



Anti-money laundering and counter-terrorist financing measures

Tanzania

Mutual Evaluation Report

June 2021





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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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MUTUAL EVALUATION REPORT

of

United Republic of Tanzania

Table of Contents

Executive Summary	7
Key Findings.....	7
Risks and General Situation.....	8
Overall Level of Compliance and Effectiveness.....	8
Priority Actions.....	13
Effectiveness & Technical Compliance Ratings.....	14
MUTUAL EVALUATION REPORT.....	15
Preface	15
CHAPTER 1. ML/TF RISKS AND CONTEXT	17
ML/TF Risks and Scoping of Higher Risk Issues.....	18
Materiality.....	21
Structural Elements.....	22
Background and Other Contextual Factors.....	22
CHAPTER 2: NATIONAL AML/CFT POLICIES AND COORDINATION	32
Key Findings and Recommended Actions.....	32
Immediate Outcome 1 (Risk, Policy and Coordination).....	33
CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES.....	39
Key Findings and Recommended Actions.....	39
Immediate Outcome 6 (Financial Intelligence ML/TF).....	42
Immediate Outcome 7 (ML investigation and prosecution).....	54
Immediate Outcome 8 (Confiscation).....	65
CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION.....	73
Key Findings and Recommended Actions.....	73
Immediate Outcome 9 (TF investigation and prosecution)	76
Immediate Outcome 10 (TF preventive measures and financial sanctions)	81
Immediate Outcome 11 (PF financial sanctions).....	84
CHAPTER 5. PREVENTIVE MEASURES.....	86
Key Findings and Recommended Actions.....	86
Immediate Outcome 4 (Preventive Measures).....	88
CHAPTER 6: SUPERVISION.....	99
Immediate Outcome 3 (Supervision).....	100
CHAPTER 7: LEGAL PERSONS AND ARRANGEMENTS.....	117
Immediate Outcome 5 (Legal Persons and Arrangements)	118
CHAPTER 8: INTERNATIONAL COOPERATION.....	125
Immediate Outcome 2 (International Cooperation).....	126
TECHNICAL COMPLIANCE ANNEX.....	138
Recommendation 1 – Assessing risks and applying a risk-based approach	138
Recommendation 2 - National Cooperation and Coordination.....	140

Recommendation 3 - Money laundering offence.....	141
Recommendation 4 - Confiscation and provisional measures	144
Recommendation 5 - Terrorist financing offence	146
Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing	149
Recommendation 7 – Targeted financial sanctions related to proliferation	153
Recommendation 8 – Non-profit organisations	153
Recommendation 9 – Financial institution secrecy laws	155
Recommendation 10 – Customer due diligence	156
Recommendation 11 – Record-keeping	160
Recommendation 12 – Politically exposed persons.....	161
Recommendation 13 – Correspondent banking	162
Recommendation 14 – Money or value transfer services	163
Recommendation 15 – New technologies.....	164
Recommendation 16 – Wire transfers.....	165
Recommendation 17 – Reliance on third parties	167
Recommendation 18 – Internal controls and foreign branches and subsidiaries	167
Recommendation 19 – Higher-risk countries	168
Recommendation 20 – Reporting of suspicious transaction.....	169
Recommendation 21 – Tipping-off and confidentiality.....	169
Recommendation 22 – DNFBPs: Customer due diligence	169
Recommendation 23 – DNFBPs: Other measures	170
Recommendation 24 – Transparency and beneficial ownership of legal persons	171
Recommendation 25 – Transparency and beneficial ownership of legal arrangements	175
Recommendation 26 – Regulation and supervision of financial institutions.....	177
Recommendation 27 – Powers of supervisors	178
Recommendation 28 – Regulation and supervision of DNFBPs	179
Recommendation 29 - Financial intelligence units.....	181
Recommendation 30 – Responsibilities of law enforcement and investigative authorities	183
Recommendation 31 - Powers of law enforcement and investigative authorities	184
Recommendation 32 – Cash Couriers.....	186
Recommendation 33 - Statistics.....	188
Recommendation 34 – Guidance and feedback.....	189
Recommendation 35 – Sanctions.....	189
Recommendation 36 – International instruments	190
Recommendation 37 - Mutual legal assistance.....	191
Recommendation 38 – Mutual legal assistance: freezing and confiscation.....	193
Recommendation 39 – Extradition	194
Recommendation 40 – Other forms of international cooperation.....	195
Summary of Technical Compliance – Key Deficiencies	199

Abbreviations and Acronyms

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AMLPOCA	Anti-Money Laundering and Proceeds of Crime Act
ARINSA	Asset Recovery Inter-Agency Network of Southern Africa
ARTCD	Asset Recovery and Transnational Crimes Division
BoT	Bank of Tanzania
CMSA	Capital Markets and Securities Authority
CID	Criminal Investigations Division
DCEA	Drugs Control and Enforcement Authority
DPP	Director of Public Prosecutions
DSOC	Defence and Security Organ Committee
FCU	Financial Crimes Unit
FIU	Financial Intelligence Unit
LEAs	Law Enforcement Agencies
ML	Money Laundering
MLCA	Ministry of Legal and Constitutional Affairs
MoFA	Ministry of Foreign Affairs
NCCD	National Commission for Control of Drugs
NCTC	National Counter Terrorism Centre
NIDA	National Identification Authority
NPS	National Prosecution Services
NTFAP	National Task Force Against Poaching
PCCB	Prevention and Combating of Corruption Bureau
POCA	Proceeds of Crime Act
SARPCCO	South African Regional Police Chiefs Cooperation Organisation
TAA	Tanzania Airport Authority
TCAA	Tanzania Civil Aviation Authority
TIRA	Tanzania Insurance Regulatory Authority
TF	Terrorist Financing
TISS	Tanzania Intelligence and Security Services
TRA	Tanzania Revenue Authority
ZAECA	Zanzibar Anti-Corruption and Economic Crimes Authority

Executive Summary

1. This report summarises the AML/CFT measures in place in the United Republic of Tanzania (URT) as at the date of the on-site visit from 1 to 12 July 2019. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of URT's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

1. The AML/CFT regime of URT dates back to early 2000, and over the years, the authorities have put in place legal and institutional frameworks to comply with international AML/CFT Standards and enhance the regime's effectiveness. Despite the improvements, there are still significant gaps in the legal framework as highlighted in the TC Annex.
2. URT has demonstrated a reasonably fair understanding of its ML/TF risks, the risks in the regulated sectors and high proceeds generating crimes. Overall, the risk assessment appeared reasonable. However, due to limited information, assessment of ML risks associated with legal persons, legal arrangements and NPOs was considered inadequate. Furthermore, the understanding is affected by the fact that the 2016 NRA report was only approved and shared with the stakeholders in 2019, and that it has not been updated to take into account the evolving ML/TF risk environment.
3. The level of understanding of ML/TF risks and AML/CFT obligations varies across the FIs. While large and medium local and foreign owned or controlled banks including MVTS Providers have a robust understanding of the ML/TF risks, there is low understanding of ML/TF risks and AML/CFT obligations by NBFIs (excluding MVTS providers) and the DNFBP sectors which is attributable to lack or limited supervision and awareness. Related to this, the AML/CFT supervisors have not yet adopted and started implementing AML/CFT risk-based supervision. The majority of the DNFBPs do not have designated AML/CFT supervisors and therefore were not being supervised or monitored for compliance with their AML/CFT requirements.
4. URT does not have written AML/CFT policies informed by the identified ML/TF risks. On the other hand, URT developed an Action Plan that does not include activities to address some specific ML/TF vulnerabilities and proceeds generating crimes that were rated high. Even before the NRA was conducted, some competent authorities had started carrying out activities to address some major proceeds generating crimes such as wildlife crimes, corruption and tax evasion that are not included in the Action Plan.
5. There is limited access and use of financial intelligence by competent authorities. While the FIU produces financial intelligence reports, these products are being underutilized in the ML/TF investigation and prosecution value chain, and also by supervisory bodies. LEAs rely on other sources of information to detect and investigate ML and pursue confiscation. The authorities have also not prioritised ML investigations but have focussed on conventional investigation of predicate offences. URT has not demonstrated that it has effectively detected, investigated, mitigated and disrupted TF incidences consistent with its risk profile. Confiscation results are not largely

consistent with the ML/TF risk profile of the country.

6. URT does not have an adequate legal framework and mechanisms to implement targeted financial sanctions (TFS) on TF. Supervisory authorities have not issued guidance to assist reporting institutions and other persons to effectively implement their TFS obligations. URT has not identified the nature of threats posed by terrorist entities to the NPOs which are at risk as well as, how the terrorist actors abuse those NPOs. There is also no legal framework and coordination framework in place to implement UNSCRs related to PF.
7. Competent authorities in URT have not identified, assessed and understood ML/TF vulnerabilities of legal persons and legal arrangement, created in the country, and the extent to which they can be or are being misused for ML/TF. The legal and regulatory framework to obtain and maintain BO information is inadequate. The authorities do not have adequate supervisory capacity and mechanisms to ensure that the basic information being kept by legal persons is adequate, accurate and current.
8. URT has in place a good legal and institutional framework to cooperate and exchange information with foreign counterparts in respect of mutual legal assistance (MLA) and other forms of international cooperation. However, URT has applied these measures mainly on predicate offences. The effectiveness of cooperation is undermined by lack of information in relation to BO.
9. Overall, the competent authorities do not have adequate capacity to effectively carry out their AML/CFT responsibilities.

Risks and General Situation

2. URT carried out a National Risk Assessment (NRA) in 2015-2016 and established that a significant percentage of criminal proceeds which are laundered in URT emanate from within the country mainly from the following crimes: corruption, tax evasion, illicit drug trafficking, counterfeiting goods, illegal mining and illegal trading in precious metals and stones and, poaching and unlawful dealing in government trophies. In view of its geographical position and trade links with neighbouring countries, the country is also exposed to foreign ML threat arising from smuggling of goods, drug trafficking, human trafficking and the criminal proceeds are suspected to be channelled through the hospitality industry and the real estate sector. URT is used as a transit route for drugs to and from Asia, Latin America, Europe and Southern Africa.

3. According to the NRA report, URT faces TF threats arising from neighbouring countries where there are active terrorist groups, cross border activities and the vulnerabilities in the NPO sector, hawala operators and mobile network operators. The Assessors are of the strong view that the authorities' understanding of overall TF risk may be limited in view of the inadequate analysis of cross border currency movements and international funds transfers and the limited information which was available during the NRA exercise in relation to the NPO sector.

Overall Level of Compliance and Effectiveness

4. Since its last mutual evaluation in 2009, URT has strengthened its AML/CFT system with a view to make it effective and comply with international standards. The country has enacted laws and amended existing ones, enhanced the capacity of existing institutions and established task forces to facilitate inter-agency coordination and cooperation. Furthermore, URT carried out a national risk assessment in order to enhance its understanding of ML/TF risks facing the country as a basis for developing and implementing a risk-based AML/CFT regime.

5. In particular, with respect to technical compliance, the legal framework has been improved by introducing provisions such as those which address: designation of the FIU as a national centre; expansion of the scope of reporting entities, requirements of targeted financial sanctions relating to TF, requirements of cross-border currency transportation, stronger CDD measures. Notwithstanding this, there are other areas which require significant improvements such as designation of supervisory authorities for all DNFBPs, transparency and beneficial ownership of legal persons; targeted financial sanctions relating to PF etc.

6. In relation to effectiveness, notable achievements have been made in the area of investigating and prosecuting wildlife crimes, operational co-ordination among law enforcement agencies and prosecutors, international cooperation and implementation of AML/CFT measures by the financial sector. However, major improvements are needed to strengthen supervision of reporting entities, ensure that financial intelligence is fully exploited, enhance ML identification, investigation and prosecution, confiscation of proceeds of crime and identification of TF activities.

Assessment of risk, coordination and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)

7. URT has identified, assessed and developed a fair understanding of its ML/TF risks, the risks in the regulated sectors and high proceeds generating crimes based on the NRA exercise and information gathered in the authorities' operational activities. Generally, the risk assessment appeared reasonable as it involved analysis of threats and vulnerability factors using data on criminal offences, activities of public sector entities and the legal framework. However, due to limited information, assessment of ML/TF risks associated with legal persons and NPOs was inadequate. Furthermore, URT has a significant informal economy and that most of financial transactions are cash-based, outside the regulatory oversight. In addition, as highlighted above, the assessment of TF risk was considered limited in scope due to inadequate assessment of vulnerabilities associated with international funds transfers, the NPO sector, cross-border currency transportation and mobile money operators.

8. Authorities identified the following crimes as the most prevalent crimes that lead to ML (listed in the descending order): corruption, tax evasion, illicit drug trafficking, counterfeiting goods, illegal mining and illegal trading in precious metals and stones and poaching and unlawful dealing in government trophies. With regard to ML risk in the sectors, the real estate, dealers in precious metals and stones, motor vehicle dealers and informal value transfer (hawala) services were considered to pose high ML risk. The sectors of banking, casinos and other gaming activities, bureaux de change, electronic money issuers, lawyers, notaries and other independent legal professionals were rated medium high in terms of ML risk.

9. Although the country does not have AML/CFT policies informed by the identified ML/TF risks, it developed an Action Plan and some competent authorities have carried out activities which seek to address some of the major proceeds generating crimes such as wildlife crimes, corruption and tax evasion. There are formal and informal mechanisms to support national coordination and cooperation on AML/CFT at policy and operational levels. This was particularly evident in relation to coordination among LEAs and prosecutors.

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)

10. The Financial Intelligence Unit is the national central agency which is responsible for receiving, requesting financial information from reporting persons and analysing the information to produce financial intelligence that is disseminated to LEAs and other competent authorities. The FIU is operationally independent with a budget line (within the national budget) to deliver on its core mandate. The FIU has a robust ICT infrastructure that enables it to carry out workflow superlatively.

The FIU is housed in a secure location and has installed redundant security features to prevent intrusion into its resources and unauthorized access to its premises. It is well-structured in terms of its organizational setup with staff recruited in all relevant departments. There is need, however, to strengthen the Monitoring department by recruiting more staff in view of the increasing workload and enhance the production of financial intelligence.

11. Competent authorities in URT, to some extent, have access to financial intelligence that is necessary to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF. There is, however, limited range of sources and scope of the use of the financial intelligence as evidenced by utility of disseminations from the FIU and the number of requests for information made by LEAs to the FIU. The FIU receives disclosures mostly from commercial banks with very few from other non-bank financial institutions (NBFIs) and DNFBPs. Of particular interest are mobile money transfer service providers that are widespread and have a high market penetration but have few reports filed to the FIU. The FIU also receives cross border currency declaration reports. However, it not clear whether or not the authorities utilize these reports to link individuals to ML or TF activities.

12. URT authorities identified and investigated ML offences to a limited extent. The number of ML investigations and prosecutions were relatively low and, since at the time of the onsite, the risk profiles of the offences in the NRA had not been updated, consistency with the prevailing threats and risks of ML could not be ascertained. Generally, competent authorities focussed more on investigation and prosecution of predicate offences than ML investigation. However, it was noted that the country registered remarkable progress in the fight against corruption, tax evasion and wildlife crimes- which are major proceeds generating predicate offices. Furthermore, sanctions did not appear to be proportionate and dissuasive. The pattern of sanctions in most of the cases reviewed by Assessors showed that they were minimum penalties provided by the law despite the fact that the circumstances were different.

13. To some extent, URT pursued confiscation as a policy objective. LEAs have dedicated units responsible for tracing and recovery of assets. However, the confiscations constituted mainly (but not solely) of instrumentalities and were not consistent with the risk profile of URT. Furthermore, a significant number of confiscations were also in relation to trafficking in humans and migrant smuggling which were not designated as high risk in the NRA. The confiscation of falsely and non-declared or disclosed cross border currencies and bearer negotiable instruments is rarely investigated to establish any link to ML to TF. The authorities mainly focussed on imposing fines to the culprits and leaving the falsely and non-declared currency and BNIs with them, which means confiscation of such currencies is not being used as a way of applying effective, proportionate and dissuasive sanctions by the authorities. The sanctions for falsely and non-declared or disclosed cross border currencies and BNIs are therefore not effective, proportionate and dissuasive.

Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39.)

14. There are moderate shortcomings in URT's TF criminalisation such as not criminalising the financing of terrorist individuals and financing of individuals who travel to a state other than their state of residence or nationality for purposes of the perpetration, planning or preparation of, or participation in, terrorist acts. In addition, there are no provisions that provide for the offence of TF to have been committed without requiring the funds to have been actually used to carry out or being linked to a specific terrorist act. For these reasons, TF is not criminalised in a manner consistent with the FATF Standards hence, URT does not have the ability to fully apply measures to ensure that the entire scope of TF and associated predicate offences can be effectively prosecuted.

15. In addition, URT has not prosecuted any type of TF activity and no convictions for the TF offence have been secured. Assessors are therefore of the view that lack of TF prosecution and conviction is not consistent with the country's risk profile. URT does not have a strong

understanding of TF risks as the TF assessment in the NRA, which was the basis of that understanding, was not comprehensive in scope and analysis of TF threats and vulnerabilities. In addition, the authorities did not thoroughly assess the potential abuse of the NPO sector for TF (in view of limited information, vulnerabilities arising from hawala activities and cross-border transportation of currency). Investigation and prosecution of TF in URT is coordinated by the National Counter Terrorism Centre, a body set up administratively and comprising seconded officers from relevant institutions involved in TF policy formulation. URT's counterterrorism strategies are aligned to the regional counter-terrorism strategies including those of East Africa and SADC. However, the Strategy is not informed by the TF risks existing in the country.

16. URT has not identified a competent authority or a court with responsibility for proposing persons or entities to the relevant UNSC Committee for designation. In addition, URT has not established a mechanism(s) for identifying targets for designation, based on the designation criteria set out in the relevant United Nations Security Council Resolutions (UNSCRs). The current procedures for communicating designations pursuant to UNSCR 1267 to reporting persons is not consistent with that set out in URT's legal framework to effectively coordinate and implement the UNSCRs without delay

17. URT does not have mechanisms on TFS relating to proliferation financing (PF) and neither is this requirement being implemented in practice. There has not been any investigations or interventions relating to PF. Further, Supervisory authorities have not issued instructions and guidelines on PF, have not established mechanisms to implement the relevant TFS and do not monitor the entities under their supervision for compliance with the requirements. Overall, the URT agencies, FIs and DNFBPs do not adequately implement UNSCRs on combating PF.

Preventive measures (Chapter 5; IO.4; R.9–23)

18. The AMLA and AMLPOCA, are the primary legislations providing the legal framework for application of preventive measures for FIs and DNFBPs in URT. However, the scope of the legal framework does not cover some FIs and DNFBPs such as set out in Section, 1.4.4 and TC Annex (R10 and R.22). Generally, the large/medium local and foreign owned or controlled banks, MVTS providers and foreign owned bureaus demonstrated an in-depth understanding of their ML/TF risks and obligations. They have also developed and applied appropriate AML/CFT controls and processes to mitigate risks, including CDD and transaction monitoring, as well as EDD measures on a risk-sensitive basis. Such understanding and application of controls was low in smaller banks and other non-banking FIs. Their AML/CFT controls and processes, risk mitigation programmes are generally low when compared to the large/medium banks, MVTS providers and foreign owned bureaus.

19. There was relatively little to no understanding of ML/TF risks and obligations among the DNFBP sector. The low levels of understanding could be attributed to inadequate AML/CFT supervision. The obligation to file suspicious transactions to the FIU is well understood and applied satisfactorily by the banking sector, MVTS providers and globally affiliated bureaus. However, the same cannot be said about other financial institutions and DNFBPs which have over the period under review either filed negligible number of STRs or not filed at all.

Supervision (Chapter 6; IO.3; R.14, R.26–28, 34, 35)

20. The banking sector and real estate sectors are exposed to high ML threat as they are considered to be main sectors through which proceeds of crime are channelled. Licensing and registration controls to prevent criminals and their associates from entering the financial and DNFBP sectors are generally strong and effective except for the real estate sector where there are no entry controls. Trust and Company Service Providers (TCSPs) are not designated as reporting persons and therefore not subject to AML/CFT compliance monitoring.

21. Financial sector AML/CFT supervisors have a good understanding of the general ML/TF risks in the financial sector. However, they generally had a low level of understanding of the

ML/TF risks that exist at individual financial institution level. Financial sector AML/CFT supervisors integrate AML/CFT supervision within their prudential supervisory programmes. The supervisory programmes and resource allocations are not informed by ML/TF risks. As such, all the financial sector AML/CFT supervisors have not yet developed or implemented AML/CFT risk-based supervision that showed the frequency and intensity of AML/CFT examinations were determined on the basis of ML/TF risks. The CMSA has developed a basic framework for the implementation of AML/CFT risk-based supervision but had not yet implemented it at the time of the on-site visit.

22. With the exception of the BoT that has applied sanctions in a limited number of instances where AML/CFT compliance breaches were identified, the rest of the financial sector AML/CFT supervisors had not yet started to apply sanctions but rather directed financial service providers to apply remedial measures to address the identified breaches. With regard to DNFBPs, except for casinos and accountants, the rest have not been supervised or monitored for compliance with their AML/CFT requirements and, as such, DNFBP supervisors have not detected any AML/CFT compliance breaches requiring application of remedial actions and/or sanctions.

Transparency and beneficial ownership (Chapter 7; IO.5; R.24, 25)

23. The following types of legal persons and legal arrangements can be registered in URT: public companies; private companies limited by shares; private companies limited by guarantee and unlimited private companies; partnerships; trusts and societies. The registration of legal persons is undertaken by the Business Registrations and Licensing Agency (BRELA), an Executive Agency under the Ministry of Industry and Trade for Tanzania Mainland. BRELA is responsible for registration of Companies, Business Names, Trade and Service Marks and also grants patents and issues general business licenses under the Business License Act No. 25 of 1972. In Zanzibar, the Business and Property Registration Agency (BPRA), an Executive Agency under the Ministry of Trade and Industries of Zanzibar, is responsible for administration and regulation of laws concerning registration of Companies, Societies, Business Names, Industrial Property and Documents including partnership deeds. BPRA is established under the Zanzibar Business and Property Registration Agency Act of 2012 and replaced the functions of The Registrar General's Office (RGO). There are 9,451 companies registered in URT. The Registration, Insolvency and Trusteeship (RITA) is responsible for formation of legal arrangements on the Mainland. In Zanzibar, legal arrangements are administered under the Societies Act which is one of the legislations administered by BPRA. Registration of Partnership Deed in Tanzania Mainland is undertaken by the Registrar of Titles under the Registration of Document Act Cap. 117.

International cooperation (Chapter 8; IO.2; R.36–40)

24. URT has a good legal framework that enables authorities to process MLA in relation to collection of evidence; tracing, identification, freezing, seizure and confiscation of assets and extradition requests. Most of the MLA and extradition requests appear to have been handled in a timely manner with MLA requests being processed in an average of three months and extradition requests being processed on an average of 3-6 months depending on the respective complexity of each case and the efforts being made are to some extent commensurate with the risk profile of the country. The MLA and extradition requests relate to various predicate offences as well as few money laundering cases but not TF. However, it was difficult to determine the level of effectiveness in terms of the risk profile of the country as there was no foreign threat assessment done on TF. The MLA requests mainly related to collection of evidence, recording of statements, tracing and freezing of assets. The number of requests made by URT is however low when compared against the requests made to URT. URT is able to provide information to counterparts through the use of informal channels such as EAPCCO, SARPCCO, ARINEA, ARINSA, ICAR, Egmont and a number of bilateral agreements entered into between competent authorities in URT and their foreign counterparts. URT has also sought assistance from counterparts. However, feedback received from

international partners confirms that the assistance provided by BoT was not in general done timely and in a constructive manner. There is no requirement in the URT for company registries to obtain and maintain BO information. URT is therefore generally unable to exchange BO information. However, the FIs and DNFBPs are required to obtain and maintain BO information.

Priority Actions

URT should undertake the following priority actions to strengthen its AML/CFT system and enhance the level of effectiveness:

1. Update the NRA so that there is a comprehensive and up-to-date understanding of the ML/TF risks obtaining in the country. The update should include risk assessment of legal persons and legal arrangements in order to identify their vulnerabilities to abuse for ML as well as the NPO sector to identify sub-sectors of NPOs that are exposed to TF abuse.
2. Develop national AML/CFT policies or strategies which are informed by the risks identified through the NRA exercise, re-orient the National Action Plan so that it is in line with results of the NRA and build capacity of competent authorities to implement the Action Plan.
3. Develop capacity to detect, investigate, mitigate and disrupt TF incidences through well-coordinated and collaborated joint operations. In addition, URT should develop and operationalise sufficient mechanisms and coordination to implement UNSCRs relating to TF and PF.
4. Designate as reporting entities, FIs and DNFBPs which carry out services specified in the FATF Glossary. In addition, URT should consider designating institutions which were identified as having high ML risk in the NRA report as reporting entities or designate them as high risk and require FIs and DNFBPs to apply enhanced CDD measures on them.
5. Develop and implement mechanisms that promote and enhance ML/TF risk understanding by the smaller banks, NBFIs (with exception of MVTS and foreign owned bureaus), DNFBPs as well as their AML/CFT obligations, in particular, application of EDD, implementing TFS (UNSCRs), identification and verification of BOs, STR reporting and application of a risk-based approach.
6. URT should adopt and implement risk-based AML/CFT supervision for all FIs and DNFBPs, which should be informed by risk profile of the sectors and individual institutions. Allocation of supervisory resources should be commensurate with the sectoral and individual risk profiles.
7. Authorities charged with the responsibility of financial investigation and prosecution of predicate crimes and ML/TF should make use of the FIU by obtaining useful financial intelligence and information to support their operational needs.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings¹

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Low	Moderate	Low	Low	Low	Low	Low	Moderate	Low	Low	Low

Technical Compliance Ratings²

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

¹ Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

² Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CFT measures in place in the United Republic of Tanzania as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system, and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 1st to 12th July 2019.

The evaluation was conducted by an assessment team consisting of:

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- Tom Malikebu, Senior Financial Sector Expert (Team Leader)
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- Muluken Yirga Dubale, Senior Legal Expert
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Observer

- Peter Sekgothe, Financial Intelligence Centre, South Africa.

The report was reviewed by the FATF Secretariat, Mary Tshuma, Director General, Financial Intelligence Center, Zambia and Titus Mulindwa, Deputy Legal Counsel, Bank of Uganda.

URT previously underwent an ESAAMLG Mutual Evaluation in 2009, conducted according to the 2004 FATF Methodology and the MER was adopted by the Council of Ministers in December 2009. The 2009 MER was published and is available at <https://www.esaamlg.org>.

That Mutual Evaluation concluded that the country was compliant with 2 Recommendations (i.e. R.19 and R.20); largely compliant with R.27; partially compliant with 12 Recommendations (i.e., Recs 4, 14, 18, 25, 28, 30, 31, 35, 36, 38, 39 and 40 and non-compliant with 34 Recommendations (i.e. Recs. 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 21, 22, 23, 24, 26, 29, 32, 33, 34, 37, SRs I, II, III, VI, IV, V, VI, VII, VIII and SRIX). United Republic of Tanzania (URT) was therefore rated compliant or largely compliant with 3 of the 16 Core and Key Recommendations.

URT entered the enhanced follow-up process in 2010 and exited the process in April 2019 still with outstanding deficiencies on R.3, R. 36, R.37, SRII and SRVIII. The reason for exiting the follow-up process was that URT's assessment under the 2nd Round of Mutual Evaluations commenced in October 2018 and the onsite visit was scheduled for July 2019.

CHAPTER 1. ML/TF RISKS AND CONTEXT

25. The United Republic of Tanzania (URT) consists of Mainland Tanzania and Tanzania Zanzibar (Zanzibar). The country covers 885,800 square kilometers of land and 61,500 square kilometers of water, making it the 31st largest nation in the world³. URT is located in Eastern Africa and shares its border with the following countries: Kenya and Uganda (North), Rwanda, Burundi and Democratic Republic of Congo (West), Malawi, Mozambique and Zambia (South) and the Indian Ocean (East). According to the World Bank Country profile report, URT had a population of 59.1 million in 2018 (57.4 million people in 2017). Swahili and English are the main business languages. Its capital city is Dodoma while Dar es Salaam is the commercial hub and major sea port for Mainland Tanzania. The port also serves neighboring land-locked countries of Burundi, Democratic Republic of Congo, Malawi, Rwanda, Uganda and Zambia. URT's Gross Domestic Product (GDP) in 2018 stood at USD 59.1 billion. The manufacturing and construction sectors spearheaded the overall expansion, with output growth in both sectors accelerating notably from the previous quarter. The GDP per capita of URT in 2018 was USD 1,000⁴.

Political profile

26. URT is a Republic and attained its independence in 1961. All State authority in the United Republic is exercised and controlled by the Government of the United Republic of Tanzania and the Revolutionary Government of Zanzibar. The President of the United Republic of Tanzania is the Head of State and Government for both jurisdictions. Each Government has three organs: the Executive, the Judiciary and the Legislature. URT is a parliamentary democracy with a multiparty political system. It has a clear separation of powers, defined by the Constitution. Power is vested in the people, who are represented by the elected members of parliament. Parliament's powers include enacting laws and overseeing the operations of the government. Judicial powers are exercised by independent courts of law.

Legal system

27. The URT legal system is based on the English common law and statutes as enacted by Parliament. The Constitution of the URT and the Constitution of Zanzibar are the highest laws of the land. Laws may, in general, be grouped into three categories: those applicable to (1) both Mainland Tanzania and Zanzibar, (2) only mainland Tanzania and (3) only Zanzibar. More specifically under the Constitution of the URT for matters deemed to be "Union" matters⁵, the Parliament of the URT has the authority to pass laws applicable to both Mainland Tanzania and Zanzibar. Otherwise, for matters that are not deemed to be "Union" matters, the Parliament has the authority to pass laws that are applicable only to Mainland Tanzania. Also, under the Constitution, for matters not deemed to be "Union" matters, the House of Representatives of Zanzibar has the authority to pass laws that are applicable to Zanzibar. For instance, ML is not considered as a "Union" matter and therefore Mainland Tanzania and Zanzibar have separate AML legislations. On the other hand, TF is considered as a security issue and therefore a 'Union' matter. Hence, the Prevention of Terrorism Act applies to both Mainland Tanzania and Zanzibar.

³ <https://www.worldatlas.com/af/tz/where-is-tanzania.html>

⁴ <http://pubdocs.worldbank.org/en/325071492188174978/mpo-tza.pdf>

⁵ Refer to Annex I which reproduces the list of Union Matters as set out in the First Schedule of the URT Constitution.

1.1 ML/TF Risks and Scoping of Higher Risk Issues

Overview of ML/TF Risks

28. The analysis of ML/TF risks made by the assessment team is based on the information submitted by the country before and during the onsite visit, which includes the national risk assessment (NRA) report and information obtained from other credible external sources.

29. URT carried out an NRA exercise using the World Bank Tool from September 2015 to December 2016. Prior to this, there had not been any ML/TF threat or risk assessment, at a national, sectoral or agency level. The NRA exercise was championed by the Ministry of Finance and Economic Planning and coordinated by the Financial Intelligence Unit (FIU) and Bank of Tanzania (BoT).

30. The main outcomes of the assessment were the detection of threats and vulnerabilities which led to **the overall ML rating for the country as medium high while TF risk was rated as medium**. The following crimes were identified as the most prevalent crimes that lead to money laundering (listed in the descending order): corruption, tax evasion, illicit drug trafficking, counterfeiting goods, illegal mining and illegal trading in precious metals and stones and poaching and unlawful dealing in government trophies.

31. With regard to ML risk in the sectors, the real estate, dealers in precious metals and stones, motor vehicle dealers and informal value transfer (hawala) services were considered to pose high ML risk- channels through which most of the proceeds of crime are laundered. These were followed by the banking, casino, bureaux de change electronic money issuers, lawyers, notaries and other independent legal professionals. In terms of key vulnerabilities, these were identified as:

- long and porous borders which include the Indian Ocean and inadequate human and financial resources to support effective controls of the borders, resulting into trade routes for illicit flows of goods and funds.
- Inadequate specialised/ technical expertise in financial investigations and ML prosecution.
- Lack of implementation of cross-border currency requirements.
- Limited availability of beneficial ownership information.
- Lack of AML/CFT supervision in the DNFBP sectors and absence of licensing/ registration requirements for real estate market players.
- Inadequate compliance functions in bureaux de change.
- Large size of the informal economy and predominant use of cash in financial transactions.

32. In relation to terrorist financing (TF), the risks identified in the NRA were based on the assessment of various threats and vulnerabilities surrounding URT. With regard to threats, the assessment considered such factors as existence of terrorist groups in the neighbouring countries. Vulnerability of the URT to TF emanates from existence of informal money transfer services (hawala), free movement of people within East Africa region, lack of implementation of cross-border currency requirements, weaknesses in the regulation of mobile money operations, inadequate information during the NRA related to the non-profit organisations (NPOs).

1.1.1 Country's Risk Assessment & Scoping of Higher Risk Issues

33. As indicated above, URT carried out its NRA exercise using the World Bank Tool from September 2015 to December 2016 and the NRA report was published in May 2019. The publication delayed because the authorities required approval from Government to make the report public. According to the NRA report, the exercise involved assessment of 19 sectors: banking, insurance, securities, real estate, electronic money issuers, dealers in precious metals and stones, saccos, accountants and auditors, lawyers, micro-credit institutions, bureau de change, informal

financial groups, money remitters and transfer agents, informal money transfer services, pension fund managers, operators of gaming activities, dealers in works of art, auctioneers and motor vehicle dealers. The authorities analysed the threats and vulnerability factors using data on criminal offences, activities of public sector bodies (e.g. supervision, investigations, border controls, international cooperation, prosecutions, confiscations) and the legal frameworks in order to determine the inherent ML/TF risk levels faced by individual sectors. **The ML risk for the country** was assessed as medium high while the TF risk was rated medium.

34. The authorities acknowledged that there was limited information to use for purposes of assessing legal persons and the NPO sector. In addition, it was also noted that independent TCSPs were not included since they are not designated as reporting entities and therefore not subject to AML/CFT supervision. Furthermore, although bureaux de change were rated medium high in terms of ML risk, the authorities subsequently conducted an operation which led to the closure of 188 bureaux de change in 2018 and a further 103 bureaux de change in the first quarter of 2019 for reasons that included suppression of hawala services and non-compliance with capital requirements. The assessment team is of the view that the measures the authorities took (including encouraging banks to fill the void that was left by the closure of bureau de change) moderated the residue risk of the bureau de change sector and limited the displacement of foreign exchange services by underground operations.

35. Except for obligations of reporting entities, URT legal framework does not have requirements for registering and retaining beneficial ownership (BO) information. This is a significant vulnerability, given weaknesses in AML/CFT supervision, especially lack of coverage of DNFBPs by the AML/CFT framework. It is difficult to establish the extent to which the reporting persons obtain and maintain BO information relating to its customers. The weaknesses in the DNFBP supervision are areas of concern, especially considering the sustained growth in the real estate and precious metals sector and opportunities for legal professionals to exploit weaknesses that can facilitate the abuse of legal persons. The absence of coverage of domestic politically exposed persons (PEPs) is also another significant vulnerability, which is particularly noteworthy in the context of a country where corruption is a major predicate offence and state-owned-enterprises play a dominant role in the economy.

36. The authorities identified TF as medium risk based on the assessment of various threats and vulnerabilities surrounding URT. The assessment considered such factors as the terrorist bombings in Dar es Salaam which happened in 1998 with the involvement of Tanzanians and local NGOs, proximity to countries where terroristic organisations such as Al Shabab are based, vulnerabilities of money transfer services, NPOs and existence of informal value transfer services. However, the assessment team is of the view that the assessment and subsequent ratings of threats and vulnerabilities was limited in scope (see detailed analysis under IO.1). For instance, the value of cross border currency declared at the entry ports and the destination of the carriers were not adequately analysed in the context of TF since the enabling Regulations were only issued in September 2016 and actual implementation started in 2017 and 2018 (for Mainland Tanzania and Zanzibar respectively). In addition, the assessment team noted that the destinations included unstable countries which have also been associated with terrorist group activities and that the authorities do not obtain information on the purposes of the currency/ BNIs (see details under IO.6 and IO.8).

37. Overall, the results of the NRA have helped the authorities to enhance their understanding of ML risks in URT. However, the understanding could be enhanced by expanding the scope of the sectors covered as described above.

Scoping of Higher-Risk Issues

38. In deciding what issues to prioritise for increased focus, the assessors reviewed materials provided by URT on the ML/TF risks identified, especially through the NRA process (as described above), information from credible third-party sources (e.g. reports of other international organisations) and the previous MER, including progress reports within the context of the ESAAMLG Post Evaluation Implementation Process. In particular, the assessors focussed on the following priority issues:

- **Preventive measures:** The NRA identified the banking sector as the most targeted sector by money launderers. Furthermore, some DNFBP sectors such as real estate and dealers in precious metals and stones which were assigned a high ML risk rating were not being supervised for AML/CFT purposes. Therefore, the assessment team explored the understanding of ML/TF risks as well as implementation of AML/CFT obligations by these sectors. Special attention was also given to regulatory and supervisory measures taken in relation to sectors which were identified as high-risk sectors, including the application of sanctions against non-compliance with AML/CFT obligations.
- **Money/ Currency Exchange market:** URT authorities closed 188 foreign exchange bureaux in 2018 and a further 103 in 2019⁶. According to open sources, the reasons were that some bureaux de change were operating without a licence while others were alleged to be involved in ML. However, the NRA had determined that the sector is ‘sufficiently supervised’ and its ML risk was considered to be medium high. In this regard, the assessment team wanted to determine measures taken to avoid emergence or increase in underground or illegal forex currency exchange activities following the closure of the foreign exchange bureaux.
- **ML Investigations, Prosecutions and Confiscation:** The NRA found that the most prevalent proceeds generating crimes were corruption, tax evasion, drug trafficking, counterfeiting of goods, illegal mining and trading in precious metals and stones and wildlife poaching. The Assessment team focused on how cases involving proceeds from the main predicate offences are investigated and prosecuted and proceeds are confiscated. They assessed the use of financial intelligence to identify and confiscate criminal proceeds.
- **International Cooperation:** The NRA highlighted that there is significant number of foreign proceeds which are laundered in URT and that proceeds of crime from URT are also laundered outside URT. In this respect, assessment team examined the measures in place with respect to international cooperation generally, for instance in relation to outward cross-border currency transportation, drug trafficking and wildlife crimes.
- **Terrorist financing:** The NRA rated terrorist financing as medium and identified NPOs, informal money transfers (hawala) and mobile money providers as being vulnerable to TF. Given the limited TF analysis in the NRA and insufficient information on NPOs, the assessment team paid particular attention to the level of awareness of TF risks among key authorities and the mitigating measures that are being taken. The team also focused on the use by authorities of the domestic listing mechanisms and the implementation of international and domestic sanction lists by the private sector. Given the historical and geographical context, the assessment team also examined the level of awareness of authorities regarding current TF risks in the NPO sector and the adequacy of oversight measures.

