



Anti-money laundering and counter-terrorist financing measures

Zambia

5th Enhanced Follow-up Report & 2nd
Technical Compliance Re-Rating

September 2023





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 20 countries and also includes a number of regional and international observers such as COMESA, Commonwealth Secretariat, East African Community, Egmont Group of Financial Intelligence Units, FATF, GIZ, IMF, SADC, United Kingdom, United Nations, UNODC, USA, World Bank and World Customs Organization.

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

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

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

This report was approved through a written process by the ESAAMLG Task Force of Senior Officials in July 2023.

Citing reference:

ESAAMLG (2023), *Anti-money laundering and counter-terrorist financing measures - Zambia, 5th Enhanced Follow-up Report & 2nd Technical Compliance Re-Rating*, ESAAMLG, Dar es Salaam

<http://www.esaamlg.org>

© 2023 ESAAMLG. All rights reserved.

No reproduction or translation of this publication may be made without prior written permission. Applications for such permission, for all or part of this publication, should be made to the ESAAMLG Secretariat:

P. O. Box 9923, Dar es Salaam, United Republic of Tanzania

Tel: +255 22 2221350/51

Email: executivesec@esaamlg.org

I. INTRODUCTION

- 1 The mutual evaluation of Zambia was conducted by the ESAAMLG and the mutual evaluation report (MER) was approved by the ESAAMLG Council of Ministers in June 2019. This follow up report analyses the progress of Zambia in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Zambia has made to improve its effectiveness.
- 2 The assessment of Zambia's request for TC re-rating and the preparation of this report were undertaken by the following experts (supported by the ESAAMLG Secretariat: Mofokeng Ramakhala and Tom Malikebu): Ms Nyaradzo Chiwewe (Zimbabwe); Ibrahim Abdu (Eritrea); Mr. Toka Mashoai (Lesotho); Ms. Motseng Tsolo (Lesotho); Paulo Mungambe (Mozambique); Ms Julia Tloubatla (South Africa); Nokwazi Mtshali (South Africa).
- 3 Section III of this report highlights the progress made by Zambia and analysis undertaken by the Reviewers. Section IV sets out the conclusion and a table showing which Recommendations have been recommended for re-rating.

II. KEY FINDINGS OF THE MUTUAL EVALUATION REPORT

- 4 The MER¹ rated Zambia's technical compliance as set out in Table 2.1 below. In light of these results, Zambia was placed in the enhanced follow-up process².

Table 2.1. Technical compliance ratings³, May 2019

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	C	C	LC	PC	NC	PC	C	PC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	C	LC	PC	PC	LC	LC	LC	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	C	PC	C	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	C	C	C	PC	LC	LC	PC	LC	LC

¹ The Mutual Evaluation Report (MER) on Zambia June 2019 <https://www.esaamlg.org/reports/MER%20Zambia-June%202019.pdf>

² Enhanced follow-up is based on the traditional ESAAMLG policy for members with significant shortcomings (in technical compliance or effectiveness) in their AML/CFT systems, and involves a more intense follow-up process.

³ Four technical compliance ratings are available: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

III. OVERVIEW OF PROGRESS IN TECHNICAL COMPLIANCE

3.1. Progress in resolving the technical compliance deficiencies identified in the MER/FUR

- 5 Since the adoption of its MER in April 2019 Zambia has taken measures aimed at addressing the technical compliance deficiencies identified in its MER. The table below shows Recommendations that were upgraded and downgraded.

Table 3.1 Recommendations and Corresponding Ratings

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

- 6 This section of the report summarises further progress made by Zambia to improve its technical compliance by addressing the TC deficiencies identified in its MER.
- 7 ESAAMLG welcomes the steps that Zambia has taken to improve its technical compliance with Recommendations 2 and 16. Following this progress, Zambia has been re-rated largely compliant with Recommendations 2 and 16. The rating of PC for Recommendations 8 and 35 are retained.

