



Anti-money laundering and Counter-terrorist financing measures

NAMIBIA

2nd Enhanced Follow Up Report and
1st Technical Compliance Rating

April 2024

Follow - Up Report





The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) was officially established in 1999 in Arusha, Tanzania through a Memorandum of Understanding (MOU). As at the date of this Report, ESAAMLG membership comprises of 21 countries and also includes a number of regional and international observers such as COMESA, Commonwealth Secretariat, East African Community, FATF, GIZ, IMF, SADC, United Kingdom, UNODC, United States of America, World Bank and World Customs Organization.

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

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NAMIBIA: 2nd ENHANCED FOLLOW-UP REPORT & 1ST REQUEST FOR RE-RATING - APRIL 2024

I. INTRODUCTION

1. The Mutual Evaluation Report (MER) of Namibia was adopted by the Task Force and approved by the Council of Ministers in September 2022¹. According to the MER, Namibia was rated Compliant (C) on 5 Recommendations, Largely Compliant (LC) on 16 Recommendations, Partially Compliant (PC) on 16 Recommendations and Non-Compliant (NC) on 3 Recommendations. Out of the 11 Immediate Outcomes (IOs), Namibia was rated Moderate Level of Effectiveness on 6 IOs and Low Level of Effectiveness on 5 IOs. Details of the MER ratings are provided in the Table 2.1 below. This follow-up report assesses the progress made by Namibia to address the technical compliance shortcomings identified in its MER. In general, countries are expected to have addressed most or all of their technical compliance shortcomings by the end of the third year of follow-up at the latest. This report does not cover the progress made by Namibia in improving its effectiveness.
2. The assessment of Namibia's request for technical compliance re-ratings and the preparation of this report was carried by the following experts (Supported by ESAAMLG Secretariat: Mofokeng Ramakhala and Tom Malikebu): Ms Nyaradzo Chiwewe (Zimbabwe), Mr Evans Siziba (Zimbabwe), Mr. Toka Mashoai (Lesotho), Ms. Motseng Tsolo (Lesotho), Paulo Munguambe (Mozambique), Ms Julia Tloubatla (South Africa), Ms Nokwazi Mtshali (South Africa) and Ms Cynthia Ngwane (South Africa).
3. Section III of this report summarises the progress made by Namibia on technical compliance. Section IV sets out conclusions and contains a table showing Namibia's MER ratings and updated ratings based on this follow-up report.

II. KEY FINDINGS OF THE MUTUAL EVALUATION REPORT

4. The MER rated Namibia technical compliance ratings as set out in Table 2.1 below. In the light of these results, Namibia was placed in the enhanced follow-up process.

Table 2.1. Technical compliance ratings² September 2022

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
LC	LC	LC	LC	PC	PC	PC	NC	C	LC

¹ [MER of Namibia-September 2022.pdf \(esaamlg.org\)](#)

² There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC) and non-compliant (NC).

R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
LC	NC	PC	LC	NC	LC	LC	PC	PC	PC
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
C	PC	PC	PC	PC	LC	C	LC	PC	C
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
PC	LC	PC	LC	LC	C	LC	LC	PC	PC

III. OVERVIEW OF PROGRESS IN TECHNICAL COMPLIANCE

3.1 Progress in resolving the technical compliance deficiencies identified in the MER

- Since the adoption of its MER in September 2022, Namibia has taken measures aimed at addressing the technical compliance deficiencies identified in its MER. This section of the report summarises progress made by Namibia to improve its technical compliance by addressing the TC deficiencies identified in its MER.
- ESAAMLG welcomes the steps that Namibia has taken to improve its technical compliance deficiencies. Following this progress, Namibia has been re-rated to Compliant with Recommendations 5, 20 and 29, while Recommendations 6, 7, 8, 12, 13, 15, 18, 19, 22, 25 and 39 have been upgraded to LC. However, due to remaining deficiencies under R.24, Namibia’s rating of PC has been maintained for this Recommendation.

Recommendation 5: Terrorist Financing Offence

.	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to C

- Criterion 5.1 –(Met)** The MER concluded that Namibia criminalises terrorism financing (TF) consistent with Article 2 of the International Convention for the Suppression of the Financing of Terrorism [Section 2 of PACOTPAA 2014, as amended]. The relevant section has not changed. **Hence, c.5.1 remains Met.**
- Criterion 5.2 –(Met)** The MER had concluded that Section 2(1) of the PACOTPAA criminalised the offence of TF to a person who directly or indirectly provides or collects funds to carry out a terrorist act. However, the provision did not criminalise the wilful provision of funds or other assets in the knowledge or the **unlawful intention** that they were to be used in full or in part to carry out a terrorist act required by criterion 5.2; and that the Law did not criminalise the provision of funds to and collection of funds for individual terrorists and terrorist organisations.

9. Since the MER, Namibia introduced amendment to the relevant section such that the TF offence in Namibia is extended to any person who willfully provides or collects funds or other assets by any means, directly or indirectly, with the **unlawful intention** that they should be used, or in the knowledge that they are to be used, in full or in part (a) to carry out a terrorist act(s) [Section 2(2)(a)(i) of PACOTPAA Amendment Act]. The second deficiency was also addressed by introducing amendments to the relevant sections such that TF offences in Namibia are extended to any person who willfully provides or collects funds or other assets by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part by a terrorist organisation or an individual terrorist (even in the absence of a link to a specific terrorist act or acts) [Section 2(2)(a) (ii) of PACOTPAA Amendment Act]. **Thus, c.5.2 is re-rated Met.**
10. **Criterion 5.2^{bis} - (Met)** The MER had concluded that PACOTPAA under Section 2(2) did not include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training. Further, the definition of “Specified Offences” as provided for under Section 4 of PACOTPAA was not sufficient to cover the provision of funds for travel by individuals to a State other than their States of residence or nationality for the purposes of terrorism.
11. Since the MER Namibia introduced amendments to the relevant section such that Namibia criminalises the financing of the travel of any other person to a state other than their state of residence or nationality intentionally, knowingly or having reasonable grounds to believe that such travel is for the purpose of committing, planning, preparation of, participating in, a terrorist activity or providing or receiving of terrorist training. This meets the requirements of c.5.2^{bis} [Section 2(2)(b) of the PACOTPAA Amendment Act]. **Thus, c.5.2^{bis} is re-rated Met.**
12. **Criterion 5.3 –(Met)** The MER established that Section 1 of the PACOTPAA provides that TF offences extend to any funds or other assets whether from a legitimate or illegitimate source. The language used in the definition of “funds” under Section 1 of PACOTPAA covers any funds “however acquired” at (c) and (d) as well as assets of every kind at (b) which indicates that the funds and other assets funds may be from any source, whether legal or not. The definition of ‘funds’ has not changed. **Hence c.5.3 remains Met.**
13. **Criterion 5.4 – (Met)** The MER concluded that the definition of a terrorist activity under Section 1 PACOTPAA included *any attempt* to commit terrorist act while Section 2(2) PACOTPAA criminalised TF offence. Read with Section 1(c) PACOTPAA, it was clear that the use of funds or other assets for attempted terrorist acts was also criminalised in Namibia. On the other hand, Section 2(2) PACOTPAA criminalised acts as a TF offence

where there was a provision of funds intended to be used to carry out terrorist act(s) regardless whether such funds or part thereof were actually used to commit a terrorist activity. However, in circumstances where the funds were not intended to be used to carry out a terrorist activity, then such provision of funds was not criminalised. The provision thus suffered the deficiency where without linkage to a terrorist offence, there was no legal avenue to sanction provision of funds to terrorist individuals and groups.

14. In order to address the above deficiency, the relevant section was amended. The new Section 2(2)(a) of the PACOTPAA Amendment Act has maintained the MER position in that TF offences do not require that the funds or other assets: (a) were actually used to carry out or attempt a terrorist act(s). In addressing the second deficiency, the new section provides that TF offences do not require that funds or other assets should be linked to a specific terrorist act in terms of section 2(2)(a) of PACOTPAA, as amended. **Thus c.5.4 re-rated Met.**
15. **Criterion 5.5 – (Met)** The MER concluded that Namibia’s law provides for inference of TF offence from knowledge and objective factual circumstances of the case. This was provided by the wordings of Section 2 PACOTPAA which uses the words ...*intending, knowing or having reasonable grounds to believe* that funds is to be used.
16. Reviewers maintain the MER position that indeed Namibia’s law allows for inference of TF offence from knowledge and objective factual circumstances of the case. Reviewers further agree with Namibia that the concept of unlawful intention is non-existent under the common law jurisprudence adopted in the domestic law of Namibia. [Section 2 of PACOTPAA]. **Thus, c.5.5 is re-rated Met.**
17. **Criterion 5.6 – (Met)-** The MER concluded that Namibia applied proportionate and dissuasive criminal sanctions to natural persons convicted of TF. The punishment for TF offences could be up to a maximum of life imprisonment. Under Item 28 on Schedule 1 to the POCA, TF was designated as an offence that was punishable by imprisonment for a period of 12 months or more. This prescribed the minimum limit for imprisonment of natural persons involved in TF offences. In terms of proportionality, the punishment for TF offence under Section 2(2) PACOTPAA was a fine not exceeding NAD100 million. When compared to other offences under the Prevention of Organised Crimes Act (POCA) such as the offence of money laundering which attracts a similar penalty of a fine not exceeding NAD100 million, the penalties for TF were considered proportionate and dissuasive. The MER conclusion remains unchanged as the relevant section of PACOTPAA Act has not changed. **Hence, c.5.6 remains Met.**
18. **Criterion 5.7 – (Met)-** The MER concluded that in Namibia, criminal and civil liability and sanctions apply to both legal persons and natural persons. Section 332(2) & (5) of CPA allows for apportionment of criminal liability on legal persons without prejudice to the criminal liability of natural persons. Under Section 2(2) of PACOTPAA, a person who commits a TF offence is liable to a fine not exceeding NAD100 million or to

imprisonment for a period not exceeding 30 years, or to both such fine and such imprisonment. Similar language is given for other offences provided in PACOTPAA. The offences are proportionate and dissuasive. Administrative sanctions apply to all persons (natural and legal) for non-compliance with the provisions of FIA. Section 56(1) of FIA enables FIC or a supervisory body to impose administrative sanctions on institutions obliged under FIA which includes caution, reprimand, suspension or business or license or a financial penalty. Additionally, Section 332(5) of FIA provides for the liability of natural person acting on behalf of the legal person, either jointly with the corporate body or personally. Section 56(11) of FIA however limits the application of administrative sanctions against such institutions if the respondent has been charged with a criminal offence in respect of the same set of facts. The MER conclusion remains unchanged as the relevant provisions have not changed. **Hence, c.5.7 remains Met.**

19. **Criterion 5.8 –(Met)-** The MER had established that Section 59 of PACOTPAA criminalises aiding, abetting and participation in other ancillary offences to TF. Under this provision, *a person who attempts to commit, threatens to commit, prepares to commit, conspires, whether in or outside Namibia, to commit, aids, abets, facilitates, supports or counsels the commission of; or incites the commission of any offence under the Act commits an offence and is liable to the same sentence prescribed for such offence by or under the Act.* From this reading of the law, there was a deficiency in the legal provision which would criminalise contribution by a group of persons acting with a common purpose to commit TF offences.
20. Since the adoption of the MER, Namibia introduced new provisions. For instance, in terms of section 2(2)(c) of PACOTPAA as amended, it is an offence to intentionally, knowingly or negligently contribute to the commission of one or more terrorist financing offences or attempted financing offences, by a group of persons acting with a common purpose. **Thus c.5.8 re-rated Met.**
21. **Criterion 5.9 – (Met)-** The MER concluded that Namibia had adopted an all-crimes approach to criminalisation of TF in terms of section 1 of the POCA under the definitions of “Proceeds of unlawful activities” and “Unlawful activity” and therefore TF offences are designated as ML offences in Namibia. Under the Financial Intelligence Act money laundering means a transaction that involves proceeds of any unlawful activity. Under POCA, “unlawful activity” has been defined as any conduct which constitutes an offence or which contravenes any law in Namibia. Proceeds of unlawful activities are considered as money laundering offences under Section 1 of POCA. The MER position remains unchanged because the relevant section of POCA Act has not changed. **Hence, c.5.9 remains Met.**
22. **Criteria 5.10 – (Met)-** MER concluded that TF offences apply to all person regardless of whether the person alleged to have committed the offence(s) is in Namibia or a different country. This is clear from the direct provision of Section 2 of PACOTPAA using the

wording “a person who, in or outside Namibia” which usage is broad to cover TF offences outside Namibia. The position remains unchanged from MER and the relevant section of PACOTPAA has not changed. **Hence, c.5.10 remains Met.**

Weighting and conclusion

23. Namibia amended its PACOTPAA to address deficiencies identified in Recommendations 5. Among others the TF offence extends to willfully providing funding to be used for terrorist act, or to fund a terrorist organisation or an individual terrorist. Financing the travel of an individual from his/or her state to perpetuate terrorist activities is equally criminalised. The amended Act has not affected other criteria and as such the analyses therein remain unchanged. Therefore, **Recommendation 5 is re-rated Compliant.**

Recommendation 6: Targeted Financial Sanctions Related to Terrorism and Terrorist Financing

.	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

24. **Criterion 6.1 – [6.1(a)]- (Met)** The MER had established that The National Security Commission, has the statutory responsibility in terms of the PACOTPAA to propose persons or entities to the 1267/1989 Committee for designation; and for proposing persons or entities to the 1988 Committee for designation. Section 46 (8) to (11) of the PACOTPAA specifically complies with this criterion at (2)(8). The wording used under this section is that *the Security Commission may also, if it thinks appropriate, propose proscribed persons or organisations to the Security Council 1267 (1999) Committee, the 1989 (2011) Committee, the 1988 (2011) Committee, the 1718 (2006) Committee or the 1737 (2006) Committee for designation, in the prescribed form and manner.* This position remains unchanged from the MER as the relevant section of PACOTPAA has not changed. **Hence, c.6.1(a) remains Met.** Regarding c.6.1(b) the MER concluded that Namibia has mechanisms for identifying targets for designation which is based on criteria set out in Section 44(1) read with Sections 1, 46 and Regulation 11 of the PACOTPAA. In the same vein this position from the MER remains unchanged, since the relevant section of PACOTPAA and Regulations have not changed. **Hence, c.6.1(b) remains Met.**
25. In regard to c.6.1(c), the MER concluded that Namibia does not apply an evidentiary standard of proof of “reasonable grounds” when deciding whether or not to make a proposal for designation. The wording of Section 46 (8) did not make provisions for the Security Commission to use act on reasonable grounds when proposing proscribed persons or organisations to the Security Council 1267 (1999) Committee. However, such consideration for designation was not conditional upon the existence of a criminal proceeding.

