspect or third party.

Witness statements:

337. The police and Attorney General's Office record witness statements. However, the witness is obliged to attend at the police station in order to advise whether he/she is willing to give a statement. The witness may consent to give a statement to the police or Prosecution Authority. Alternatively, the witness may be served with a summons to attend court. Such a witness is usually regarded as hostile.

Whistle Blowers:

338. **The concept of paying "Whistle Blowers" for information is a generally accepted concept in the ML Enforcement program of Zimbabwe. There is a fund which pays for information and payments are made based on a percentage of funds seized as a result of the information supplied.**

Interpol:

339. The Interpol office in Zimbabwe is located at the CID Office at Headquarters. There is also the Interpol Sub regional office (SRB) located at the Interpol Headquarters in Harare, which also participates in ESAAMLG. It was established in 1980 with staff capacity of 24 persons. This office deals with national and international issues. The Interpol 24/7 Database is available for connection to other law enforcement agencies subject to applications. The Interpol office has an economic and drugs desk that receives information and analyses for trends, this information is available for Zimbabwe authorities to access. The office does not conduct investigations but coordinates law enforcement efforts. The office is a link between the regional Interpol office, Zimbabwe and international law enforcement authorities.
340. There have been some ML convictions and there is limited capacity to prosecute economic crimes and capacity weaknesses in the justice system in that judges have limited understanding of ML and FT. Meetings with Interpol highlighted major crime in Zimbabwe to include theft of motor vehicles, narcotics, IT crimes, criminal intelligence, stock theft, human trafficking, illegal immigrants and fake documentation, terrorist related crimes, firearms and explosives, financial and economic crime, regional training and minerals crimes. The Anti-Terrorism Early Warning Centre is a coordinating office that receives intelligence from member and non-member countries and ensures that members have systems in place to combat ML and TF.
341. Police Chiefs have a system of repatriating exhibits on the basis of signed agreements and good will and cooperation of the Police Chiefs.

Number of Serious Offences 2006

Type of Offence	No. of Accused	Sentence	Total Economic Loss
Drug Trafficking	50	Between 1-9 years	\$35,198,869.00 ZWD
Externalisation (Exchange Control)	67	Fines between \$300 - \$381 million	\$69000000.00 ZAR1035 119.00 USD21 642 038.00 EUR150100.00 GBP 9234.00
Fraud	455	Between 3 months to 20 years plus fines	\$751 085 831.65

Type of Offence	No. of Accused	Sentence	Total Economic Loss
Precious Minerals	2	Custodial and fines	\$24 733 941.33
Armed Robbery	103	Between 3 months – 20 years	\$4.066 Billion
Robbery Motor Vehicle	329	Between 3 months – 20 years	\$27 507 950 000.00

342. Current Situation of Money Laundering in Zimbabwe is described as follows: Drug trafficking continues to pose a serious threat especially in view of the slight move from softer drugs to harder drugs. Better policing of the points of entry by enforcement agencies needs to be enhanced to make it more difficult for drugs to get into the country. However, since last year, several Zimbabwe nationals have been arrested in foreign countries on charges of drug trafficking. Smuggling of currency and precious metals and stones also poses a problem and momentum is gathering with the illegal trade of precious metals in light of the recent foreign exchange problems.

Recommendation 30 (Resources of law enforcement, prosecution and other competent authorities):

Zimbabwe Republic Police:

343. Police Stations are commanded by Inspectors and Chief Inspectors commonly referred to as Officers-in-Charge. Districts are commanded by Superintendents and Chief Superintendents commonly known as Officers commanding Districts (Dispols) Provinces are run by Assistant Commissioners and Senior Assistant Commissioners known as Officers commanding Provinces (Propols). Deputy Commissioners and the Commissioner of Police are based at Police General Headquarters to give directions and command.

344. It was noted that although the legislation is in place prohibiting money laundering, offenders have found loopholes in existing laws that permit them to commit crimes that cannot be treated as money laundering offences. The Commissioner of Police was of the opinion that AML laws need to be amended to capture the existing crimes that are predicate offences for money laundering. The office of the Commissioner of police stated that corruption in Zimbabwe is

rampant and High post official such as Ministers and Commissioners have been investigated and prosecuted for corruption practices. The Police has established cooperative relationships with ZIMRA, RBZ, NECI, Customs, and the Anti Corruption Commission.

345. The Zimbabwe Republic Police employ a range of techniques to access records in the course of an investigation. Under the Serious Offences Act together with the Criminal Procedure and Evidence Act, the Police are legally permitted to engage in an undercover operation in order to detect, investigate or uncover the commission of an offence. The techniques allowed include the use of informers, surveillance and interception and monitoring of telecommunications. In the event of telephone interceptions (“TIs”) a warrant must be provided to the Court before a TI is applied. Interception of communications is permitted under the Criminal Procedure and Evidence Act. The Police are also able to compel production of bank account records, financial transaction records, customer identification records from financial institutions through Sections of the Criminal Procedure and Evidence Act.

346. Within the Police there is a Serious Fraud Squad with offices in Harare. The Court can authorize freezing and seizure of property and this is done through an application in Court whereby the police can seize property. Where assets or money is found in connection with the commissioning of crime pending investigation, the assets or money are put into Police custody. Where money is frozen, the FIIES open an account called Cash Tender Account and the frozen funds are deposited in that account. When funds are forfeited, the funds go to the Treasury Department. Police have access to all investigative techniques, disclosure orders, whistleblowers. Statistics are maintained by the police for most serious offences and there are currently no statistics for terrorist financing investigations

347. The CID Specialised Gold Investigation Unit was established in 1980. The purpose of the unit is to ensure that gold is not smuggled out of Zimbabwe. The unit is stationed in Harare and is staffed by 24 officers.

ZIMRA’s and Immigration:

348. Customs is governed by the Customs Act and Excise Act and it’s regulations. ZIMRA's main duty is to control movement of goods and services at designated entry points and this depends on declarations. ZIMA has jurisdiction over the taking of currency out of the country since they

administer exchange controls on behalf of the RBZ. The country largely relies on the declarations made by owners of goods being brought into the country; hence the system is largely dependent on goodwill of the individuals concerned. There is capacity to check on the declarations through the use of inspections, examinations and scanners. The most prevalent customs violation is the smuggling of goods. There are few cases of drugs apprehensions at the point of entry destined for markets in Europe.

349. Customs & Immigration: Immigration officers question suspicious incoming travelers on the amount of funds they have to be able to sustain them during their stay in the country and if they are found to be in possession of a large amount of money, they are subject to more detailed questioning and a joint search with customs officials. Customs officials also search suspicious travelers for narcotics and other prohibited substances.
350. ZIMA has requested AML awareness raising seminars and training for officers to identify and investigate ML and FT.

Ministry of Home Affairs:

351. The Ministry of Home Affairs primarily deals with security and law enforcement issues and interacts with other organs in Zimbabwe such as the RBZ, the Anti Corruption Commission, the police and other authorities in enforcing Acts of Parliament. The Ministry of Home Affairs together with the Ministry of Justice conducted research on how to deal with external threats to security and they developed an action plan on how to combat these threats. Currently the Ministry of Home Affairs has prepared the SFIT Bill that addresses terrorism and CFT and covers any other terrorism issues not covered under the Public Order and Security Act, 2002. The Bill also clearly defines acts of commission and acts of omission that can cause an individual or an institution to be declared terrorist. The timeframe for the Suppression of Foreign and International Terrorism Bill to come into operation is 2006/2007.

Attorney Generals Chambers (AG's):

352. The AG's office deals with prosecution of criminal cases including money laundering and financing of terrorism crimes. The AG's office has prosecutors who are responsible for prosecuting cases. Normally if the investigation is not conducted well, the Prosecution side can

withdraw the case. The AG's office also deals with matters relating to mutual legal assistance in criminal matters as well as extradition. Zimbabwe has 50 criminal courts that deal with serious crimes and could handle prosecution of ML/FT crimes.

353. There are not enough prosecutors from the AG's office with prosecution knowledge on economic and financial crimes since such cases are considered very technical. In most cases prosecutors use common knowledge to prosecute any kind of case and they have no specialized areas for prosecution. Judges are also not sensitized in financial and economic crimes and some cases have been discharged on technicalities. There is a need for more training on money laundering and financing of terrorism crimes to enable proper prosecution.

354. In the case of a third party engaged in the commissioning of an offence and is presumed innocent, he/she will be called in court to testify his innocence. In Zimbabwe legal persons may be prosecuted for criminal offences like natural persons. There are some companies that have been prosecuted for criminal offences.

355. For prosecution of money laundering and terrorist crimes there are various pieces of legislation that can be used:

- Bank Use Promotion and Suppression of Money Laundering Act, 2002.
- Serious Offences (Confiscation of Profits) Act, 2001
- Criminal Procedure and Evidence Act.2006)
- Criminal Matters (Mutual Assistance) Act, 2001.
- Public Order and Security Act, 2002.
- Prevention of Corruption Act, 2002

356. The AG's office was of the opinion that there are adequate laws to cover ML/FT offences however with more developments amendments should be made accordingly. For instance currently they are working on the SFIT.

Zimbabwe Revenue Authority (ZIMRA):

357. ZIMRA was established 5 years ago and has already made progress with combating ML. ZIMRA enforces the Exchange Control Act, 1974 on behalf of the RBZ. ZIMRA cooperates

with the RBZ and FIIES on ML issues and also works closely with Interpol, Zimbabwe Republic Police and other enforcement authorities. ZIMRA subscribe to the SADC Regional Code of Conduct. ZIMRA accept that there has been an increase in forex smuggling in view of the recent economic crisis. It is illegal for an individual to take out USD1000 in cash outside Zimbabwe or 500 Million ZWD Dollars without permission being granted by Exchange Control. The border with Mozambique has been found to be the most vulnerable to allow for this kind of activity as it allows for easy crossing in the absence of no natural distinction unlike with the South Africa border (the Limpopo River), Zambia (Victoria Falls and the Zambezi River), the Botswana border (a game reserve). To address this deficiency ZIMRA conduct random patrols with the army and the police. At the border an individual is required to fill CDI forms declaring assets of high value like precious stones and currencies. In attempt to control bribery, ZIMRA have a whistleblower system that covers both internal and external whistleblowers. Outside whistleblowers are rewarded with 10% of proceeds recovered. ZIMRA also use undercover operatives to unearth offences. Unannounced search on staff premises yielded 47 arrests of members of staff.

358. ZIMRA has also appointed money laundering officers and has organized training programs for staff on ML issues. There is a code of conduct that governs employees of ZIMRA not to engage or aid commissioning of crime. ZIMRA participates in International forums on money laundering and there is work in progress with Interpol to connect computer networks which will help ZIMRA officers with accessing more information to use in investigations.

Anti Corruption and Anti Monopolies Department (AC&AMD):

359. Under the Anti-Corruption Act, the government of Zimbabwe established the Anti-Corruption and Anti-Monopolies Department in 2004, located within the Office of the President and Cabinet. The AC&AMD is responsible for fighting corruption and unfair business practices. Operating legislation also includes the Prevention of Corruption Act 2002 and other financial and economic legislation.
360. The Prevention of Corruption Act defines a corrupt practice as any Act that corruptly solicits, accepts, obtains, agree to accept, or attempts to obtain from any person a gift or consideration for himself or any other persons as endowment or reward for doing or not for having done or not done any act, in relation his/her principal affairs or business.

361. All cases of corruption are reported to the AC&AMD through a whistle blower program or via telephone calls. There have been some instances where officers from the AC&AMD have had difficulties in distinguishing between corruption acts and money laundering activities and it was requested that further awareness raising on both topics is provided to officers of the AC&AMD to assist them with accurately processing and investigating the claims that are made.
362. When an investigation is conducted by the AC&AMD if the investigation warrants further action the information is passed to the Attorney General's Department for prosecution. Regarding proceeds of corruption the AC&AMD has a legal mechanism whereby search, seizure and confiscation can be done through a Court Order. There is little political interference in the AC&AMD's operation since there is strong political will to fight corruption. For instance there have been cases reported where high level government officials (Ministers, Commissioners and Members of Parliament) were found engaged with corrupt practices and action was taken.
363. The AC&AMD has received cooperation from neighbouring countries within the region such as Mozambique and South Africa. Currently Zimbabwe is making efforts to formalize the process of cooperation. Zimbabwe has not ratified the UN Corruption Convention and as a result it has been difficult to obtain cooperation from other countries for instance the United Kingdom where people with alleged involvement with corrupt practices have ran to.
364. An Inter-Ministerial Task Force on the fight against corruption was also established and comprises of representatives from the Ministry of Justice, Legal and Parliamentary Affairs, Defence, Finance, Information and Publicity, State Security, Home Affairs, Revenue Authority and the Reserve Bank.
365. Using the resources available to them, law enforcement, prosecution and other competent authorities have initiated investigations relating to international and national money laundering offences. The following chart sets out the number of investigations that were initiated for the following types of money laundering violations: ordinary, gross and negligent assistance in securing the proceeds of crime for another person, and assistance in securing the proceeds of drug trafficking for another person.

366. Drug trafficking is considered as the crime posing a problem to money laundering. Generally, drug trafficking in Zimbabwe involves Marijuana, Hashish, cocaine and Heroin. Parallel market operations also pose a problem especially in view of the current scarcity of foreign exchange.
367. **Judicial authorities:** There is recognition in the Action Plan 2005 that judges need additional special training to handle ML and FT cases.

Additional elements:

368. Zimbabwe reports that a number of trends are increasing the demands on judicial competence.

Recommendation 32 (Statistics relating to law enforcement and prosecution):

369. Statistics exist for all types of predicate offences and for ML However there are not TF statistics as there is no predicate offence.
370. Zimbabwe Revenue Authority (ZIMRA) will put in place a system to maintain comprehensive statistics relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing. These statistics will include suspicious transaction reports, and other reports where appropriate under domestic law, received and disseminated. Reports filed on cross border transportation of currency and bearer negotiable instruments are maintained.
371. Data is available in some form at entry and exit points. However there is a need to have it maintained at a central point to enable trend analysis for money laundering.

Recommendations and Comments

372. There have not been any TF investigations that have led to prosecution of those offences. Law enforcement agencies and prosecutorial services should become more proactively involved in the enforcement of the Serious Offences (Confiscation of Profits) Act, and BUPSMML Act.
373. Authorities should be more proactive in pursuing the “money trail” which derives from serious offences. This would enable them to be proactively investigate money laundering offences.

374. Authorities should study the crime statistics to determine the country threats and use these as a contribution to the overall AML strategic plan.
375. Civil forfeiture legislation and training should also be considered, and should complement the reporting regime and AML package of legislation. Further training on AML/CFT should be delivered to all authorities. In addition a typologies conference should also be held in Zimbabwe for all relevant officials from the law enforcement, legal and financial authorities. The typologies conference would help raise awareness and determine trends and methods for money laundering in Zimbabwe and the Region.
376. Zimbabwe should ensure that additional resources and funding are provided to the Serious Fraud Squad, NECI, prosecutors and CID for AML/CFT training.
377. Zimbabwe should collect statistics concerning the types of criminal sanctions imposed for ML.

Compliance with Recommendation 27, 28, 30 & 32

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	PC	<ul style="list-style-type: none"> • The Zimbabwe Republic Police need to establish a unit which specialises in asset investigation and forfeiture since current methods draw heavily on the police resources. • Zimbabwe needs to strengthen cooperative relationships with authorities in other countries other than the SADC region.
R.28	PC	<ul style="list-style-type: none"> • The police require further training in anti ML and FT for successful prosecution of ML or TF investigations. • The Police are not familiar with the requirements of UN instruments on terrorism and terrorist financing and need to be further sensitised on this matter since the actions required by these instruments would involve the Police. • Zimbabwe law enforcement authorities should provide additional support to the FIIES in its role with analysing STRs and providing support to money laundering investigations.
R.30	PC	<ul style="list-style-type: none"> • Zimbabwe needs to provide additional funding and resources for law enforcement in particular the Serious Fraud Squad and CID Gold Unit. • Further training should be provided to regulatory and investigations staff, including those of the FIIES, RBZ, the Police, ZIMRA, NECI, the Attorney General's Office as well as the

		Ministry of Home Affairs.
R.32	PC	<ul style="list-style-type: none"> • Zimbabwe needs to improve its methods of collating statistics. Computer databases need to be more operative to collate statistics and have capacity to provide reports on trends and methods.

3. PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS

Customer Due Diligence & Record Keeping

3.1 Risk of money laundering or terrorist financing

3.1.1 Description

378. The current Zimbabwe AML legislation was adopted before the last revision of the FATF 40 Recommendations in 2003. Thus, the legislation is not based on risk assessments in the manner contemplated in the revised FATF 40 Recommendations.

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1 Description and Analysis

Recommendation 5

379. Zimbabwe has implemented the FATF Recommendations 2003. It has implemented provisions relating to customer identification. However, reporting institutions are not fully compliant. The Serious Offences (Confiscation of Profits) Act and the BUPSMML Act contain customer identification obligations that apply to the following types of institutions in Zimbabwe:

Financial institutions means:

- a) Any banking institution registered or required to be registered in terms of the Banking Act Chapter 24:24
- b) Any Building Society registered or required to be registered in terms of the Building societies Act Chapter 24.02
- c) The People's Own Savings Bank established in terms of the People's Own Saving Bank of Zimbabwe Act, Chapter 24.22
- d) The Reserve Bank
- e) Insurance Companies, under the BUPSMML Act

Non-financial businesses and professions" means:

- a. Casinos (which also includes Internet casinos).
- b. Real estate agents.

- c. Dealers in precious metals.
- d. Dealers in precious stones.
- e. Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.
- f. Trust Companies

380. The BUPSMML Guideline sets out customer identification requirements. Under Section 11 of the BUPSMML Guidelines identification procedures cover:

- Know Your Customer (KYC) principle
- Essential elements of KYC
- Customer acceptance policy
- Customer identification
- General identification requirements
- Account opening for personal customers
- Face to face applications
- Non face-to-face verification
- Account opening for institutions
- Reliance on other regulated institutions to verify identity
- Correspondent services
- Exemptions
- Politically exposed persons
- Wire transfer transactions
- On-going monitoring of accounts and transactions

381. Section 24 of the BUPSM Act, 2002 provides that designated institutions should take reasonable steps to confirm the true identity of every applicant, by requiring the following: an identity document, where the applicant is an individual and a certificate of incorporation together with the latest annual tax return to the Zimbabwe Revenue Authority, where the applicant is a body corporate.
382. Where an applicant requests a designated institution to enter into a continuing business relationship with him or her; or to carry out a transaction for him or her which relates to relevant financial business; such designated institution shall take reasonable steps to establish whether that person is acting on behalf of another person. If it appears to a designated institution that an applicant is acting on behalf of another person, the designated institution shall take reasonable steps to establish the true identity of the person on whose behalf the applicant may be acting, whether as trustee, nominee, agent or otherwise.
383. Designated institutions also take into consideration whether the applicant is a person based or incorporated in a country in which there are laws in force that prevent the use of the financial system for the purpose of money-laundering; and the custom and practice that may from time to time be prevalent in the relevant field of business.
384. Financial institutions are required to identify the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and do verify that customer's identity by confirming reliable, independent source documents, data or information. Sections 23-27, Part IV, under the BUPSM Act, 2002 as well as Section 11.7 in the BUPSM Guidelines meet this requirement where during the course of an interview, the customer must be verified from an original official valid document bearing his/her recent photograph and any of the following:
- National identity cards
 - Current valid passports
 - Current valid driver's licenses.

In addition to verification of the individual's name, FIs are also required to verify the current permanent address of the applicant or business as an integral part of identity. Satisfactory evidence of address can be obtained by any of the following, a copy of which should be

retained, after the original has been sighted. The retained copy shall be duly annotated “original sighted”: A recent paid utility bill.

- A recent bank or credit card statement.
- A recent bank reference.

385. Banks and cash dealers are also required to obtain all information necessary to establish to their full satisfaction the identity of the applicant for business and the purpose and nature of the business relationship or transaction. They are required to cross check information by assessing available public database such as Financial Clearing Bureau (FCB), both at the local and international levels and keep on their files the full information on the ultimate beneficial owners in case they are not the same persons as the applicant.

386. Banks and cash dealers ensure that evidence of identity is obtained during the course of an interview with the applicant for business so that the bank or cash dealer can verify that the customer is actually the person he claims to be, i.e. the applicant for business should be seen personally and photographic evidence of his identity obtained, non-face to face is not permitted.

387. For non-resident applicants for business who are not resident in Zimbabwe but who make face to face contact with a bank or cash dealer, these applicants are required to complete a standard application form which incorporates the following details:

- (a) True name
- (b) Current permanent address
- (c) Mailing address
- (d) Telephone and fax number
- (e) Date and place of birth
- (f) Nationality
- (g) Occupation and name of employer (if self employed, the nature of the self employment)
- (h) Signature/signatures
- (i) Authority to obtain an independent bank reference.

388. The form, once completed, supported by a clear legible copy of any of the following documents:
- (a) National Identity Card
 - (b) Current valid passports
 - (c) Current valid driving licences
 - (d) Armed forces identity card
389. Once identification procedures have been satisfactorily completed, and the business relationship established, no further evidence of identity is needed when transactions are subsequently undertaken for that customer, as long as regular contact is maintained. The full name of the member of staff undertaking or responsible for the account procedure is noted on the customer's file together with that of the senior officer who has approved the business relationship. .
390. When an existing customer closes one account and opens another there is no need to verify again identity, although good practice requires that the details on the customer's file be reconfirmed (this is particularly important if there has been no recent contact with the customer e.g. for the past twelve months). Details of the previous accounts and steps originally taken to verify identity or any introduction records are transferred to the new account records.
391. Subsequent changes to the name of the applicant for business, address or employment details of which the bank or cash dealer becomes aware, are recorded and are substantiated by the appropriate documentary evidence as part of the KYC process.
392. In the case of an applicant for business transferring an opening balance from an account that he maintains with one bank directly to another bank, banks consider the possibility that the previous account manager may have asked for the account to be closed because of suspicious or dubious activities.
393. If a bank or cash dealer has any reason to believe that an applicant is being or has been rejected by another bank or cash dealer, the bank applies enhanced diligence procedures before accepting the customer e.g. cross checking with the Financial Clearing Bureau.
394. In respect of joint personal accounts, the names and addresses of all account holders should be verified. The verification procedures necessary to establish the identity of the applicant for

business should be the same whatever the type of account or service that is required (e.g. current, deposit, or other accounts). The best identification documents are those that are the most difficult to obtain illicitly and to counterfeit. No single form of identification can be fully guaranteed as genuine or representing correct identity. To verify identity beyond reasonable doubt, the identification process will generally need to be cumulative.

395. Section 25 of BUPSML Act [Cap.24:24], states that, designated institutions should establish and maintain customer records. This is further enforced by the BUPSML Guidelines under Section 13 for record keeping.
396. The BUPSML Act, 2004 under Section 28 requires the reporting of suspicious transactions by employees of the designated institutions and is further expanded in the BUPSML Guidelines.
397. All clients are subject to CDD in the financial sector. There is no specific CDD in the insurance sector. Where financial institutions are permitted to apply simplified or reduced CDD measures to customers resident in another country, this is not applicable to Zimbabwe. Financial institutions are required to perform CDD measures on existing customers. Zimbabwe has only commenced applying CDD to existing customers and it appears that the process will take a long time until full CDD is achieved.
398. There has not yet been an incident where the financial institution has already commenced the business relationship e.g. when Criteria 5.2(e), 5.14 or 5.17 apply, and the financial institution is unable to comply with Criteria 5.3 to 5.5 above it should be required to terminate the business relationship and to consider making a suspicious transaction report..
399. Both the BUPSML Act, 2004 and the BUPSML Guidelines refer to the treatment of politically exposed persons (PEPs) with due diligence. In particular the Guidelines under Section 11 provides individuals holding important positions and with persons or companies clearly related to them may expose a bank or cash dealer to significant reputation and/or legal risks. Such PEPs are individuals who are or have been entrusted with prominent public functions, including heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of publicly owned corporations and important political party officials. The possibility exists that such persons may abuse their public powers for their own illicit enrichment through the receipt of bribes, embezzlement. Accepting and managing funds from corrupt PEPs is tantamount to money-laundering.
400. In practice, there is room for improvement regarding this matter. Generally, senior management is not usually involved in the account opening stage. Of the 13 banks, the manager of one bank

interviews all prospective customers, whilst at another bank, all applications for account opening relating to high worth individuals only, are referred to the manager.

Anonymous accounts and accounts in fictitious names:

401. Reporting FIs are not allowed to register anonymous accounts or accounts in fictitious names. This follows from the requirement of the FIs to identify their customers and record the name, identification number, address and other identification information produced by the customer. There are no numbered accounts or anonymous accounts in Zimbabwe FIs.

