



Anti-money laundering and counter-terrorist financing measures

Uganda

**5th Enhanced Follow-up Report & Technical Compliance Re-Rating
December 2020**

Follow-Up Report





The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) was officially established in 1999 in Arusha, Tanzania through a Memorandum of Understanding (MOU). As at the date of this Report, ESAAMLG membership comprises of 18 countries and also includes a number of regional and international observers such as AUSTRAC, COMESA, Commonwealth Secretariat, East African Community, Egmont Group of Financial Intelligence Units, FATF, GIZ, IMF, SADC, United Kingdom, United Nations, UNODC, United States of America, World Bank and World Customs Organization.

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

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

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This report was approved by the ESAAMLG Task Force of Senior Officials at the December 2020 virtual meeting.

Citing reference:

ESAAMLG (2020), *Anti-money laundering and counter-terrorist financing measures - Uganda, 5th Enhanced Follow-up Report & Technical Compliance Re-Rating*, ESAAMLG, Dar es Salaam

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UGANDA: 5th FOLLOW-UP REPORT & 2ND REQUEST FOR RE-RATING

I. INTRODUCTION

1. The Mutual Evaluation Report (MER) of Uganda was adopted by the Task Force in April 2016 and subsequently approved by the Council of Ministers in May 2016. This follow-up report assesses the progress made by Uganda to resolve the technical compliance shortcomings identified in its MER. New ratings are given when sufficient progress has been made. This report also assesses the progress made in implementing the new requirements of one of the FATF Recommendations that has been updated since adoption of the MER: Recommendation 2. In general, countries are expected to have corrected most or all of their technical compliance shortcomings by the end of the second year of follow-up at the latest. This report does not cover the progress made by Uganda in improving its effectiveness. Progress in this area will be assessed as part of a subsequent follow-up assessment. If sufficient progress has been made, the Immediate Outcome ratings may be reviewed.

II. KEY FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER¹ gave Uganda the following technical compliance ratings:

Table 1. Technical compliance ratings², April 2016

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

¹ Mutual Evaluation Report (MER) on Uganda, April 2016, https://esaamlg.org/reports/2ND-ROUND-MUTUAL-EVALUATION-REPORT-OF-THE-REPUBLIC-OF-UGANDA_1.pdf

² Four technical compliance ratings are available: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

| | | | | | | | | | |
|----|----|----|----|----|---|----|----|----|----|
| PC | NC | NC | PC | PC | C | PC | PC | NC | PC |
|----|----|----|----|----|---|----|----|----|----|

3. In the light of these results, Uganda was placed in the enhanced follow-up process.¹
4. Subsequent to the adoption of the MER, Uganda submitted its first request for re-rating of Recommendations 1, 3, 5, 6, 10,11,12,15,16,17,18,19,20,26, 27 and 29. The Task Force approved the re-rating of Recommendations 1, 3, 5, 6, 11, 12, 15, 16, 17, 18, 19, 20 and 27 in September 2018 and these were published on the ESAAMLG website² as shown in Table 1(a) below:

| | R 1 | R.3 | R.5 | R. 6 | R10 | R. 11 | R.12 | R.15 | R.16 | R.17 | R.18 | R.19 | R.20 | R.26 | R.27 | R.29 |
|-------------------|-----|-----|-----|------|------------------|-------|------|------|------|------|------|------|------|------------------|------|------------------|
| MER rating | NC | PC | PC | NC | PC | NC | NC | NC | NC | NC | NC | NC | NC | NC | NC | PC |
| Proposed rerating | PC | C | C | C | PC (no rerating) | C | PC | PC | C | C | C | PC | C | NC (no rerating) | PC | PC (no rerating) |

Table 1 (a): Technical compliance following revision of ratings, September 2018

5. The assessment of Uganda's request for technical compliance re-ratings and the preparation of this report were undertaken by the following experts (Supported by ESAAMLG Secretariat: Muluken Yirga Dubale and Chris Likomwa):
- James Manyonge (Kenya)
 - Chanda Lubasi Punabantu (Zambia)
 - Kennedy Mwai (Kenya)
 - Paulo Munguambe (Mozambique)
 - Sandra Hall (Seychelles)

¹ 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.