26. Since the MER, Namibia introduced changes to its law, such that Namibia currently applies an evidentiary standard of proof of “reasonable grounds” when deciding whether or not to make a proposal for designation and this is not conditional upon the existence of a criminal proceeding [Section 48(8) of PACOTPAA as amended]. **Thus, c.6.1 (c) is re-rated Met.**
27. Regarding 6.1(d), the MER had established that the procedure for listing is provided for under section 44 and 46 of PACOTPAA. The PACOTPAA Regulation 11(4) (a), (b), and (c) also provide for relevant forms to be used for proposal to proscribe a person or organisation to the Security Council 1267(1999) Committee, the 1989(2011) Committee, the 1988(2011) Committee, for designation. The relevant section of PACOTPAA and Regulations have not changed to affect the MER conclusion. **Hence, c.6.1(d) remains Met.**
28. In regard to c.6.1(e), the MER had established as a deficiency that although Section 46(9) of PACOTPAA gives enough provision for providing as much relevant information as possible on the proposed name for designation including a statement of case which contains as much detail as possible on the basis for the listing, the law was silent on the procedure regarding whether or not the government should make known their designating status to other UN member states.
29. Since the MER, Namibia has come up with a legal provision that allows it to indicate whether Namibia’s status as a designating state must be made known to other United Nations member states [section 46(9)(e) of PACOTPAA, as amended]. **Thus, c.6.1(e) is re-rated Met. Consequently, the overall c,6.1 is re-rated Met.**
30. **Criterion 6.2 – (Met)** The MER had established that:
- **[6.2(a)]** The Security Commission is responsible to for designating persons or entities that meet the specific criteria for designation, as set forth in UNSCR 1373. This MER position remains unchanged.
 - **[c.6.2 (b)]** The mechanism(s) for identifying targets for designation are outlined under Section 44 PACOTPAA, which conforms to the designation criteria set out in UNSCR 1373.
 - **[c.6.2(c)]** When receiving a request from another country under the UNSCR 1373, the Security Commission is empowered by Section 33(3) and Regulation 7(2) & (3) of PACOTPAA to make a prompt determination of whether they are satisfied that the request is supported by *reasonable grounds* to suspect or believe that the proposed designee meets the criteria for designation;
 - **[c.6.2(d)]** Proscription in Namibia are applied only when the Minister is satisfied that *that reasonable grounds exists* to proscribe a person or organisation exists pursuant to Section 44 (1) PACOTPAA and that this is not conditional upon the existence of criminal proceedings;

- **[6.2(e)]** When requesting to another State to take actions pursuant to the Security Council Resolutions 1373, PACOTPAA requires that such request must contain statement detailing the facts on which it is reasonably believed that the person or organisation to be so designated is engaged in any terrorist activity as per Section 46(7) read with Regulation 11(2) and (3) of PACOTPAA. The position remains the same from the MER since the relevant sections of PACOTPAA have not changed.

Hence, c.6.2 in its entirety remains Met.

31. **Criteria 6.3 – (Met)**- The MER concluded that:
 - (a) Namibian competent authorities have legal powers to collect or solicit information to identify persons and entities that, based on reasonable grounds, to suspect or believe, meet the criteria for designation; and
 - (b) the country can operate *ex parte* against a person or entity who has been identified and whose designation is being considered. The MER position remains unchanged in this regard, since the relevant section of PACOTPAA addressing 6.3 has not changed. **Hence, c.6.3 in its entirety remains Met.**
32. **Criteria 6.4 – (Met)** The MER established that Namibia did not fully meet the requirements of this criterion, among others, the procedure established under Section 23 and 24 was considered unduly too long leading to delayed implementation of freezing obligations which is not in line with FATF requirements.
33. Since the MER, Namibia introduced amendments to PACOTPAA, such that the legal framework automatically allows Namibia to implement targeted financial sanctions without delay once adopted by relevant UN Sanction Committees. Section 22 of PACOTPAA, as amended for purposes of R.6 addresses UNSCR 1267(1989 and 1988). Namibia is also able to give effect to the actions initiated under the freezing mechanisms of other countries pursuant to UNSCR 1373 (2001). [sections 33, 44 and 46 of PACOTPAA, as amended. **Thus, c.6.4 is re-rated Met.**
34. **Criteria 6.5 –(Mostly Met)** The MER had established that [c.6.5(a)] Namibia requires that all natural and legal persons within the country freezes the funds or other assets of designated persons and entities. Section 25 prohibits any person from knowingly making funds available to or on behalf of designated persons, organisations or countries. This prohibition acts as automatic freeze against the provision of funds to designated persons. However, there was no provision requiring *all persons* to act *without delay and without prior notice* in implementing TFS.
35. Subsequent to the MER, Namibia introduced amendment to its law such that in terms of section 25(1) of PACOTPAA any person, other than the Minister, or institution referred to under section 24(2), must upon being informed of a designation or listing contemplated in section 22, without delay and without prior notice, freeze funds or assets of designated persons or entities.

36. Although the Minister is included in the list of persons and entities in section 24(2) of PACOTPAA, the use of the words “other than the Minister” in section 25(1) connotes that the Minister shall be exempted from complying with the obligation to freeze without delay and prior notice funds or assets of designated persons or entities contemplated in section 22. As a result of this shortcoming, c.6.5(a) is re-rated **Mostly Met**.
37. In regard to [6.5(b)], the MER also found that the obligation to freeze extends to all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat. The freezing order issued pursuant to Section 23 and 45 PACOTPAA extends to all types of funds wholly or jointly owned, funds, assets or economic resources derived or generated from funds or other assets owned or controlled and funds, other assets or economic resources of persons or organisations acting on behalf of, or at the direction of, designated persons or organisations. These measures have not changed since the contents of both section 23 (now section 25) and that of section 45 of PACOTPAA have not changed. **Hence, c.6.5(b) remains Met.**
38. Regarding c.6.5 (c), the MER concluded that Namibia prohibits its nationals, or any persons and entities within Namibia from making available for the benefit of designated persons and entities in accordance with the relevant UNSCRs. Section 45(8) punishes a person, organisation or institution that fails to comply with a freezing order by a fine not exceeding NAD100 million or to imprisonment for a period not exceeding 30 years. Similarly, Section 25 provides punishment for a person to whom a designation or list has been communicated in terms of section 24(2) or who knows or ought reasonably to know or suspect that he or she either directly or indirectly makes any funds on behalf of or for the benefit of a designated person, organisation or country with a fine not exceeding NAD100 million or to imprisonment for a period not exceeding 30 years. These measures were considered sufficient to address the requirements of c.6.5(c).
39. Since the MER, Namibia has introduced a new section to the effect that Namibia prohibits its nationals, or any persons and entities within Namibia from making funds... available for the benefit of designated persons and entities in accordance with the relevant UNSCRs. This is in terms of section 25 (7) of PACOTPAA, as amended. **Hence, c.6.5(c) remains Met.**
40. Regarding c.6.5 (d) The MER established that Section 24(2) and Section 46(3) PACOTPAA provides mechanisms for communicating designations to the financial sector and the DNFBPs immediately upon making a freezing order. However, Namibia did not provide clear guidance to financial institutions and other persons or entities, including DNFBPs, that might be holding targeted funds or other assets, *on their obligations in taking action* under freezing mechanisms.

41. Since the MER, Namibia has issued Guidance Note No 7 of 2023 on TFS. Sec 4 specifically guides institutions on what constitutes TFS, Assets Freezing without delay, prohibition etc **Thus c.6.5 (d) is re-rated Met.**
42. In regard to c.6.5 (e) the MER had concluded that Regulations 2, 7(4) and 10(1) of PACOTPAA Regulations also require financial institutions and DNFBPs to report to competent authorities any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs. Any Attempted Transactions by or in connection with a designated individual or organisation would amount to suspicious transactions/or suspicious activities which are reportable under Section 33(1) of FIA. The relevant provisions of PACOTPAA regulations and FIA have not changed. So, the MER position remains unchanged. **Hence, c.6.5(e) remains Met.**
43. Regarding c.6.5(f) the MER concluded that Regulations 2, 7(4) and 10(1) of PACOTPAA Regulations also require financial institutions and DNFBPs to report to competent authorities any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs. Any Attempted Transactions by or in connection with a designated individual or organisation would amount to suspicious transactions/or suspicious activities which are reportable under Section 33(1) of FIA. The relevant sections of PACOTPAA and Regulations have not changed. **Hence, c.6.5(f) remains Met. Consequently, the overall c.6.5 is re-rated Mostly Met.**
44. **Criterion 6.6 –(Met)-** For c.6.6(a), the MER established that PACOTPAA Regulations outlines that the Security Commission must within a reasonable period inform the designated person and organisation of the availability of the United Nations Office of the Ombudsman and any other relevant Security Council Committees. Additionally, once a person or organisation has been designated by the 1988 (2011) Committee, the Security Commission must inform the designated person or organisation of his or her or its right to have the designation reviewed by the 1988 (2011) Committee in accordance with any applicable guidelines or procedures adopted by that Committee, including those of the focal point mechanism established under Security Council Resolution 1730 (2006). This position remains unchanged from the MER. **Hence, 6.6(a) remains Met.**
45. In relation to c.6.6(b), the MER had concluded that Section 44(6) & (13) provides for the Security Commission, if satisfied that reasonable grounds exist, to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to UNSCR 1373 that no longer meet the criteria for designation. This position remains unchanged from the MER. **Hence 6.6(b) remains Met.**
46. Regarding c.6.6(c), the MER had found that, under Section 44(10) PACOTPAA, an applicant dissatisfied with the decision of the Security Council to refuse his application for revocation of a designation, may within 60 days of receiving information of such refusal apply to a judge for review of that decision. Before applying to the judge, the

aggrieved applicant is expected to make a written application in the prescribed manner to the Security Commission for the revocation of the order of proscription within 30 days of publication in the Gazette of a notice or publication regarding his/her proscription. Therefore, it is only after the consideration for revocation is denied by the Security Commission that the aggrieved may approach the court. This position remains unchanged from the MER. **Hence c.6.6(c) remains Met.**

47. With respect to c.6.6(d), the MER concluded that the legal framework under Section 44(11) specifically provides that once a person or organisation has been designated by the 1988 (2011) Committee on the recommendation of the Security Commission, the Security Commission must inform the designated person or organisation of his or her or its right to have the designation reviewed by the 1988 (2011) Committee in accordance with any applicable guidelines or procedures adopted by that Committee, including those of the focal point mechanism established under Security Council Resolution 1730 (2006). This position remains unchanged from the MER. **Hence c.6.6(d) remains Met.**
48. For c.6.6(e), the MER established that with respect to designations on the *Al-Qaida Sanctions List*, the Security Commission must inform the designated persons and entities of the availability of the *United Nations Office of the Ombudsperson*, pursuant to UNSCRs 1904, 1989, and 2083 within a reasonable period for purposes of submission of delisting petitions as outlined under Section 44(10) PACOTPAA. This position remains unchanged from the MER. **Hence, c.6.6(e) remains Met.**
49. In relation to c.6.6(f), the MER concluded that Namibia has publicly known procedures for unfreezing of funds of persons who were wrongly designated by the UN Security Council. Section 29 PACOTPAA provides mechanisms for delisting of persons who is not the person or organisation on the designation list, or has been incorrectly designated by the UN Security Council. The scope of Section 29 is sufficient to apply to persons or entities with the same or similar name as designated persons/entities who are inadvertently affected by the freezing mechanisms. This is consistent with the requirement of this Criterion. For domestic proscriptions, the procedures under Namibian law does cover instances of persons or entities with the same or similar name as designated persons/entities who are inadvertently affected by the freezing mechanisms. According to Section 44(7) PACOTPAA, the use of the term “a proscribed person or organisation” is broad enough to cover a person wrongly proscribed i.e., false positive. This is consistent with the requirement of the Criterion. This position remains unchanged from the MER. **Hence c.6.6(e) remains Met.**
50. Regarding c.6.6(g), the MER concluded that mechanisms for communicating de-listings and unfreezings to the financial sector and the DNFBPs for persons listed under relevant Security Council regimes is provided for under Section 30 PACOTPAA. Section

44(13) provides for automatic lapse of any freezing action upon de-proscription. However, but once elapsed, the law provides no obligation to respect the delisting.

51. Since the MER, Namibia has introduced amendments to PACOTPAA which requires persons or institutions that may be holding targeted funds or other assets, to comply with and/or respect obligations on a de-listing or unfreezing action. [see Section 22(2) and 44(13) of the PACOTPAA for measures under 1267(1989 and 1988) as well as for 1373 respectively]. **Thus, 6.6(g) is re-rated Met. Consequently, the overall rating of c.6.6 is Met.**
52. **Criterion 6.7 –(Met)** The MER established that Namibia authorises access to frozen funds or other assets which have been determined to be necessary for basic expenses, for the payment of certain types of fees, expenses and service charges, or for extraordinary expenses, in accordance with the procedures set out in relevant Security Council Resolutions. These measures are outlined Section 32, read with Section 33(11) PACOTPAA for the Security Council Resolution 1452 and Section 45(6) & (7) and Regulation 6 of PACOTPAA for Security Council Resolution 1373. The relevant provisions have not changed. **Hence, the rating of c.6.7 remains Met.**

Weighting and Conclusion

53. Namibia amended its PACOTPAA so that implementation of targeted financial sanctions can be made without delay and without notice and has enhanced mechanisms to communicate de-listing and unfreezing measures. All outstanding deficiencies in Recommendation 6 have sufficiently been addressed, save the observation made in c.6.5 (a) which appears to exempt the Minister from complying with the freezing obligations under this criterion. This is considered a minor shortcoming. It is therefore recommended that **Recommendation 6 be re-rated Largely Compliant.**

Recommendation 7: Targeted Financial Sanctions Related to PF

	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

54. **Criterion 7.1 – (Met)** The MER established that pursuant to an amendment introduced by Section 63 of PACOTPAA, all preventive measures applicable to ML/TF also applies to proliferation activities. In terms of Regulation 1 of the PACOTPAA, without delay had been defined as within 48 hours. Therefore, the deficiency relating to the implementation of the element of without delay highlighted under Criterion 6.4 also affected this Criterion.
55. Since the MER, Namibia has ensured that the legal framework should automatically allow Namibia to implement targeted financial sanctions relating to PF without delay once adopted by relevant UN Sanction Committees for purposes of measures in R.7 [section 22(1) of PACOTPAA, as amended]. **Thus, c.7.1 is re-rated Met.**

56. **Criterion 7.2 – (Mostly Met)** For [c.7.2(a)], the MER had established that the salient shortcoming in meeting the requirements of this sub-criterion was that there was no provision in relation to freezing measures as per the two elements of the FATF Standards i.e., without delay and without prior notice. Subsequently, PACOTPAA was amended to fill this gap. Thus, analysis made in 6.5(a) will equally apply in 7.2(a). Hence, **7.2(a) is re-rated Mostly Met.**
57. With respect to c.7.2(b), the MER had established that A freezing order under Section 23 and 45 PACOTPAA applies to all funds or other assets that are owned or controlled by the designated person or entity whether wholly or jointly owned or controlled, and not just those that can be tied to a particular act, plot or threat of proliferation. It also covers all funds or other assets derived, funds or other assets of persons and entities acting on behalf of terrorists. The position in the MER remains unchanged since the contents of the relevant section 23 (now section 25) of PACOTPAA have not changed. Hence, **c.7.2(b) remains Met.**
58. In regard to c.7.2(c), the MER established that Namibia prohibits its nationals and persons within its territory from availing terrorist funds. The definition of “freeze” outlines that it entails prohibition of making available funds and Section 25 and 46(4) covers this criterion. Analysis made in c.6.5(c) above equally applies here. Hence **7.2(c) remains Met.**
59. For c.7.2(d), the MER established that Namibia did not fully meet the requirements of this sub-criterion in the sense that Namibia had mechanisms for communicating designations to financial institutions and DNFBPs immediately upon making freezing order pursuant to Sections 24(2) and Section 46(2) & (3) PACOTPAA. However, guidance was not provided to financial institutions and other persons or entities, including DNFBPs that might be holding targeted funds or other assets, *on their obligations in taking action* under freezing mechanisms.
60. Since the MER, Namibia has issued guidance for financial institutions and other persons or entities, including DNFBPs that may be holding targeted funds or other assets. Section 3.3.3 of the Guidance Note 7 of 2023 provides guidance to FIs and DNFBPs on their obligations in taking action under freezing mechanisms. Thus, **7.2 (d) is re-rated Met.**
61. In relation to c7.2(e), all financial institutions and DNFBPs in Namibia are required to report to competent authorities any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs. Section 33 FIA extends this requirement to instances of attempted transactions. The position in the MER remains unchanged as the relevant section has not changed. Hence, **c.7.2(e) remains Met.**
62. Regarding c.7.2(f), the MER had established that there are adequate measures which protect the rights of *bona fide* third parties acting in good faith when implementing the

obligations under freezing mechanism under Sections 23(3) and Section 45(3) & (4). The position in the MER remains unchanged and the analysis made in 6.5(f) equally applies here. **Hence, c.7.2(f) remains Met.** Overall, **c.7.2 is re-rated Mostly Met.**