3.1.1. Recommendation 2 – National Co-operation and Co-ordination (Originally rated LC-downgraded to PC in the 1st FUR and upgraded to LC)

- 8 The MER, 2019 had established that Zambia did not have AML/CFT policies informed by the risks identified in its NRA. Subsequent to this, Zambia developed the National AML/CFTP Policy with a view to, among others, provide a guide and a basis for development of measures and programmes that address the country’s ML, TF and PF risks. The Policy would also enable stakeholders to undertake targeted measures and allocate resources effectively in response to ML, TF and PF risks. Zambia has developed a four-year action plan to implement strategic objectives of the national policy. However, there are two salient issues arising from the national policy, to wit:
- The current trend shows that tax evasion, corruption, drug trafficking, fraud and theft have remained high for the period 2017 to 2021; and
 - Further, the threat of TF has been heightened by the presence of migrant communities from high-risk jurisdictions, the use of informal sector, cash-based economy and informal transfers of funds.
- 9 The policy document and the implementation plan do not reflect how the country intends to address these current risks. It is not clear from these documents which items are a priority based on the identified risks. **Thus, criterion 2.1 is considered mostly met.**

- 10 Furthermore, in order to address coordination and cooperation measures in c.2.5, Zambia has established the AML/CFTP National Task Force of Senior Officials (National Task Force) Chaired by the Accountant General (Ministry of Finance and National Planning). The National Task Force membership is drawn from all Law Enforcement Agencies (LEAs), FIC, National Prosecution Authority, Judiciary, supervisory authorities and other government ministries, including the Data Protection Commissioner, to cooperate and collaborate on the implementation of AML/CFTP matters in Zambia. Thus, this platform ensures that there is compatibility of AML/CFT requirements with data protection and privacy rules. **Thus, c.2.5 is considered met.**

Weighting and Conclusion

- 11 Zambia has addressed most of the deficiencies. However, there is a minor deficiency in relation to c.2.1. While Zambia has developed a National Policy on AML/CFT/CPF, as well as, an Action Plan to implement the policy measures, the reviewers could not identify and determine with certainty that these cover the full scope of risks and that the activities were in order of priorities.

- 12 **Therefore, Recommendation 2 is re-rated Largely Compliant.**

3.1.2. Recommendation 8 – Non-Profit Organisations (NPOS) (Originally rated PC- No Re-rating)

- 13 During its 1st FUR Reviewers established that, other than conducting the risk assessment itself, Zambia 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. Zambia simply included all 814 NPOs falling within FATF definition into NPOs likely to be at risk of terrorist financing.

- 14 Under the current FUR, Reviewers noted that there was no Appendix 1 with 814 NGO, to the NPO Risk Assessment Report of December 2020. There is however a document submitted as part of supporting documents titled TF Risk Classification of NPOs which has classified 883 NGOs operating in Zambia which are all classified as having Low Level of TF risk. Moreover, there is no supporting evidence on how Zambia determined category/classification of NGOs into Low, Medium and High risk for TF abuse. As a result, the identified deficiency from the previous FUR remains. On the other hand, while the 1st FUR established that the risk assessment report on NGOs did not show how the identified threats by Zambia were linked to the NPOs at risk of TF abuse and that Zambia had not identified how the terrorist actors abuse those NPOs, the information in the current FUR raises 4 possible ways that terrorist actors may abuse NGOs operating in Zambia, but this may apply to all NGOs not just those at risk for TF **Thus c.8.1(b) remains partly met.**

- 15 Moreover, other than review of the law, Zambia has gone further to develop NGO regulations under the FIC Act and Standards and Guidelines for NGOs. However, the Guidelines are considered generic in nature, meaning that they will apply to all NGOs created in Zambia more so, when the country has not yet established a subset of NGOs that are at the risk of TF abuse. **Thus, c.8.1 remains partly met.**

- 16 To address deficiencies in c.8.2, information provided shows that Zambia planned and undertook 12 events as part of outreach and awareness raising to the NGOs and donors. However, supporting documents indicate that what was covered in these events was not

uniform across all the 387 participants. Further, the number of NGOs and/or donors appears aggregated and makes it hard for the Reviewers to determine with certainty the number of NGOs and Donors sensitised in this regard. There was also no further evidence to confirm that what was delivered covered the potential vulnerabilities of NPOs to TF abuse and TF risks, and the measures that NPOs can take to protect themselves against such abuse.