² <https://esaamlg.org/reports/FUR%20Uganda-%20September%202018.pdf>

- Juma Msafiri (Tanzania)
- Thomas Mongella (Tanzania)

6. Part 3 of this report summarises the progress made by Uganda on technical compliance. Part 4 sets out conclusions and contains a table of Recommendations for which a new rating has been given.

III. OVERVIEW OF PROGRESS IN TECHNICAL COMPLIANCE

7. This section of the report summarises the progress made by Uganda in improving technical compliance by resolving the shortcomings identified in its MER and implementing the new requirements associated with the changes made to FATF standards since adoption of the MER (R. 2).

3.1. Progress in resolving the technical compliance shortcomings identified in the MER

8. Uganda has made progress in resolving the technical compliance shortcomings identified in the MER and the second FUR for the following Recommendations:

- R. R.32 which had received a NC rating; and
- R.10, R.23, R.29, R.31 and R.35 which had all received a PC rating.

Given the progress made, Uganda's rating has been revised for the following Recommendations: 10, 23, 29, 31, 32 and 35. The ESAAMLG warmly welcomes the progress made by Uganda to improve its technical compliance with regard to R.2, R.14, R.30, and R.40. However, it is not considered to have made sufficient progress to justify upgrading the rating for these Recommendations.

3.1.1. Recommendation 10- Customer due Diligence (Originally rated with PC – re-rated to LC)

9. The main shortcomings under the MER related to: a) the definition of beneficial owner as per the AMLA is not aligned and is inconsistent with that of the FATF, leading to inadequate measures being taken to identify and verify the identity of beneficial owners; b) no legal provisions are also provided permitting financial institutions not to pursue the CDD process where a suspicion of ML/TF exists or where they reasonably believe that performing the CDD process will tip off the client, but rather requiring the financial institution to file an STR; c) there is no legal provision to deal with CDD for the beneficiaries of life insurance policies; d) there is no explicit requirement for financial institutions to understand the intended nature and purpose of the business relationship e) there is no explicit provision requiring

the financial institution to identify the address of registered office and if different, a principal place of business; f) there is no requirement for financial institutions to take into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained; g) there is no requirement for financial institutions or the country to perform an adequate analysis of the risks; and h) there is also no prohibition to apply simplified CDD measures whenever there is suspicion of ML/TF, or where specific high risk scenarios apply.

10. Under the Second FUR, it was concluded that Uganda had addressed deficiencies relating to Criteria 10.5, 10.6, 10.13, 10.14, 10.17 and 10.18 but has not adequately addressed C.10.7, 10.10-10.12, 10.15 and 10.20.
11. Reg. 18(4) provides that an accountable person shall, on a regular basis, review the due diligence measures relating to identification information, records and documents of all existing customers in order to ensure that the information, records and documents are up to date. Reg. 42(5) further provides that an accountable person shall take reasonable steps, in respect of an existing business relationship, to maintain the correctness of records by undertaking a review every two years of the existing records, particularly for higher risk categories of customers or business relationships.
12. As per Section 1 (b) of the AMLA (as amended in 2017), the definition of 'beneficial owner' is now in line with the FATF standards. However, the section cited by the Authorities does not include two of the three ways mentioned in 10.10 (b) & (c) through which the financial institution should verify the identity of a beneficial owner of a customer who is a legal person.
13. In terms of Regulations 24 and 25 of the AML Regulations, 2015, if the customer is a legal arrangement (structure) such as a trust or similar arrangement, FIs are required to establish the identity of the settler(s), trustee(s), and beneficiaries (including making such reasonable enquiries as to ascertain the identity of any other potential beneficiary, in addition to the named beneficiaries of the trust. The definition of 'beneficial owner' is now in line with the FATF standards. AMLA has the general principles on CDD and that the FATF standards permit that specific requirements may be set out in 'enforceable means'.
14. Regulation 26 of the AML Regulations 2015 provides for identification of beneficiaries in life insurance related business. It provides that in the case of life or other investment related insurance business, an accountable person shall, in