⁶ As at the 30 June 2019, the number of operating bureaux de change had reduced to 5.

- **Mobile Money Payment System:** URT is one of the top countries in the region which offer mobile money services. For this purpose, assessors wanted to determine regulatory measures in place and their effectiveness in preventing the abuse of the mobile money services for ML/ TF purposes.

1.2 Materiality

39. In terms of GDP, URT's economy is the second largest in the East African region. According to the World Bank, the volume of GDP in 2018 was USD 59.1 billion. Agriculture accounts for the largest share of GDP followed by construction, trade, manufacturing, mining & quarrying, financial & insurance sectors. Another point to note is that the size of the informal economy in URT is estimated to be between 50-60 percent of the formal sector output (GNP)⁷, falling within the highest bracket in Africa. An informal sector, also described as a shadow economy is associated with prevalence of tax evasion, corruption, organised crime and ML, among other characteristics⁸. It is possible that there are many illicit financial transactions which take place which are not detected by the authorities and not reportable under the AML/CFT regime. The presence of a significant informal economy may therefore make it easier for criminals to conceal serious criminal activity which may also affect the effectiveness of investigation and prosecution of ML, TF and predicate offences.

40. The real estate sector is one of the biggest sectors in the economy of the URT. It contributed 2.7 percent of the country's GDP in 2018⁹. Unregistered local agents known as "Madalali" are commonly used in real estate transactions. The real estate sector is particularly significant in the context of URT where proceeds of corruption (the top predicate crime) are laundered through investments in commercial and residential real estate. However, in view of the fact that the number of real estate agents is not known (since they are not required to be registered) and that the volume of transactions they handle is not known, their significance would be difficult to determine. It is also possible that some property owners deal directly with tenants.

41. Lawyers, notaries and other independent legal professionals are involved in facilitating real estate transactions through preparation of sale contracts as well as performing property conveyancing services. In this regard, lawyers are likely to prepare for, or carry out, transactions for their client concerning buying and selling of real estate connected to proceeds of corruption. Given the significance of the real estate transactions and the fact that lawyers are not being supervised or monitored for compliance with their AML/CFT obligations, the ML risks of lawyers are therefore significant.

42. The URT is endowed with various minerals, precious metals and precious stones. In 2014, the URT exported \$1.52 billion worth of precious metals and stone equivalent to 24 percent of total exports (DTIS Extractive Industries Report, 2016). The minerals sector contributed 4 percent of the country's GDP in 2015. As at end-December 2018, there were 215 precious metals and stones dealers in the URT. Given the size of the DNFBP sector and considering that precious metals and

⁷ IMF Working Paper WP/17/156, July 2017 available at <https://www.imf.org/en/Publications/WP/Issues/2017/07/10/The-Informal-Economy-in-Sub-Saharan-Africa-Size-and-Determinants-45017>

⁸ <http://ijecm.co.uk/wp-content/uploads/2015/10/31044.pdf>

⁹ Source: <https://www.nbs.go.tz/index.php/en/census-surveys/national-accounts-statistics/national-accounts-statistics/458-highlights-for-the-second-quarter-apr-jun-gdp-2019>

stones dealers are not being supervised or monitored for compliance with their AML/CFT obligations, their ML risks are significant.

1.3 Structural Elements

43. URT has all the key structural pillars necessary to support an effective AML/CFT system such as political stability, governmental effectiveness/ accountability, rule of law and an independent judiciary. The country is ranked at 25.7, 34.6 and 28.37 on political stability, rule of law and government effectiveness respectively according to the World Bank Worldwide Governance indicator in 2017 (where 0 corresponds to the lowest rank and 100 represents the highest rank). URT, while ranking in the top half of the continent in overall governance, demonstrates a negative trend since 2011, largely driven by weakened performance in human rights and sustainable economic opportunity¹⁰.

44. Furthermore, Government has established necessary institutions involved in the AML/CFT effort. Political commitment has been demonstrated through amendments of AML/CFT related laws and regulations to address deficiencies identified in the previous mutual evaluation and to incorporate new requirements introduced in the FATF Recommendations of 2012.

1.4 Background and Other Contextual Factors

45. The current administration of URT has taken serious steps to eradicate corruption in public institutions. The country removed more than 10,000 ghost workers from the public sector payroll in a crackdown on corruption. In April 2017, the President sacked 9,932 public servants found with fake academic certificate, following a verification process¹¹. In addition to fighting corruption, Government has also demonstrated the desire to foster improvement in service delivery, including investigation and prosecution of ML/TF cases and predicate offences.

1.4.1 AML/CFT strategy

46. According to the AML Act and AMLPOCA, the National Multi-Disciplinary Committee is responsible for developing national policies and measures to combat ML and TF in the URT. As at the end of the onsite visit, URT did not have written AML/CFT Policies and Strategy and it would be difficult to highlight anything in that regard. It is however noteworthy that, following the NRA exercise, the authorities came up with a National NRA Action Plan covering the period 2017 to 2021. The Plan categorised activities in terms of High Priority, Medium Priority, Quick Wins and Other Actions. The concern, however, is that the Plan does not address some of the areas which deserve high priority such as sectors which were rated highly vulnerable to ML and high proceeds generating predicate crimes.

47. On the other hand, despite absence of written AML/CFT Policy and Strategy, URT authorities have taken action to mitigate some identified risks with the help of various broader institutional and inter-sectoral strategies against crimes. The country has registered remarkable progress in the fight against corruption, poaching and illegal wildlife trade etc (see more details under IO.1).

¹⁰ MO Ibrahim Index of African Governance: Tanzania available at http://static.moibrahimfoundation.org/u/2015/10/02201457/49_Tanzania.pdf

¹¹ Tanzania Economic Outlook 2017 published by Deloitte available at <https://www2.deloitte.com/content/dam/Deloitte/tz/Documents/tax/tz-budget-economic-outlook-2017.pdf>

1.4.2 Legal & Institutional framework

Legal framework

URT criminalised the offences of ML in the AML Act and AMLPOCA while TF is criminalised under Prevention of Terrorism Act (POTA). The associated predicate offences are criminalised in various statutes. The laws are further complemented by AML Regulations, AMLPOCA Regulations and POTA Regulations. The legal framework addresses some of the obligations set out in the FATF Recommendations.

Institutional framework

The country has established various agencies/institutions and mechanisms responsible for formulating and implementing AML/CFT policies, some of which are as follows:

Ministry of Finance and Planning: is responsible for formulating and overseeing implementation of AML/CFT policies. It is also mandated to appoint additional members of the Multi-Disciplinary Committee on AML/CFT and it championed the national ML/TF risk assessment in 2015.

National Anti-Money Laundering and Combatting the Financing of Terrorism Committee: - is a multi-coordination agency established in terms of s. 8 of AML Act. The Committee is chaired by the Bank of Tanzania. Its membership is set out in the Act and the Minister has powers to appoint additional members. As at the time of the onsite, the members were: Bank of Tanzania, Ministry of Finance and Planning (from both Mainland Tanzania and Zanzibar), Attorney General's Chambers (from both Mainland Tanzania and Zanzibar), Directorate of Criminal Investigation (from both Mainland Tanzania and Zanzibar), Ministry of Foreign Affairs, FIU, CMSA, Tanzania Intelligence and Security Services (TISS) and Prevention and Combatting Corruption Bureau (PCCB). The main functions of the Committee are to: formulate, assess and improve the effectiveness of the policies and measures to combat ML and TF, advise Government on legislative, regulatory, and policy reforms in respect of AML, CFT and predicate offences.

Ministry of Foreign Affairs: - is responsible for managing the country's diplomatic relations with other countries and international organizations and sharing information with relevant stakeholders including the FIU on the UNSCRs relating to targeted financial sanctions.

Financial Intelligence Unit (FIU): is the central authority responsible for receipt and analysis of transactions reports and dissemination of the results of the analysis to relevant law enforcement agencies.

Bank of Tanzania: responsible for licencing banks, money and value transfer services (MVTs) providers and credit institutions, and AML/CFT supervision.

Tanzania Insurance Regulatory Authority: responsible for licencing insurance companies, brokers and agents, and AML/CFT supervision.

Capital Market and Securities Authority: is responsible for licensing of capital market players and also AML/CFT supervision of the licensed institutions.

National Prosecution Services (Mainland) and Director of Public Prosecutions (Zanzibar): are responsible for prosecuting all crimes, including ML and TF.

Prevention and Combatting Corruption Bureau (PCCB) and Zanzibar Anti-corruption and Economic Crimes Authority (ZAECA): are responsible for investigation and prosecution of corruption, ML and other offences uncovered in the course of investigating corruption in Mainland Tanzania and Zanzibar respectively.

Attorney General's Office (Zanzibar and Mainland): is responsible for drafting of laws including AML/CFT laws, mutual legal assistance and extradition as the central authority, and prosecution of civil matters on behalf of the URT Government.

Tanzania Police Force: is responsible for investigation and prosecution of all crimes including ML/TF offences.

Gaming Board of Tanzania (GBT): is responsible for licensing casinos and other gaming activities in Tanzania Mainland and is a designated AML/CFT supervisor and has explicit powers under the AML Act to take enforcement actions against its regulated entities for non-compliance with AML/CFT obligations.

Tanzania Revenue Authority (TRA): is responsible for conducting investigation and prosecution of tax crimes. It also manages cross-border currency and bearer-negotiable instruments declarations at ports of entry and exit.

Business Registration and Licensing Authority (Mainland) and Business and Property Registration Agency (Zanzibar): responsible for incorporation of legal persons in Mainland and Zanzibar respectively and also obtain basic ownership information for the legal persons.

Tanzania Intelligence and Security Services (TISS): - is responsible for gathering, analysing terrorism and TF intelligence and disseminating the information to the investigating authorities and the FIA.

The Registration, Insolvency and Trusteeship (RITA): - is responsible for formation of legal arrangements in the Mainland.

1.4.3 Financial sector and DNFBPs

Structure and Size of the Financial Sector

48. The financial sector total assets in the URT represented 69.83 percent of GDP in 2018. The financial sector is dominated by banks. Total assets of banks amounted to US\$12,517.93 million and represented 38 percent of the total financial sector (Table 1.1). As at end 2017, the total assets of the banking sector represented 18.5 percent compared to the global average for 2017 of 64.48¹². The size of the financial sector in URT is, therefore, relatively small. Commercial bank total assets accounted for 95.44 of the banking sector total assets. The rest were accounted for by six community banks, and five microfinance banks. The major activities of commercial banks revolve around providing plain vanilla credit, deposit and payment products. In this regard, the banking sector is characterized by intermediation of domestic deposits for credit provision (predominantly to the corporate sector) and investment in government securities.

49. Much of the business activities of the financial service providers are geared towards serving domestic customers. In this regard, the formal financial sector as a whole has limited exposure to cross-border financial flows. However, the NRA report indicated existence of hawala business and that it is mostly used in cross-border financial flows. In view of the confidentiality and anonymity involved, authorities do not know the size of this sector. Apart from the informal MVTS, URT has a significant informal financial groups sector (which comprise Accumulated Savings and Credit Association, Rotating Savings and Credit Associations, Village Savings and Loan Associations, and Savings and Credit Associations). These are not licensed or registered and not subjected to AML/CFT requirements. According to the NRA report, there were over 200,000 informal financial

¹² ¹² https://www.theglobaleconomy.com/rankings/bank_assets_GDP/

groups, with estimated capital of over TZS 500 billion. Although the ML risk was rated Medium Low, Assessors are of the view that criminals can abuse them for ML purposes in view of absence of entry controls and supervisory oversight¹³.

50. The non-bank financial institutions sector included 108 bureaux de change, four pension funds, and nine securities brokers/dealers and 31 insurance companies (five of which were life insurance companies with total assets amounting to US\$104.3 million at end-December 2018). Group life schemes accounted for about 80 percent of life insurance products. Individual life insurance products, including credit life insurance constituted about 20 percent. The securities market players include the stock exchange (Dar es Salaam Stock Exchange), brokers, investment advisors, dealers, collective investment schemes, funds managers, underwriters and custodians. As of March 2018, there were 28 listed companies with a total market value of approximately USD 8.37 billion (TZS 19,078.16 billion¹⁴).

51. The NRA assessed the ML risk of bureaux de change as medium high. Subsequent to the NRA findings, the authorities conducted an operation which led to the closure of 188 bureaux de change in 2018 and a further 103 bureaux de change in the first quarter of 2019 for reasons that included suppression of *hawala* services and non-compliance with capital requirements.

Table 1.1: Structure and Size of the Financial Sector as at December 2018

Type of FIs	No. of FIs	Total Assets (USD million)	Locally Majority Owned	Foreign Majority Owned
Banks	50	12,517.93	21	29
Financial leasing	3	44.95		3
MVTS	6	N/A	3	3
Bureaux de change	108	N/A	4	1
Life Insurance	5	243.64	2	3
General Insurance	26	703.93	8	18
Insurance brokers	109	4.84	109	0
Pension Funds	4	4,968.57	4	0
Collective Portfolio management / Assets management*	9	205.82	9	0
Securities	62	12,378	62	0

¹³ Subsequent to the onsite visit, the BoT has begun to address the informal financial service providers through delegated supervision. The BoT will capacitate the Local Government Authority to supervise non-deposit-taking community microfinance groups. The SACCOs will be supervised through the SACCO Regulator. In both cases, the BoT will retain the ultimate responsibility of AML/CFT supervision of these entities.

¹⁴ Information sourced from <https://www.dse.co.tz/>

Investment dealers**	13	5.14	13	0
Investment Advisor	13	67.98	13	0
CIS Administrator Manager	9	188.24	9	0
Asset Managers	9	62.85	9	0
Development Financial institutions	2	450.97	2	0
Mortgage refinancing Institution (TMRC)	1	59.27	1	0
Mortgage Financing Institution	1	9.22	1	0
Electronic Money issuers	6	3,048.36	1	5
Total		34,959.71		

Source: Information provided by the Authorities.

Exchange rate TZS 2,300/1 USD

Structure and Size of the DNFBP Sector

52. All DNFBPs are present in URT and are licensed by various licensing authorities except for real estate agents and TCSPs. All DNFBPs were not being supervised or monitored for compliance with their AML/CFT requirements, except for casinos and accountants (Table 1.2). This situation raised the perception of ML/TF risks for sectors such as real estate agents, lawyers and dealers in precious metals and stones.

53. The real estate sector is one of the biggest sectors in the economy of the URT. It contributed 3.2 percent of the country's GDP in 2015. Unregistered local agents known as "Madalali" are commonly used in real estate transactions. The real estate sector is particularly significant in the context of Tanzania where proceeds of corruption (the top predicate crime) are laundered through investments in commercial and residential real estate.

54. Lawyers, notaries and other independent legal professionals are involved in facilitating real estate transactions through preparation of sale contracts as well as performing property conveyancing services. In this regard, lawyers are likely to prepare for, or carry out, transactions for their client concerning buying and selling of real estate connected to proceeds of crime. Given the significance of the real estate transactions and the fact that lawyers are not being supervised or monitored for compliance with their AML/CFT obligations, the ML/TF risks of lawyers are therefore significant.

55. The URT is endowed with various minerals, precious metals and precious stones. In 2014, the URT exported \$1.52 billion worth of precious metals and stone equivalent to 24 percent of total exports (DTIS Extractive Industries Report, 2016). The minerals sector contributed 4 percent of the country's GDP in 2015. As at end-December 2018, there were 283 precious metals and stones

dealers in the URT. Given the size of the DNFBP sector and considering that precious metals and stones dealers are not being supervised or monitored for compliance with their AML/CFT obligations, their ML/TF risks are also significant.

56. Accountants are designated as reporting persons. However, it is not known how many engage in the activities covered by the FATF Recommendations. TCSP providers are not designated as reporting entities. In this regard, trust and company services provided by entities other than lawyers (in respect of the creation of legal entities) are not covered.

Table1.2: Structure and Size of the DNFBP Sector: 2018

Type of DNFBP	Law under which entity is licensed/registered	Licensing/ Registering authority	Number	AML/CFT supervisor	Comments
Casinos (including internet casinos)	Gaming Act, Cap. 41	Gaming Board of Tanzania	10 land-based casinos Six internet casinos	Gaming Board of Tanzania	Designated as reporting entities in Mainland Tanzania Casinos are prohibited in Zanzibar
Real Estate Agents	None	None	The number is not known.	None	Designated as reporting entities in URT
Dealers in precious metals	Mining Act, Cap. 123	Ministry of Minerals	283	None	Designated as reporting entities in URT The number provided is for both dealers in precious metals and stones.
Dealers in precious stones	Mining Act, Cap. 123	Ministry of Minerals		None	
Legal professionals	The Advocates Act, Cap. 341 (Tanzania Mainland)	Registrar High Court – Tanzania Mainland	At least 5,000 members of Tanganyika Law Society.	None	Designated as reporting entities in URT
	and The Legal Practitioners Decree (Zanzibar) – practicing certificate	Registrar High Court – Zanzibar	At least 100 members of Zanzibar Law Society. Membership is voluntary	Zanzibar Law Society	Designated as reporting entities in URT Zanzibar Law Society has not yet started discharging its AML/CFT supervisory role

Accountants	The Auditors and Accountants (Registration) Act No 33 of 1972	National Board of Accountants and Auditors (NBAA)	22 accounting and 232 Auditing firms in 2018.	None	Designated as reporting entities in URT NBAA has started monitoring accountants for compliance with AML/CFT obligations
Trust and company Service Providers	None	None	Not Known	None	Not designated as reporting persons

57. On account of the relative materiality and risk in the context of the URT, positive and negative aspects of supervision for the reporting entities were weighted most heavily for the banking sector, heavily for important sectors (real estate agents, lawyers and dealers in precious metals and stones), moderately heavy for the securities sector and bureau de change, and less heavily for less important sectors (casinos, accountants, TCSPs, life insurance companies and all other non-bank financial service providers under the supervisory ambit of the BoT).

1.4.4 Preventive measures

58. The AMLA, AMLPOCA, AML Regulations, AMLPOCA Regulations and their subsequent amendments are the legal framework for application of preventive measures for FIs and DNFBPs in URT. In relation to Mainland Tanzania, the AML Regulations are tabled in Parliament as required under s.38 of the Interpretation of Laws Act. Hence, for purposes of assessing compliance with R.10, these Regulations are considered as 'law'¹⁵. In this regard, for Mainland Tanzania, when assessing compliance with some criteria of R.10 which must be in 'law' and where the requirements have been set out in these Regulations, Assessors have rated such criteria as 'met'. On the other hand, Regulations in Zanzibar are not laid before Parliament. So, when assessing criteria which are required to be in 'law', Zanzibar has been rated 'not met'. The preventive measures include CDD, STR reporting, tipping off and record keeping which are applicable to reporting persons. The FIU has issued sector specific AML/CFT Guidelines for BoT, CIS, CMSA and Insurers to assist in the implementation of preventive measures. Further, the FIU issued guidelines for the verification of customer identities to all reporting persons. The AML/CFT laws and regulations are broadly in line with requirements of the FATF Standards. However, some technical deficiencies remain, as outlined in the TC Annex. The scope of AMLA and AMLPOCA in relation to FIs does not cover all the FIs designated under the FATF Glossary, in particular, fund managers and investment dealers, other than securities dealer/ broker (AMLA), and financial leasing, fund managers, investment dealers, other than securities/broker (AMLPOCA). In addition, the definition of Politically Exposed Person (PEP) provided under both AMLA and AMLPOCA covers foreign PEPs but does not extend to domestic and International Organisation PEPs. In relation to DNFBPs, the legal framework does not

¹⁵ Legal basis of Requirements on Financial Institutions and DNFBPs- FATF Recommendations.

designate TCSPs as reporting persons and therefore they are not subject to the requirements set out in the AML/CFT legal framework. On the other hand, URT has designated customs officers and auctioneers as reporting persons. The designation was not based on an ML/TF risk assessment. The NRA report of 2016 indicates that auctioneers have a rating of medium to low ML/TF risk. Although motor vehicle dealers were assigned a high ML risk rating, URT has not designated them as reporting persons.

1.4.5 Legal persons and arrangements

59. The following types of legal persons and legal arrangements can be registered in URT: public companies; private companies limited by shares; private companies limited by guarantee and unlimited private companies; partnerships; trusts and societies. The registration of legal persons is undertaken by the Business Registrations and Licensing Agency (BRELA) an Executive Agency under the Ministry of Industry and Trade for Tanzania Mainland. BRELA is responsible for registration of Companies, Business Names, Trade and Service Marks and also grants Patents and issues general business licenses under the Business License Act No. 25 of 1972. In Zanzibar, the Business and Property Registration Agency (BPRA), an Executive Agency under the Ministry of Trade and Industries of Zanzibar, is responsible for administration and regulation of laws concerning registration of Companies, Societies, Business Names, Industrial Property and Documents including partnership deeds. BPRA is established under the Zanzibar Business and Property Registration Agency Act of 2012 and replaced the functions of The Registrar General's Office (RGO) There are 9,451 companies registered in URT.

60. The Registration, Insolvency and Trusteeship (RITA) is responsible for formation of legal arrangements on the Mainland. In Zanzibar, legal arrangements are administered under the Societies Act which is one of the legislations administered by BPRA. Registration of Partnership Deed in Tanzania Mainland is undertaken by the Registrar of Titles under the Registration of Document Act Cap. 117.

Table 1.3: Types and Number of NPOs

Sector	Number of Entities within the Sector	Authorised/ Registered by	Estimated Financial flows through the sector (Tshg million)	
			2015	2016
Health	266	DNGO	33,000	128,000
Education	202	DNGO	17,000	21,000
Religious	-	-		
Social Protection	682	DNGO	30,000	15,000
Agriculture	137	DNGO	7,000	6,000
Environment	228	DNGO	7,000	8,000
Gender	115	DNGO	3,000	6,000
Good governance	312	DNGO	3,000	5,000
Multi Sector	1,004	DNGO	17,000	6,000
Energy	8	DNGO	5,000	-
Water	9	DNGO	4,000	-

61. URT conducted the National Risk Assessment (NRA) in 2015-2016 in order to assess elements of ML/TF risks and vulnerabilities in the country. The assessment did not however identify, assess and understand the risks, vulnerabilities and the extent to which legal persons created in the country can be, or are being misused for ML/TF.

62. There is no mandated legal structure for non-profit organizations (NPOs) relating to the subset of NPOs that might be subject to TF exposure and abuse. Most of these organizations are set up as associations, charities, churches, clubs, cooperatives, societies and unions. NPOs may also be companies limited by guarantees but not shares. There are two separate legal frameworks for regulating and coordinating NPO sector in the URT. The laws regulating NPOs in Mainland Tanzania include the NGO Act (2002), as amended in 2005, and the NGO Regulations (2004). Societies Act No.6 of 1995 and Societies Rules of 1995 regulate activities of NPOs in Zanzibar. There is separate designated registrar of NPOs for registration and coordination of NPOs in Mainland Tanzania and Zanzibar. URT has not conducted specific risk assessment to identify NPOs which could be at the risk of abuse for TF purposes. There is a need for effective outreach activities to protect the sector from possible terrorist financing abuse.

1.4.6 Supervisory arrangements

63. The responsibility for supervision and oversight of financial service providers is shared among three financial sector supervisory authorities, namely, the BoT, CMSA and TIRA. The BoT is responsible for licensing and supervision of banks and other financial service providers (e.g. development finance institutions, mortgage refinance companies, housing finance companies, financial leasing companies, and bureau de change) for both prudential and AML/CFT. MVTS providers are affiliated to banks and, therefore, the BoT supervises them as part of the financial products/services of banks. Mobile money service providers are also licensed and supervised by BoT

64. The CMSA is responsible for licensing capital market intermediaries that include securities brokers/dealers, securities custodians, collective investment schemes, nominated advisors, and fund managers. It is also responsible for both prudential and AML/CFT supervision of the capital market intermediaries. However, the CMSA does not have a legal basis to be the AML/CFT supervisor of capital market intermediaries established in Zanzibar because s.18A of AMLPOCA does not include the CMSA among the AML/CFT supervisors in Zanzibar. Life and general insurance companies are licensed by the TIRA which also is responsible for their prudential and AML/CFT supervision.

65. All DNFBPs are present in URT. Except for real estate agents and TCSPs, DNFBPs are subject to licensing/registration by various authorities. Trust and company services are largely provided by lawyers and accountants but any other natural or legal person can provide this service without being specifically licensed/registered to do so. Although the AMLA and AMLPOCA have designated AML/CFT supervisors for some DNFBP sectors, the AML/CFT supervisors for real estate agents, dealers in precious stones/metals, accountants and lawyers (in Tanzania Mainland) have not yet been designated. Beyond the Law Society of Zanzibar and GBT that were designated as AML/CFT supervisors of the entities they license or register, there were no designated supervisors responsible for supervising or monitoring other DNFBPs for AML/CFT compliance.

66. Despite the fact that the AML/CFT supervisor for accountants has not yet been designated, the NBAA has proactively taken on the responsibility for AML/CFT supervision of accountants and auditors. In addition, using s. 6(k) of AMLA, under which the FIU has power to conduct inspections on the reporting persons for purposes of detecting any ML/TF activities, the FIU has conducted AML/CFT supervision of some financial service providers either jointly with AML/CFT supervisors or on its own.

1.4.7 International cooperation

67. URT has ratified international instruments relevant to AML/CFT, which it has domesticated to support its international cooperation requirements. The legal framework for extradition and MLA is set out in the Mutual Assistance in Criminal Matters Act (MACM Act), 1994 and the Extradition Act, 2002 which are not unduly restrictive. In addition, URT has entered into bilateral and multilateral agreements (e.g. the Harare / Commonwealth MLA Scheme and South African Regional Police Chiefs Cooperation Organisation (SARPCCO) as well as with other countries) to facilitate international cooperation. ML and TF are extraditable offences in URT.

68. The LEAs and the AG's Office through DPP (which handles MLA and extradition requests) have made and received requests on cases with their foreign counterparts but few cases are related to ML and no case on TF. The FIU has signed 17 MoUs with other FIUs including FIUs in the ESAAMLG region to facilitate exchange of information. As at the date of the onsite visit, the FIU had exchanged information with counterparts such as those in Kenya, United Kingdom and South Africa. The BoT and other supervisory agencies, to some extent, can cooperate and exchange information with foreign counterparts.

CHAPTER 2: NATIONAL AML/CFT POLICIES AND COORDINATION

2.1 Key Findings and Recommended Actions

Key Findings

- a) URT has demonstrated a reasonably fair understanding of its ML/TF risks, the risks in the regulated sectors and high proceeds generating crimes which are laundered in various ways. This understanding is essentially based on the NRA exercise which was carried out from 2015 to 2016, information gathered in the authorities' operational activities and information exchanged in various platforms for AML/CFT coordination and cooperation.
- b) Identification and assessment of ML/TF risks associated with legal persons and NPOs was inadequate due to limited information. In addition, existence of a significant informal economy combined with a largely cash-based society and hawala, further complicated the identification and assessment of ML/TF risks. Furthermore, the NRA has not been updated to take into account evolving ML/TF risks. Hence, the current understanding of ML/TF risks might be negatively affected by these factors.
- c) URT is yet to develop national AML/CFT policies to address ML/TF risks identified in the NRA report. The Action Plan developed in 2016 does not speak to some of the high proceeds generating crimes and high ML risk sectors highlighted in the NRA. On the other hand, the authorities have taken measures to address wildlife crimes, corruption and tax evasion which were identified during the NRA as the major proceeds generating crimes, activities which started prior to the NRA exercise.
- d) The results of the NRA do not appear to have resulted in a sufficiently consequential change in approach to high risk scenarios or the employment of appropriate mitigation measures to those areas noted as high risk. Although motor vehicle dealers were identified as presenting a high ML risk, they have not been designated as reporting entities nor are FIs required to apply EDD measures on them. Conversely, customs officer and auctioneers are still designated as reporting persons although they were not identified as posing high risk.
- e) There are a variety of formal and informal inter-agency coordination and cooperation in URT, which enjoy high level support. URT established a National Multi-Disciplinary Committee and there are also specialised task forces to facilitate interagency coordination amongst LEAs and prosecutors. However, there is no direct link between these task forces and the National Committee which is responsible for policy matters. Furthermore, there are no mechanisms to facilitate coordination in the implementation of UNSCRs related to PF.
- f) URT has not taken adequate actions to promote reporting entities' awareness of the results of the national ML/TF risk assessment.

Recommended Actions

- a) Update the NRA to take into account the evolving ML/TF risks in order to enhance the level of understanding of ML/TF risk in URT. The update should include taking a more systematic, holistic and in-depth assessment of the ML risks posed by misuse of legal person and legal

arrangement, the informal economy, hawala among others. TF risk assessment should involve a broad range of areas such as TF threats and vulnerabilities arising from NPOs, hawala activities, mobile money operators and cross-border currency transportation.

- b) Develop national AML/CFT policies and/ or strategies which are informed by the risks identified through the updated NRA exercise and re-orient the National Action Plan so that the activities contained therein are in line with the results of the NRA. URT should continue with the fight against poaching, tax evasion, corruption and other high proceeds generating crimes.
- c) Use the results of the ML/TF risk assessment to justify exemptions and support the application of enhanced measures for higher risk scenarios or simplified measures for lower risk scenarios. Consider designating entities which were identified as posing high ML risk in the NRA report as reporting entities for AML/CFT purposes or designate them as high risk and require FIs to apply EDD measures on them. Consider reviewing the efficacy of maintaining designation of some sectors/ entities as reporting entities which have not been identified in the NRA as posing ML/TF.
- d) Put in place mechanisms which will facilitate coordination between the work of the operational committees, task forces and the Multi-Disciplinary Committee to ensure that the work of the task forces is taken into consideration at the national policy making level.
- e) URT should undertake extensive outreach to ensure that the private sector and competent authorities which did not participate in the NRA exercise are aware of ML/TF risks facing the country and urge them to develop appropriate mitigating measures.

The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 2, 33 and 34.

2.2 Immediate Outcome 1 (Risk, Policy and Coordination)

2.2.1 Country's understanding of its ML/TF risks

69. URT has demonstrated a reasonably fair understanding of its ML/TF risks, the risks in the regulated sectors and crimes which generate high proceeds for laundering. This understanding is essentially based on the NRA report, information gathered in the authorities' operational activities and information exchanged in various platforms for AML/CFT coordination and cooperation. The finding is based on the review of the NRA report produced by the authorities and interviews conducted during the onsite and Face to Face meetings.

70. URT carried out a national ML/TF risk assessment exercise from September 2015 to December 2016 to identify, assess, and understand ML/TF risks. Representatives of private sector entities participated in the NRA exercise. The ML risk for the country was assessed as medium high while TF risk was rated as medium. The NRA exercise was completed in December 2016 but publication of the NRA report was done in May 2019. Furthermore, URT has not conducted any update or subsequent sectoral risk assessment to improve the country's understanding of the prevailing ML/TF risks. The three-year delay in communicating the results of the NRA might have affected the country's understanding of ML/TF risks.

71. The URT authorities which the Assessment Team met generally agreed with the NRA conclusions as far as the main proceeds-generating crimes posing ML threat and the vulnerabilities of the sectors are concerned. However, the NRA did not adequately cover legal persons, legal arrangements, Non-Profit Organisations (NPOs) and trust and company service providers (TCSPs). Therefore, the ML/TF risks of such organisations, persons and arrangements are not comprehensively understood. In addition, although the NRA identified corruption, tax evasion, illicit

drug trafficking, counterfeiting goods, illegal mining and illegal trading in precious metals and stones and poaching and unlawful dealing in government trophies as high proceeds generating crimes, the Assessors are of the view that the risks posed by other crimes such as trafficking in human beings and migrants smuggling were not adequately assessed and understood.

72. With regard to ML risk in the sectors, the real estate, dealers in precious metals and stones, motor vehicle dealers and informal value transfer (hawala) services were considered as posing high ML risk. The sectors of banking, casinos and other gaming activities, bureaux de change, electronic money issuers, lawyers, notaries and other independent legal professionals were rated medium high in terms of ML risk. As indicated in the NRA report, the presence of a significant informal economy combined with a largely cash-based society and hawala, further complicated the identification and assessment of ML and TF risks.

73. Furthermore, the assessment team is of the view that there is merit in some refinement or updating the NRA. For instance, the ML risk in the foreign exchange bureaux sector was rated medium high. Some of the reasons on which that rating was based were that there was 'a comprehensive AML legal framework', 'high effectiveness of supervision procedures and practices' and 'high effectiveness of entry controls'. However, during 2017-2019 period, the authorities closed 291 foreign exchange bureaux in Mainland Tanzania. Whereas the authorities indicated that the closure was in relation to non-compliance with new capital requirements introduced in 2017, the media also quoted the central bank governor as having said that the foreign exchange bureaux were closed because they were involved in ML and/or operating without a licence¹⁶. If all the foreign exchange bureaux which were closed were involved in ML and operating without a licence, then the reasons supporting the ML rating of 'medium high' might not be justifiable. In addition, authorities also established that one of the people who was convicted for illegal poaching and wildlife trade, was operating a foreign exchange bureau which was used to launder the proceeds from poaching. Furthermore, according to the NRA report and discussions held with the Multi-Disciplinary Committee, some foreign exchange bureaux were linked to hawala activities and unlawful funds transfers. Subsequent engagement with URT authorities revealed that there was no common understanding among the authorities on the facilitation of hawala by bureaux de change. Based on the foregoing observations, the assessment team is of the view that the authorities' understanding of ML risk in the bureaux de change sector was limited.

74. The authorities identified TF as medium risk based on the assessment of various threats and vulnerabilities surrounding URT. The assessment of TF threat of various sectors was largely based on intelligence reports as the authorities did not use any quantitative data. Assessors are therefore of the view that the assessment and subsequent ratings of threats and vulnerabilities was limited in scope as expounded below. For instance, the authorities did not consider the threat arising from individuals or entities resident in URT who might be sympathisers of terrorist or terrorist organisations operating in other countries and who might be involved in making financial contributions to foreign terrorists or terrorist organisations. The case in point is a national from a neighbouring country who was extradited from URT in 2015 at the request of the neighbouring country. The person lived in URT, had 4 bank accounts, vehicles and houses in URT. Indications of TF came to the attention of the authorities after the individual had been extradited. Furthermore, the NRA report indicated that there was limited CFT knowledge among reporting persons and the relevant authorities.

75. With the benefit of a hindsight, authorities were aware that the terrorist bombing at the US embassy in Dar es Salaam which occurred in 1998 involved some NPOs and 2 Tanzanians. The

¹⁶The Citizen (newspaper), Friday, June 21, 2019

discussions with authorities showed that there were no specific requirements or initiatives which had been introduced to detect or curb TF transactions in the NPO sector. Although there was no adequate sectoral risk assessment undertaken on the NPO sector for TF purposes, the level of risk on the sector was rated Medium Low. On the basis of these factors, the Assessors concluded that understanding of TF risk in the NPO sector was very limited.

76. In addition, the TF threat for mobile money operators was rated medium high. The assessment was also based on intelligence reports and did not use any data. In view of this, Assessors are of the view that the vulnerability of this sector could be higher for the following reasons. Based on the regulatory framework as at the time of the NRA and onsite visit, customers were allowed to make cross-border payments but there were no regulatory measures to curb abuse of this facility for TF purposes. Although there was a transaction limit of Tshg 3 million, there were no obligations to identify beneficiaries; there were no limits on number of wallets a person could hold etc. Furthermore, ML risk in the hawala sector was rated high while the TF threat in relation to hawala was rated medium. Since hawala activities take place underground, the authorities did not explain the reasons which supported the medium rating. Considering lack of statistics on hawala activities to facilitate a quantitative assessment, there is a greater likelihood that the TF threat could be higher than medium. In addition, at the time of conducting the NRA exercise, URT had not yet started implementing cross-border currency declarations requirements and the NRA findings were not supported by any quantitative and quantitative data.

77. In view of the aforementioned gaps in the assessment of TF risk, the assessment team is of the view that the understanding of TF risk is limited.

2.2.2 National policies to address identified ML/TF risks

78. URT has not yet developed AML/CFT policies to address identified ML/TF risks and its activities do not adequately address the identified ML/TF risks. This finding is based on the NRA Action Plan and interviews with key stakeholders.

79. URT has an NRA Action Plan which was prepared after the NRA exercise. The Action Plan is divided into three categories: High Priority, Medium Priority and Quick Wins. Within the High Priority there are the following planned activities: create AML awareness, amend AML Act, amend AMLPOCA, Amend AML and AMLPOCA Regulations, review AML/CFT Guidelines, NIDA to fast track issuance of national IDs, employ adequate AML/CFT supervision staff, collection of required AML/CFT data and statistics for mutual evaluation, policy formulation and future NRA. URT has conducted AML/CFT awareness for reporting entities, LEAs, judiciary, and Members of Parliament. In addition to this, competent authorities have issued Regulations to facilitate implementation of cross-border currency requirements, electronic funds transfers, cash threshold reporting, risk assessment requirements. Furthermore, the FIU has recruited additional staff members, NIDA has registered over 80% of the population and mobile network operators are re-registering all Simcard holders using biometrics.

80. However, with reference to high proceeds generating crimes and high ML risk sectors highlighted under Core Issue 1.1 above, the Action Plan has not put much focus on areas of high ML/TF vulnerabilities and risks identified in the NRA. Notwithstanding this, some competent authorities have continued to take action to address some of the identified risks (see details under Core Issue 1.4 and IO. 7), which URT had started doing prior to the NRA exercise.

2.2.3 Exemptions, enhanced and simplified measures

81. URT has not used the NRA results to justify exemptions and support application of enhanced measures for some higher risk scenarios or simplified measures for some lower risk scenarios. The finding comes from the NRA report, AMLA, AMLAPOCA and Regulations.

82. URT conducted a Financial Inclusion Risk Assessment alongside the national ML/TF risk assessment in 2015/2016 to assess risks arising from existing as well as emerging products, and propose measures to mitigate the identified risks. However, the exercise did not specifically identify any low risk scenarios nor did it recommend products or services that would justify the application of simplified customer due diligence (CDD) or exemptions. On the other hand, in relation to Mainland Tanzania reporting entities are permitted to apply simplified measures if they carry out an ML/TF risk assessment and determine that the business relationship or transaction presents a low ML/TF risk.

83. Despite the fact that the NRA report did not identify any circumstances which would justify exemptions from application of some FATF Recommendations, URT's legal framework exempts reporting entities from identifying and verifying the identity of other reporting entities (see discussion under R.1). This means that whenever foreign exchange bureaus, real estate agents, dealers in precious stones and metals, etc want to open a bank account, they are not required to produce identification documents for purposes of verifying their identity. This is a matter of concern considering that the NRA report shows that ML risk for institutions such as real estate agents and dealers in precious stones and metals is high. There is no proven low risk of ML/TF to support the exemptions.