63. **Criterion 7.3 - (Met)-** FIC and NAMFISA are the sector supervisors for monitoring and ensuring compliance by financial institutions and DNFBPs with the relevant laws or enforceable means governing the obligations under Recommendation 7. The Supervisory body is responsible for supervising, monitoring and enforcing compliance with this Act or any regulation, order, circular, notice, determination or directive issued in terms of this Act, in respect of all accountable or reporting institutions supervised by it as outlined under Section 35 FIC. Any accountable or reporting institution that is not supervised by a supervisory body is deemed to be supervised by FIC. FIC or a supervisory body has powers to impose an administrative sanction and civil penalties against failure to comply with the Recommendation 7. Criminal sanctions for non-compliance with Rec. 7 attract a fine not exceeding NAD100 million or to imprisonment for a period not exceeding 30 years, or to both such fine and such imprisonment. The position in the MER remains unchanged as the the relevant provision have not changed. **Hence, c.7.3 remains Met.**
64. **Criterion 7.4 –(Met)-** With respect to c.7.4(a), the MER concluded that Section 29(2) PACOTPAA and Regulation 4(2) and (3) enables listed persons and entities to petition a request for de-listing at the Focal Point for de-listing established pursuant to UNSCR 1730. The position in the MER remains unchanged as the the relevant provisions have not changed. **Hence, c.7.4(a) remains Met.**
65. In relation to c.7.4(b), the MER had established that Section 30. (1) provides that a freezing order, arms embargo or travel ban issued in respect of any designated person, organisation or country lapses automatically once such person, organisation or country is delisted. Section 44(7) additionally gives provisions for the procedure to de-list persons thus: Within 30 days of publication in the Gazette of a notice or publication under subsection (3), a proscribed person or organisation may make a written application in the prescribed manner to the Security Commission for the revocation of the order of proscription made under subsection (1). A proscribed person has the connotation that he/she may have been inadvertently proscribed, which is a broad interpretation to cover the criterion The position in the MER remains unchanged as the relevant provisions have not changed. **Hence, c.7.4(b) remains Met.**
66. In regard to c.7.4(c), the MER had established that Section 32(1)(e), Section 45(6) & (7) of PACOTPAA and Regulation 6 provides for authorising access to funds or other assets, where countries have determined that the exemption conditions set out in UNSCRs 1718 and 2231 are met as set out in those resolutions. The position in the MER remains unchanged as the the relevant provisions have not changed. **Hence, c.7.4(c) remains Met.**

67. For c.7.4(d), the MER had concluded that Namibia did not fully address the requirements of this sub-criterion in the sense that, although the Director FIC is mandated to immediately circulate the names of delisted persons, organisations or countries to all accountable institutions, supervisory bodies, reporting institutions, all regulatory bodies and any other person, business, public body, office, Ministry, government institution or competent authority as the Director considers appropriate, there was no guidance to financial institutions and other persons or entities, including DNFBPs, that might be holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action.
68. Since the MER, Namibia has issued Guidance Note No 7 of 2023 on TFS in whose section 4.4 indicates that the FIC or relevant competent authority will communicate the cancellation decision to the Institution which has implemented TFS measures. Furthermore, a circular notice and an email communicating delisting which calls upon persons or institutions to respect and/or comply with de-listing or unfreezing actions are autogenerated. **Thus 7.4 (d) is re-rated Met.** Consequently, **c.7.4 is re-rated Met.**
69. *Criterion 7.5 — (Met)-* For 7.5(a), the MER concluded that Section 23(1)(b)(v) provides for the addition to the accounts frozen pursuant to UNSCRs 1718 or 2231 of any funds or assets held in a bank account, as well as any additions that may come into such account after the initial or successive freezing.
70. Since the MER, Namibia re-introduced the above provisions in the new section 25 of PACOTPAA such that Namibia is able to permit any addition to the accounts frozen pursuant to the requirements of UNSCRs 1718 or 2231 [section 25(1)(e) of PACOTPAA, as amended] The position in the MER remains unchanged as the the substance of the relevant provision remains the same. **Hence, c.7.5(a) remains Met.**
71. In relation to c.7.5(b), the MER established that Section 32(1)(ii) (aa) (ab) and (ac) ensures a person can make application for payments due under contracts entered into prior to listing made pursuant to UNSCR 1737 and continued by UNSCR 2231 on condition that it has been determined that the contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in the relevant Security Council resolution. Such payments must also not be directly or indirectly received by a person or entity designated pursuant to UNSCR 1737. 10 working days prior notification must be given to the 1737 Sanctions Committee indicating the intention to make or receive such payments. The position in the MER remains unchanged as the the relevant provisions have not changed. **Hence, c.7.5(b) remains Met.**

Weighting and Conclusion

72. Namibia has addressed all outstanding deficiencies to enable the implementation of targeted sanctions on proliferation finance without delay and without notice. The country has also enhanced mechanism on delisting. However, a minor deficiency was

observed on how it addresses requirements in 7.2(a) being exempting the Minister from the obligations of this sub-criterion. Hence, **Recommendation 7 is re-rated Largely Compliant.**

Recommendation 8: Non-Profit Organisations

.	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

73. **Criterion 8.1(a-d) - (Mostly Met)-** In relation to c.8.1(a), the MER concluded that although Namibia conducted its NPO sectoral risk assessment in 2015 and updated the same in 2020, it was not clear whether the outcome of the risk assessment identified which subset of organizations fall within the FATF definition of NPO within Namibian jurisdiction. Namibia had not identified the features and types of NPOs which by virtue of their activities or characteristics, were likely to be at risk of terrorist financing abuse.
74. Since MER, the Namibian NRA which was updated in June 2023 incorporates an update to NPO risk assessment. In terms of Section 1.4.3 of the NRA Report 2023, Namibia identified Section 21 Companies, Faith Based Organisations (FBOs), Residential Children Care Organisations, Research and Scientific Organisations and Sports & Recreational Facilities to fall within the FATF definition of NPOs, (Table 2 of the NRA 2023). While Charities were identified as being at high-risk of TF abuse, Namibia does not provide a clear description of the activities or characteristics that make them likely to be at risk of terrorist financing abuse.
75. Equally, Namibia has identified FBOs operating in the country as being at high risk of terrorist financing abuse however, there are only two incidents that authorities have based their conclusion on, being instances where converts from Christianity to Islam were radicalised, but this conclusion falls short of indicating whether this is a feature of all FBOs created and/or operating in Namibia. It is reviewers' consideration that Namibia may have disproportionately targeted this subset of NPO since some FBOs may represent little or no risk at all. Thus, the identified deficiency has not been sufficiently addressed and **c.8.1(a) is re-rated Partly Met.**
76. With respect to c.8.1(b), the MER concluded that Namibia conducted an NPO sectoral TF risk assessment in 2015, revised in 2018 and later updated in the 2020 NRA. The NPO and the NRA reports identified only the risks relating to money laundering. However, following the comments on Criterion 8.1 (a) above on the identification of subset of NPOs at risk of abuse, the country had not determined *the nature of specific threats and how terrorist actors abuse the NPOs.*
77. Since the MER Namibia has identified the following as the nature of threats that may be posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors may abuse those NPO:

- NPOs or directing officials maintain an affiliation with a terrorist entity, either knowingly or unknowingly. In these instances, an NPO could be abused for multiple purposes, including general logistical support to the terrorist entity;
- In several cases, NPOs are abused to provide support to recruitment efforts by terrorist entities;
- NPOs are also targeted for abuse of programming. In these instances, the flow of resources may be legitimate, but NPO programmes are abused at the point of delivery; and
- Some terrorist entities abuse the NPO sector through false representation. In these instances, terrorist entities start 'sham' NPOs or falsely represent themselves as the agents of 'good works' in order to deceive donors into providing support.

78. However, to arrive at the above, Namibia relied on international trends which can materialise within the NPO space. Domestically, there is no case indicating that NPOs in Namibia were abused for TF purposes. **Thus, c.8.1(b) is re-rated Mostly Met.**

79. In relation to c.8.1(c), the MER concluded that Namibia had outlined the legal and regulatory frameworks relating to NPOs. The NPOs were Accountable Institutions under the AML/CFT framework provided pursuant to Schedule 1 FIA. The measures provided for under FIA were however not adequate to be able to take proportionate and effective actions to address the risks in the sector since it covers all the NPOs without a targeted approach.

80. Since the MER, Namibia reviewed the adequacy of its laws in relation to NPOs which resulted in the following actions:

- Revised market entry controls for charities;
- Amended Section 1 of FIA to include a definition of an NPO;
- Introduced Sections 35A and 35B in FIA conferring some powers on the FIC to identify NPOs at the risk of TF abuse etc;
- Introduced Regulations Relating to NPOs, 2023.

81. However, in general, the provisions apply to all NPOs and not focused on the subset of the NPO sector that may be abused for terrorism financing support. Namibia has not demonstrated that it has come up with proportionate and effective actions to address the risks identified. **Thus, c.8.1(c) is re-rated Mostly Met.**

82. In regard to c.8.1(d), the MER concluded that Namibia had not periodically reassessed the NPO sector by reviewing its NPO Sectoral risk assessment which was conducted in 2015 and updated with new information on the sector's potential vulnerabilities to terrorist activities in 2018 and 2020.

83. Since the MER, Namibia makes use of its regular NRA process to assess the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of

measures. The latest review was in 2023 and this was preceded by reviews in 2012, 2017/8 and 2020. **Thus, 8.1(d) is re-rated Met. Overall, c.8.1 is re-rated Mostly Met.**

84. **Criterion 8.2(a-d) –(Mostly Met)-** For c.8.2(a), the MER concluded that the policies in place to promote accountability, integrity, and public confidence in the administration and management of NPOs are provided for under the Company Act and the National Welfare Act which were the two main legal frameworks for creation of NPOs in Namibia. However, they were not adequate to make sure that the necessary measures were to be taken for CFT purposes particularly on compliance with annual reporting and record keeping requirements.
85. Since the MER, Namibia has promulgated Regulations relating to NPOs that seek to promote accountability, integrity, and public confidence in the administration and management of NPO identified to be at risk of abuse for TF. The regulation in particular cater for counter terrorist financing measures, obligations on keeping records and annual reporting by such identified NPOs. [Regulations relating to non-profit organisations 272 of 2023]. In addition, Namibia has conducted workshops which were the basis of Guidance to the NPOs. **Thus, c.8.2(a) is re-rated Met.**
86. In relation to c.8.2(b), the MER established that the authorities had commenced outreach and educational programmes to raise and deepen awareness amongst NPOs as well as the donor community about TF vulnerability in compliance with FATF Rec 8. However, the authorities had not conducted any outreach to donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks.
87. Since the MER, Namibia continues to encourage and undertake outreach and educational programmes to raise and deepen awareness among NPOs as well as its donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse. This was demonstrated by a workshop held on 29 August intended for prominent donors based in Namibia. The FIC has also issued Guidance Note to Donors of NPOs and maintains adverts on its website about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks. **Thus, c.8.2(b) is re-rated Met.**
88. As for c.8.2(c), the MER concluded that the authorities had partly commenced measures in their strategic supervisory plan in accordance with best practices to mitigate TF risks and vulnerabilities.
89. Since MER, Namibia has held a number of workshops, targeting among others, those NPOs identified as high risk for TF, including the regulator in terms of the National Welfare Act. Following these engagements, the FIC issued sectoral guidance to NPOs in June 2023 as part of helping NPOs to develop and refine best practices to address

terrorist financing risk and vulnerabilities and thus protect them from terrorist financing abuse. **Thus, 8.2(c) is re-rated Met.**

90. With regard to c.8.2(d), the MER concluded that the authorities had not initiated programs to encourage the NPOs to conduct transactions through regulated financial institutions.
91. Since the MER, Namibia requires NPOs to conduct their transactions only through banking system, but this appears to limit NPOs if it were to be appropriate and convenient to use other regulated financial institutions besides the banking system [Regulation 6(8)(3) of the FIA]. **Thus, c.8.2(d) is re-rated Mostly Met. The overall rating of c.8.2 is Mostly Met.**
92. **Criterion 8.3 - (Met)-** The MER concluded that Namibia had taken measures to promote effective supervision or monitoring of the NPOs by bringing them under the purview of FIA. Hence, the NPO Sector in Namibia were accountable institutions under Schedule 1 of the FIA. As such, all the obligations under the FIA, including the obligation to conduct periodic risk assessments on clients, products, services and geographic risk applies to the NPO sector. However, there is no distinction made between NPOs with exposure to a high TF risk compared to those with a low TF risk or no risk at all. A risk- based approach therefore is limited in its application.
93. Since the MER, Namibia introduced a new section 35A in the Financial Intelligence Act that enables the Centre to identify whether a non-profit organisation is likely to be at risk or likely to be abused for the financing of terrorism. This initiative therefore ensures that the FIC's monitoring of the NPOs sector shall be limited to the NPOs identified as likely to be abused for terrorism financing. Regulations that target these identified set of NPOs have been issued. Furthermore, since January 2023 Namibia has been monitoring remittance transactions to jurisdiction considered to be high risk, targeting in particular, transactions made by some faith-based organisations operating in Namibia. **Thus, c.8.3 is re-rated Met.**
94. **Criterion 8.4 (a-b)- (Mostly Met)-** For c.8.4(a), The FIC is mandated to monitor and supervise the NPOs for compliance with AML/CFT/CPF laws. However, due to the infancy of the AML/CFT supervisory regime, the authorities have only partly commenced monitoring the compliance of NPOs with the requirements of this Recommendation. The Master of High Court and BIPA have not developed a framework for a risk-based monitoring of the NPOs that they supervise.
95. Since the MER, the FIC has been identified as an appropriate authority to monitor and supervise NPOs identified to be at high risk of TF however, FIC has not yet conducted the risk-based supervision of the said FBOs and charities in particular in the context of what steps it has taken under c.8.3 above. Reviewers also noted that FIC has developed a document titled "Long Term Supervision Strategy and Supervision Plan 2022-2025".