addition to the customer due diligence measures required, ensure that the beneficiary of the life or other investment related insurance business is capable of being identified. However, the verification process should be followed only in instances where the payee of the insurance policy is not a customer. Moreover, there are exempted transactions which are set not on a risk sensitive basis.

15. Regulation 41 of the AML Regulations 2015 provides that an accountable person shall not disclose to a person or customer the fact that a suspicious transaction or activity report or related information has been or is being submitted to the Authority or that a money laundering or terrorism financing investigation is being or has been carried out. However, the law is not clear whether they are permitted not to pursue a CDD process, and instead to file STRs.

Weighting and Conclusion

16. Uganda has addressed or largely addressed most of the deficiencies identified against R.10. As indicated under its Second FUR, it has addressed the deficiencies relating to C.10.5, 10.6, 10.7(b), 10.13, 10.14, 10.17 and 10.18 under the MER. However, it partly addressed the deficiencies against Criterion 10.10, 10.12 and 10.20 and has not addressed the deficiencies under Criterion 10.15. In view of the sufficient progress as described above and the remaining minor shortcomings, Uganda's rating for R. 10 is upgraded from the current rating PC to LC.

3.1.2. Recommendation 14- Money or Value Transfer Services (Originally PC – No rerating)

17. The main shortcomings under the MER related to: a) there is inadequate monitoring on Mobile Money Service Providers (as a sub category of MVTs); and b) there are no explicit legal requirements for agents to be licensed or registered and included in the AML/CFT programmes of MVTs providers.
18. MVTs providers are licensed by Bank of Uganda. MVTs are included as accountable persons under schedule 2 of the AMLA, 2013 and therefore are subject to AML/CFT obligations. Regulation 4 of the AML Regulations 2015 requires all accountable persons (including MVTs) to register with the FIA. The mobile money sector is currently regulated by the Bank of Uganda Mobile Money Guidelines, 2013 (the "Guidelines"). However, the Guidelines is a provisional measure and the BoU in consultations with other relevant authorities is mandated to establish a comprehensive regulatory framework over time through the necessary legal and regulatory changes (Clause 14). Moreover, the Guidelines are supported by sanctions and as such, they are not enforceable means. Clause. 7(2) of the

Guidelines, provides that Uganda Communications Commission is responsible for licensing and supervision of mobile network operators. It ensures that telecommunications networks, over which mobile money platforms ride on, are effective. Clause 7(5) of the Guidelines provides that a mobile money agent shall be a registered business with a physical address and shall have an account in a licensed institution. However, there is no explicit legal provision for agents to be licensed or registered. This recommendation is partly addressed.

19. The definition of accountable person under S.1 of AMLA, 2013 includes MVTS and therefore subject to AML/CFT obligations (See Para 14(d) of the AMLA 2013). Clause 7(5) of the Mobile Money Guidelines provides that a mobile money agent shall be a registered business with a physical address and shall have an account in a licensed institution. However, the Guidelines as described above are provisional measures and not enforceable means not supported by sanctions. **There is no progress made on this deficiency.**

Weighting and Conclusion

20. The recommendation is not sufficiently addressed as the identified deficiencies against are still outstanding. The Guidelines issued by the BOM on Mobile Money is a provisional measure and not enforceable means not supported by sanctions. The reviewers could not also determine the legal basis for the authorities to issue the Guidelines. In view of this, Uganda's rating for R. 14 remains as PC without rerating.