84. In relation to Mainland Tanzania, competent authorities amended the AML/CFT Regulations in 2019 to include requirements for reporting persons to undertake EDD in the following circumstances: where high ML/TF risk has been established, a transaction or business relationship with a person established in a high risk jurisdiction, cross-border correspondence relationship, where a potential customer is a PEP or family member of a PEP or known close associate of a PEP, where a customer provided false or stolen ID, where a transaction is complex or unusually large, unusual patterns of transactions and transactions with no apparent economic or legal reasons. However, the application of EDD to PEPs is limited to foreign PEPs and is applicable only to Mainland Tanzania (see analysis in R.12).

85. Furthermore, reporting persons in Mainland Tanzania subject to the AML Law are required to adopt a RBA to applying AML/CFT measures which includes analysis of the following factors: customers; products; services, delivery channel risks and geographical risks. The outcome of this analysis helps the reporting persons to determine the extent of CDD measures to take in order to manage the ML/TF risks.

86. Although motor vehicle dealers were identified in the NRA report as presenting a high ML risk, authorities have not designated them as reporting entities. On the other hand, apart from the reporting persons covered by the FATF standards, the URT includes some categories as reporting persons under the AML/CFT Law. These include customs officer and auctioneers. However, URT has not explained the basis under which these were designated as reporting persons and the NRA report does not include them on the list of high-risk sectors or entities.

2.2.4 Objectives and activities of competent authorities

87. In the absence of written AML/CFT policies, Assessors could not establish the extent to which objectives/ activities of the competent authorities are consistent with evolving AML/CFT policies. Activities undertaken by the authorities were not adequately aligned with the NRA results. This finding is based on the Action Plan and interviews.

88. As described above, the URT developed an Action Plan with a view to address the ML/TF risks identified in the NRA report. Some of the activities which competent authorities have undertaken include: NIDA has been fast-tracking issuance of IDs, BRELA introduced online search for basic ownership information. However, the Action Plan does not contain some specific ML/TF vulnerabilities which were rated high (such as those related to the banking sector, real estate sector, dealers in precious metals and stones, hawala). In addition, activities to address the high proceeds generating crimes are not reflected in the Action Plan.

89. Notwithstanding the foregoing observation, the URT Government undertook some reform measures such as establishment of Economic and Corruption Division of High Court in 2016 whereby some offences like corruption, money laundering, drug trafficking are tried under that court. Furthermore, implementation of the cross-border declaration of currency and bearer negotiable instruments started on 1st October 2017 for the Tanzania Mainland and on 1st July 2018 for Zanzibar.

90. In addition, URT established a National Task Force on Anti-Poaching in 2016 consisting of the Tanzania Police Force, Tanzania Intelligence and Security Service, Prison, Immigration, National Prosecution Office, PCCB and Tanzania Revenue Authority. The main reason for establishing the Task Force was to ensure highly coordinated and intelligence-led, joint anti-poaching operations. The authorities realised the benefits of coordinated actions against poaching, sharing resources and exchanging information. As highlighted under IO.7, the Task Force has made noteworthy achievements in investigating wildlife crimes. Similarly, Assessors noted that some competent authorities also continued with activities (which had started before the NRA exercise) to address some major proceeds generating crimes such as corruption and tax evasion although URT had not included them in the Action Plan.

2.2.5 *National coordination and cooperation*

91. URT established a National Multi-Disciplinary Committee on Money Laundering and Terrorist Financing (National Committee on AML/CFT) whose functions include formulating, assessing and improving effectiveness of the policies. It is comprised of representatives from various Government Institutions: BoT, MoFP (Tanzania Mainland), MoFP (Zanzibar), AG (Tanzania Mainland), AG (Zanzibar), DCI (Tanzania Mainland) and DCI (Zanzibar), MoFA, Commissioner of FIU is the Deputy Chairperson, PCCB, CMSA, National Intelligence Services. The Deputy Governor of BoT is the Chairperson. The Committee does not have standing sub-committees, however, it can co-opt any member or establish Working Groups on Ad-hoc basis to handle specific assignment as the case was during the NRA. In addition, the Committee does not receive direct reports from other Task Forces which exist as described below.

92. There are also some formal and informal arrangements that support cooperation and coordination between the authorities. These include the National Task Force on Anti-Poaching, the National Counter Terrorism Centre, the National Criminal Justice Forum, Task Force on Serious Crimes. The National Criminal Justice Forum helps relevant authorities to cooperate and coordinate strategic issues in the administration of criminal justice including AML/CFT through meetings and discussions. The Forum joins together relevant agencies from prosecution, investigation, judiciary, intelligence, prisons, social welfare, local Government, immigration services, Government chemist, academia, civil society and law society.

93. Based on the foregoing, it is noted that there are important mechanisms in place to coordinate activities. Nonetheless, the assessment team believes that the coordination framework could be strengthened to ensure better accountability for delivery of mitigation programmes. While the separate Task Forces are making achievements there is no link with the Multi-Disciplinary National

Committee. Absence of that link does not provide the National Committee the opportunity of getting information which would feed into AML/CFT policies.

94. In relation to TF, there is a National Counter Terrorism Centre which consists of security agencies and it coordinates activities related to terrorism and TF. However, Assessors noted that in a case related to a national of a neighbouring country who was residing in URT and was linked to a terrorist case which happened in that country, the Police did not inform or seek financial information from the FIU. In terms of the POTA Regulations, authorities are supposed to cooperate in disseminating information on UNSCRs amongst each other and to the reporting persons. However, cooperation in this area has been inadequate (see IO.10 for analysis). In addition, there is no legal framework and coordination framework in place to implement UNSCRs related to PF (see IO.11 and R.7).

95. Overall, although URT established a Multidisciplinary Committee, in the absence of written AML/CFT policies, Assessors could not establish existence of cooperation in relation to development and implementation of policies. There has not been cooperation in relation to financing of PF. Nevertheless, there has been formal and informal cooperation in the activities of competent authorities to combat some predicate offences.

2.2.6 Private sector's awareness of risks

96. URT has made some efforts to ensure that the private sector is aware of the ML/TF risks in the country by involving some representatives of the private entities when it carried out the NRA exercise. Each of the following private sector associations provided one representative: Tanganyika Law Society, Zanzibar Law Society, Tanzania Bankers Association, Tanzania Stock Exchange Brokers Association, National Board of Accountants and Auditors, Zanzibar Association of Accountants and Auditors, and Association of Tanzania Insurers. Following the completion of the NRA exercise in December 2016, the authorities published the NRA report on the FIU website in May 2019. However, the delays in publishing the NRA report might have affected the ML/TF risk awareness of the private sector. The Assessment Team did not get information indicating that the private sector was informed about the availability of the NRA report on the FIU website. Some private sector representatives which met the Assessors were not aware of the NRA report.

97. Apart from the publication of the NRA report on the FIU website, there has not been any direct engagement with the private sector on the results of the NRA by the Multi-Disciplinary Committee, FIU, supervisors responsible for the financial and DNFBP sectors. Considering that there was a low private sector representation in the Working Groups which conducted the NRA, the Assessment Team concluded that the efforts to ensure that FIs, DNFBPs and other sectors are aware of the results of the national ML/TF risk assessment were inadequate.

Overall conclusions on IO.1

98. **URT is rated as having a low level of effectiveness for IO.1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1 Key Findings and Recommended Actions

Key Findings

Use of Financial Intelligence (Immediate Outcome 6)

- a) URT competent authorities use financial intelligence produced by the FIU or derived from other sources in their investigations to a very limited extent. Only a few ML investigations have been conducted by the LEAs based on the financial intelligence reports. LEAs also do not routinely seek financial intelligence to support their ongoing investigations nor to identify and trace criminal assets. LEAs have not proactively used financial intelligence to detect or investigate TF. There seems to be challenges with the LEAs' overall understanding of the relevance of financial intelligence to their investigations.
- b) The FIU is established as the national centre and autonomous body for the receiving, analysing financial information and disseminating financial intelligence to competent authorities. It is located in a secure area surrounded by government institutions. There are adequate measures for physical security, personnel security and network and information resources security. The FIU joined Egmont Group in 2014.
- c) The FIU receives STRs mainly from the banking sector. The quality of the reports according to the authorities, is satisfactory. However, the FIU receives very few STRs from other reporting entities such as mobile money operators, MVTs providers and DNFBPs. Despite the increase in numbers of STRs submitted to the FIU over the past years, the overall level of reporting to the FIU remains low given URT's risk profile and the size of its economy. There were also inconsistencies in the number of STRs by reporting persons and statistics provided by the FIU.
- d) The FIU has, to some extent, demonstrated the ability to produce financial intelligence reports of good quality with useful information to the LEAs. However, the low level of STR reporting, lack of access to some information sources and the insufficient staffing of the FIU do not allow it to achieve significant results in operational analysis.
- e) The FIU conducts strategic analysis to some extent, however, the depth of the analysis could be improved. Dissemination of strategic intelligence products does not reach the widest relevant audience.
- f) Domestic cooperation and exchange of information is done to a limited extent in the URT as signified by very few requests for information from domestic agencies to the FIU. The FIU provides information to competent authorities through spontaneous disclosures. The FIU has to some extent been involved in joint investigations with LEAs and other relevant Competent Authorities.

ML Investigation and Prosecution (Immediate Outcome 7)

- a) The URT has identified and investigated few potential money laundering cases. The authorities do not routinely conduct parallel financial investigations to detect ML when investigating major proceeds generating offences such as corruption, drug trafficking, wild life crimes, trafficking in human beings and smuggling immigrants. ZAECA, in Zanzibar, is only investigating ML cases from financial intelligence reports disseminated by the FIU, and has not detected ML from any other source.
- b) LEAs such as the TPF, the PCCB, the ZAECA are adequately staffed. The newly set up NPS has a good organisational structure, but staff compliment of the Division of Fraud, Money Laundering and Corruption Offences is not adequate. However, there is a need for capacity building of all LEAs to acquire in-depth skills to detect, investigate and prosecute ML and associated predicate offences.
- c) The NPS and PCCB have demonstrated an ability to prosecute all types of ML offences, including one case which is predicated on a foreign offence. However, no legal person or legal arrangement has been prosecuted as yet for ML.
- d) The URT has had recourse to Task Forces comprising LEAs, and also engaged in joint investigations with investigators from other jurisdictions, for successful investigations in ML and associated predicate offences.
- e) Despite the absence of any national policy (see IO 1), LEAs have prioritised the investigation of and prosecuted some ML and associated predicated offences in line with the risk profile identified by the authorities in the NRA. However, the assessment team could not determine with certainty whether the investigation and prosecution of ML associated with major predicate offences in Tanzania are consistent with the country's prevailing risks and threats, as there has been no update to the NRA report. Proceeds generating offences such as trafficking in human beings and smuggling immigrants, generating offences which have not been considered as high risks in the NRA, are not being considered for ML charges, but simply being prosecuted for the predicate offences only.
- f) The URT did not demonstrate that it regularly investigates falsely and non-declared or disclosed cross border currencies and bearer negotiable instruments
- g) The sanctions regime for ML is not being implemented as an effective, proportionate and dissuasive measure. However, the URT has, in cases where prosecution for ML or associated predicate offences could not be pursued, targeted the recovery of such proceeds. When suspects cannot be arraigned for prosecution, the URT resorted to specific provisions of the law which enabled the court to make a finding of guilt, such that forfeiture proceedings may be initiated. Also, in another case, authorities maintained prosecution of a deceased party, found with proceeds, with a view to initiate confiscation proceedings.

Confiscation (Immediate Outcome 8)

- a) LEAs, vested with the investigation and prosecution of ML offences, have dedicated units for tracing and recovery of assets at the NPS, TPF and ZAECA. Trained personnel are deployed within the PCCB, and the office of the DPP in Zanzibar. To that extent, the URT has pursued confiscation as a policy objective.

- b) Confiscations made do not reflect the 2016 NRA findings on ML/TF. Conversely, a large number of confiscations have been undertaken in cases pertaining to trafficking in human beings and smuggling immigrants, which may indicate that these constitute high risks despite not having been identified as such in the NRA.
- c) Assets confiscated constitute essentially, but not solely, of instrumentalities.
- d) Confiscation is not being used as an effective, proportionate and dissuasive sanction in falsely and non-declared or disclosed cross border currencies and bearer negotiable instruments.
- e) In the absence of any asset sharing mechanism, the URT has not yet undertaken any repatriation of assets, after having frozen assets, further to a Foreign Forfeiture Order.
- f) The URT has a functional mechanism for management of confiscated assets, albeit there was lack of comprehensive record keeping.

Recommended Actions

Use of Financial Intelligence (Immediate Outcome 6)

- a) URT should prioritize the use of financial intelligence by the LEAs by making requests to the FIU on regular basis and proactively seeking financial information from other sources to investigate ML, TF and predicate offences.
- b) The authorities should ensure that the FIU is properly staffed, especially its Monitoring Department, to be able to conduct operational and strategic analysis more effectively, thereby increasing the quality and number of disseminations to LEAs and other relevant competent authorities.
- c) The Authorities should ensure accurate STR and other related statistics are kept by the FIU throughout the intelligence lifecycle.
- d) The Authorities are encouraged to ensure widest and timeous circulation of strategic intelligence reports to relevant stakeholders. Strategic intelligence is only useful when the reports are accessed by the intended audience and at the right time.
- e) The FIU is encouraged to proactively engage with the LEAs through feedback and mentoring sessions to increase the use of financial intelligence in their investigations. The FIU is also encouraged to participate in more joint investigations with LEAs.

ML Investigation and Prosecution (Immediate Outcome 7)

- a) The URT should formulate its national anti-money laundering policy to enable LEAs to accordingly prioritise the detection, investigation and prosecution of money laundering offences in line with its risk profile.
- b) The LEAs should use the FIU more often to get information supporting their investigations.
- c) LEAs should undergo capacity building in order to detect, investigate and prosecute potential ML cases, including legal persons and legal arrangements, 3rd party and stand-alone money laundering cases by conducting parallel financial investigations. URT should continuously increase the staff complement in the Fraud, ML and Corruption Division within the NPS to meet the required numbers.

- d) The URT should ensure that falsely and non-declared or disclosed cross border currencies and bearer negotiable instruments are properly investigated with a view to determine the source of such property and the cause for false or non-declaration.
- e) The URT should implement the sanctions regime such that it is effective, proportionate and dissuasive.
- f) The URT should improve the collection of consistent, comprehensive, national statistics on all ML investigations, prosecutions and convictions to ensure that that the URT has access to up to date national statistics.

Confiscation (Immediate Outcome 8)

- a) Enhance capacity to trace, locate and pursue the confiscation/forfeiture of proceeds of crime and property of corresponding value and equally proceeds relating to TF where it is detected.
- b) Implement frameworks for sharing with and/or repatriating to foreign competent authorities proceeds and instrumentalities of crime that have been confiscated or enforced in the URT.
- c) Should apply confiscation as an effective, proportionate and dissuasive sanction in falsely and non-declared or disclosed cross border currency and BNI.
- d) Should improve the collection of consistent, comprehensive, national statistics on all confiscations and increase efficiency in the management of assets confiscated.

The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32.

3.2 Immediate Outcome 6 (Financial Intelligence ML/TF)

Background

99. URT established an FIU which is an operationally independent statutory body under the oversight of the Ministry of Finance and Planning. The FIU is mandated to receive financial information from reporting entities and make disclosures of results of its analysis of the financial information to relevant competent authorities such as those charged with the responsibility of AML/CFT supervision and investigating ML/TF and other financial crimes. It has three core departments namely; Monitoring, Inspection, and Management Information Systems; five support departments; Legal Services, Finance and Accounts, Internal Audit, Administration and Human Resources, and Procurement. The FIU is adequately resourced and has seen the last two years being fully funded on their budgetary allocations, which has enabled effective performance of its core functions. The FIU has embarked on an organizational growth path that will see it increase its operational capacity. During the time of the onsite, the FIU had 21 members of staff but was planning to reach 33 in the medium term and about 100 in the long term (5 years). The FIU has been a member of Egmont since June 2014, having been admitted at its 22nd plenary meeting in Lima, Peru.

3.2.1 Use of financial intelligence and other information

100. Competent authorities in URT have powers to access financial intelligence and other relevant information held by reporting entities and public institutions necessary to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF. However, there are concerns with regard to the range of sources and scope of the use of the financial intelligence. The sources are considered limited and the use of the financial intelligence is at varying levels across the competent authorities. URT competent authorities use financial intelligence produced by the FIU or derived from other sources in their investigations to a very limited extent. Only a few ML investigations have been conducted by the LEAs based on the financial intelligence reports. LEAs also do not routinely seek financial intelligence from the FIU to support their ongoing investigations nor to identify and trace criminal assets or tax evasion. The conclusions have been derived from factors such as disseminations from the FIU to LEAs, STR statistics, requests made to the FIU by competent authorities for bank information, account statements and mandates; statistics on cross-border currency and BNIs, and discussions with a wide range of LEAs.

Use of Financial Intelligence by the FIU

101. Despite the fact that IO.6 relates to the use of financial intelligence by competent authorities generally (and not just assessment of the FIU), the Assessors consider the FIU to be the central pillar of URT's AML/CFT regime. As a result, the assessment of use of financial intelligence has placed significant weight on the FIU.

102. The main source of financial transaction information is suspicious transaction reports from reporting entities, particularly the banking sector. In addition, the FIU also receives cross border currency reports from TRA. It also has access to BO information through the reporting entities, where the concerned subject is their client. However, practically, this does not ensure appropriate timeliness of information access. In addition, the FIU has also access to shareholder and taxpayer information from BRELA and TRA. As highlighted under 3.2.2 below, the FIU had not yet started receiving cash transaction reports and electronic funds transaction reports.

Table 3.1: Other Sources of Information for the FIU

Institution/ Agency	Type of Information	Mode of Access
NIDA	ID information	Electronic
BRELA	Shareholder and directors' information	Manual
TRA	Taxpayer information	Manual

103. Regarding lack of access to information on real estate and motor vehicles, the assessment team considers this as a concern considering the conclusions in the NRA report about the vulnerability of these sectors to ML. In addition, as noted from the above Table 3.1 in the majority of the agencies, access to the information is paper-based which impacts on timeliness and can potentially present challenges to investigations and confiscations as the assets may dissipate before the information is accessed. Overall, the FIU does not appear to have a broad range of sources of financial intelligence information. It is also the view of the Assessors that the FIU is marginally using information resources at its disposal to produce financial intelligence that is useful for investigating ML and TF. Furthermore, as discussed below, the information in the FIU is not adequately used to inform ongoing investigations or initiate new investigations of ML, TF or predicate offences.

Access and Use of Financial Intelligence and Other Information by LEAs

104. LEA's access and use financial intelligence and other information to identify and trace proceeds, and to support investigations and prosecutions of predicate offences, but do so to a limited extent for AML and CTF purposes.

105. The primary source of information are financial intelligence reports from the FIU. The Tanzania Police Force (through DCI) has a dedicated senior officer (Deputy Commissioner) who is in charge of receiving FIU intelligence reports. The disseminations received are recorded in a manual register. A docket is opened for the disclosure and DCI acknowledges receipt of the information. If the information is not clear the DCI engages the FIU for clarity and there is continued feedback with the Commissioner FIU. Statistics provided by the authorities show underutilization of financial intelligence to develop evidence for ML investigations and trace proceeds of crime and TF activities. Very few disseminations have resulted into full blown ML investigations (see Table 3.5 and IO.7).

106. In addition to disseminations of financial intelligence or in relation to ongoing investigations, LEAs request information from the FIU or other competent authorities. The turnaround time for requests has significantly improved from an average of 2 months at the beginning of the period under review to 15 days. The Assessors are of the view that the 15-day average turnaround time would have a negative impact on urgent investigations.

Table 3.2: Domestic Requests for Information made to the FIU

Institution/ Agency	Year				Total
	2015	2016	2017	2018	
• DCI	5		1		6
• PCCB	2			2	4
• NCTC	1				1
• TRA					
• BOT		1			1
• CMSA		1	1	1	3
• TIRA				1	1
• TISS			1		1
Total	8	2	3	4	17

107. The number of requests made to the FIU demonstrates a system that has room for improvement in terms of use of financial intelligence and other information. For instance, tax crimes and corruption were identified as high proceeds generating crimes in URT. Therefore, zero request from TRA and only 4 requests from PCCB show that the scope and volume of information requests do not correspond to the needs of these LEAs and the risk profile of the country. Assessors observed that, compared to the number of investigations related to predicate offences, the statistics provided suggest that the requests for information recorded during the period under review (see Table 3.2 above) were low relative to investigations of predicate offences involving financial crimes. For instance, the authorities investigated an average of 3,000 cases of corruption per year

during the period 2015 to 2018. However, the agencies responsible for investigating corruption made only 4 requests to the FIU over the same period. The assessment team is of the view that LEAs could have benefited a lot by seeking information from the FIU about the suspects' financial transactions. There are concerns that by not approaching the FIU for information on the predicate offences being investigated, the opportunity to detect proceeds of crime and other financial transactions associated with the predicate offences from available information may be missed. The FIU attributed the low number of requests to the informal arrangements that the authorities use for some of the some of their engagements with LEAs.

108. It is evident that LEAs lack proactive approach in requesting and obtaining financial intelligence from the FIU. Nevertheless, the authorities indicated that apart from the FIU sources, the LEAs have access to a wide range of financial intelligence from other government agencies throughout the lifecycle of an investigation. They also use powers to obtain information from reporting persons either directly (see R.31 for details) or through the FIU. For instance, they make requests for information to the FIU to obtain bank account information. The PCCB and ZAECA, have directorates responsible for intelligence gathering. The authorities demonstrated that they are able to obtain information from a number of formal and informal sources in pursuit of bribery and corruption cases. However, the Assessors could not verify the extent to which the authorities are using the other sources of intelligence to pursue ML and trace proceeds of crime.

109. It was observed from the interactions with authorities in URT that TF is another area that has not benefitted from the use of financial intelligence. Authorities responsible for TF investigation did not use the FIU to provide information that would have assisted in their investigation in a case that involved a foreign national who had a number of bank accounts and properties in URT.

110. Whilst the authorities agree with the medium rating of TF in Tanzania NRA, they do not have the benefit of the use of intelligence that could be obtained from mobile money operator disclosures. The mobile money market in Tanzania is significant in terms of users and transactional volumes. The statistics show that there was minimal reporting of STR by the sector hence the intelligence gap. The FIU would benefit a lot from threshold reports filed by the mobile money operators.

111. During the period under review, NCTC received 7 reports on suspected TF from the FIU that were analysed but did not result into investigations. It is the view of Assessors that the presence of intelligence hubs within the agencies may be hindering access and use of intelligence from the FIU.

3.2.2 STRs received and requested by competent authorities

112. The FIU receives STRs, cross-border currency reports, from reporting persons and TRA respectively. Cash transaction reports (equivalent of USD10,000 or more) and electronic funds transfer (of transactions of amounts equivalent to USD 1,000 or more) reporting requirements were introduced in May 2019 and the authorities had not yet started receiving the reports by the time of the onsite visit.

113. The FIU is the sole authority mandated by the AMLA and AMLA POCA to receive STRs. It also requests additional information from reporting entities in relation to the reports submitted. Most of the reporting entities submit the STRs through go AML solution. The platform offers opportunity for the users (REs) to upload STRs into the system via dedicated dashboard. The FIU receives few STRs physically where reporting persons directly submit the STR by hand or courier in case of reporting entities outside Dar es Salaam. The reports contain relevant and accurate information, which greatly assists the FIU to conduct its analysis.

Table 3.3: Number of STRs received by the FIU per Year

Type of Report	2014	2015	2016	2017	2018	Total
STRs	81	197	248	477	1,095	2,098

114. As reflected in Table 3.3, the FIU received a total of 2,098 STRs from all reporting entities over a period of 5 years. Although there has been general positive trend in the receipt of STRs from REs over the five years' period, this has been concentrated in the banking sector (see Table 5.1 under IO.4 for breakdown by sector). Out of the total number of STRs received, 2,056 STRs were from the banking sector, which represented 98% of the total STRs. This means that STRs from the rest of the reporting persons were negligible despite the fact that majority of those reporting persons were identified as being highly vulnerable to ML risks. It was unclear why the other sectors had very few STRs despite the FIU having issued STR reporting guidelines. This may be a result of lacking in supervision and inability of the reporting entities to detect suspicious transactions. In addition, within the banking sector, two major banks advised that they had filed 1,263 STRs during the period 2016–2019, which accounted for 62% of total STRs submitted by the banking sector. In view of the number of reporting entities, the FIU agreed with the assessors that the level of STR reporting may not be commensurate with the size of the economy. Nevertheless, the number of STRs received has been increasing steadily over the number of years, with a notable increase of 130% from 2017 to 2018. According to the FIU, predicate offences related to the STRs filed were consistent with the risk profile of Tanzania as presented in the NRA report. Generally, the FIU finds the quality of STRs to be of good quality, especially those filed by the banks. The FIU expressed concerns in relation to STRs submitted by the rest of the reporting persons. The STRs include details of the persons involved, the amount, account numbers and description of the suspicion, and are also supported by relevant documents. In some cases, the FIU requests for additional information and clarification from the reporting persons.

115. The FIU acknowledges receipt of STRs but does not provide specific feedback to the reporting entity on the progress or outcome of the STR filed. However, some of the reporting persons expressed a need for feedback on specific STRs, which would further improve the compliance with reporting obligations and the STR quality. The assessment team has concerns about the fact that only around 7% of the STRs resulted in disseminated reports to LEAs. While it is appreciated that, in practice, each STR does not necessarily lead to a dissemination and that one dissemination may arise from more than one STR, 7% is still considered to be low, bearing in mind that majority of the STRs come from banks and banks submit STRs of good quality.

116. The low levels of STR reporting, lack of reports from some DNFBPs which have been designated in the NRA report as high risk and unavailability of BO information at the company registries are some of the factors that negatively affect the FIU's ability to properly analyse and share accurate and timely financial intelligence to relevant agencies. For more information and details on STR reporting, refer to Table 3.1 above and IO. 4 and for details on BO information, see analysis under IO.5. In addition to information contained in the STRs, the FIU also obtains financial intelligence from a number of sources in the course of case analysis in order to enrich its financial intelligence report. For example, the FIU requests additional information from reporting persons and gets information from company registries (BRELA), LEAs, TRA, NIDA, etc. The FIU has direct access to NIDA database and this enables the FIU to obtain identity information in real time. For the rest of the agencies, access is through letters of request. It is anticipated that direct access to BRELA's system will be possible once it is fully automated. In addition, the FIU has a focal person for each agency to fast track the requests for information.

117. In addition to STRs, the FIU also receives cross-border currency reports (starting from October 2017) from the TRA which has been charged with the responsibility of administering the form. The FIU received a total of 805 declarations and 6806 declarations in 2017 and 2018 respectively. As Table 3.4 shows, over 6,000 cross-border declarations in relation to outward carriers with the total value of amounts of USD 227 mil were declared in 2018. Majority of the declarations (over 80%) were made by travellers going to China and Hong Kong. The authorities do not find out the intended purpose of the currency. Based on the current cases, the cross-border currency reports have not been linked to ML or TF activities. In addition, beyond access of the reports by the FIU, the cross-border cash declarations are not accessed and used by other URT LEAs (e.g. the Police, PCCB, NCTC) for intelligence or investigative purposes.

Table 3.4: Number of Cross-Border Currency Declarations Received and Amounts Declared

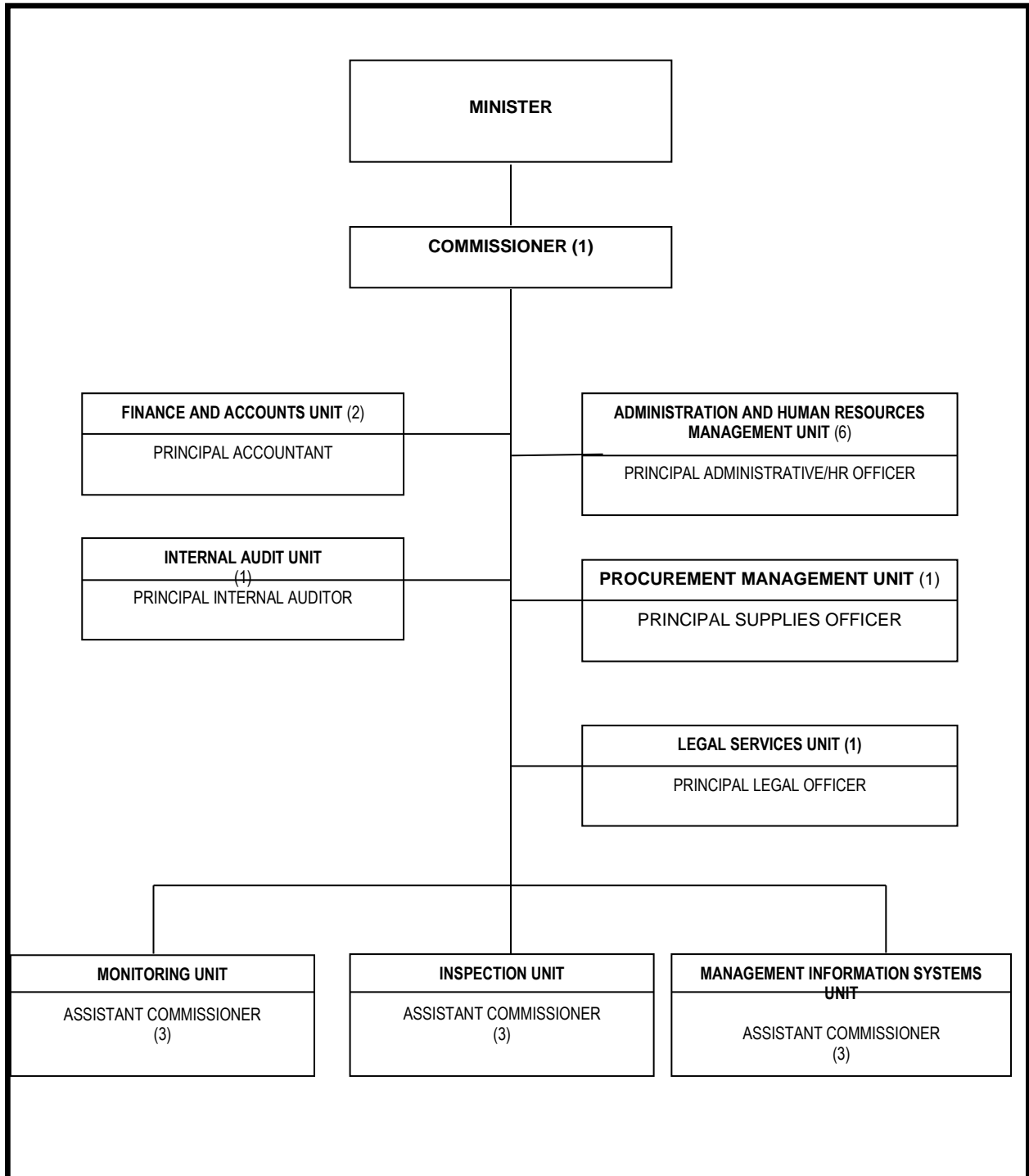
		2018												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Export	No of Reports	551	154	800	630	591	587	652	462	647	649	526	557	6,806
	Value declared (USD mil)	18.2	4.0	26.0	19.4	18.4	22.9	22.7	15.1	21.2	20.2	19.5	20.3	227.9
Import	No of Reports	13	20	17	17	21	29	41	42	31	31	49	34	345
	Value declared (USD mil)	1.5	2.1	2.1	4.1	3.7	4.7	7.0	7.1	6.3	5.1	7.7	5.4	56.7

3.2.3 Operational needs supported by FIU analysis and dissemination

118. The FIU's analysis and dissemination support the operational needs of some LEAs to a reasonable extent. The conclusion is based on the data and information provided in relation to the investigation and prosecution of ML, predicate offences, confiscation of criminal proceeds and TF investigations.

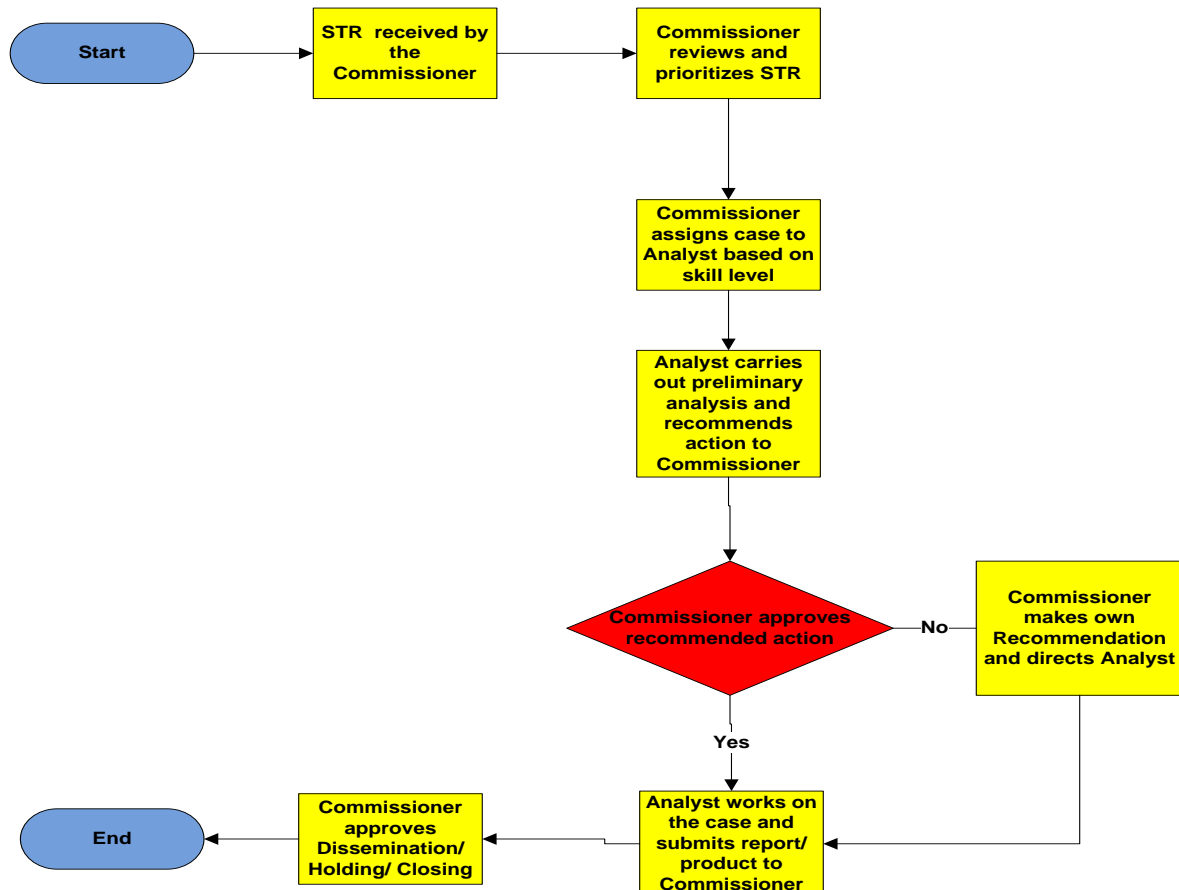
119. The FIU has three officers in the Monitoring Unit. All the three officers have received adequate training in analysis and have been exposed to practical FIU analysis work in a number of model FIUs across the world. The current staffing levels in the department may not be adequate to effectively discharge duties to commensurate with the workload. The FIU conducts analyses based on the Operational Analysis Manual which acts as its Standard Operating Procedures for receipt, analysis and dissemination of financial intelligence.

THE CURRENT ORGANISATION STRUCTURE OF FINANCIAL INTELLIGENCE UNIT



120. The analytical process is primarily based on an STR and the analysis includes review of the financial information, cross-checking of the information in the FIU databases and additional information obtained from FIs, foreign FIUs, LEAs or other government agencies. This helps the

FIU to identify links/ relationships, movement of funds, assets likely to be proceeds or instrumentalities of crime. These financial intelligence reports include all relevant factual information, an analysis and assessment sections, which include details on the identified ML/TF suspicion and patterns. The FIU produces financial intelligence reports of reasonable quality from utilizing the reports that it receives, analyses and enriches with obtainable information to solve complex cases using its ICT platform.



121. The STRs are prioritized into three categories: High, Medium and Low. For High priority STRs, the FIU has designated 24 hours' period to disseminate a case. Prioritization involves a number of shared indicators such as a laid down threshold of TZS 1Billion, transactions involving public funds or TF.

122. The FIU has contributed to ML investigations by providing KYC and bank statement information to LEAs. The FIU has also been involved in interagency investigations where they have applied their financial analysis skills. Most of the LEAs indicated that they conduct parallel financial investigations in which the FIU has not only provided documentation but they have also been supportive in financial analysis. However, the informal arrangements or collaborations in investigations could not be verified by statistics and documents provided by the authorities. The FIU, to some extent, produces disseminations that address the needs of respective LEAs based on the areas of expertise. The FIU provided samples of its disseminations, which were found to be of a reasonable quality. As seen from the case examples reviewed, these financial intelligence reports somehow contribute to the identification of new connections, natural and legal entities,

financial and real estate assets and financial transactions which LEAs find useful. Below is an example of a case that was disseminated by the FIU to LEAs.

Box 3.1 Example of a dissemination by the FIU

Background:

In 2013, the FIU received a report that USD account for organisation Y at Bank X received about USD 6,000,000 from the Government coffers being advisory services fee in relation to Government borrowing of USD 600,000,000. Within a period of 10 days approximately USD 5,260,000 in cash was withdrawn from the Organisation Y account.

The suspicion was categorized as high basically due to the following; subscribers and Chairman of Organisation Y were domestic PEPs, the amount involved was significantly large with no apparent legal nor economic rationale, the source of funds was Government coffers, and transactions mode and pattern were unusual compared to amount and business profile.

Action taken:

Thorough analysis and dissemination to relevant LEAs.

Continuous clarifications and discussions with relevant LEAs' officials responsible for investigations.

Current position:

On prosecution

123. On the other hand, the FIU has disseminated a total of 175 reports to LEAs and other competent authorities during the period under review (see Table 3.5 below). The disseminations included ML and TF as well as reports on other suspicious activities forwarded to supervisory bodies. The Table shows that over the period 2015-2018 only two disseminations from the FIU to LEAs resulted into convictions. Further, the number of investigations triggered by financial intelligence reports to DCI was only at 50% utility throughout the period under review. The table below shows the number of investigations that were triggered by financial intelligence reports from the FIU. Further, the PCCB investigated about 50% of the FIU disseminations. Out of the submissions from the authorities, it appears that only the DCI has turned FIU dissemination into an ML investigation that resulted in single conviction in 2015 and 2016 respectively. Other LEAs such as PCCB and TRA have primarily focused on predicate offences. TRA indicated that it had not recovered any tax based on the reports from the FIU. FIU reports have not benefitted TRA to curb tax evasion. Based on these statistics, Assessors are of the view that the LEAs are not converting financial intelligence into usable investigative ingredients for ML, TF or predicate offences.