Activities planned under the NPOs are labelled as not started. **Thus, c.8.4(a) is re-rated Partly Met.**

96. [8.4(b)] The MER concluded that the FIC, by dint of Section 35 FIA had legal authority to apply effective, proportionate and dissuasive sanctions for AML/CFT violations by NPOs or persons acting on behalf of these NPOs. BIPA and Master of High Court had powers to investigate complaints concerning alleged contraventions and non-compliance with the establishing law. However, BIPA and Master of High Court lacked sufficient powers to administer civil, criminal or administrative penalties for breaches other than powers to decline registration or suspend the registration of an NPO which was found to be engaged in wrongdoing or failed to submit annual returns. Therefore, the sanction measures were not considered effective, proportionate and dissuasive.
97. Since the MER, Namibia has sanctions against NPOs which do not comply with requirements of R.8. For instance, Section 35A of the FIA Amendment Act provides that non-profit organisation or an identified non-profit organisation that contravenes or fails to comply with subsection (2) or (6) commits an offence and is liable to a fine not exceeding N\$100 million or, where the commission of the offence is attributable to a representative of the organisation, to such fine or imprisonment for a period not exceeding 30 years, or to both such fine and such imprisonment. Sub-section 35A (2) refers to the obligation of the NPO to cause its applicable registration or regulatory authority to update and verify its registration details. In addition, Sub-section 35(A) (6) of FIA Amendment Act refers to an obligation for an NPOs to register with the Centre as an identified non-profit organisation for the purposes of this Act. Furthermore, an NPO which does not comply obligations set out in Section 6 commits an offence and is liable to a fine not exceeding N\$10 million or, where the commission of the offence is attributable to a representative of the organisation, to such fine or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.
98. There are also administrative sanctions that may be imposed by supervisory authorities. There administrative sanctions may even be escalated into civil sanctions should it be necessary in the circumstances [section 56 of FIA as amended]. Therefore, Namibia has a range of proportionate and dissuasive sanctions that can be imposed for non-compliance by the identified NPOs. **Thus, c.8.4(b) is re-rated Met. The overall rating of c.8.4 is Mostly Met.**
99. **Criterion 8.5 (a-d)–(Mostly Met)-** In relation to c.8.5(a), the MER concluded that Namibia did not have in place measures to ensure effective cooperation, coordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs.
100. Since the MER, Namibia introduced Section 35(A) (8) of FIA, in terms of which the FIC has powers to share information on identified NPOs to domestic and foreign competent authorities. Furthermore, the FIC has entered into MOUs with Anti-Corruption

Commission, Namibian Revenue Authority, Namibian Central Intelligence Service, Office of Prosecutor General and BIPA for the purpose of exchange of information which may include information on NPOs. **Thus, c.8.5(a) is re-rated Met.**

101. With respect to c.8.5(b), the MER concluded that There is no investigative capability and expertise to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations. The law also does not provide powers for the Registrars of NPOs to inspect and audit the books of registered NPOs and their bank and cash balances. Moreover, where there is reasonable ground to believe that an NPO is making or likely to make resources directly or indirectly available to a terrorist or terrorist organisation or for purposes of terrorism, there is no law to enable the registrar to call for all accounts and documents relating to the association and institute an inquiry into the affairs and conduct of the NPO.

102. Since the MER, the Namibian FIC is entrusted to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations. [Sections 35A and B of FIA 2012 as amended]. Further, the expertise and capability are currently spread across the following institutions:

- TF Unit in the Police; and
- Compliance and Supervision Division in the FIC.

Thus c.8.5(b) is re-rated Met.

103. Regarding c.8.5(c), the MER established that Section 26-29 of the FIA provided for record-keeping obligations which equally applied to NPOs. The records were required to be made available to the FIC, where they could be obtained during an investigation.

104. Only FIC appears to have access to administrative and management information held by a particular NPO [Section 35A (3) of FIA]. There is no further evidence as to how other appropriate authorities such as Namibia Police or Tax Authorities may have full access to information on the administration and management of particular NPOs (including financial and programmatic information) may be obtained during the course of an investigation. **Thus c. 8.5 (c) is re-rated Partly Met.**

105. In relation to c.8.5(d), the NPOs attract the full scope of the ML/TF/PF reporting obligation as an accountable Institutions under Schedule I of FIA. As such, where there is suspicion, the NPO is obliged to report to the FIC pursuant to Section 33 FIA. FIC is therefore able to share this information promptly with competent authorities, in order to take preventive or investigative action.

106. The Centre has power to disseminate information on the identified non-profit organisations to domestic or foreign competent authorities or agencies that have similar powers and duties as that of the Centre using dedicated and secure channels for such dissemination [Section 35A (8) of FIA]. However, there is no information given by Namibia on whether Mechanisms are in place to provide warnings, initiate procedures

and inform the relevant authorities promptly when it is suspected, or when there are reasonable grounds to suspect, that an NPO is being exploited or used for TF purposes. **Hence, 8.5(d) is re-rated partly met. Consequently, the overall re-rating for c.8.5 is Mostly Met.**

107. **Criterion 8.6 – (Met)**- It is noted from the MER that the Namibian Central Authority for Mutual Legal Assistance requests from foreign states is the **Executive Director** of the Ministry of Justice as set out in Section 1A (2) of the International Cooperation in Criminal Matters Amendment Act, 2018. Sections 9 and 48 of FIA also allows FIC to share information with other FIUs regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support. These measures remain unchanged from the MER as the relevant legal provisions have not changed. **Hence, c.8.6 remains Met.**

Weighting and conclusion

108. Namibia has updated its NRA which among others enabled to identify a subset of NPOs that meet the FATF definition. Namibia went further to identify that faith-based organisations and charities are at a higher risk of TF abuse. However, Reviewers have a concern that Namibia may have disproportionately targeted all faith-based organisations yet some FBO may present little or no risk at all. Reviewers also noted that Namibia amended its FIA to introduce risk-based supervision and monitoring of NPOs identified as high risk for TF abuse, however, Namibia has not yet conducted risk-based supervision or monitoring on these NPOs identified to be at the risk of TF abuse. Despite have previously addressed the requirement of criteria 8.5 (c) and (d) there were some shortcomings identified as noted from the analysis above. However, these shortcomings were considered minor. Recommendation 8 **is therefore re-rated Largely Compliant.**

Recommendation 12 – Politically Exposed Persons

	Year	Rating
MER	2022	NC
FUR 1	2024	Upgraded to LC

109. The 2022 MER concluded that Namibia did not have a law setting out obligations for financial institutions to comply with PEPs measures as required by R.12 of the FATF Recommendations. It further determined that the Directive which the FIC issued to address requirements of R.12 did not have a force of law as it was issued outside of the scope of the FI Act and the powers of the FIC. Hence, for purposes of technical compliance, the Directive was disregarded and all criterion were rated not met. Subsequent to the adoption of the MER, Namibia enacted the Financial Intelligence Amendment Act in order to address the deficiencies.

110. **Criterion 12.1(a-d)- (Mostly Met)** The 2022 MER identified several deficiencies concerning the sub-criteria. In relation to c.12.1(a) the MER noted that there was not requirement for FIs to put in place risk management systems to determine whether a customer or the beneficial owner is a PEP. Following the enactment of FIA Amendment Act, FIs are now required to put in place risk management systems to determine whether a customer or the beneficial owner is a prominent influential person [Section 23A(1) of FIA Amendment Act]. A beneficial owner is defined as a natural person who ultimately owns or controls a customer, or a natural person on whose behalf a transaction is being conducted or a person who exercises ultimate effective control over a legal person or a legal arrangement. The definition is consistent with the definition of a BO in the FATF Standards [(see Section 1(d) of FIA]. In addition, a “prominent influential person” includes foreign PEPs, domestic PEPs and persons entrusted with a prominent position by an international organisation. However, the scope of the definition does not cover persons working in international organisations outside Namibia (see discussion in c.12.2 below). The deficiency under c.12.1(a) has therefore been largely addressed.
111. Under 12.1(b), the MER noted that there was no provision set out the requirements of c.12.1(b). Based on the FIA amendments mentioned previously, FIs are now under obligation to obtain approval from senior management before entering into a business relationship or continue an existing relationship with a client or BO who is prominent influential person [Section 23A(2)(a) of FIA Amendment Act]. The deficiency under c.12.1(b) has therefore been sufficiently addressed.
112. With regard to c.12.1(c), the MER also concluded that Namibia did not have legal or regulatory provisions to comply with its requirements. With the amendments to the AML/CFT law, FIs are now required to take reasonable measures to identify the sources of wealth and funds of a client or BO who has been identified as a prominent influential person [Section 23A(2)(c) of FIA Amendment Act]. However, there is a deficiency in that the sub-criterion applies to both the client and the BO identified as a PEP while the S.23(A (2)(c) provides an option-either a client or a beneficial owner identified as a PEP. Hence, c.12.1(c) is not sufficiently addressed.
113. In relation to c.12.1(d), the MER also found that Namibia did not have legal or regulatory provisions to comply with the requirements. Following the amendments to the AML/CFT law, FIs are now required to conduct enhanced ongoing monitoring of the business relationship [Section 23A(2)(b) of FIA Amendment Act]. The deficiency under c.12.1(b) has therefore been sufficiently addressed.
114. **Based on the above findings, the majority of deficiencies under c.12.1 have been addressed and the criterion is now Mostly Met.**

115. **Criterion 12.2- (Mostly Met)- (a-b)** The 2022 MER found that there was lack of provisions on how FIs should carry out CDD in relation to domestic PEPs or persons who have been entrusted with a prominent function by an international organisation.
116. With respect to c.12.2(a), the MER determined that Namibia did not have legal or regulatory provisions to comply with the requirements. The deficiency has been addressed through Section 23A(1) of the Amendment Act. Namibia does not make any distinction between foreign and domestic PEPs. The definition of a prominent influential person includes domestic PEPs and people who have been entrusted with a prominent position in an international organization in Namibia (Section 1(n) of the FIA Amendment read together with Schedule 6). Therefore, measures described in c.12.1 above apply equally to domestic PEPs and individuals holding a prominent function in an international organization. So, FIs are required to determine whether a customer or BO is a PEP. However, the definition of a prominent influential person is limited to persons entrusted with prominent position by international organisations operating *in Namibia*. It does not extend to international organisations operating outside Namibia.
117. Regarding c.12.2(b), the MER noted that Namibia did not have provisions to comply with the requirements. This shortcoming has been addressed. FIs are now obliged to seek senior management approval, take measures to identify the source of wealth and funds of the client or BO and carry out enhanced ongoing monitoring to all domestic PEPs in all circumstances and not only when there is a higher risk business relationship [Section 23A(2)(a), (b) and (c) of FIA Amendment Act]. The deficiency highlighted under c.12.1(c) also applies here.
118. **Based on the above findings, the deficiencies under c.12.2 have not been sufficiently addressed and the criterion is now Mostly Met.**
119. **Criterion 12.3-(Met)-** The MER concluded that Namibia did not have provisions which required FIs to apply the relevant requirements of criteria 12.1 and 12.2 to family members or close associates of all types of PEP. Namibia amended its AML/CFT law in order to address this shortcoming. In terms of Section 23A (3) of FIA Amendment Act, FIs are now required to apply relevant requirements of c.12.1 and c.12.2 to family members or persons known to be close associates of all types of PEPs. **Hence, this criterion is now Met.**
120. **Criterion 12.4-(Met)-** The MER found that Namibia did not have provisions with respect to life insurance policies, requiring FIs to take reasonable measures to determine whether the beneficiaries and/or, where required, the beneficial owner of the beneficiary, are PEPs. FIs are now under obligation to take reasonable measures to determine whether the beneficiaries or BO of the beneficiary of a life insurance policy is a PEP. This must be done before any payment is made [Section 21A(3) of FIA Amendment Act]. In cases where FIs establish that the beneficiary or BO of the beneficiary is a PEP, they must obtain senior management approval before they pay out

proceeds of the insurance policy, conduct enhanced scrutiny on the whole business relationship with the policyholder; and consider reporting a suspicious transaction [Section 21A(4) of FIA Amendment Act]. The obligation applies whether or not a FI has identified higher risks.

Weighting and Conclusion

121. Namibia has addressed majority of the deficiencies that were noted in the MER in respect of Recommendation 12. Whereas sub-criterion 12.1(c) requires FIs to take reasonable measures to establish source of wealth and source of funds of customers and BOs identified as PEPs, the legal framework provides an option to apply this requirement on either a client or a beneficial owner identified as a PEP. In addition, the scope of the definition of a prominent influential person does not cover persons working in international organisations outside Namibia. However, these are considered as minor deficiencies. **Therefore, R.12 is re-rated Largely Compliant.**

Recommendation 13 – Correspondent Banking

	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

122. **Criterion 13.1(a) (Met)** The 2022 MER identified a shortcoming relating to gathering of information on whether the respondent bank has been subject to ML/TF investigation or regulatory action. Subsequent to the adoption of the MER, Namibia enacted the FIA Amendment Act in order to address the deficiency. Namibia has now rectified the deficiency through the FIA Amendment Act. Pursuant to 25(1)(c) of FIA Amendment Act, FIs in Namibia are required to determine from publicly available information the reputation of a respondent bank, nature of supervision and whether it has been subject to a ML/TF investigation or regulatory action. Hence, the deficiency has been sufficiently addressed and c.13.1 is now met.
123. **Criterion 13.1(b) (Met)**-As set out in the 2022 MER, Section 25(1)(e) of the FIA provides for FIs to assess the respondent institution’s AML/CFT/PF controls.
124. **Criterion 13.1 (c)-(Met)**- As set out in the 2022 MER, Section 25(1)(d) of the FIA provides for FIs to obtain approval from senior management before establishing new correspondent relationships.
125. **Criterion 13.1 (d)-(Met)**- As set out in the 2022 MER, Section 25(1)(f) of the FIA provides for FIs to document the respective AML/CFT/PF responsibilities of each party under the relationship.

- 126. **Criterion 13.2 (a) (Met)** – As set out in the 2022 MER, Section 25(1)(g) of the FIA requires FIs, in respect of payable-through accounts, to ensure that the respondent institution has performed CDD obligations on its clients.
- 127. **Criterion 13.2 (b)(Met)** As set out in the 2022 MER, Section 25 (1) (g) of the FIA requires FIs, in respect of payable-through accounts, is capable of providing relevant CDD information upon request.
- 128. **Criterion 13.3- (Mostly Met)** The MER noted that there was no provision prohibiting FIs from entering into or continuing correspondent banking relationships with shell banks nor a requirement to satisfy themselves that respondent FIs do not permit their accounts to be used by shell banks. The provisions in the FIA Amendment Act now prohibit FIs from entering into, or continuing with, a correspondent banking relationship with a shell bank. In addition, employees of the FI are required to satisfy themselves that a correspondent bank does not permit its accounts to be used by a shell bank [Section 25(1)(h) of FIA Amendment Act]. However, this provision does not adequately address the deficiency because the obligation is on employees of a FI rather than the FI itself. In addition, the obligation not to permit the use of its accounts is on respondent banks and not correspondent banks. This is considered to be a minor shortcoming since Namibian banks seek, rather provide, corresponding banking services.