3.1.3. Recommendation 23- DNFBPs: Other measures (Originally rated NC- re-rated to LC)

21. The limits identified in the MER include: a) DNFBPs are not required to report attempted transactions (R.20); b) the law does not provide for the application of countermeasures proportionate to the risks when called to do so by the FATF and independently of any call by the FATF (R.19); and c) there is no mechanism for DNFBP's in Uganda to be advised of concerns about weaknesses in the AML/CFT systems of other countries.
22. DNFBPs are required to report attempted transactions, as provided for under s.9 (1) of AMLA as amended in 2017. S.6(17) and 6(18) of the AMLA as amended in 2017 requires an accountable person to develop and implement programs for the prevention of ML/TF that are appropriate to the risks and the size of the accountable person's business and the programs shall include internal policies, procedures and controls to fulfil the obligations under the Act. The same provision requires accountable persons to apply similar measures to its branches and majority owned subsidiaries to the extent permissible by the laws of the host country where the

subsidiary or branch is situated. The deficiencies in rec 18 linked to this recommendation were addressed and the rating on Rec 18 was upgraded to C from NC under the Second FUR. For C 23.3, As indicated under the 2018 FUR of Uganda, Uganda has addressed the deficiencies against C19.1 and 19.2 identified in the MER. However, the deficiencies against C 19.3 remain outstanding which seriously impacted the overall rating for this recommendation.

23. *Weighting and Conclusion*

Uganda has fully addressed the deficiencies against Criteria 23.1 and 23.2 and partly addressed 23.3. The remaining shortcomings are minor and Uganda's rating for R. 23 is upgraded from PC to LC.

3.1.4. *Recommendation 29 – Financial intelligence units* (Originally rated PC – rerated to C)

24. The major deficiency under the MER was that the FIA does not conduct strategic analysis. The AML/CFT legal framework creates dual reporting of STRs to different competent authorities. Absence of clear process by the FIA governing protection of information. The reporting of STRs by financial institutions under the supervision of the BoU to both the BoU and FIA making it unclear whether there is a "national centre" for such reports. Difference in the quality and the number of STRs reported by the financial institutions under the FI Act to the BoU. There is also lack of information being reported on cross-border transportation of cash due to absence of implementing regulations to section 10 of the AMLA. The current provisions of the AMLA setting out the functions of the Board do not guarantee the operational independence of the FIA. The FIA has not taken steps to apply for EGMONT membership.

25. As indicated under the second FUR, the outstanding deficiency relates to strategic analysis and FIA to join Egmont Group as a full member. The FIA conducts operational and strategic analysis based on the information received from reporting entities and the other information available to it. FIA acquired a goAML IT system which provides a safe and secure platform for reporting. The FIA conducts strategic analysis. It has a Directorate that is responsible for it. The strategic analysis conducted by the FIA has resulted in a policy action of conducting due diligence including on suspected fraudulent foreign investors. Uganda has been a full member of the Egmont Group since July 2019.

Weighting and Conclusion

26. FIA Uganda is now a Member of Egmont since July 2019 and they do conduct strategic analysis. The authorities have therefore sufficiently addressed the remaining deficiencies under this recommendation. In view of the sufficient progress made as described above, Uganda's rating for R.29 is upgraded from PC to C.

3.1.5. Recommendation 30- Responsibilities of law enforcement and investigative authorities *(Originally rated PC- No rerating)*

27. The limits identified in the MER include: a) although, the AMLA provides for regulatory and supervisory authorities to have AML responsibilities, the statutes establishing these authorities other than the BoU do not provide AML responsibilities for them; and b) there is no clear no legal framework establishing an obligation on law enforcement to carry out parallel financial investigations or to refer such cases to other agencies for follow-up.

28. STRs are referred to agencies such as the Uganda Police Force, the DPP's office, IG, URA, and UWA. These agencies are competent authorities which has been defined in the AMLA as to mean investigative, prosecuting, judicial, regulatory or supervisory authorities of and includes the Financial Intelligence Authority. The agencies derive their mandate to, investigate, and prosecute by virtue of section 2(2) of the AMLA. S.20(1)(b-c) of the AMLA 2013, requires FIA to inform, advise and cooperate with other competent authorities. Since its establishment, FIA has made in excess of 100 referrals to the Police, URA and IG for investigation. However, the investigative agencies do not have a broad power to carry out ML/TF investigation from sources other than the FIU.