Table 3.5: Disseminations by the FIU to LEAs: 2015-2018

	2015	2016	2017	2018	Total
Disseminated to DCI	17	14	17	20	68
• Investigated	7	7	8	12	34
• Conviction	1	1	-	-	2
Disseminated to PCCB	9	10	7	6	32

• Investigated	1	10	1	4	16
• Conviction	-	-	-	-	0
Disseminated to TRA	6	12	5	21	44
• Investigated	17	13	16	12	58
• Conviction	-	-	-	-	0
Disseminated to NCTC	2	2	3	0	7
• Investigated	-	4	3	-	7
• Conviction	-	-	-	-	0
Immigration Department	0	7	3	2	12
• Investigated		3	4	5	12
• Conviction					
Drugs Control and Enforcement Authority	0	2	4	0	6
• Investigation		3	1		4
• Conviction	-	-	-	-	0
DCI-Z	0	0	0	1	1
• Investigation					
• Conviction					
Bank of Tanzania		1	0	1	2
• analysed			2	1	3
• action taken			Yes	Yes	
CMSA	0	1	0	0	1
• analysed		1			1
• action		1			1
TISS	0	1	0	1	2
• Analyzed			1		1
• Action taken			Yes		
DCI-Z	0	0	0	1	1
• Investigation					
• Conviction					
Drugs Control and Enforcement Authority	0	2	4	0	6
• Investigation		3	1		4
• Conviction	-	-	-	-	0

124. In addition to operational analysis, the FIU also conducts strategic intelligence analysis to some extent. However, it is unclear how effective the FIU has disseminated the strategic intelligence analysis products to the relevant stakeholders. Further, the single sanitized strategic intelligence report seen by the assessors lacks in-depth analysis. During the time of the onsite, the stakeholders were not aware of any reports, bulletins or advisories from the FIU on strategic intelligence. For example, the FIU receives cross border declaration which they have analyzed and produced strategic intelligence but the reports have not reached the intended target at the ports of entry and exit. The FIU directs its reports to heads of various institutions and they have not been able to reach widest audience. Further, details of the subjects in the cross-border declaration forms are stored in the FIU databases that is accessible to Analysts as is the case for information from other reporting entities for future use. The FIU utilizes its powers and delivers its on mandate with the resources available to produce relatively good operational analysis products. However, LEAs could benefit from mentoring and regular feedback sessions to ensure optimal utilization of financial intelligence.

3.2.4 Cooperation and exchange of information/financial intelligence Domestic Cooperation

125. The cooperation between the FIU and LEAs who are the recipients of disseminations from the FIU is generally satisfactory. The collaboration space in the fight against the ML/FT can be enhanced with the FIU engaging more in terms following up on disseminations. Due to low uptake of FIU disseminations and ineffective follow up process, the FIU has changed the modus operandi by forming ad hoc taskforces to collaborate on cases disseminated to LEAs. The system is relatively new and the FIU is piloting the approach with the Police and PCCB with the expectation of involving all relevant stakeholders in the short term.

126. The authorities cooperate to some extent and make use of international channels to access information that is useful in unveiling financial crime. The box below illustrates how the FIU processed information which it received from a Law Enforcement Agency and the outcome led to measures being taken including deportation a fraudster.

Box 3.2: Example of the FIU's Analysis

SUSPICIOUS ACTIVITY	
Background:	In 2016, the Financial Intelligence Unit received intelligence relating to an individual, as well as the companies he represented from other foreign FIUs and domestic agency that the individual had been going to different African Governments leaders' and pretended to be offering business deals that turned out to be a scam. He is linked to various financial scams.
Action Taken:	FIU's initial analysis was in collaboration with local and international partners. The FIU was able to connect the dots and found out that subject had been visiting URT several times and met with Senior officials with the intention to finance different projects. The FIU confirmed that information regarding the intended and discussed project were linked to some financial scam. His activities would have caused a significant loss if he succeeded in the scam.
Current Status:	Subject was deported and other serious security measures were taken.

127. The FIU has been utilizing other domestic agencies to collect information for use in its analysis. There was a drop in requests made in 2017 from 49 to 17 in 2017 with a rebound in 2018 of 34 requests which was not explained by the authorities. The assessors consider the period which it takes for the competent authorities to respond to the request for information from the FIU to be long. Although in general, the period may depend on the complexity of the requests, there are concerns that obtaining a response in 30 and more days may hamper effective performance of the case analysis by the FIU, especially where the issue concerns TF.

128. The FIU has also signed an MOU with the PCCB on cooperation and exchange of information. Other LEAs do not require MOU to cooperate and collaborate with the FIU. It was established that LEAs often visit the FIU to seek clarification on disseminations to reduce the times it would take to correspond using official communication channels.

Table 3.6: Domestic requests from the FIU to Other Domestic Agencies

	Year				Total
	2015	2016	2017	2018	
Number of domestic requests for information received	42	49	17	34	142
Number of requests granted	42	49	17	34	142
Number of requests refused	0	0	0	0	0
Average time required to respond to a request	60	60	30	30	180

129. Despite significant efforts by the FIU, financial intelligence is used marginally by LEAs in URT. LEAs have not proactively sought financial intelligence to enrich their investigations in ML and asset tracing. The authorities have demonstrated minimal cooperation and exchange of information. Analysis illustrates the minimal use of financial intelligence ranging from lack of request for information from the FIU to the few disseminations that have resulted into fully fledged ML investigations by law enforcement.

130. FIU premises are secure and have security personnel manning the street entrance. The offices are located in an area surrounded by secure state installations or buildings. Visitors to FIU are processed using official identification and their details are captured in a log book at the street entrance. The FIU shares its premises with other departments within a building belonging to the Ministry of Finance. The FIU occupies the entire third and last floor of the building. Entrance into the FIU is controlled by biometric access control system that is monitored by relevant staff. The entrance hall has a security body scanner.

131. The FIU has adequate counter measures for eventualities such as break-ins, fire and or network intrusion. The offices are monitored by 24-hour CCTV camera and intruder alarm systems complete with a backup generator. Critical ICT resources are located in a secure space and have redundant backup solutions. Monitoring and Analysis staff are connected to two separate networks

to facilitate a safe and secure operating environment. The analysis network is not linked to internet to eliminate the threat of compromise.

International cooperation

132. The FIU relies on the Egmont Secure Web to exchange information with its fellow members. It has exchanged information with a number of jurisdictions during the period under review. Prior to joining Egmont, the FIU used a number of bilateral arrangements to exchange information with non-Egmont FIUs.

133. The FIU does not require an MOU to exchange financial intelligence with foreign FIUs. It has however, signed 17 MOUs to enhance its capacity in international cooperation space. Foreign FIUs are free to make requests for information to the FIU. The FIU received 58 incoming requests and spontaneous disclosures from 32 jurisdictions. The low number of requests and disclosures might be attributed to the FIU's later joining of Egmont Group. It is envisaged that traffic will gradually increase to reflect the country's risk profile, size and financial footprint. The authorities did not provide the actual durations within which the FIU responded to requests and therefore Assessors could not determine timeliness of such responses.

134. During the same period, the FIU made a total of 77 requests for information and spontaneous disclosures to 43 jurisdictions. The information requested was solely for the purpose of intelligence. The FIU uses financial intelligence from other jurisdiction to develop or enrich its intelligence packages. The FIU has found information from its international cooperation useful in its analytical work. For example, the FIU used information provided by other FIUs to disrupt a scam involving an individual who was defrauding governments under the pretext of offering lucrative financing deals. (see Box 3.2 above).

Overall conclusions on IO.6

135. **URT is rated as having a low level of effectiveness for IO.6.**

3.3 Immediate Outcome 7 (ML investigation and prosecution)

3.3.1 ML Identification and Investigation

136. The LEAs investigating ML offences are the Tanzania Police Force (TPF), the PCCB (a specialised agency with the mandate to combat corruption and related offences in Tanzania Mainland), ZAECA (with a similar investigative mandate to PCCB, but without any delegated prosecutorial powers). The National Prosecution Services (NPS) on the mainland, and DPP's office for Zanzibar, guide or lead investigations into ML offences from inception of the investigation to ultimate determination of the cases.

137. LEAs detect and identify potential ML offences from parallel financial investigations, media, referrals made by other agencies such as TRA, regulatory authorities, other departments of the police, as well as financial intelligence reports and other information from the FIU. Joint investigations are carried out between different agencies.

138. **Tanzania Police Force (TPF)** - The Financial Crimes Unit (FCU) within the Central Investigation Division of the TPF handles all offences of a financial nature, including ML. It is manned by 33 officers hailing from different professional disciplines, predominantly legal (7), accounting (6), information technology (5), economics (2) and 1 officer (with other qualifications). Training on AML/CFT and in investigation techniques endow these officers with the relevant expertise to detect and investigate ML offences. The FCU has investigated one ML case, involving a legal person and it has not prosecuted any yet. The officials demonstrated how they would carry

out financial investigations, from making requests, for available information on a legal person, legal arrangements, to competent agencies such as RITA and extracting information from utility bills in order to determine the BO. URT did not provide the total number of potential ML cases detected, investigated and outcome of ML investigations, if any, which did not result into any ML prosecution. However, the FCU demonstrated that it was able to detect and investigate potential ML cases both from the FIU and other sources.

139. The FIU provided varying figures (65, 68 and 83) of the number of financial intelligence reports disseminated to the FCU. The FCU investigated 68 financial intelligence reports with the following results: successful prosecutions in 3 ML cases, 27 reports investigated for predicate offences, while no offence was detected in 12 of the reports, and 26 cases were still under investigation. Whilst the FCU demonstrated that it provided feedback to the FIU, on the usefulness of the financial intelligence and other information received, timely feedback and regular interaction would have resulted in better case management, and improved quality of FIU reports. An example of a case which was triggered by a financial intelligence report from the FIU is set out in Box 3.3 below.

Box 3.3 Tanzania Police Force Summary of Joint Investigation of Money Laundering Case (Tanzania, Kenya & USA)- 2017

In 2011, the TPF initiated an investigation following receipt of a financial intelligence report involving an account suspected to have been opened in order to facilitate the transfer of funds amounting to over US\$ 17.1 Million, which were being diverted from a government project. The investigation led to the detection of another suspicious bank account which was used to launder proceeds of fraud amounting to US\$ 5.4 Million, to the prejudice of the USA Treasury Department.

The first accused, a Kenyan national, made and filed false tax returns with the United States Department of the Treasury. The US Treasury Cheques, generated by false tax returns, were mailed to parties (acolyts) in the USA, who in turn, mailed these Treasury Cheques to the first accused, who caused them to be deposited and paid in 3 bank accounts in URT. The accounts were opened with the assistance of a lawyer and 2 bankers. The proceeds were then withdrawn and shared.

The investigation identified four suspects, including one who was arrested while crossing the border from Kenya into the URT whilst the three others remained in Kenya.

The URT sought and obtained MLA from 3 jurisdictions, namely U.S.A, U.A.E and Kenya. Kenyan investigators collaborated in the pursuit of the key Kenyan suspects. However, there was no response to the extradition requests to Kenya for the three suspects.

Proceedings were lodged in 2011. In the course of the trial, the prosecution sought to produce the evidence obtained from US authorities through MLA. The evidence was held to be inadmissible for failure to comply with the requirements of section 38 of the MACMA as some of the documents were only signed and stamped as per section 38 (2) (a) without being accompanied by Certificate of Authenticity as required by section 38 (2) (b). The matter was withdrawn. The said evidence was channelled again to the U.S.A. for the Authorities to provide evidence meeting all the domestic evidentiary requirements.

In 2017 the case was reinstated as Criminal Case No. 77/2017. The rectified evidence was admitted in court and all the accused persons were found guilty in all counts charged including Money Laundering.

140. 94% of the cases prosecuted by FCU emanated from other sources including the public and Bureau of Intelligence, which is a department within the TPF. From the statistics presented, the TPF has detected and identified potential cases of ML. However, the relatively low number of FIU reports which resulted in prosecution indicates that TPF is not making optimum use of the FIU database, and its other products. The lack of any provision which empowers the LEAs, including the TPF to seek information from the FIU, may also be a factor as to why the TPF is not tapping on financial intelligence from the FIU.

141. **PCCB:** The PCCB's mandate includes the investigation of corruption and related offences and ML predicated on such offences. The PCCB can either prosecute its own cases or do so jointly with the DPP but requires the consent of the DPP to prosecute any of the economic crime offences. Investigators at PCCB are divided into 10 teams. The officers come from diverse academic backgrounds such as banking, finance, engineering, accounting and legal. In addition, the officers receive regular trainings in different aspects of investigation including ML. The knowledge acquired enables them to identify and investigate financial crimes including ML. The PCCB has trained personnel for its mandate. At the time of the onsite, the PCCB was in the process of drafting an Investigations Manual to guide its investigations.

142. The exact number of financial intelligence reports which were disseminated and received could not be ascertained due to varying figures provided by the FIU. The PCCB demonstrated that 7 reports had resulted into prosecutions for ML which led to 1 conviction and 6 cases were being heard before court. The interaction between the PCCB and FIU was not supported by any feedback mechanism, which may indicate that the PCCB was not making full utilisation of the financial intelligence reports as at no time did PCCB demonstrate any follow-up for more information from the FIU on any of the reports or having initiated its own requests for assistance with information from the FIU. The Tables below provide a breakdown of cases dealt by the PCCB.

Table 3.7: Prosecution and Convictions of Predicate Offences

Predicate offences	Year	Cases reported on an annual basis	Files opened on an annual basis upon analysis of reports received	No. of cases filed in court on annual basis following completion of investigation	No. of prosecutions completed (cumulative)	No of convictions (annual basis)
Corruption & bribery	2015	5173	3136	443	389	191
	2016	8346	3787	435	439	241
	2017	5454	2488	495	465	161

Table 3.8: Investigations, prosecutions and convictions by the PCCB involving ML

Year	2015	2016	2017	2018	2019	TOTAL
Number of investigations conducted involving a ML component	12	14	10	19	5	60
Number of ML prosecutions initiated on annual basis	4	15	6	12	20	57
Number of convictions for ML on annual basis	2	2	2	9	2	17

143. The number of investigations with ML component has varied over the years, with a peak in 2018, whilst the low number for 2019 reflects the figure at the time of the onsite. Except for 2017, there has been a steady rise in the number of ML prosecutions initiated. Out of the 57 ML cases prosecuted for the period 2015 - 2019, the PCCB, secured 17 ML convictions. The total number of convictions compared to the number of ML cases investigated and eventually prosecuted appears on average to show the capacity of PCCB to identify and investigate ML cases. The PCCB has conducted 13 joint investigations with the TRA on tax evasion. In the course of the investigation of 9 such cases, the suspect admitted his tax liabilities and agreed on payment, 4 cases were lodged before the Court. In one case, the accused party entered into plea-bargaining whilst in another tax upon admission case, the tax was compounded. The PCCB and the TRA were investigating a case during the onsite, which was being led by the NPS, involving a legal person, on forgery, failure to pay tax and ML in respect of vehicles from the UAE. The vehicles had been imported purportedly for the exclusive use of tourists in the URT. However, these vehicles were neither resold, nor re-exported, as required, after a period of one year. Further, the vehicles were also not registered for home use, upon payment of import duties.

144. In Zanzibar, ZAECA is the specialist authority responsible for detecting and investigating corruption, economic and ML crimes. It has a total of 82 investigators. The Directorate of Investigations oversees 4 teams, which are led by Head of Units, including Parastatals and Asset Recovery, and Intelligence and Operations. ZAECA demonstrated that the officers have undergone training although it also highlighted that the absence of any provision in law for academic or professional entry requirements (since an investigator is simply defined in the law as a person authorised by the Director General or the DPP), is being viewed as a lacuna in the law.

145. At the time of the onsite, ZAECA had received 4 financial intelligence reports from the FIU. The 4 reports corresponded to the total number of ongoing ML investigations reported by the ZAECA. This meant that ZAECA had not detected ML cases using parallel financial investigations to identify proceeds of corrupt activities, on its own, or from any other source. During the period 2015-2019, ZAECA sent 109 files for consideration to the DPP and 19 cases proceeded to prosecution, whereas further investigation was recommended in 44 cases. 20 such files were re-submitted to the DPP upon new evidence being gathered and the other 20 cases were still under investigation. The number of cases recommended for further investigation suggests that ZAECA is facing challenges in conducting quality and efficient investigations of ML and associated predicate offences as demonstrated by the statistics in Table 3.9, below. Considering the high number of reported or detected corruption cases, the number of the actual prosecuted cases is very low with only one conviction in over 4 years.

Table 3.9: Number of corruption cases reported, detected, prosecuted and convictions - ZAECA

	Number of Corruption cases reported	Number of detected¹⁷ cases	Number of cases prosecuted (cumulative)	Number of convictions
2015	77	44	1	Nil
2016	119	97	3	Nil
2017	187	121	5	Nil
2018	209	189	7	1
Total	592	451	16	1

146. Identification and investigation of ML relating to cases of non-declaration or false declaration of cross border currency and BNI are not effective. The cases were being mostly investigated perfunctorily, and were only sent for prosecution when the person did not agree for the offence to be compounded. Therefore, no meaningful investigation to proceed to identify ML cases, including carrying out parallel financial investigations was being done.

147. The Division of Fraud, Money Laundering and Corruption Offences in the NPS guides and leads identification, investigation and prosecution of ML cases. At the time of the onsite, the number of State Law Attorneys in the Division (which did not include focal persons in Regions and District NPS offices), was as follows: 14 in the Fraud and ML section; 11 in the Corruption Offences section; and 14 in the Environmental Crimes section. The Attorneys regularly attended training on AML, and their retention demonstrates that their deployment was consistent with the training although the authorities did not clearly demonstrate that the NPS was fully operational in terms of resources and capacity. Moreover, there was a need for proper record keeping and case management, as the statistics of cases prosecuted were neither complete nor comprehensive, besides presenting discrepancies (in terms of the outcome of some of the cases) when compared with the records of the FCU. The NPS explained its lack of comprehensive and complete records on account of an absence of compilation/consolidation at Headquarters, of all the cases which were being dealt with by regional offices.

148. The records of the FCU (summarised in Table 3.10 below), show that out of 85 cases prosecuted (2 of which were predicated on foreign cases), 23 resulted into convictions, 9 were withdrawn and there were acquittals in 3 cases, 1 case was abetted upon the demise of the accused. Other (50) cases were at varying stages of mention, awaiting judgment or hearing. It was noted that 4 of the 85 cases prosecuted were triggered from financial intelligence reports from the FIU (2 of

which led to convictions, including one predicated on a foreign offence, 1 case was withdrawn and one was pending in court).

Table 3.10: The summary results of ML cases identified and investigated by the FCU

S/N	Outcomes	Number of ML Cases	Percentage
1.	Conviction	23	65.7%
2.	Acquittal	3	8.5%
3.	Withdrawn	9	25.7%
4.	Hearing & Mention	50	

149. The office of the DPP in Zanzibar instituted criminal proceedings before the court in 1 ML case, which had been investigated by the TPF as set out in Box 3.4 below but has not yet instructed any ML prosecution on ML investigation by the ZAECA.

Box 3.4 ML case investigated by the TPF in Zanzibar

The suspect is being prosecuted for the offence of a Scheme intended to unlawfully manipulate the exchange rate and ML. The investigation was initiated in February 2018, when the Accused was apprehended at Amani Abeid Karume International Airport (Zanzibar) on his way to (DUBAI) with foreign currency in 8 different denominations as follows: (i) 331919 Oman Rials, (ii) 1547 Euros, (iii) 3974 in USD, (iv) 152 in Pound Sterling (v) 10 Dubai Dirham, (vi) 6 Canadian Dollars (vii) 5 Australian Dollars and (viii) 19 Swiss Franc, amounting to a total of 868,343.74 USD.

Investigations were carried out and statements recorded from all relevant witnesses. The accused person was arraigned in August, 2018 before the High Court and trial was ongoing.

150. Although potential cases of ML have been detected and investigated, the priority of the authorities is still on the detection and investigation of predicate offences rather than ML offences. There is limited enhancement of identification and investigation of ML cases using the FIU. However, there have been efforts to detect ML cases through parallel financial investigations. Also, the number of predicate cases prosecuted is on the low side compared to the high numbers of such cases detected. Capacity is still required in identifying and investigation of complex ML cases.

3.3.2 Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

151. The URT has not yet formulated its national AML policy, further to the NRA. The predicate offences then identified in the NRA as major proceed generating offences are: corruption, tax evasion, illicit drug trafficking, counterfeiting of goods, illegal mining and illegal trading in precious minerals and stones, poaching, illegal smuggling of goods and unlawful possession and dealing in government trophies.

152. The records provided by the TPF for the 70 cases, referenced from 2015, before the courts, show (1) ML case arising from corrupt practices; (2) ML cases arising from proceeds generated from tax crimes; (5) ML cases arising from proceeds generated from poaching (wildlife crimes); (1) ML case arising from proceeds generated from illicit trafficking in drug offences; and two (2) ML cases arising from proceeds generated from mining offences.

153. The PCCB has investigated ML and prosecuted cases predicated on corruption and bribery. There have been 17 ML convictions on the Mainland. Although over the years, the number of corruption reports had increased in Zanzibar, only 1 case for the predicate offence had been prosecuted and there had not been any ML charge predicated on corruption yet. The link between wild life crimes and corruption was also emphasised by the NTFAP. In case *Eco. 34/2019, Republic vs BN and 5 others*, a magistrate and a prosecutor were arrested in Arusha (one of the towns in URT) for alleged involvement in the commission of wildlife related crimes

154. Despite the absence of any national policy, LEAs have made some efforts to focus on the investigations/prosecutions of ML offences based on the major proceeds generating offences identified in the NRA. Whilst law enforcers were conversant with the findings of the NRA, they were reluctant to pronounce themselves as to whether these findings would still apply in 2019, three years after the assessment. All were keen to highlight that the measures which had been taken had a positive and curbing impact on the level of major proceeds generating crimes, but they could not determine whether there had been any evolution in the risks since the NRA. At the time of the on-site, it became difficult to ascertain whether ML investigations/prosecutions were still consistent with the high proceed generating offences identified during the risk assessment in 2016 as it had not been updated.

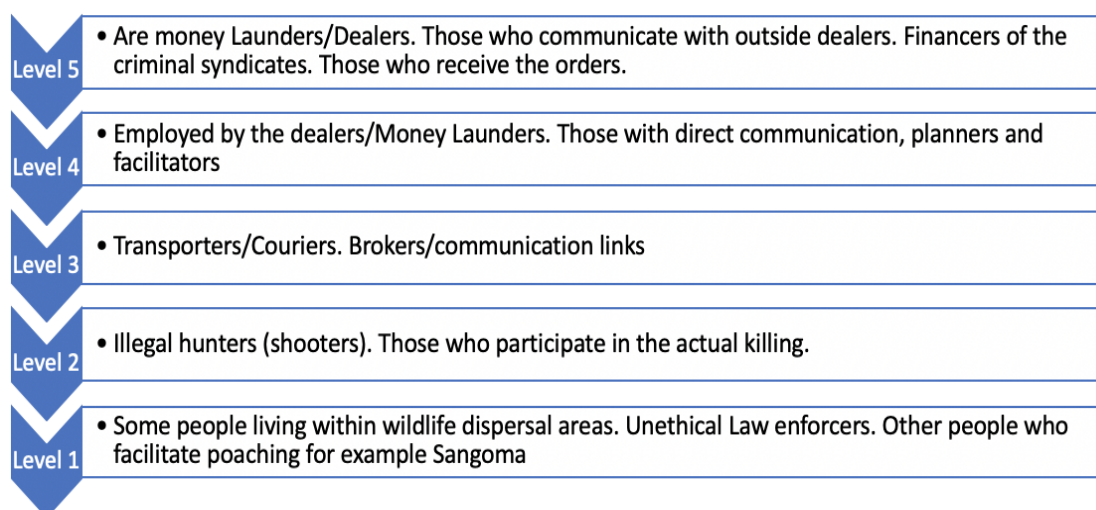
155. LEAs either do not take the initiative or do not have the ability, on the basis of cases dealt with, to make informed determination in respect of trends which would indicate the prevailing risk profile. For instance, the authorities rated the risks posed by trafficking in human beings and smuggling immigrants, which had been identified as Medium, in the NRA as Low, merely on the basis that these cases were simple cases. In fact, both the records referred to in the NRA, and the number of cases wherein confiscation had been undertaken (see IO 8) indicate the risks to be on the high side. The assessment team considers that the authorities failed to detect the ML limb, with transnational features, in the case of *Republic v of Omprakash Singh Babu* (please see paragraph 191 in IO 8) wherein Bengali girls were lured to the URT, purportedly for dancing, but were in fact sexually exploited. The accused was prosecuted for trafficking in human persons, only, and there was no parallel financial investigation to determine the full scale or frequency of the illegal activity.

156. The Drugs Control and Enforcement Agency (DCEA) and the Zanzibar Anti-Drug Commission deal with drug cases. At the time of the onsite, investigations were ongoing against legal persons for Trafficking precursor chemicals for sale in legal and illegal labs (diversion), and other cases against natural persons for trafficking (heroin). From the interaction with the authorities, and the examples provided, it became evident that no parallel financial investigation or ML investigation was carried out in any of the offences involving drugs wherein suspects, including foreign nationals, had been arrested, at the airport whilst about to export heroin to other countries. despite the extraterritorial characteristics of these crimes. The authorities did not probe, consider or proceed on the understanding that the setting up of a business for drug trafficking with links in different countries was in most cases indicative of the operation of a network, rather than a one-person operation hence making investigations to fully appreciate the extent of the network and detect or identify money laundering offences, essential. In only arresting the offenders for the offences of drug trafficking, in two of the cases (Box 3.5), the authorities lost opportunities to use other means of investigative techniques such as controlled delivery to identify the kingpins involved and possibly detect or investigate them for ML.

Box 3.5: Drug Trafficking Cases

1. A citizen of Ivory Coast, about to export 5 kilograms of heroin to Italy, was arrested at the Abeid Amani Karume International Airport, in Zanzibar. Authorities from the UK and Italy came to the URT to investigate all the leads on the syndicate involved and to identify properties owned by the trafficker who lived in Italy. However, the accused person was arrested, arraigned and is now being prosecuted for drug trafficking, only.
2. The arrest of a Malawian woman, about to export 5 kilograms of heroin to Europe via India, at the Abeid Amani Karume International Airport in Zanzibar, led to collaboration between URT and the Malawian authorities. Intelligence obtained through informal cooperation with foreign counterparts revealed that the suspect's lawyer was staying in Zanzibar illegally. The charges before court are for drug trafficking, forgery and staying in the country illegally with the authorities indicating that no further action had been taken to identify the major kingpins involved with a view to establish whether they were not involved in ML.

157. The creation in 2016 of a multi-agency task force (NTFAP) to fight wildlife crimes, undeniably ranks as one of the major achievements of the URT. The NTFAP has managed to reduce the threat of wildlife offences through effective prosecution led and guided investigations, which resulted in successful prosecution and conviction of syndicates involved in such crimes. The NTFAP is composed of officers from Public Prosecution, Police, Department of Wildlife, Tanzania Intelligence and Security Services, and the PCCB, which was formed with the main objective of tackling wildlife crimes and making it a non-profitable business for criminals. The NTFAP developed with the UNODC, a Rapid Investigation Guide for its operations. Thorough investigation and analysis had led the NTFAP to identify the various levels of syndicates involved in such crimes as illustrated below:



158. However, even in cases which involved Levels 4 and 5 operators wherein convictions were maintained on appeal, and confiscation of the assets involved was ordered, the authorities had not included any charge of ML. Illustrated below in Box 3.6 are two such cases.

Box 3.6: Prosecution of Predicate Offences

Case I.

2 parties, were charged with two counts of “Leading Organized Crime and Unlawful dealing in government trophies” for having in 2015 and on diverse dates between 1st January, 2009 and 23rd October, at different locations within Dodoma and Dar es Salaam Region, organized and managed a criminal racket of collecting and selling government trophies namely 118 Elephant Tusks valued at Tanzania shillings One Billion Nine Hundred and Twenty Nine Million three hundred thousand (1,929,300,000 which is about USD 844, 333), which constitutes the property of United Republic of Tanzania without permit from the Director of Wildlife. Prosecutors from National Prosecutions Service in conjunction with the National Taskforce on Anti-Poaching, coordinated the investigation. The prosecution tendered in court as evidence, the motor vehicle which had a hidden compartment used to conceal the elephant tusks during transportation. The other motor vehicle which was tendered in court, with the aid of a sniffing dog had been found with particles of the elephant tusks. In the Tabora Region, another motor vehicle, which the main accused had given as a gift to a poacher, was seized. The parties were found guilty and sentenced to 10 years imprisonment for the offence of Leading Organized Crime, 2 years imprisonment for the offence of Unlawful Dealing in Trophies and the court ordered the Forfeiture of the three Motor Vehicles.

Case II **Yan Feng Lan (Queen of Ivory)**

The accused persons were charged with two counts of Leading Organized Crime and one count of Unlawful Dealing in Government Trophies to wit 860 pieces of elephant tusks valued at Tanzania shillings 5,435,865,000 without permit from the Director of Wildlife.

The accused persons in between January 2000 and 22nd May 2014 within the city and region of Dar es Salaam carried on a business of buying and selling of elephant tusks without trophy dealer’s license. The National Prosecutions Service coordinated the investigation in conjunction with the LEAs. In the course of investigations, it was revealed that the said elephant tusks were concealed at the farm of the Ivory Queen which was located in Muheza District in the Tanga Region. Financial investigations linked the Ivory Queen with the other co-accused persons via a bank statement. In the end, prosecution managed to prove the case beyond reasonable doubt whereby the court proceeded to find all the accused persons guilty as charged.

159. Moreover, the approach (see paragraph 149) in relation to false and failure to declare cross-border and BN1, renders the URT vulnerable to drug dealing and trafficking which are often associated with cash payments aided by most transactions in URT being conducted in cash.

160. The closure of a good number of Bureau de Change which occurred in 2019 was also considered. The NRA indicated that ML threat to the bureau de change sector was rated Medium High (MH) due to intelligence reports which linked many bureaux de change to unlawful hawala schemes and other unlawful transfers. The authorities indicate that a forensic investigation by competent authorities including the PCCB had been undertaken (Please see Chap 1 and IO 3). No arrest or investigation of criminal cases emanating from the closure was reported.

161. One case in the mining sector for dealing in jewellery without a dealer’s licence was under investigation. Information on the frequency in illegal operations in precious stones or jewellery could not be ascertained as there was only one case provided. The sector had however been identified as an area of high risk by the authorities in the 2016 NRA, which makes the next to nil

number of prosecutions inconsistent with the risk profile of the country, although as noted (see paragraph 154), two ML cases were being prosecuted.

162. As already indicated (see paragraph 146), LEAs have conducted joint investigations in certain matters, particularly those arising from TRA relating to tax evasion. In several of these cases, the parties had admitted the tax liabilities assessed by the TRA. The TRA conducted 13 joint investigations with the PCCB with a total value of Tsh40,989,273,788 (around USD17,836,933,76), during the period under review and 3 with the police. Out of the 13 reported cases of tax evasion, 3 high value ones illustrated the trends in the disposal of tax evasion cases through accused person's plea bargaining with the NPS and paying assessed fines an approach which ultimately might not be punitive enough. No parallel financial or ML investigation was initiated in respect of these offences.

163. Investigations and prosecutions of predicate offences are to some extent consistent with some of the high risk proceed generating offences identified in the NRA conducted in 2016. However, at the time of the on-site, the risk profile of the offences had not been updated to ensure the investigations and prosecutions were still consistent with the threats and risks of ML identified then.

3.3.3 *Types of ML cases pursued*

164. Self-laundering is the most common type of laundering dealt with by the authorities in URT. The categorisation by the FCU of the types of ML investigations and prosecution indicated the following: 84 cases of self-laundering, and one stand alone. 4 of the 84 cases had self-laundering coupled with other types such as third party laundering. The 23 convictions were essentially in respect of self-laundering, with one stand alone and one case predicated on a foreign offence. The PCCB indicated that all of its ML cases related to self-laundering.

165. Although, the authorities have successfully investigated and prosecuted all 3 forms of money laundering, the dominance of self-laundering in investigations and prosecutions by authorities is reflective of the ability of the LEAs to apprehend and detect this type of ML offence rather than indicative of the actual different ML activities taking place within the jurisdiction as clearly indicated by less cases investigated relating to standalone laundering. The authorities did not demonstrate that all types of ML cases were being properly detected, identified and investigated in drug related cases, corruption, tax evasion as well as in cross border currency or BNI incidences. Activities described by the authorities relating to bureaux de change and related hawala services were not to a large extent being investigated to establish if there was any ML and possible types of ML involved.

166. Whilst the URT has not yet prosecuted any legal person for ML, the case in Box 3.6 below, clearly indicates that legal persons have been used for the diversion of funds and laundering of proceeds but they have not been prosecuted.

Box 3.7: Case study - Republic vs Justine Katiti & Others [TTCL case (PCCB)]

Accused parties were prosecuted for several offences, including ML. The 1st accused was the employee of Tanzania Telecommunication Limited (TTCL) at the accounts department. The 2nd accused person, an employee of TRA at the Large Tax Payers Department made false entries to the tax system to show that TTCL had paid VAT. The first Accused sent bank cheques which were attached with TISS form at the NBC Corporate branch, which employed the 3rd accused person, payable to TRA as VAT for large tax payers. The money was diverted and paid to the account of UEE Tanzania Limited, which employed the 4th accused person. From UEE the

amount was credited to the accounts of the companies of the 6th and 7th accused persons. The investigation identified the movements of tainted funds, and prosecution established that there was no economic rationale for these funds to transit in the accounts of legal persons. These funds were subsequently withdrawn and laundered through construction and purchase of assets and properties. The accused persons were convicted. The court imposed a custodial sentence and ordered confiscation of the assets and properties involved including 4 lavish motor vehicles, 8 other vehicles, 1 apartment building, 6 houses and 2 plots of land.

3.3.4 *Effectiveness, proportionality and dissuasiveness of sanctions*

167. The details of the sanctions provided were neither complete nor comprehensive. The PCCB reported 17 convictions while the TPF indicated 23 convictions which would result in 40 convictions for the URT. However, only 32 cases were provided to show the sanctions regime of URT on ML: 6 had convictions but details for sanctions were not provided, 8 out of 17 convictions had the same minimum sentence of a fine of TSHs100m or 5 years imprisonment and the rest had varying amounts of fines. There was a conditional discharge in one case. The pattern of sentencing in the 8 different cases heard at the same court (Kisutu Magistrates Court) where all the offenders were sanctioned to minimum penalties provided by the law do not show that the sanctions were applied proportionally. Given that the circumstances of these cases were different it is not clear how the courts could have come up with the same type of sanction for the 8 different cases, which create the impression that due weight of the circumstances of each case in determining the proportionality of the sanction applicable was not appropriately considered. Also, no legal person had yet been sanctioned in URT due to lack of prosecution, all factors which weaken the effectiveness of an efficient sanctioning regime. Therefore, the sanctions are not being applied in an effective, proportionate and dissuasive manner.

3.3.5 *Use of alternative measures*

168. There is neither any robust strategy for prioritising ML prosecutions nor did the officials demonstrate any other avenue or the outcome of ML investigations which did not result into any ML prosecution. However, it is noted that once an ML offence had been detected, there was no impediment in law to proceed with prosecution even when the accused had absconded prior to arraignment or passed away in the course of trial, although in one ML case predicated on counterfeit, the proceedings were abated, upon the demise of the Accused. In other cases, when it is not possible to arraign the individual, the authorities have proceeded with an application for the person to be deemed to have been convicted (s. 9(1) (a) and 12 (b) of the PC Act [Cap 256 R.E. 2002]). Two of the cases are illustrated in Boxes 3.8 and Table 3.11 below.

Box 3.8: Examples of Alternative Measures

ATTORNEY GENERAL Vs. PASTORY FRANCIS MAYILA
 In Criminal Case No. 92 of 2016, the Defendant, who had absconded, was charged for Forgery, Obtaining Money by False Pretences, and ML, in absentia. Although the court issued summons by way of substituted service through publication to secure his appearance, the Defendant did not put in any appearance. The court made a finding that the Defendant had absconded as he had not complied with the published accused summons, (AG 53B) as required under section 4(1)(c) of The Proceeds of Crime Act [Cap 256 R.E. 2002]. The Court proceeded to convict the person which enabled conviction based forfeiture of the assets involved to take place.

Table 3.11:

S/N	CASE NO	PARTIES	COMPLAINTS AGAINST COMMISSION	COURT	JUDGMENT / RULING	STATUS
6	Economic Case. No. 13 of 2013	R v. Raija Edward Mabanga	Possession of minerals carate 66.06 of diamonds with the value of Tshs 79,303,530 contrary to section 18 of the Mining Act, Cap.123.Ipo chiniya Mheshimiwa Ally	Resident Magistrate Court, Kisutu before Hon. ALLYA		Accused died and the process to finish the case in on going

Overall conclusions on IO.7

URT is rated as having a low level of effectiveness for IO.7.

3.4 Immediate Outcome 8 (Confiscation)

3.4.1 Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

169. The operational structure in URT for confiscation of proceeds, instrumentalities and property of equivalent value, comprises of dedicated units of officers, trained on asset recovery within the prosecuting authority (NPS), FCU and/or deployed within agencies such as the PCCB on Tanzania Mainland; and the ZAECA and the High Court and Court of Appeal Prosecutorial Unit within the Office of the DPP in Zanzibar.

170. In 2018, the NPS (which was set up as an independent body, in 2008) introduced a new institutional structure, which provides for an Asset Forfeiture, Transnational and Specialized Crimes Division to among others, perform asset recovery duties. The setting up of dedicated units and/or divisions together with the allocation of resources for training on asset recovery for investigatory and prosecuting authorities involved in the investigation of ML offences, demonstrates to some extent the URT's commitment to pursue proceeds, instrumentalities and property of corresponding value as an objective. The Assets Forfeiture, Transnational and Specialized Crimes Division guides the LEAs in the recovery of illicit proceeds. The FCU (see paragraph 136) in the TPF, is the Unit responsible for implementing the provisional measures, including for identification, tracing, freezing, seizing and confiscation of illicit proceeds of crime and instrumentalities throughout the URT. Generally, the TPF relies on the Police General Order (PGO) 222 and 223, which enounces procedures in conducting investigations and measures in the recovery of proceeds, instrumentalities and property of corresponding value throughout the URT. The measures on recovery of proceeds of crime are inclusive of provisional and confiscation which LEAs in URT rely on when conducting their investigations.

171. The details of confiscation provided by the authorities suggest that the URT has targeted mainly instrumentalities when dealing with predicate offences, as characterised by assets such as vehicles used for offences of transportation of illegal immigrants, trafficking in persons, and

smuggling of illegal immigrants, trafficking in narcotic drugs, unlawful possession of government trophies. The results of the 97 cases provided by the NPS do not demonstrate in-depth skills to identify, trace, recover proceeds and property of corresponding value.

3.4.2 *Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad*

172. URT's asset forfeiture regime is conviction based and therefore, emphasis is on securing a conviction to then embark on the forfeiture process. Relevant evidence is elicited from witnesses in the course of the investigation for purposes of establishing the elements of the offence to enable a conviction to be secured during trial and have proceeds of crime identified, traced, frozen or seized to be used as exhibits where necessary and forfeited to the State upon conviction of the accused.