- 17 Further, based on the information provided by Zambia in c.8.1(a) indicating a total of 814 NGOs identified as meeting FATF definition, the outreach and awareness has only reached 387 (47%) and there is no information justifying why the virtual option could not have been used to cover the remaining NGOs. On the other hand, it was noted that the Department for Registrar of NGOs had taken some initiatives to develop guidelines for the NPO sector. The guidelines are generic in nature and thus, can be used by all NGOs operating in Zambia. Section 15 of the Guidelines focuses on protection of NGOs against Terrorist Financing abuse but falls short of guiding the NGOs on how they can address TF risks and vulnerabilities established by the NPO sectoral risk assessment Report of 2020.
- 18 Despite the above observation, it has been noted that the Guidelines issued by both Ministry of Community Development and FIC in June and December 2022, respectively, as well as, the letter from the Registrar of NGOs encourage NGOs to conduct financial transactions through regulated channels. However, given some deficiencies identified in this criterion it is considered that c.8.2 **is partly met**.
- 19 Review of information submitted for c.8.3 established that Zambia had not provided evidence to demonstrate that it had implemented a targeted risk-based supervision or monitoring based on the identified risks of this sector as outlined in the TF Assessment Report of 2020. This may have been exacerbated by the fact that the country had not determined NPOs at risk of terrorist financing abuse as noted in the analysis in c.8.1 above. On the other hand, there are requirements in law to implement risk-based supervision of NPOs. **Thus, c.8.3 is considered partly met.**
- 20 Although Zambia has indicated that it has focused its supervision and monitoring targeting the subset of NGOs identified as being at the risk of TF abuse, there is no evidence to support this position (whether in the form of supervision report or otherwise). Moreover, analysis made in c.8.3 above equally applies to c.8.4(a). In addition, Zambia has not explained how sanctions under the Anti-Terrorism and Non-Proliferation Act No. 6 of 2018 address the identified deficiency. That is to say, how the sanctions, are specifically linked to offences relating to TF which was an outstanding deficiency in c.8.4(b). Reviewers could also not determine whether sanctions under the Guidelines can address the identified deficiency as Zambia has not indicated that the Guidelines are other enforceable means in Zambia. These deficiencies are moderate. **Thus, c.8.4 is considered partly met.**
- 21 In regards to c.8.5, Reviewers noted that only sub-criterion 8.5(d) remains with moderate deficiency in the sense that the MOU provided by Zambia which is between the NATC and FIC to enable speedy sharing of information does not show how the identified deficiency in 8.5(d) is addressed. Reviewers conclude that Zambia has not yet developed appropriate mechanism that will enable them take preventive or investigative actions in line with the requirements of this sub-criterion. **Thus, c.8.5 is considered mostly met.**

Weighting and Conclusion

- 22 Information provided in the current FUR indicates that Zambia undertook some initiatives to address some of the deficiencies identified in the 1st FUR with request for re-

rating. However, analysis made in c.8.1(a) indicates that Zambia had not gone any further to address the deficiency based on its NPO Risk Assessment Report of 2020 which was the basis for the Reviewers' conclusion that the country had not identified a subset of NGOs that are at the risk of TF abuse. The same conclusion is also reached in the current FUR.

23 Other salient shortcomings identified are to the effect that information submitted for c.8.3 established that Zambia had not provided evidence to demonstrate that it had conducted a targeted risk-based supervision or monitoring based on the identified risks of this sector as outlined in the TF Assessment Report of 2020. This may have been exacerbated by the fact that the country had not determined NPOs at risk of terrorist financing abuse as noted in the analysis in c.8.1. It has also been noted during the review of c.8.5 that Zambia has not yet developed appropriate mechanisms that will enable the authorities to take preventive or investigative actions in line with the requirements of sub-criterion.8.5(d).

24 **The above deficiencies are considered moderate and therefore the rating of Partially Compliant is retained.**

3.1.3. *Recommendation 16 – Wire Transfers (Originally rated PC- upgraded to C)*

25 Section 26(1) (e) of FIA requires FIs to ensure that originator and beneficiary information always accompanies wire transfers. The originator information includes identities, account number (or unique reference number), address or national identity number or date or place of birth. The outstanding deficiency in c.16.1 in the 1st FUR was to the effect that the threshold set under Regulation 6 of the FIC (Prescribed Threshold) Regulations, 2016, was higher than USD/EUR 1,000. Zambia has since revised the said Regulations and under the current regulation 6 of the FIC (Prescribed Threshold) Regulations, 2022 the threshold is an amount equal to or above kwacha equivalent of one thousand United States dollars whether denominated in Zambian Kwacha or foreign currency. **Thus, the outstanding deficiency in c.16.1 is considered met.**