Weighting and Conclusion

- 129. Namibia has taken steps to ensure compliance with Recommendation 13, in particular through amendments made to the FIA Amendment Act. However, there is still a minor deficiency remaining in relation to c.13.3. **Recommendation 13 is re-rated Largely Compliant.**

Recommendation 15 New Technologies

.	Year	Rating
MER	2022	NC
FUR 1	2024	Upgraded to LC

- 130. **Criterion 15.1- (Met)** The 2022 MER concluded that Namibia had yet fully assessed ML/TF risks arising from new technologies. Subsequent to the adoption of the MER, Namibia updated the national ML/TF risk assessment in 2023. The assessment included assessment of risks associated with VAs and VASPs. This resulted in the revision of the risk level of VASPs from very high to medium level. **Hence, c.15.1 is re-rated Met.**
- 131. **Criterion 15.2- (Met)** This criterion was rated met in the MER based on S.39(1) & (3) of FIA and Regulation 24(1) of FIA Regulations. Following the amendment of the FIA, the provisions are set out Section 20A(2) of the FIA Amendment Act as read together with 4.2 of Directive 01 of 2021: Requirements Relating to the Introduction of New

Innovations, Products, Services or Expansions and Amendments to Pre-Existing Ones. Under these provisions, FIs are required to identify and assess ML/TF risks which may arise in relation to the development of new products and business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products. Furthermore, Section 20A(4) requires FIs to take appropriate measures to manage and mitigate the risks. The definition of a FI includes VASPs. **Hence, this criterion remains Met.**

132. **Criterion 15.3(a-c) - (Met)**- The MER found that Namibia did not have provisions with respect to requirements of c.15.3(a-c). For c.15.3(a), Namibia carried out an NRA (Update). This exercise identified and assessed ML/TF risks arising from activities linked to virtual assets, as well as from activities carried out by VASPs. The exercise considered threats and vulnerabilities of different types of VAs as well as VASPs. The overall rating was medium. Hence, this sufficiently addresses the deficiency.
133. With respect c.15.3(b), Namibia applies a risk-based approach to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified. It The NRA rated the ML/TF risk of VASPs as medium. The scope and frequency of supervision is guided by the risk profile of an institution as set out under Section 4.2.8 of the FIA Compliance Assessment & NPO Supervision Methodology. Institutions rated Medium Risk are inspected every 3-4 years. Namibia has adopted a 3-year Risk Based supervision plan (2023-2025) which includes VASPs and that it carried out onsite inspections of 2 VASPs in June 2023. This sufficiently addresses the deficiency.
134. Regarding c.15.3(c), Namibia now requires FIs, which includes VASPs, to identify and assess their ML/TF risks [S.20A(1) of the FIA Amendment Act as read with Regulation 24(5) of the FIA amended Regulations] as required by c.1.10. The risk assessments must take into account the scope and nature of its clients, products and services, delivery channels, as well as the geographical area from where its clients and business dealings originate. Furthermore, FIs are under obligation to develop, adopt and implement policies to effectively manage and mitigate ML/TF risks as required by c.1.11 [S.20A(4) of FIA Amendment Act].
135. **Based on the above findings, the deficiencies under c.15.3 have been addressed and the criterion is now Met.**
136. **Criterion 15.4- Met (a-b)** The MER found that Namibia did not have provisions with respect to requirements of c.15.4(a and b). In relation to c.15.4(a), Namibia promulgated the Virtual Assets Act which addresses this shortcoming. All natural or legal persons who wish to operate as a VASP are required to be licensed under by Bank of Namibia in terms of Sections 7(1) (d) and 8(1) of Virtual Assets Act. Hence, this sub-criterion is sufficiently addressed.

137. With respect to c.15.4(b), Section 9(3) (e) of FIA provides that the Bank of Namibia may not grant an application for a licence made unless it is satisfied that the applicant, his or her or its officers, beneficial owners and their associates are fit and proper persons as referred to section 8(3)(j). The definition of ‘officer’ includes a director. Furthermore, Section 4(1) of VASPs Act 2023 states that in determining whether a person is fit and proper shall consider, among other things, the person’s reputation, character, financial integrity and reliability. The factors which are considered in relation to these elements include the criminal background of the persons [Section 7(4)(a)(iv) of Bank of Namibia: Fit and Proper Person Guidelines issued under the Virtual Assets Act 2023]. However, the scope of persons to be subject to fit and proper test does not include shareholders. The definition of BO in the FIA does not cover shareholders which are legal persons. On this basis, c.15(4)(b) is not sufficiently addressed.
138. **Based on the above findings, the majority of deficiencies under c.15.4 have been addressed and the criterion is now Mostly Met.**
139. *Criterion 15.5-(Partly Met)*- The 2022 MER found that Namibia did not take action to identify natural or legal persons that carry out VASP activities without the requisite license or registration, and apply appropriate sanctions to them. In order to identify natural or legal persons that carry out VASP activities without the requisite registration, Bank of Namibia (BoN) relies on intelligence to identify them. When unlicensed persons are identified, BoN reports them to LEAs for investigation and prosecution. Any person who carries out VASP activities commits an offence and is liable upon conviction to a fine not exceeding N\$10,000,00 (USD 527,000). Considering the that VASPs activities are internet-based, the use of intelligence only (without internet monitoring and artificial intelligence tools) may have limited scope. **Based on the foregoing, c.15.5 is Partly Met.**
140. *Criterion 15.6-(Met)* The MER found that Namibia did not have provisions with respect to requirements of c.15.6(a-b). In relation to c.15.6(a), VASPs are designated as accountable institutions in terms of the amended Schedule 1 of FIA Amendment Act. Pursuant to Section 35(2) and (4) of FIA as read together with Regulation 30(4) of FIC Regulations, all accountable institutions are subject to risk-based supervision. The supervisory authorities have acquired a Ciphertrace tool which enables them to access to all the major blockchain platforms and monitor compliance with AML/CFT requirements. The deficiency of this sub-criterion is therefore sufficiently addressed.
141. With regard c.15.6(b), FIC has necessary powers to supervise VASPs, including powers to conduct onsite inspections, compel production of documents, access computer systems etc [Sections 35(2) and 53 (2) (b & c) of FIA]. In addition to this, the supervisory authority has powers to revoke or suspend the licence of the accountable or reporting institution or require the institution not to carry on a particular businesss [Sections 35(16) of FIA]. Furthermore, in terms of Section 65 of FIA, a person who fails to comply with the provisions of any regulation, guideline, circular, notice, directive, determination or

undertaking issued in terms of this Act commits an offence and will be liable a fine not exceeding N\$100 million or to imprisonment for a period not exceeding 30 years, or to both such fine and such imprisonment. In addition to the criminal sanctions, supervisory authorities have powers under s.56(3) of FIA to impose a range of administrative sanctions against FIs for non-compliance with the Act and all subsidiary instruments issued under the Act.

142. **Based on the above findings, all the deficiencies under c.15.6 have been addressed and the criterion is now Met.**

143. *Criterion 15.7-(Met)* The MER noted that Namibia had issued various guidance to financial institutions except for guidance on specific obligations such as those relating to BO, which also apply to VASPs (see R.34 in the MER). Reviewers note that Namibia issued *Industry Guidance Note No.1 of 2015 on Identification & Verification of Beneficial Ownership Information*. Although the Guidance on BO was issued before VASPs were licensed, it also applies to them since VASPs are designated as accountable institutions. The principles are still relevant to VASPs. In addition to those guidelines, FIC has also issued the following guidelines:

(a) Guidance Note No. 11 of 2023 - *Guidance on The Implementation of Risk Based Controls and Reporting Suspicious: Virtual Assets Service Providers (VASPs) and Initial Token Offerings (ITOs) Providers*.

(b) Guidance Note No. 10 of 2023 - *Guidance on Risk Assessments and ML/TF/PF Indicators: Virtual Assets Service Providers and Initial Token Offerings (ITOs) Providers*.

In view of the foregoing, the deficiency has been sufficiently been addressed and this criterion is met.

144. *Criterion 15.8-(Met) (a-b)* The 2022 MER noted that Namibia did not have legal provisions allowing it to apply sanctions to VASPs in line with R.35. Following enactment of Virtual Assets Act, VASPs are reporting entities, which means that they are subject to the available sanctions applied to all reporting entities for breaches of AML/CTF obligations under the FIA. With respect to c.15.8(a), supervisory authorities have a broad range of proportionate and dissuasive sanctions to apply against VASPs for non-compliance with AML/CFT requirements. Supervisors have powers to revoke or suspend the licence of the accountable or reporting institution or require the institution not to carry on a particular business [Sections 35(16) of FIA]. Furthermore, in terms of Section 65 of FIA, a person who fails to comply with the provisions of any regulation, guideline, circular, notice, directive, determination or undertaking issued in terms of this Act commits an offence and will be liable to a fine not exceeding N\$100million or to imprisonment for a period not exceeding 30 years, or to both such fine and such imprisonment. In addition to the criminal sanctions, supervisory authorities have powers under s.56(3) of FIA to impose a range of administrative sanctions against FIs for non-compliance with the Act and all subsidiary instruments issued under the Act. This addresses the deficiency sufficiently.

145. Regarding c.15.8(b), the sanctions are applicable to natural persons which also includes directors and senior management. S.65 of FIA provides that a person who fails to comply with the provisions of any regulation, guideline, circular, notice, directive, determination or undertaking issued in terms of this Act commits an offence and will be liable a fine not exceeding N\$100million or to imprisonment for a period not exceeding 30 years, or to both such fine and such imprisonment. This addresses the deficiency sufficiently.
146. **Based on the above findings, all the deficiencies under c.15.8 have been addressed and the criterion is now Met.**
147. **Criterion 15.9- (Mostly Met) (a-b)** The 2022 MER found that there were no legal or regulatory provisions for VASPs which address the requirement of R. 10 to R.21. For c.15.9.(a), As indicated above, VASPs are designated as accountable institutions and are therefore required to comply with all preventive AML/CFT measures. With regard to R.10, FIs are required to undertake CDD measures in relation to occasional transactions above NAD 5,000 (about USD 270) which is less than the equivalent of USD 1,000 (NAD 19,500). [S.21(1) of FIA as read with Regulation 4, 5 and Determination No. FICD 3]. The above threshold only applies to: a) those clients with whom the FIs have no business relationship; and b) with whom FIs conduct a single transaction with. This sufficiently addresses the deficiency.
148. With respect c.15.9(b), in relation to R.16, the VASP related requirements of c.15.9(b) are as follows:
- (i) The originating VASP is required to obtain and hold required and accurate originator information, and required beneficiary information on the VA transfer, and submit it to the beneficiary. It is further required to immediately and securely submit the same information to the appropriate authorities, if requested [Section 18(3)(a) and (4) of Virtual Assets Act].
 - (ii) the beneficiary VASP is required to obtain, and hold required originator information and required and accurate beneficiary information on the transfer, and make it available on request to the appropriate authorities [Section 18(3)(b) and (4) of Virtual Assets Act].
 - (iii) VASPs are subject to the requirements of criteria 16.2, 16.3, 16.4, 16.8, and 16.9 to 16.17. The deficiencies identified under c.16.12(a) have been addressed by **S.34 (3)** of the FIA while the deficiency under c.16.17(a) has been addressed by S.33 of FIA (as amended). However, c.16.17(b) which was rated Not Met has not been addressed. As required by criterion 16.18, VASPs are obliged to ensure the prompt implementation of asset-freezing measures and the prohibition on the provision or use of funds to or from a person subject to a freezing measure, pursuant to R.6 and R.7 [Sections 33 and 34 of FIA; Sections 22-25 of Section 22 of

Prevention and Combating of Terrorist and Proliferation Activities
Act/PACOTPA Amendment Act.

The sub-criterion has been addressed to a large extent.

149. **Based on the above findings, the majority of deficiencies under c.15.9 have been addressed and the criterion is now Mostly Met.**

150. **Criterion 15.10- (Met)** The 2022 MER concluded that Namibia had no provisions requiring application of targeted financial sanctions by VASPs. As indicated above, VASPs are designated as accountable institutions and therefore subject to requirements of R 6 and 7. However, the MER further noted deficiencies in relation to criteria 6.5(d), 6.6(g), 7.2(d) and 7.4(d).

In relation to:

- c.6.5(d), the deficiency has been addressed by Section 4 of Guidance Note (see analysis under c.6.5(d) above.
- c.6.6 (g), the deficiency has been addressed by sections 22(2) and 44(13) of PACOPTAA.
- c.7.2(d), the deficiency has been addressed by Section 3.3.3 of the Guidance Note.
- c.7.4(d), the deficiency has been addressed by Section 4.4 of the Guidance Note.

This sufficiently addresses the deficiencies under this criterion and it is Met.

151. **Criterion 15.11- (Met)-** the 2022 MER noted that Namibia did not have provisions enabling it to rapidly provide the widest possible range of international cooperation in relation to money laundering, predicate offences, and terrorist financing relating to virtual assets, on the basis set out in Recommendations 37 to 40. Following designation of VASPs as reporting entities, both Bank of Namibia, as a regulatory authority, and FIC as a supervisory authority, have powers to exchange information with their foreign counterparts based on Sections 6(g) and 43(1) & (2) of the Virtual Assets Act, as well as Sections 9(1)(c) and 48(4) of FIA. The MER identified deficiencies under c. 39(1)(b) which could also apply to VASPs i.e.- absence of a comprehensive case management system and lack of clear processes for timely execution of extradition requests including prioritization of such requests. However, these have been addressed as set out under R.39 below. The rest of deficiencies in relation to Recommendations 37 and 38 are not relevant to R.15. **Hence, the deficiencies in the MER have been sufficiently addressed and therefore c.15.11 is met.**

Weighting and conclusion

152. Namibia has met most of the requirements concerning new technologies and virtual assets, but minor shortcomings exist in its legal framework in that the scope of persons to be subject to fit and proper test does not include shareholders (c.15.4(b)). In addition, except for relying on intelligence, Namibia has not demonstrated that it has taken action to identify natural or legal persons that carry out VASP activities without

the requisite license or registration. **Recommendation 15 is therefore re-rated Largely Compliant.**

Recommendation 18 Internal Controls and Foreign Branches and Subsidiaries

.	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

153. **Criterion 18.1(a)-(Met)** The 2022 MER rated this sub-criterion met based on Section 39(6) of FIA which required FIs to designate compliance officers at managerial level who will be in charge of the application of the internal programmes and procedures. The Act was amended and the same obligations are now set out in S.20A of FIA Amendment Act. FIs are required to implement programmes against ML/TF, which have regard to the ML/TF risks and the size of the business. In addition, Section 20A(7) requires FIs to designate a compliance officer who shall be at a management level. **Hence, the rating of c.18.1(a) remains met.**
154. **Criterion 18.1(b)-(Met)** This sub-criterion was rated Met in the MER based on Section 39(5)(a) of the FIA which requires FIs to have in place procedures to ensure high standards of integrity of its employees and a system to evaluate the personal, employment and financial history of those employees. Following the amendment of the law, these requirements are now contained in Section 20A(6) (a) of the FIA Amendment Act. **Hence, the sub-criterion remains Met.**
155. **Criterion 18.1(c)-(Met)** This sub-criterion was rated Met in the MER based on Section 39(5)(b) of the FIA requires FIs to have in place on-going employee training programmes. Following the amendment of the law, these requirements are now contained in Section 20A(6)(b) of the FIA Amendment Act. **Hence, the sub-criterion remains Met.**
156. **Criterion 18.1(d)-(Met)** This sub-criterion was rated Met in the MER based on Section 39(5)(c) of the FIA requires FIs to have in place internal procedures, policies and controls, including an independent audit function to check compliance with those programmes. Following the amendment of the law, these requirements are now contained in Section 20A(6)(c) of the FIA Amendment Act. **Based on the foregoing, c.18.1 remains Met.**
157. **Criterion 18.2 (Mostly Met)** The 2022 MER concluded that Namibia did not have legal provisions setting out all the requirements of c.18.2. Based on the amendments of FIA, Parent financial institutions in Namibia with foreign branches or majority owned subsidiary financial institutions are required to implement a group-wide AML/CFT/CPF programme to all its foreign branches or subsidiaries. This includes requirements of c.18.1 which were rated Met in the MER and are set out in Section

20A of FIA Amendment Act as indicated above. Regarding c.18.2(a), FIs are required to have policies and procedures for information sharing within the group of institutions for purposes of CDD and ML/TF/PF risk management [s.39(2)(a) of FI Amendment Act].