173. The authorities demonstrated the above through citing and explaining various cases. The case in point is that of Pastor Mayilla (see Box 3.8), wherein, the accused person could not be arraigned for trial, and the authorities initiated an application for conviction. The pronouncement of a guilty verdict by the courts enabled the authorities to subsequently proceed and make an application for asset forfeiture which was supported by an affidavit by the DPP to the effect that the assets in possession of the property holder were on a balance of probabilities either proceeds or instrumentalities of crime. The court accordingly granted the application and ordered the forfeiture of the assets which were 5 vehicles and 6 houses. Another example where the authorities demonstrated that they pursue the conviction of an accused person in order to ultimately have proceeds of crime forfeited to the state, was a case where the authorities pursued prosecution against an accused, who had passed away. He had been found in possession of 66.06 carats of diamonds valued at Tshs 79, 303,530 (See paragraph 3.3.5 under *Use of alternative measures*). The case is still continuing with the State's objective being to obtain a conviction which would enable it to later apply for confiscation of the diamonds.

174. Restraining orders are effectively implemented by way of a state attorney making an application through deposing a sworn affidavit setting out the grounds upon which the request is being made to the courts. According to the authorities there is no impediment in terms of expediency of the court processes, or likelihood of the proceedings being unduly protracted on account of the application being made inter party(ies). These applications are generally granted within a short frame of time. The court, when determining whether to grant any application, takes into consideration the fact that the investigation of the case was in its final stages to enable the accused person to be arraigned before the courts. However, if inadequate precaution is taken, the process followed could easily provide the accused person with an opportunity to dissipate the ill-gotten proceeds well before the restraining order is issued or enforced. In fact, the authorities did reveal, during the onsite that in one case the property had already been dissipated by the time they obtained the order. The DPP has proceeded by way of a freezing order in the case below.

Box 3.9: Application for Freezing Order against Geoffrey John Gugai

The PCCB's investigation led to an application for a freezing order in respect of several properties, including 7 double storey buildings, apartments on 3 plots and 3 blocks, 2 houses, several plots of land and motor-vehicles under ownership of the Respondent. The investigation had revealed that Respondent, a Chief Accountant did not have the lawful income to acquire all the above properties.

His employment in the Public Service brought a total income of Tshs. 852, 183,160.46. His income, together with loans which he obtained from financial institutions added to those of his

spouses could not account for the wealth used to acquire those properties.

The investigation had established that the sum of Tshs. 3,634,961,105.02 was not commensurate with the Respondent's lawful income, more so as during interrogation he was unable to explain how he came into possession of the properties.

An application for freezing assets, in light of the investigation which was being conducted by the PCCB, was successfully made by the Director of Public Prosecutions under certificate of urgency as provided s.38(l)(a) &(b) of the Prevention and Combating of Corruption Act, No. 11/2007 and was supported by an affidavit by the State Attorney.

The Court was satisfied that reasonable steps had been taken and that investigation is in its final stages for the accused person to be arraigned before the Court.

The Court granted the application in order to maintain status quo of the suspected properties.

This order prohibited the Respondent, his agents and all other persons acting on his behalf from disposing off or transferring ownership and or pledging the properties mentioned and directed the Registrar of Titles to register as encumbrance a restraining Order against the properties as well as directing the Assistant Registrar of Motor vehicles not to approve any intended transfer of the said properties until when the Court directed otherwise.

175. The authorities (PCCB) have had recourse to a Prohibitory Notification issued by the DPP during the period from 2015 to 2019, in about 40 cases. This is an administrative measure which does not require any court process to prevent any dealing with the property. This is valid for 6 months within which the matter must be formally lodged before the court. Even then, depending on the complexity of the case, it will not be in the early phases of the investigation but can be issued anytime within the six months before lodging of the matter in court. In the Criminal Appeal Case No. 346/2015 (CAT), the court held that the renewal of the Prohibitory Notification by the DPP was illegal as the law did not provide for such extension or renewal. Therefore, the sale of the house by the Appellant, against -whom the purported renewed Prohibitory Order had been issued by the DPP, was held by the same court to be legitimate as the renewed/extended order was not valid at law and at the time of the sale of the property.

176. The right of innocent third parties whose properties might have been used in the commission of a criminal offence are protected in the URT. In Criminal Appeal Case No. 220/2011 AG vs Mugesu Anthony and 2 Others, a 2013 case, the DPP made an application in respect of a motor vehicle which was being used by the driver, (who was not the owner), to illegally deliver drugs. The application arose after a special built-in compartment had been discovered on the motor vehicle being driven by the suspect used to hide the drugs. The truck had therefore been considered as an instrumentality. However, the court determined that the motor vehicle owner, who was not being prosecuted, was an innocent party who had simply hired the vehicle out to ferry blasting materials. The State had not managed to prove that she had knowledge of the hidden compartment in her truck, and in any event the narcotics had not been found in the hidden compartment such that her interest should be protected. In contrast, investors in a pyramid scheme in what is known as the

DECI case¹⁸, were not successful in their application for their interests to be excluded as they were unable to offer evidence and satisfy the court that they were innocent parties.

177. In another matter, the accused person had pleaded guilty to unlawful possession and transportation of 5 368.3 grams of gold minerals without appropriate licence/permit and the trial court had ordered him to pay a fine of Tshs 10,000,000 and royalty amount of Tsh27,000,000 but ordered the Mining Commission to return the gold to the accused person, a decision which had prompted the DPP to appeal against the part order to return the gold. The decision was overruled on appeal by the High Court which ordered the precious minerals to be forfeited to the State on top of the paid fine and royalty¹⁹.

178. In Zanzibar, confiscation of assets related to drug cases have been effected under the Criminal Procedure Act. A seizure case presently under prosecution (see Box 3.4) was effected under the AMLPOCA. The authorities explained that in one case which was still in court, an interception had led to seizures of almost up to 800 kilograms of a psychotropic substance, and other drugs as well as houses. However, despite the prevalence of cases related to drug trafficking cited by the authorities, which were transnational in nature, there had not been any cross-border ML investigation, through techniques like controlled delivery, leading to confiscation of assets of the people involved, in two or three cases where couriers were intercepted and arrested at the local airport, Abeid Amani Karume International Airport (See Box 3.5).

179. The assessment team considers that the URT did not demonstrate in-depth skill both at the level of investigation and prosecution in tracing proceeds and property of corresponding value in Criminal Case Number 227/2014, United Republic vs Om Prakash Singh Babu Prakash (see IO7). The Accused was prosecuted for the offence of Trafficking in persons and following his convictions, 3 Motor vehicles were confiscated. The lack of any parallel financial investigation or ML charge, on what may constitute a foreign predicate offence, resulted in only 3 Motor vehicles being confiscated although the authorities were aware that he might have had other property.

180. The authorities demonstrated, albeit some of the records were incomplete (please see paragraph 183), mechanisms for the management of assets. Assets confiscated/forfeited have been redeployed with forfeited vehicles being allocated to the law enforcement agencies, and drugs and medical equipment being distributed in health centres.

181. The URT has been engaged by foreign jurisdictions to enforce confiscation orders in respect of property located within its jurisdiction. The URT received one request for confiscation from the UK in June, 2019, as set out in Box 3.10 below. Its execution was in its final stages at the time of the on-site with an Asset Sharing Agreement being finalised.

Box 3.10 Foreign Forfeiture request: UK NATIONAL

A UK National, involved in the importation and onward distribution of multiple Kilograms of Controlled Drugs within and outside the United Kingdom, was arrested in the UK. The investigation revealed that she had assets in the UK and in other countries including the United Republic of Tanzania (URT), where the suspect had registered four companies. In January 2016, the URT, received a request from Police and Crown

¹⁸ Criminal Application No. 42/2019 DPP vs Jackson Sifael Mtares & 3 Others

¹⁹ High Court (Mwanza) Criminal Appeal No. 22 of 2019 DPP vs BAAREND VAN BRAKEL

Prosecution Services of the United Kingdom for mutual legal assistance in criminal matters in respect of funds in bank accounts of the legal persons. The financial investigation conducted by LEA and analysis of Bank Statements for the accounts mentioned in the request established a link between the aforesaid accounts and other Bank Accounts maintained with one of the local banks.

The local bank, in compliance with AMLA requirements, required their clients to provide the ultimate beneficial owner (UBO). All eight accounts when analysed revealed that she was the UBO and funds in the accounts were restrained in 2016 pending enforcement of the forfeiture order from the UK.

Following her conviction, the UK Authorities sent a Forfeiture order to be executed by URT authorities. The execution of the Forfeiture Order is in process, as the URT Authorities are presently finalizing a Memorandum of Understanding (MOU) on sharing of the assets forfeited.

182. A period of 1 – 3 months, which is reasonable, had been taken to process the applications. None of the requests involved Zanzibar but in the event of any such request, the NPS would send it to the DPP in Zanzibar to coordinate with authorities on the domestication and implementation of the order. The URT had not yet repatriated any asset at the time of the on-site visit.

183. The authorities have taken measures to restrain the properties of a foreign national from Uganda who had been extradited back in 2015 on suspicion of having committed Murder in Uganda. The properties were restrained pending the outcome of the Murder case in Uganda (See IO 2). In a third case, the authorities had applied for a restraining order concerning a suspect's properties in Kenya which included houses and 3 motor vehicles but had later withdrawn the application opting to file a forfeiture application instead. At the time of the on-site, the authorities did not indicate any further follow up action taken on the matter

184. The discussions and supporting information provided by the authorities indicated that URT must put in place an adequate sharing of foreign assets mechanism and also to ensure that its confiscated asset case management mechanism adequately captures all the relevant information on confiscation cases handled to enhance the efficiency of the asset forfeiture regime. Initially, the assessment team was provided with a Table of 119 cases which had involved domestic confiscation during the period between 2015 – 2018 but their details were neither complete nor comprehensive. 38 cases did not involve any of the offences cited as high risk by the authorities; 8 cases did not indicate the offence; 14 cases did not provide the value of what was confiscated; and 9 cases had inadequate information, not to mention that some of the cases were cited more than once. There was only 1 confiscation from ML. Subsequently the NPS provided a table of 97 cases showing confiscation results (see paragraph 189).

185. The cases shown in Table 3.14, below, extracted from the table of 119 cases provided by the authorities, are only in relation to confiscations relating to crimes identified by the authorities as high risk during the NRA.

Table 3.14: Criminal proceeds confiscated from identified high risk crimes

Ref No.	Offence	Property confiscated	Value
CC224/2015	Unlawful entry into game reserve	Motorcycle make SAN LG	Not provided

CC75/2015	Unlawful possession of narcotic drugs	M/V – Mitsubishi Fuso	Not provided
Eco. 1/2015 Eco 1/2017	Unlawful possession of government trophies	M/V – Toyota Prado M/V – Toyota pick-up	Not provided Not provided
EC81/2017	Unauthorised exportation of minerals	18.5 kgs of gold & forex in different currencies amounting to Tshs 908,091,979.	-18.5kgs of gold valued at USD669,289 -denominations of forex equivalent to Tshs 908,091,979.
Crim Appl 100/2028 (18)	Forgery, uttering, false pretences & ML	-3 Residential plots -M/Vs: Toyota Land cruiser; Cadillac Escalade; BMW x 2; Range Rover; & Toyota Land cruiser Discovery	3 Residential Plots: 1) Tshs 517,700,000; 2) Tshs 47,000,000; & 3) Tshs 19,000,000 6 M/Vs: 1) Toyota Land cruiser – Tshs 82,800.00; 2) Cadillac Escalade -Tshs 89,500,000; 3) BMW – Tshs 47,158,000; 4) Range Rover – Tshs 60,000,000; 5) BMW- Tshs 97,500,000; & 6) Toyota Land Rover Discovery – Tshs 60,500,000

3.4.3 Confiscation of falsely or undeclared cross-border transaction of currency/BNI

186. Generally, the cross-border transportation of currency and BNI regime of the URT was not being effectively implemented. There were no indication that these cases were probed with a view to determine why there has been false or undeclared cross border transaction of currency/BNI. The authorities explained that where false or undeclared cross border transaction of currencies were involved and once the Customs officer has decided to temporarily restrain or seize with the intention to determine the intended purpose of carrying the amounts involved, the currencies are deposited in the special account which is held by the FIU but no case example was provided.

187. At the level of the Customs, the officers explained that usually it is only when the person does not agree to compounding that the matter is sent for investigation and prosecution. Otherwise the trend is for compounding, as was done in about 10 cases provided by the authorities with varying amounts of undeclared currency. It was noted that in one case of undeclared currency by a foreign national from Syria, the amount was compounded based on the explanation provided by the person at the time of flying back to Syria without further verification of the origins of the cash amounts claimed by the person to have been changed at the Bureaus De Change after having purportedly conducting business in URT.

188. In two cases the circumstances appear to be similar, *R. v. Anuwat S/O Charcentum*, Criminal Case No.18 of 2018 and *R. vs Nada D/O Zailoon*, Criminal Case No. 309/2018, the two courts reached different decisions. In Case No. 309/2018, the court acquitted and discharged the accused person of the offence of false declaration after being satisfied that the source of the undeclared money was legal and that her failure to declare the same was due to language barrier. In contrast, in Case No. 18 of 2018, the accused person had failed to declare about USD53,000 on the basis that he did not understand either Swahili or English and therefore the laws of the country. He was intending to use the money to start business in Tanzania. He was convicted of failing to declare the amount. He was fined Tshs100,000,000 to be deducted from the confiscated amount of USD53,000 and the balance, half of it was to be returned to the accused person to enable him to sustain himself whilst in Tanzania and the other remaining half was to be forfeited to the State. However, the court proceedings do not provide clear indication, other than that the accused had admitted to bringing the money and not having declared it due to his failure to understand the language and the reason for bringing the money which was to do business, that the reasons were fully probed by either the prosecution to determine if the funds were proceeds of crime being brought to Tanzania for ulterior motives or by the court that the explanation proffered by the accused of failure to understand the language and therefore the laws of the country was not genuine, before the conviction of the accused

189. Due to the inconsistencies in the sanctions applied as well as the court decisions reached in some of the cases, application of confiscation regarding false or non-declared cross-border movement of currency or BNIs is not being applied as an effective, proportionate and dissuasive sanction by the authorities.

3.4.4 Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities

190. In the absence of national AML/CFT policies and priorities, the assessment team has noted the breakdown of the total of 97 confiscation results provided by the NPS bet the period of 2015 – 2018 as illustrated in Table 3.15 below. These included 5 confiscations in respect to ML: 2 predicated on Forgery, 1 on stealing, 1 on Tax evasion and 1 for obtaining property by deception.

Table 3.15: Number of Confiscations implemented from 2015 -2019

Total No. of confiscations		97
Type of predicate offence		No of confiscations per predicate offence
1.	Unlawful possession of government trophies.	14
2.	Trafficking in persons and transportation of illegal immigrants	14
3.	Forgery, Stealing & one pyramid scheme case	12
4.	Unlawful possession of forestry products	6
5.	Unlawful possession and exportation of minerals	4
6.	Drug related offences	2

7.	Tax evasion	2
8.	Game Reserve violations	21
9.	Other different types of offences	22

191. The confiscation results above show, to certain extent, that the URT is pursuing confiscation in respect of some of the offences which were identified to be high risk in the NRA with the exception of the offences of trafficking in persons and transportation of illegal immigrants which were not identified as high risk offences in the NRA. As indicated from the results of confiscations done on the cases of trafficking in persons and immigrant smuggling (14 confiscations), the number is sufficiently on the high side to have warranted the authorities to consider the risk posed by such offences to be among the high risk offences (also paragraph 157).

Overall conclusions on IO.8

192. **URT is rated as having a moderate level of effectiveness for IO.8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1 Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9 (TF investigation and prosecution)

- a)* TF offence is not criminalised in a manner consistent with the FATF Standards. As such URT does not have the ability to fully apply measures to ensure that the entire scope of TF and associated predicate offences can be effectively prosecuted.
- b)* URT has not prosecuted any type of TF activity and no convictions for the TF offence have been secured. The lack of TF prosecution and conviction is not consistent with the country's risk profile. Therefore, the effectiveness, proportionality and dissuasiveness of the sanctions and any other measures which could be implemented by the authorities to deter TF activities could not be determined.
- c)* The NCTC received and analysed a number of reports including seven intelligence reports from the FIU. After analysis, the NCTC concluded that the reports did not warrant further investigation on terrorism or TF. Since there has not been any TF investigation in URT, it has not been possible to identify the specific role played by the terrorist financier.
- d)* URT has a counterterrorism strategy which is aligned to the regional counterterrorism strategies of East Africa Community (EAC) and Southern Africa Development Corporation (SADC). However, the Strategy is not informed by the TF risks prevalent in the country. Since there was no TF investigation, it was difficult to determine to what extent the investigation of TF is integrated with the Strategy.

Immediate Outcome 10 (TF preventive measures and financial sanctions)

- a)* URT has not identified a competent authority or a court with responsibility for proposing persons or entities to the relevant UNSC Committee for designation. In addition, there is no mechanism(s) for identifying targets for designation, based on the designation criteria set out in the relevant UNSCRs.
- b)* The procedure for communicating designations of UNSCR 1267 as set out in law differs from what is done in practice. In addition, both the existing legal framework and the existing communication procedures would not facilitate implementation of the UNSCR 1267 designation without delay.
- c)* There hasn't been any designation pursuant to UNSCR 1373. The lack of any designation does not correspond with URT's TF risk profile. In addition, the mechanisms in place would not allow for the domestic designation of a person/ entity and the freezing of his/its assets without delay.

- d) No guidance has been issued by URT authorities to assist reporting entities in understanding their obligations as it relates to UNSCRs 1267 and 1373. As a result, there is little understanding amongst reporting entities of their obligations on UNSCRs 1267 and 1373. Therefore, reporting entities would not implement the UNSCRs without delay.
- e) URT has not yet conducted any risk assessment of the NPOs sector to identify the nature of organizations, objectives, activities, threats and vulnerabilities of NPOs to TF abuse. As a result, URT has not been able to apply a risk based approach to supervision of the sector.
- f) Due to lack of TF cases, it was not possible for the Assessors to determine the extent to which terrorists, terrorist organizations and terrorist financiers are deprived (whether through criminal, civil or administrative processes) of assets and instrumentalities related to TF activities.

Immediate Outcome 11 (PF financial sanctions)

- a) URT does not have mechanisms on TFS relating to proliferation of weapons of mass destruction and neither is this requirement being implemented in practice, as there has not been any investigations or interventions relating to financing of proliferation.
- b) Supervisory authorities have not issued instructions and guidelines and have not established mechanisms to implement the relevant TFS, nor do they monitor the entities under their supervision in this regard.
- c) The URT agencies, FIs and DNFBPs do not adequately implement UNSCRs on combating PF and this is due to the absence of comprehensive procedures, instructions or mechanisms. The awareness of the TFS requirements in relation to PF is weak.
- d) There are no administrative or voluntary mechanisms in place for reporting entities to apply measures relating to identified assets and funds held by designated persons or entities.

Recommended Actions

Immediate Outcome 9 (TF and investigation prosecution) URT should:

- a) URT should revise its legal framework with regard to the TF offence in order to make it consistent with the FATF Standards which would in turn allow authorities to be able to detect and disrupt the full scope of TF and associated predicate offences.
- b) Conduct a comprehensive TF Risk Assessment in order to clearly understand its TF risks and use the understanding of the TF risk profile of the country to develop and implement a comprehensive national counter financing of terrorism strategy.
- c) Build operational capacity to identify, investigate and prosecute TF cases and ensure that the TF identifications, investigations and prosecutions are consistent with the TF risk profile of URT. This capacity should be built with the provision of specialised TF trainings. In this regard, the roles and responsibilities of the agencies involved in the identification and investigation of TF should be clearly outlined as this will enable targeted capacity building among the relevant agencies.
- d) Improve measures to disrupt TF activities by, for example, targeting sources of funding for terrorism for disruption.

Immediate Outcome 10 (TF preventive measures and financial sanctions)

- a) The current procedures for communicating designations pursuant to UNSCR 1267 to reporting persons should be reconciled with that set out in URT's legal framework. In addition, both the legal framework and the existing communication procedures need to be revised to effectively coordinate and implement the UNSCRs without delay by amongst others, ensuring that all reporting entities are notified and that this happens without delay.
- b) URT should identify a competent authority or a court with responsibility for proposing persons or entities to the relevant UNSC Committee for designation. Further, URT should establish a mechanism(s) for identifying targets for designation, based on the designation criteria set out in the relevant United Nations Security Council resolutions (UNSCRs).
- c) URT authorities should sensitise the reporting entities and issue appropriate guidance to assist them understand their TFS obligation and effectively implement requirements of UNSCRs 1267 and 1373.
- d) The Authorities should undertake a detailed study of the NPO Sector to identify the vulnerability of the sector to TF risk, identify NPOs which might be most vulnerable to TF abuse and take appropriate measures to mitigate their exposure to the TF risk.
- e) URT should ensure that the NPO regulator has adequate capacity to carry out risk-based supervision and monitor the activities of NPO for any possible abuse for TF purposes.

Immediate Outcome 11 (PF financial sanctions)

- a) URT should put in place a mechanism to implement, without delay, TFS relating to PF. In the interim, Accountable persons with knowledge of TFS relating to PF should be encouraged to voluntarily implement the UNSCRs on PF with appropriate guidance from the authorities.
- b) URT should ensure that designations and obligations regarding TFS relating to PF are communicated to FIs, DNFBPs, LEAs and other relevant sectors in a timely manner.
- c) URT should ensure that funds or other assets of designated persons and entities (and those acting on their behalf or at their direction) are identified and such persons and entities are prevented from operating or from executing financial transactions related to proliferation.
- d) URT should ensure that FIs and DNFBPs understand their obligations regarding TFS relating to PF and comply with these requirements.
- e) The FIU, supervisors and law enforcement agencies, should be sensitised and should also ensure sensitisation and awareness raising amongst FIs and DNFBPs on the implementation of requirements regarding TFS relating to PF.
- f) URT should ensure that the FIU and relevant competent authorities monitor and ensuring compliance by FIs and DNFBPs with their obligations regarding TFS relating to PF.

The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5-8, 30, 31 and 39.

4.2 Immediate Outcome 9 (TF investigation and prosecution)

Background

193. The laws dealing with TF in URT are POTA, the AMLA and the AMLPOCA. URT has also acceded to or ratified the relevant UN instruments in relation to the countering of terrorism and terrorist financing. AMLA is applicable in Tanzania Mainland, AMLPOCA in Tanzania Zanzibar while POTA is applicable in both Tanzania Mainland and Tanzania Zanzibar.

194. These laws empower the Tanzania Police Force to investigate terrorism and TF in URT while the NPS from the Mainland and the Zanzibar DPP have powers to prosecute for terrorism and TF in mainland Tanzania and Zanzibar respectively. Besides, the FIU, National Counter Terrorism Centre (NCTC) and Tanzania Intelligence and Security Service (TISS) are also designated to deal with issues in relation to terrorism and TF.

4.2.1 Prosecution/conviction of types of TF activity consistent with the country's risk-profile

195. The NPS on the Mainland, and the DPP office in Zanzibar are the prosecuting authorities responsible for the ultimate decision on whether or not to refer any TF case before the court for prosecution. The system is structured in a manner that there is a prosecution-led investigation on TF matters. At the NPS, cases from the LEAs follow their route to specialised Divisions, depending on the nature of the investigation. If a case transcends a Division or has cross-divisional issues, it will proceed to the Case Management, Coordination of Criminal Cases Division (CMCCCD), which is responsible for setting out the standards. TF cases are channelled to the Assets Forfeiture, Transnational and Specialized Crimes Division. The Division has 4 trained specialised attorneys who were trained to deal with TF and terrorism cases. In relation to Zanzibar, the Chief Prosecutor of the High Court and Court of Appeal of the Zanzibar DPP has a similar power on TF matters. However, as it was highlighted in the NRA report, there is need to create more CFT awareness and training to the prosecutorial authorities. There is also need to build the operational capacity to identify, investigate and prosecute TF cases including through specialized trainings consistent with the TF risk.

196. As noted in Chapters 1 and 2, URT has conducted a national TF risk assessment in 2016 which concluded that the overall TF risk for the country was medium. According to the NRA Report, URT borders with countries that face terrorist threats from different terrorist groups and people who are able to easily move in and out of the country due to the porosity of borders. Furthermore, URT suffered a terrorist bomb attack by Al-Qaeda at the US embassy in Dar es Salaam in 1998. The TF assessment in the NRA, which was the basis of that understanding, was not comprehensive enough as not all regulated sectors had been assessed for TF vulnerabilities and the assessment of the potential abuse of the NPO sector for TF, vulnerabilities arising from hawala activities and cross-border transportation of currency was considered inadequate. Furthermore, the assessment did not consider the domestic and foreign TF threats and vulnerabilities. On the basis of the foregoing observations, the Assessors are of the view that authorities do not have a reliable understanding of the TF risk profile of the country. Moreover, URT's legal framework is inadequate as the law does not cover the financing of an individual terrorist and travelling of foreign terrorist fighters as TF offenses. This is a significant deficiency in the light of the TF threats in URT.

197. URT has not prosecuted any type of TF activity. The lack of TF prosecution and conviction is not consistent with the country's risk profile.

4.2.2 *TF identification and investigation*

198. After the terrorist attack at the US Embassy in Dar Es Salaam in 1998, Tanzanian and American authorities undertook joint investigations into the incident. The investigations led to a realisation by the Tanzanian authorities for the need to cooperate and coordinate national efforts to deal with future terrorist related issues. Accordingly, a National Task Force comprising the Chiefs of Defence of Security Organs namely, Defence Forces, Police, TISS, Immigration and Prisons Department was formed to recommend on measures to deal with terrorism and related issues.

199. The Defence and Security Organ Committee (DSOC) recommended the establishment of the National Counter Terrorism Centre (NCTC) comprising experts from all security and defence organs to coordinate national efforts on terrorism as well as to liaise with regional and international partners. TF Policy is undertaken by all the (Law Enforcement) Agencies but coordinated by the NCTC.

200. The NCTC was set up administratively and commenced operations in 2009 as a coordinating entity. It comprises seconded officers from relevant institutions involved in TF policy formulation and investigations. NCTC receives strategic policy directives from the DSOC while the Supervisory Body to the NCTC is responsible for providing directives and monitoring functions on behalf of DSOC. The NCTC is headed by a Co-ordinator assisted by a Deputy Co-ordinator. There are three departments responsible for Liaison, Finance and Administration, Analysis, Operations and ICT. The functions of the NCTC include, coordinating national counter terrorism efforts; advising the National Defence and Security Organs on the best countermeasures against terrorism; assessing and evaluating levels of terrorism threats in the country; coordinating capacity building initiatives for stakeholders in counter-terrorism efforts; developing counter-terrorism strategies; providing complementary assistance to other intelligence communities; developing information collection, analysis and dissemination plans and monitoring and reviewing current and emerging trends in terrorism. Any information on terrorism or TF is forwarded to the NCTC for analysis and follow up. NCTC also receives information from various sources including other LEAs, the FIU and the public at large. Under the assessment period, NCTC received and analysed more than 100 reports including the 7 reports from the FIU. The results of the analysis, however, revealed that there was no link of the reports to TF and therefore, the reports could not lead to TF investigations.

201. The core staff of the NCTC are selected from the permanent members of the Defence and Security Organs. However, in order for the NCTC to have intended inter-agency and multi-disciplinary setting, it includes staff (on need basis) from vital stake holders, such as: TRA, FIU, Ministry of Health and Social Welfare (MoHSW), Fire and Rescue Services (FRS), Tanzania Atomic Energy Commission (TAE), Tanzania Airports Authority (TAA), Tanzania Ports Authority (TPA), Tanzania Civil Aviation Authority (TCAA), Tanzania Communication Regulatory Authority (TCRA), Surface and Marine Transport Regulatory Authority (SUMATRA), National Identification Authority (NIDA) and any other government entity that may be deemed appropriate. Given that all the agencies involved in investigating TF or TF related matters are based at the NCTC, this should make coordination and follow up of terrorism and related activities a relatively smooth process in URT. It is however the Assessors' view that this is not the case as highlighted herein below. In addition, the lack of investigation and prosecution of a TF case is not consistent with URT's TF risk profile.

202. The TPF is the lead investigating agency for terrorism and TF while the Ministry of Home Affairs provides administrative support. The Criminal Investigations Division (CID) handles TF matters in the Police. The CID has seven sections or Chiefdoms and TF matters within CID are investigated by the Terrorism and Transnational Organized Crime Section. Within the Terrorism and Transnational Organized Crime Section, there is a special bureau responsible for terrorism. The bureau also deals with extremism and radicalization. The agencies responsible for the Military,

Immigration and Prison have special sections to deal with terrorism. However, it is not clear if these agencies also deal with TF.

203. There were 7 cases referred by the FIU to the NCTC between 2014 and 2018. The NCTC analysed the 7 intelligence reports from the FIU and concluded that they were not linked to TF. The NRA further indicated that there was 1 STR on TF. Despite this, there has not been any investigation on terrorism or TF.

204. At the time of the on-site visit, there had not been any TF threat analysis carried out by CID. Apart from the 7 financial intelligence reports from the FIU no case had been identified or referred by any institutions such as TISS for investigations relating to TF. The Police require a court order to access financial information whilst FIU has powers to access the information directly from the FIs. However, the authorities have not used these powers for TF investigations as no case has been identified. Though there has not been any TF investigation, the authorities indicated that URT had nevertheless taken a number of initiatives to combat potential incidents of TF in the country. These measures include countrywide outreach programmes conducted by Police, capacity building to LEAs, the establishment of NCTC to coordinate counter terrorism initiatives. The agencies involved in TF investigations have also received training on TF investigations and appear to be adequately resourced.

205. Given URT's TF rating, the Assessors are of the view that the measures put in place, may for the moment appear to be consistent with URT's TF risk profile in so far as domestic TF threat is concerned. However, given URT's geographical positioning and the terrorism and TF activities in the Horn of Africa, these measures may not be adequate to address international TF threats hence the need for URT to consider allocating and /or deploying more resources including additional TF training for LEAs and financial investigation tools. For example, in the case where a Uganda national was extradited from URT to face murder charges in that country, the authorities in URT did not pick out potential TF threat during the extradition proceedings until after the fugitive had been extradited (See Box 4.1). In addition, there was another instance where three nationals of URT were extradited to another neighbouring country to face terrorism related charges. Though the URT authorities cooperated with the authorities of the neighbouring country, they did not however look into the TF related aspects of the case or initiate TF investigations.

206. In its interaction with the authorities of URT, the Assessment Team is of the view that officers at the NCTC and TISS appear to have a reasonably good understanding and awareness of TF but this understanding is not shared across the board or with other LEAs. As indicated above, given that all agencies involved in combating terrorism and TF are represented in the NCTC, there ought to have been coordination to guide the relevant investigative agencies to also pursue TF investigations in the two aforementioned cases. There is therefore need for a greater TF awareness and coordination amongst the LEAs, particularly those charged with investigating TF related matters. Though the NCTC received over 100 reports including reports from the FIU, the analysis of these reports did not however reveal any linkage to TF. This could be an indication of challenges in TF identification. Authorities should therefore undertake downstream sensitisation of relevant stakeholders in TF identification.

207. Despite the measures mentioned above, URT still faces challenges in TF identification for the following reasons: (a) the NRA acknowledged that the financial sector does not have the capacity to detect TF transactions. This is compounded by the fact that TF threat of the mobile money operators was rated medium high; (b) Authorities do not receive and analyse international/cross border financial transactions conducted by the private sector. In addition, some FIs do not have automated systems for detecting UN listed persons/ entities; (c) It is permissible to send money outside URT by mobile phone. However, authorities have not put in place regulatory measures such as monitoring the transactions, limiting number on mobile wallets a person can hold;

mandatory ID of beneficiaries (d) absence of analysis of cross border currency reports (see IO. 1 and IO.6) and false or undeclared currency/ BNIs are not seized. Based on the above analysis, the Assessors concluded that TF identification and investigation in URT are carried out to a very limited extent.

4.2.3 *TF investigation integrated with, and supportive of, national strategies*

208. URT has not undertaken investigations on TF. The authorities, however, indicated that TF investigations are integrated into the country's counter-terrorism strategy. This strategy includes involvement and awareness of officials at the regional and village level including cell groups (Nyumba Kumi).

209. URT's counter-terrorism strategies are aligned to the regional counter-terrorism strategies including those of East Africa and SADC. Part of the country's strategy to deal with TF was the enactment of the POTA in 2002. However, the Strategy is not informed by the TF risks prevalent in the country and since there has not been any TF investigation, it was difficult to determine the extent to which the investigation of TF is integrated with the Strategy.

210. Part of URT's CT strategy includes the nyumba kumi initiative (10-person cell group) which collects information on suspicious persons and activities from village level, district level, regional level and national level. Refugees are deemed as high risk for terrorism and TF purposes and are monitored accordingly.

211. There is also an Inter Religious Committee under the trusteeship of Regional Commissioners whose objective is to, amongst others, look at the ideology side of terrorism and radicalization by engaging religious leaders to participate and make interventions as necessary in all peace seeking related matters such as when there are religious or political challenges. In the absence of TF investigations, it is the Assessors' view that though *the nyumba kumi* initiative is part of URT's CT strategy, TF investigation is however not integrated with, and supportive of the national CT strategies of URT.

4.2.4 *Effectiveness, proportionality and dissuasiveness of sanctions*

212. As indicated in the TC Annex under c.5.6, natural persons who commit TF offences are liable to a term of imprisonment of 15 to 25 years, depending on the TF activities. However, the legal framework does not include monetary penalties against both natural and legal persons. On this basis, it is concluded that the monetary sanctions do not apply to legal persons. Comparing the TF penalties with penalties prescribed for other terrorism-related offences, the TF penalties fall on the upper scale. However, there has not been any prosecution and therefore no conviction for TF as at the end of the on-site. Furthermore, URT had not designated any domestic individuals or groups to any of the UN bodies. The effectiveness, proportionality and dissuasiveness of the sanctions and any other measures to deter TF activities could therefore not be determined.

4.2.5 *Alternative measures used where TF conviction is not possible (e.g. disruption)*

213. URT has not prosecuted TF. The authorities indicated that they do, however, utilize other measures to disrupt potential TF activity. In the case cited in IO 2 below involving deportation of a national of a neighbouring country, that person was said to be involved in terrorist activities in his country. In this case however, neither was a TF investigation or TF prosecution undertaken or sought in the first instance. The consideration for TF investigation came after the deportation and the fact that a TF investigation or prosecution was not sought in the first instance is suggestive that the authorities in URT do not focus on TF investigations and prosecutions.

Box 4.1 – Alternative measure when TF conviction not possible:

A national of a neighbouring country and others were initially charged and extradited to the neighbouring country for the offence of murder. Upon further investigation by the authorities in that country, they (neighbouring country's authorities) requested evidence related to terrorism activities. URT authorities facilitated all requests from that country including information on the fugitives' properties and bank accounts. The funds in bank accounts were frozen pending finalisation of the case in the neighbouring country.

The URT authorities indicated that the first information received from the neighbouring country indicated that the suspect had committed murder, which is a predicate offence under AMLA. This triggered the freezing of the suspect's property under POCA including funds in the bank account. The suspect was later on extradited to (his) the neighbouring country to be charged for the offence of murder as was requested by the authorities of the neighbouring country. The issue of terrorism concerning the suspect became known during that country's MLA request to Tanzania (i.e. after the suspect had already been extradited to the neighbouring country).

214. The authorities maintain databases of high risk jurisdictions and high risk individuals. An individual deemed to be a threat to URT or an individual from a high risk jurisdiction may be denied a visa or entry into Tanzania depending on the level of threat posed by that individual. Through its network of information gathering mechanisms from the village (nyumba kumi) level through to the district, regional and national levels and close coordination of authorities dealing with terrorism, the authorities in URT are able to monitor the activities of any individual which are deemed to be of concern to the security of Tanzania. Any potential threat is neutralised at an early stage.

Box 4.2 – Alternative measure when TF conviction not possible:

The authorities in Tanzania were able to stop some Tanzanian nationals who were headed to a neighbouring country with the intention of joining the Al Shaabab group. The five Tanzanian nationals were stopped at the border with the neighbouring country following intelligence information on their suspicious movements. All of the five had Emergency Travel Documents (ETDs). Upon being interviewed, they admitted that they were going to the neighbouring country with a view to joining the Al-Shaabab group in Somalia. LEAs traced the person who facilitated the travel of the 5 youth to the neighbouring country including financing their travels to that country. It was subsequently revealed that the person in question was a national of the neighbouring country residing in that country. That information was shared by the authorities of the neighbouring country.

215. In the case highlighted above, this was the only instance that the Authorities demonstrated that they were able to use, though to a very limited extent, alternative measures of disruption when TF investigation or conviction was not possible. These measures however indicate that the authorities in URT are laying more focus on counter-terrorism measures and not paying much focus on CFT measures. The authorities should therefore improve measures to disrupt TF activities by for example, targeting sources of funding for terrorism for disruption.

Overall conclusions on IO.9

216. **URT is rated as having a low level of effectiveness for IO.9.**

4.3 Immediate Outcome 10 (TF preventive measures and financial sanctions)

4.3.1 Implementation of targeted financial sanctions for TF without delay

217. URT's legal framework for implementing the mechanisms for UNSCRs 1267 and 1373 are contained in the (POTA) and POTA Regulations. According to the existing laws, after the UNSC has made a designation pursuant to UNSCR 1267, the information is communicated to URT's Ambassador in New York who then shares it by diplomatic channel to the Ministry of Foreign Affairs in Dar es Salaam. The Ministry of Foreign Affairs in turn passes on the communication to the Minister for Home Affairs for implementation.

218. Upon receipt of the list of (designated) persons, the Minister of Home Affairs is required within 24 hours to issue a notice requiring all reporting entities to conduct a check and conduct ongoing review of transactions of existing and occasional transactions. Reporting institutions are also required to freeze without delay, the funds and financial assets or properties of such persons and to inform the Minister of the frozen funds or property. If there are any positive matches, the Minister instructs the Inspector General of Police and the Commissioner of the FIU to conduct a verification to ensure that the entities or individuals identified by the reporting persons are the ones listed under the relevant UNSCR. The authorities indicated that the last time the Minister issued a notice under this mechanism was in 2014/2015. This means that from 2014/2015 to the time of the onsite visit, the Minister of Home Affairs has not issued a notice of designated persons to accountable institutions. The upshot of this is that the mechanism (as set out in the law) is not used in practice and is thus ineffective as it does not allow for the implementation of TFS without delay. In addition, even if it were to be used in practice, the mechanism does not allow for the implementation of TFS without delay as the overall time needed for the Minister to issue a notification is beyond 24 hours (considering that the Minister receives the notice through diplomatic channels and then has 24 hours to issue the notice).