29. There is no legal basis for parallel financial investigations. This is the same deficiency that was noted in the MER. The term 'LEAs' is replaced by 'competent authorities' under the 2017 AMLA. The Ombudsman unit of the IG also exercises functions covered under Recommendation 30.

Weighting and Conclusion

30. The authorities have addressed some of the deficiencies under this recommendation. However, the authorities have not demonstrated or provided any legal basis for parallel financial investigations. Moreover, the competent authorities do not have a broad power to carry out ML/TF investigation from sources other than the FIU. Therefore, the recommendation is not fully addressed. In view of

these major shortcomings, Uganda's current rating for R.30 remains as PC without rerating.

3.1.6. Recommendation 31-Powers of law enforcement and investigative authorities (Originally rated PC- re-rated to LC)

31. The major shortcoming identified under the MER was that there is no legal framework or clearly spelt out administrative measures to enable a wide range of investigative techniques to be carried out.
32. Competent authorities conducting ML, TF or predicate offence investigations can conduct undercover operations, intercept communications, access computer systems, and control delivery (See Ss. 81-82 of the Narcotic Drugs and Psychotropic Substances (Control) Act No.3 of 2016, S. 44 of the AMLA, S. 18-19 of the Anti-Terrorism ACT 2002.). Case examples were submitted to illustrate that undercover operations and accessing computer systems were used in investigations that led to the arrests and convictions of criminals. Under S.44 and 56 of the AMLA 2013, an authorized officer may apply to court ex parte for a monitoring order of a financial institution to release information. However, the issue on using any other mechanisms which can be used to identify in a timely manner whether natural or legal persons hold or control accounts is not addressed as reflected under the MER.

Weighting and Conclusion

33. *Uganda has largely* addressed the deficiencies that were noted in the MER under Criterion 31.3 and fully addressed under C 31.2. In view of the sufficient progress made as described above, Uganda's rating for R.31 is upgraded from PC to LC.

3.1.7 Recommendation 32- Cash couriers (Originally rated NC – rerated to C)

34. The shortcoming identified under the MER relates to: a) no regulations to implement the declaration provisions in the AMLA; b) absence of a provision allowing restraining of cash/BNI for a reasonable period to enable investigations to determine source of the funds; c) lack of a provision allowing designated competent authorities to request and obtain further information from the carrier concerning the origin of the currency/BNI or its intended use; d) no mechanism enabling the declaration system to allow for international cooperation and assistance; and e) no proper safeguards that exist to ensure proper use of information collected the declaration system. S.10 of the AMLA as amended in 2017, establishes a declaration system for incoming and outgoing cross-border transportation of currency and bearer negotiable instruments (BNIs) transportation. Reg.10 of the AML Regulations 2015

prescribe the procedure on how the declarations made in accordance with S.10 should be carried out. It prescribes forms C and D that persons leaving or entering Uganda are required to fill. The declaration has to be a written declaration for all travellers carrying amounts above the threshold. Section 10(2) of the AMLA as amended empowers URA to request for additional information where necessary. Under reg.10 (3) of the AML Regulations 2015, a customs officer can request a person to produce all currency and BNI in his or her possession where a false declaration has been made. There is also a requirement to declare currency or BNIs transported through mail and cargo into or outside Uganda as per Section 7 of the AML Act (as amended in 2017).