When CDD is required:

402. Although Zimbabwe has implemented customer identification obligations, it has the Reporting Institutions have not fully implemented the customer due diligence (CDD) requirements. Reporting FIs are required to identify the customer in three situations. First, customer identification is required at the time the customer relationship is established. Second, customer identification is required when the Reporting FI enters into a transaction (including a wire transfer) involving \$1000.00 USD or more with a customer with whom the reporting FI has no previously established customer relationship. This obligation applies to situations where the threshold is exceeded in a single operation or in several operations that appear to be linked). The term *transaction* refers to any transfer, intermediation, exchange or placement of assets, but it does not include an account holder's deposits or withdrawals from his/her own account. In the context of occasional customers, a Reporting FI comprising more than one branch is regarded as a single institution. Consequently, a branch that accepts an assignment is obliged to view this assignment in the context of any other executed transactions of which it is aware. Third, customer identification is required in all cases if the Reporting FI suspects that a transaction is associated with the proceeds of crime, terrorist offences or terrorist financing. Moreover, if the Reporting FI has reason to believe that data contained in the customer's identity documents is not correct, it is required to verify that data.

Required CDD measures:

403. ***Identification of natural persons:*** The general rule is that customers who are natural persons must have their identity verified by attending at the office of the Reporting FI. The customer must produce valid written proof of identity on the basis of either original documents or certified copies. The Reporting FI must then satisfy itself of the customers' identity by verifying that the

photograph and signature appearing in the identity document match the appearance and signature of the individual who is appearing in person. The identity documents must not have expired and original identity documents must generally be produced. Originals are required with a current photo.

404. Certified copies are admissible in exceptional cases (i.e. when a person applying for a visa must send the original identity documents to an embassy or consulate), provided that the copies are verified by an authorised person(s). A Notary can confirm and verify or certify copies of original documents.
405. The customer's identity document(s) must contain the customer's full name, signature, photograph and personal identity number. If no personal identity been allocated, satisfactory identity documents must be produced containing the customer's full name and date of birth, place of birth, sex and nationality. Other (mostly) foreigners that do not have a Zimbabwe identity number can use their own country's identity documents. If the Reporting FI is aware that the customer has dual nationality, this shall also be recorded as additional information. Not all of this information has to be contained in the same document; presentation of several documents is acceptable to meet this requirement.
406. The identity documents must have been issued by a public authority or other body that has a satisfactory and generally accepted level of security concerning the issuance of documents.
407. The following documents can certainly not be regarded as meeting the requirements of the *money laundering legislation (negative list)*:
- (a) Credit cards, invoicing cards;
 - (b) Travel pass for bus, tram, train,;
 - (c) Association membership card or
 - (d) Identity cards issued by schools or universities
408. In between the "positive" and the "negative" list there is a grey area where FIs themselves have to make an assessment whether or not to accept an identity document. However, the FI has to be able to justify to the RBZ why it did accept an identity document in any particular case.

409. Detailed due diligence includes:

- (a) Close scrutiny of any complex structures (for example, involving companies, trust and multiple jurisdictions) so as to establish that there is a clear and legitimate reason for using such structures bearing in mind that most legitimate political figures would expect their personal affairs to be undertaken in a more than usually open manner rather than the reverse.
- (b) Every effort to establish the source of wealth (including the economic activity that created wealth) as well as the source of funds involved in the relationship – again establishing that these are legitimate, both at the outset of the relationship and on an ongoing basis.
- (c) The development of a profile of expected activity on the business relationship so as to provide a basis for future monitoring. The profile should be regularly reviewed and updated.
- (d) A review at senior management or board level of the decision to commence the business relationship and regular review, on at least an annual basis, of the development of the relationship.
- (e) Close scrutiny of any unusual features, such as very large transactions, particular demands for secrecy, the use of cash or bearer bonds or other instruments which break an audit trail, the use of small and unknown financial institutions in secrecy jurisdictions and regular transactions involving sums just below a typical reporting amount.

410. The procedures adopted to confirm identity for non face-to-face verification are as robust as those for face-to-face verification. In accepting business from non-face-to-face customers banks and cash dealers apply equally effective customer identification procedures as for those available for interview and also apply other specific and adequate measures to mitigate the high risk posed by non-face-to-face verification of customers.

411. The BUPSM Act, 2002 and BUPSM Guidelines do not provide any requirement to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing activities.

Identification for insurance persons

412. The insurance entity should be required to establish to its reasonable satisfaction that every verification subject⁸ relevant to the application for insurance business actually exists. All the verification subjects of joint applicants for insurance business should normally be verified. Where there are a large number of verification subjects (e.g., in the case of group life and pensions) it may be sufficient to carry out full verification requirements on a limited group only, such as the principal shareholders, the main directors of a company..

Criterion 102: *The insurance entity should not enter into a business relationship or carry out a significant one-off transaction unless it is fully implementing the above systems. An important pre-condition of recognition of a suspicious transaction is for the insurance entity to know enough about the customer to recognize that a transaction or a series of transactions are unusual.*

413. The BUPSM Guideline applies to the insurance industry and the Guidelines are binding. The Insurance Industry also has its own internal instructions on how to enter into business relationships and the importance of identifying and reporting suspicious activity. At present there are no statistics to support this activity.

Criterion 103: *The insurance entity should be required to carry out verification in respect of the parties entering into the insurance contract. On occasion there may be underlying principals (persons on whose behalf the nominee customer is acting) and, if this is the case, the true nature of the relationship between the principals and the policyholders should be established, and appropriate inquiries performed on the former, especially if the policyholders are accustomed to act on their instruction.*

⁸ Verification subject refers to the person whose identity needs to be established and verified.

Identification of legal persons:

414. Reporting FIs must identify the natural person(s) who will be authorised to operate the account/safe custody facility or to have transactions carried out (The Reporting FI is obligated to verify the legal status of customers that are legal persons in the following way:

- ***Memoranda***
- ***Details of directors***
- ***Details of Shareholders***

415. There are rules on the identification of a customer who is a legal person and also of an individual acting for that legal person.

416. Section 24 of the BUPSM Act and Guideline #11 stipulates that financial institutions must apply customer identification procedures when establishing business relationships and business transactions.

417. In practice all of the banks have a methodical manner for identifying customers. Overall, the effectiveness of the measures in place to deal with gathering of information at the account opening stage and reviewing of validity of records may be considered satisfactory. If satisfactory evidence of the identity is not produced or obtained, the bank shall not proceed further with the transaction. The Act, states that the bank shall maintain records of the person's identity, all transactions carried out by it and correspondence relating to the transactions as is necessary to enable any transaction to be readily reconstructed at any time.

Identification of beneficial owners:

418. If a Reporting FI knows or has reason to believe that a customer is acting as a (legal) representative of another, on behalf of another, or that another person owns the asset that is the subject of a transaction, the FI is required under the Bank Act to identify that other person.

419. Other than this, there is no other requirement to identify a beneficial owner within the meaning of the FATF Recommendations (i.e. the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted, and incorporating those persons who exercise ultimate effective control over a legal person or arrangement). As

used in the FATF Recommendations, the term beneficial owner captures both the notion of equitable owner, as well as the notion of a person exercising ultimate ownership and control over a legal person or arrangement.

420. In Zimbabwe, Reporting FIs are legally required to inquire if the customer is “fronting” for any other person in respect of an account or a transaction (for instance, by asking as a routine part of the account opening procedure whether the account holder is acting on behalf of another person). Reporting FIs are also required to obtain information relating to the shareholding or any corporate group behind a customer who is a legal person. As well, there is a requirement, for Reporting FIs to obtain information on the purpose and nature of the business relationship with a customer, or to conduct ongoing due diligence on the business relationship.

Risk:

421. Under section 11 of the BUPSMML Guideline a copy of the official identification document must be obtained when opening accounts for non-residents and verification of identity may be sought from a reputable financial institution in the customer’s country of residence. The BUPSMML Guidelines do not address how a FI should deal with non-resident companies and what actions should be taken to seek to identify the directors and influential shareholders of the company in accordance with the requirements for non-Zimbabwe personal customers’. The BUPSMML Guideline does not address any details regarding requesting the reasons for which the customer has chosen to open an account in the foreign country.
422. Under the Risk Management Guideline NO. 01-2006SD of the BUPSMML Act, banks are obligated to verify amongst other things, customers’ identity. The Guidelines states that when establishing a business relationship, information on the purpose and nature of the business relationship need to be obtained.
423. There is no legal provision in legislation for professional intermediaries such as fund managers to do Customer Due Diligence on source of funds. However the Reserve Bank of Zimbabwe requires separation a client’s funds from the company’s own investment based on international best practices.

424. The BUPSMML Guidelines do not treat in detail the enhanced due diligence that goes with the identification of third parties.
425. The BUPSMML Guideline does not make reference specifically to a customer to whom banking facilities have been declined. However, on-site examinations of banks have established that banks request whether the customer especially business customers have been refused banking facilities at another bank, to establish any suspiciousness there and then.
426. The requirement for bank to apply enhanced diligence procedures to a customer, if it has any reason to believe that the customer is being refused banking facilities by another bank is an area that could be introduced into the BUPSMML Guideline No. 01-2006.
427. The BUPSMML Guideline No. 01-2006 states that unless satisfactory evidence of identity is obtained 'as soon as is reasonably practicable the business must not proceed.
428. The BUPSMML Guideline does not go into details regarding closing the account and returning monies.
429. Although none of the banks have faced such a situation, during on-site examinations, the banks have said that if faced with such a situation, they would close the account and return the money to its source.
430. Under the Act, if no satisfactory evidence is produced to the bank, it should not proceed any further with the transaction and report it to the FIIES.

Timing of verification:

431. When establishing a customer relationship, the Reporting FI must verify the customer's (but not the beneficial owner's) identity at the time the customer is able to use the Reporting FI's services (i.e. in connection with opening an account or being issued a payment card). The RBZ interprets this to mean that customer identification must take place at the earliest point in time at which the customer is able to make use of the Reporting FI's services (regardless of whether the customer actually avails himself/herself of that opportunity). Consequently, customer identification cannot be postponed until the customer makes the first payment into the account or uses the payment

card for the first time. The following chart sets out specific examples of when a customer relationship is considered by the RBZ to be established (thereby triggering the obligation to identify the customer).

CUSTOMER IDENTIFICATION: WHEN THE OBLIGATION IS TRIGGERED AND WHO IS RESPONSIBLE FOR FULFILLING IT		
TYPE OF FINANCIAL ACTIVITY	WHEN THE CUSTOMER RELATIONSHIP HAS BEEN ESTABLISHED / CDD TRIGGERED	WHO MAY IDENTIFY THE CUSTOMER
Deposit accounts	<ul style="list-style-type: none"> • When the account agreement is entered into 	<ul style="list-style-type: none"> • Reporting FI
Sales finance (i.e. motor vehicle sales)	<ul style="list-style-type: none"> • When the customer takes possession of the capital item (at the latest) 	<ul style="list-style-type: none"> • Reporting FI • Dealer/supplier of the capital good⁹
Customer applying for current account credit accessed by a card	<ul style="list-style-type: none"> • When the account credit agreement is entered into if the customer appears in person at the premises of the dealer/supplier; or • When the customer receives the card by registered mail 	<ul style="list-style-type: none"> • Reporting FI • Dealer/supplier (if the customer appears in person at the premises of the dealer/supplier) • Zimbabwe Post (if the customer receives the card by registered mail)
Customer applying for a card which is unrelated to a concrete purchase of a product/service	<ul style="list-style-type: none"> • When the customer receives the card by registered mail 	<ul style="list-style-type: none"> • Reporting FI • Zimbabwe Post
Company card issued to the customer on the basis of his/her employment contract	<ul style="list-style-type: none"> • When the card is issued to the customer 	<ul style="list-style-type: none"> • Reporting FI • Company/organisation employing the customer
Subscription of financial instruments	<ul style="list-style-type: none"> • When the customer's Central Securities Depository Account is established and before the customer makes any payments or any 	<ul style="list-style-type: none"> • Reporting FI

	securities are transferred to the account (i.e. no later than when the decision is made to allot securities to the customer)	
Subscription of financial instruments over the internet	<ul style="list-style-type: none"> • Before the securities are transferred to the customer's Central Securities Depository account 	<ul style="list-style-type: none"> • Reporting FI
Corporate finances services	<ul style="list-style-type: none"> • When a verbal/written agreement is entered into accepting an assignment (including counselling or preparing offer documents and prospectuses), arrangement, guarantee provision or other services is entered into (i.e. before/upon signing the mandate agreement 	<ul style="list-style-type: none"> • Reporting FI (the Investment firm concerned)

432. In the case of occasional customers making a transaction involving \$50,000.00 withdrawal and \$1 million ZWD on deposit or more, the customer must also be identified. If the transaction amount is not known at the time it is carried out, the customer must be identified as soon as the Reporting FI becomes aware that the threshold has been exceeded.

Failure to satisfactorily complete CDD

433. Except where there is an exemption from having to perform customer identification, if customer identification cannot be carried out or if identification documents believed to be incorrect cannot be verified, then the Reporting FI must refuse to establish a customer relationship or carry out a transaction. However, there is no obligation not to open an account, not establish a business relationship, consider making an STR or (in the case of existing customers) terminate the business relationship in instances where the beneficial owner cannot be identified or information concerning the purpose and intended nature of the business relationship cannot be obtained. This is because there is no obligation to collect this information in the first place.

Existing customers:

434. There are no legal or regulatory measures in place as to how Reporting FIs should apply CDD measures to their existing pool of customers. There is no legal requirement for a customer's identity to be re-verified upon a subsequent enlargement of the customer relationship in the same institution (i.e. the opening of a new account, writing a new insurance policy). However, the

RBZ requires the Reporting FI to be certain of the customer's identity in connection with any customer care implementation or any enlargement of the customer relationship. Zimbabwe cannot confirm that all account holders have been identified.

Recommendation 6:

435. Financial institutions are required to obtain senior management approval for establishing business relationships with Politically Exposed Persons (PEP). This is provided for under section 7 of BUPSML Act, 2002 and section 11 of the BUPSML Guidelines. Financial institutions are also required to conduct enhanced ongoing monitoring on a relationship with a PEP this is provided for under Section 11 of the BUPSML Guideline.

436. Financial institutions should be required to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPS. This is provided for under section 11.14 (b) of the Guideline No. 01-2006 BUP/SML in terms of BUP & SML Act [Cap.24:24] [chap. 24:24]

Recommendation 7:

437. Gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action. This is provided for under section 11.1.1 of the Guideline No. 01-2006 BUP/SML: Anti-Money Laundering as read with Part IV of the BUP & SML Act [Cap.24:24]
438. Assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective. This is provided for under Part IV of BUP & SML Act [Cap.24:24] as read with section 13.2 of the Guideline No. 01-2006 BUP/SML:
439. There is no requirement in the regulations for obtaining approval from senior management before establishing new correspondent relationships.
- 440.
441. Where a correspondent relationship involves the maintenance of "payable-through accounts", financial institutions should be satisfied that:
- (a) Their customer (the respondent financial institution) has performed all the normal CDD obligations set out in R.5 on those of its customers that have direct access to the accounts of the correspondent financial institution; and
 - (b) The respondent financial institution is able to provide relevant customer identification data upon request to the correspondent financial institution. This is not provided for under the law or BUPSMML Guidelines.

Recommendation 8:

442. Zimbabwe allows non-face-to-face business to be established. Reporting FIs are obligated to verify the customer's identity at the time the customer relationship is established, regardless of the amount involved and regardless of whether the services are provided with or without face to face contact.

443. Section 11.10 of the BUPSML Act, 2002 addresses Non Face-To-Face verification and states:

With face-to-face verification, the procedures to check identity must serve two purposes:

- They must ensure that a person bearing the name of the applicant exists and lives at the address provided; and
- That the applicant is that person.

Accordingly, in accepting business from non-face-to-face customers:

- Banks and cash dealers should apply equally effective customer identification procedures as for those available for interview; and
- Other specific and adequate measures to mitigate the high risk posed by non-face-to-face verification of customers dealing with applications for accounts providing cheque and money transmission facilities which are opened by post, to ensure as a minimum that personal verification has been followed in all respects.

444. None of the banks open accounts over the phone or by electronic means. Furthermore, they all request certified documents as proof of identity or bankers' reference for introduced customers.

445. In the BUPSML Act, 2002 and under section 11 of the BUPSML Guidelines banks are obligated to verify amongst other things, customers' identity on the basis of any official or other identifying documents. Customer verification obligations are conducted by banking employees.

446. The Act stipulates that financial institutions must apply customer identification procedures when establishing business relationships and business transactions.

447. RBZ reviews respondent/correspondent-banking relationships in the course of onsite examinations to which adherence to the criterion may be considered to be satisfactory. Amongst themselves, the banks do offer banking facilities. Furthermore, the banks operate correspondent accounts with internationally reputable banks and/or their branches/subsidiaries.

Recommendations and Comments

448. The transition from pure identification to CDD has not been made in Zimbabwe. The legal and regulatory system of Zimbabwe only sets forth measures to be taken to identify customers—which means that Zimbabwe is only in compliance with those elements of Recommendation 5 that implement customer identification. Any other element, going beyond the initial establishment of the customer relationship is not regulated. The assessors did not find any evidence that CDD is implemented on a voluntary best practice level by FIs. Zimbabwe should implement the missing elements of Recommendation 5 as a matter of priority.
449. Although there are extensive requirements for identification of a customer that is a legal person, there is no requirement for a Reporting FI to verify that an individual purporting to act on behalf of that legal person is in fact so authorised.
450. The requirements regarding customer identification are primarily focused on the banking sector. However, does not take into account the normal conduct of business in non-bank sectors. Zimbabwe is recommended to reassess the existing identification requirements and procedures and consider developing measures that are more tailored to the business practices of the non-bank financial sectors.
451. Financial institutions are required to perform enhanced due diligence for higher risk categories of customer, business relationship or transactions.

452. Zimbabwe should impose equivalent obligations upon all institutions, while recognising relevant sector differences. Such guidelines should extend also to those financial institutions that are not subject to prudential supervision.
453. There is no requirement for a Reporting FI to re-perform customer identification when it has doubts about previously obtained identification data. Presently the obligation is only to verify data if the information contained in the presented documents is on its face incorrect.
454. There is a duty imposed on a Reporting FI to check if the customer is acting on behalf of another person. Currently the duty is a contingent one (i.e. to check only if it has reasons to suspect this to be the case).
455. There is a duty imposed to check the corporate or ownership structure behind a customer who is a legal person, by identifying, for example, the controlling shareholder or operating mind behind the customer
456. Legislation needs to be amended on thresholds required for currency declaration at entry and exit points in view of the inflation of the Zimbabwe Dollar.
457. As of the evaluation date, reporting institutions were not required to subject existing customers to KYC requirements.

Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	PC	<ul style="list-style-type: none"> • Reporting FIs are required to actively inquire if the customer is “fronting” for any other person in respect of an account or a transaction (for instance, by asking as a routine part of the account opening procedure whether the account holder is acting on behalf of another person) though not clear under the law. • Reporting FIs are required to obtain information relating to the shareholding or any corporate group behind a customer who is a legal person. • There is a requirement, whether as a legal or supervisory measure, for Reporting FIs to obtain information on the purpose and nature of the business relationship with a customer, or to conduct ongoing due diligence on the business relationship. • There is an enhanced CDD legislation for higher risk categories of customers. However, Zimbabwean legislation does not provide for any

		<p>simplified or reduced CDD measures.</p> <ul style="list-style-type: none"> • There is no obligation not to open an account, not establish a business relationship, consider making an STR or (in the case of existing customers) terminate the business relationship in instances where the beneficial owner cannot be identified or information concerning the purpose and intended nature of the business relationship cannot be obtained. This is because there is no obligation to collect this information in the first place. • There are no legal or regulatory measures in place as to how Reporting FIs should apply CDD measures to their existing pool of customers. There is no legal requirement for a customer's identity to be re-verified upon a subsequent enlargement of the customer relationship in the same institution (i.e. the opening of a new account, writing a new insurance policy, etc). • There is a duty imposed to inquire as to the purpose and intended nature of the business relationship and reporting FIs are not required by law to conduct ongoing due diligence on their business relationships.
R.6	C	<ul style="list-style-type: none"> • This recommendation is fully met.
R.7	PC	<ul style="list-style-type: none"> • Zimbabwe has implemented any AML/CFT measures concerning establishment of cross-border correspondent banking relationships in the regulations only. • There is no requirement in the regulations for obtaining approval from senior management before establishing new correspondent relationship.
R.8	PC	<ul style="list-style-type: none"> • The BUPSMML Act, 2002 and BUPSMML Guidelines do not provide any requirement to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing activities

3.3 Third parties and introduced business (R.9)

Description and Analysis

Recommendation 9:

458. Under Zimbabwe law, Reporting FIs can rely on the identity verification performed by another Reporting FI even if it is part of the same financial group.
459. Financial institutions relying upon a third party are required to immediately obtain from the third party the necessary information concerning certain elements of the CDD process. This is provided for under clause 11.14 of the BUPSML Guideline. Section 11.11 of BUPSML guidelines which provides that locally incorporated companies, banks and cash dealers should verify the identity of those who have control over the company's business and assets, more particularly:
- Their directors,
 - Their significant shareholders,
 - Their authorized signatories and;
 - The legal existence of the company.
460. The following documents should be obtained and retained in the case of locally incorporated companies:
- (a) In respect of employees authorized to open and operate accounts on their behalf, their directors and significant shareholders the same documents as are required for the identification of a personal customer;
 - (b) A certified copy of the resolution of the Board of Directors or managing body and the power of attorney granted to its employees to open and to operate accounts on their behalf; and
 - (c) Official documents which collectively establish the legal existence of that entity, e.g. the original or certified copy of the certificate of incorporation of the company, details of its registered office and place of business etc.
461. Enquiries are made to confirm that the company continues to exist and has not been, or is not in the process of being dissolved, struck off, wound up or terminated. Moreover in cases of doubt a visit to the place of business of the company is conducted to verify that the company exists for a legitimate trading or economic purpose.

462. As with personal accounts, 'know your customer' is a on-going process. If changes to the company structure or ownership occur subsequently or if suspicions are aroused by a change in the nature of the business transacted or the profile of payments through a company account, further checks are made to ascertain the reason for the changes.
463. Financial institutions are required to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements are made available from the third party upon request without delay. Section 11.12.5 of the BUPSMML Guidelines provides that Banks and cash dealers use the following criteria to determine whether an introducer can be relied upon:
- (a) It must comply with the customer due diligence practices identified in the BUPSMML Guidance Notes;
 - (b) The customer due diligence procedures of the introducer should be as rigorous as those which the bank or cash dealer would itself have conducted for the customer; and
 - (c) The systems put in place by the introducer to verify the identity of the customer should be very reliable.
464. Financial institutions are required to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendation 23, 24 and 29), and has measures in place to comply with, the CDD requirements set out in R.5 and R.10. This is provided for under section 11.12.6 of the BUPSMML The Guideline requires provides that banks and cash dealers should conduct periodic reviews to ensure that an introducer which it relies on continues to conform to the obligations set out under Section 11 of the BUPSMML Guidelines.
465. In determining in which countries the third party that meets the conditions can be based, competent authorities are required to take into account information available on whether those countries adequately apply the FATF Recommendations. This is provided for under section 11.12.2 of the BUPSMML Guideline which provides that eligible introducers are persons who introduce other persons or bodies to Zimbabwean banks and cash dealers and have legislation in their country at least equivalent to that obtainable in Zimbabwe. A list of the jurisdictions which have legislation which is at least equivalent to that obtainable in Zimbabwe should be maintained

466. The ultimate responsibility for customer identification and verification remains with the financial institution relying on the third party.

Recommendations and Comments

467. Zimbabwe should continue to allow introduced business, but police the rule properly and regulate it effectively.

Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	C	<ul style="list-style-type: none"> Recommendation is met.

3.4 Financial institution secrecy or confidentiality (R.4)

3.4.1 Description and Analysis

Recommendation 4:

Banking Secrecy

468. The BUPSMML Act [Cap.24:24], Part IV states that, the Director may issue a disclosure order requiring a designated institution to disclose to an inspector or official of the Unit any of the records kept by designated institutions; to provide him or her with a report on any transaction account record or client of the designated institution. To obtain information from other sources, the FIIES needs to request assistance from the Attorney General’s office in order to obtain a court order that information be disclosed for the purposes of a ML investigation. The BUPSMML Act contains specific provision stipulating protection from civil or criminal proceedings against any person for disclosing any information in good faith relating to ML and terrorist financing.

469. There are provisions that guard against breach of confidentiality. These have not been legally tested in court. The effectiveness is limited to the extent that the majority of STR’s submitted to the Police have yet to be prosecuted.