219. The procedures set out in the POTA Regulations is not consistent with the procedure that takes place in practice. When changes are made to the UN list, the FIU picks up the same from the UN website and posts the link to the UN website on its (FIU's) website. Reporting entities can then access the UN link from the FIU's website. The FIU indicated that updates on the UN list are sent to reporting entities through the notice board on the FIU's goAML after which reporting entities are required to go to the FIU website to access the link. It should however be noted that only commercial banks are currently enlisted to the FIU's goAML system. There is therefore very limited reach on the updates as most reporting entities in URT are not enrolled to the goAML platform to receive the updates. Further, not all banks check the UNSCR 1267 list through the FIU website. The bigger commercial banks have their own monitoring mechanisms which includes receiving updates on the UN 1267 list from commercial service providers while the smaller banks and some medium sized banks do not access the list at all. In addition, other than the banks most of the FIs and the DNFBPs do not check the UN list at all, whether through the FIU website or otherwise. In addition, the authorities were not able to demonstrate that publication of the UNSCR 1267 list on the FIU goAML notice board enabled the commercial banks utilising this mechanism to implement TFS without delay. Moreover, no guidance has been issued by URT authorities to assist reporting entities in understanding their obligations as it relates to UNSCR 1267 and 1373. Therefore, with the exception of commercial banks, the reporting entities in URT do not implement the UNSCRs without delay. Based on the above, it is the Assessors' view that URT is not effectively implementing TFS pursuant to UNSCR 1267.

220. Regulation 8 of POTA regulations empower the Inspector General of Police (IGP) to constitute a Terrorist Declaration Working Group (TDWG) to analyse and determine whether a person or entity is a suspected international terrorist, international terrorist group or proscribed

organisation. Assessors were informed that the TDWG provides information that enables the IGP to advise the Minister to declare a person or entity under inquiry as terrorist or terrorist group. After declaration, the mechanism to freeze assets, financial assets or properties without delay applies. However, URT has not yet declared any person or group as a terrorist person or terrorist group as per UNSCR 1373.

221. URT requires a third-party state which requests designation of a person pursuant to Resolution 1373 to give details of the designation through an accredited diplomatic representative of URT in that country or in the absence of a diplomatic representative, the Ministry responsible for foreign affairs in that country. URT has never received a request for designation from another country or requested any other country to make a designation. Therefore, effectiveness of the current structure in implementation of UN Security Council Resolutions 1373 could not be determined.

222. As indicated in IO4 below, FIs and DNFBPs in general have not received UNSCRs sanctions list from either their supervisors, the FIU (other than those with access to the goAML noticeboard) or other authorities. In addition, DNFBPs (with exception of International Accounting firms) seemed unaware of their obligations on TFS and therefore implementation of this obligation is virtually non-existent in the DNFBP sector. In addition, as indicated in IO 3 below, AML/CFT supervisors for FIs and DNFBPs do not apply a risk-based approach in monitoring compliance with AML/CFT requirements by FIs and DNFBPs. Based on the above, the Assessors concluded that implementation of TFS for TF without delay in the URT is undertaken to a very limited extent. This is due to amongst others, both the mechanism foreseen in the law and in practice do not allow for implementing TFS without delay and the lack of effective communication channels to notify FIs and DNFBPs seems to be the major challenge.

4.3.2 Targeted approach, outreach and oversight of at-risk non-profit organisations

223. The Registrar of NGOs in Mainland Tanzania and the Registrar of Societies in Zanzibar have not conducted any risk assessment of the NPO regarding misuse of the NPO sector for TF. There is no periodic assessment undertaken on the sector's potential vulnerabilities to TF activities. Authorities indicated that plans were underway to undertake an ML/FT risk assessment for this sector. Until this is done, URT has not identified NPOs as being vulnerable to TF abuse. URT does not therefore have a well-informed understanding of the TF risks associated with NPOs. URT's NRA Report identified TF threat from NPOs as Medium Low (ML). The NRA further recommended the maintenance of statistics on TF as well as the development of TF indicators for every sector. It also recommended the need for relevant sectors to carry out specific and detailed sectoral TF risk assessment. Based on the above, the Assessors concluded that URT does not have an understanding of the TF risks associated with NPOs.

224. Authorities in the URT have not undertaken any outreach programmes for the NPO sector and the donors with a view to protecting the sector from TF abuse. Authorities indicated that outreach programs on NGOs regulations were conducted in three regions of Tanzania Mainland. However, the programs were not specifically for terrorist abuse but had salient features and elements on increasing transparency on issues concerning fund sources and expenditures. Therefore, there is limited, if not, no knowledge of TF in the NPO sector and there are no systematic outreach programmes for promoting transparency, integrity, accountability or public confidence in the NPO sector.

225. The Assessors were informed that there had been no inspections conducted regarding national or international financial inflows into the NPO sector for TF purposes in the URT. The NPOs met during onsite indicated that there was confusion among the different types of NPOs in terms of identifying and understanding their regulators as the regulators are many in URT. The

NGOs Coordination Department has a specific unit for monitoring and supervision of NGOs undertakings in the grassroots level. In year 2018, 113 NGOs were monitored in 15 Regions of Tanzania Mainland with focus on the number of projects initiated, beneficiaries involvement and funds injected and utilized as per approved contracts and agreements. In Zanzibar, the NGOs Coordination Unit is responsible for monitoring the activities and performance of NGOs registered in Zanzibar. The Unit, in collaboration with the Registrar, conduct site visit programs on NPOs with the aim of inspecting their activities and to train them on proper management of the organizations' funds.

226. In order to access any information on NPOs at the Office of Registrar in Mainland Tanzania and Zanzibar, the public and competent authorities must fulfil prescribed terms and conditions applicable under the NGO Act and the Societies Act. There is no clearly defined formal mechanism to ensure effective domestic cooperation, coordination and information sharing in Mainland Tanzania and Zanzibar to the extent possible among all levels of appropriate authorities or organisation that hold relevant information on NPOs of potential TF. There are no investigative expertise and capability to examine those NPOs that are suspected of either being exploited by, or actively, supporting terrorist activity or terrorist organisation.

227. Though the URT authorities indicated that there are appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of TF or other forms of terrorist support, no cases were however shared with the assessors to determine effectiveness.

4.3.3 Deprivation of TF assets and instrumentalities

228. URT has a good legal regime for confiscation through which it can use to potentially deprive terrorists of assets. The legal regime contains provisions that would allow both criminal and administrative deprivation of assets relating to TF. The implementation of this regime, however, faces challenges highlighted in the foregoing paragraphs. In addition, in the absence of any freezing and/ or confiscation of funds, financial assets or properties or any freezing, seizure or confiscation pursuant to the UNSCRs 1267 and 1373, the regime has not been tested and the Assessors could not at this stage determine its overall effectiveness.

4.3.4 Consistency of measures with overall TF risk profile

229. URT does not implement TFS pursuant to UNSCRs 1267 and 1373 without delay in a systematic manner. Though some of the actions taken by URT appear consistent with the TF risk profile of the country, the 2016 NRA does not identify the TF risks of the country in detail including on NPOs in URT and as a result, the measures applied to the NPO sector cannot be assessed as being consistent to the TF risk profile. The variation between the measures taken by the country and the overall level of risk coupled with the non-application of the requisite tools to prevent the abuse of the NPO sector and to identify terrorists, terrorist organizations and terrorist support networks and deprive them of their funds, assets and other resources, is a major shortcoming in the country's AML/CFT system.

Overall conclusions on IO.10

230. URT is rated as having a low level of effectiveness for IO.10.

4.4 Immediate Outcome 11 (PF financial sanctions)

4.4.1 *Implementation of targeted financial sanctions related to proliferation financing without delay*

231. Generally, the same weaknesses pertaining to implementation of TFS relating to UNSCR 1267, also apply to implementation of TFS relating to proliferation financing. As indicated under R.7, there is no legal framework in place or institutional framework to monitor and supervise the implementation of TFS related to proliferation financing without delay in URT.

232. In the absence of a regime to implement TFS relating to PF, none of the reporting entities in URT are guided by any framework to put in place internal measures allowing implementation of TFS related to proliferation financing. Unlike with the implementation of the sanctions lists relating to UNSCRs relating to TF, where some of the FIs are voluntarily implementing the sanctions, with those relating to proliferation financing, almost all reporting entities interviewed were not aware of TFS in relation to PF, related sanctions and were not implementing them at all. It is the Assessors' view that implementation of TFS related to proliferation financing without delay in URT is currently not possible in the absence of a legal regime or mechanism.

4.4.2 *Identification of assets and funds held by designated persons/entities and prohibitions*

233. Though the Authorities indicated that reporting persons in URT have never had funds or other assets of designated persons and entities which would require implementation of targeted financial sanctions against such persons or entities, Assessors are of the view that in the absence of any legal regime or mechanism to implement TFS relating to PF, URT is currently not capable of identifying assets or funds relating to PF.

234. FIs and DNFBPs in URT are not required to report if they are holding the funds of a designated entity or person as URT does not have mechanisms concerning TFS relating to the financing of proliferation of weapons of mass destruction. URT has not identified persons or entities who match with the UN-designated persons and entities and therefore URT has never prevented such persons or entities from operating or from executing financial transactions related to proliferation in URT. It is the Assessor's view that identification of assets and funds held by designated persons/entities and prohibitions in URT is currently not possible in the absence of a legal regime or mechanism to deal with TFS relating to PF.

4.4.3 *FIs and DNFBPs' understanding of and compliance with obligations*

235. The authorities further indicated that reporting persons, particularly banks and some DNFBPs understand their obligations regarding TFS relating to financing of proliferation and comply with them. However, in the interaction with reporting entities, the Assessment Team noted that the larger majority indicated that they were not aware of, or conversant with the requirements relating to PF.

236. The FIU and Regulators indicated that they conduct regular trainings to reporting persons on their role and responsibilities on AML/CFT and TFS on TF. However, there has been no outreach from the FIU or any other regulator to reporting persons on PF. LEAs indicated that they had sensitised some banks on PF but an assessment of the courses mentioned indicated that the coverage was more on TF than PF.

237. There is very limited or no knowledge at all amongst FIs and DNFBs in URT relating to TFS on PF and neither do they have control mechanisms in place to deal with such sanctions. The majority of FIs and DNFBPs in URT have not heard about PF and neither do they check for

designations relating to PF. Some of the large FIs, which are part of an international group, have heard about PF but they do not have mechanisms in place to deal with it. The Assessors concluded that there is very limited or no knowledge at all amongst FIs and DNFBs in URT relating to TFS on PF.

4.4.4 Competent authorities ensuring and monitoring compliance

238. The authorities indicated that the FIU and Regulators conduct both offsite and onsite inspection of reporting persons in order to monitor and ensure compliance by FIs and DNFBPs with their obligations regarding, among others, targeted financial sanctions relating to financing of proliferation. The Assessment Team, however, noted that the inspection conducted by the FIU and the regulators did not cover TFS relating to PF. Assessors are therefore of the view that in the absence of any legal regime or mechanism to implement TFS relating to PF, it is not possible for relevant competent authorities in URT to monitor and ensure compliance by FIs and DNFBPs of their obligations regarding TFS relating to PF and neither are the competent authorities doing so in practice.

Overall conclusions on IO.11

239. URT is rated as having a low level of effectiveness for IO.11.

CHAPTER 5. PREVENTIVE MEASURES

5.1 Key Findings and Recommended Actions

Key Findings

Financial Institutions

- a) The level of understanding of ML risks and AML/CFT obligations varies across the FIs. The medium/large local and foreign owned or controlled banks, MVTS providers and the globally affiliated bureau have a robust understanding of the ML risks facing them and their AML/CFT obligations. The rest of the FIs demonstrated a low level of understanding of ML risks. Understanding of obligations relating to TFS (regarding freezing without delay) and TF is low across the board.
- b) The banking sector, the MVTS providers and the globally affiliated bureau, seem to have applied adequate mitigating controls commensurate with the identified risks. The rest of the FIs generally had no adequate mitigating controls in place.
- c) The medium and large banks, MVTS providers and the globally affiliated bureau applied adequate CDD measures and record keeping requirements, including application of BO requirements. The rest of the FIs did not fully appreciate the concept and application of BO requirements as most could not distinguish between beneficial ownership and shareholding. They did not conduct searches with BRELA and BPRA and in the absence of any framework for obtaining and maintaining BO information there was over-reliance on the customer's self-declaration when the ownership chain starts to become complicated.
- d) The medium/large banks and MVTS providers generally applied EDD measures satisfactorily on high risk situations. Application of EDD measures on all higher risk customers and products, PEPs, wire transfers, TFS, higher risk countries and new technologies was not common in the rest of the FIs. Further, small banks and NBFIs (excluding the globally affiliated bureau) demonstrated that they had difficulties in identifying domestic PEPs, their family members and close associates. This may have been exacerbated by the gaps in the legal and regulatory framework on PEPs.
- e) There is generally a low level of STR reporting by FIs. Reporting of STRs was predominantly by banks, which accounted for 98% of the reports during the period under review. Reporting by NBFIs was poor, as most of them had not submitted any STRs. In addition, there was poor reporting by all FIs of suspicious transactions relating to TF.
- f) Adequacy of internal controls, policies and procedures vary by type of FIs, with more stringent controls and adequate policies and procedures applied by banks, MVTS providers and the globally

affiliated bureau, and limited application by the rest of the NBFIs.

DNFBPs

- a) Overall, there is little to no understanding of ML/TF risks and AML/CFT obligations in the DNFBP sector. This may be attributable to lack of awareness of AML/CFT obligations and the inadequate AML/CFT compliance monitoring by the designated supervisory authorities.
- b) Generally, DNFBPs applied basic CDD measures during establishment of business relationships and when conducting financial transactions. The measures and mitigating controls applied were not commensurate with the risk profile of the DNFBP sector.
- c) The DNFBP sector did not take necessary steps to identify and verify BO and to apply EDD measures when dealing with higher risk customers.
- d) There was virtually no STRs reported by the DNFBPs on either ML or TF during the period under review. This may be attributable to inadequate or absence of AML/CFT compliance supervision.
- e) Application of internal controls and procedures by the DNFBPs was found to be weak across the DNFBP spectrum.

Recommended Actions

URT should take measures to:

- a) Ensure smaller banks, NBFIs (with the exception of MVTS providers and the globally affiliated bureau) and DNFBPs conduct ML/TF risk assessments, using the NRA report as a starting point, to enable them understand their ML/TF risks and apply commensurate mitigating controls as informed by the risks identified.
- b) Enhance understanding of TF across the reporting entities through targeted awareness and issuance of relevant guidance.
- c) Ensure small banks, NBFIs (with the exception of MVTS providers and the globally affiliated bureau) and the DNFBP sector train employees on AML/CFT in order to create understanding and effective application of AML/CFT obligations as set out in the AMLA and AMLPOCA, including the understanding and application of obligations relating to CDD, BO, EDD for high risk situations and record keeping measures.
- d) Amend the AMLA and AMLPOCA to ensure that the scope of the AML/CFT requirements such as those relating to PEPs, reporting persons and others are in line with the FATF Standards. Additionally, the amendments should be aimed at achieving consistency between the two legislations.
- e) Require small banks, NBFIs (with the exception of MVTS providers and the globally affiliated bureau) and the DNFBPs put in place systems and procedures to enable detection and reporting of suspicious transactions as well as procedures to effectively implement the UNSCRs on targeted financial sanctions on TF and proliferation financing.
- f) Ensure small banks, NBFIs (with the exception of MVTS providers and the globally affiliated bureau) and the DNFBP sector have adequate compliance functions and apply other internal control measures commensurate to risks and size of business.

The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23.

5.2 Immediate Outcome 4 (Preventive Measures)

Background

240. As at December 2018, Tanzania had 50 banks, 33 of which were of medium and large size in terms of asset size. The total asset size of the banking sectors was USD12.6 billion of which 95% was contribution from large and medium sized banks. During the same period, there were 6 MVTS providers, 3 of which are foreign owned. Money changers (bureaux de change) were 5 out of which only 1 was foreign owned (see details in IO.3). The number of real estate agents was not known (refer to Table 1.2 for details on DNFBPs. Based on the relative risk and materiality in the context of URT as explained under chapter 1, the positive and negative aspects were weighted most heavily for banks, heavily for real estate agents, lawyers, and dealers in precious metals and stones, moderate weight to MVTS providers, bureaux de change and casinos in coming up with the overall conclusion of this immediate outcome.

241. The Assessors met only a small number of reporting entities from each sector. The sample consisted of large, medium and small sized entities. The conclusions which Assessors made were therefore largely based on interviews with representatives of these reporting entities, statistics provided by the authorities and discussions with the FIU and supervisors.

5.2.1 Understanding of ML/TF risks and AML/CFT obligations Financial Institutions

242. The FIs displayed varying levels of understanding of their exposure to ML/TF risks and their AML/CFT obligations as set in the AMLA and AMLPOCA. It was, however, noted that understanding of TF was low across the sectors. Based on this, three categories emerge; banking sector, MVTS and other non-banking FIs.

Banking Sector

243. Banks displayed varying levels of understanding of AML/CFT obligations and their exposure to ML risks. In particular, the medium and large size (local and foreign owned or controlled) banks demonstrated comprehensive understanding of the ML/TF threats and vulnerabilities facing their businesses. This understanding can be attributed to the development and implementation of internal procedures and programmes to identify, assess, and document the ML/TF risks on a regular basis. Medium/large banks that the Assessors met conduct intensive institutional risk assessments that inform them of any exposures to ML/TF risks. The risk assessment is conducted on an annual basis or more frequently if required, for example if new products or services come on line. All of them identified corruption, wildlife poaching, illegal mining and tax evasion as some of the major criminal activities generating illicit proceeds, consistent with the findings of the NRA. They further indicated that majority of the proceeds of such criminal activities were mainly channelled through the real estate sector. In addition, they also identified car dealers, forex bureaus, casinos, hotels, NGOs and PEPs as vulnerable areas. There is a clear consensus among the medium/large banks that associated vulnerabilities and high-risk factors include cash transactions, international money transfers, and specific geographic regions in URT. For example, all the medium/large banks advised that based on the results of the assessments which they conducted, they considered Dar es salaam, Mwanza, Arusha and Zanzibar as posing higher ML risk given the level of second hand car dealing and real estate activities in Dar es salaam and high tourist activities in Zanzibar and Arusha, and for Mwanza due to its proximate to high risk countries like DRC.

244. In general, the medium/large banks also portrayed in-depth and up-to-date understanding of their AML/CFT obligations as set out in the AMLA and AMLPOCA and the need to implement internal systems and controls. They were aware of various laws, regulatory instruments, circulars, and guidance issued by their regulatory authorities. The foreign-owned or controlled banks have over the years benefitted from their group synergies whose policies require regular comprehensive

group-wide risk assessments and developing mitigating measures commensurate with the risks identified.

245. On the contrary, small banks demonstrated lower levels of understanding of the ML/TF risks affecting their operations and the AML/CFT obligations set out in the AMLA and AMLPOCA. This was attributed mainly to low or absent internal risk assessments by such banks and heavy reliance on manual processes.

MVTS Providers

246. The MVTS providers interviewed, which included a combination of the Money Remitters which are mostly offered by banking institutions (as agents of eg Western Union, Money Gram) and the stand alone Mobile Money Service Providers, demonstrated a good awareness and understanding of the domestic and international ML risks facing their businesses and portrayed a high level of understanding of their AML/CFT obligations as imposed by the AMLA and AMLPOCA. Those affiliated with internationally recognised money transfer operators further demonstrated a higher level of understanding. They conduct regular internal risk assessments and are able to adequately allocate resources including applying CDD measures commensurate with identified risks. The Mobile Money Service Providers further demonstrated that they understand the risks posed by their different agents in different regions of the country.

Non-Bank Financial Institutions (excluding MVTS Providers)

247. In general, the non-bank financial institutions (NBFIs) including asset managers, insurance, securities and bureaux de change sectors demonstrated a low or emerging level of understanding of the ML/TF risks. They generally had a poor understanding of vulnerabilities posed by the different categories of customers (e.g., legal persons; non-residents; cash intensive businesses, etc.) and had not done internal risk assessments to determine the level ML/TF risk to which they are exposed. The low level of understanding of AML/CFT obligations could further be attributed to inadequate AML/CFT compliance monitoring (refer to IO 3 for further details). On the contrary, the Assessors noted that the globally affiliated bureau de change portrayed an excellent understanding of the ML/TF risks and its AML/CFT obligations.

Designated Non-Financial Businesses and Professions

248. In general, the DNFBP sector showed a relatively low level of understanding of the ML/TF risks they face and their AML/CFT obligations. Most DNFBP representatives met were not aware of the NRA's findings. DNFBPs generally did not demonstrate sufficient awareness of and attention to risks associated with misuse of legal persons, and their ability to manage such risks is seriously hampered by the legal deficiencies regarding ultimate beneficial owners (see below).

249. The real estate agents sector was rated as high risk in the NRA. Despite this, the Assessors noted that the sector is not regulated and supervised for AML/CFT. As a result, the number of real estate agents were not known. Given indications from the banking sector that most criminal proceeds are channelled through the real estate sector, it remains without saying that the sector is highly vulnerable to ML. In addition, there is also a low level of understanding of ML/TF risks and AML/CFT obligations in the legal and casino sectors. This is a cause for concern as both were considered as having medium-high risk for ML.

250. The poor level of understanding by the DNFBP sector might be attributable to lack of awareness and training on the AML/CFT obligations and absence of adequate compliance monitoring by the designated DNFBP supervisors, (refer to IO 3 for further details).

5.2.2 Application of risk mitigating measures

Financial Sector

251. The medium and large banks, MVTS providers and the globally affiliated bureau have generally established internal systems and controls to mitigate ML/TF risks. They have integrated risk mitigation measures into their day-to-day operations and have developed and implemented AML/CFT policies and procedures commensurate with the identified risks. They further indicated that they have sophisticated customer profiling and transaction monitoring systems (AML/CFT applications/software) which enable analysis and classification of risk factors relating to customers, products and services, geographies and delivery channels. Based on this, risk ratings are assigned to clients, products and services, and transactions to determine the risk levels i.e. whether low, medium or high. For instance, one of the large banks interviewed indicated that it applies a risk-based model through its KYC System which assigns High High (HH), High Low (HL), Medium (M) and Low (L) risk ratings to its customers from the time they are onboarded. For those rated HH, the system triggers KYC renewals each year while for the HL, M, and L the triggers are every 2, 3 and 4 years respectively. Such triggers are in the form of notifications sent to Relationship Managers in different countries and copied to Compliance 90 days before the end of the cycle. Additionally, the larger banks and MVTS providers have also implemented specialised on-boarding software with rules and parameters for flagging certain transaction patterns and major deviations from known customer profiles and for UNSCRs sanctions screening. Where there are deviations, automated alerts are generated for further investigation by specialised teams.

252. For clients rated as high risk, the medium and large banks, MVTS providers and the globally affiliated bureau indicated that they apply enhanced CDD measures including requiring proof for source of funds and wealth and escalation to senior management for approvals, where it is necessary. For instance, one bank indicated that they require each department to maintain a risk register and that such registers are subjected to a regular review by the Risk and Control Management Committee where top risks are discussed. In the case of MVTS providers, they indicated that they apply additional measures such as transaction limits and limits on e-wallet balances. In addition, the measures explained above were also evident in the globally affiliated bureau. The Bureau indicated that it has AML Teams in UK, India and UAE who conduct transaction monitoring in addition to the local team and that it benefits from the global AML system for client profiling.

253. Mitigating measures that are applied by smaller banks and non-bank FIs are generally not commensurate with their risks. The NBFIs (except MVTS providers and the globally affiliated bureau de change), did not apply risk mitigation measures proportionate to the risks in their businesses. This may be attributed to limited understanding of the ML/TF risks and AML/CFT obligations as alluded to above. It was also noted that such institutions did not have sophisticated and automated AML/CFT systems in place to profile, screen and monitor clients during on-boarding and thereafter.

Designated Non-Financial Businesses and Professions

254. DNFBPs do not apply risk mitigation measures. Despite the fact that most DNFBPs were rated high risk in the NRA report, they had not conducted risk assessments, and applied corresponding risk mitigation measures and did not have AML/CFT programmes, policies and procedures for risk mitigation including customer identification measures in place. Some, like precious stone and metal dealers and casinos advised that they have been in the field for long and therefore know their customers individually by head and thus no need for putting mitigating measures in place. However, this line of thinking was not consistent with the risk profile of the sectors as identified in the NRA. The Assessors are of the view that the contributing factors were

the little to no understanding of ML/TF risks and AML/CFT obligations by the DNFBP sector and absence of awareness and inadequate supervisory activities.

5.2.3 *Application of CDD and record-keeping requirements*

Financial Sector: Banking Sector and MVTS Providers

255. The banking sector and MVTS providers and the globally affiliated bureau applied adequate CDD measures and record keeping requirements that were commensurate with the risk profiles. These CDD measures are applied before the establishment of the relationship, at determined intervals to update the profile of a customer based on the initial risk rating allocated on the customer; and when conducting a transaction. For identification of natural persons, all FIs require information such as full names, identification number, physical address, date of birth etc. The basic acceptable KYC documents for verification of identity are, for locals: the national identity card issued by NIDA, Zanzibar residence card (commonly known as kitambulisho chamukazi), driver's license, voter's registration card, passport, letter from college (for students) and letter from Ward Secretary. Where risk is perceived to be higher all FIs indicated that they may request for additional documents such as Tax Identification Number (TIN), proof of residence (utility bills, title deeds) and introduction letters from government authorities or employer. For foreign (non-Tanzanian) individuals, a valid passport, valid work or resident permit including a letter from the employer/embassy and proof of residence in the form of lease agreement. Identification of minors is through identifying the parent or guardian.

256. With respect to legal persons, identification and verification is done through self-declaration by the customers, certificate of incorporation, memorandum and articles of association (abbreviated as memarts), business license, board resolution and TIN, list of directors and copies of their passports including photographs. All banks and MVTS Providers indicated that business is refused in instances where the CDD information is deemed to be incomplete and as such no account is opened or transaction concluded. However, some indicated that where the missing CDD information is not very significant, they ask the client to commit to provide the documents on agreed dates but in the meantime restrict some services on the account. They were also able to demonstrate that they had taken adequate measures to monitor and verify information obtained, and conduct periodic review of customer identification data.

257. Additionally, the banking systems of medium and larger banks and MVTS provider's systems are linked to the NIDA database that allows instant verification of National Identity information for local individual clients. However, it was noted that the NIDA database is still in the process of being updated and as such might not have some of the information relating to legacy accounts. With regard to verification of KYC documentation for corporate clients, they have access to the BRELA online database. It was however clear during the interviews that BRELA database is limited as it only has basic company registration information and there is still a backlog of information yet to be captured in the system to make it up to date. Assessors were advised that BRELA had captured in the database only information from July 2018 representing about 15% of the registered companies. It is not a requirement in URT for companies to provide beneficial ownership (BO) information during company registration and thus the database mainly has information pertaining to basic information including company directors and known shareholders without going down to the natural person having ultimate effective control of the company. The medium and large banks, MVTS providers and the globally affiliated bureau were aware of this deficiency and they highlighted that in such cases they request the customer to provide the information and that they also use other publicly known databases like Bankers Almanac to identify BO information. The foreign owned banks and MVTS providers further indicated that they also rely on their respective Group synergies to assist in providing the information on foreign legal persons. Such initiatives are not common with small

banks that indicated that although they do a BRELA search, they do not go beyond that even in cases where the structure is complex.

258. Medium and large banks, MVTS providers and the globally affiliated bureau de change also implement a risk based approach on financial inclusion products for low risk clients, simplified due diligence is applied by accepting the national identity card or passport plus a photograph to capture basic CDD information. This was commonly applied by MVTS (especially mobile money service providers) which offer low risk/ low value products. For instance, all the mobile money service providers interviewed highlighted that they have sophisticated systems that allow for the categorization of customers into a two or three-tier system based on transaction limit per day and risk assigned to the customer. The different tiers have different CDD requirements based on risk profile of each tier.

259. They were also able to demonstrate that they had taken adequate measures to monitor and verify information obtained, and conduct periodic review of customer identification data. In terms of on-going transaction monitoring, the medium and large banks, MVTS providers and the globally affiliated bureau have in place robust automated transaction monitoring systems that detect and identify unusual patterns of transactions and in cases where the client's profile has changed. The systems generate alerts which are independently reviewed and investigated by specialised teams and where need be reported to the FIU as suspicious transactions.

260. In relation to record keeping, banks, MVTS providers and the globally affiliated bureau appear to apply adequate recordkeeping requirements including maintaining documents collected through the CDD process and all transaction records in both soft and hard copies. Records were kept on premises and after sometime moved to institution and in some cases third party archive centre. Transaction records were kept for 10 years from the date of the transaction whereas the CDD documents were kept for 10 years from the date of the transaction or termination of the business relationship, in line with the AMLA/AMLPOCA.

Non-Bank Financial Institutions (excluding MVTS Providers and the globally affiliated bureau)

261. The NBFIs applied basic CDD measures during the establishment of the business relationship by requesting similar identification documents as collected by larger banks and MVTS providers for both natural and legal persons. However, customer CDD information is not updated during the course of the relationship with the customer. There was no indication that business is refused where CDD information is incomplete. Transaction monitoring by the NBFIs is also inadequate. With the exception of the globally affiliated bureau de change, other NBFIs do not have AML/CFT systems that can screen and prolife customers and flag out suspicious transactions like in the case of banks and MVTS providers. While some do monitor manually, most have not yet started transactions monitoring, for example, asset management, pension funds, bureau de changes (excluding the globally affiliated bureau). With regard to BO information, most are not even aware of the BO concept and for those that have an idea, the distinction between beneficial ownership and shareholding is not always fully appreciated. There also appears to be an over-reliance on the customer's self-declaration when the ownership chain starts to become complicated.

Designated Non-Financial Businesses and Professions

262. The implementation of the CDD measures in the DNFBP sector varied ranging from businesses that implement the basic CDD requirements to those that do not implement CDD measures at all. In particular, the casinos and dealers in precious stones and metals do not identify their customers. One of the reasons cited was that they have been in the business for a long time and therefore facially know all their customers when they come in. The rest of the DNFBPs (lawyers, accountants and real estate agents) applied the bare minimum for identification purposes. However, transaction monitoring, identification and verification of BOs and record keeping are either not done

or are at emerging stages. The extent to which business was refused, when CDD is considered incomplete, varied with the majority of DNFBPs inclined to accept business for profit driven motives.

5.2.4 Application of EDD measures

263. Application of EDD is adequately applied by banks, MVTS providers and the globally affiliated bureau. While the other NBFIs have a general understanding of their obligations on high risk customers, the application of EDD is still emerging and non-existent in the DNFBP sector.

Politically Exposed Persons

264. Although the AMLA and AMLPOCA require reporting persons to identify and treat PEPs as high risk customers, there is mixed understanding and application of EDD measures on high-risk customers by FIs and DNFBPs in URT. All banks and MVTS providers including the globally affiliated bureau regarded all types of PEPs as high risk clients, despite the fact that a domestic PEP is not covered by the scope of the AML/CFT laws. They have adequate screening systems with embedded PEP lists from OFAC, EU, etc which screen and profile PEPs although the lists were considered to have limited information when it comes to domestic PEPs. In addition, they have a better understanding and apply EDD and on-going transactions monitoring measures using sophisticated technologically appropriate mechanisms to monitor transactions and other PEP activities. The EDD measures applied by banks, MVTS providers and the globally affiliated bureau on PEPs include establishing the source of funds and wealth, seeking senior management approvals before establishing a relationship and continuous close monitoring of the PEP relationship.

265. The rest of the FIs have little or no appreciation of the concepts of EDD and on-going monitoring of transactions, and, as a result, these measures do not form part of their CDD measures. Although the smaller banks indicated that they use screening systems, the adequacy and depth of the systems could not be established and as a matter of fact, on-going monitoring of PEP relationship seems to be limited as most of their systems are still manual. Other measures applied relate to accessing other independent, reliable commercial databases such as World-Check, Accuity screening, parent company CDD databases, government publications such as listings in the Government Gazette, and publicly available sources of information like newspapers, to identify PEPs for purposes of putting mitigating controls against the risks. Assessors, however, noted that there seem to be a challenge when it comes to identifying domestic PEPs including their close associates and family members.

266. Generally, the DNFBPs have little or no understanding of the concept of PEPs and their obligation to apply EDD measures. Most of them indicated that they treat PEPs like any other ordinary customer and request the same CDD information. This may be attributed to absence of policies and procedures on PEPs and limited capacity. The absence of management information systems in relation to all types of PEPs by the DNFBPs have been identified as posing higher ML risks, particularly given that all of the DNFBPs, with the exception of Accountants, were identified as being highly vulnerable to ML risks.

Correspondent Banking

267. FIs (mainly banks) with correspondent banking relationships (CBRs) were able to demonstrate a good understanding of the risks involved in such transactions, and apply EDD and additional controls required to mitigate relevant risks. Such banks have adequate group-wide policies and procedures for conducting due diligence before on-boarding and approving a correspondent banking relationship as well as during the course of the relationship. The banks further indicated that they have written service level agreements with respondent banks which outline the parties' roles and responsibilities. Before onboarding, the banks highlighted that they require respondent banks to complete the Wolfsburg correspondent banking questionnaire and other open source information as

part of their EDD process. Some indicated that, in addition to requiring senior management approval for each CBR, they also notify BoT within 7 days of establishment of a CBR. In addition, CBRs are monitored and reviewed on an on-going basis or as and when there are material changes that may impact on the robustness of the measures applied on the relationship. Only one bank indicated that it terminated a CBR mainly due to change in risk appetite of the group. All the banks interviewed indicated that they do not allow payable-through accounts.

New Technologies

268. Banks, MVTS providers and the globally affiliated bureau apply EDD in relation to the use of new technologies, for instance, internet banking and mobile money products and debit cards. They indicated that they conduct a ML/TF risk assessment before launching a new product or service to determine the related threats and vulnerabilities. In particular, the mobile money service providers indicated that the results of the risk assessment are used to determine the level of controls to be applied including setting transaction limits per each category of customers. All indicated that all new products require the approval senior management and the relevant regulator before being launched and a risk assessment is one of the requirements. Some indicated that risk assessment of new products are done at group level and undergoes a series of internal approval processes before being launched. While other FIs, like insurance companies and securities companies, have not assessed the risk of new technologies, the use of new technologies by the DNFBPs is less common.

Wire transfers

269. Wire transfer services are mostly provided by banks and MVTS providers for both domestic and cross-border transactions. The private sector representatives which Assessors met were able to demonstrate a good understanding of the risks involved in such transactions. They apply EDD and additional controls required to mitigate the relevant risks. Most banks indicated that they use SWIFT for conducting cross-border wire transfers while some act as agents to internationally recognised money remittance companies like Western Union. While some mobile money service providers make use of the mobile money platforms to transfer money across the border, some standalone money remitters have robust software and applications which they use for outbound and inbound transfers. Banks and MVTS providers have adequate controls to monitor, on a continuous basis, wire transfer transactions and they ensure that such transactions contain the required originator and beneficiary information including names, account number, address, date and the unique transaction reference number in addition to seeking information on the purpose of the transfer (for cross-border). Where they act as intermediaries, they indicated that they ensure that all the information that accompanies a wire transfer is retained with it. Where such information is incomplete, they do not execute the wire transfer and where the transaction is suspicious; they all advised that they report it to the FIU.

Targeted financial sanctions relating to TF

270. Generally, all the FIs indicated that they have not received UNSCRs sanctions list from either their supervisors, the FIU or other authorities. Despite this, the medium and large banks, MVTS providers and the globally affiliated bureau de change adequately understand and make use of the UN, OFAC, AU, EU and other sanctions lists embedded in their systems during on-boarding or conducting a transaction and such lists are regularly updated. Some highlighted that they do subscribe to online websites, e.g. world check, to obtain additional information as a way of ensuring that they identify the high risk customers who are on the designated list. Assessors, however noted that in instances where positive matches are identified, such FIs do not fully understand their obligation to freeze the funds/assets without delay, as they are not properly guided by their supervisors. Understanding of TFS by the rest of the FIs was limited and most attributed this to lack of training on TFS.

271. The DNFbps (with exception of International Accounting firms) seem to be unaware of TFS and therefore implementation of the obligations is non-existent. Accountants belonging to international groups benefit from group policy and resources. The assessors, however, noted a limited understanding across the board on targeted financial sanctions relating to proliferation financing. Overall, there was no clear guidance to the reporting entities on TFS (see IO.10 and IO.11).

Higher risk countries

272. Banks, MVTS providers and the globally affiliated bureau are aware of the obligations to apply EDD to higher risk countries, and assign a higher-risk rating to customers or transactions associated with those countries for ongoing monitoring. While some could explain and give examples of higher risk countries including Syria, Iran, North Korea, Sudan, others indicated that their company policies forbid dealings with high risk countries. Assessors noted that there was generally limited knowledge of the FATF list as most only depended on the lists embedded in their systems. The other FIs and DNFbps demonstrated lack or limited understanding of higher risk countries.

5.2.5 Reporting obligations and tipping off

273. Banks, MVTS providers and the globally affiliated bureau generally have a good understanding of their obligation to report suspicious transactions to the FIU, including tipping off obligations. Banks and MVTS providers are linked to and therefore submit STRs through the goAML system. Use of automated screening and monitoring systems play a major role in flagging suspicious transactions and other customer activities and in promoting awareness in reporting obligations. While understanding of reporting obligations by other FIs is elementary, the DNFbp sector has generally no to little understanding of their obligation to report suspicious transactions.

274. While the filing patterns by banks is in line with their risk profiles and materiality, the same cannot be said of the other FIs and DNFbps most of whom have either not filed or only filed one or two STRs over the four years under review despite some of the sectors, in particular DNFbps, having been rated high risk in the NRA report. It was observed that the non-bank FIs and DNFbps have no capacity to detect suspicious transactions. The Assessors attribute the poor reporting by the non-bank FIs and DNFbps to lack of supervision including taking proportionate, dissuasive and effective remedial actions and sanctions to force them to comply. The level of STR filings by real estate agents, dealers in precious stones and metals, lawyers, casinos and second hand motor vehicle dealers could be improved given the high ML risk activity they are exposed to.

275. Overall, there was low understanding across the board of the basis to file STRs relating to TF. As a result, all the reporting entities interviewed indicated that they had not filed STRs relating to TF although the FIU indicated that only two STRs had a TF element. Low reporting of TF related STRs was attributed to low awareness by supervisors on TF red flags.

Table 5.1: Number of STRs filed with the FIU for period 2014/15-2018/19

Reporting Institution	Number of STRs Submitted per Reporting Period				
	2014/15	2015/16	2016/17	2017/18	2018/19
Financial Institutions					
Banks	136	199	386	560	1281
Insurance	0	1	0	0	1
MVTS	0	1	0	1	2
DNFBPs					
Lawyers	0	1	0	0	1
Others (Reporting Persons)					
Local LEAs	4	3	2	2	11
Regulators	0		1	3	4
Whistle Blowers	2	2	3	4	11
Others (Not Reporting Persons)	0	1	0	0	1
TOTAL	142	208	392	570	1312

276. About 98% of the STRs filed with the FIU during the period under review were from commercial banks and of all the STRs reported over the four years, 50% were filed between June 2018 to June 2019. This represents a 130% increase from the 2017/2018 reporting year. The sharp increase in STR reporting was mainly due to implementation of a new transaction monitoring system by a particular bank which triggered numerous alerts that were ultimately submitted to the FIU as STRs. While the statistics from the authorities reflect that MVTS providers reported 4 STRs during the period under review, the MVTS providers which Assessors interviewed claimed to have submitted 13 STRs over the period. In the same vein, Accountants claimed to have reported 1 STR in 2017 which was not reflected in the statistics from the FIU.