158. With respect to c.18.2(b), there is no requirement in law obliging financial groups to provide, at group level compliance, audit and/or AML/CFT functions of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes. There is also no requirement for the parent FIs to provide similar information when relevant and appropriate to risk management. Hence, the deficiency under c.18.2(b) has not been addressed. However, this is considered to be a minor deficiency in view of the fact that banks in Namibia do not have branches or subsidiaries outside the country. In relation to c.18.2(c), financial groups are obliged to put in place adequate safeguards on the confidentiality and use of information exchanged [s.39(2)(c) of FI Amendment Act]. However, this does not include safeguards to prevent tip off. Hence, c.18.2(c) has not been sufficiently addressed. On the other hand, it is noteworthy that, in its MER, Namibia was rated compliant with c.21.2 (which deals with tipping off) on the basis of section 33(3) and (4) of FIA which has not been amended. In compliance with the legal requirement, FIs in Namibia are expected to have policies and procedures to implement it. Considering that Namibia does not have foreign subsidiaries or branches, absence of an explicit obligation on tip-off within financial groups is considered to be minor. **Overall, based on the above findings, c.18.2 is Mostly Met.**

159. **Criterion 18.3- Met-** The 2022 MER found that there was no legal provision for FIs to ensure that their foreign branches and majority owned subsidiaries apply AML/CFT measures which are consistent with Namibia's requirements, where the requirements of the host country are less strict. In addition, there was no obligation for financial groups to apply appropriate additional measures to manage ML/TF risks and report to the supervisors in Namibia, should the host country not permit proper implementation of AML/CFT measures. Namibia amended its AML/CFT law to rectify this deficiency. FIs are now required to ensure that their foreign majority owned subsidiaries or branches apply AML/CFT/CPF measures that are not less stringent than those applicable in Namibia, to the extent that the laws of the foreign country permit [s.39(3) of FIA]. Furthermore, s.39(4) of FIA requires FIs to apply appropriate additional measures in situations where the host country does not permit implementation of AML/CFT/CPF measures of Namibia, and also to inform Namibian supervisory authorities accordingly. **The deficiency has been sufficiently addressed and c.18.3 is Met.**

Weighting and conclusion

160. Namibia has addressed most of the deficiencies that were noted in the MER in respect of Recommendation 18. However, there is no requirement for provision in the law for

financial groups to provide, at group level compliance, audit and/or AML/CFT functions of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes (c.18.2(b)). This is considered to be a minor deficiency in view of the fact that banks in Namibia do not have branches or subsidiaries outside the country. **Recommendation 18 is re-rated from PC to Largely Compliant.**

Recommendation 19 Higher Risk Countries

	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

161. **Criterion 19.1-(Met)-** The 2022 MER determined that there was no obligation for FIs to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons, including FIs, from countries for which this is called for by the FATF. This deficiency has now been addressed. In terms of Section 24 (2)(b) in the FIA Amendment Act, FIs are required to apply enhanced due diligence measures that are proportionate to the risks, to business relations and transactions with natural or legal persons, or trusts from countries identified by the FATEF, or through risk assessment of accountable institutions or NRA that do not or insufficiently apply the relevant international standards to combat money laundering and the financing of terrorism or proliferation. **The deficiency has been sufficiently addressed and c.18.3 is Met.**
162. **Criterion 19.2-(Mostly Met)** The 2022 MER rated c.19.2 as Met based on s.9(2)(e) of FIA. Financial institutions are required to take enhanced due diligence measures proportionate to the risk associated with business relations or transactions from high-risk countries identified through individual risk assessment, national risk assessment or identified by FATF [Section 32(2)(b) of FIA Amendment Act]. In addition to addition, the Minister has powers to direct FIs to apply specific measures as prescribed from time to time to counter the risks (Section 22(2)(e) of the FIA Amendment Act. However, in relation to 19.2(b), the identification of situations where counter-measures may be necessary is limited to risk assessments conducted by FIs and NRA. These are not carried out on an ongoing basis. Entity risk assessments are normally conducted annually and NRA exercises have a wider interval. In addition, the results of an entity risk assessment are known by the entity itself and the supervisor. **In view of these observations, c.19.2 is Mostly Met.**
163. **Criterion 19.3- (Met)-** As set out in the 2022 MER, it was determined that the FIC publishes on its website regular advisories following issuance of the ICRG Grey List by the FATF and rated this criterion as met. Namibia continues to publish the List soon after each FATF plenary through the FIC website and this mechanism ensure

that FIs are aware of concerns about weaknesses in the AML/CFT systems of other countries. The latest list was published after the October FATF plenary. **Hence, this criterion remains Met.**

Weighting and conclusion

164. Taking into account the above-mentioned legislative amendments, Namibia has addressed majority of the deficiencies that were noted in the MER in respect of Recommendation 19. While Namibia is able to apply countermeasures proportionate to risks whenever called to do so by the FATF, its own countermeasures are only triggered by the outcome of FIs risk assessments and NRA, which are carried out at a minimum annually. Countries are expected to have ongoing measures to identify high risk countries and apply relative countermeasures. **Therefore, R 19 is re-rated Largely Compliant.**

Recommendation 20 Reporting of Suspicious Transactions

	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to C

165. **Criterion 20.1- (Met)-** The 2022 MER found that FIs were obliged to submit STRs within 15 working days and this was considered not to meet the standard of filing reports promptly. This deficiency has been addressed through legislative amendments. FIs are now required to file a suspicious transaction report to the FIC promptly (and not later than 3 days) when they know or reasonably ought to have known or suspect that, as a result of a transaction concluded by it, or a suspicious activity observed by it, it has received or is about to receive the proceeds of unlawful activities or has been used or is about to be used in any other way for money laundering or financing of terrorism or proliferation purposes [s 33(1) of FIA Amendment Act]. **Hence this criterion is re-rated Met.**

166. **Criterion 20.2-(Met)-** As set out in the 2022 MER, the criterion was rated Met based on S.33(2) of FIA. However, the correct reference should have been 33(1) of the FIA. Section 33(1)(b) of the FIA was later amended. The new provision still requires FIs to report all suspicious transactions, including attempted transactions, regardless of the amount of the transaction. **Hence, the rating of c.20.2 remains Met.**

Weighting and conclusion

167. Taking into account the above-mentioned legislative amendments, Namibia has addressed the deficiencies that were noted in the MER in respect of Recommendation 20.1. In addition, the FIA Amendment Act addresses the requirements of c.20.2. This criterion was rated Met in the MER. **Therefore, R 20 is re-rated from PC to Compliant.**

Recommendation 22 Reporting of Suspicious Transactions

	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

168. **Criterion 22.1-(Mostly Met)**- The 2022 MER found that there was no specific provision for remediation for existing customers on the basis of risk. In addition, there was also no specific provision which permitting DNFBPs to apply simplified CDD measures where lower risks have been identified, through an adequate analysis of risks by the country or FIs. Furthermore, there was no provision requiring that the simplified measures should be commensurate with the lower risk factors, and that they should not be acceptable whenever there is suspicion of ML/TF, or specific higher risk scenarios. Namibia has addressed some of the deficiencies which were identified in its MER under R.22 arising from R.10, through amendment of FIA. In particular, FIs are permitted to allow for simplified measures for customer due diligence commensurate with the lower risk factors, provided that such simplified measures are not applied when there is a suspicion of ML, TF or PF [Section 23(IB) of the FIA Amendment Act]. However, the deficiencies in relation to remediation for existing customers on the basis of risk has not been addressed. **Hence, c.22.1 remains Mostly Met.**
169. **Criterion 22.2-(Met)**- The criterion was rated Met in the MER. However, the MER had noted a deficiency in relation to c.11.2- it was determined that there was no express obligation for record-keeping to cover analysis undertaken during CDD. This deficiency was not considered when assessing c.22.2. Nevertheless, the deficiency has been addressed through s. 26(1)(ka) of the FIA Amendment Act which provides as follows:
- “Whenever an accountable or reporting institution establishes a business relationship or concludes a transaction with a client, whether the transaction is a single transaction or concluded in the course of a business relationship which that accountable or reporting institution has with the client, the accountable or reporting institution must keep records in the prescribed form and manner of –*
- (a).....*
- (kA) the results of any analysis undertaken in the course of the business relationship; and.....”*
- Hence, c.22.2 is remains Met.**
170. **Criterion 22.3 -(Mostly Met)**- The 2022 MER found that Namibia did not have a law setting out obligations for DNFBPs to comply with PEPs measures as required by R.12 of the FATF Recommendations. The analysis of R.12 above finds that Namibia has addressed most of the deficiencies which were identified in its MER (see R.12 for

details). DNFBPs are required to conform to the same obligations concerning PEPs as FIs. **Hence, c.22.3 is re-rated Mostly Met.**

171. **Criterion 22.4-(Met)-** The 2022 MER found that Section 39(1) and Regulation 24(1) of the FI Act provides for DNFBPs to undertake risk assessments prior to the launch or use of such products, practices and technologies. Section 39 (3) of the same Act requires DNFBPs to take appropriate measures to manage and mitigate the risks. The MER rated this criterion Partly Met. However, it does not articulate the shortcomings. Nevertheless, the analysis and conclusions under R.15 above apply here. DNFBPs are required to comply with the same requirements regarding new technology as FIs as described in c.15.1 and c.15.2 above. **Hence, c.22.4 is re-rated Met.**
172. **Criterion 22.5- (Mostly Met)-**The 2022 MER found that DNFBPs are required to comply with the reliance on third-parties requirements set out in Recommendation 17 just like FIs. However, the MER noted that there were no specific provisions particularly referring to the determination in which countries the third party that meets the conditions to rely on for CDD measures, can be based. The Authorities have not provided progress made in addressing this criterion. See deficiencies noted in the MER under Criterion 17.2 rated Not Met. **Hence, this criterion remains Mostly Met.**

Weighting and conclusion

173. Taking into account the other positive ratings for Rec 22 in the MER, and the above-mentioned amendments, Namibia has addressed majority of the deficiencies that were noted in the MER in respect of Recommendation 22. However, there are minor deficiencies still outstanding. There are deficiencies in relation to remediation for existing customers on the basis of risk, including on-going due diligence on exiting or onboarding and PEPs as described above. **Therefore, R 22 is re-rated from PC to Largely Compliant.**

Recommendation 24 Transparency and Beneficial Ownership of Legal Persons

	Year	Rating
MER	2022	PC
FUR 1	2024	Maintained PC rating

174. **Criterion 24.1 -(Met)-** Namibia has mechanisms that identify and describe the different types, forms and basic features of legal persons formed and created in the country. The Close Corporations Act 1988 and the Business and Intellectual Property Authority Act 2016 regulate the incorporation and registration of legal entities in Namibia. The office responsible for the registration of all legal persons (companies, close corporations and other business entities in Namibia) is the Business and intellectual Property Authority (BIPA). The Companies Act establishes different types

of companies (CO's) such as private limited liability companies, public limited liability company and companies not for profit, while the Close Corporations Act establishes close corporations (CC's). As part of the registration process, prospective companies are required to submit the Memorandum and Articles of Association with the Registrar of business and industrial property/CEO of BIPA. A list of shareholders including their full names, occupation and residential, business and postal address must be submitted together with the documents of incorporation (Memorandum and Article of Association). In addition, particulars of the directors of the company and statement by the directors regarding adequacy of the share capital is also required to be submitted. Information relating to the creation of legal persons is available at the BIPA office and its website. The MER position remains unchanged as the relevant contents of these pieces of legislation have not changed. **Hence, c.24.1 remains Met.**

175. **Criterion 24.2 -(Met)-** The MER concluded that Namibia had not undertaken an ML/TF risk assessment of all types of legal persons in the country. Since the MER, Namibia assessed ML and TF risks associated with all types of legal persons created in the country in 2023 Updated NRA, building on the findings of the 2020 NRA. The 2023 NRA update found that Close Corporations were most prominently abused in advancing ML and TF activities (Chapter II of the 2023 Update NRA report). **Thus c.24.2 is re-rated Met.**
176. **Criterion 24.3 -(Met)-** S.4 of the BIPA requires the Board of the BIPA to establish a registration office where business and industrial property are registered in accordance with the BIPA Act and applicable legislation. Information retained at BIPA include company's name, certificate of incorporation, type of company, the registered address of the company, list of directors or company secretaries, details of shareholders/members memorandum of articles, list of members and their details for CCs, founding statements for CCs. This information is accessible to the members of the public and competent authorities. The position from the MER on this criterion has not changed since the legal provision has not changed. **Hence, c.24.3 remains Met.**
177. **Criterion 24.4 -(Met)-** It is noted from the MER that in terms of S. 117 of Companies Act, 2016, companies are required to keep, at their registered office, a register of members. The authorities indicated that the company is required to keep records which are but not limited to the following: memorandum of association, register of shareholders/members/directors and members indicating separately for each class of equity and preference shares held by each member residing in or outside Namibia, a share register that includes name, number of shares held including the type and the last known address for each person who has been a shareholder etc. Additionally, Section 223 of the Companies Act 2004, every company registered in Namibia is required to keep a register of directors and officers including the company secretaries which are body corporate. The position from the MER on this criterion has not changed since the legal provision has not changed. **Hence, c.24.4 remains Met.**

178. **Criterion 24.5 -(Partly Met)-** Section 4(1) of the FIA provides that the registrar of companies and close corporation must annually collect and keep accurate and up-to-date prescribed information in respect of members, directors, shareholders and beneficial owners of companies and close corporations. The position from the MER on this criterion has not changed since the legal provision has not changed. However, it is noted that the above provision places a duty on the Register of Companies to keep an up-to-date register but not the companies as required in 24.5 r/w 24.4. **Hence, c.24.5 is re-rated Partly Met.**
179. **Criterion 24.6 -(Met)-** In relation to c.24.6(a), it is noted from the MER that Section 4(1)(a) FIA requires the Registrar of Companies and Closed Corporations to annually collect and keep accurate and up to date prescribed information in respect of members / directors, shareholders and beneficial owners of companies and closed corporations. The position from the MER on this criterion has not changed since the legal provision has not changed. **Hence, c.24.6 remains Met.**
180. With regard to c.24.6(b), the MER established that Section 4 (2) of the FIA requires all companies and close corporations upon registration, and annually thereafter, to submit to the Registrar of Companies and Close Corporations up-to-date information referred to in subsection (1)(a) in respect of each member, director, shareholder and beneficial owner of such companies and close corporations.
181. Since the MER a new section 122A(1) in the Companies Act was introduced and it requires every company, at its incorporation and thereafter, to keep and maintain an accurate and up-to-date register of the beneficial owners of the company and the register must be kept in Namibia at the same office at which the register of members is kept.
182. Regarding c.24.6(c), it is noted from the MER that Accountable and reporting institutions are required in terms of section 21 (3)(b) and Regulations 7 to 14 of the FIA to identify and take reasonable measures to verify the name of the legal person, its legal form, address, directors, partners or senior management; the principal owners and beneficial owners. Section 1 of the FIA covers the definition of “beneficial owner”.
183. **Criterion 24.7 -(Met)-** It is noted from the MER that Section (4) (1)(a) of the FIA requires the Registrar of Companies to keep accurate and up to date beneficial ownership information. Moreover, Section 4(2) of the FIA and Regulation 2(1) of FIA regulations required, all companies and close corporations at the time of registration, and when the registration of renewed annually thereafter, to submit to the Registrar of Companies or Close Corporations/ Registrar of Business and Industrial Property up-to-date information in respect of each member, director, shareholder and beneficial owner of such companies or close corporations.