470. The BUPSMML Act contains provision against civil, criminal or disciplinary proceedings against any person who has reported a suspicious transaction. The BUPSMML Guidelines reiterate under Section 9 that one cannot be liable for breach of the duty of secrecy or confidentiality where a disclosure is made in good faith in the ordinary course of one's duties. Specific immunity clause is contained for the Director, officer or an agent of the FIIES or any person acting under the direction of the Director under the BUPSMML Act, 2002, for anything done in good faith in the administration or discharge of any powers, duties or functions of the Act.
471. The duty of confidentiality is imposed by statute on employees of savings banks, commercial banks, management companies for securities funds, the parent company in a financial group, insurance companies, and investment firms. In essence, the duty is to maintain the confidentiality of any information concerning the customer which comes to the knowledge of the employee by virtue of their position. The duty is however not absolute and disclosure is permitted if this is specifically prescribed by law.
472. The BUPSMML Act allows banks, finance companies and mortgage companies to exchange necessary customer data as a necessary step in investigating suspicious transactions before making a report to the RBZ. All Reporting FIs are obligated to record the results of investigations (either in written or electronic form). These results must be made available to the RBZ.
473. Board members and employees of the FIIES are obligated to treat as confidential any information about a customer's affairs which may come to their knowledge in the course of their work. However, the duty of confidentiality does not prevent administrative agencies (such as the RBZ) from sharing information concerning natural/legal persons for the purpose of facilitating performance of the tasks assigned to the administrative agencies pursuant to statute, instructions or terms of reference. This includes providing information concerning the natural/legal person's connection with the administrative agency, decisions made and any other information that may be necessary to facilitate performance of the tasks assigned to the said agency pursuant to statute, instructions or its terms of reference. Nor does the duty of confidentiality apply when the FIIES discloses information to the following entities as is necessary for the discharge of their statutory functions: authorised stock exchanges; authorised securities registers; and authorised clearing houses.

474. The FIIES and RBZ may provide information that it receives concerning suspicious transactions to public authorities (other than the police) that are engaged in tasks associated with the prevention of terrorism or terrorist financing. The police and Attorney General’s Office (including the RBZ) also have a duty of confidentiality. However, exemptions similar to the ones that apply to the administrative authorities apply when necessary for the prevention of crime and in relation to investigation.

Recommendations and Comments

475. Banks can exchange information in the course of investigating suspicious transactions without being hindered by any secrecy provisions but Zimbabwe should consider extending this to other types of Reporting FIs. Under Part IV of the BUPSMML Act, the Director can issue a disclosure order in which financial institutions can make information available to the authorities to assist with AML investigations. The override of secrecy for insurance companies is also not clear and in any event is of uncertain validity in law.

476. It is recommended that the prospect of using financial intelligence in investigating money laundering be clearly indicated to all reporting FIs.

3.4.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	LC	<ul style="list-style-type: none"> Financial institution secrecy laws do not appear to inhibit the disclosure to and sharing of requisite information with the competent authorities, although compliance procedures remain unclear. Zimbabwe should consider extending this to other types of Reporting FIs.

3.5 Record keeping and wire transfer rules (R.10 & SR.VII)

Description and Analysis

Recommendation 10:

477. Reporting FIs are obligated to retain copies of any documents used to verify the customer’s identity. These documents must be endorsed with “certified true copy” and the signature of the

person who carried out the customer identity verification. The date of identity verification must also be indicated. When establishing a business relationship or when performing single transactions, Reporting FIs must record the following identification information on customers (including any person that the customer is acting on behalf of, or who owns the asset that is the subject of the transaction):

- (a) Full name or name of company
- (b) Personal identity number, organisation number, D-number or, if the customer has no such number, another unique identity code
- (c) Permanent address
- (d) Reference to proof of identity supporting the identity of verification and
- (e) Any other data required pursuant to regulations issued by the Ministry

478. Transaction records, in whatever form they are used, e.g. credit/debit slips cheques etc. need to be maintained for a period of not less than 10 years after the completion of the transactions concerned, to enable investigating authorities to compile a satisfactory audit trail for suspected laundered and terrorist funds and establish a financial profile of any suspicious account. This should include the following:-

- (a) The volume of funds flowing through the account.
- (b) The source of the funds, including full remitter details.
- (c) The form in which the funds were offered for withdrawal i.e. cash, cheques, etc.
- (d) The identity of the person undertaking the transaction.
- (e) Counter party details
- (f) The destination of the funds.
- (g) The form of instruction and authority.
- (h) The date of the transaction.

479. The Reporting FI must ensure that the information recorded in relation to a transaction/establishing a business relationship can be connected to the corresponding information about the customer relationship.

480. Both the documents used to verify the customer's identity and the recorded customer identification information must be retained for five years after termination of the customer

relationship or after the transaction is carried out, this is provided for under Section 17 of the BUPSM Act. All documentation required by banks and cash dealers to verify the identity of customers must be retained for a period of not less than 10 years after the closure of the account or cessation of the business relationship with the customer concerned. If a Reporting FI has conducted further examinations of a transaction to confirm/disprove a suspicion of money laundering or terrorist financing, any documents relating to those transactions must also be retained for five years after the transaction is carried out. These documents may be destroyed within one year after expiry of the retention period.

481. In cases where a third party has been relied upon to undertake verification of identity procedures or to confirm identity, copies of all records relating to verification of identification should be retained in Zimbabwe for the same period as stated in the paragraph above.
482. The RBZ may on reciprocal basis exchange information on supervisory matters, whether based on a Memorandum of Understanding (MOU) or not with supervisory authorities in other countries. The exchange of such information may include confidential information provided that the RBZ has satisfied itself that the information submitted shall remain confidential at the foreign supervisory authority. "Supervisory matters" includes matters relating to money laundering and terrorist financing.
483. The provisions regarding protection against breach of confidentiality appears to be sound although the effectiveness is limited to the extent that the majority of STR's submitted to the Police have yet to be prosecuted.
484. Reporting FIs are required to make their accounting records available to the supervisory authorities. This includes providing assistance free of charge, such as making available the equipment and software needed to verify the accounts. The accounting material shall at the request of the supervisory authorities be presentable on paper for up to 5 years after the end of the accounting year. All of this information must be made available to the supervisory authorities as required.
485. Reporting FIs are obligated to store their records in a satisfactory manner. Documents must be secured against unauthorised access. Reporting FIs must also maintain their records in such a way as to ensure that the documents do not lose their evidentiary value. Consequently,

documents that are physically retained must be stored against fire, theft, frost, flooding and other external influences. Data that is electronically retained must be stored in an easily accessible location to permit checking during the period of storage. It must be organised in a manner that permits efficient follow-up of the accounts and the documentation. It should also be properly secured to prevent damage and alteration. The information must be available on a timely basis. Consequently, storage must be systematic to ensure that the appropriate document can actually be retrieved. For instance, the Reporting FI must ensure that there is a unique connection registered between the customer relationship and the customer identification information, either through an account number or in another manner.

486. Financial institutions are required to maintain all necessary records on transactions, both domestic and international, for at least five years following completion of the transaction (or longer if requested by a competent authority in specific cases and upon proper authority). This requirement applies regardless of whether the account or business relationship is ongoing or has been terminated. This is provided for under section 25 of Part IV of the BUP & SML Act [Chap.24:24 as read with section 13.4.1 of the Guideline No. 01-2006 BUP/SML: Anti-Money Laundering.
487. Financial institutions are required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. This is provided for under section 6 of the BUP SML Act, 2002.

Special Recommendation VII:

488. For wire transfers being conducted by permanent customers at a Reporting FI, the full originator information (i.e. name, account number/unique reference number and address of the originator) will be obtained and maintained. This information is verified by checking the veracity of the customer identification documents on their face (i.e. ensuring that the photograph and signature on the document match the person, ensuring that the document is valid).

489. All wire transfers, ordering financial institutions are required to obtain and maintain ¹⁰ the following information relating to the originator of the wire transfer, and to verify that such information is accurate and meaningful.
- The name of the originator;
 - The originator's account number (or a unique reference number if no account number exists).
490. The originator's address (countries may permit financial institutions to substitute the address with a national identity number, customer identification number, or date and place of birth). This is provided for under section 11.16.3 as read with section 11.16.4 of the Guideline No.01-2006 BUP/SML: Anti-Money Laundering.
491. Financial institutions in Zimbabwe are not required to ensure that non-routine transactions are not batched where this would increase the risk of money laundering or terrorist financing.
492. Each intermediary financial institution in the payment chain is required to maintain all the required originator information with the accompanying wire transfer. This is provided for under section 11.16.3 of the Guideline No.01-2006 BUP/SML: Anti-Money Laundering which states that to ensure wire transfer systems are not used by criminals as a means to break the audit trail, where a bank or cash dealer makes a payment on behalf of its customer, designated institutions are required to provide accurate and meaningful originator information (name, residential address and any account number or reference of the originator) for all money transfers and related messages and should remain with the transferor through the payment chain until it reaches its final destination.
493. Where money transfers are processed as an intermediary, e.g. where a bank or cash dealer "B" is instructed by bank or cash dealer "A" to pay funds to an account held by a beneficiary at bank or cash dealer "C", the originator and beneficiary data provided by bank or cash dealer "A" should be preserved and, wherever possible, included in the message generated by bank or cash dealer "B".

¹⁰ Financial institutions do not have to repeatedly obtain and verify originator information every time a customer makes a wire transfer. Where the necessary originator information had already been obtained and institutions are satisfied that the information remained accurate, institutions could rely on the information already available.

494. Banks or cash dealers should conduct enhanced scrutiny of, and monitor for suspicious activity, incoming funds transfers which do not contain complete originator information.

Recommendations and Comments

495. During the evaluation the team were informed that there have been instances where money has been transferred illegally due to lack of compliance by some money transfer agencies. In one case two thousand US dollars were transferred to South Africa without approval in July of 2006.

Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	C	<ul style="list-style-type: none"> • The recommendation is met
SR.VII	LC	<ul style="list-style-type: none"> • More scrutiny needs to be applied to wire transfers by FIs. • FI are not specifically obliged to ensure non routine transactions are not

Unusual and Suspicious Transactions

3.6 Monitoring of transactions and relationships (R.11 & 21)

3.6.1 Description and Analysis

Recommendation 11:

496. Reporting FIs are required to conduct additional examinations of transactions that are suspected of being related to ML/FT. Examples of circumstances that may trigger the obligation to make such examinations are that the transaction: (i) appears to lack a legitimate purpose; (ii) is unusually large or complex; (iii) is unusual in relation to the customer’s habitual business or personal transactions; or (iv) is otherwise of an anomalous nature. The BUPSMML Guidelines provide that “it is important that the procedures and responsibilities for monitoring compliance with and effectiveness of, anti-money laundering and financing of terrorism policies and procedures are clearly laid down by all banks and cash dealers” (Section 9). Moreover in order to be able to judge whether a transaction is suspicious or not, banks and cash dealers should have a clear understanding of the legitimate business of their customers and effect an ongoing monitoring of the activities of those customers

in order to detect whether those transactions conform or otherwise to the normal or expected transactions of that customer (Section 11).

497. The essential elements of KYC standards start from the banks' or cash dealers' risk management and control procedures and include the following:
- (a) Customer acceptance policy,
 - (b) Customer identification,
 - (c) On-going monitoring of high risk accounts and
 - (d) Overall Risk management.
498. Reporting FIs are also warned that foreign exchange operations (including foreign currency exchange and payment transfers to foreign countries) are particularly vulnerable to abuse for ML/FT purposes. Likewise, Reporting FIs are advised to pay special attention to business areas where there is little or no face-to-face contact with the customer. Reporting FIs are still responsible for fulfilling their investigative obligations even if the customer is conducting business through the Internet or other electronic systems.
499. Banks have to report on weekly bases withdrawals above 50 Million Zimbabwe dollars as July 2006. This requirement is contained under the BUPSMML Act 2004, Regulations. Under the BUPSMML act 2004 the maximum daily cash withdrawal was restricted. This is being monitored using computers although the system needs to be improved.
500. In practice, all the Financial Institutions have an internal limit which is below the equivalence of US\$ 10,000 USD.
501. Customer Identification is required for all the following categories.
- **Applicant for Business** means a person, who seeks to form a business relationship, or carry out a one-off transaction with a bank or cash dealer.
 - **Business Relationship** means an arrangement between a person and a bank or a cash dealer where the purpose or effect of the arrangement is to facilitate the carrying out of transactions between the person and the bank or cash dealer on a frequent, habitual or regular basis.

- **One off Transaction means** any transaction carried out other than in the course of a business relationship. For example, a single foreign currency transaction carried out for a customer who does not have an account with the bank or cash dealer concerned.
- **Significant shareholders** means shareholders, other than shareholders which are companies listed on a recognized Stock Exchange, who directly or indirectly hold 20% or more of the capital or of the voting rights of the company

502. The BUPSML Act provides that the bank shall take reasonable measures to ascertain the purpose of any transaction in excess of the stipulated thresholds in case of cash transactions, and the origin and destination of all the funds involved in the transaction.

Criterion 94:

503. Supervisors are authorized to access all documentation related to accounts, including any analysis the banks have made to detect unusual or suspicious transactions (CDD 61). Section 33(2) of the Banking Act, gives RBZ access to any information of the Financial Institution, which it considers necessary Furthermore, the Act states that for the purposes of considering any information furnished relating to money laundering, an officer authorized by the RBZ may apply to a magistrate for an order of inspection of any books or documents relevant to such information in the custody or control of the person furnishing the information. In practice, all the banks allow RBZ access to all records.

504. Financial institutions are required to examine as far as possible the background and purpose of such transactions and to set forth their findings in writing. The BUPSML Guidelines covers the analytical process required to cover the transaction and provides such examples.

505. Financial institutions are required to keep such findings available for competent authorities and auditors for at least five years. AML/ CFT Guideline Number 1-2006 section 13 requires that records be kept for a maximum period of 10 years.

Criterion 102: *The insurance entity should not enter into a business relationship or carry out a significant one-off transaction unless it is fully implementing the above systems. An important pre-condition of recognition of a suspicious transaction is for the insurance entity to know enough about the customer to recognize that a transaction or a series of transactions are unusual.*

506. General BUPSMML Guidelines have been issued to the designated institutions. These are however are not insurance sector specific.
507. Under Section 26 of the BUPSMML Act, where any person not being a financial institution must notify RBZ in writing in cases where there are reasonable grounds for the entity to believe that a business relationship formed or transaction carried out or proposed constitutes money laundering.
508. Designated institutions under the BUPSMML Act are required to report suspicious transactions relating to FT to the FIIES. The Act does not provide that designated institutions submit a report to the FIIES on whether it is in possession of any property owned or controlled by or on behalf of a terrorist group.
509. The insurance supervisor works closely with the insurance providers whenever suspicion arises. The BUPSMML Act also provides that insurance providers are required to submit STRs related to the commission of an offence of ML or FT to the FIIES. The list of reporting entities has been extended to cover money changing services, lawyers, accountants, real estate dealers, casinos and stock exchange. The insurance authority intends to issue guidance in the future as soon as it can increase its workforce.

Recommendation 21:

510. One of the circumstances which may trigger a suspicion of ML/FT (and therefore, an examination by the Reporting FI) is a transfer to/from a customer in a country or area lacking satisfactory measures against ML/FT. The results of such examinations must be recorded (either in written or electronic form) and be made available to the FIIES at all times. Additionally, Reporting FIs are warned to be alert to transactions with customers or institutions in countries that do not have AML/CFT legislation or regime in place.
511. The BUPSMML Guidelines under Appendix D, provides the list of FATF NCCT countries to include:
1. Cook Islands
 2. Myanmar

3. Indonesia
4. Nauru
5. Nigeria
6. Philippines

512. The BUPSMML Guidelines also publish a list of the FATF member countries and territories with legislation/status/procedures equivalent to the Zimbabwean legislature or procedure.

513. The RBZ and FIIES distribute lists of terrorist organisations or entities with whom FIs should not engage in dealings with.

514. When dealing with a client of a country which continues not to apply or insufficiently applies the FATF Recommendations, Zimbabwe is able to apply countermeasures. This is outlined in RBZ Guidelines issued in May 2006.

515. In general, the banks and other institutions interviewed were aware of the importance of monitoring suspicious accounts and were aware of the need to increase their focus in this area; however there was some concern that money transfer agencies are not always compliant and some have not implemented monitoring mechanisms that can detect complex transactions or patterns of transactions.

516. The possible counter-measures to apply to countries with weakness in AML/CFT System include:

*Stringent requirements for identifying customers and enhancement of advisories, including jurisdiction-specific financial advisories, to financial institutions for identification of the beneficial owners before business relationships are established with individuals or companies from these countries.

*Enhanced relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with such countries are more likely to be suspicious; In considering requests for approving the establishment in countries applying the countermeasure of subsidiaries or branches or representative offices of financial institutions, taking in to account the fact that the relevant financial institution is from a country that does not have adequate AML/CFT systems.

Compliance with Recommendations 11 & 21

	Rating	Summary of factors underlying rating
R.11	LC	<ul style="list-style-type: none">• Most institutions in Zimbabwe pay special attention to all complex, unusual large transactions, however there were indications that money transfer agencies are not always compliant with this requirement.
R.21	PC	<ul style="list-style-type: none">• Zimbabwe has not taken sufficient steps to ensure that FIs give attention to countries which do not meet FATF requirements.• More enhanced countermeasures need to be implemented.

3.7 Suspicious transaction reports and other reporting (R.13-14, 25 & SR.IV)

3.7.1 Description and Analysis¹¹

Recommendation 13 and Special Recommendation IV:

517. Reporting FIs are obligated to report transactions to the FIIES when there is a suspicion that the transaction is a serious offence such as ML and TF. The BUPSM Act, 2004 and Guidelines provide for both ML and TF. The law does not specify what level of suspicion is required. However, the preparatory works indicate that the suspicion must relate to some facts or grounds. This is assumed to mean that the level of suspicion could be lower than reasonable grounds. Reporting FIs are also obligated to report suspicious transactions related to tax matters.

518. When forwarding an STR to the FIIES, the Reporting FI must provide all essential data concerning the transaction and the suspicion. This includes a description of the basis for the suspicion, information concerning the suspects and third parties involved (if any), account data (if any), data on the movements on the account, data on the nature and size of the transaction, whether the transaction has actually been carried out, to whom the funds are to be transferred and the origin of the funds. Relevant documents supplementing such information should be attached or forwarded as well. A customer or third party shall not be informed that such information has been forwarded. Ordinary e-

¹¹ The description of the system for reporting suspicious transactions in s.3.7 is integrally linked with the description of the FIU in s.2.5, and the two texts need to be complementary and not duplicative.

mail is not allowed because of the risk of information tapping. The analysis and report on STR usually takes up to 14 days.

519. The AML/CFT reporting obligations for both apply to both completed and attempted transactions, regardless of amount. Additionally, Reporting FIs are not permitted to carry out any transaction if identity documents are not produced, or there is reason to believe that the documents are not correct. However, if the institution regards the attempted transaction as being suspicious, it must carry out an examination of the transaction for the purpose of confirming/disproving the suspicion. If the suspicion cannot be disproved, the Reporting FI must submit a suspicious transaction report to the FIIES. Likewise, the Reporting FI must submit an STR to the FIIES if the customer's identity is in doubt.
520. A suspicious transaction is a transaction which gives rise to suspicion for any reason. Where there is a business relationship, a suspicious transaction will often be one which is inconsistent with a customer's known, legitimate business or personal activities or with the normal business for that type of account. Therefore, the first key to recognition is obtaining enough information about the customer and the customer's business to recognize that a transaction, or series of transactions are unusual.
521. Banks and cash dealers consider when determining whether an established customer's transaction might be suspicious the following:
- Is the size of the transaction consistent with the normal activities of the customer?
 - Is the transaction rational in the context of the customer's business or personal activities?
 - Has the pattern of transactions conducted by the customer changed?
 - Where the transaction is international in character, does the customer have any obvious reason for conducting business with the other country involved?
522. Examples of what may constitute suspicious transactions in relation to money laundering are provided under Appendix E of the BUPSML Guidelines.
523. The BUPSML Guidelines also provide the FATF NCCT list with whom designated institutions should treat cautiously. However this does not include information on suspected terrorists,

terrorist groups and associated individuals and entities contained on the lists issued by the United Nations.

524. Sufficient guidance is given to staff to enable them to recognize suspicious transactions. The type of situations giving rise to suspicious transactions will depend on a bank's or cash dealer's customer base and range of services and products. Banks and cash dealers are also required to consider monitoring the types of transactions and circumstances that have given rise to suspicious reports by staff, with a view to updating internal instructions from time to time.
525. STRs are reported when a member of staff of a designated institution provides in writing a report to the MLRO on any suspicious activity of money laundering and terrorist financing. All banks and cash dealers have a clear obligation to ensure that each relevant employee knows to which person he or she should report suspicious transactions and that there is a clear reporting chain under which those suspicious transactions will be passed directly and without delay to the MLRO. Once an employee has reported his/her suspicion to the MLRO, he/she has fully satisfied and discharged his/her statutory obligation.
526. In general, there are some concerns about the effectiveness of the reporting system. For instance, the number of STRs being reported by non-bank financial institutions is very small, if not non-existent with some entities.
527. Another effectiveness concern relates to the fact that, in general, banks seem to focus on transactions performed by foreigners as being suspicious, rather than focusing on the nature and characteristics of the transactions themselves.

Recommendation 14:

528. "Tipping off" a customer or any third party in connection with reporting a STR to the FIIES is prohibited. Neither the customer nor any third party should be informed that such investigations are in progress). Nor shall the customer or any third party be informed that information has been provided to FIIES. Although in some cases it may be natural to ask the customer questions to confirm or disprove a suspicion, the obligation is to ensure that the customer is not made aware that investigations are in progress. Consequently, in such situations, the Reporting FI should proceed with caution. Zimbabwe reports that the prohibition against tipping off applies to the

Reporting FI as well as its directors, officers and employees (whether permanent or temporary). Section 28(2) of the BUPSM Act, and Section 9 of the BUPSM Guidelines however does not meet this requirement. Tipping off has not been clearly prohibited in Law.

529. Reporting STRs to the FIIES is the responsibility of a senior manager who has been assigned special responsibility for this task (i.e. the compliance officer). Zimbabwe reports that the identity of other employees (i.e. the person who initially formed the suspicion about the transaction) is kept confidential. No statutory legislation exists to protect the senior manager who bears this responsibility; however, only authorised persons at FIIES have access to this information. The name of the compliance officer does not appear in the reports that are sent to the police districts. From time to time enquires have been made as to how disclosures have been made but nothing serious has occurred to date.

Recommendation 25:

530. BUPSM Guidelines provides guidance to Reporting FIs concerning how to comply with the reporting obligations. For instance: (i) what types of activity may be suspicious; (ii) how to submit an STR to the FIIES; (iii) the rationale for implementing electronic systems to monitor accounts; (iv) transactions related to countries that insufficiently apply AML/CFT measures; (v) prohibitions and restrictions on the right to establish customer relationships with persons from countries that insufficiently apply AML/CFT measures; and (vi) how to obtain further information and assistance concerning these issues).
531. Designated institutions are being engaged to be part of a solution formulation regarding timeframes for feedback on reported STRs. This is identified in the regulations and requires them being issued within 14 days.
532. After making its inquiries, the FIIES normally informs the Reporting FI of the decision that was taken, and (if applicable) of the police district or foreign unit investigating the case. However, this has not been a consistent practice. The Reporting FI should also receive transcripts of legal decisions.

533. The RBZ should ensure that non-bank financial institutions, including MVTS providers, comply with their reporting obligations. Steps should also be taken to refocus reporting in general to concentrate more on the nature of the transaction.
534. The guidance given by the RBZ should be deepened, broadened and based on the different typologies, trends and techniques that focus more attention on the nature of transactions themselves. Additional guidelines that are more tailored to particular types of financial institutions should be issued.
535. More outreach to the DNFBP sectors should be undertaken to ensure that sector participants understand the rationale for the reporting obligation and how to comply with it.
536. **The FIIES MOU should deliver more specific feedback to reporting entities, particularly concerning the status of STRs and the outcome of specific cases.**

Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

	Rating	Summary of factors underlying rating
R.13	PC	<ul style="list-style-type: none"> • FIs are reporting STRs to the FIIES however the DNFBPs have not been proactive in reporting any suspicious activity.
R.14	PC	<ul style="list-style-type: none"> • Zimbabwe needs to clarify the prohibition of Tipping. • Zimbabwe needs to legislate to extend the statutory protection to Senior Managers/Compliance Officers.
R.25	PC	<ul style="list-style-type: none"> • Guidelines exist for the DNFBPs and have been provided to some of them, however compliance has not been monitored to ensure that DNFBPs are meeting their reporting obligations. • There is no feed back on disclosure. • Guidelines not being followed.
SR.IV	PC	<ul style="list-style-type: none"> • The BUPSMML Act and BUPSMML Guidelines provide for the reporting of terrorist financing suspicious however to-date no such suspicions have been

		reported and many of the DNBFPs have not addressed the issued of terrorist financing.
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3.7A Large transaction and cross-border transaction reporting (R.19 & SR IX)

3.7A.1 Description and Analysis

Recommendation 19:

537. Zimbabwe has not considered the feasibility and utility of implementing a system whereby Reporting FIs would report all domestic cash transactions above a fixed threshold to a national central agency with a computerised database. Directives have been issued on the minimum and maximum cash withdrawals and this is being monitored using computers although the system needs to be improved.

Special Recommendation IX:

538. Zimbabwe adopted the declaration system “b”. The current legislation forbids the exportation of local currency in excess of \$5million and foreign currency in excess of US\$1000.00 per traveller. There are measures in place that those found with large undeclared amounts are prosecuted resulting in the recovered amount being forfeited to the state and fines equivalent to the seized amounts imposed under the Exchange Control Act.

539. A declaration system that is in place requires that all persons make declarations of goods and currency they are carrying so as to establish that excess currency is not removed from the country. Cross border transportations made by couriers, postal firms, delivery firms are also required to make these declarations. The threshold is local currency \$5,000,000.00 and USD1000.00 or equivalent on exit. There is no limit on the importation of foreign currency.