277. All reporting entities that submitted STRs raised the concern on failure by the FIU to provide feedback, apart from acknowledgement of receipt. A few reporting entities have indicated having received requests for additional information mainly from PCCB and the DCI but were not advised of the final outcome of the reported suspicious transactions. As a result, they cannot use the feedback to refine their systems.

278. In addition to the requirement to report STRs, banks also advised of a new requirement that had been introduced through a letter requesting reporting institutions to submit CTRs above

USD10,000 and EFTs above USD1,000. Most indicated that they had not started reporting pending Guidance from the regulator.

279. It was noted that there is a generally good understanding of tipping-off obligations by banks, MVTS providers and the globally affiliated bureaux de change which is well incorporated in their AML/CFT policies and procedures and the training programmes for employees. The same was not evident in the rest of the FIs and DNFBP sector where the principle to prevent tipping-off is not common.

5.2.6 Internal controls and legal/regulatory requirements impending implementation

280. Banks, MVTS providers and the globally affiliated bureau de change that were interviewed had strong internal control programmes and policies in place. The assessment team found that their internal control measures, particularly compliance functions and resource allocation, were consistent with the size, complexity and risk profiles of their business operations. They were also aware of the need to have the policies, procedures and programmes documented and approved at board level. In addition, they utilised results of their internal ML/TF risk assessments to continuously update their policies. In general, such institutions demonstrated that the scope of their AML/CFT policies and programmes include governance structures from board of directors to senior management, to appointment of a compliance officer at a senior level; up-to-date ML/TF risk assessments; CDD and record keeping; STR obligations; appropriate on-going training programmes for the board, senior management and general staff; high risk customers and jurisdictions; and UNSCRs sanctions screening. The compliance officers met during the interviews demonstrated excellent skills and knowledge of their compliance function and other AML/CFT responsibilities.

281. Banks, MVTS providers and the globally affiliated bureau de change highlighted that they implement a three-tier internal control lines of defence system. The first tier comprises the front office staff mostly responsible for client on-boarding and application of KYC/CDD process while the second line of defence includes the compliance and risk functions. The third line of defence is the internal audit department and external auditors who test the adequacy and implementation of the compliance programmes and provide assurance.

282. Understanding and application of internal controls varied among other NBFIs. Some indicated that they had AML/CFT policies in place, however, they could not satisfactorily explain to the Assessors all the key elements of a compliance programme. It was noted that some had just developed the policies a month or two before the on-site visit while others indicated that they had not yet developed such policies. Not all other NBFIs interviewed expressly stated that audit formed part of the internal AML/CFT procedures.

283. All FIs interviewed highlighted that they conduct periodic AML/CFT trainings for their staff including senior management and that such training is mostly undertaken by the compliance officers. The banks, MVTS providers and the globally affiliated bureau indicated that their policies make it mandatory for staff to be trained annually or when there are any regulatory changes. The trainings are conducted either on a face to face basis or through e-learning platforms. Refresher courses are also provided on a risk-based approach. They further indicated that they have minimum pass marks and failure by a staff member to attain the required mark calls for a repeat of the course. It was noted that the training also extends to board members as well as new staff during induction. The MVTS providers expressly demonstrated that they also train their agents on a more regular basis on their AML/CFT obligations as set in the relevant laws. Most of the FIs indicated that they received training from the FIU between November 2018 and January 2019. AML/CFT training among the DNFBP sector was either not done or lacked the necessary depth.

284. Both FIs and DNFBPs interviewed confirmed that they conduct screening of new employees as part of their hiring process. This includes background checks such as seeking past employment references, police clearance and search on publicly known databases and social media. The screening of the employees varies depending of the nature of the position and responsibilities. For instance, it was noted that employees at senior positions in Banks and MVTS providers are subjected to a more stringent vetting process that includes being vetted by BoT for fitness and propriety. However, it wasn't clear if continuous screening was conducted on employees following their recruitment.

285. Overall, medium and large banks, MVTS providers and the globally affiliated bureau have in-depth understanding of the ML risks in their sectors and AML/CFT obligations relating to their operations. These sectors also had adequate mitigating controls which are commensurate to their risk profile. The same could not be said of the small banks, the rest of the NBFIs and DNFBPs which portrayed a low level of understanding of ML/TF risks and the relevant obligations relating to them in addition to poor application of preventive and mitigating measures by such institutions. However, it was evident that understanding of TF was low across the board. Although the NRA rated the DNFBPs, in particular, the real estate, dealers in precious metals and stones, motor vehicles and hawalla as high risk and casinos and lawyers as medium/high risk, assessors noted that most proceeds are channelled through the banks and real estate. Given the materiality of the banking sector in Tanzania and the level of controls in place as described above, the immediate outcome is achieved to some extent and major improvements are required.

Overall conclusions on IO.4

286. **URT is rated as having a low level of effectiveness for IO.4.**

CHAPTER 6: SUPERVISION

Key Findings

Financial Sector AML/CFT Supervisors

- a) Licensing and registration controls to prevent criminals and their associates from entering the financial sector are generally strong and effective. However, measures by some financial sector supervisory authorities to ensure that associates of criminals are not BOs need improvements.
- b) AML/CFT supervisors are aware of the general ML/TF risks in the financial sector, largely based on the NRA report. They generally have a low level of understanding of the ML/TF risks that exist in the individual financial institutions within their supervisory purview. In addition, all AML/CFT supervisors had not yet developed and implemented AML/CFT risk-based supervision that would determine the frequency and intensity of AML/CFT examinations.
- c) Supervisory authorities, except for the BoT, do not impose sanctions whenever AML/CFT compliance breaches were identified but rather directed financial service providers to apply remedial measures to address the identified breaches. The BoT applied monetary and other administrative sanctions in some instances. However, the number of instances in which BoT applied sanctions was very low compared to the number of breaches identified.
- d) The FIU, in conjunction with AML/CFT supervisors, conducted AML/CFT awareness workshops for FIs. Additionally, the BoT conducted AML/CFT awareness workshops for representatives of all banks and financial institutions, which together with other supervisory activities, resulted into improvements in the AML/CFT compliance culture and compliance systems of FIs

AML/CFT Supervisors for DNFBP Sectors

- a) Licensing and registration controls to prevent criminals and their associates from participating in the ownership, control, or management of DNFBPs are generally strong and effective, except for the real estate and trust and company services sectors where there are no entry controls.
- b) Apart from casinos and lawyers in Zanzibar that had designated AML/CFT supervisors, the rest of the DNFBP sectors do not have designated supervisors and are not supervised for compliance with AML/CFT measures. The two AML/CFT supervisors of the DNFBPs are aware of the general ML/TF risks in the DNFBP sector identified in the NRA report. However, they have a low level of understanding of the ML/TF risks that exist at each DNFBP within their respective supervisory purview. In addition, the designated AML/CFT supervisors have not yet implemented AML/CFT risk-based supervision.
- c) DNFBPs were not being supervised or monitored for compliance with their AML/CFT requirements and, as such, DNFBP supervisors have not detected AML/CFT compliance breaches requiring application of remedial actions and sanctions.
- d) The FIU conducted AML/CFT awareness workshops for DNFBPs. As a result of the workshops,

knowledge about AML/CFT compliance obligations by DNFBPs had started to improve.

Recommended Actions

Financial Sector AML/CFT Supervisors

- a) AML/CFT supervisory authorities should strengthen entry controls to prevent criminals and their associates from being BO in FIs.
- b) AML/CFT supervisory authorities should conduct ML/TF risk assessments of institutions they supervise. The risk assessment should include analysis of risk factors and mitigation measures of the institutions, and categorising the institutions according to their ML/TF risk levels. The outcome should serve as a basis for proportionate allocation of supervisory resources.
- c) AML/CFT supervisory authorities should separate AML/CFT onsite inspections from prudential supervisions and implement risk-based AML/CFT supervision and monitoring instead of relying on existing prudential supervisory activities. AML/CFT on-site and off-site examinations and follow-up measures should be planned and executed based on the identified ML/TF risk level of individual institutions.
- d) AML/CFT supervisory authorities should apply effective and dissuasive sanctions for identified AML/CFT compliance breaches.
- e) AML/CFT supervisory authorities should routinely obtain feedback and collect and maintain statistics on the impact of supervisory actions. This would assist them to target their supervisory activities and outreach at areas identified as requiring more supervisory interventions for improving AML/CFT compliance.

AML/CFT Supervisors for DNFBP Sectors

- a) In addition to the Zanzibar Law Society and the Gaming Board of Tanzania, URT should designate supervisory authorities for the rest of the DNFBPs. Real estate agents and TCSPs should be subject to licensing/registration/other controls to prevent criminals and their associates from participating in the ownership, control, or management of these DNFBPs.
- b) AML/CFT supervisory authorities should conduct ML/TF risk assessments of institutions they supervise, develop and implement AML/CFT risk based supervision. AML/CFT on-site and off-site examinations and follow-up measures should be planned and executed based on the risk profile of individual institutions.
- c) AML/CFT supervisors for DNFBPs should continue to pursue awareness raising initiatives on AML/CFT obligations.

The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14, R. 26-28, R.34, and R.35.

6.2 Immediate Outcome 3 (Supervision)

287. The Bank of Tanzania (BoT) supervises the majority of financial institutions (FIs) that account for about 46.14 percent of total financial sector total assets. The CMSA and TIRA are responsible for the supervision of the other FIs. Except for the Gaming Board of Tanzania (GBT) which supervises casinos in Tanzania Mainland and the Zanzibar Law Society which supervises lawyers in Zanzibar, all the other DNFBPs in both Tanzania Mainland and Zanzibar do not have designated AML/CFT

supervisory authorities. The activities of TCSPs are neither regulated as a separate category of economic activity nor for AML/CFT supervision except where lawyers are involved in the creation, management or direction of corporations or legal persons.

288. On account of the relative materiality and risk in the context of the URT (see Chapter 1), positive and negative aspects of supervision for the supervised reporting entities were weighted most heavily for the banking sector, heavily for important sectors (real estate agents²⁰, lawyers and dealers in precious metals and stones), moderately heavy for the securities sector and bureaux de change²¹, and less heavily for less important sectors (casinos, accountants, life insurance companies and all other non-bank FIs under the supervisory ambit of the BoT). A detailed description of each supervisor and which entities they are responsible for supervising is provided in Chapter 1.

6.2.1 Licensing, registration and controls preventing criminals and associates from entering the market

289. Where licensing and registration controls exist to prevent criminals and their associates from entering the regulated sectors, they are generally strong and effective. All financial sector supervisory authorities, the GBT, the Mining Commission and professional bodies for lawyers and accountants routinely conduct criminal background checks. All the licensing and registration authorities demonstrated that they had adequate mechanisms for monitoring shareholders, directors, and senior management of reporting entities to satisfy the propriety and fitness criteria on an on-going basis subsequent to the initial vetting. The licensing and registration authorities also demonstrated that they had adequate mechanisms for identifying entities and individuals providing regulated services without licences. However, as discussed below, real estate agents and TCSPs were not subject to licensing or registration requirements, at the time of the assessment. According to the NRA report, the real estate sector had a high ML risk and was one of the biggest sectors of the Tanzanian economy that accounted for 3.2 percent of GDP in 2015. The authorities did not have statistics regarding the number of TCSPs and the size of the sector in relation to the country's GDP.

Financial Sector AML/CFT Supervisors

The Bank of Tanzania

290. The BoT applies the same scope to the evaluation of licence applications for various categories of the licences it issues. The processing of a licence application is preceded by pre-filing meeting that is held with the licence applicant during which the adequacy of the documents in support of the application is determined. Once the licence application is deemed complete, the BoT is required to assess it within a period of 90 days. Some of the issues the BoT covers in evaluating a licence application include the following:

- BoT conducts background screening for criminal conduct, tax compliance and financial probity of significant individual shareholders owning at least 5 percent of total voting shares and individuals proposed as directors and senior managers.

²⁰ In both Tanzania Mainland and Zanzibar, beyond registration for a business licence by the Business Registration and Licensing Agency (Tanzania Mainland) and the Business and Property Registration Agency (Zanzibar), real estate agents are not subject to licensing requirements by any sector regulator.

²¹ The NRA assessed the ML risk of bureaux de change as medium high. However, subsequent to the NRA, the BoT closed a total of 291 bureaux de change in response to ML concerns and their failure to comply with the higher minimum capital requirements that the BoT introduced in 2017. The measures the BoT took moderated the residue risk of the bureau de change sector.

- The BoT assesses the relevancy and adequacy of educational qualifications and work experience of individuals proposed as directors and senior managers. This is done through review of the curricula vitae submitted and references obtained from previous employers of the individuals under consideration for appointment. In case of any doubt about the veracity of information submitted in the curricula vitae, the BoT conducts oral interviews with the proposed directors and senior managers.
- In the case of corporate shareholders, the BoT seeks to identify the significant ultimate beneficial owners. In the case of complex shareholding structures, the BoT has ability to decline licence applications on the basis that the shareholding structure is opaque.
- In the case of foreign applicants, the BoT is able to obtain information on the probity of applicants from foreign counterparts and other relevant foreign competent authorities.

291. Once the licence application has been favourably considered, the BoT grants the applicant a conditional approval valid for 12 months on the basis of which the applicant is able to organise the business premises and relevant equipment. The licence is finally issued to the applicant after the BoT conducts a pre-commencement inspection of the business premises to rule out the possibility of the licence being granted to a shell bank.

292. On an on-going basis, the BoT sensitises the public on the need to conduct financial services only with licensed financial service providers. Through public awareness and cooperation with law enforcement agencies, the BoT is able to obtain information that allows it to identify and take action against unlicensed financial service providers.

293. With regard to hawala services, due to their secretive nature and inadequate supervision of the bureaux de change, the BoT was not able to promptly identify that some bureaux de change were involved in the provision of hawala services.

294. BoT has mechanisms to ensure that licensing requirements are adhered to on an on-going basis. Some of them are: monitoring of media reports, receipt of information received from whistle blowers, trigger events such as the expiry of employment contract, the requirement for prior approval for the appointment of a new director or senior management official and transfer of ownership or control of beneficial interest in shares that results into ownership or control of at least 5 percent. Compliance with licensing requirements is also considered in the course of on-going supervision.

The Capital Market Supervisory Authority

295. The CMSA applies licensing procedures that are effective to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in any capital market company. The licensing procedures include the following:

- Background screening for past criminal conduct of natural persons who own at least 30 percent of the voting shares of a licence applicant. Although the companies whose licence applications had been processed as at the time of the assessment did not have opaque shareholding structures, the CMSA did not have a policy that would guide staff responsible for processing licence applications on how far they would be expected to go to identify the ultimate beneficial owners before recommending that the licence application be rejected on account of the complex shareholding structure of the licence applicant. Further, the threshold of 30 percent for triggering the vetting of BO was considered too high compared with generally accepted threshold of 10 percent for a substantial equity stake.

- The CMSA conducts background screening for past criminal conduct of proposed controlling officers of a company.

296. Through various mechanisms (such as on-site examinations and annual renewal of dealer's or investment advisor's representative), the CMSA is able to ensure that individuals that passed the fitness and propriety tests at licence application stage, continue to be fit and proper.

297. The CMSA is also able, on an on-going basis, to identify and take action against unlicensed service providers in the capital market. This is achieved through on-going market surveillance supplemented by review of periodic reports submitted to the CMSA by market intermediaries, monitoring of print and electronic media, complaints and enquiries from the public and information from whistle blowers.

The Tanzanian Insurance Regulatory Authority

298. The TIRA applies licensing procedures that are effective to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in any insurance market player. The registration procedures implemented included the following:

- Background screening for past criminal conduct of ultimate BOs of a licence applicant. However, the TIRA did not have guidance on whether the review of past criminal conduct applied to all ultimate beneficial owners or restricted to those owning significant or controlling interests. The TIRA also did not have a policy on how to address licence applicants with complex ownership structures.
- Background screening for past criminal conduct of the proposed directors, principal officer and senior management of a company applying for a licence. In one case involving an applicant who had a questionable professional background, the TIRA was able to reject the licence application after obtaining information on the applicant from both domestic and foreign competent authorities (see Box 1).

Box 6.1: Identification of a licence applicant who was not fit and proper

In May 2019, the TIRA received an application for registration as an insurance broker from (XYZ). The owners of the company were ABC (foreign) and MNY (local). Both shareholders were legal persons. Upon scrutinizing the application, the TIRA observed that the proposed principal officer of XYZ and one of the shareholders of ABC were previously employed by the same insurance company. During that time, the Immigration Department had conducted an investigation on the insurance company that led to the resignation of Head of Human Resources Department (who happened to be one of shareholders of ABC) and the Chief Executive Officer (who was later proposed as a principal officer of XYZ).

Based on the above situation; prior to finalization of the application, the TIRA wrote to the regulatory authority of a country from which the proposed principal officer originated to enquire on his professional and business conduct. The TIRA also requested information from the Immigration Department which had conducted the investigation on the findings of the investigations so that the findings could assist the TIRA on the propriety and fitness of directors and shareholders/ beneficial owners of the licence applicant.

299. Through various mechanisms (such as annual re-registration of insurance companies, brokers and agents, on-site and off-site examinations, approval of changes at board and senior management

levels), the TIRA is able to monitor that individuals that passed the fitness and propriety tests at licence application stage, continue to be fit and proper.

300. Through review of quarterly reports submitted by insurance companies, the TIRA is able to identify unlicensed insurance brokers and agents. In 2017 and 2019, the TIRA issued seven fines of Tshs 5 million each to three insurance companies and four insurance agents that had engaged unregistered insurance agents contrary to the requirements of the Insurance Act (see Table 6.1 below).

Table 6.1: Sanctions Applied for dealing with unregistered Insurance Agents

Year	Category of Licensee	No. of Institutions	Reasons for the Fine
2017	Insurance company	2	Dealing with an unregistered insurance agent
	Insurance agent	2	
2019	Insurance company	1	
	Insurance agent	2	

301. Licensing statistics for the financial sector show that in instances where the licence applicant failed to satisfy the licensing requirements, the financial sector supervisors rejected such licence applications (see Table 6.2).

Table 6.2: Number of licence applications handled by BoT, CMSA and TIRA

		2015	2016	2017	2018
Banking Institutions ²²	Received	2	1	0	0
	Approved	5	4	3	1
	Rejected	1	1	0	0
Capital Markets Institutions	Received	7	7	6	2
	Approved	6	6	6	2
	Rejected	1	1	0	0
Insurance Companies ²³	Received	31	31	31	31
	Approved	31	31	31	31
	Rejected	0	0	0	0

²² Applications received are not necessarily processed, approved or rejected in the same year, hence licensed granted in some cases exceed the number received in the same year.

²³ Licences are renewed annually. No new licences were received over the period under review. Hence, the same amount is reflected in all the years under review.

AML/CFT Supervisors for DNFBP Sectors

The Gaming Board of Tanzania

302. In considering a licence application for a casino (including an internet casino), the GBT conducts background screening for past criminal conduct of ultimate beneficial owners (of at least five per cent voting shares), the proposed directors and senior management of a casino. As casino licences are renewed every 12 months, these fit and proper tests are also performed at the time of considering an application for renewal of a license or when there are changes in the senior management, board or shareholding structure of a casino. The GBT also performs quarterly inspections of casinos. Through these mechanisms, the GBT is able to monitor and ensure that the fitness and propriety requirements are adhered to on an on-going basis.

303. Through on-going surveillance including receipt of tips from members of the public, the GBT is able to identify and take action against unlicensed casinos (see Table 6.3 below).

Table 6.3: Sanctions Applied to Unlicensed Gaming Operators

	2016	2017	2018	Total
Slot Machines seized	1,727	49	392	2,168
Fine (TZS)	Nil	Nil	40,281,801	40,281,801
Amount Confiscated (TZS)	660,000	Nil	6,180,000	6,840,000

The Real Estate Sector

304. At the time of the on-site visit, the real estate sector did not have a licensing authority. Real estate agents either operated with a general business registration certificates or operated without any business licence at all.

305. Based on the foregoing, the URT does not have any controls to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in a real estate agency business.

Dealers in Precious Stones and Metals

306. The Mining Commission under the Ministry of Minerals is responsible for licensing dealers in precious metals and dealers in precious stones. The licenses are issued to Tanzanian nationals or to companies established in the URT in which Tanzanian nationals own at least 25 percent of the voting shares.

307. Individuals that apply for dealers' licences are subject to criminal background checks for purposes of ensuring that only fit and proper individuals obtain licences. In the case where a company applies for a dealer's licence, the fitness and propriety tests are extended to the directors and shareholders of the company. However, where the proposed shareholder is majority-owned by other companies, the entry controls do not extend to preventing criminals and their associates from being the beneficial owners of a significant or controlling interest in the company.

Regulators for Lawyers

308. The Chief Justice approves admission of advocates following an assessment of an application. The assessment includes review of the applicant's professional legal qualification, testimonials regarding the applicant's character and the general suitability of the applicant for grant of a practicing certificate. An Advocates Committee chaired by a High Court Judge hears complaints against advocates and is empowered to apply sanctions that include removal of the advocate from

the roll. Through this mechanism, the Judiciary is able to ensure that advocates, on an on-going basis, are fit and proper to continue practicing in the URT.

The National Board of Accountants and Auditors (NBAA)

309. The NBAA registers accountants and auditors that practice in the URT. In addition to checking that accountants and auditors have satisfied the requirements for professional accounting qualifications, the NBAA also assesses the professional and general conduct of accountants and auditors to ensure that they are fit and proper to be registered.

310. Through its process of practice reviews and hearing complaints against accountants and auditors, the NBAA is able to monitor accountants and auditors to ensure they meet the fitness and propriety requirements on an on-going basis.

311. **The assessors, therefore, conclude that licensing controls to prevent criminals and their associates from participating in the ownership, control, or management of FIs and DNFBPs are generally strong and effective, except for the real estate and the trust and company services sectors where there are no entry controls. Further, measures to ensure that associates of criminals are not BOs were not strong in the capital market and insurance sectors.**

6.2.2 Supervisors' understanding and identification of ML/TF risks

312. In the absence of a sector-specific ML/TF risk assessment, the financial sector AML/CFT supervisors derived their understanding of the ML/TF risks of the sectors under their supervisory purview largely from the NRA report.

313. Except for the CMSA that had started to formally assess the ML/TF risks of the various classes of its licensees, all the other supervisory authorities had not yet started performing ML/TF risk assessments of their respective sectors as at the time of the onsite. In particular, all the AML/CFT supervisory authorities had not yet started performing institution-specific ML/TF risk assessments and as such did not have a good understanding of the institution-specific ML/TF risks of the institutions they supervise.

Financial Sector AML/CFT Supervisors

The Bank of Tanzania

314. The BoT derived its understanding of the ML/TF risks in the sectors under its supervisory purview from the NRA exercise and the information gained through its on-going supervisory activities. The BoT identified commercial banks and bureaux de change as the most vulnerable to abuse by potential money launderers. In the absence of sector or institution-specific ML/TF risk assessments, the Assessors concluded that the BoT identified and maintained an understanding of the ML/TF risks in the financial sector only to a limited extent.

315. In the case of commercial banks, the BoT had identified specific financial products (e.g. wire transfers and private banking services), customer types (e.g. politically exposed persons) and geographical areas (e.g. FATF-listed countries and areas bordering countries with internal conflict) that posed high ML/TF risks for commercial banks. The BoT maintained its general understanding of the ML/TF risks in the banking sector through open source information and information it obtained from its interactions with LEAs, FIU and other competent authorities both domestic and foreign. Through updates to prudential institutional risk profiles that include a consideration of ML/TF risk factors, the BoT was able to glean some information that supported its understanding of the ML/TF risks of the banking sector.

316. The understanding of ML/TF risks in the bureaux de change sector by the BoT was supported by intelligence indicating that some of the bureaux de change were involved in providing hawala services which are prohibited in the URT.

The Capital Market Supervisory Authority

317. Over and above the NRA, the CMSA buttressed its understanding of the ML/TF risks in the capital markets by conducting an ML/TF risk assessment of the various classes of its licensees. On the other hand, CMSA had not yet carried out risk assessment at the individual firm level to determine the risk rating within each category or class of its licences.

318. The CMSA had identified specific factors such as nature of customers (high-net worth individuals, PEPs) nature of business (brokers on-board a lot of customers which when combined with their profit motive could compromise AML/CFT controls) that give rise to ML/TF risk in the capital market. Table 6.4 shows the assessed ML risk levels of the different types of institutional licensees.

Table 6.4: Risk Assessment of the Capital Markets

Type of Organization	Risk Assessment
Commercial banks	Medium Low
Licensed Dealing Members	Medium High
Unit Trust of Tanzania	Medium
Dar es Salaam Stock Exchange	Medium
Central Securities Depository & Registry	Medium
Overall risk assessment for the capital market	Medium

319. The CMSA maintained its understanding of the ML/TF risks through its supervisory activities that included on-site examinations, AML/CFT thematic reviews and periodic AML/CFT self-assessment questionnaires administered to capital market intermediaries.

The Tanzania Insurance Regulatory Authority

320. In the absence of a sector-specific ML/TF risk assessment, the TIRA derived its understanding of the ML/TF risks in the sectors under its supervisory purview from the NRA and the information gained through its on-going supervisory activities.

321. As at end-December 2018, there were five companies that offered life insurance policies as shown in Table 6.5 below.

Table 6.5: Total Assets of Life Insurance Companies as at December 2018²⁴

Name of Life Insurance Company	Amounts in US\$ ²⁵
National Insurance Corporation of Tanzania Limited ²⁶	62,249,216.52

²⁴ The numbers are based on figures in audited financial statements

²⁵ Converted at a rate of TZS2,300/US\$

²⁶ The National Insurance Corporation is a composite insurance company that offers both life and general insurance policies.

Name of Life Insurance Company	Amounts in US\$²⁵
Sanlam Life Insurance	24,471,215.22
Metropolitan Tanzania Life Assurance Co. Ltd	1,712,343.48
Alliance Life Assurance Limited	5,677,884.78
Jubilee Life Insurance Corporation of Tanzania Ltd	10,225,896.52

322. The TIRA considered life insurance as posing higher ML risk as compared to general insurance. However, based on the materiality of the general insurance sub-sector that accounted for 26 percent of the 31 licensed insurance companies as at end-December 2018, the ML risk of the insurance sector as a whole was low.

323. In the life insurance subsector, about 80 percent of life insurance products were group life schemes. The assessors confirmed the dominance of group life schemes (which are institutional schemes and considered to be low risk) through interviews with the life insurance companies.

324. Individual life insurance products, including credit insurance constituted about 20 percent of the life insurance products. The premium for the individual life insurance products were paid through standing orders effected through payroll deductions. In this regard, the ML risk of the individual life insurance products was minimal.

325. The TIRA explained that it identified and maintained an understanding of ML/TF risks of the sectors it supervised through the information it obtained from conducting regular on-site inspections of insurance companies. However, given that its examination procedures exclusively focused on the assessment of prudential risks,²⁷ it was doubtful whether the prudential on-site examination activities in any way contributed to gaining an understanding of the ML/TF risks of the insurance companies.

AML/CFT Supervisors for DNFBP Sectors

The Gaming Board of Tanzania

326. The GBT's understanding of the ML/TF risks of casinos was also based on the NRA report. The GBT had not yet conducted its own sector specific ML/TF risk assessment. However, following the NRA, the GBT implemented a number of measures to reduce the inherent (residual?) ML risk of casinos. These measures included:

- Directing casinos to ensure their patrons used credit cards or other payment mechanisms other than cash; and
- Imposing transaction limits of TZS 50,000.00 for slot machine and TZS 5 million for table games and that the casinos were to report transactions above these limits to the FIU.

327. Based on the measures it had implemented from the time the NRA was conducted, and given that casinos identified and verified the identity of their customers for any transaction of at least TZS 3 million (equivalent to about US\$1,300) as required under the Gaming Act, the GBT was of the view that the ML risk level had reduced to low from medium high as per the NRA report. However, in the absence of sector and institution-specific ML/TF risk assessments, the GBT's understanding of ML/TF risks in the casinos was still limited. It had however, started to implement an electronic monitoring system called Gaming Regulator Electronic Monitoring System. Among other objectives, the system was intended to provide GBT with market awareness in order to prevent fraud

²⁷ The TIRA has a separate AML/CFT check-list it uses to complement the prudential risk assessment. However, the AML/CFT check-list focuses on assessing adherence to the AML/CFT guidelines and does not include ML/TF risk assessment of the insurance companies.

and tackle ML through collecting all bet information including player identification information. The analysis of this information would enable the GBT to identify and maintain an understanding of the ML/TF risks of individual casinos.

The Rest of the Designated Non-Financial Businesses and Professions

328. The Zanzibar Law Society and NBAA performed some AML/CFT supervision of accountants in Mainland Tanzania (even though NBAA was not designated as the AML/CFT supervisor for accounting and auditing firms). However, the other DNFBP sectors (such as the real estate agents, advocates in Tanzania Mainland and dealers in precious metals and stones) did not have any designated AML/CFT supervisory authority.

329. The Zanzibar Law Society relied on the NRA for its understanding of the ML/TF risks of lawyers in Zanzibar. The Zanzibar Law Society had not conducted any sector specific ML/TF risk assessments nor had it implemented mechanisms to enable it identify and maintain its understanding of the ML/TF risks of the lawyers it was designated to supervise.

330. **Based on the foregoing, assessors have concluded that in the absence of sector and institution-specific ML/TF risk assessments, AML/CFT supervisors had, to a limited extent, identified and maintained an understanding of the ML/TF risks in the financial and DNFBP sectors.**

6.2.3. Risk-based supervision of compliance with AML/CFT requirements

331. All AML/CFT supervisors had not yet implemented risk-based AML/CFT supervision.

Financial Sector AML/CFT Supervisors

332. The BoT used a prudential risk model that includes ML risk factors among the prudential risk factors to determine the frequency and intensity of examinations. The BoT determines the scope of on-site examinations by taking into account the characteristics of each institution (size, complexity and sophistication of business operations and risk profile). The risk profile of an institution is determined through assessment of various prudential risks including compliance risk that includes elements of AML/CFT compliance.

333. In addition to full scope prudential onsite examinations that includes a review of AML/CFT compliance, the BoT also conducted five AML/CFT targeted examinations in the first half of 2019. Based on the review of examination reports, the scope of examinations covered the following aspects: AML/CFT policies and procedures, CDD and record keeping, compliance function, STRs, wire transfers and transaction screening against UNSCRs Sanctions. Table 6.6 shows the number of institutions against the number of examinations conducted. The statistics show that there was a general reduction in the number of on-site examinations conducted. The downward trend suggest that the BoT did not adhere to the established supervisory cycle that stipulates that high risk institutions be examined every six months and low risk institution every 18 months.

Table 6.6: Comparison of Number of Institutions to Number of On-Site Examinations

Category		2015	2016	2017	2018
Banks	Number of institutions	36	36	37	39
	Number of prudential examinations	35	24	21	6
Development Finance Institutions	Number of institutions	2	2	2	2
	Number of prudential examinations	Nil	Nil	Nil	Nil
Microfinance Banks	Number of institutions	3	4	5	5
	Number of prudential examinations	3	2	3	1
Community Banks	Number of institutions	12	12	11	6

	Number of prudential examinations	Nil	Nil	Nil	Nil
Financial Institutions	Number of institutions	2	2	2	2
	Number of prudential examinations	10	3	3	3
Leasing Finance	Number of institutions	2	2	2	3
	Number of prudential examinations	Nil	Nil	Nil	Nil
Bureaux de Change	Number of institutions	278	295	265	108
	No. of Zones of examinations	6	2	1	Nil

334. The BoT only had six examiners in the unit responsible for the supervision of microfinance institutions and bureaux de change. Given the large number of bureaux de change that existed prior to December 2018²⁸, the BoT did not have adequate supervisory resources to provide effective AML/CFT supervision or monitoring of bureaux de change that posed a high ML risk. In this regard, the BoT had since taken measures intended to make the supervision or monitoring of bureaux de change more manageable. These measures included increasing the number of staff in supervision departments²⁹ and by prescribing a higher minimum paid-up capital requirement of Tshs.1 billion (approximately US\$500,000.00) which bureaux de change were required to comply with within three months of the effective date of the Foreign Exchange (Bureau de Change)(Amendment) Regulations, 2017³⁰. The raising of the minimum paid-up capital was intended to bring about consolidation in the bureau de change sector.

335. With respect to the MVTS providers, the BoT had not yet started to monitor individual mobile network operators (MNOs) for compliance with AML/CFT requirements at the time of the onsite. The BoT only obtained consolidated statistics on the volumes and values of cross-border remittances that showed originating and destination countries.

336. At the time of the on-site visit, the CMSA had developed an ML/TF risk model but had not yet implemented it. The TIRA had also not yet started conducting risk-based AML/CFT supervision. In this regard, all the financial institutions were not being supervised and monitored for compliance with their AML/CFT requirements on a risk sensitive basis.

AML/CFT Supervisors for DNFBP Sectors

The Gaming Board of Tanzania

337. GBT conducted 5 inspections in 2015 and none during the period 2016-2018. In conducting its on-site inspections of casinos, the GBT assessed the extent to which casinos comply with their AML/CFT requirements. However, the GBT has not yet implemented a risk-based AML/CFT supervision approach.

The National Board of Accountants and Auditors

338. Although the NBAA is not a designated AML/CFT supervisor of accounting and audit firms, in conducting its practice review of audit and accounting firms, the NBAA also assessed the extent to

²⁸ The FSAP report published by the IMF in November 2018, shows that as at 30 June 2017, there were as many as 297 bureaux de change.

²⁹ As at the time of the on-site visit, the BoT indicated that it had recruited 15 staff for the supervision departments and more recruitments would be considered in future.

³⁰ The Foreign Exchange (Bureau de Change) (Amendment) Regulations, 2017 became effective on 2 June 2017.

which the firms complied with AML/CFT requirements. However, the NBAA had not yet implemented a risk-based AML/CFT supervision approach.

AML/CFT supervisors for other DNFBP Sectors

339. The Zanzibar Law Society is the designated AML/CFT supervisor of lawyers that practice in Zanzibar. However, the Society had not yet carried out any AML/CFT supervision of the lawyers.

340. At the time of the on-site, there were no AML/CFT supervisory authorities for real estate agents, lawyers in Tanzania Mainland and dealers in precious metals and precious stones. As such, DNFBPs in these sectors had not yet been subjected to AML/CFT supervision.

341. Based on the analysis above, the assessors have concluded that AML/CFT supervisors do not apply a risk-based approach in monitoring compliance with AML/CFT requirements by financial institutions and DNFBPs.

6.2.4 Remedial actions and effective, proportionate, and dissuasive sanctions

342. BoT, CMSA and TIRA have a range of remedial measures and financial sanctions at their disposal for application in the event of non-compliance with AML/CFT obligations.

343. All the financial sector supervisors indicated that they direct their supervised financial service providers to apply remedial measures in order to address the identified AML/CFT compliance breaches. Based on the review of on-site examination reports shared with the assessors, financial sector supervisors identified a number of AML/CFT deficiencies. The examination reports indicated that the examined FIs were required to develop specific time-bound remediation plans and were required to submit periodic progress reports on the implementation of the remedial actions to the financial sector supervisors.

Table 6.7: AML/CFT Remedial Actions

Remedial actions Imposed by FIU³¹			
Year	Type of FI	Nature of Violation	Type of remedial action imposed
2016	Bank A	Submitted STR through private Email of FIU	Warning not to repeat the default.
2015	Securities Broker B	There were no AML policies, controls and procedures in place	To establish them within six months.
Remedial Actions imposed by BoT			
2015	Bank E	Insider dealings which is predicate offence	Chairperson directed to relinquish his position; removal of some board members
2016	Bank F	Inadequate AML Internal control which led to non-detection and reporting of suspicious transaction	Directive to report to FIU

³¹ The FIU is not designated as an AML/CFT supervisor. It believes, however, that s. 6(k) of AMLA that empowers it to conduct inspections on reporting persons for purposes of detecting any ML/TF activities also empowers it to ensure compliance by reporting persons with AML/CFT requirements. Based on this belief, the FIU has been able to sanction reporting persons even though it is not a designated AML/CFT supervisor.

2016	Bank G	Inadequate AML Internal control which led to non-detection and reporting of suspicious transaction	Directive to report to FIU
2016	Bank H	Inadequate AML Internal control which led to non-detection and reporting of suspicious transaction	Directive to report to FIU
2016	Bank I	Non-compliance to AML laws by its foreign branch	Place the bank under statutory management and later revoke license

344. In addition to applying remedial measures, the BoT also applied monetary and other administrative sanctions in some instances warranted by the nature and gravity of the AML/CFT compliance breaches identified. However, the sanctions were only applied to 7 out of 52 instances of breaches in the four and half years to end-June 2019. In particular, no sanctions were applied to other categories of licencees such as the bureaux de change, MVTS providers, financial leasing companies and housing finance companies. The concentration of sanctions in the banking sector might have arisen for a variety of reasons including the fact that the financial sector is bank-dominated. However, the absence of sanctions in the bureau de change sector was particularly notable as some of the bureaux de change, according to open sources, were allegedly involved in facilitating ML. In 2018, the BoT, in conjunction with other competent authorities (including the TRA, TPF, PCCB and NPS)) conducted an operation which led to the closure of 188 bureaux de change in 2018 and a further 103 bureaux de change in the first quarter of 2019 (see Table 6.8). The bureaux de change closed were in Dar es Salaam, Arusha, Dodoma, Mwanza, Iringa, Moshi, Mbeya and Songwe regions.

Table 6.8: Movements in the Number of Licensed Bureaux de Change

Year	No. at start of Year	Movement			Net Movement	Number at end of Year
		Licensed	Revoked	Closed Voluntarily		
2015	NA	NA	NA	NA	NA	280
2016	280	18	11	0	7	287
2017	287	0	12	10	22	265
2018	265	48	188	17	(157)	108
2019	108	0	103		(103)	5 ³²

345. The drastic action taken by the BoT to close a large number of bureaux de change suggests that the BoT was not able to identify and address ML/TF concerns in the bureau de change sector earlier on.

346. From the post-implementation review of the relatively low number of sanctions, the BoT had observed that institutions that earlier had no AML/CFT controls had started to implement the required controls and those institutions that had weak AML/CFT controls had strengthened the internal controls. These observations support the conclusion that the sanctions applied were effective at ensuring future compliance by the sanctioned institutions.