26 In respect of c.16.3, Reviewers noted that there were no legal provisions meeting requirements of c.16.3. Zambia has addressed this in regulation 6(2) (a) and (b) of the FIC (Prescribed Threshold) Regulations 2022. In the same vein, the current regulations require a financial service provider to verify the information where there is a suspicion of money laundering or terrorism or proliferation financing, which aspect was lacking in the previous FUR [see regulation 6 (3) r/w regulation 2 of the FIC (Prescribed Threshold) Regulation 2022. **Thus c.16.3 and c.16.4 are considered met.**

27 Furthermore, under regulation 6(5) of the FIC (Prescribed Threshold) Regulations, 2022, the beneficiary FI is required to verify the identity of the beneficiary of cross-border wire transfers of amount equal to or above kwacha equivalent of one thousand United States dollars whether denominated in Zambian Kwacha or foreign currency and maintain this information for 10 years in line with R.11. The obligations relating to wire transfers apply to all financial service providers, which includes MVTs providers (sections 2 of FIA and Banking and Financial Services Act). This obligation therefore equally applies to MVTs providers. **Thus, c.16.14 and 16.16 are met.**

Weighting and Conclusion

28 Since its 1st FUR in April 2022, Zambia had outstanding deficiencies in the following criteria c.16.1, c.16.3, c.16.4, c.16.14 and c.16.16. To address the deficiencies, Zambia amended its Regulations which have addressed the outstanding shortcomings as noted in the analysis above.

29 **Therefore, Recommendation 16 is re-rated Compliant.**

3.1.4. Recommendation 35 – Sanctions (Originally rated PC- No Re-rating)

30 The MER 2019 had established that violation of majority of obligations in relation to preventive measures constituted a criminal offence. This meant that in such cases competent authorities had to go to court irrespective of the severity of violation. For this purpose, the legal framework did not give room for proportionate sanctions. To address the above deficiency Zambia introduced section 49B in the FIC Act 2010 as amended.

31 The new provision empowers the Director-General of the FIC, subject to the consent of the Director of Public Prosecution, to compound an offence, in the sense that a contravention which would otherwise be subjected to a criminal process is dealt with administratively by the Director-General of FIC. These instances apply where the contravention or breach of the law would be viewed as otherwise preventive in nature. Therefore, section 49B of FIC Act 2010 as amended, enables Zambia to impose administrative sanctions in appropriate circumstances.

32 On the other hand, the following deficiencies in R.6 have impact on the sanctions' regime of Zambia, as espoused in Recommendation 35, to wit:

- freezing regime in the Anti-Terrorism (United Nations Resolutions Implementation) Regulations 2017 does not extend to all natural and legal persons but to reporting entities in Zambia. There is also no certainty in the law that freezing can be done without delay and prior notice;
- prohibition measures in sections 46 and 47 of Anti-Terrorism and Non-Proliferation Act, No. 6 of 2018 do not extend to: (a) entities owned or controlled, directly or indirectly, by designated persons or entities; and (b) persons and entities acting on behalf of, or at the direction of, designated persons or entities.

33 Given the TF risk rating (at medium) provided by recent risk assessment report (for NPO sector) in the country, Reviewers consider that deficiencies in c.35.1 are still moderate despite the fact that the sanctions on preventive measures are considered addressed as noted in the analysis above. **Thus, c.35.1 is considered partly met.**

Weighting and Conclusion

34 Reviewers consider that deficiencies that pertained to violations in respect of preventive measures in the AML/CFT regime of Zambia have been addressed in section 49B of the FIC Act 20210, as amended. However, deficiencies noted in Recommendation 6 impact heavily on Recommendation 35 and as such, the shortcomings are considered moderate.

35 **Therefore, the Partially Compliant rating is retained for Recommendation 35.**

IV. CONCLUSION

36 Overall, Zambia has made progress in addressing deficiencies of its technical compliance identified in its MER and the FUR to justify re-rating of R. 2 and R16 (previously rated PC) to Largely Compliant and Compliant respectively. Deficiencies outstanding in Recommendations 8 and 35 do not warrant an upgrade of these Recommendations.

37 Considering progress made by Zambia 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, September 2023

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

38 Zambia will remain in enhanced follow-up and will continue to inform the ESAAMLG of the progress made in improving the implementation of its AML/CFT/CPF measures.