35. There is an MOU that was signed between the FIA and URA that governs the working relationship for the two institutions. There is also a joint task force that has been set up. The FIA, URA and Civil Aviation Authority do have regular meetings to discuss the challenges and map up strategies and best practices for the implement of recommendation 32. S.10(4) of the AMLA as amended in 2017 and reg. 10(4) of the AML Regulations 2015 empowers a customs officer to seize currency or BNIs in case of suspicion of ML/TF, false declaration or failure to declare.
36. S.38A of the AMLA as amended in 2017 provide for exchange of information between competent authorities and foreign counterparts. The AML (Exchange of Information) Regulations, 2018 provides for elaborate procedures on what kind of information can be exchanged and how it should be exchanged. In terms of Section 10 of the AML Act, 2013 (as amended under Section 7 of the AML Act, 2017), the Uganda Revenue Authority (URA) is mandated to obtain information on a declaration which exceeds one thousand five hundred currency points or foreign equivalent, false declaration and suspicion of ML/TF and forward the same to FIA without delay. In terms of Section 20 (1)(e) of the AMLA 2013, the FIA is mandate to retain information (including those received from the URA) in the prescribed manner for a period of at least ten years.
37. There are safeguards to ensure proper use of information collected through the declaration without unnecessarily restricting either international trade payments for goods and services or freedom of capital movement. The information obtained is required under Reg.10 to be sent to FIA and the currency and BNI seized can be kept for six months or a Court may authorize further periods beyond the six months.
38. It is an offense in Uganda when a person intentionally fails to notify the customs and excise department of the Uganda Revenue Authority or intentionally files a false notification regarding the cross-border

transportation or sending of currency or BNIs which exceed the prescribed value, in accordance with section 10. The sanctions will be imposed in terms of s. 136(2) of AMLA, which seem to be proportionate and dissuasive enough. As per Section 10 of the AML Act 2013 (as amended under Section 7 of the AML Act, 2017), the Customs officer in the URA, in case of suspicion of money laundering or terrorism financing, or in the case of a false declaration or a failure to declare, may also seize the currency or bearer-negotiable instruments for a period not exceeding six months and the same property will be subject to confiscation order as per Section 83 *et. Seq.* of the AML Act, 2013.

Weighting and Conclusion

39. Uganda has addressed all the identified deficiencies against Recommendation 32. In view of the sufficient progress made as described above, Uganda's rating for R. 32 is upgraded from NC to C.

3.1.8. Recommendation 35- Sanctions (*Originally rated PC – rerated to LC*)

40. The shortcoming identified under the MER relates to: a) the AMLA does not provide for administrative and/or civil sanctions, which is a major deficiency when it comes to violations for the preventive measures by reporting entities; and b) the legal framework does not provide for sanctions for failure to comply with requirements meant to enhance implementation of targeted financial sanctions related to terrorism and terrorist financing.
41. Generally, Uganda has a wide range of criminal sanctions available to deal with natural as well as legal persons who fail to comply with the AML/CFT Law. There are sanctions available to cover all relevant obligations regarding Recommendations 6 and 9 to 23. S.116 of AMLA was amended in 2017 to address the deficiency that was noted in the MER. There was a conflict between S.3 and 116 of the AMLA 2013 in that they both criminalized the same conduct. S.116 as amended creates an offence of ML as read with S.3 which contains the prohibited acts. The sanctions are contained in S.136 of the AMLA 2013 and it provides for a range of proportionate and dissuasive criminal sanctions for failure to comply with the provisions of the Act. S.21(1)(pa) of AMLA as amended in 2017 provides that FIA may also impose administrative sanctions on an accountable person who fails to comply with directives, guidelines or requests issued by the Authority. With respect to

Recommendation 8, sanctions prescribed in the Non-Governmental Organisations Act Chap 113 as amended in 2006, of a fine or of less than one year imprisonment or both are not dissuasive, effective or proportionate enough and are not related in any way to TF.

Weighting and Conclusion

42. Uganda has addressed most of the deficiencies identified against R.35 in the MER. With respect to Recommendation 8, sanctions are not dissuasive, effective or proportionate enough and are not related in any way to TF. In view of the remaining minor deficiency as described above, Uganda's rating for R.35 is upgraded from PC to LC.