540. The other systems in place to detect smuggling of currency include physical examinations conducted on the person and vehicles, and scanners installed at Beitbridge and Plumtree border posts. ZIMRA officials have the authority to make inquiries on anybody crossing the border.
541. ZIMRA has the authority to request and obtain further information. The current procedure is that undeclared excess currency is detained and the offender may be prosecuted. There is a need to institute such inquiries in cases where money laundering is suspected or where the amount detected exceeds the prescribed amount. ZIMRA is able to stop or restrain currency for as long is necessary to enable investigations to be made to gather evidence on money laundering.
542. There is a need to put in place a system to avail this information about the bearer for use by the FIIES or other appropriate authorities in instances where a declaration exceeds the prescribed threshold, where there is a false declaration and where there is suspicion of money laundering.
543. It is a criminal offence to make a false declaration. The penalty is a fine normally amounting to a percentage of the value of the currency being transported. There is no need to have found evidence of ML/FT or some other crime in order to impose a fine in these circumstances. There is a possibility to confiscate the entire sum of money, simply because it has been falsely declared.
544. The Customs and Excise Act, Chapter 23:02 authorises ZIMRA to share information with the police when the information is related to a breach of customs regulations. If ZIMRA have reasonable grounds to suspect a criminal offence outside their administrative area, they may give this information to the police if the criminal offence can be punished with imprisonment for more than 12 months. It is not necessary that a suspicion of ML/FT or some other crime exist. ZIMRA can also decide whether to share information with foreign customs authorities. ZIMRA routinely co-operates with the police, tax and immigration authorities, security personnel at the airports and foreign customs authorities.
545. Checks on the cross-border transportation of goods and currency are made both randomly and, more frequently, on the basis of intelligence. At times, ZIMRA conduct control actions in co-operation with foreign customs authorities.

546. A system still has to be put in place for ZIMRA to pass on information to the (FIIES) in cases where money laundering is suspected. To facilitate this there is need to change legislation to cater for this Information sharing.
547. Regular meetings are held at all border posts with Immigration, CID and Police Officers and other stakeholders. There is co-ordination among the government departments on issues related to the illegal movement of money across the borders. Co-operation arrangements exist amongst ZIMRA, NECI, Police, Immigration authorities and at all border posts regular meetings and consultations are held.
548. The current legislation on exchange controls allows the seizure of contraband and the prosecution of offenders. Persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering are handed over to the police for prosecution.
549. The freezing of funds used for terrorist financing and the confiscation of laundered property is executed by the Police while investigations are on going. Confiscation can take place after the investigation has been completed.
550. At the moment reports for cross border transportation of currency are done manually for local station purposes but in the near future they should be maintained in computerised data base and suitably adjusted to meet the need for AML/CFT purposes. Lists of designated persons and entities made pursuant to UN S/RES/1267(1999) and the lists of persons/entities designated pursuant to s/res/1373(2001) are distributed to the ZIMRA.
551. No specific guidance has been given to ZIMRA concerning freezing actions pursuant to such lists; however, Zimbabwe authorities believe that if such money were detected entering or leaving Zimbabwe, it would be frozen. If Zimbabwe authorities discover an unusual shipment of currency, monetary instruments, precious metals, or gems, etcetera, they are allowed to notify the customs authorities in the country from which that shipment originated, pursuant to the Customs Act or bilateral agreements on mutual legal assistance in customs matters that Zimbabwe participates in.

Recommendations and Comments

552. Zimbabwe’s declaration system is not “water tight”. At a minimum, the FIIES and possibly also the police should have electronic access to the Currency Transaction Register even where no investigation has formally commenced. The FIIES should be able to conduct a check against this register in the same way as it conducts checks against many other registers when it receives an STR.
553. Information should be retained when a false declaration is made or when there is a suspicion of ML/FT.
554. At the evaluation date, CTRs were being filed manually by the Reporting FIs to the FIIES. Zimbabwe should complete the implementation of the system where by the CTRs will be submitted electronically

Compliance with Recommendation 19 and Special Recommendation IX

	Rating	Summary of factors underlying rating
R.19	NC	<ul style="list-style-type: none"> Zimbabwe has not considered the feasibility and utility of implementing a system whereby Reporting FIs would report all domestic cash transactions above a fixed threshold to a national central agency with a computerised database. Directives have been issued on the minimum and maximum cash withdrawals and this is being monitored using computers although the system needs to be improved. At the evaluation date, CTRs were being filed manually by the Reporting FIs to the FIIES. Zimbabwe should complete the implementation of the system where by the CTRs will be submitted electronically
SR.IX	PC	<ul style="list-style-type: none"> Zimbabwe has taken measures to meet many of the requirements of SR. IX however the evaluators were informed that there has been a momentum with cross border violations for the illegal purchase of foreign currency. Measures needed to be strengthened in view of the value of the ZIM currency and how this is affecting the parallel activities at the border posts.

Internal controls and other measures

Internal controls, compliance, audit and foreign branches (R.15 & 22)

Description and Analysis

Recommendation 15:

555. All Reporting FIs are obligated to establish satisfactory internal control and communications procedures to meet their obligations under the BUPSML Act and BUPSML Guidelines. For instance, Reporting FIs must establish proper internal control and communications routines to ensure that STRs can be properly investigated. For instance, each Reporting FI must designate an AML officer at the senior manager level (i.e. at a level which carries sufficient powers to allow the AML officer to discharge his/her statutory tasks, and to have sufficient authority and effectiveness vis-à-vis the Reporting FI's employees and top management). At the same time the AML officer needs to devote enough of his/her working time to maintaining contact with the segment of the Reporting FI's employees who perform customer-service functions. Internal reporting procedures must be established through which an employee who becomes suspicious of a transaction can report the suspicion to his/her superiors and the Reporting FI's specially designated AML officer. The AML officer reports directly to a specially nominated senior manager who ensures that the control and communication routines are established and being observed in the event of suspicious transactions and who is responsible for following up on these procedures. The AML officer/unit has full access to all the mentioned data and information, and the statutory duty of confidentiality does not limit such access. Internal control procedures must be established at a senior management level and set down in writing.
556. The following types of Reporting FIs are required to have an independent audit department or internal audit function to test compliance with their internal controls: commercial banks; saving banks; non-life insurance companies; life insurance companies; finance companies and mortgage companies; stock exchanges and authorised market places; investment firms; management companies for securities funds; private, municipal and regional pension funds and pension schemes; clearing houses; securities registers; and e-money institutions. The internal audit unit must report to the Reporting FI's board of directors. It is entitled to attend board meetings, and must submit a report on the internal control system at least once a year. The board of directors must approve the internal audit unit's resources and plans on an annual basis, and has responsibility for appointing and dismissing the head of the internal audit unit.
557. Financial institutions are required to retain an authorised public auditor (in addition to a control committee that is responsible for supervising its activities and ensuring that it complies with the

provisions of the Act. A person in senior management must be designated to be responsible for ensuring that the FI complies with AML/CFT legislation. External Auditors are authorised by the RBZ and must meet fit and proper requirements. Internal Auditors are also approved by the RBZ. E.g.: how it sets out that a person who wants to be authorised as registered or state authorised auditors must: (i) have a record of honourable conduct; (ii) be capable of fulfilling their obligations as they arise; and (iii) be of full age and capacity. Auditors are at all times under the supervision of the RBZ. The institution has no separate obligation to report to the RBZ if becomes aware of circumstances that may be relevant to the fitness and propriety of its auditors, but will normally do so anyway.

558. At Reporting FIs without an internal audit function, the board of directors must ensure that an external body confirms compliance annually. In such cases, the external body must submit an annual report that states:
- (a) Whether a systematic review of significant risks has been undertaken at the Reporting FI and how the internal control system is structured to manage these risks;
 - (b) Whether implementation of the internal control system is being monitored and whether failures are reported to the management in a systematic manner; and
 - (c) Whether the required documentation is to hand.

559. Reporting FIs are obligated to establish special training programmes (including follow up programmes) for employees and other relevant persons in order to comply with AML/CFT obligations. All persons who perform services on behalf of or for Reporting FIs, including substitutes and other temporary labour must receive adequate instruction, training, maintenance and upgrading of their knowledge of AML/CFT legislation and measures. Employee training is considered to be a key element of the AML/CFT measures of Reporting FIs. Reporting FIs should ensure that new staff are familiarised with relevant AML/CFT legislation and their obligations under it, and that existing staff are regularly updated on new developments in the rules. All personnel in the undertaking who deal with transactions, settlement and control functions must be trained. Similarly staff training needs should be on a continual basis. Reporting FIs should also maintain an awareness of what training is most appropriate to their particular institution (i.e. in terms of their particular customers, types of transactions, etcetera) Additionally, employees and other persons performing AML/CFT tasks should participate in special training programmes that teach them to recognise transactions which may be related to ML/FT and advise them on how to handle such cases.
560. Many of the banks have conducted their own internal training on AML/CFT. The FIIES has provided some training to FIs and some of the DNBFPS have also been sensitised to AML/CFT however more training is required for all designated institutions.
561. There is a regulatory obligation on Reporting FIs to establish screening procedures to ensure high standards when hiring employees, Reporting FIs have implemented internal ethical and professional codes of conduct. Police check backgrounds of prospective employees. FIS have a report from the DCI prior to hiring a new employee.
562. Financial institutions should require a borrower to document his debt-servicing ability with a view to confirming that there is no disparity between his income and asset situation and agreed repayment conditions. The borrower's own capital should also be scrutinised and documented. This is checked while doing audits.

Recommendation 22:

563. Subsidiaries of Zimbabwe financial institutions have to comply with AML/CFT legislation in the host country. However, there is no obligation to ensure that foreign subsidiaries observe AML/CFT measures consistent with Zimbabwe requirements and the FATF Recommendations

to the extent that host country laws and regulations permits. The RBZ is responsible for the supervision of Zimbabwe financial institutions, including their establishments abroad (unless such an establishment is under supervision of the host state), as well as any other companies which may be part of the group. The RBZ can authorise the establishment of branches in other countries. However, the RBZ will not authorise a Zimbabwe credit institution to establish a branch in a country that has inadequate regulation and supervision unless the RBZ has full authority for supervising that branch, including satisfactory access to reports and information. There is no requirement for a financial institution to inform the RBZ if its foreign branch or subsidiary is unable to observe appropriate AML/CFT measures unless it is prohibited by the laws or regulations of the host country.

564. In addition, the Bank Licensing Supervision and Surveillance Division of the Reserve Bank of Zimbabwe (BLSS) applies the Core Principles on Basel committee in its supervisory approach. The licensing function for FIs is provided by the RBZ. The RBZ has responsibility for ensuring that all reporting FIs have adequate policies, practices and procedures in order to comply with AML/CFT legislation. In line with the general practice of other financial regulators, The RBZ allocates supervisory resources on risk sensitive bases. No entities supervised by the RBZ are overlooked but the weaker ones would generally get more attention than others considered to be better managed. The RBZ has stated that it looks at core principles in its supervision of banks, insurers and investment firms and tries to coordinate this approach with AML/CFT Supervision.

Criterion 109: Insurance and reinsurance companies should foster close working relationships between underwriters and claims investigators. Reporting systems should be in place to alert senior management and/or the board of directors if AML/CFT procedures are not properly followed.

Criterion 110: Consistent with Insurance Core Principle criterion 5.8, the supervisor should have the authority to require that insurance entities have an ongoing audit function of a nature and scope appropriate to the nature and scale of the business. This includes ensuring compliance with all applicable policies and procedures and reviewing whether the insurer's policies, practices, and controls remain sufficient and appropriate for its business.

Recommendations and Comments

565. Zimbabwe needs to ensure that branches and subsidiaries observe appropriate AML/CFT measures consistent with their home jurisdiction requirements and that the higher standard applies to branches and subsidiaries in host jurisdictions where the minimum AML/CFT requirements of the home and host jurisdictions differ.
566. Zimbabwe needs to strengthen AML/CFT internal policies and procedures including clear customer acceptance policies, with a description of the types of customer that are likely to pose a higher than average risk to a bank as well as internal testing of the extent to which the institution is complying with internal policies and procedures;
567. Internal training should be strengthened. Training should focus on obtaining proper customer identification and information related to transactions such as source of funds, and identifying suspicious transactions.

Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
R.15	LC	<ul style="list-style-type: none"> • There is an DNFBP did not demonstrate compliance with BUPSML Regulations obligation on Reporting FIs to establish screening procedures to ensure high standards when hiring employees. • There are some preliminary concerns about how effectively internal controls have been implemented. The internal controls themselves suffer from the same deficiencies as the legal requirements.
R.22	NA	<ul style="list-style-type: none"> • There are no foreign branches or subsidiaries outside Zimbabwe. This information was given to the Evaluation team at time of the on site. We have now been advised that there are 5 banks outside of the country supervised by the RBZ.

3.9 Shell banks (R.18)

Description and Analysis

Recommendation 18:

568. In Zimbabwe the setting up of shell banks is not permitted. Current legislation does not have a specific provision for the prohibition of setting up shell banks. In line with international best

practice, in particular the Basel Committee Publication of January 2003 the Licensing Authority no longer approves the establishment of shell banks or accept their continued operation. However, amendments to the Banking Act are in progress and shall incorporate provisions to prohibit the setting up of shell banks.

569. All banking institution operating in the country are not shell banks. On the other hand the evaluation process that is conducted by banks when trying to establish correspondent banking relationships is capable of uncovering the nature of operations of target institutions.

570. In line with international best practice, financial institutions in Zimbabwe are obliged to ensure that account with correspondent bank accounts are not used by shell banks. Continued communication among supervisory authorities in various countries will assist in flushing out such cases if they do occur

Recommendations and Comments

571. Zimbabwe does not provide for the setting up of shell banks. Zimbabwe should consider typologies on the vulnerability of shell banks for money launderers in light of any future developments in which shell banks may be permitted to operate in Zimbabwe.

Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	PC	<ul style="list-style-type: none"> Zimbabwe should ensure that the amendments to the Banking Act incorporate provisions to prohibit the setting up of shell banks.

Regulation, supervision, monitoring and sanctions

3.10 The supervisory and oversight system - competent authorities and SROs

Role, functions, duties and powers (including sanctions) (R.17, 23, 29 & 30)

3.10.1 Description and Analysis

Recommendation 23 (Licensing and supervision of financial institutions):

572. The licensing function for financial institutions is provided by the RBZ. The RBZ has responsibility for ensuring that all Reporting FIs have adequate policies, practices and procedures in order to comply with AML/CFT legislation. In line with the general practice of other financial regulators, the RBZ allocates its supervisory resources on a risk sensitive basis. No entities supervised by the RBZ are overlooked, but the weaker ones would generally get more attention than others considered to be better managed. The RBZ has stated that it looks to Core Principles in its supervision of banks, insurers and investment firms and tries to co-ordinate this approach with AML/CFT supervision. .

SUPERVISION AND LICENSING OF FINANCIAL INSTITUTIONS	
Financial institutions supervised by the RBZ	Licensing decision made by:
Banks	RBZ
Finance companies	RBZ
Mortgage companies	Minister of Finance
Insurance companies	Minister of Finance
Insurance brokers	Minister of Finance
Pension Funds	Registrar of Pension funds
Investment firms	RBZ
Management companies for securities funds	RBZ

573. **Supervision of MVTs providers and foreign exchange offices:** Foreign exchange offices and independent MVTs providers are permitted to operate in Zimbabwe. There is some concern about how effectively this sector is being supervised given that the assessors have been made aware of some problems concerning how the reporting obligation is being complied with.

574. Money Transfer Agencies and cash dealers are registered by the RBZ. Asset managers are registered in terms of the Asset Management Act [Chapter :24:26]

575. **Effective implementation of the FATF Recommendations:** As of the evaluation, Zimbabwe has conducted no thematic inspections relating to AML/CFT issues. Consequently, it is premature to

draw firm conclusions about the effectiveness of Zimbabwe's implementation of the FATF Recommendations. Nevertheless, it should be noted that those inspections. Breaches related to: (i) failure to establish satisfactory internal AML controls or to designate a person in senior management to follow up on these controls; (ii) defects in procedures for verifying the identity of legal persons and (iii) failure to keep records in a manner that ensured full traceability of identity documents. In all cases, the RBZ requested the financial institutions to take steps to correct these deficiencies, but did not impose any sanctions. However, the RBZ has followed up on these inspections and all the financial institutions in question have implemented relevant measures to comply with the final remarks from the inspections. The RBZ indicates that, although it has discovered some instances of breaches of AML/CFT regulation, none have been particularly serious. Consequently, the RBZ has not had to revoke a license or report to the police.

576. Supervisors or other competent authorities should take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function, including in the executive or supervisory boards, councils, etc in a financial institution.
577. A thorough fit and proper assessment is made on directors and senior management. This ensures that people of high integrity hold positions of influence in financial institutions.
578. The supervisory authority applies the same supervisory standards across all banking institutions and in line with the Basel Committee's 25 core principles on effective banking supervision
579. The BUPSM Act and the Banking Act provide for continuous monitoring through off-site surveillance and on site inspections. This ensures that cases of non-compliance are timely identified and rectified.

**NUMBER OF ON-SITE INSPECTIONS CONDUCTED BY THE RBZ
ON REPORTING FINANCIAL INSTITUTIONS**

INSTITUTION	2000	2001	2002	2003	2004	2005	2006
Banks/ Finance	43	51	55	53	31	52	48
Holding Companies__							
Insurance Brokers							
Pension Funds							
Investment Firms							
Other institutions in the Securities __					9	28	48
Market (including management companies to securitisation funds)							

580. The Supervisory regime is in place through the FIIES and Bank Licensing Supervision and Surveillance (BLSS) divisions of the Reserve Bank of Zimbabwe.

Recommendation 29 (Supervisor's powers of enforcement and sanction):

581. The RBZ is authorised to impose a broad range of administrative sanctions against Reporting FIs that do not comply with Zimbabwe law (including the AML/CFT requirements). It is empowered to order a Reporting FI to stop any activity, produce information, and convene meetings of its board, control committee or controlling bodies.

582. In the case of minor violations, the RBZ can use oral or written communication as a corrective measure. In most cases, the Reporting FI would then correct the problem. If the Reporting FI continues not to comply, the RBZ may order the Reporting FI to correct the problem within a certain time limit. Such an order has a coercive effect in that failure to comply can result in a single payment or recurrent fine that may be enforced by execution proceedings. In serious cases, the RBZ may take steps to revoke the Reporting FI's license (if the RBZ is the licensing

authority) or try to have the Reporting FI’s licence revoked (if the Ministry of Finance is the licensing authority) or report it to the Prosecution Authority (or other relevant public authority within whose jurisdiction the specific matter falls). The RBZ also has the power to: (i) impose fines on the officers/employees of a Reporting FI for breaches of the Banking Act or (ii) impose fines on the Reporting FI or its officers or employees for violations of the Banking Act. Because the RBZ has not imposed any sanctions for breaches of AML/CFT obligations, no statistics exist in this area.

Recommendation 30 (Structure and resources of the supervisory authorities):

583. The RBZ comes under the general responsibility of the Ministry of Finance. It is however, an operationally independent government agency, tasked with the responsibility of supervising Zimbabwe’s financial sector. The list of designated entities and their supervisors are listed in the chart below.

SUPERVISION AND LICENSING OF FINANCIAL INSTITUTIONS

Institutions	Supervisory or Licensing institution
Financial institutions Supervised by RBZ	Licensing Decision made by:
Banks	Registrar of Banking Institutions (Reserve Bank)
Finance Companies	Registrar of Banking Institutions (Reserve Bank)
Mortgage Companies (Building Societies)	Registrar of Building Societies (Reserve Bank)
Insurance Brokers	Commissioner of Insurance and Pension Funds
Pension Funds	Commissioner of Insurance and Pension Funds
Investment Firms	Registrar of Asset Managers (Reserve Bank)
Management Companies for Securities Funds	Registrar of Asset Managers (Reserve Bank)

584. The activities of the RBZ are managed/supervised by Minister of Finance. On a day to day basis, management of the RBZ is in the hands of the Governor of the Bank. The objective is that the RBZ shall be in a position to exercise its supervisory function independently of government or industry interference. Parties who are affected by a decision that is made by the RBZ in the exercise of its supervisory functions are entitled to complain to the Minister of Finance. In such cases, the Minister of Finance may review the RBZ’s decision.

585. At the end of 2005, the RBZ had **1676** employees, including **250** economists, **40** lawyers and **110** actuaries or auditors. Of these, **300** had more than five years of supervisory experience and **about 1200** had more than five years of relevant business experience. The remaining employees were primarily administrative staff. In 2005, this workforce was responsible for supervising **34** separate entities, including **14** banks; **20** finance and mortgage companies including branches. Considering the number of entities that the RBZ is responsible for supervising, its number of staff seems inadequate. In 2005, the RBZ generated **34** supervisory reports. The RBZ endeavours to recruit high quality staff at all levels and (within its budget) endeavours to hold sufficient staff and resources to perform its supervisory tasks. The RBZ also endeavours to offer competitive salaries, but is not always in a position to offer salaries competitive to those offered in financial institutions. The RBZ is also continuously upgrading its technical resources to the extent allowed in its budget.

586. In general, the RBZ employees are under a consistent requirement to obey administrative law principles and rules for good conduct pertaining to the public administration (including a requirement to observe procedural fairness). New employees must sign a declaration explicitly undertaking to observe professional secrecy. The RBZ's employees are under a legal obligation to maintain the confidentiality of non-public information (such as operational or business matters of a company which for competition reasons it is important to keep secret) and to treat as confidential any information about a customer's affairs, which may come to their knowledge in the course of their work. Law or regulation determines the circumstances under which disclosure may be made to another agency. The RBZ has also developed a set of ethical rule. New employees must sign a written statement agreeing to follow these rules. Employees must as a general rule not receive gifts or invitations from institutions under supervision, and are obliged to report all purchases of financial instruments and use of services provided by financial institutions under the supervision of the RBZ. Employees and board members shall not be given loans in financial institutions under supervision without the consent of the RBZ. Consent depends upon the employees level as outlined in the Code of Conduct. Additionally, the RBZ invests in training seminars and courses for its staff in order to enhance the skill of its staff. Representatives from the RBZ also participate in the delegation to FATF.

Recommendation 17:

587. Following an inspection, the approach of the RBZ is to write a report of its findings and sent it to the company's board of directors. The board, in turn, is asked to comment on the report and to forward the report to the external auditor and control committee for their comments. The RBZ reviews all of the comments and then concludes the inspection by writing final remarks that are submitted to the board of directors. The RBZ reports that always, after allowing the reporting entity a reasonable period of time to implement improved routines and measures, it will follow up the finding from an inspection. In most cases, the RBZ finds that the reporting entity has complied with the RBZ's remarks. For instance, the RBZ reports that this procedure was followed with the 12 financial institutions that underwent AML/CFT inspections. The RBZ reports that all of them corrected the deficiencies that had been found and that such results make it unnecessary for it to use its powers to compel records, give instructions and impose fines. Reporting FIs may be liable to fines for wilful contraventions of all applicable Acts or if they are an accessory to any such contravention. Both the imposition of fines and imprisonment require conviction in a court of law; however, no cases have been prosecuted for breach AML.

3.10.2 Recommendations and Comments

588. The RBZ powers seem to be quite limited in certain respects. For instance, the RBZ has no power to replace a director, board member, member of senior management, or to order a FI to do so, except in the context of a licensing application. Moreover, the RBZ does only limited checks on AML/CFT compliance. The RBZ vet directors on appointment to the Board of Financial Institutions.

589. The RBZ should be given additional resources to be allocated for AML/CFT supervision.

590. The RBZ should consider creating a stand alone AML/CFT unit or at least a team of examiners specialising in AML/CFT measures that check FIs compliance with AML/CFT on an ongoing basis for all supervised entities.

Compliance with Recommendations 17, 23 (criteria 23.2, 23.4, 23.6-23.7), 29 & 30

	Rating	Summary of factors relevant to s.3.10 underlying overall rating
R.17	PC	<ul style="list-style-type: none"> • Although the law does not expressly say so, Zimbabwe is of the view that the penalty of imprisonment can be applied to the directors and senior management of Reporting FIs. • The RBZ has no power to replace a direct board Director. • Both the imposition of fines and imprisonment require conviction in a court of law; however, no cases have been prosecuted for breach of the BUPSMML however there have been convictions under the common law
R.23	PC	<ul style="list-style-type: none"> • There is some concern about how effectively the MVTs sector is being supervised given that the assessors have been made aware of some problems concerning how the reporting obligation is being complied with. Zimbabwe has reported that inquiries are in progress on this case and appropriate action will be taken. • There is initial gate keeping for all financial institutions concerning their ownership, subsequent changes in ownership. Any time changes take place in ownership they must be approved by the RBZ.
R.29	LC	<ul style="list-style-type: none"> • The RBZ may replace/restrict the powers of managers, directors or controlling owners, but only in the context of applications to acquire qualifying holdings in financial institutions. • FIs are obliged to produce self-assessment reports that are used by the FSA to determine which FIs will be visited on-site. However, these self-assessments are based on the prudential supervision and contain no AML/CFT questions. • AML/CFT assessments of Reporting FIs by the RBZ are an integral part of regular visits but seem to be too limited. Moreover, for smaller FIs, the RBZ indicated that AML/CFT assessments are not held annually, but only when there are indications that an assessment would be necessary.
R.30	PC	<ul style="list-style-type: none"> • Resources need to be increased and further training on AML/CFT needs to be provided for all sectors.