184. Since the MER, Namibia introduced some amendments which require that the beneficial ownership information should be accurate and as up to-date as possible. [section 122A(1) of the Companies Act, as amended and Section 16A of the Close Corporations Act, as amended]. **Hence, c.24.7 remains Met.**
185. **Criterion 24.8 -(Met)-** The MER concluded that Namibia did not meet the requirements of this criterion because Section 4(1)(c) of the FIA obliged the Registrar of companies (and not companies) to avail all information referred to in paragraphs (a) and (b) of companies and close corporations to competent authorities upon request; that Section 4(1)(c) of the FIA obliged the Registrar of companies (DNFBPs) to avail all information referred to in paragraphs (a) and (b) of companies and close corporations to competent authorities upon request. Further that no comparable mechanism existed to obligate to avail beneficial owner information to competent authorities on request.
186. Since the MER Namibia introduced Section 122A(4) of Companies Act which requires a company upon request by a competent authority, to make available the information of the beneficial owner held and maintained by the company. In addition, Section 122A(5) (b) requires person resident in the country to be authorised by the company, and accountable to competent authorities, for providing available beneficial ownership information. **Thus c.24.8 (a) is re-rated Met.** Namibia has chosen the first option of the three under this criterion, **thus c.24.8 is re-rated Met.**
187. **Criterion 24.9- (Mostly Met)** – The MER concluded that, in terms of Section 27 of the FIA, records kept in terms of the FIA were required to be kept for 5 years, or longer if so requested by competent authorities. Moreover, the National Archives Act provided that information on legal persons should be kept indefinitely.
188. Since the MER, Namibia requires a company, its administrator or liquidator and in the case of a close corporation, the close corporation, its administrator or liquidator to keep and maintain records of the information of the beneficial owner of the company and the nature and extent of the beneficial ownership for a period of at least five years after the date on which the record was made [section 122A (9) and (10) of the Amended Companies Act and section 16A(9) and (10) of the Amended Close Corporations Act]. Other persons such as FIs and DNFBPs have a similar obligation under section 27 of the Financial Intelligence Act, as amended. A shortcoming observed is to the effect that basic information is not part of information that is required to be kept in order to fulfill the requirements of c.24.9 in these provisions. **Hence, 24.9 is re-rated Mostly Met.**
189. **Criterion 24.10 (Partly Met)**– The MER concluded that competent authorities, including law enforcement agencies had powers to obtain access to basic and beneficial ownership information to the extent that such information existed. Basic

information on legal persons was publicly available, beneficial ownership information where such information existed, could be accessed by competent authorities.

190. Since the MER, Namibia requires competent authorities to make a request in order to access basic and beneficial ownership information [Section 122A (4) of the Companies Act, as amended and section 16A (4) of Close Corporations Act, as amended]. However, there is no information from Namibia on the mechanisms that are used to make the request in order to obtain timely access to the said information. This access also appears to be limited to the beneficial information held by the company to the exclusion of other relevant parties such as FIs or DNFBPs who may equally be in possession of such information. **Hence c.24.10 is re-rated Partly Met.**
191. **Criterion 24.11 -(Met)-** The MER established that Bearer shares were not prohibited in Namibia in terms of sections 107 and 110 (4) of the companies act 2004 as amended in 2007. Further that Namibia did not meet the rest of sub-criterion 24.11 (b) – (d).
192. Since the MER, Namibia has repealed the provision that had made it possible to issue bearer shares. Thus, there is no possibility of issuing bearer shares under the current legal framework. **Thus, c.24.11(a) is re-rated Met.** Furthermore, Section 108 (4) of Companies Act as amended permits conversion of share warrants into an ordinary par value shares. **Thus, 24.11(b) is re-rated Met.** Overall, **c.24.11 is re-rated Met.**
193. **Criterion 24.12 -(Partly Met)-** The MER concluded that in Namibia legal persons were allowed to have nominee share holders and directors in terms of the Companies Act. However, there was no mechanism to prevent the misuse of legal persons by requiring the nominee shareholders and directors to disclose their identities, to be licensed for their nominee status to be included in company registries or any other mechanism identified by Namibia. No provisions existed to provide for mechanisms to ensure that legal persons that have nominee shares and nominal directors were not misused
194. Since the MER, Namibia amended the Companies Act, 2004 to address the above deficiencies. Reviewers note that criterion 24.12 requires nominee shareholders and directors to disclose the identity of their nominator *to the company* and *to any relevant registry*, and for this information to be included in the relevant register.
195. Section 122A(2)(b) of the Companies Act 2004 as amended provides that every company, which has a nominee director or nominee shareholder, is required to disclose particulars of a beneficial owner...-Reviewers observe that there is no requirement under this section to disclose the identity of the nominator, but the particulars of the beneficial owner. It is Reviewers' view that the nominator may not always include the beneficial owner. While the criterion is clear that the disclosure has to be made by the nominee to the company and relevant registry, the obligation is on the contrary in the case of Namibia, as this obligation is imposed on the company itself. Furthermore, the section is silent as to where the information has to be included

(kept). Consequently, the law has not sufficiently addressed the risk of misuse of nominee shares and nominee directors in this regard. **Hence c.24.12 is re-rated partly met.**

196. **Criterion 24.13 (Partly Met)**– The MER concluded that in Namibia, no liability, nor proportionate and dissuasive sanctions applied to legal or natural persons who failed to comply with the requirements.
197. Since the MER, Namibia introduced section 122A of the Companies Act to enable it impose both administrative sanctions and criminal sanctions. However, Section 122A of Companies Act appears to be exclusive to BO information as both the sanctions and penalties are limited to contraventions or breaches relating to BO information. Namibia has not indicated how it addresses contravention or breaches regarding basic information that has to be kept by a company.
198. Furthermore, the maximum penalty provided is N\$50,000.00 and it shall be imposed where there has been failure to keep and maintain accurate and up-to-date BO information; failure to file accurate and up to date information; failure to keep information for five years, among others. Although the penalty is imposed on a proportional or case by case basis in terms of section 122A (13), this may not be dissuasive regard being had to the far-reaching impact on providing inaccurate or not up to date BO information that can compromise competent authorities’ investigation into such a legal person.
199. Namibia has also not indicated how failures to comply with other AML/CFT requirements such as in c.24.12 can be addressed. **Thus, c.24.13 is re-rated Partly Met.**
200. **Criterion 24.14 –(Met)**– The MER concluded that under section 48(9) of the FIA the FIC could share any information and facilitate the access by foreign competent authorities to any information that the FIC had direct or indirect access and also under mutual legal assistance as per the International Cooperation in Criminal Matters Act 2000. Other than the FIC, other competent authorities rely on the central MLA authority (Ministry of Justice) to facilitate sharing and exchange of information.
201. Since the MER, Namibia is able to facilitate access by foreign competent authorities to basic information held by company registries. Basic information is publicly available and accessible on the websites of the company registry. Pursuant to section 122A (7) the Registrar of Companies and FIC can facilitate exchange of information with foreign competent authorities on BO information held by company registries in Namibia [section 122A (7) of Companies Act]. In addition, **Section 16A (7)** of the Close Corporation Amendment Act 2023 makes provision for the Registrar of Close Corporations as well as the FIC to request the information from their foreign counterparts. **Thus 24.14 is re-rated Met.**

202. **Criterion 24.15 -(Met)-** The MER established that there were no existing frameworks for Namibian authorities to monitor the quality of assistance they received from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad. Although the FIC monitored the exchange of information in compliance with EGMONT procedures and best practices, as well as its own internal procedures, such monitoring of exchange did not extend to the quality of assistance received. The deficiencies with regards to BO also remained.

203. Since the MER, Namibia monitors the quality of assistance it receives from other countries in response to requests for basic or beneficial ownership information or requests for assistance in locating beneficial owners residing abroad [9(2)(d) in the FIA Amendment Act]. The Standard Operating Procedures explain how this provision is implemented. The country also uses the goAML site to maintain records on co-operation with foreign counterparts and uses these records as a basis for follow up with foreign counterparts. **Thus, c.24.15 is re-rated Met.**

Weighting and conclusion

204. Subsequent to the adoption of its MER, Namibia effected changes to its legal framework governing some of legal persons created in Namibia. New provisions on beneficial ownership information have been introduced to ensure that companies co-operate with competent authorities to the fullest extent possible in determining the beneficial owner. Namibia has also repealed provisions of the Companies Act that permitted issuance of bearer share such that it is currently not possible for any company to issue bearer shares. The law further requires bearer shares issued before the commencement of the Amendment to the Companies Act to be converted into ordinary shares, failure of which is a criminal offence that may attract heavy penalties. Although the amendment to the Companies Act addresses nominee shareholders and directors, this is considered to be inconsistent with the requirements of criterion 24.12. It has also been noted that the new section 122A which has introduced sanctions regime is limited to measures that cover BO information. The country has not indicated how basic information or generally non-compliance with Recommendation 24 is sanctioned. Consequently, the shortcomings in c.24.10, c.24.12 and c.24.13 are considered to be moderate and therefore, **Recommendation 24 remains Partially Compliant.**

Recommendation 25 Transparency and Beneficial Ownership of Legal Arrangements

	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

205. **Criterion 25.1 -(Mostly Met)-** In relation to c.25.1(a), the MER had established that section 5(2) of the FIA as read together with section 5(1)(b) placed a legal obligation on trustees to provide the information required under this criterion by requiring trustees to obtain and hold adequate information on the settlor, protector and class of beneficiaries or person exercising control. Section 5(1)(b) FIA required that the Master of the HC collect and keep up to date prescribed information in respect of each – trustee, income beneficiary, beneficial owner of all registered testamentary and inter vivos trusts. Section 5(2) FIA provided that the Master of the HC may not register any trust without the information in subsection 1(b) being provided.
206. Since the MER, Namibia introduced a new Trust Administration Act 2023. In terms of Section 8 (3) & (4) and Section 20 (1)(a) of Trust Administration Act, 2023, Namibia requires trustee(s) to obtain and hold adequate and up to date records, updated on the identity of:
- settlor (Section 20(1))
 - trustee (Section 8(4)(c))
 - beneficiaries (Section 8(4)(f))
 - beneficial owner (Section 8(4)(e))
- However, there is no obligation imposed on trustee(s) to obtain the information on protectors. **Thus, c.25.1(a) is re-rated Mostly Met.**
207. With respect to c.25.1(b), the MER concluded that Namibia does not have any provision in law which requires trustees of any trust governed under the law to hold basic information on other regulated agents of, and service providers to, trusts, including investment advisors or managers, accountants and tax advisors.
208. Since the MER, Namibia introduced Regulation 6(3) of Trust Administration Regulations 2023 r/w section 20(1) of the Trust Administration Act 2023 which requires trustee(s) to keep basic information on financial institutions and accountable institutions as well as service providers to the trust. The definition of accountable institutions under section 1 of FIA 2012 is wide enough to cover other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors. **Thus, c.25.1(b) is re-rated Met.**
209. In relation to c.25.1 (c), it was noted in the MER that Section 5 of the Trust Monies Protection Act provided for records to be kept. The National Archives of Namibia regulated and supervised all records management activities of all institutions in the Namibian public service that were created by an Act of Parliament.
210. Since the MER, Namibia requires a trust practitioner to keep the books or basic information of a settlor, trustees, beneficial owners, beneficiaries, regulated agents and service providers to the trust as set out in section 20 of the Trust Administration Act 2023 for at least five years from the date of termination or deregistration of a trust

(Section 26(2) of the Trust Administration Act). This is in line with the requirements of c25.1(c). **Thus, c.25.1(c) is re-rated Met. Overall rating of c.25.1 is Mostly Met.**

211. **Criterion 25.2-(Met)-** The MER noted that Section 5(1)(b) of the FIA requires the Master of the High Court to collect and keep up-to-date prescribed information in respect of the founder, each trustee, each income beneficiary and each beneficial owner of all registered testamentary and inter vivos trusts.
212. Since the MER, Namibia requires trustee(s) to provide written notice of changes made to the information kept pursuant to this Recommendation within 14 days of such a change occurring. This may imply a requirement for trustees to keep information as up to date as possible (Section 20(3) of the Trust Administration Act). In addition, section 33(2) provides that the Master may take such necessary steps as prescribed to verify the information contained in the register referred to in subsection (1) to guarantee the accuracy of information in such register. As noted above, Section 20((1) of the Trust Administration Act includes submission of full names and national identification number. The inclusion of a nation ID allows Namibia to verify the names against the national ID database /system Hence, this is considered adequate for purposes of this criterion. **Thus, c.25.2 is re-rated Met.**
213. **Criterion 25.3 -(Met)-** the MER concluded that Namibia required accountable and reporting institutions indirectly to find out the status of any trusts when entering into a business relationship. Sections 21 and 22 of the FIA, as well as Regulation 6-14 of the FIA Regulations contained specific criteria which an accountable or reporting Institution should ascertain and verify, when onboarding a Trust as a client.
214. Since the MER, Namibia introduced Section 21(2) of the Trust Administration Act, whereby trustees are required to disclose their status to a financial institution or DNFBP when forming a business relationship or carrying out an occasion transaction. In addition, Namibia employs the provisions of the Sections 21 and 22 of the FIA, as well as Regulation 6(14) of the FIA Regulations to address the requirements of c.25.3. There has not been any change to the FIA and Regulations on this requirement since the adoption of the MER. **Thus, c.25.3 remains Met.**
215. **Criterion 25.4 -(Met)-** It is noted from the MER that Section 5(1)(c) of the FIA required the Master of the High Court to avail information on the founder, trustee, trust beneficiary and trust beneficial ownership information of all registered testamentary and *inter vivos* trusts to competent authorities upon request.
216. Subsequent to the MER, Namibia introduced a new law which requires a trustee to provide identities of settlors, trustees, beneficial owners and beneficiaries as well as records of financial transactions, contracts, communication etc to competent authorities, when requested (Section 20 (4), 32(4) of the Trust Administration Act). Trustees can also provide FIs and DNFBPs with beneficial ownership information

and information on the assets held or managed in the context of the business relationship as required under R.10 and R.22. **Thus, c.25.4 is re-rated Met.**