3.1.9. Recommendation 40- Other forms of international cooperation (Originally rated PC – No rerating)

43. The shortcoming identified under the MER relates to: a) lack of guidance on the timeframes to provide assistance required or feedback; lack of clear gateways to facilitate execution and sending of requests; b) there is framework to allow prioritisation of requests; c) limitations to competent authorities allowed to enter into bilateral or multilateral agreements or arrangements to co-operate; d) lack of controls and safeguards to ensure that information received is not used for other purposes than it was requested for; lack of requirements to maintain appropriate confidentiality of the requests made or information received; e) possibility of the information received being shared with other 3rd parties without the knowledge of the requested party; f) lack of provisions allowing competent authorities to exchange information indirectly with non-counterparts.

44. The AML (Exchange of Information) Regulations, 2018 made under S.38A of the AMLA as amended in 2017 addresses the deficiencies under criterion 40.2. However, there are no processes which allow prioritization as identified under the MER.

45. Reg.3(5) of the AML (Exchange of Information) Regulations, 2018 requires a competent authority to use the most efficient and secure means to share information and establish controls and safeguards to ensure that information exchanged by competent authorities is used only for the purpose for, and by the authorities, for which the information was sought or provided.

46. The deficiencies on Criteria 40.4, 40.7, 40.10, 40.16 and 40.20 as noted in the MER are still outstanding. The authorities have submitted that S.114(15) of the AMLA 2013 as amended and Reg. 3(5) addresses the deficiencies on criterion 40.10. However, S.114(15) of the AMLA has not been amended or if it has the amendment

was not furnished to the reviewers. The Regulation submitted does not address the issue of feedback on the use of the information that was provided.

Weighting and Conclusion

47. Uganda has addressed some of the deficiencies that were noted in the MER. However, there are deficiencies that have not been addressed on Criteria 40.4, 40.7, 40.10, 40.16 and 40.20, for instance, lack of guidance on the timeframes to provide assistance required or feedback; lack of a framework to allow prioritization of requests; limitations to competent authorities allowed to enter into bilateral or multilateral agreements or arrangements to co-operate; lack of controls and safeguards to ensure that information received is not used for other purposes than it was requested for; lack of requirements to maintain appropriate confidentiality of the requests made or information received; possibility of the information received being shared with other 3rd parties without the knowledge of the requested party; and lack of provisions allowing competent authorities to exchange information indirectly with non-counterparts. Therefore, this recommendation has not been sufficiently addressed. In view of the major shortcomings, Uganda's current rating for R.40 remains as PC and thus, no re-rating.

3.2 Progress on Recommendations which have Changed since the Adoption of the MER

3.2.1. Recommendation 2- National cooperation and coordination (Originally rated PC – re-rated to No re-rating)

48. The main shortcomings under the MER related to: a) The activities of the AML/CFT Committee are not informed by identified ML/TF risks and are not regularly updated to be consistent with the identified risks; b) the AML/CFT Committee has not coordinated development of AML/CFT policies based on identified ML/TF risks; c) there is no framework in place to coordinate proliferation issues and the extent of the ML/TF risk to proliferation has not been determined to enable categorisation of the sector as low or high risk and the sector might require to be prioritised. In February 2018, R.2 was amended to ensure compatibility of AML/CFT requirements and data protection and privacy rules, and to promote domestic inter-agency information sharing among competent authorities.

49. Uganda does not have national AML/CFT policies which are informed by the identified risks and are reviewed regularly. Although the NRA was approved and published, the AML/CFT Committee is yet to come up with a National Policy on

AML/CFT informed by the risks identified. The Authorities have stated that they are currently in the process of coming up with the AML/CFT national policy including on PF guided by the risks identified in the NRA.