3.11 Financial institutions - market entry and ownership/control (R.23)

3.11.1 Description and Analysis

Recommendation 23 (Market entry and ownership/control):

591. The Law requires approval to be sought from the Minister of Finance to acquire/dispose of shareholdings in a bank, insurance company, finance company or mortgage company that cross

defined thresholds or would allow the shareholder to exercise significant influence on the management of the institution and its business.

592. Financial institutions must obtain authorisation to establish a subsidiary/branch abroad or acquire shares in a foreign financial institution. In such cases, a Zimbabwe financial institution will not be issued an authorisation to establish a branch in a country with inadequate regulation and supervision unless the RBZ has full authority for supervising that branch (including satisfactory access to reports and information). Financial institutions are also obligated to advise the RBZ of every acquisition/disposal of qualifying holdings of which they become aware.¹² They also have to report once a year on the owners of qualifying holdings in the institution. In the case of banks (commercial and savings), insurance companies, finance companies, mortgage credit institutions and credit institutions, the Minister of Finance has the power to withdraw an authorisation where there are grounds for assuming that the holder has displayed such conduct that the basis for granting the authorisation no longer exists. The following factors are relevant for a fit and proper evaluation of the owners of a qualifying holding in a financial institution: (i) the applicant's previous behaviour in business and his economic resources; (ii) if the applicant may use the institution's influence to get advantages for his business; (iii) if the acquisition may weaken the institution's independence or reduce free competition; and (iv) if the acquisition may complicate the supervision of the credit institution.

Recommendation 23 (Fit and proper test for directors and management):

593. When a financial institution is granted licence, the Ministry of Finance and the RBZ ensure that the board of directors and the general manager (as the key functionaries) meet fit and proper requirements. The RBZ shall refuse to grant authorisation if the board members, managing director or other person directly in charge of a commercial or savings bank cannot be deemed fit and proper.
594. Money Transfer Agencies and cash dealers are registered by the respective Licensing authorities. Asset Managers are registered in terms of the Asset Management Act and micro lenders are registered in terms of the Money Lending and Rates Interest Act.

¹² Regulation on Control of Ownership in Financial Institutions s.6

595. Financial institutions must ensure that its board members and manager are fit and proper at all times. If the functionaries change after authorisation is granted, the onus is on the financial institution to ensure that the new key functionaries are fit and proper, to gather the above information on them and to submit this information to the RBZ on demand. As soon as the financial institution becomes aware of circumstances that deprive the fitness and propriety of these key functionaries, it must take remedial measures. In such cases, there is no explicit order to notify the RBZ. The RBZ confirms (by on-site inspection) that financial institutions are implementing routines to fulfil these requirements). It is understood that in practice, banks, finance companies and mortgage companies would generally abide by the RBZ's views and take relevant action should the latter consider the new director or manager not to be fit and proper.

3.11.2 Recommendations and Comments

596. Zimbabwe should ensure that the RBZ is able to effectively check the compliance of Reporting FIs with the obligation to ensure that their key employees are fit and proper.

597. Reporting FIs should have the ability to verify the fitness and proper reputation of new functionaries, particularly with regards to criminal records.

Compliance with Recommendation 23 (criteria 23.1, 23.3-23.5)

	Rating	Summary of factors underlying rating
R.23	PC	<ul style="list-style-type: none"> • Inadequate scope and frequency of AML/CFT supervision due to limited resources. • Inadequate AML/CFT Training • CFT aspects have yet to be adequately addressed.

3.12 AML/CFT Guidelines

3.12.1 Description and Analysis

Recommendation 25 (AML/CFT Guidelines issued by supervisors)

598. The BUPSMML Guidelines apply to most designated BPs. Traders in precious metals and stones are not included in the Guidelines. The guidelines are applied to:

- Casinos
- Real estate agents.
- Dealers in precious metals.
- Dealers in precious stones.
- Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.
- Trust Companies

Recommendations and Comments

599. The RBZ has issued detailed guidance to Reporting FIs concerning how to comply with the reporting obligations.

600. The RBZ should respond to the requests of Reporting FIs/BPs for additional and more specific AML/CFT guidelines on a more regular basis. Just as was done in the banking, insurance and securities sectors, such guidance should be more tailored to the different types of FIs and DNFBPs.

601. The RBZ should also provide general and specific feedback to the Reporting FIs/BPs that it supervises concerning AML/CFT compliance.

Compliance with Recommendation 25 (criteria 25.1, financial institutions)

	Rating	Summary of factors underlying rating
R.25	PC	<ul style="list-style-type: none"> • Almost every reporting entity that the assessors met with asked for more specific and tailored guidance concerning AML/CFT obligations. • The Reporting FI should also receive transcripts of legal decisions; however, this has not been

		<p>followed up lately.</p> <ul style="list-style-type: none"> • There is limited feedback on STR's
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3.13 Ongoing supervision and monitoring (R.23, 29 & 32)

3.13.1 Description and Analysis

Recommendation 23 (Regulatory and supervisory measures for prudential purposes):

602. The RBZ supervises and monitors Reporting FIs for compliance with the Core Principles (in the banking, insurance and securities sectors), as well as compliance with AML/CFT legislation.

Recommendation 29 (Inspection authority of supervisors):

603. The RBZ is obligated to ensure that the financial institutions it supervises operate in an appropriate and proper manner, in accordance with law, and in accordance with the principles set out in its articles of associations (i.e. concerning its business purpose and reason for being established). In particular, the RBZ is responsible for supervising the compliance of financial institutions with applicable AML/CFT measures. This involves examining the financial institution's internal control measures, internal ethical and professional policies, practices and adherence of BUPSML Guideline.

604. The Banking Act gives the RBZ inspection and surveillance powers. The RBZ has the power to require information from supervised institutions, and to conduct on-site inspections in addition to off-site review.

605. There are no written regulations prescribing the procedure that the RBZ must follow during an inspection, particularly with regards to detecting breaches of AML/CFT legislation. Although the RBZ is not legally required to give prior notice that it is going to be conducting an on-site inspection, it has never conducted an inspection of a bank, finance company, money transfer agency without doing so. The RBZ shall examine accounts and other records of the FIs, and can carry out any investigations of their position and activities as it deems necessary.

606. RBZ supervision is founded on a risk-based approach. FIs are obliged to produce self-assessment reports that are used by the RBZ to determine which FIs will be visited on-site. However, these self-assessments are based on the prudential supervision and contain no AML/CFT questions. AML/CFT assessments of Reporting FIs by the RBZ are a part of regular visits but seem to be too limited.

607. The RBZ's power to compel production of or obtain access to a financial institution's records is not predicated on the need to obtain a court order. At all times, the FI is obliged to furnish all information that the RBZ may require. This includes giving the RBZ access to and handing over to the RBZ for inspection the financial institution's records, registered accounting information, accounting documentation, ledgers, documents, computers or other technical aids and material that is available via such aids and holdings of any kind. If the FI does not comply with this disclosure duty, the duty may be imposed on the individual officers/employees of the FI. (As a rule, the FI will be notified in such cases.) Consequently, the FI's auditor may be ordered to disclose information that appears in the annual accounts, account forms, staff pay summaries and deduction sheets, auditor's records and auditor's report. AML compliance is one of several items checked during on site inspections. For instance, the RBZ will investigate whether the Reporting FI's record keeping routines comply with the AML legislation. Additionally, at on-site inspections, it is normal procedure to make spot checks of how institutions carry out the mandatory customer identification checks. The RBZ conducted one thematic AML inspections in banks and finance companies. Additionally, over the past six years, the RBZ conducted ordinary inspections as set out in the following chart.

Recommendation 32 (Statistics collection related to ongoing supervision and monitoring):

608. Zimbabwe maintains the statistics relating to the number of on-site examinations conducted by supervisors, broken down by the type of Reporting FI/BP. Zimbabwe does not maintain statistics concerning sanctions imposed for failing to comply with AML/CFT obligations.

Recommendations and Comments

609. The self-assessment reports used to identify priority FIs for inspection visits should be revised to include questions relating to AML/CFT.

610. Zimbabwe should ensure that AML/CFT assessments of Reporting FIs occur more regularly, particularly in high risk institutions.

611. Zimbabwe should collect and maintain statistics concerning the number and type of sanctions applied.

Compliance with Recommendations 23 (criteria 23.4, 23.6-23.7), 29 & 32 (rating & factors underlying rating)

	Rating	Summary of factors relevant to s.3.13 underlying overall rating
R.23	PC	<ul style="list-style-type: none"> Inadequate scope and frequency of AML/CFT supervision due to limited resources. CFT aspects have yet to be adequately addressed.
R.29	LC	<ul style="list-style-type: none"> Recommendation fully met.
R.32	PC	<ul style="list-style-type: none"> Zimbabwe needs to improve its methods of collating statistics. Computer databases need to be more operative to collate statistics and have capacity to provide reports on trends and methods.

3.14 Money or value transfer services (SR.VI)

3.14.1 Description and Analysis

Special Recommendation VI:

612. Foreign exchange activity (i.e. foreign exchange transactions and international money transfers¹³) may only be carried out by banks, finance companies licensed by the Ministry of Finance. Consequently, they are subject to the same AML/CFT requirements. Although technically the Ministry of Finance may make exceptions to this requirement, to date no exceptions have been made. As there are no agents of MVTs providers conducting business in Zimbabwe, the obligation under SR VI to maintain a current list of such agents does not apply.

¹³ In this context, an international money transfer refers to the execution of all or parts of a payment order where moneys are made available to the recipient in a country other than the country in which the payment order was issued.

613. The RBZ is responsible for monitoring MVTS operators and ensuring that they comply with the licensing requirements and the FATF Recommendations. In this regard, the RBZ has the same powers to apply sanctions. It is illegal to provide MVTS without authorisation. Zimbabwe has detected some underground banking. Even though carrying out unauthorised banking services is a breach of the Banking Act, as such, may be dealt with as an administrative matter by the RBZ. In serious cases, the law enforcement authorities may become involved. However, there are some concerns about the effectiveness of supervision and sanction in the MVTS sector.

Recommendations and Comments

614. Zimbabwe should take steps to properly implement Recommendations 5-7, 15 and 22, and SR VII. These measures should apply to all Reporting FIs, including MVTS operators

3.14.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	PC	<ul style="list-style-type: none"> • Awareness and implementation of AML/CFT obligations is weak • Monitoring of MVTS services is inadequate to ensure compliance with AML/CFT control; • The RBZ should take immediate steps (including the application of sanctions, if necessary) to correct the problems with reporting in this sector. <p>The RBZ should improve the effectiveness of its monitoring and supervision of this sector. Especially the Parallel market</p> <ul style="list-style-type: none"> • No statistics for this sector.

Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBP)

615. Real estate agents, lawyers and other independent legal professionals, auditors, and accountants (collectively referred to as Reporting Businesses and Professions or Reporting BPs) are subject to AML/CFT obligations under the BUPSM Act and Guidelines. Throughout section 4 of this

report, unless stated otherwise, the AML/CFT obligations and comments applicable to Reporting FIs also apply to most Reporting BPs.

616. Overall, the ratings for both Recommendation 12 and 16 have been lowered due to concerns about the scope of application of AML/CFT obligations (in relation to lawyers) and effectiveness (in relation to dealers in precious metals and stones). First, there is concern that application of AML/CFT obligations is insufficient in scope. In particular, it is unclear whether AML/CFT obligations apply to lawyers when they are conducting business that is related to the operation or management of a company.

4.1 Customer due diligence and record-keeping (R.12) (applying R.5 to 10 to DNFBP)

4.1.1 Description and Analysis

Applying Recommendation 5:

617. The same serious deficiencies in the implementation of Recommendation 5 apply equally to Reporting FIs and Reporting BPs. In other words, customer identification requirements have been implemented, but full CDD requirements have not. Due to the nature of their work the following businesses/professions do not have occasional clients: accountants and auditors, lawyers, independent legal professionals and real estate agents. Providing assistance to an occasional customer implies that a customer relationship has been established. They enter into a business relationship with their customers when carrying out their business. For lawyers and accountants, entering into a business relationship includes accepting an assignment from a client. (Consequently, rules concerning occasional customers are not applicable to these groups.
618. ***Real estate agents:*** Real estate agents are obligated to identify their clients when carrying out real estate business. Real estate business is defined as acting as an intermediary (including being responsible for the settlement) in connection with: (i) the purchase and sale of real estate; (ii) entering into and transferring deeds of tenure and leases relating to real estate; (iii) the purchase and sale of shares, documents of title, mortgage deeds or other documents of title conveying the right to rent housing or other floor space in buildings; (iv) the purchase and sale of interests in companies if the sale is primarily aimed at transferring property rights; or (v) the purchase and sale of timeshares in holiday homes

619. **Lawyers:** Lawyers are obligated to identify their clients when assisting or acting on behalf of clients in planning or carrying out financial transactions, real estate transactions... The obligation also applies to preparing or carrying out transactions related to: (i) the purchase and sale of real estate; (ii) the management of the client's money, securities or other assets; (iii) the management of bank, savings or securities accounts; (iv) the organisation of contributions for the creation, operation or management of companies; and (v) the creation, operation or management of legal persons or arrangements, and buying and selling business entities. The obligation to identify customers also applies to lawyers and other independent legal professionals (i.e. when buying and selling real estate or business entities; managing client money, securities or other assets; opening or managing bank, savings or securities accounts; organising contributions necessary for the creation, operation or management of companies; or providing trust and company services). .

Applying Recommendation 6:

620. Zimbabwe has not effectively implemented any AML/CFT measures concerning Recommendations 6 (CDD) that are applicable to Reporting BPs.

Applying Recommendations 8-9:

621. Reporting BPs are allowed to establish non-face-to-face business or introduced business. There are some concern about whether the scope of these obligations is sufficient (in the case of trust/company service providers) and how effectively these obligations are being implemented by dealers in precious metals/stones since this sector is not supervised for compliance with AML/CFT obligations. Moreover, as is noted in paragraph 238 above, it is not clear how effectively this prohibition is enforced in practice.

Applying Recommendation 10:

622. Record keeping requirements are generally satisfactory.

Recommendations and Comments

623. A number of deficiencies were noted in the implementation of Recommendation 5 by both Reporting FIs and Reporting BPs. In other words, customer identification requirements have been implemented, but full CDD requirements have not.
624. Zimbabwe has not fully implemented any AML/CFT measures concerning Recommendations 6 that are applicable to Reporting BPs. However, it is not clear how effectively this caution is enforced in practice. Considering the calls for more guidance as voiced by these sectors during the on-site visit, there are preliminary concerns about the effectiveness of implementation for Recommendation 11. It should be noted that reporting not is occurring in all DNFBP.
625. Although the DNFBP sectors are subject to sanctions for breaches of AML/CFT obligations, there is overall concern about how effectively sanctions are being applied to these sectors, given that the supervisors do not seem to be adequately resourced to supervise the large number of reporting entities that they are responsible for.
626. The Legal Profession is partially compliant with the AML/CFT legislation.

Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	NC	<ul style="list-style-type: none"> • Although DNFBP are subject to the same AML/CFT requirements, compliance is minimal • Trustee companies are not yet required to undertake CDD measures; risk manage PEPs; take measures to prevent the misuse of technological developments in ML or TF schemes • The requirements for introduced business do not meet international standards as trustee companies are not required to immediately obtain from the introducer information on the identity of the customer or of the beneficial owner and the intended purpose and nature of the business relationship • There is no requirement for trustee companies to conduct on-going due diligence with respect to introduced business relationships. • Legal Profession is partially compliant with AML/CFT Legislation and a PEPS program has .not been implemented

4.2 Monitoring of transactions and relationships (R.12 & 16) (applying R.11 & 21 to DNFBP)

4.2.1 Description and Analysis

Applying Recommendations 11 and 21:

627. The obligations on DNFBPs to monitor their transactions and relationships are generally sufficient. Because many of the DNFBP sectors only recently became subject to AML/CFT obligations, it is very early to be assessing the effectiveness of the system. However, some of the DNFBP sectors met with (particularly real estate agents, accountants and auditors) were unclear as to why they were subject to the obligation. All DNFBP sectors asked for more specific guidance in how to meet their AML/CFT obligations. Considering the calls for more guidance as voiced by these sectors during the on-site visit, there are preliminary concerns about the effectiveness of implementation for both Recommendation 11 and 21. However, it should be noted that reporting is required in all DNFBP sectors.

Recommendations and Comments

628. DNFBPs should be required to fully implement the existing obligations contained in the Regulations and Guidelines.
629. Trustee companies should undertake CDD measures when they prepare for and carry out transactions for a client in relation to the following activities, acting as a formation agent of legal persons or as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons, providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; Acting as (or arranging for another person to act as) a trustee of an express trust or nominee shareholder for another person.
630. In relation to dealings with politically exposed persons, trustee companies should be required to put in place measures in keeping with FATF Recommendation 6. In relation to technological developments, trustee companies should be required to put in place measures in keeping with FATF Recommendation 8.
631. In relation to relying on third parties to perform elements of CDD, and in addition to the provisions under paragraph 10 of the Guidelines, trustee companies should be required to put in place measures in keeping with FATF Recommendation 9.
632. Legislative amendments should ensure that authorities have effective proportionate and dissuasive criminal, civil or administrative sanctions available to deal with DNFBPs that fail to comply with the AML/CFT requirements.
633. Appropriate measures and mechanism should be in place to ensure oversight of those trust and company service providers not having physical presence or management stationed in Zimbabwe.

Compliance with Recommendation 12 and 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.12	NC	<ul style="list-style-type: none"> • Although DNFBP are subject to the same AML/CFT requirements, compliance is minimal • trustee companies are not yet required to undertake CDD measures; risk

		<p>manage PEPs; take measures to prevent the misuse of technological developments in ML or TF schemes</p> <ul style="list-style-type: none"> • The requirements for introduced business do not meet international standards as trustee companies are not required to immediately obtain from the introducer information on the identity of the customer or of the beneficial owner and the intended purpose and nature of the business relationship • There is no requirement for trustee companies to conduct on-going due diligence with respect to introduced business relationships.
R.16	NC	<ul style="list-style-type: none"> • AML/CFT measures have not yet been implemented by most of the DNFBP

4.3 Suspicious transaction reporting (R.16) (applying R.13 & 14 to DNFBP)

4.3.1 Description and Analysis

Applying Recommendation 13:

634. The obligations on DNFBPs to report suspicious transactions is satisfactory, other than the concerns relating to scope (in relation to trust/company service providers) and effectiveness of implementation by dealers in precious metals/stones. For most DNFBPs, AML/CFT obligations are quite new. Consequently, it is very early to be assessing the effectiveness of the system. However, most of the DNFBP sectors met with (particularly real estate agents, accountants and auditors, were unclear as to why they were subject to the obligation.¹⁴ All DNFBP sectors asked for more specific guidance in how to meet their AML/CFT obligations. Considering the confusion voiced by these sectors during the on-site visit, and the very low rates of reporting, there are concerns about the effectiveness of implementation for Recommendation 13. The obligations on DNFBPs to monitor their transactions and relationships are generally sufficient, other than the concerns relating to scope and effectiveness of implementation by dealers in precious metals/stones.

635. **Lawyers:** According to the BUPSML Guidelines Lawyers are only obliged to report transactions when there is a suspicion that a transaction is associated with the proceeds of crime or terrorist financing and when they assist or act on behalf of clients in planning or carrying out financial transactions Lawyers are not obliged to report about matters that come to their knowledge in the course of their work on ascertaining a client’s legal position. This exemption applies when the lawyer receives information initially in order to decide whether, or what kind of legal assistance that may be provided. Additionally, lawyers are not obliged to report prior to, during and subsequent to legal proceedings when such matters are directly associated with the legal dispute. Unless the possibility of legal proceedings is clear, this exemption does not apply. If the information that comes to the knowledge of the lawyer has nothing to do with the legal dispute, a reporting obligation may arise, regardless of the duty of secrecy. However, if the information is related to a request for assistance in another (a new) matter, the lawyer may not be regarded as having accepted an assignment related to it, and then the law does not apply. Lawyers are registered with the High Court of Zimbabwe.
636. Accountants and Auditors: The exceptions set out in the preceding paragraph also apply to auditors and other advisers with a reporting obligation when such persons assist a client or who provides legal assistance on a professional or regular basis.

Applying Recommendation 14:

637. The DNFBP sectors are prohibited from disclosing that an STR or related information is being reported to the RBZ. In most of the DNFBP sectors, this obligation has been implemented adequately. However, there is some concern with the way this obligation is implemented with regards to lawyers/independent legal professionals. If a lawyer/independent legal professional does not accept the assignment, he may tell the client that he does not wish to do so because it would imply an obligation to file a report to the RBZ. There is concern that this creates the possibility that a criminal could shop from lawyer to lawyer and test out different theories to determine what would have to be reported to the RBZ and what would not.

Recommendations and Comments

638. Conduct DNFBP sector-specific AML/CFT awareness raising and training.
639. Regular onsite inspections should be extended to all relevant DNFBP to ensure their compliance with the AML/CFT regime.

Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.16	PC	<ul style="list-style-type: none"> • AML/CFT measures have not yet been implemented by most of the DNFBP. • Dealers in metals and precious stones are not legally required to file STRs.

4.4 Internal controls, compliance & audit (R.16) (applying R.15 to DNFBP)

4.4.1 Description and Analysis

Applying Recommendation 15:

640. The obligations on DNFBPs to establish internal controls, compliance and audit systems are not being implemented satisfactorily. Only some of the representatives from the DNFBP sector that the assessors met with had implemented some internal controls.
641. **Real estate agents:** Real estate agents are obligated to establish internal controls and communication routines that ensure that the obligation to investigate suspicious transactions is complied with. They are also obligated to operate in an appropriate manner in accordance with the law. Real estate agents are required to assign a person in the management with a special responsibility for following up the AML requirements and internal procedures; however, there is no legal requirement for them to establish a separate internal audit function.
642. **Accountants and auditors:** Accountants and auditors are obligated to establish internal controls and communication routines that ensure that the obligation to investigate suspicious transactions is complied with and to operate in an appropriate manner in accordance with the law. However, there is no legal requirement for these groups to establish a separate internal audit function.

Recommendations and Comments

643. Conduct DNFBP sector-specific AML/CFT awareness raising and training as there is little knowledge of the subject in the sector.

Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.4 underlying overall rating
R.16	PC	<ul style="list-style-type: none"> • AML/CFT measures have not yet been implemented by most of the DNFBP • The requirements of these recommendations have partially been implemented.

4.5 Regulation, supervision and monitoring (Applying R.17 and 24-25 to DNFBP)

4.5.1 Description and Analysis

Applying Recommendation 17:

644. DNFBP sectors are subject to sanctions for breaches of AML/CFT obligations, there is overall concern about how effectively sanctions are being applied to these sectors, given that the supervisors do not seem to be adequately resourced to supervise the large number of reporting entities that they are responsible for. Moreover, of the representatives from the DNFBP sector that the assessors met with had implemented some internal controls. However, there are still overall concerns relating to sufficiency of scope (in relation to trust/company service providers) and effectiveness of implementation by dealers in precious metals/stones).

645. Real estate agents: Real estate agents are subject to the administrative sanctions mentioned in the BUPSMML. Sanctions are regularly used in connection with Council inspections of real estate agents; however, none related to AML/CFT.

646. *Lawyers:* An independent auditor is hired by each lawyer to audit the lawyers trust account to ensure that AML/CFT control routines are in place. If a lawyer/independent legal professional commits a crime, he/she can have his/her licence removed. Depending on the seriousness of the crime and the attendant circumstances, there is the possibility that a lawyer may not be able to have his/her licence reinstated.

647. **Accountants and auditors:** Accountants and auditors are subject to the administrative sanctions mentioned in The Public Accountants and Auditors Act Chapter 27:12. However, there have been no conducted inspections of this sector and, consequently, has not applied sanctions. For now, sanctions are not being effectively applied to this sector.

Recommendation 24—

648. **Stock Exchange:** There is a requirement for monthly returns which allow for investigation of the member operation system. In the monthly return a compliance officer check a compliance testing which is manually conducted. The Stock Exchange of Zimbabwe is a member in the Community of SADC Exchanges where it reports to the central bank of SADC. It is also a member in the community for Insurers and non Bank Communities. All blacklisted entities are not allowed to trade in the Stock Exchange

649. **Real estate agents:** To be authorised to carry out activity as real estate agent, a person must either have a licence from the Council. The Council supervises and is empowered to apply administrative sanctions to real estate agents. However, there is concern that the Council does not have sufficient resources to effectively supervise real estate agents in addition to the other entities that it is responsible for.