217. **Criterion 25.5 -(Met)-** The MER concluded that Section 9 of the FIA empowers the FIC to get access to records kept in terms of the FIA, relating to suspicious money laundering or financing of terrorism or proliferation activities, by or on behalf of any other person or institution that hold relevant records or information, including information on a commercially held database, and the authorized representative of the FIC must be given all reasonable assistance without delay, or face criminal charges. The access extends to entities including trusts, on this basis records and information can be obtained by the FIC from trusts. The LEAs have the power to compel entities to provide information necessary in the course of investigations and prosecutions.
218. Since the MER, Namibia has ensured that competent authorities have direct access to the register of beneficial owners. According to Section 33(3) of the Trust Administration Act 2023, the Master is under obligation to provide this information to competent authorities. In the same vein, trustees have an obligation to provide basic information and any other information, including financial records, to competent authorities (Section 20(4) of the Trust Administration Act). In addition to this, the MER found that the FIC has access to all records held by financial institutions and DNFBPs under the Financial Intelligence Act (Section 9). **Thus, 25.5 is re-rated Met.**
219. **Criterion 25.6 -(Met)-** It is noted from the MER that Namibia could obtain beneficial ownership information on behalf of foreign counterparts and facilitate access by foreign competent authorities or exchange domestically available trust-related information through MLA requests. The FIC used Egmont platform to share information with counterparts who were members of EGMONT. But it was not indicated how information could be obtained from non-members.
220. Since the MER, Namibia is able to provide rapid international co-operation relating to information on trusts, including BO information as set out below:
- (a) In relation to c.25.6(a), foreign competent authorities can access basic information on trusts online through <https://mohc.moj.na/> . The information includes name of the trust; Trust number; Founder; Trustees; FIA information last updated; case status, i.e. registered, amended, deregistered.
 - (b) Regarding c.25.6(b), at domestic level, competent authorities are permitted by law to request in writing information in possession of the Master and trustee. Trust Administration Regulation 10 allows the Master to exchange BO information with competent authorities. The FIC has direct access to the information while other competent authorities request for the information. In

relation to other information, the FIC can exchange information with other domestic competent authorities or foreign counterparts (Sections 12(1)(a) &(f), and 48(1), (7), (8), (9) of the FIA. **Thus, c.25.6(b) is re-rated Met.**

- (c) With respect to c.25.6(c), the Police may share information with counterparts in other countries. Pursuant to formal and informal requests from other jurisdictions the Police are allowed to investigate and gather information on behalf of their foreign counterparts (**Section 14 (7A)** of the Police Amendment Act). In addition, the Anti-Corruption Commission also has powers to collect evidence and share information with foreign counterparts in terms of Section 3 (c) & (d) of the Anti-Corruption Commission Act (ACC). **Thus, c.25.6(c) is re-rated Met. Overall c.25.6 is re-rated as Met.**

221. **Criterion 25.7-(Partly Met)**– it is noted from the MER that Section 5(5) of the FIA is limited to the obligation for trustees to be legally liable for any failure to duties relevant to meeting their obligations for failure to register or provide information and given the use of nominee shareholders and directors it makes it difficult to identify the actual trustee of a legal arrangement The sanction is a fine or imprisonment not exceeding 10 years.
222. Since the MER, Namibia makes it an offence to make a false or misleading information in the registers. [section 46(1) (d) Trust Administration Act]. Namibia can also hold trustees liable and impose administrative sanctions for failure to perform their duties spelled out in sections 14 to 22 of the Trust Administration Act 2023. [section 47(1)(e) of the Act and regulation 6(3) of the Trust Administration Regulations 2023].
223. On the other hand, there is no liability or sanctions for non-compliance with the requirements of c.25.1(c) since section 26 of the Trust administration Act 2023 that has been cited does not create an offence, and therefore, the general criminal sanctions in section 46(4) of the Trust Administration Act 2023 shall not be applicable to penalise professional trustees for failure to maintain information for at least five years after their involvement with the trust ceases. **Thus, c.25.7 is considered Partly Met.**
224. **Criterion 25.8 – (Not Met)**- The MER concluded that there was no specific legal provision to grant timely access to competent authorities to information regarding a trust registered by the Masters of Courts in Namibia. Section 5 (7) of the FIA empowers the Master of the High Court to request for information from an accountable person including trustees. By virtue of section 5(8) of the FIA any reporting entity that fails to do so commits an offence and is liable to a fine not exceeding NAD10 million, or where the commission of the offence is attributable to a representative of the accountable or reporting institution, to such fine or imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment which is deemed to be proportionate and dissuasive.

225. Under the new Trust Administration Act 2023, Namibia has not indicated explicit provision(s) that would enable imposing sanctions for failure to grant to competent authorities' timely access to information regarding the trust referred to in criterion 25.1. **Thus, c.25.8 is considered Not Met.**

Weighting and conclusion

226. The new Trust Administration Act 2023 has addressed most the criteria of this Recommendation. However, there are some shortcomings in the provisions of the Act leading to other requirements of the Recommendations not being sufficiently addressed. For instance, there is also no explicit provision in the Act that stipulates sanctions for failure to grant to competent authorities' access to information regarding trust referred to c.25.1. In arriving at the overall rating, more weight has been placed on deficiencies in criterion 25.1-25-4 and concluded that the shortcomings in Recommendation 25 are minor. Therefore **Recommendation 25 is re-rated Largely Compliant.**

Recommendation 29: Financial Intelligence Units

	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to C

227. **Criterion 29.1-(Met)-** As set out in the MER, Namibia established the FIC with the responsibility of acting as a national centre for receipt and analysis of suspicious transaction reports and other information relevant to money laundering, associated predicate offences and terrorist financing; and for the dissemination of the results of that analysis [section 9(1) of the FIA]. The section has since been amended. However, the provision remains the same but should be read together with Section 7(1) which provides that: "*There is established an operationally independent and autonomous national centre to be known as the Financial Intelligence Centre, that is responsible for administering this Act... "*. **The rating remains Met.**
228. **Criterion 29.2(a) –(Met)-** As set out in the MER, the FIC as the national centre responsible for receipt of STRs filed by an accountable or reporting institutions pursuant to section 33(1) of the FIA as read with Regulations 20 & 21 of the FIA. The provisions have not changed and therefore **the rating of c.29.2(a) remains Met.** In relation to c.29.2(b), the MER also found that Namibia is in compliance based on Sections 9(1)(e)(i) & 33(1) of the FIA, & Regulations 21 & 22 of the FIA & Government Notice 3 of 2015). The relevant provisions have also not changed and therefore **the rating of c.29.2 remains Met.**
229. **Criterion 29.3-(Met)-** As set out in the MER, this criterion was rated met based on Sections 9(1) & (2) and 40(2) of the FIA. The relevant provisions have also not changed

and therefore **the rating of c.29.3(a) remains Met**. Furthermore, c.29.3(b) was rated met in MER based on Section 31(1) of the FIA. This provision has also not changed and therefore **the rating of c.29.3 remains Met**.

230. **Criterion 29.4-(Met)-** As set out in the MER, c.29.4(a) was rated met based on S.9(1) & regulation 35 of the FIA. The relevant provisions have not changed and therefore **the rating of c.29.4(a) remains Met**. The MER also rated c.29.4(b) met based on Section 9(2)(f) of the FIA. This provision has also not changed and therefore **the rating of c.29.4 remains Met**.

231. **Criterion 29.5- (Met)-** As set out in the MER, c.29.5 was rated met based on Sections 9(1)(c) &(d),48(1), (6) & (7) and section 48(4) & (8) of FIA. The relevant provisions have not changed. The FIC is able to disseminate spontaneously and upon request, information and the results of its analysis to domestic relevant competent authorities. **Therefore, the rating of c.29.4(a) remains Met**.

232. **Criterion 29.6-(Met)-** As set out in the MER, c.29.6(a) was rated met. The FIC is housed within the Bank of Namibia, but remains a statutorily independent organization. The status has not changed and therefore **c.29.6(a) remains Met**. The MER also rated c.29.6(b) met. The FIC still conducts security vetting of its staff by the Namibia Central Intelligence Service before and during employment as required under Section 13(4) of the FIA. **Hence, the rating of c.29.6 remains Met**.

233. **Criterion 29.7-(Met)-**

(a) With regard to c.29.7(a), the MER found that the FIC lacks operational independence in respect of appointment/removal of the Director, appointment and secondment of staff, and security vetting of staff as there must be concurrence between the FIC Director and the Governor of Bank of Namibia. Subsequent to the adoption of the MER, the FIC has express authority and capacity to carry out its functions freely, including the autonomous decision to analyse, request and share specific AML/CFT information with the relevant authorities. Specifically, Namibia has established an operationally independent and autonomous FIC under s.7 of FIA. In terms of s.7(1A) the FIC shall perform its functions freely and without political, administrative and private sector interference. **This sufficiently addresses requirements of c.29.7(a). Hence, c.29.7(a) is re-rated Met**.

(b) In relation to c.29.7(b), the MER rated it met as the the FIC has the power to share information held by it with competent authorities and foreign counterparts (s.48(1) & s.9 of FIA). The provisions have not changed.

(c) Similarly, the MER concluded that c.29.7(c) was met as the FIC has distinct core functions different from the Bank of Namibia which houses the FIC as set out in Section 9 of the FIA and section 3 of the Bank of Namibia Act. **Hence, c.29.7(b)**

and (c) remain Met. With respect to the security of tenor of the Director, Section 11(4) of the FIA Amendment Act sets out the grounds for the removal of the Director and sub-section 6 requires establishment of a Committee chaired by a legal practitioner or retired judge to consider the reasons for the proposed removal. In relation to appointment of staff, see the analysis under c.29.7(d) below.

- (d) Regarding c.29.7(d), the MER concluded that the legal provisions in the FIA impede the operational independence and autonomy of the FIC since appointment and screening of its staff required concurrence of the Governor of Bank of Namibia. In order to address these shortcomings, Namibia amended the FIA. Based on the new FIA Amendment Act, the Director has the powers to determine the FIC staff establishment (Section 10 of FIA Amendment Act). In addition, the Director has powers to appoint suitably qualified staff and receive seconded staff in accordance with policies and procedures (section 13 of FIA as amended). The said staff must undergo security vetting conducted by the National Intelligence Agency in terms of s.13(4) of FIA Amendment Act).

Based on the foregoing, c.29.7 is re-rated Met.

234. **Criterion 29.9-(Met)**- The MER noted that Namibia FIC was admitted in 2014 as a member of the EGMONT Group of FIUs. The Membership has not changed.

Weighting and conclusion

235. Namibia has addressed all the deficiencies that were noted in the MER in respect of Recommendation 29. **Therefore, Recommendation 29 is re-rated Compliant.**

Recommendation 39: – Extradition

.	Year	Rating
MER	2022	PC
FUR 1	2024	Upgraded to LC

236. **Criterion 39.1- (Mostly Met)** With respect to c.39.1(a), the MER had established that ML and TF are extraditable offences in Namibia in terms of Section 3 (1), read with Section 4(1) of the Extradition Act, 1996 (Act No.11 of 1996) as amended by Extradition Amendment Act, 2018 (Act No. 19 of 2018). However, Namibia had limited the scope of the offence of TF by exempting from criminality certain acts – (See c.5.2 and c.5.2^{bis}) .
237. Since the MER. Namibia introduced amendments in the PACOTPAA to address deficiencies in c.5.2 and c.5.2^{bis}. [See analysis in R.5]. **Hence, c.39.1(a) is re-rated Met.**

238. In relation to 39.1(b), the MER had concluded that Namibia has not developed a comprehensive case management system in place and there were no clear processes for timely execution of extradition requests including prioritization of such requests.
239. Since the MER, Namibia has developed a strategy intended to help it prioritise extradition requests, among others. Urgency appears to be fundamental when Namibia receives or makes a request on extradition matters. However, Namibia has not indicated grounds that may warrant the request to be executed on an urgent basis. It was also not possible to determine with certainty whether the system used by Namibia to track execution of extraction requests is comprehensive as the information provided does not indicate any formal extradition request executed.
240. The SOP, on the other hand, does not appear to indicate steps and time taken when a formal foreign jurisdiction's request is received via a diplomatic channel until it is domestically executed.
241. Based on the above shortcomings, it is concluded that Namibia does not currently have a comprehensive case management system that will enable it prioritise and execute extradition requests in a timely manner. **Thus, c.39.1((b) is re-rated Partly Met.**
242. With regard to c.39.1(c), the MER had concluded that Section 5 of the Extradition Act, 1996 (Act No.11 of 1996), as amended places reasonable restrictions on the return of wanted persons, in line with international standards and practices. This position from the MER remains unchanged since the relevant provision has not changed. **Hence, c.39.1(c) remains Met and the overall rating of c.39.1 is Mostly Met.**
243. *Criterion 39.2 –(Met)-* the MER concluded that law makes provision for prosecution of Namibian citizens accused of having committed offences upon request of extradition, and upon the written authorization of the Prosecutor General. It is clear that the principle that prosecute if you cannot extradite is part of the law of the land of Namibia (See Section 6 of the Extradition Act, 1996 (Act No.11 of 1996) as amended by Extradition Amendment Act, 2018 (Act No. 19 of 2018)). This position of from the MER remains unchanged since the relevant provision has not changed. **Hence, c.39.2 remains Met.**
244. *Criterion 39.3 –(Met)–* The MER had concluded that the dual criminality principle is applicable in Namibia in terms of **Section 3(2) of the Extradition Act, 1996** (Act No.11 of 1996) as amended regardless of whether both countries place the offence within the same category of offence. The relevant provision has not changed. **Hence, c.39.3 remains Met**
245. *Criterion 39.4 –(Met)–* The MER had established that Namibia has simplified extradition in place in terms of Section 8(1)(c) of the Extradition Act as amended by the Extradition Amendment Act, 2018 (Act No. 19 of 2018). Such a request must be

accompanied by a mere certificate issued by the appropriate authority in charge of the prosecution in the foreign state concerned. The relevant provision has not changed. **Hence, c.39.4 remains Met.**

Weighting and conclusion

246. Namibia has amended its PACOTPAA and has sufficiently addressed deficiency on criminalizing all TF acts in line with Recommendation 5. Namibia further came up with systems to track and monitor incoming and outgoing extradition requests although reviewers noted some shortcomings with these mechanisms as a result of which they could not determine that the country is able to prioritise in particular of the incoming extradition requests and execute them in a timely manner. On the other hand, Namibia meets all criteria under Recommendation 39 save the shortcomings noted in 39.1(b) which are considered minor. Therefore, **Recommendation 39 is re-rated Largely Compliant.**

IV. CONCLUSION

247. Namibia has made progress in resolving some of the technical compliance deficiencies identified in its MER. Reviewers considered information provided in support of the request for re-rating of Recommendations 5, 6, 7, 8, 12, 13, 15, 18, 19, 20, 22, 25, 29 and 39. Recommendations 5, 20 and 29 have been re-rated C while Recommendations 6, 7, 8, 12, 13, 15, 18, 19, 22, 25 and 39 have been re-rated LC. However, due to remaining deficiencies under R. 24, Namibia’s rating of PC has been maintained for this Recommendation.
248. Considering overall progress made by Namibia since the adoption of its MER, its technical compliance with the FATF Recommendations has been revised as shown in Table 4.1 below.

Table 4.1 Technical Compliance Re-rating, April 2024

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

PC	LC	PC	LC	LC	C	LC	LC	PC (LC)	PC
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249. Namibia will remain in enhanced follow-up and will continue to inform the ESAAMLG of the progress made in improving and implementing its AML/CFT measures.