50. The Anti-Money Laundering and Combatting of Terrorist Financing Taskforce was constituted by the Minister responsible for Finance Planning and Economic Development and among its terms of reference, include to develop and implement a national AML/CFT Policy.
51. There is no AML/CFT policy to demonstrate the extent to which Uganda develops and implements risk informed AML/CFT Policy in a coordinated manner as required under this criterion.
52. Though the Minister is empowered to designate a proliferator of WMD as a suspected terrorist in terms of Reg.9 of AML Regulations, 2015, the issue of domestic coordination is not properly covered and there is no provision under the Anti-Terrorism Act (as amended) which envisages the combatting of the financing of proliferation as enabling provision for issuing Regulations for implementing UNSC Resolutions relating to proliferation financing.
53. Uganda has cooperation and coordination mechanisms among and between various agencies aimed at ensuring compatibility of the AML/CFT requirements with Data Protection and Security rules, there are no restrictions imposed by Data Protection requirements and laws for the FIA and the other competent authorities to access information and cooperate for AML/CFT purposes. Section 7(2) of the Data Protection and Privacy Act, 2019 provides for instances where data may be collected without the prior consent of a data subject and these are where it is necessary: (i) for the proper performance of a public duty by a public body; (ii) for national security; (iii) for the prevention, detection, investigation, prosecution or punishment of an offence or breach of law. On cooperation and coordination between relevant authorities to ensure the compatibility of AML/CFT requirements with Data protection and privacy rules and other similar provisions (e.g. data security and localization), FIA has signed an MOU with National Information Technology Authority-Uganda (NITA-U). The NITA-U, which is empowered to protect data in Uganda, is also cooperating with the various AML/CFT stakeholders.

Weighting and Conclusion

54. Uganda has demonstrated how cooperation and coordination between relevant authorities to ensure the compatibility of AML/CFT requirements with Data protection and privacy rules and other similar provisions (e.g. data security and localization) is being done. However, absence of policies which are informed by identified ML/TF risks and mechanisms to facilitate coordination for purposes of combatting the financing of proliferation of weapons of mass destruction are

considered to be fundamental deficiencies. In view of this, Uganda's rating for R. 2 remains as PC and thus, no rerating.

IV. CONCLUSION

55. Uganda has made significant overall progress in resolving the technical compliance shortcomings identified in its MER and ratings for 6 Recommendations have been revised. The jurisdiction has addressed the deficiencies in respect of Recommendations 29 (initially rated PC) and 32 (initially rated NC) and the ratings for these recommendations is upgraded with Compliant (C). In relation to Recommendations 10 (initially rated PC), 23 (initially rated PC), 31 (initially rated PC) and 35 (initially rated PC), it was agreed that there should be re-rating for the recommendations with Largely Compliance (LC).
56. ESAAMLG has also evaluated information provided in support of the request for re-rating of Recommendations, 2 (initially rated PC), 14 (initially rated PC), 30 (initially rated PC), and 40 (initially rated PC). However, while the steps taken to address the deficiencies have been noted, the information currently provided does not indicate that the country has made sufficient progress to warrant re-rating. On this basis, it was agreed that the ratings for these Recommendations should remain as they are.
57. Given the progress made since adoption of its MER, Uganda's technical compliance with the FATF Recommendations has been revised as shown in the table below:

Table 2. Technical compliance following revision of ratings, December 2020

| Recommendation | R2 | R10 | R14 | R23 | R29 | R30 | R31 | R32 | R35 | R40 |
|------------------------|------------------|------------|------------------|------------|------------|------------------|------------|------------|------------|------------------|
| Previous Rating | PC | PC | PC | PC | PC | PC | PC | NC | PC | PC |
| Re-rated to | PC (No rerating) | LC | PC (No rerating) | LC | C | PC (No rerating) | LC | C | LC | PC (No rerating) |

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

Table 3. Technical compliance following revision of ratings after the adoption of the Uganda MER

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

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

59. Uganda 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.

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December 2020

Anti-money laundering and counter-terrorist financing measures in Uganda

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

This report analyses Uganda's progress in addressing the technical compliance deficiencies identified in the FATF assessment of their measures to combat money laundering and terrorist financing of May 2016.