NUMBER OF ON-SITE INSPECTIONS CONDUCTED BY THE XXX ON REAL ESTATE AGENCIES						
	1998	1999	2000	2001	2002	2003
General supervisory inspections	0	0	0	0	0	0
Inspections with an AML/CFT component	0	0	0	0	0	0

650. Lawyers: To practise law, one must receive a certificate issued by the Law Society of Zimbabwe. To obtain a license, a person must have a law degree and documentation establishing blameless conduct. Each lawyer will appoint an auditor every year and submit an audited report to the Law Society on the companies trust account.. The law empowers the law Society to appoint an independent auditor if they are concerned as to the accuracy of any lawyers audit.
651. **Accountants and auditors:** External accounting activity is a regulated profession in Zimbabwe and requires government authorisation. The Institute of Chartered Accountants of Zimbabwe is responsible for licensing external accountants (both natural and legal persons). Licensed external accountants have higher qualifications than ordinary accountants (a higher qualification in economics equivalent to at least two years' full-time higher economic education and the equivalent of two years' relevant experience). The Institute is also responsible for supervising external accountants and checking that their activities comply with the applicable laws and regulations (including AML/CFT legislation). However, there is concern that the RBZ does not have sufficient resources to effectively supervise accountants and auditors in addition to the other entities that it is responsible for.
652. Auditors must be authorised to practice under The public Accountants and Auditors Act Chapter 27.12. To obtain an authorisation, a person must have completed approved theoretical training and had three years of varied experience. Practising auditors are required to provide security – in order to meet the post-qualifying training requirements. Two categories of auditors are authorised to provide statutory auditing in accordance with the Act. Both categories are also entitled to provide audit services to any company (with the exception of listed companies, which are subject to auditing by state authorised auditors only). No other Zimbabwe certificate grants the right to provide statutory auditing and audit services. Auditing firms must also obtain special authorisation to carry out auditing activities. To obtain authorisation, an auditing firm must be more than 50% owned by state authorised auditors, and the majority of the members of firms' boards of directors must be state authorised auditors. Requirements laid down in articles of association, and requirements as to financial probity, also apply
653. The Institute is empowered to supervise and apply administrative sanctions to accountants and auditors (both natural/legal persons).

Applying Recommendation 25:

654. The RBZ issued the BUPSML Guidelines to the following Reporting BPs: real estate agents and housing associations that act as real estate agents; lawyers who are registered as real estate agents; authorised external accountants; and state-authorised and registered public auditors (Circular 9/2004).
655. **Lawyers:** Under the BUPSML Act lawyers are specifically referred to in the area of money laundering and it states that a lawyer shall desist from an assignment when there is reason to believe that a transaction will imply money laundering, and the client is determined to proceed with the transaction. To date, no formal guidance has been issued concerning these obligations. The Law Society is contesting this requirement in court. The case has gone to the High Court of Zimbabwe and the Court ordered the AG and Law Society to negotiate a solution. To date nothing has been agreed.

Recommendations and Comments

656. The RBZ should extend its supervision and monitoring of AML/CFT compliance to effectively cover all DNFBP on a risk sensitive basis.
657. Specific guidelines according to the business characteristics of DNFBP should be issued as soon as possible for assisting DNFBP to effectively implement and comply with AML/CFT requirements.

Compliance with Recommendations 12 and 16 (DNFBP), 24 & 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.5 underlying overall rating
R.12 and R.16	NC	<ul style="list-style-type: none">• Although DNFBP are subject to the same AML/CFT requirements, compliance is minimal• Trustee companies are not yet required to undertake CDD measures; risk manage PEPs; take measures to prevent the misuse of technological developments in ML or TF schemes• The requirements for introduced business do not meet international standards as trustee companies are not required to immediately obtain from the introducer information on the identity of the customer or of the beneficial

		<p>owner and the intended purpose and nature of the business relationship</p> <ul style="list-style-type: none"> • There is no requirement for trustee companies to conduct on-going due diligence with respect to introduced business relationships.
R.24	PC	<ul style="list-style-type: none"> • Most of DNFBP have not been properly supervised and monitored since the enactment of the BUPSM Act, 2004
R.25	PC	<ul style="list-style-type: none"> • The Guidelines not cover CFT more broadly. • The FIIES does not provide regular feedback to reporting financial institutions and DNFBP. • No sector specific guidelines are issued for DNFBP for assisting their implementation and compliance with AML/CFT requirements.

4.6 Other non-financial businesses and professions - modern secure transaction techniques (R.20)

4.6.1 Description and Analysis

Recommendation 20:

658. In addition to the non-financial businesses and professions that are designated according to FATF Recommendations 12 and 16, the obligations under The Pawn Brokers Act applies to: (i) auctioneering firms and commission agents in connection with cash transactions, and (ii) pawnshops (When a pawnshop grants credit against collateral, it becomes a financial institution pursuant to the Money lending and Rates of interest Act, Chapter 14.14 However, if a Reporting FI has entered an agreement with such an adviser the Reporting FI itself assumes full and complete responsibility for ensuring compliance with AML legislation.

659. Zimbabwe has taken some steps to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering. The use of bankcards in Zimbabwe is now widespread, and the volume of cash in circulation relative to gross domestic product is low and decreasing. Additionally, Zimbabwe authorities, including the RBZ, have encouraged the banking sector to establish an efficient infrastructure for

electronic fund transfers. This method of payment is particularly prevalent in the construction industry.

Recommendations and Comments

660. The authorities may consider assessing vulnerabilities of pawn shops and consider the need for any further regulatory AML/CFT coverage of this area.

661. Although the small market and economy size may not justify immediate application of new technologies such as e-money or automated transfer systems, measures should be in place to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering

4.6.3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	PC	<ul style="list-style-type: none"> • Zimbabwe has not yet undertaken a risk assessment of vulnerabilities to non-financial businesses and professions other than DNFBPs. • Measures are in place for developing modern and secure techniques for conducting financial transactions

5 LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS

5.1 Legal Persons – Access to beneficial ownership and control information (R.33)

5.1.1 Description and Analysis

Recommendation 33:

662. *The registrar of Companies manages companies under the Companies Act Chapter 24.03. The Registry keeps information about the companies and directorship and share holding. This information is accessible to the public. Memorandums are available for reserve companies. The registrar keeps a record of budget level of the companies activities. Zimbabwe has taken*

measures to ensure that their commercial, corporate and other laws require adequate transparency concerning the beneficial ownership and control (i.e. the natural person who exercises ultimate control) of legal persons and that adequate, accurate and current information concerning beneficial ownership can be made available to the competent authorities in a timely fashion. Some information concerning the ownership and control of Zimbabwe legal persons is available in a number of publicly available registers, all of which must be kept up to date. Private and public limited companies are obligated to set up and maintain a register of their shareholders. Foreign companies are obligated to keep information on ownership and control available in Zimbabwe; however, any foreign company that conducts business in Zimbabwe must be registered in the Business Register. “Conducting business” refers to actually running an enterprise, but does not extend to merely holding/operating a bank account. They are also covered under section 10 of the BUPSMML Act 2004.

Recommendations and Comments

663. Zimbabwe should either remove the option for companies to issue share warrants or require the bearer to be listed in the share register.

5.1.3 Compliance with Recommendations 33

	Rating	Summary of factors underlying rating
R.33	PC	<ul style="list-style-type: none"> • Competent authorities in Zimbabwe do not have immediate access to information on the legal ownership and control of companies. • No information is available about the beneficial ownership of companies. • No information is available about the control of companies where exercised through nominee directors or foreign company directors. • No measures are in place to prevent the misuse of share warrants for money laundering. • Access to information about legal persons other than companies is weakened by the lack of guidance on how to identify these customers in the BUPSMML Guidelines.

		<ul style="list-style-type: none"> Information on the beneficial owners of international companies may not always be available to competent authorities in Zimbabwe.
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5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)

5.2.1 Description and Analysis

Recommendation 34:

664. Zimbabwe law does recognise the legal concept of a trust, including trusts created in other countries. Zimbabwe lawyers, from time to time, handle trusts located abroad. Zimbabwe reports that when handling trusts abroad, Zimbabwe lawyers are subject to the same legal regime as when assisting Zimbabwe persons/entities.

Recommendations and Comments

665. The provisions in the BUPSML Guidelines related to the identification of beneficiaries undermines the ability of the Anti Money Laundering Prevention Authorities to have timely access to adequate, accurate and current information on the beneficial ownership of trusts. These provisions should be clarified and strengthened to ensure that, at the least, all major beneficiaries of express trusts must be identified. (to provide the regulations)

666. Measures should be taken to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that the commercial, trust and other laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.

5.2.3 Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
R.34	PC	<ul style="list-style-type: none"> The ability to obtain adequate, accurate and current information in a timely manner about the beneficiaries of trusts is undermined by the identification of beneficiaries being optional. Effective supervision is not in place to ensure availability of adequate, accurate and

		current information about beneficial ownership and control of legal arrangements.
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5.3 Non-profit organisations (SR.VIII)

5.3.1 Description and Analysis

Special Recommendation VIII:

667. Zimbabwe has not yet carried out a review of the laws and regulations that relate to non-profit organisations (NPOs) that may be abused for the financing of terrorism. NGO's are not mentioned as a designated institution under the BUPSML Guidelines as being accountable for AML/CFT. The NGO Bill has not yet been passed. Zimbabwe has not implemented measures to ensure that terrorist organisations cannot pose as legitimate NPOs, or to ensure that funds/assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations.

Recommendations and Comments

668. Zimbabwe should review the adequacy of its laws and regulations relating to NPOs that can be abused for the financing of terrorism.

669. Zimbabwe should consider implementing measures consistent with the Interpretative Note to Special Recommendation VIII to ensure that terrorist organisations cannot pose as legitimate NPOs, and to ensure that funds or other assets collected by, or transferred through, NPOs are not diverted to support the activities of terrorists or terrorist organisations

5.3.3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.V III	NC	<ul style="list-style-type: none"> Zimbabwe has not reviewed the adequacy of its laws and regulations relating to NPOs that can be abused for the financing of terrorism.

		<ul style="list-style-type: none"> NPOs in Zimbabwe are not yet involved in Zimbabwe's AML/CFT regime and are subject to minimal supervision and monitoring.
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NATIONAL AND INTERNATIONAL CO-OPERATION

6.1 National co-operation and coordination (R.31)

6.1.1 Description and Analysis

Recommendation 31:

670. On an operational level, the RBZ is authorised to co-operate with The International and Zimbabwe Financial Community.

International Cooperation

671. The AG's office has received only one request for assistance from non-Commonwealth country. All requests for assistance on Money Laundering cases from Commonwealth countries are dealt with promptly.

- (i) Statistics on the number of cases of Mutual Requests received by the Attorney General's Office from Commonwealth countries on suspected cases of Money Laundering are listed below.

Mutual Assistance Requests from Commonwealth Countries

Year	2003	2004	2005	2006
Number of Cases	-	4	3	4

- (ii) Statistics on the number of cases of Mutual Assistance Requests received by Zimbabwe Interpol from foreign Interpol offices of suspected cases of Money Laundering involving International Business Companies (IBC) are listed below.

Mutual Assistance Requests received from Interpol

Year	2003	2004	2005	2006
Number of Cases	-	4	4	3

- (i) So far, no requests concerning confiscation have been received.
- (ii) All requests received so far are for the gathering of evidence and production of documents.
- (iii) No assets have so far been seized.

672. The civil Mutual Assistance Act has provisions expressly providing for the sharing of assets with other Governments and the enforcement of judgements.

673. Section 9 of the BUPSMML Act provides for the formation of an Advisory Committee whose members shall represent the interest of financial services sector, designated institutions and Law enforcement Agencies. The Advisory Committee has since been formed and assists in AML/CFT policy formulation for recommendation through its Chairperson and the Governor of the Central Bank to the Minister of Finance.

674. There is also a National Taskforce Committee on AML/CFT that is the operating arm of the Bank Use Promotion and Suppression of Money Laundering Advisory Committee. It is chaired by the FIIES and has members from the Zimbabwe Revenue Authority, The Attorney General's Office, Police, NECI and the Anti Corruption Commission.

Recommendations and Comments

675. Establish formal and informal mechanisms to support cooperation and coordination at policy and operational levels. Such mechanisms could include establishment of operational task forces to include the FIU at an early stage of investigations of criminal matters involving the proceeds of crime, money laundering and terrorist financing and secondment (part time) of FIIES staff to the Police and vice versa;
676. Mechanisms should established or strengthened for consultation between competent authorities, the financial sector and other sectors (including DNFBP) on implementation of the AML/CFT laws, regulations, guidelines or other measures.
677. Consideration should be given to inviting larger financial institutions to second appropriate staff to the FIIES to build government and private sector capacity and reinforce good cooperation. A review of the effectiveness of the cooperation and coordination systems for AML/CFT should be conducted as soon as possible and thereafter on a regular basis.

6.1.3 Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	PC	<ul style="list-style-type: none"> Existing mechanisms are inadequate for policy makers, FIU, law enforcement and supervisors to effectively cooperate and coordinate in the development and implementation of AML/CFT policies and measures.

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

Recommendation 35 and Special Recommendation I:

678. Zimbabwe has only partially implemented all three Conventions and is, consequently, partially compliant with Recommendation 35.

679. Implementation *of the Vienna Convention*: Zimbabwe acceded to the Vienna Convention July 30, 1993 and has fully implemented the vast majority of those elements of it that are relevant to the FATF Recommendations. The remaining minority of elements are not implemented.
680. Implementation *of the UN Convention Against Transnational Organised crime (Palermo Convention 2000)*: Zimbabwe has only signed the Palermo Convention on 12 December 2000 and has not yet ratified the Convention. Zimbabwe has largely implemented the vast majority of those elements of it that are relevant to the FATF Recommendations. There is, however, one element that is insufficiently implemented which relates to allowing ML prosecutions for all serious offences.
681. Implementation *of the Terrorist Financing Convention*: Zimbabwe has not yet signed or ratified the Terrorist Financing Convention. Zimbabwe has only partially taken steps to address the majority of those elements of the Terrorist Financing Convention that are relevant to the FATF Recommendations. The SFIT Bill once enacted will broaden current legislation on terrorism to include criminalisation of FT
682. Overall, Zimbabwe has not implemented the Terrorist Financing Convention and S/RES/1267(1999) or S/RES/1373(2001).

Recommendations and Comments

683. Zimbabwe should fully implement the Vienna and Palermo Conventions, including taking steps outlined elsewhere in this report with respect to prosecution of ML for all serious offences.
684. Zimbabwe should enact and implement legislation allowing for the assets of persons and entities designated under UN Security Council Resolution 1267, its successor resolutions and UN Security Council Resolution 1373 to be frozen without delay. Zimbabwe should also implement mechanisms for designating persons or entities under UN Security Council Resolution 1373.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	NC	<ul style="list-style-type: none"> Zimbabwe has acceded to the Vienna Convention and has only signed the Palermo

		<p>Convention.</p> <ul style="list-style-type: none"> • Zimbabwe has 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. • Zimbabwe has not signed the Terrorist Financing Convention
SR.I	PC	<ul style="list-style-type: none"> • Zimbabwe has not signed and ratified the International Convention on the Suppression of the Financing of Terrorism. • UN Security Council Resolutions 1267 and 1373 are not implemented

6.3 Mutual Legal Assistance (R.32, 36-38, SR.V)

6.3.1 Description and Analysis

Recommendation 36 and Special Recommendation V:

685. Zimbabwe's mutual legal assistance measures apply to all serious offences which includes money laundering and will include FT once FT is criminalised. Zimbabwe legislation provides for the possibility of giving effect to requests for mutual legal assistance irrespective of the existence or applicability of a treaty. It also contains provisions regulating letters Rogatory, including which authorities are competent to issue them; Regulation relating to the administration of the prosecution authorities, chapter 6). The conditions that apply to handling a mutual legal assistance request depend upon: (i) whether and which convention is applicable; and (ii) if the request involves coercive measures.

686. Section 4 of the Criminal Matters (Mutual Assistance) Act provides for several actions to include:

- (a) The obtaining of evidence, documents or other articles;
- (b) The location and identification of witnesses or suspects;
- (c) The provision of documents and other records;
- (d) The execution of requests for search and seizure;
- (e) The making of arrangements for persons to give evidence or assist in investigations;

- (f) The forfeiture or confiscation of property in respect of offences;
- (g) The recovery of pecuniary penalties in respect of offences;
- (h) The interdicting of dealings in property that may be forfeited or confiscated, or that may be needed to satisfy pecuniary penalties imposed in respect of offenders;
- (i) The location of property that may be forfeited or that may be needed to satisfy pecuniary penalties imposed in respect of offences and;
- (j) The service of documents.

687. In order to give useful information pertaining to the request, the Mutual Assistance Act requires the country making the request to provide details of the procedure it expects Zimbabwe to give effect to the request, details of the manner and form in which any information, documents or thing is to be supplied to it (Foreign Country) pursuant to the request.

688. Section 9 (2) of the Mutual Assistance Act sets out the information which is expected to be provided by the foreign country or requesting State, clearly stipulates as an exception that failure of the requesting State to comply with that sub-section “shall not be a ground for refusing the request”

689. ***Mutual legal assistance requests from other countries:*** For mutual legal assistance requests from countries that relate to coercive measures, Zimbabwe applies the same conditions (including dual criminality) as it does to extradition requests. These conditions are: (i) the offence must be punishable under Zimbabwe law (dual criminality); and (ii) the offence must be extraditable under Zimbabwe law. To be extraditable under Zimbabwe law, the following general conditions must be met: (i) if the request relates to a military offence, the act must be punishable under ordinary Zimbabwe criminal law); (ii) the underlying offence must not be a political offence; and (iii) there can be no grounds for believing that there is a grave danger that the person will be persecuted by reasons of race, religion, political conviction or other serious reasons. If a request does not entail the use of coercive measures (such as search and seizure), assistance may be provided without the need to establish dual criminality.

690. Requests for coercive measures must: (i) be accompanied by a decision issued by the competent authority of the requesting state; (ii) include information on the nature, time and place of the criminal offence; and (iii) explain that the use of coercive measure is in accordance with the

legislation of the requesting state. Then, the request must be carried out in compliance with Zimbabwe law and procedures. The same range of coercive measures and criminal procedures that are available in domestic proceedings are available in mutual legal assistance requests that relate to ML/FT investigations, prosecutions and related proceedings. In both the domestic and mutual legal assistance contexts, application of these measures is governed by the same general regulation on coercive measures and criminal procedure. When providing mutual legal assistance, Zimbabwe can order the production and seizure of information, documents of evidence, including financial records from financial institutions independent of whether legal professional secrecy applies. Courts have jurisdiction to order production of bank records and/or seizure of records). For instance, the court may decide that a bank shall produce bank information in a corruption case. The production order will be made on the condition that the evidence may be significant in the case and that the possessor is obliged to give statement as witness in the case. Seizure may be terminated on the decision of the prosecution authority or the court.

691. As a general rule, mutual legal assistance requests must be forwarded through the Attorney General the designated central authority pursuant to a number of conventions. Requests for judicial assistance are treated as matters of urgency within the Attorney General’s Office. AG staff are available every weekday to answer questions submitted by telephone, e-mail and post. Other channels of communication in relation to mutual legal assistance are also available.

692. The figures below related to mutual legal assistance involve all the requests handled by the Attorney General’s Office including requests for freezing, seizing and confiscation.

Mutual Legal Assistance	2004	2005	2006
To Zimbabwe	3	1	2
From Zimbabwe	4	4	3
Total	7	5	5

693. The Mutual Assistance Act allows the foreign country to indicate the time within which it expects Zimbabwe’s competent judicial authority to have complied with such request.

694. Although Zimbabwean law still recognises confidentiality in as far as financial institutions and other DNFBP are concerned this does not stop such institutions upon a formal request by the competent judicial authority to provide the information required to do so, where such request has

been turned down the law allows the competent judicial authority to apply for a court order and serve it on such institutions for them to provide the information required.

695. The exception to the provision recognises giving of legal advice between clients and lawyers as privileged and this is also provided for under the BUPSMML (Section 45)
696. Powers for competent authorities are also available for use in response to request for MLA. This is provided for in terms of the Criminal Procedure and Evidence Act as well as under the Criminal Matters Act. Section 35 of the Criminal Matters Act specifically provides for this kind of assistance.
697. Zimbabwe does consider reasons for determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country. This matter is usually dealt with on a case by case basis as Zimbabwe's Criminal Matters Act and Extradition Act, allows for such considerations to be made relating to the prosecution of a defendant.

Recommendation 37 and Special Recommendation V:

698. The discretion to consider a request based on dual criminality in terms of the Criminal Matters Act rests with the Attorney General of Zimbabwe, he may grant or refuse the request (Section 6(2))
699. In terms of the laws of Zimbabwe there are no impediments or obstacles in rendering assistance relating to conduct which is criminalised in both Zimbabwe and the foreign requesting state (Section 14 (2)(b) of the Extradition Act [Chapter 9:08])

Recommendation 38 and Special Recommendation V:

700. Zimbabwe's measures to give effect to foreign orders for freezing, seizing and confiscation apply equally to ML matters (Recommendation 38) and FT matters (SR V). Zimbabwe can recognise a foreign confiscation order, but cannot give effect to it without starting its own proceedings. Likewise, Zimbabwe must initiate its own proceedings to enforce a foreign freezing order.
701. The current laws do not provide a specific time frame upon which a mutual legal assistance request pertaining to identification, freezing, seizure or confiscation of proceeds of crime can be

responded to but provides for the requesting country to indicate the period within which it expects a response from the Zimbabwean authorities.

702. Zimbabwe has an arrangement in place under the SADC Protocols on Mutual Legal Assistance and Extradition for member countries as well as under the Southern Africa Regional Police Chiefs Committee allows for coordinating seizure and confiscation actions with other countries.

703. The BUPSMML provides for the formation of the Detained Cash Trust Account for purposes of detaining cash suspected to be proceeds pending its liability to forfeiture or confiscation. Possibilities of having a permanent Asset Forfeiture Fund beyond the Trust Account above are being looked at.

704. No special permanent arrangement for co-ordinating seizure and confiscation actions with other countries exist. However, co-ordination may take place on a case-to-case basis. No asset forfeiture fund exists.

Recommendation 32 (Statistics relating to mutual legal assistance):

705. Zimbabwe collects statistics on the number of requests for mutual legal assistance, including requests related to freezing, seizing and confiscation. However, Zimbabwe does not collect statistics concerning the nature of the request, whether the request was granted or refused, what crime the request was related to or how much time was required to respond.

Recommendations and Comments

706. Zimbabwe should consider enacting legislation which would enable mutual legal assistance requests pertaining to identification, freezing, seizure or confiscation of proceeds of crime.

6.3.3 Compliance with Recommendations 32, 36 to 38, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.32	PC	<ul style="list-style-type: none"> Zimbabwe needs to improve its methods of collating statistics. Computer databases need to be more operative to collate statistics and have capacity to provide reports on trends and methods.
R.36	PC	<ul style="list-style-type: none"> Mutual legal assistance is available for the investigation and prosecution of money laundering offences but not the financing of terrorism.

		<ul style="list-style-type: none"> • There is no provision for service of judicial documents pursuant to a mutual legal assistance request.
R.37	PC	<ul style="list-style-type: none"> • Dual criminality is required for all mutual legal assistance measures, including less intrusive and non compulsory measures. Review Sec 6 2 • The dual criminality requirement for extradition allows for extradition where both Zimbabwe and the requesting country criminalise the conduct underlying the offence. • The absence of extradition designations or treaties impedes extradition even where both Zimbabwe and the requesting country criminalise the conduct underlying the offence.
R.38	PC	<ul style="list-style-type: none"> • Freezing and forfeiture orders pursuant to mutual legal assistance requests is subject to the same limitations as domestic freezing and forfeiture orders, i.e. they apply 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.
SR.V	NC	<ul style="list-style-type: none"> • Zimbabwe has not signed the convention on the suppression of terrorism

6.4 Extradition (R.32, 37 & 39, & SR.V)

6.4.1 Description and Analysis

Recommendation 37, 39 and Special Recommendation V:

707. All serious offences are extraditable offences and include ML and FT. However, no information concerning how long it takes to process an extradition request is available. Overall, there is concern that extradition may be impeded when the case involves the following ML/FT activities that are not properly criminalised in Zimbabwe: (i) conspiring to commit ML outside of the context of an organised criminal group; (ii) conspiring to commit FT outside of the context of an organised criminal group; and (iii) obtaining or collecting of funds/asset where the funds/assets are collected to be used by a terrorist organisation or individual terrorist where the use/intended use cannot be connected with a specific terrorist act.

708. The offender may be extradited under Section 14 of the Extradition Act. Laws providing for the extradition of individuals charged with terrorism are in place. Financing of terrorist or association with listed terrorist group is currently not provided for under the Act.

709. Procedures for extradition must go through the Ministry of Foreign Affairs. There has to be evidence from the requesting country to satisfy the Zimbabwean courts that the person committed the offence. The person still has to be brought to court where the court will formally waive any further enquiry into the Extradition of the person and make an order for his/her extradition.

710. The discretion to consider a request based on dual criminality in terms of the Criminal Matters Act rests with the Attorney General of Zimbabwe. He may grant or refuse the request (Section 6(2) of the Act).

711. In terms of the laws of Zimbabwe there are no impediments or obstacles in rendering assistance relating to conduct which is criminalised in both Zimbabwe and the requesting State (Section 14(2) (b) of the Extradition Act (Chapter 9:08).

Other international co-operation in the absence of extradition:

712. When it comes to international cooperation on procedural and evidentiary matters, Zimbabwe is part of the SARPCCO, ESAAMLG and SADC

713. African Union Treaty already ratified and allows for extradition of a terrorist to any African Country.

Recommendation 32 (Statistics relating to extradition):

714. Zimbabwe collects statistics on the number of requests for extradition. However, Zimbabwe does not collect statistics concerning the nature of the request, whether the request was granted or refused, the crime the request was related to or how much time was required to respond.

Recommendations and Comments

715. Zimbabwe should take further steps to enter into extradition treaties with foreign countries including, as a matter of priority, those who have previously sought assistance with regard offenders in Zimbabwe.

Compliance with Recommendations 32, 37 & 39, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.32	PC	<ul style="list-style-type: none"> • Zimbabwe needs to maintain statistics and study them for trends and methods.
R.37	PC	<ul style="list-style-type: none"> • Dual criminality is required for all mutual legal assistance measures, including less intrusive and non compulsory measures. • The dual criminality requirement for extradition allows for extradition where both Zimbabwe and the requesting country criminalise the conduct underlying the offence. • The absence of extradition designations or treaties impedes extradition even where both Zimbabwe and the requesting country criminalise the conduct underlying the offence.
R.39	PC	<ul style="list-style-type: none"> • While Zimbabwe's has legislation in place that would allow extradition of money launderers to designated Commonwealth countries and foreign countries with which Zimbabwe has an extradition treaty, the absence of any designations or extradition treaties prevents extraditions from taking place.
SR.V	NC	<ul style="list-style-type: none"> • Mutual legal assistance is not available for matter involving financing of terrorism, or terrorist organisations. • A simplified process exists for extraditing foreign nationals wanted to face charges or convicted of terrorist offences including the financing of terrorism.

6.5 Other Forms of International Co-operation (R.32 & 40, & SR.V)

6.5.1 Description and Analysis

Recommendation 40 and Special Recommendation V:

716. As a matter of general policy, the competent authorities in Zimbabwe for international co-operation in the combat of crime, whether on an operational or ministerial level, give a clear priority to exchanging information with international counterparts as promptly and effectively as possible. Zimbabwe legislation allows for a wide range of passing information to authorities in other countries relevant for preventing and detecting criminal acts. Zimbabwe law enforcement authorities have well functioning systems of information, easy to find and easy to be forwarded to other countries. It is a general attitude in Zimbabwe law enforcement to give rapid response to requests from cooperating agencies abroad.

717. However, last year, due to a systems crash, the RBZ was unable to respond to co-operation requests from its foreign counterparts. Since then, the systems crash has been resolved and the RBZ has designated staff to deal with such requests. It is too early to assess how effective these new measures will be.

718. When information is exchanged with foreign counterparts, it is on the condition that information can only be used for professional purposes (i.e. it must be kept within the conduct of criminal investigations and not given to unauthorised personnel). Zimbabwe law strictly limits the use of exchanged information by authorised personnel and in a professional manner to protect privacy. Zimbabwe law provides for the speciality principle (i.e. to confine the use of information shared with other foreign authorities to that purpose for which the request was originally made). Zimbabwe does not refuse requests for co-operation solely on the ground that the request is considered to involve fiscal matters. Nor does it refuse requests for co-operation on the grounds of secrecy laws or confidentiality requirements (other than those held in circumstances where legal professional privilege applies). In general, exchanges of information are not made subject to disproportionate or unduly restrictive conditions. Information can be exchanged with foreign FIUs, both spontaneously and upon request, regardless of whether the FIU is organised within the police or prosecution authority or within the administration. Zimbabwe has received several requests from foreign FIUs to enter into MOU. An MOU has been agreed upon with South Africa's FIU signed in February 2006.

Law enforcement authorities:

719. Zimbabwe law enforcement authorities are authorised to conduct investigations on behalf of foreign counterparts on the conditions that formal procedures laid down in legal instruments are applied.

720. They have a Mutual Assistance Act that facilitates mutual assistance. Problems include reverse assistance from the developed world countries.

Financial Intelligence Unit:

721. It is possible in Zimbabwe to exchange information both spontaneously and upon request in relation to money laundering and underlying predicate offences. For instance, the RBZ is able to

co-operate with other FIIES both spontaneously and upon request; an MOU is not required. It may co-operate with both police/prosecution based FIIES and administrative FIIES. The RBZ can make inquiries for foreign FIIES in its own database. The database contains information from STRs and inquiries that have been conducted by the unit, for example inquiries in registers etcetera. Consequently, where the RBZ receives a request from a foreign FIIES it may also make new inquiries in other databases, including law enforcement and public databases etc, that it has access to.

Supervisory authorities:

722. In general, Zimbabwe authorities may execute requests for assistance (even in the absence of any applicable agreement or statutory provision) provided that the execution of the request is not contrary to Zimbabwe law. Consequently, the RBZ may assist foreign supervisory authorities that make inquiries related to the ordinary discharge of their supervisory functions and powers. However, the RBZ has not yet received any formal requests for assistance from other supervisors. The RBZ can co-operate spontaneously with other foreign supervisory reports authorities. Zimbabwe reports that such co-operation has been carried out in relation with on-site inspections in Nordic banking groups.

ZIMRA (customs Authorities):

723. In principle, ZIMRA does not need an MOU as a legal basis to co-operate with their respective foreign counterparts. They are allowed to share information with other countries' Customs and Excise administrations according to article 4 of Customs and Excise Act, Chapter 23:02. This is, however, only possible if such information can be shared on a mutual basis. As a general rule, the ZIMRA uses MOUs with other countries that authorise it to collect and share information related to customs offences. The reason for this is that the legal basis for co-operation and information sharing is then thoroughly considered, and the authorities do not lose time in the process of considering the legal terms on a case-by-case basis.

Recommendation 32 (Statistics related to other forms of international co-operation):

724. Zimbabwe does not maintain statistics concerning the number of sanctions applied or the number of formal requests for assistance made and received by supervisors relating to or

including AML/CFT. However, Zimbabwe does maintain statistics concerning the number of formal requests for assistance made to or received by the FIIES from foreign counterparts. The figures are uncertain because the registration routines are not quite clear, especially as regards the requests made to foreign counterparts.

Recommendations and Comments

ADD RECOMMENDATIONS

6.5.3 Compliance with Recommendations 32 & 40, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.5 underlying overall rating
R.32	PC	<ul style="list-style-type: none"> Zimbabwe needs to improve its methods of collating statistics. Computer databases need to be more operative to collate statistics and have capacity to provide reports on trends and methods.
R.40	PC	<ul style="list-style-type: none"> Scope of mutual assistance not extended to terrorist financing, and exchange of information not clearly specified.
SR.V	NC	<ul style="list-style-type: none"> Mutual legal assistance is not available for matter involving financing of terrorism, or terrorist organisations. A simplified process exists for extraditing foreign nationals wanted to face charges or convicted of terrorist offences including the financing of terrorism

7. OTHER ISSUES

7.1 Resources and statistics

725. The text of the description, analysis and recommendations for improvement that relate to Recommendations 30 and 32 is contained in all the relevant sections of the report i.e. all of section 2, parts of sections 3 and 4, and in section 6. There is a single rating for each of these Recommendations, even though the Recommendations are addressed in several sections.

Section 7.1 of the report contains the boxes showing the rating and the factors underlying the rating.

	Rating	Summary of factors relevant to Recommendations 30 and 32 and underlying overall rating
R.30	LC	<ul style="list-style-type: none"> In view of Resource limitations institutions with a task to offer AML/CFT functions or, not adequately staff and sufficiently empowerment with the tools to deliver.
R.32	PC	<ul style="list-style-type: none"> Zimbabwe needs to improve its methods of collating statistics computer databases needs to be more operative to collate statistics and have capacity to provide reports on trends and methods.

7.2 Other relevant AML/CFT measures or issues

AML measures implemented by the ZIMRA (Tax authorities):

726. In principle, money laundering is directly within the tax authorities administrative responsibilities. AML is now supposed to be part of every tax audit.

727. Although the ZIMRA authorities are bound by a duty of confidentiality, the statutory tax secrecy rules allow information to be given to the police and the public prosecutor for use in a criminal investigation relating to tax evasion. If the case concerns offences outside the tax authorities' administrative area (i.e. money laundering or drug-related crimes), information can be given to the police if there are adequate grounds to suspect a criminal offence punishable with a minimum sentence of 6 months imprisonment. When there is a suspicion of ML, the tax authorities are obligated to report to the police. Regulatory Authority; however, there is no legal authority for the Income Tax authorities to report suspicious transactions to the RBZ in terms of the Income tax Act. However, when applicable RBZ are normally brought into the case under investigation.

728. All financial institutions and Companies or other business entities in Zimbabwe are obliged to disclose to ZIMRA by the end of the year information about the balance on the bank accounts, the share dividend, etcetera. The ZIMRA systematically co-operate with the police, prosecution authority or specialised structures such as RBZ in the course of financial investigations in order to identify and generate effectively relevant data regarding income and asset declarations, life

style. The lists of persons and entities designated under United Nations S/RES/1267(1999) are not distributed specifically to the tax authorities and do not play a role.

8. TABLES

3.2 Table 1. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

Forty Recommendations	Rating	Summary of factors underlying rating ¹⁵
Legal systems		
1. ML offence	PC	While ML is criminalized under the Serious Offences (Confiscation of Profits) Act, the offence does not extend to all serious offences and is only referred to serious narcotics offences. Some of predicate offences listed as serious offences under the recommendation are also not criminalized under current Zimbabwe Legislation (for instance trading in gold)
2. ML offence – mental element and corporate liability	PC	Natural and legal person are not subject to criminal sanctions and as yet are not subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for ML.
3. Confiscation and provisional measures	PC	There are freezing and forfeiture measures for serious offences (which includes ML) however the system has not yet been tested in relation to ML or TF. The legislation is not clear if there is power to freeze or forfeit instrumentalities use in, or intended for use in, money laundering held into third parties. These requirements need to

¹⁵ These factors are only required to be set out when the rating is less than Compliant.

		be clarified in the serious offences (confiscation of Profits) Act.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	LC	Financial Institution secrecy laws do not appear to inhibit the disclosure to and sharing of requisite information with the competent authorities, al though compliance procedures remain unclear. Zimbabwe should consider extending this to other types of reporting FIs.
5. Customer due diligence	PC	<p>Reporting FIs are required to actively inquire if the customer is “fronting” for any other person in respect of an account or a transaction(for instance, by asking as a routine part of the account opening procedure whether the account holder is acting on behalf of another person) though no clear under the law.</p> <p>Reporting FIs are required to obtain information relating to the shareholding or any corporate group behind a customer who is a legal person.</p> <p>There is a requirement whether as a legal or supervisory measure for reporting FIs to obtain information on the purpose and nature of the business relationship with a customer or to conduct ongoing due diligence on the business relationship.</p> <p>There is an enhanced CDD legislation for higher risk categories of customers. However Zimbabwean legislation does not provide for any simplified or reduced CDD measures.</p> <p>There is no obligation not to open an account, not establish a business relationship, consider making a STR or (in the case of existing customers) terminate the business relationship in instances where the beneficial owner cannot be identified or information concerning the purpose and intended nature of the business relationship cannot be obtained. This is because there is no obligation to collect this information in the first place.</p> <p>There are legal or regulatory measures in the place as to how reporting FIs should apply CDD measures to their existing pool of customers. There is no legal requirement for a</p>

		<p>customer's identity to be re-verified upon a subsequent enlargement of the customer relationship in the same institution. (i.e. the opening of a new account, writing a new insurance policy, etc).</p> <p>There is a duty imposed to inquire as to the purpose and intended nature of the business relationship and reporting FIs are not required by law to conduct ongoing due diligence on their business relationships.</p>
6. Politically exposed persons	C	This recommendation is fully met
7. Correspondent banking	PC	<p>Zimbabwe has implemented AML/CFT measures concerning establishment of cross border correspondent banking relationships in the regulations only.</p> <p>There is no requirement in the regulations for obtaining approval from senior management before establishing new correspondent relationships.</p>
8. New technologies & non face-to-face business	PC	The BUPSM Act,2004 and BUPSM Guidelines do not provide any requirement to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing activities.
9. Third parties and introducers	C	Recommendation is met
10. Record keeping	C	The recommendation is met
11. Unusual transactions	LC	Most institutions in Zimbabwe pay special attention to all complex, unusual large transactions, however there were indications that money transfer agencies are not always compliant with this requirement.
12. DNFBP – R.5, 6, 8-11	NC	<p>Although DNFBP are subject to the same AML/CFT requirements, compliance is minimal</p> <p>Trustee companies are not yet required to undertake CDD measures, risk manage PEPs, take measures to prevent the misuse of technological developments in ML or TF schemes</p> <p>The requirements for introduced businesses do not meet international standards as trustee companies are not required to immediately obtain from the introducer information on the</p>

		<p>identity of the customer of the beneficial owner and the intended purpose and nature of the business relationship</p> <p>There is no requirement for trustee companies to conduct on going due diligence with respect to introduced businesses relationships.</p>
13. Suspicious transaction reporting	PC	<p>FIs are reporting STRs to the FIIES however the DNFBPs have not been proactive in reporting suspicious activity.</p>
14. Protection & no tipping-off	PC	<p>Zimbabwe needs to clarify the prohibited of tipping off</p> <p>Zimbabwe needs to legislate to extend the statutory protection to senior managers/compliance officers.</p>
15. Internal controls, compliance & audit	LC	<p>There is a DNFBP which did not demonstrate compliance with BUPSML Regulations obligation on reporting FIs to establish screening procedures to ensure high standards when hiring employees</p> <p>There are some concerns on the effective implementation of internal controls. The internal controls themselves suffer from the same deficiencies as the legal requirements.</p>
16. DNFBP – R.13-15 & 21	PC	<p>Although DNFBP are subject to the same AML/CFT requirements, compliance is minimal</p> <p>Trustee companies are not yet required to undertake CDD measures, risk manage PEPs, take measures to prevent the misuse of technological developments in ML or TF schemes</p> <p>The requirements for introduced businesses do not meet international standards as trustee companies are not required to immediately obtain from the introducer information on the identity of the customer of the beneficial owner and the intended purpose and nature of the business relationship</p> <p>There is no requirement for trustee companies to conduct on going due diligence with respect to introduced businesses relationships.</p>
17. Sanctions	PC	<p>Although the law does not expressly say so, Zimbabwe is of the view that the penalty of imprisonment can be applied to the directors and senior management of Reporting FIs.</p> <p>The TZ has no power to replace a Board Director</p>

		Both the imposition of fines and imprisonment require conviction in a court of law; however not cases have been prosecuted for breach of the BUPSMML however there have been convictions under the common law.
18. Shell banks	PC	Zimbabwe should ensure that the amendments to the Banking Act incorporates provisions to prohibit the setting up of shell banks
19. Other forms of reporting	NC	Zimbabwe has not considered the feasibility and utility of implementing a system whereby Reporting FIs would report all domestic cash transactions above a fixed threshold to a nation central agency with a computerized database. Directives have been issued on the minimum and maximum cash withdrawals and this is being monitored using computers although the system needs improvement At the evaluation date , CTRs were being filed manually by the Reporting FIs to the FIIES. Zimbabwe should complete the implementation of the system where by the CTRs will be submitted electronically.
20. Other DNFBP & secure transaction techniques	PC	Zimbabwe has not yet undertaken a risk assessment of vulnerabilities of non-financial businesses and professions other that the DNFBPs. Measures are in place for developing modern and secure techniques for conducting financial Transactions
21. Special attention for higher risk countries	PC	Zimbabwe has not taken sufficient steps to ensure that FIs give attention to countries which do not meet FATF requirements. More enhanced countermeasures need to be implemented.
22. Foreign branches & subsidiaries	NC	During the on site visit we were advised there were no foreign subsidiaries outside Zimbabwe. (On our finalizing report visit we were advised there were five institutions outside the country. The team has not been in a position to ask any questions with regard to how these FIs are managed)
23. Regulation, supervision and monitoring	PC	Inadequate scope and frequency of AML/CFT supervision due to limited resources

		CFT aspects have yet to be adequately addressed
24. DNFBP - regulation, supervision and monitoring	PC	Most of DNFBP have not been properly supervised and monitored since the enactment of the BUPSM Act of 2004.
25. Guidelines & Feedback	PC	The Guidelines do not cover CFT broadly The FIIES does not provide regular feedback to reporting financial institutions and DNFBPs No sector specific guidelines are issued for DNFBP for assisting their implementation and compliance with AML/CFT requirements
Institutional and other measures		
26. The FIU	PC	FIIES staff should receive further training in STR analysis, support to financial investigations and other FIU functions. The FIU should consider conducting outreach program to reporting institutions to better understand the process and criteria for making STRs in order to support higher levels of reporting of STRs. Technical limitations prevent the FIIES staff to apply analytical tools directly to all of the information collated since the information is currently handled manually and is not yet input into a database. This restricts analysis to the selected extract only and is done without the benefit of allowing sophisticated IT tools to search through an entire STR database. The FIIES should pursue membership in the Egmont Group.
27. Law enforcement authorities	PC	The Zimbabwe Government needs to establish a unit which specialises in asset investigation and forfeiture since current methods draw heavily on the existing police resources. Zimbabwe needs to strengthen cooperative relationships with authorities in countries other than those in the SADC region.
28. Powers of competent authorities	PC	The police require further training in Anti AML/CFT for successful prosecution of ML and TF investigators The Police are not familiar with the requirements of UN instruments on terrorism and terrorist financing and need to be further sensitised on this matter since the actions required by

		<p>these instruments would involve the Police.</p> <p>Zimbabwe law enforcement authorities should provide additional support of the FIIES in its role with analysing STRs and providing support to money laundering investigations.</p>
29. Supervisors	LC	<p>Some recommendations Fully met</p> <p>The RBZ may replace./ restrict the powers of managers, directors or controlling owners, but only in the context of applications to acquire qualifying holdings in financial institutions</p> <p>FIs are obliged to produce self-assessment reports that are used by the FSA to determine which FIs will be visited on-site. However, these self assessments are based on the prudential supervision and contain no AML/CFT questions</p> <p>AML/CFT assessments for reporting FIs by the RBZ are an integral part of regular visits but seem to be too limited.</p> <p>Moreover for smaller FIs the RBZ indicated that AML/CFT assessments are not held manually but only when there are indications that an assessment would be necessary</p>
30. Resources, integrity and training	PC	<p>In view of Resource Limitations institutions with a task to offer AML/CFT functions or not adequately staff and sufficiently empowerment with then tools to deliver</p> <p>Resources need to be increased and further training on AML/CFT needs to be provided for all sectors.</p> <p>Zimbabwe needs to provide additional funding and resources for law enforcement in particular the Serious Fraud Squad and CID Gold Unit.</p> <p>Further training should be provided to regulatory and investigations staff, including those of the FIRES, RBZ, the Police, ZIMRA, NECI, the Attorney General's Office as well as the Ministry of Home Affairs.</p> <p>Much of the FIIES's analytical processes are handled manually and with its current systems there is no possibility for the system to automatically draw connections between STRs. The FIIES can only work on a few of the STRs that it</p>

		<p>receives: the rest are simply filled away for future reference.</p> <p>Manual analysis is done, but is often dependent upon the FIIEs staff remembering a person's name or a previous STR. This process is clearly very inefficient. in the area of economic crime. Moreover, there is concern that members of economic crime teams must wait too long to obtain advanced training in economic crime cases.</p> <p>Consequently, Zimbabwe is experiencing difficulty in recruiting lawyers and police officers with adequate professional competence.</p> <p>Considering the number of entities that the RBZ is responsible for supervising, its capacity seems inadequate to achieve supervision effectively.</p>
31. National co-operation	PC	<p>Existing mechanisms are inadequate for policy makers, FIU, Law enforcement and supervisors to effectively cooperate and coordinate in the develop and implementation of AML/CFT policies and measures</p>
32. Statistics	PC	<p>Zimbabwe needs to improve its methods of collating statistics. Computer databases need to be more operative to collate statistics and have capacity to provide reports on trends and methods. The inadequacy of the FIIEs statistics collection mechanism (i.e. its computer systems) has thus impeded its statistics collection capabilities.</p> <p>Zimbabwe does not maintain statistics concerning sanctions imposed for failing to comply with AML/CFT obligations</p>
33. Legal persons – beneficial owners	PC	<p>Competent authorities in Zimbabwe do not have immediate access to information on legal ownership and control of companies.</p> <p>No information is available about the beneficial ownership of companies</p> <p>No information is available about the control of companies where they are existing through nominee directors or foreign company directors</p> <p>No measures are in place to prevent the misuse of share</p>

		<p>warrants for Money Laundering</p> <p>Access to information about legal persons other than companies is weakened by the lack of guidance on how to identify these customers in the BUPSMML Guidelines</p> <p>Information on the beneficial owners of international companies may not always be available to competent authorities in Zimbabwe.</p>
34. Legal arrangements – beneficial owners	PC	<p>The ability to obtain adequate, accurate and current information in a timely manner about the beneficiaries of trusts is undermined by the identification of beneficiaries being optional.</p> <p>Effective supervision is not in place to ensure availability to adequate, accurate and current information about beneficial ownership and control of legal arrangements.</p>
International Co-operation		
35. Conventions	NC	<p>Zimbabwe has acceded to the Vienna Convention and has only signed the Palermo Convention</p> <p>Zimbabwe has not fully implemented the Vienna or Palermo Conventions particularly with respect to prosecuting ML for all serious offences and confiscation of the proceeds of crime and international cooperation requirements.</p> <p>Zimbabwe has not signed the Terrorist Financing Convention</p>
36. Mutual legal assistance (MLA)	PC	<p>Mutual legal assistance is available for the investigation and prosecution of Money Laundering offences but not for the financing of Terrorism</p> <p>There is no provision for service of judicial documents pursuant to a mutual legal assistance request</p>
37. Dual criminality	PC	<p>Dual criminality is required for all mutual legal assistance measures including less intrusive non compulsory measures</p> <p>The dual criminality requirement of extradition allows for extradition where both Zimbabwe and the requesting country criminalize the conduct underlying the offence</p> <p>The absence of extradition designations or treaties impedes extradition even where both Zimbabwe and the requesting</p>

		country criminalize the same conduct underlying the offence
38. MLA on confiscation and freezing	PC	Freezing and forfeiture orders pursuant to mutual legal assistance requests is subject to the same limitations as domestic freezing and forfeiture orders, i.e. they apply 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.
39. Extradition	PC	While Zimbabwe has legislation in place that would allow extradition of money launderers to designated Commonwealth countries and foreign countries which Zimbabwe has an extradition treaty, The absence of any designations or extradition treaties prevents extraditions from taking place
40. Other forms of co-operation	PC	Scope of mutual assistance not extended to terrorist Financing and exchange of information not clearly specified.
Nine Special Recommendations		
SR.I Implement UN instruments	NC	Zimbabwe has not signed and ratified the international convention on the Suppression of the Financing of Terrorism UN Security Council Resolutions 1267 and 1373 are not implemented.
SR.II Criminalise TF	NC	SRII requires countries to criminalize collecting funds in the knowledge that they are to be use (for any purpose) by a terrorist/terrorist organization. This requirement is not adequately covered in the POSA or complementary legislation. Effectiveness cannot be measured since Zimbabwe has not enacted effective legislation to criminalize and deal with TF and no case of TF have been brought before the courts.
SR.III Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> • Zimbabwe has not criminalized terrorist financing but does provide under other legislation capacity for freezing funds or property used in the commission of a serious offence. • The freezing action can be legally challenged by the entity frozen

		<p>and the entity frozen can use the same legal mechanisms that any citizen has at its disposal to challenge governmental decisions.</p> <ul style="list-style-type: none"> • The freezing action must be based on evidence that the designated entity has directed or used particular funds to support terrorist acts. This is a criminal standard, which rules out the possibility of freezing funds because the suspect belongs to a terrorist organisation or is known to finance terrorism in general, but cannot be connected to any specific act of terrorism. • The court's affirmation of the decision to freeze property must be based on evidence that there is just cause to suspect a person and these facts must be proven to the court on a criminal standard, which implies that direct evidence or a substantial amount of circumstantial evidence as to these facts would be required to convince a court to affirm a decision to freeze property. This, coupled with the fact that a decision to freeze property is aimed at a specific person, would make it very difficult to rely on facts such as that the suspect associates himself or herself with a terrorist organisation or is known to finance terrorism in general, but cannot be connected to any specific act of terrorism. In this way, freezing actions taken pursuant to S/RES/1373(2001) may prove to be difficult to implement in practice. • Zimbabwe has not issued any guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms issued pursuant to S/RES/1373(2001). <p>Zimbabwe has not implemented any mechanism for examining or giving effect to (if appropriate) the freezing actions initiated pursuant to the S/RES/1373(2001) lists of other countries.</p>
SR.IV Suspicious transaction reporting	PC	<p>The BUPSMML Act and BUPSMML guidelines provide for the reporting of terrorist financing suspicious activity however to-date no such suspicions have been reported and many of the DNBFPs have not addressed the issues of terrorist financing</p>
SR.V International co-operation	NC	<p>Mutual legal assistance is not available for matters involving financing of terrorism or terrorist organizations.</p> <p>A simplified process exists for extraditing foreign nationals</p>

		wanted to face charges or convicted of terrorist offences including the financing of terrorism
SR VI AML requirements for money/value transfer services	PC	<p>Awareness and implementation of AML/CFT obligations is weak</p> <p>Monitoring of MVT services is inadequate to ensure compliance with AML/CFT control</p> <p>The RBZ should take immediate steps (including the application of sanctions, if necessary) to correct the problems with reporting in this sector</p> <p>The RBZ should improve the effectiveness of its monitoring and supervision</p> <p>No statistics in this sector</p>
SR VII Wire transfer rules	NC	<p>More scrutiny needs to be applied to wire transfers by FIs</p> <p>FIs are not specifically obliged to ensure non routine transactions are reported</p>
SR.VIII Non-profit organisations	NC	<p>Zimbabwe has not reviewed the adequacy of its laws and regulations relating to NPOs that can be abused for the financing of terrorism</p> <p>NPOs in Zimbabwe are not yet involved in Zimbabwe's AML/CFT regime and are subject to minimal supervision and monitoring</p>
SR. IX Cash Couriers	PC	<p>Zimbabwe has taken measures to meet many of the requirements for SR.IX however the evaluators were informed that there has been a momentum with cross border violations for the illegal purchase of foreign currency. Measures need to be strengthened in view of the value of the ZAW currency and how this is affecting the parallel activities at the border posts,</p>

3.2 Table 2: Recommended Action Plan to Improve the AML/CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
Criminalisation of ML (R.1 & 2)	<p>Zimbabwe has enacted a package of legislation that criminalizes ML. They are the Serious Offences (Confiscation of Profits) Act and the BUPSM Act, 2002. The Serious Offences (Confiscation of Profits) Act provides for in adequate penalties for ML bearing in mind the ZWD Dollar exchange to USD for fines imposed). The laws also provide for record keeping requirements, enforces the duty to report ML/FT, provides for the protection of persons making reports, tipping off, seizure, international co-operation, and other provisions. However the Serious Offences (Confiscation of Profits) Act needs to be amended to reflect the crime of money laundering to all serious offences, as it currently stands ML is criminalized under the law and only associated with serious narcotics offences (without the crime of ML applying to all serious offences).</p>
Criminalisation of TF (SR.II)	<p>Zimbabwe also needs to sign and ratify the 1999 UN Convention for the Suppression of the Financing of Terrorism. UN Resolution 1373 needs to be complied with and then complemented by the enactment of the SFIT Bill that should be passed in due course.</p>
Confiscation, freezing and seizing of proceeds of crime (R.3)	<p>Zimbabwe could improve the efficiency of its confiscation system by taking steps to improve the awareness of police concerning the need to secure confiscation claims (either by charging or seizure) early on in the case.</p>

	<p>The legislation is not clear if there is power to freeze or forfeit instrumentalities used in, or intended for use in, money laundering, nor the proceeds of money laundering held by third parties. These requirements need to be clarified in the Serious Offences (Confiscation of Profits) Act.</p> <p>Zimbabwe should consider establishing an Asset Forfeiture Unit to effectively deal with freezing and confiscation of assets as it appears that the Police do not have enough resources to effectively perform this task. Since there has not been any investigation, prosecution or confiscation for FT offences, confiscation authority and implementation is untested.</p>
<p>Freezing of funds used for TF (SR.III)</p>	<p>Zimbabwe needs to enact the SFIT Bill to allow for a competent authority to freeze without delay the terrorist funds and other assets of persons and entities designated by the UN Security Council 1267 Committee, beyond those funds provided or collected for the purpose of carrying out a specific terrorist act. Zimbabwe also needs to amend existing laws to fully implement S/RES/1373(2001) consistent with its aims and objectives, preferably in a similar way as S/RES/1267(1999) has been implemented. This would create one single system for designating, listing, freezing, de-listing and de-freezing of terrorist assets.</p> <p>Enact measures that would allow for the possibility of freezing funds or other assets where the suspect belongs to a terrorist organisation or is known to finance terrorism in general (even if the financing cannot be connected to any specific act of terrorism).</p> <p>Consider: (i) reducing the high burden of proof for the authorities in respect of the implementation of S/RES/1373(2001); (ii) extending the range of funds or other assets which could be frozen under S/RES/1373(2001); and (iii) giving clear practical guidance to financial institutions concerning how to implement freezing actions under S/RES/1267(1999) or S/RES/1373(2001).</p>

	<p>Have measures in place to monitor compliance with both S/RES/1267(1999) and S/RES/1373(2001).</p> <p>Establish an effective system for communication among governmental institutions and with the private sector and should consider options for providing more timely communication to the financial sector and other relevant businesses of designations pursuant to UN Security Council Resolution 1267 and 1373, such as receiving and distributing changes to the lists of designations in electronic form where possible.</p> <p>Provide clear guidance (more than the bare reporting obligation in the BUPSML Act) to financial institutions that may hold terrorist funds concerning their responsibilities under the freezing regime.</p> <p>Create a procedure for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons.</p> <p>Clarify the procedure for authorising access to funds/assets that are frozen and that are determined to be necessary on humanitarian grounds in a manner consistent with S/RES/1452(2002);</p>
<p>The Financial Intelligence Unit and its functions (R.26, 30 & 32)</p>	<p>The FIIES does not have adequate resources provided for through the Reserve Bank of Zimbabwe’s budget. The FIIES, although still in its infancy, is well structured, and staffed by 48 persons who perform its functions. The FIIES is currently working on installing an Egmont Group compliant IT platform to ensure access to the Group’s secure web for information exchange.</p> <p>It is recommended that Zimbabwe allocate more technological resources to the FIIES as soon as possible. Although staff are professional and highly trained, all staff need to be trained in the use of analytical tools such as Analysts Notebook. In addition to a system for electronic reporting, the FIIES urgently needs tools to conduct electronic analysis as soon as possible.</p>

	<p>Zimbabwe should improve the FIIEs statistics collection capabilities by providing it with better technological tools.</p> <p>Descriptions and examples to aid the staff in identifying suspicious transactions are available but a mechanism to ensure that accountable institutions are aware of such examples are lacking. Many of the DNBFPs have not formally adopted the BUPSML Guidelines for reporting STRs. Traders in precious metals and stones are not accountable under these guidelines. The casinos, stock brokers and exchange, real estate agents, public accountants and lawyers have not as yet submitted any STRs to the FIIES.</p> <p>So far, no sanctions have been imposed on any financial institution for failing to comply with reporting requirements on AML.</p> <p>While it appears the FIIES has provided some training to FIs and DNBFPs and the public the FIIES has so far not published any reports regarding statistics, typologies and trends relating to AML.</p>
<p>Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)</p>	<p>There have not been any TF investigations that have led to prosecution of those offences. Law enforcement agencies and prosecutorial services should become more proactively involved in the enforcement of the Serious Offences (Confiscation of Profits) Act, and BUPSML Act.</p> <p>Authorities should be more proactive in pursuing the “money trail” which derives from serious offences. This would enable them to be proactively investigate money laundering offences.</p> <p>Authorities should study the crime statistics to determine the country threats and use these as a contribution to the overall AML strategic plan.</p> <p>Civil forfeiture legislation and training should also be considered, and should complement the reporting regime and AML package of legislation. Further training on AML/CFT should be delivered to all authorities. In addition a typologies conference should also be held</p>

	<p>in Zimbabwe for all relevant officials from the law enforcement, legal and financial authorities. The typologies conference would help raise awareness and determine trends and methods for money laundering in Zimbabwe and the Region.</p> <p>Zimbabwe should ensure that additional resources and funding are provided to the Serious Fraud Squad, NECI, prosecutors and CID for AML/CFT training.</p> <p>Zimbabwe should collect statistics concerning the types of criminal sanctions imposed for ML.</p>
<p>3. Preventive Measures – Financial Institutions</p>	
<p>Risk of ML or TF</p>	
<p>Customer due diligence, including enhanced or reduced measures (R.5 to 8)</p>	<p>The transition from pure identification to CDD has not been made in Zimbabwe. The legal and regulatory system of Zimbabwe only sets forth measures to be taken to identify customers—which means that Zimbabwe is only in compliance with those elements of Recommendation 5 that implement customer identification. Any other element, going beyond the initial establishment of the customer relationship is not regulated. The assessors did not find any evidence that CDD is implemented on a voluntary best practice level by FIs. Zimbabwe should implement the missing elements of Recommendation 5 as a matter of priority.</p> <p>Although there are extensive requirements for identification of a customer that is a legal person, there is no requirement for a Reporting FI to verify that an individual purporting to act on behalf of that legal person is in fact so authorised.</p> <p>The requirements regarding customer identification are primarily focused on the banking sector. However, does not take into account the normal conduct of business in non-bank sectors. Zimbabwe is</p>

	<p>recommended to reassess the existing identification requirements and procedures and consider developing measures that are more tailored to the business practices of the non-bank financial sectors.</p> <p>Financial institutions are required to perform enhanced due diligence for higher risk categories of customer, business relationship or transactions.</p> <p>Zimbabwe should impose equivalent obligations upon all institutions, while recognising relevant sector differences. Such guidelines should extend also to those financial institutions that are not subject to prudential supervision.</p> <p>There is no requirement for a Reporting FI to re-perform customer identification when it has doubts about previously obtained identification data. Presently the obligation is only to verify data if the information contained in the presented documents is on its face incorrect.</p> <p>There is a duty imposed on a Reporting FI to check if the customer is acting on behalf of another person. Currently the duty is a contingent one (i.e. to check only if it has reasons to suspect this to be the case).</p> <p>There is a duty imposed to check the corporate or ownership structure behind a customer who is a legal person, by identifying, for example, the controlling shareholder or operating mind behind the customer</p> <p>Legislation needs to be amended on thresholds required for currency declaration at entry and exit points in view of the inflation of the Zimbabwe Dollar.</p> <p>As of the evaluation date, reporting institutions were not required to subject existing customers to KYC requirements.</p>
Third parties and introduced	Zimbabwe should continue to allow introduced business, but police

business (R.9)	the rule properly and regulate it effectively.
Financial institution secrecy or confidentiality (R.4)	<p>Banks can exchange information in the course of investigating suspicious transactions without being hindered by any secrecy provisions but Zimbabwe should consider extending this to other types of Reporting FIs. Under Part IV of the BUPSM Act, the Director can issue a disclosure order in which financial institutions can make information available to the authorities to assist with AML investigations. The override of secrecy for insurance companies is also not clear and in any event is of uncertain validity in law.</p> <p>It is recommended that the prospect of using financial intelligence in investigating money laundering be clearly indicated to all reporting FIs.</p>
Record keeping and wire transfer rules (R.10 & SR.VII)	<p>During the evaluation the team were informed that there have been instances where money has been transferred illegally due to lack of compliance by some money transfer agencies. In one case two thousand US dollars were transferred to South Africa without approval in July of 2006.</p>
Monitoring of transactions and relationships (R.11 & 21)	<p>When dealing with a client of a country which continues not to apply or insufficiently applies the FATF Recommendations, Zimbabwe is able to apply countermeasures. This is outlined in RBZ Guidelines issued in May 2006.</p> <p>In general, the banks and other institutions interviewed were aware of the importance of monitoring suspicious accounts and were aware of the need to increase their focus in this area; however there was some concern that money transfer agencies are not always compliant and some have not implemented monitoring mechanisms that can detect complex transactions or patterns of transactions.</p> <p>The possible counter-measures to apply to countries with weakness in AML/CFT System include:</p>

	<p>Stringent requirements for identifying customers and enhancement of advisories, including jurisdiction-specific financial advisories, to financial institutions for identification of the beneficial owners before business relationships are established with individuals or companies from these countries.</p> <p>*Enhanced relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with such countries are more likely to be suspicious;</p> <p>In considering requests for approving the establishment in countries applying the countermeasure of subsidiaries or branches or representative offices of financial institutions, taking in to account the fact that the relevant financial institution is from a country that does not have adequate AML/CFT systems.</p>
<p>Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)</p>	<p>The RBZ should ensure that non-bank financial institutions, including MVTS providers, comply with their reporting obligations. Steps should also be taken to refocus reporting in general to concentrate more on the nature of the transaction.</p> <p>The guidance given by the RBZ should be deepened, broadened and based on the different typologies, trends and techniques that focus more attention on the nature of transactions themselves. Additional guidelines that are more tailored to particular types of financial institutions should be issued.</p> <p>More outreach to the DNFBP sectors should be undertaken to ensure that sector participants understand the rationale for the reporting obligation and how to comply with it.</p> <p>The FIIES MOU should deliver more specific feedback to reporting entities, particularly concerning the status of STRs and the outcome</p>

	of specific cases.
Cross-border declaration or disclosure (SR.IX)	<p>Zimbabwe’s declaration system is not “water tight”. At a minimum, the FIIES and possibly also the police should have electronic access to the Currency Transaction Register even where no investigation has formally commenced. The FIIES should be able to conduct a check against this register in the same way as it conducts checks against many other registers when it receives an STR.</p> <p>Information should be retained when a false declaration is made or when there is a suspicion of ML/FT.</p> <p>At the evaluation date, CTRs were being filed manually by the Reporting FIs to the FIIES. Zimbabwe should complete the implementation of the system where by the CTRs will be submitted electronically</p>
Internal controls, compliance, audit and foreign branches (R.15 & 22)	<p>Zimbabwe needs to ensure that branches and subsidiaries observe appropriate AML/CFT measures consistent with their home jurisdiction requirements and that the higher standard applies to branches and subsidiaries in host jurisdictions where the minimum AML/CFT requirements of the home and host jurisdictions differ.</p> <p>Zimbabwe needs to strengthen AML/CFT internal policies and procedures including clear customer acceptance policies, with a description of the types of customer that are likely to pose a higher than average risk to a bank as well as internal testing of the extent to which the institution is complying with internal policies and procedures;</p> <p>Internal training should be strengthened. Training should focus on obtaining proper customer identification and information related to transactions such as source of funds, and identifying suspicious transactions.</p>
Shell banks (R.18)	<p>Zimbabwe does not provide for the setting up of shell banks. Zimbabwe should consider typologies on the vulnerability of shell</p>

	banks for money launderers in light of any future developments in which shell banks may be permitted to operate in Zimbabwe.
<p>The supervisory and oversight system - competent authorities and SROs</p> <p>Role, functions, duties and powers (including sanctions)</p> <p>(R. 23, 30, 29, 17, 32, & 25).</p>	<p>Zimbabwe should ensure that the RBZ is able to effectively check the compliance of Reporting FIs with the obligation to ensure that their key employees are fit and proper.</p> <p>Reporting FIs should have the ability to verify the fitness and proper reputation of new functionaries, particularly with regards to criminal records.</p> <p>The RBZ powers seem to be quite limited in certain respects. For instance, the RBZ has no power to replace a director, board member, member of senior management, or to order a FI to do so, except in the context of a licensing application. Moreover, the RBZ does only limited checks on AML/CFT compliance. The RBZ vet directors on appointment to the Board of Financial Institutions.</p> <p>The RBZ should be given additional resources to be allocated for AML/CFT supervision.</p> <p>The RBZ should consider creating a stand alone AML/CFT unit or at least a team of examiners specialising in AML/CFT measures that check FIs compliance with AML/CFT on an ongoing basis for all supervised entities.</p>
<p>Money value transfer services (SR.VI)</p>	<p>Zimbabwe should take steps to properly implement Recommendations 5-7, 15 and 22, and SR VII. These measures should apply to all Reporting FIs, including MVTS operators</p>
<p>4. Preventive Measures –Non-Financial Businesses and Professions</p>	
<p>Customer due diligence and record-keeping (R.12)</p>	<p>A number of deficiencies were noted in the implementation of Recommendation 5 by both Reporting FIs and Reporting BPs. In other words, customer identification requirements have been implemented, but full CDD requirements have not.</p> <p>Zimbabwe has not fully implemented any AML/CFT measures</p>

	<p>concerning Recommendations 6 that are applicable to Reporting BPs. However, it is not clear how effectively this caution is enforced in practice. Considering the calls for more guidance as voiced by these sectors during the on-site visit, there are preliminary concerns about the effectiveness of implementation for Recommendation 11. It should be noted that reporting not is occurring in all DNFBP.</p> <p>Although the DNFBP sectors are subject to sanctions for breaches of AML/CFT obligations, there is overall concern about how effectively sanctions are being applied to these sectors, given that the supervisors do not seem to be adequately resourced to supervise the large number of reporting entities that they are responsible for.</p> <p>The Legal Profession is partially compliant with the AML/CFT legislation.</p>
<p>Monitoring of transactions and relationships (R.12 & 16)</p>	<p>DNFBPs should be required to fully implement the existing obligations contained in the Regulations and Guidelines.</p> <p>Trustee companies should undertake CDD measures when they prepare for and carry out transactions for a client in relation to the following activities, acting as a formation agent of legal persons or as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons, providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; Acting as (or arranging for another person to act as) a trustee of an express trust or nominee shareholder for another person.</p> <p>In relation to dealings with politically exposed persons, trustee companies should be required to put in place measures in keeping with FATF Recommendation 6. In relation to technological developments, trustee companies should be required to put in place measures in keeping with FATF Recommendation 8.</p>

	<p>In relation to relying on third parties to perform elements of CDD, and in addition to the provisions under paragraph 10 of the Guidelines, trustee companies should be required to put in place measures in keeping with FATF Recommendation 9.</p> <p>Legislative amendments should ensure that authorities have effective proportionate and dissuasive criminal, civil or administrative sanctions available to deal with DNFBPs that fail to comply with the AML/CFT requirements.</p> <p>Appropriate measures and mechanism should be in place to ensure oversight of those trust and company service providers not having physical presence or management stationed in Zimbabwe.</p>
<p>Suspicious transaction reporting (R.16)</p>	<p>Conduct DNFBP sector-specific AML/CFT awareness raising and training.</p> <p>Regular onsite inspections should be extended to all relevant DNFBP to ensure their compliance with the AML/CFT regime.</p>
<p>Internal controls, compliance & audit (R.16)</p>	<p>Conduct DNFBP sector-specific AML/CFT awareness raising and training as there is little knowledge of the subject of the subject in the sector.</p>
<p>Regulation, supervision and monitoring (R.17, 24-25)</p>	<p>The RBZ should extend its supervision and monitoring of AML/CFT compliance to effectively cover all DNFBP on a risk sensitive basis.</p> <p>Specific guidelines according to the business characteristics of DNFBP should be issued as soon as possible for assisting DNFBP to effectively implement and comply with AML/CFT requirements.</p>
<p>Other designated non-financial businesses and professions (R.20)</p>	<p>The authorities may consider assessing vulnerabilities of pawn shops and consider the need for any further regulatory AML/CFT coverage of this area.</p> <p>Although the small market and economy size may not justify immediate application of new technologies such as e-money or automated transfer systems, measures should be in place to encourage the development and use of modern and secure techniques</p>

	for conducting financial transactions that are less vulnerable to money laundering
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	Zimbabwe should either remove the option for companies to issue share warrants or require the bearer to be listed in the share register.
Legal Arrangements – Access to beneficial ownership and control information (R.34)	<p>The provisions in the BUPSML Guidelines related to the identification of beneficiaries undermines the ability of the Anti Money Laundering Prevention Authorities to have timely access to adequate, accurate and current information on the beneficial ownership of trusts. These provisions should be clarified and strengthened to ensure that, at the least, all major beneficiaries of express trusts must be identified. (to provide the regulations)</p> <p>Measures should be taken to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that the commercial, trust and other laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.</p>
Non-profit organisations (SR.VIII)	Zimbabwe should review the adequacy of its laws and regulations relating to NPOs that can be abused for the financing of terrorism. Zimbabwe should consider implementing measures consistent with the Interpretative Note to Special Recommendation VIII to ensure that terrorist organisations cannot pose as legitimate NPOs, and to ensure that funds or other assets collected by, or transferred through, NPOs are not diverted to support the activities of terrorists or terrorist organisations
6. National and International Co-operation	
National co-operation and coordination (R.31)	Establish formal and informal mechanisms to support cooperation and coordination at policy and operational levels. Such mechanisms

	<p>could include establishment of operational task forces to include the FIU at an early stage of investigations of criminal matters involving the proceeds of crime, money laundering and terrorist financing and secondment (part time) of FIIES staff to the Police and vice versa;</p> <p>Mechanisms should be established or strengthened for consultation between competent authorities, the financial sector and other sectors (including DNFBP) on implementation of the AML/CFT laws, regulations, guidelines or other measures.</p> <p>Consideration should be given to inviting larger financial institutions to second appropriate staff to the FIIES to build government and private sector capacity and reinforce good cooperation.</p> <p>A review of the effectiveness of the cooperation and coordination systems for AML/CFT should be conducted as soon as possible and thereafter on a regular basis.</p>
<p>The Conventions and UN Special Resolutions (R.35 & SR.I)</p>	<p>Zimbabwe should fully implement the Vienna and Palermo Conventions, including taking steps outlined elsewhere in this report with respect to prosecution of ML for all serious offences.</p> <p>Zimbabwe should enact and implement legislation allowing for the assets of persons and entities designated under UN Security Council Resolution 1267, its successor resolutions and UN Security Council Resolution 1373 to be frozen without delay. Zimbabwe should also implement mechanisms for designating persons or entities under UN Security Council Resolution 1373.</p>
<p>Mutual Legal Assistance (R.32, 36-38, SR.V)</p>	<p>Zimbabwe’s measures to give effect to foreign orders for freezing, seizing and confiscation apply equally to ML matters (Recommendation 38) and FT matters (SR V). Zimbabwe can recognise a foreign confiscation order, but cannot give effect to it without starting its own proceedings. Likewise, Zimbabwe must initiate its own proceedings to enforce a foreign freezing order.</p> <p>The current laws do not provide a specific time frame upon which a mutual legal assistance request pertaining to identification, freezing, seizure or confiscation of proceeds of crime can be responded to but</p>

	<p>provides for the requesting country to indicate the period within which it expects a response from the Zimbabwean authorities.</p> <p>Zimbabwe has an arrangement in place under the SADC Protocols on Mutual Legal Assistance and Extradition for member countries as well as under the Southern Africa Regional Police Chiefs Committee allows for coordinating seizure and confiscation actions with other countries.</p> <p>The BUPSMML provides for the formation of the Detained Cash Trust Account for purposes of detaining cash suspected to be proceeds pending its liability to forfeiture or confiscation. Possibilities of having a permanent Asset Forfeiture Fund beyond the Trust Account above are being looked at.</p> <p>No special permanent arrangement for co-ordinating seizure and confiscation actions with other countries exist. However, co-ordination may take place on a case-to-case basis. No asset forfeiture fund exists. Zimbabwe should consider enacting legislation which would enable mutual legal assistance requests pertaining to identification, freezing seizure or confiscation of proceeds of crime.</p>
Extradition (R.32, 37 & 39, & SR.V)	Zimbabwe should take further steps to enter into extradition treaties with foreign countries including, as a matter of priority, those who have previously sought assistance with regard offenders in Zimbabwe.
Other Forms of Co-operation (R.32 & 40, & SR.V)	Zimbabwe does not maintain statistics concerning the number of sanctions applied or the number of formal requests for assistance made and received by supervisors relating to or including AML/CFT. However, Zimbabwe does maintain statistics concerning the number of formal requests for assistance made to or received by the FIIES from foreign counterparts. The figures are uncertain because the registration routines are not quite clear, especially as regards the requests made to foreign counterparts.
7. Other Issues	

Other relevant AML/CFT measures or issues	
General framework – structural issues	

Table 3 Authorities' Response to the Evaluation (if necessary)

Relevant sections and paragraphs	Country comments
Overall Report	

ANNEXES

Annex 1: List of abbreviations

ABBREVIATIONS

AML	Anti Money Laundering
AML/CFT	Anti Money Laundering/Counter Financing of Terrorism
BLSS	Bank Licensing Supervision and Surveillance Division of the Reserve Bank of Zimbabwe.
BUPSML	Bank Use Promotion and Suppression of Money Laundering Act 2004
CFT	Combating the Financing of Terrorism
CVR	Central Vehicle Registry
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force on Money Laundering
FIA	Financial Institutions Act, 1999
FIIES	Financial Intelligence Inspectorate Evaluation and Security
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
KYC	Know Your Customer
ML	Money Laundering
MLPC	Money Laundering and Proceeds of Crime Bill
MOF	Ministry of Finance
MOJ	Ministry of Justice
MOU	Memorandum of Understanding
NBFIs	Non Bank Financial Institutions
NCCT	Non-Cooperative Countries and Territories
NECI	National Economic Conduct Inspectorate
RBZ	The Reserve Bank of Zimbabwe
SADC	Southern African Development Community
SARPCCO	Southern Africa Regional Police Chiefs Cooperation Organization
SFIT	Suppression of Foreign and International Terrorism Bill
STRs	Suspicious Transaction Reports
PEPs	Politically Exposed Persons
UN	United Nations
WCO	World Customs Organisation

ZIM	Zimbabwe
ZAR	South African Rand
ZIMRA	Zimbabwe Revenue Authority (Customs and Tax departments)