³² Number as at 30 June 2019

347. The BoT also required financial service providers to publish details of the sanctions it had applied on them in newspapers of general circulation as a way of dissuading other licencees from breaching their AML/CFT compliance requirements. The low number of sanctions applied, however, limited the dissuasiveness of the sanctions. In one instance involving a commercial bank that was established in the URT that had a branch in country X through which the bank conducted 90 percent of its business, the BoT was informed in 2014 that authorities in country Y had designated the Tanzanian bank including its branches and subsidiaries overseas, as an institution of primary money laundering concern because of the ML/TF activities and other serious financial crimes that were facilitated through the foreign branch of the bank. As such, the authorities in country Y intended to act against the bank including cutting off from country Y and international financial system. The BoT, however, failed to act against the bank or independently establish the extent to which the bank it had licensed and supervised had breached AML/CFT requirements. When the BoT placed the bank under statutory management on 24 July 2014, it was for reasons of protecting depositors and not as a sanction of any violation of AML/CFT requirements. The BoT eventually revoked the licence of the bank on 2 May 2017 after the suit the bank had brought against country Y was decided in favour of country Y.

348. The failure by the BoT to take action against the bank suggests that the processes used by the BoT for integrating information relevant for arriving at a decision to apply sanctions for AML/CFT compliance breaches requires improvement.

AML/CFT Supervisors for DNFBP Sectors

349. Both the NBAA and the GBT had directed reporting persons under their AML/CFT supervisory purview to implement remedial measures to address the AML/CFT compliance breaches identified during on-site inspections conducted in the period 2015 to 2018. However, these AML/CFT supervisory authorities had not applied any sanctions. As such the effectiveness and dissuasiveness of sanctions could not be assessed.

350. At the time of the on-site, real estate agents, lawyers and dealers in precious metals and precious stones were not being monitored for compliance with their AML/CFT requirements. As such, AML/CFT compliance breaches in these sectors had not yet been identified and therefore no remedial actions and/or sanctions were applied.

351. Based on the foregoing analysis, financial sector AML/CFT supervisors have applied remedial actions and/or effective, proportionate and dissuasive only to a limited extent. DNFBP supervisors have not applied any remedial actions and/or sanctions.

6.2.5. Impact of supervisory actions on compliance

Financial Sector AML/CFT Supervisors

352. Financial sector supervisors indicated that they had noted improvements in the AML/CFT compliance systems of financial service providers, especially those which had been inspected during the period under review. Some of the notable improvements that arose from the supervisory activities of the CMSA and TIRA included the development of AML/CFT policies, appointment of MLROs, training of staff and some increase in the number of STRs submitted to the FIU. In the case of the BoT, it had observed an improvement in the AML/CFT compliance culture in the banking sector which was buttressed by the establishment of ML/TF risk management and compliance functions.

353. The submission by the BoT and CMSA were supported by the general reduction in the number of AML/CFT compliance breaches identified over the period 2015 to 2018.

AML/CFT Supervisors for DNFBP Sectors

354. The GBT stated that its regular on-site inspections of casinos had the effect of improving AML/CFT compliance levels in casinos. Specific areas where these improvements had been observed were with respect to casinos performing basic customer due diligence covering the identification and verification of customers' identities and appointment of MLROs. During a site visit to one of the casinos, the assessors were able to confirm the existence of the MLRO.

355. However, the casino did not routinely perform CDD except in situations that involved a patron paying for casino chips using a credit card. The casino had come under new management and ownership within a month of the site visit. In the absence of statistics on the numbers of AML/CFT compliance findings and related trends, the assessors were not able to validate the assertion by the GBT that its supervisory activities had a general positive impact on AML/CFT compliance by casinos.

356. The NBAA stated that the AML/CFT guidance it had issued coupled with its regular practice reviews (that include assessing compliance with AML/CFT requirements) and the periodic seminars it arranged that included AML/CFT topics had a positive impact on improving the AML/CFT compliance culture in audit and accounting firms.

357. In the absence of statistics on AML/CFT compliance findings and their related trends over time, the assessors were not able to validate the assertion by the NBAA that its supervisory activities had a general positive impact on AML/CFT compliance by audit and accounting firms.

358. At the time of the on-site, real estate agents, lawyers and dealers in precious metals and precious stones were not yet subject to AML/CFT supervision.

359. Generally, with regard to STRs, as discussed under sections 3.2.1 and 5.2.5 of this report the level STRs is low in relation to the ML/TF risk profile of the URT suggesting that the impact of supervisory activities on compliance by reporting entities with their suspicious transaction reporting requirements was limited.

360. Based on the foregoing, apart from the BoT and CMSA that demonstrated some of supervisory activities on AML/CFT compliance by reporting entities, all the other AML/CFT supervisory authorities did not. In particular, the impact of their supervisory activities on compliance by reporting entities on suspicious transaction reporting requirements was limited.

6.2.6 Promoting a clear understanding of AML/CFT obligations and ML/TF risks

Financial Sector AML/CFT Supervisors

361. The FIU, in conjunction with the financial sector AML/CFT supervisors, conducted a number of AML/CFT awareness workshops for financial institutions in the period 2015 – 2018. The BoT, on its own initiative, also conducted AML/CFT awareness workshops for representatives of all banks and financial institutions.

362. FIU issued AML/CFT guidelines to assist different categories of reporting entities in the financial and other sectors comply with their AML/CFT obligations under the AML/CFT laws and regulations. The guidelines covered a wide range of topics such as:

- the development and implementation of policies and procedures for monitoring and controlling ML/TF risks;
- the AML/CFT compliance obligations of the reporting entities; and
- examples of suspicious transactions.

363. However, the guidelines were not updated to take into account the amendments to the AML/CFT laws and new developments and the evolution of ML/TF risks. The financial sector supervisors provided feedback on the findings of the onsite inspections that, to some extent, assisted FIs in understanding their AML/CFT obligations.

364. The level of understanding of the ML/TF risks and AML/CFT obligations by the reporting entities reflected the extent of engagement by the supervisors in relation to undertaking of outreach activities and provision of guidance on AML/CFT issues, with banking sector having a greater understanding than the insurance and capital market entities.

AML/CFT Supervisors for DNFBP Sectors

365. The designated AML/CFT supervisory authorities for the DNFBP sectors had not conducted any AML/CFT awareness workshops for DNFBPs in the period 2015 – 2018. In this regard, the FIU stepped into the gap and conducted some AML/CFT awareness workshop for DNFBPs.

The Gaming Board of Tanzania

366. A workshop on monitoring and preventing money laundering in the gaming sector was organised by International Casino Exhibition London in February 2018 for gaming regulators and operators. The FIU also conducted two AML/CFT awareness workshops for all DNFBPs. Through discussions of AML/CFT inspection findings with casinos, the GBT assists casinos to understand their AML/CFT obligations and ML/TF risks.

Real Estate Agents

367. At the time of the on-site visit, there was no designated AML/CFT supervisor with responsibility for conducting activities aimed at promoting a clear understanding by real estate agents of their AML/CFT obligations and ML/TF risks. In this regard, in the period 2015 to 2018, the FIU, stepped into the gap and conducted two AML/CFT awareness workshops for real estate agents and other two workshops for all DNFBPs. In the absence of an AML/CFT supervisor with the ability to engage real estate agents in various ways, the level of understanding of the AML/CFT obligations and ML/TF risks by real estate was low.

Dealers in Precious Metals and Dealers in Precious Stones

368. At the time of the on-site visit, there was no designated AML/CFT supervisor with responsibility for conducting activities aimed at promoting a clear understanding by dealers in precious metals and dealers in precious stones of their AML/CFT obligations and ML/TF risks. In this regard in 2015, the FIU, in conjunction with the Common Market for Eastern and Southern Africa³³, stepped into the gap and conducted an AML/CFT awareness workshop for dealers in precious metals and dealers in precious stones.

Lawyers

369. The FIU conducted a number of AML/CFT awareness workshops for lawyers in Zanzibar and Tanzania Mainland. Even though the Law Society of Tanganyika was not a designated AML/CFT supervisory authority for advocates in Tanzania Mainland, in discharging its responsibility as a provider of Continuous Legal Education (CLE), it sometimes included AML/CFT awareness topics in the CLE programmes it delivered. These programmes were designed to improve law firm management practices. However, the assessors were not provided with examples of the

³³ COMESA delivered this workshop under its Regional Maritime Security Programme

outlines of the CLE programmes and, as such could not confirm the assertion by the Tanganyika Law Society.

370. In addition to the activities of the TLS, the FIU conducted two AML/CFT awareness workshops for all DNFBNs.

The National Board of Accountants and Auditors

371. In 2010, the NBAA issued AML/CFT Guidelines for audit and accounting firms that covered the full range of their AML/CFT compliance requirements. The NBAA reinforced the guidelines through discussing AML/CFT compliance breaches identified through the practice reviews it conducted. The NBAA also arranges regular seminars to enable accounting professionals to attain the required number of hours of Continuous Professional Development. The seminars include AML/CFT topics.

372. In addition to the activities of the NBAA, the FIU conducted two AML/CFT awareness workshops for all DNFBNs.

373. The assessors, therefore, conclude that the activities of the supervisors to some extent have a positive impact on the overall understanding of AML/CFT obligations and ML/TF risk by FIs and DNFBNs.

Overall conclusions on IO.3

374. The URT is rated as having a low level of effectiveness for IO.3.

CHAPTER 7: LEGAL PERSONS AND ARRANGEMENTS

Key Findings

- a) The relevant competent authorities have not identified, assessed and understood the ML/TF vulnerabilities of legal persons and legal arrangements created in the country and the extent to which they can be, or are being misused for ML/TF and as a result, they have not applied any mitigating measures.
- b) Competent authorities are able to obtain basic information on legal persons and legal arrangements in a timely manner from BRELA, BPRA and RITA respectively. Both BRELA and BPRA have an Online Registration System (ORS). However, competent authorities currently access this information by making written requests to the concerned registry.
- c) There is no legal requirement for company registries to obtain and maintain BO information during company formation. However, relevant competent authorities do sometimes obtain BO information on legal persons and legal arrangements from reporting entities. Considering challenges with respect to compliance with AML/CFT obligations and limited AML/CFT supervision, Assessors could not ascertain the extent to which this information is adequate, accurate, current or whether it is obtained in a timely manner from all types of legal persons or legal arrangements.
- d) Measures to prevent the misuse of legal persons and legal arrangements in URT are inadequate, limited and virtually non-existent as this was said to be undertaken through AML/CFT on-site inspections by Supervisory Authorities. The Supervisory authorities are however only limited to the institutions they regulate.
- e) URT authorities are able to apply sanctions for infringements such as late filing of returns. However, the sanctions are not considered to be effective, proportionate or dissuasive. Competent authorities have not yet applied sanctions against legal entities or legal arrangements for failure to comply with requirements.

Recommended Actions

- a) URT should undertake an ML/TF risk assessment to identify, assess and understand the risks and vulnerabilities, and the extent to which legal persons and legal arrangements can be, or are being misused for ML/TF.
- b) URT should introduce requirements/mechanisms for obtaining and maintaining BO information on legal persons and legal arrangements. These mechanisms should ensure that the (BO) information is adequate, accurate and current and also accessible to competent authorities in timely manner. In particular, BRELA, BPRA and RITA should set up and maintain databases for BO information.
- c) Both BRELA and BPRA should expedite the process of allowing competent authorities access to

their databases through the ORS. RITA on its part should modernise its system and introduce the ORS and also put in place mechanisms to allow competent authorities to access its database through the ORS.

- d) Consider enhancing the existing sanctions regime under the respective Companies Acts of both Mainland Tanzania and Tanzania Zanzibar to ensure that sanctions applied against persons who do not comply with the requirements are effective, proportionate and dissuasive.
- e) Take appropriate steps to mitigate the risks posed by the misuse of legal persons and legal arrangements by, for example, enforcing BO transparency obligations and enhancing the oversight /supervision of legal persons and legal arrangements.

The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25.³⁴

7.2 Immediate Outcome 5 (Legal Persons and Arrangements)

7.2.1 Public availability of information on the creation and types of legal persons and arrangements

375. The registration of legal persons is undertaken by Business Registrations and Licensing Agency (BRELA) in Tanzania Mainland. BRELA is headed by a Registrar and has five directorates responsible for Companies and Business Names; Industrial Properties; Licensing and Business Support

376. In Zanzibar, Business and Property Registration Agency (BPRA) is responsible for administration and regulation of laws concerning registration of Companies, Societies, Business Names, Industrial Property and Documents including partnership deeds. BPRA is established under the Zanzibar Business and Property Registration Agency Act of 2012 and is headed by an Executive Director.

377. There are 9,451 companies registered in URT, with 2,172 of these having been registered in the last five years as detailed in the table below:

Table 7.1: No of Registered Companies- 2015-2019

Year	No. of Registered Companies
2015	225
2016	223
2017	637
2018	743

³⁴ The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

Year	No. of Registered Companies
2019	344

378. Both BRELA and BPRA maintain publicly available information on the creation and types of legal persons. The information is contained on their respective websites and includes the guiding legislations required to form legal persons, regulations and the other information describing the various legal entities which can be created in Tanzania and Zanzibar, registration requirements as well as details on the online registration system (ORS), FAQs, fees and forms. The two agencies have also issued publicly available booklets and brochures on formation of legal persons. Both BRELA and BPRA have also issued guidelines on step by step registration procedures for legal persons and this information is available on their respective websites in the form of a video as well as a brochure or pamphlet. Assessors were satisfied that they contain relevant information adequate to assist the public with creation of companies.

379. RITA is responsible for formation of legal arrangements on the Mainland. It also has publicly available information on formation of legal arrangements. RITA has issued Guidelines for Incorporation of Trustees Pursuant to Section 2(3) of the Trustees Incorporation Act (Cap 318). The Guidelines outline the requirements and documentation required for registration, the appropriate forms to be filled, the fees required, requirements for change of particulars amongst others. In Zanzibar, legal arrangements are administered under the Societies Act which is one of the legislations administered by BPRA. Registration of Partnership Deeds in Tanzania Mainland is undertaken by the Registrar of Titles under the Registration of Document Act Cap. 117. Procedures for registration of Partnership Deeds is publicly available on the Registrar's website and at the Registrar's Office.

380. Overall, URT publicly provides adequate information on the creation of legal persons and arrangements as well as the types of legal persons and arrangements that can be created.

7.2.2 Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

381. URT in 2015-2016 conducted the National Risk Assessment (NRA) in order to assess ML/TF risks and vulnerabilities in the country. The assessment did not, however, identify, assess and understand the risks, vulnerabilities and the extent to which legal persons can be, or are being misused for ML/TF.

382. The authorities indicated that Officers from all Registries of legal persons and arrangements had been involved in trainings/workshops on AML/CFT. They also participated in several consultative meetings held by the FIU for identification and understanding of ML/TF risk associated with legal persons and arrangements. However, it did not appear to the Assessment Team that the competent authorities understood the vulnerabilities and the extent to which legal persons can be, or are being misused for ML/TF purposes. The FIU, PCCB and the Police do occasionally seek information from BRELA, BPRA or RITA. BRELA/BPRA or RITA on their part do not consider any type of ML/TF risk at the time of registration of either a company or trust, including factors such as the origins of a company (to confirm if it's from a high risk jurisdiction) when incorporating foreign companies. In practice, the authorities did not appear to understand the ML/TF risks posed by both legal persons and arrangements.

7.2.3 Mitigating measures to prevent the misuse of legal persons and arrangements

383. URT had taken the following measures intended to prevent, and also to mitigate the misuse of legal persons and arrangement for ML/TF: - transparency of basic information through registration

and a requirement to update the information held at the respective registries. The requirement to update the basic information is contained in various provisions of the Companies Act for Mainland and the Business Entities Registration Act for Zanzibar; all information held by BRELA, BPRA and TIRA is publicly available upon payment of a prescribed statutory fee; the use of Identity cards (National Identification Number (NID) or Zanzibar Identification Number (ZanID)) as a necessary requirement in the registration of legal person and arrangements to enhance the verification of ownership and people involved. However, this information does not include information on BO.

384. The information required and kept by the registration offices (BRELA and BPRA) include the legal entity's:

- particulars of the registered office;
- identification and other particulars of shareholders, directors and secretary to the company; and,
- share capital.

385. The company is also required to keep up-to-date information in the online registration system and the register of its members at the registered office of the company which includes names, address and shares held by each member. In practice, in the case of BRELA, every company is required to update information whenever there are changes in company information through the ORS. For example, change in directorship of a company should be filed within 14 days. Failure to update company information on time attracts compounded monthly late penalty fees of TZS 2,500 per month. The ORS is programmed to automatically calculate the penalties when time starts running. The Registrar of Companies may strike off a company from the register, any defunct company which fails to file annual returns as required by the law. Between 2015 and 2019, a total of 380 defunct companies were de-registered or struck off the company register. Authorities indicated that some companies were also fined. BPRA has similar requirements to those of BRELA and all companies are required to effect the changes through the ORS with failure to update company information on time attracting a compounded monthly late penalty fees of TZS 3,000 per month. Where the information provided is insufficient, the Registrars do call for additional information pursuant to the powers granted to them. For the period ranging from 2015 to 2019 no company was struck off the Company Register in Zanzibar by BPRA for non-compliance issues.

386. Companies are obliged to submit annual returns and audited financial reports to the registries every year. The authorities monitor compliance with this requirement. In 2018, 1,648 companies submitted annual returns to BRELA, while 6,158 companies did so in 2019. For BPRA, from 2015 to 2018, a total of 1,221 companies defaulted in submitting annual returns and other statutory requirements and were fined accordingly.

387. All foreign companies operating in URT are required to have a registered office in the country and to appoint a representative [who is resident in Tanzania and whose information such as name, address and other relevant information are to be submitted to the Registrar during the registration using the online registration system (ORS)]. The Permanent Representative of a foreign company which has established a place of Business in URT is not a director of the foreign company. A permanent representative has the mandate to provide requested information of the company to competent authorities. Foreign companies are also required to file the list of directors of the company and to update this information. Foreign investors (foreign nationals) are required to submit the particulars of their nationality and to attach copies of the biodata pages of their passports. These measures are however not strictly applied. URT is therefore not adequately implementing measures to prevent the misuse by foreign companies for ML/TF purposes.

388. URT does not have requirements for the obtaining and maintenance of BO information. Though reporting entities covered by the AMLA and AMLPOCA are required to obtain BO information, this requirement is not however strictly adhered to. Not all reporting entities collect and

maintain BO information from their customers. In addition, even for those who collect this information, it is in most instances incomplete and not subject to verification. As a result, mitigating measures relating to preventing the misuse of legal persons and arrangements in so far as obtaining and maintaining BO information are to a very limited, if not negligible extent.

389. URT does not have in place adequate mitigating measures to prevent the abuse by criminals of legal arrangements operating in URT. Through effective AML/CFT on-site inspections, Supervisory Authorities could potentially ensure that legal arrangements under the institutions they regulate are not abused for ML/TF purposes by criminals. This scenario however has the same deficiencies as relates to BO information for institutions under AMLA and AMLPOCA as explained above. The supervisory authorities of legal arrangements are RITA and BPRA. In BPRA's case they do the registration while the Ministry of Local Government undertakes the inspection. RITA undertakes the inspections/supervision of legal arrangements on its own. There are 5000 trusts in Mainland Tanzania and RITA has 12 officers to do the inspection. RITA is also a reporting entity under AMLA. However, the deficiencies highlighted above as concerning both reporting entities and supervisory authorities under the AMLA and AMLPOCA also apply to legal arrangements. The Assessment Team is of the view that the competent authorities responsible for overseeing legal arrangements for AML/CFT purposes are not adequately sensitised on AML/CFT and do not have the capacity to put in place or undertake measures to prevent the abuse of legal arrangements for ML/TT purposes. For the stated reasons, URT does not have in place adequate mitigating measures to prevent the abuse by criminals of legal arrangements.

390. The Companies Act, 2002 of Tanzania Mainland allows the issuance and maintenance of bearer share warrants. There are no statistics on the number of companies with these types of shares and the number of bearer shares. In addition, there are no mechanisms in place to identify the holders of bearer shares still in circulation. Assessors believe that the risk of the misuse of bearer shares in URT exists though it is difficult to gauge the extent thereof due to non-availability of adequate information.

391. The concept of nominee shareholders and nominee directorships amongst companies still remains an area of concern and vulnerability in URT.

7.2.4 Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

392. Competent authorities can obtain the following basic information on legal persons created in URT in a timely manner from BRELA and BPRA by making a written request: Name of the company; Incorporation number; Date of incorporation; Registered office/address of the company; share capital; names of shareholders including details on numbers of shares held; names of directors; business activity of the company including MemArts; information on annual returns filed by the company; name of company secretary. The functionality of directly receiving information by Competent Authorities through the ORS is currently inactive but plans are underway to grant them access. Only the TRA has direct access to the ORS though this access is only for registration purposes to enable the applicant company obtain a TRA number. TRA cannot currently request for information through the ORS.

393. For the year ending 2019, BRELA received a total of 2,400 requests from investigative institutions including the TPF, PCCB, the FIU and DCEA. BPRA received a total of 51 requests from LEAs [Police (12), ZAECA (34) and the FIU (5)]. The requests to BRELA and BPRA from the LEAs mainly related to enquiries on the legality of registration; shareholders name and their addresses and division of shares; information on directors; share capital of the company; filing of annual return; whether the company had been liquidated; whether the company had a charge or not; and, any other relevant information.

394. The table below shows the number of requests from LEAs to BPRa on legal arrangements during the period 2015 to 2019.

Table 7.2: Number of Requests from Competent Authorities to BPRa from 2015 to 2019

YEAR	Competent Authorities	No. of Requests	Nature of Requests
2015	None	NONE	-
2016	Immigration	2	1. Legality of Registration
2017	Police	3	2. Objectives of Association 3. Name and Details of Information of Leaders
	Immigration	1	
	Attorney General	1	
2019	Police	3	4. Filling of Annual Report
	Regional Criminal Officer (Rco)	1	5. Copy of The Constitution 6. Any other Relevant Information
TOTAL		16	

391. Competent authorities can also obtain basic and BO information from Reporting Entities which are covered by the AMLA and the AMLPOCA and which may be holding such information. For example, acquisition of significant shareholding in a licensed institution (i.e. owning more than 5% of voting shares) is subject to approval by BoT. Similarly, the GBT as a regulatory authority overseeing casinos and other gaming activities, has powers to conduct CDD to natural persons, identify-beneficial owners, trustees, directors or someone similar. TIRA, through its licensing process, also approves significant beneficial owners of its regulated entities. However, as already indicated above, where BO information is available, it is only limited to financial institutions as other reporting entities had not started complying with some of the CDD requirements including obtaining of BO information.

392. Competent authorities can also obtain basic and BO information from the entity itself though this may require interventions through the courts and might only be limited to accessing shareholder information which might not always provide information on BO.

393. As indicated in IO.2, authorities in URT received a request from a western European country on BO information. They were not however able to conclusively deal with the request due to lack of obtaining BO information requested for. The registries in URT do not obtain and maintain BO information. Also, at the material time of the investigation, the company had closed shop in URT and other institutions like the company's bank did not have information on the beneficial owners.

7.2.5 *Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements*

394. Legal arrangements such as Trusts are required to be registered with the Registrar/Administrator General of RITA. The information to be submitted by legal arrangements include, information of Settlers, trustees of the trust and information of parties to the Trust or partnership deed which includes the names, addresses, emails, phone numbers, identification cards, and their Curriculum Vitae and any other information obtained from the trust deed or partnership deed. This information is available to competent authorities by making a formal request to RITA. The table below shows the number of requests made to RITA by LEAs. There is, however, no request from the FIU to RITA or from RITA to the FIU concerning Trusts suspected to be involved in ML or TF issues. In 2017 and 2018, the Office of Administrator General (RITA) requested for an Officer from the FIU to join a joint team of experts in an investigation committee appointed by the Administrator General under Section 14(1) (2) of Trustees Incorporation Act Cap 318 to investigate a certain trust.

Table 7.3: No. of requests made to RITA by the Police and PCCB.

PCCB				
Year	No. of requests for Trusts.	No. of request granted.	No. of requests refused	Average Response Time
2017	2	2	NIL	2 days.
2018	2	2	NIL	1 day.
2019	1	1	NIL	2 days.
POLICE (DCI)				
Year	No. of requests for Trusts.	No. of request granted.	No. of requests refused	Average Response Time
2017	NIL	NIL	NIL	NIL
2018	1	1	NIL	1 day.
2019	NIL	NIL	NIL	NIL

395. In the absence of any framework for recording and keeping BO information, this information may not be available to LEAs at all times in respect of legal arrangements.

7.2.6 *Effectiveness, proportionality and dissuasiveness of sanctions*

396. There are a number of sanctions, both administrative and criminal which are applied against persons who do not comply with the information requirements or provide false information. Examples of administrative sanctions cited include: competent authorities requiring a person to produce any instrument or document relating to any registration; Applications with inadequate or accurate information are rejected; summoning any person for the purpose of verification of any document or any matter arising; Imposition of fines for delays in updating information.

397. Upon failure by a person or refusal to comply, one commits an offence and upon conviction is liable to a fine or imprisonment. Under the Companies Act (Punishment of Offences) Regulations 2003, the maximum penalty for Level A offences ranges from 6,000,000/= to 10,000,000/=TZS. This

is the highest level of fine, reserved for the most grave offences under the Companies Act 2002. In Zanzibar, the maximum penalty is imprisonment for 5 years or a fine of TZS million. In the mainland, the maximum penalty is imprisonment for five years or a fine of 10 Million TZS. The authorities have not however indicated circumstances when this action has been taken.

398. Between 2015 and 2018, Mainland Tanzanian authorities revoked registration of 419 trusts and penalized 2154 (trusts) for failure to submit annual returns timely. In Zanzibar, 1221 companies were charged from 2015 to 2018 with late filing of different matters including (late filing of) annual returns. At the time of the on-site visit, no sanctions had been applied by competent authorities for failure to comply with information requirements. Therefore, the Assessors could not determine whether the sanctions are effective, proportionate or dissuasive.

Overall conclusions on IO.5

399. **URT is rated as having a low level of effectiveness for IO.5.**

Key Findings

- a) URT handles its incoming MLA and extradition requests in a timely and constructive manner to some extent.
- b) The NPS maintains a case management system to track MLA and extradition requests. It also maintains records on the informal follow up with counterparts throughout the processing of the request. However, the register does not contain adequate information such as the date on which a request was executed.
- c) The NPS, as a matter of practice, prioritises requests despite not having any written policy on prioritization and some of the predicate offenses generating high value of proceeds are not part of the prioritisation conditions.
- d) URT is not proactive in seeking requests through formal or informal channels and the number of requests made by URT is considered relatively low considering its ML & TF risk profile. During the period under review, there was no MLA or extradition request received or made on TF.
- e) URT is able to provide information in some circumstances to counterparts through the use of informal channels such as EAPCCO, SARPCCO, ARINEA, ARINSA, ICAR, Egmont and a number of bilateral agreements entered into between competent authorities in URT and their foreign counterparts. URT has also sought assistance from counterparts. However, most of the cases are not related to ML/TF.
- f) URT has a framework for sharing assets with foreign jurisdictions but the mechanism for implementing the sharing arrangements has not yet been put in place.
- g) Competent authorities are able to provide basic information on legal persons registered in URT. To the extent that the BO information is available to the competent authorities, it is provided to the requesting party.

Recommended Actions

- a) URT should proactively seek MLA and extradition requests including on TF related matters and spontaneously exchange information with foreign authorities for AML/CFT purposes commensurate to the risks where such information is available for sharing.
- b) URT should build the capacity of its competent authorities on TF to address the foreign TF threats.
- c) NPS should document its prioritisation strategy while other competent authorities should develop a documented strategy/policy to prioritise requests and provide international cooperation in a timely and constructive manner in consistent with the ML/TF risk profile of URT.
- d) URT should improve the collection and maintenance of consistent national statistics on international co-operation.
- e) The authorities should implement mechanisms for the sharing of assets confiscated in the country with foreign countries that provide assistance especially where predicate offenses have been

committed in those foreign jurisdictions.

- f) URT should put in place adequate mechanisms that will enable it to provide assistance to counterparts in obtaining and providing BO information in a timely and constructive manner.
- g) URT should provide adequate trainings to the competent authorities to improve implementation of mechanisms of other forms of international cooperation.

The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40.

8.2 Immediate Outcome 2 (International Cooperation)

400. URT has generally a sound legal framework and other forms of arrangements for international co-operation which enables it to facilitate and process Mutual Legal Assistance (MLA) and extradition requests and to cooperate with foreign counterparts. MLA and extradition are Union matters. The requests to be executed in Zanzibar are sent by the Central Authority to the office of the DPP in Zanzibar. The High Court and Court of Appeals Division in the Office of the DPP in Zanzibar is the responsible Unit for dealing with MLA and extradition requests in Zanzibar. Both inward and outward MLA and extradition requests are received and handled by the Ministry of Foreign Affairs (MFA) before being passed over to the NPS for further processing.

8.2.1 Providing constructive and timely MLA and extradition

Mutual Legal Assistance

401. URT, to some extent, is able to provide assistance in a timely and constructive manner in criminal matters including on ML/TF to any requesting state that URT has entered into an agreement with and has reciprocal arrangements in place.

402. In practice, the National Prosecution Service (NPS) serves as a central authority in handling MLA requests. The Asset Forfeiture, Transnational and Specialized Crimes Division (ARTSCD) within the NPS is the responsible office for handling MLA requests. This Division has forty Attorneys out of which twenty-one are in the Transnational and Specialized Crimes Section. Four of these Attorneys are specifically assigned to deal with international cooperation. The Officers in the ARTSCD have received training on mutual legal assistance, extradition and related matters and are well versed with the MLA and extradition processes and are all vetted.

403. Inward MLA requests are received by MFA and sent to the NPS. Though it does not happen frequently, the NPS sometimes receives requests directly from its foreign counterparts. The MFA maintains both an electronic as well as a manual (register) case management system for dealing with MLA requests, with the manual register being maintained at the confidential registry. All requests for MLA are recorded in a register in a special file for MLA requests and given a reference number. The heading of the request, the date received and the country from which the request has come from are all recorded in the register.

404. The MFA takes about 3 days to process inward MLA requests before forwarding the same to the NPS. Urgent requests are, however, sent in advance by email. If it is an urgent matter, officers from the NPS do sometimes call for the file from MFA.

405. Once a request is received by the NPS, it is sent to the Registry for entry in the electronic database which has been operational since 2018. The database contains detailed information about all incoming and outgoing MLA requests from 2015 to date. The desk officer at the NPS scrutinizes the request to determine if it meets the legal requirements. If the request for MLA meets the threshold, the

NPS sends the request to the implementing agency while at the same time acknowledging the request from the requesting country. The response may be sent through the MFA or directly to the requesting country if there has been previous communication with the DPP's office. In certain instances, though a request for MLA would have been declined, for example due to missing information, the URT authorities have instead worked with, and guided the authorities of the requesting country on how to rework the request so that it can receive favourable consideration when resubmitted.

406. The Database at the NPS allows inter alia tracking of files, the date on which a request was received, types of offences, name of the fugitive or offender involved in the request; nationality of the accused person; requesting country; requested country; status of the matter, action required, etc. The register in most cases does not however indicate the date(s) when the request was executed by the authorities in URT though it indicates the duration when the request was executed e.g. executed within six months, executed within four months etc. The absence of a particular date of execution in most cases made it difficult to verify the actual date when the request was executed. Nonetheless, the MLA requests on non-prioritised matters appear to have been handled without undue delay being processed in 2 - 12 months depending on the complexity of the case and whether the NPS has to involve the Police to assist in the execution of the request for MLA.

407. On average it takes two months to process an MLA request if there are no court proceedings. Those with court proceedings, it can take up to nine months. In one case, URT received an MLA request from Australia on 21st June, 2016 and it was responded to on 30th August, 2016. In another case, URT received a request for MLA from Uganda on 2nd February, 2018 and it was responded to on 17th May, 2018. The period of two months to process the request where there are no court proceedings seems reasonable. The period of nine months where there are court proceedings may initially seem to be unreasonably long. The Assessors however take note that the 9-month period is the outer limit and proceedings can be concluded earlier than that.

408. There is an unwritten policy in the DPP's office where MLA requests are treated as of priority - urgent. A request for MLA will be prioritised amongst others, where the nature of the offence relates to wildlife crime, terrorism, TF, ML or if the request relates to a matter pending in court or if the request involves property which can be easily dissipated. The authorities gave reasons for justifying the prioritisation of cases. For example, those involving wildlife crime are given extra urgency because of its rampancy in the country and its adverse effects on the country's economy and natural heritage where for example the elephant population decreased by more than 60% between 2009 and 2014. Wildlife criminality also fuels or leads to other organised crimes such as ML, corruption, drugs and arms trafficking. This is consistent with the country's ML risk profile which identified poaching and unlawful possession and unlawful dealing in government trophies as one of the prevalent crimes in URT. URT has developed Standard Operating Procedures (SOPs) and a Rapid Reference Guide (RRG) which has MLA and extradition components for carrying out investigation and asset tracing in relation to wildlife and forestry crimes. This indicates the seriousness that the country places on these types of offences. Cases which are prioritised may be processed in a duration ranging from one week to one month. The time frame for processing prioritised cases is deemed to be reasonable.

409. According to the statistics provided by the NPS, URT received 11 requests for MLA over the last four years. Of the 11 MLA requests, 8 related to ML, while 3 related to murder and stealing by public servants. As at the time of the on-site visit, 8 MLA requests had been finalized and 3 MLA were still pending. However, statistics provided by MFA indicates that during the period spanning from 2015 to 2017 alone, a total number of 25 MLA requests were received and sent to the NPS. Due to the discrepancies with the statistics, the assessors could not reliably determine the exact number of MLA requests received and processed.

410. URT has received MLA requests from amongst others, Australia, Kenya the United Kingdom, Uganda, USA and UAE. The cases highlighted below are examples of where URT has provided Mutual Legal Assistance.

Box 8.1: Example of Seizure
URT's Assistance in Seizure of 3.2 Tonnes Hidden in a ship

In April 2015, URT offered assistance to the UK Authorities who had intercepted a ship in the international waters to seize 3.2 tonnes of Cocaine which was being smuggled to Europe. The UK Authorities had received intelligence that the ship which was purportedly registered in URT and flying Tanzanian flag, was carrying large volumes of drugs. The authorities needed permission from URT to board that ship in international waters.

The DPP then deputising the Attorney General granted that permission in writing within 24 hours. The UK Authorities were able to board and search the ship. 3.2 Tonnes of Cocaine were found hidden in the secret compartment at the front of the ship. 2 Turkish nationals who were smuggling Cocaine were arrested and charged in UK. The UK requested for the authorization to be used as evidence in the trial. The DPP accordingly provided a statement to evidence authorization given to UK Authorities to board a ship flying Tanzanian flag. The defendants were prosecuted successfully and sentenced to serve 20 years in jail³⁵.

411. Some of the MLA requests received by URT such as the case highlighted in the box below involved more than one jurisdiction, thereby presenting a case of conflict of jurisdiction. The URT authorities were, however, able to successfully work with these jurisdictions to resolve the conflict.

Box 8.2: Case involving Conflict of Jurisdiction

In one case, three other jurisdictions were involved, Kenya, USA and UAE and Tanzania. The predicate offence was committed in the USA, the proceeds were laundered in Kenya and the UAE and brought into Tanzania. Some of the suspects were in Kenya, others in the UAE and USA and some in Tanzania. The suspects in the USA were prosecuted there. The suspects in Tanzania were arrested and charged in Tanzania. URT requested for evidence from Kenya, USA and the UAE and were able to get evidence from all the three jurisdictions. The case involved forgery of US treasury cheques of 5.4 million USD. Some of the cheques were paid into Tanzanian banks and were transmitted from the USA through the UAE. Amongst the nationalities involved was a Kenyan who was arrested and prosecuted in Tanzania. The suspect in the UAE could not be traced while three other suspects in Kenya could not be prosecuted as they could not be traced. The Tanzania authorities were able to identify some of the assets using the proceeds. The case started in 2011 but was concluded in 2017. From the USA, the Tanzanian authorities requested for evidentiary material that related to generation of the proceeds. From UAE, they requested for evidence that they had on each of the suspects. From Kenya they requested for evidence as well as joint investigations and extradition. The request for joint investigations was granted. They could not however identify the assets. The identified assets could not be directly linked to the suspects as some of the assets were being operated by third parties.

412. URT received requests for repatriation of assets and for enforcement of confiscation orders. The requests related to identification, location, freezing or confiscation of assets. The case below highlights when URT executed a foreign forfeiture order and is in the process of sharing assets. On average, it takes about three months to enforce a confiscation order. During the period 2015 to 2018, URT enforced two (2) foreign forfeiture orders against proceeds of crime that were located to URT.

³⁵ <https://www.bbc.co.uk/news/uk-scotland-north-east-orkney-shetland-36763314>

<https://www.theguardian.com/world/2016/aug/12/mumin-sahin-emin-ozmen-sailors-jailed-for-20-years-after-cocaine-bust>

Box 8.3: Case involving Repatriation of Assets

A UK National who was a Head of an Organized Crime Unit in the UK which was dealing with importation and onward distributions of multiple kilograms of controlled drugs within and outside UK. When arrested it was revealed that she had acquired assets in UK and different countries including the URT. In URT she managed to register four companies. The investigation conducted revealed that those four companies had no assets except bank accounts which were maintained and managed with a bank in URT which were later frozen following a request from the UK Authorities. After the suspect was convicted for the offences she was charged with, the UK Authorities sent a Forfeiture Order to be executed by URT authorities which is still in progress. The UK and URT Authorities are in the meantime finalising a Memorandum of Understanding (MOU) on sharing of the asset forfeited.

413. There were no requests received on TF within the same period. The requirement for a terrorism offence to be related to only an actual act of terrorism or a terrorism organisation limits the scope of availability of cooperation and assistance on other aspects of TF since URT follows a dual criminality approach (See Recs. 5 and 37).

Extradition

414. The Ministry of Legal and Constitutional Affairs (MLCA) is the Central Authority for extradition. The Legal Department in the Ministry is the section that deals with extradition matters. The other agencies dealing with extradition in URT are the NPS (DPP)- (execution and coordination of the requests of extradition); MFA (receipt and transmittal of the requests for extradition), Office of the Attorney General, LEAs, namely, PCCB, Police, BEA, DCEA, Immigration, Prisons Department (arrest and deportation of fugitives) and the Courts (hearing and making determinations on the requests for extradition). There are also advocates who represent the fugitives.

415. Inward extradition requests at the MFA are dealt with in a manner similar to that of MLA save that the requests are received and delivered to the MLCA. Where a request contains both an extradition and MLA request, it is delivered both to the MLCA and the NPS. At the NPS, the process for dealing with extradition requests is similar to that of MLA save that the requests come through the MLCA and they do the coordination while the NPS is responsible for coordinating with the police on technical matters. The ARTCD is the unit at the NPS dealing with extradition requests.

416. The MLCA is the agency responsible for coordinating with the courts. On the date of the hearing, the DPP submits to court for its consideration the docket supporting the extradition request. After the court makes its determination, the ruling is sent to the MLCA for implementation. Warrants for surrender are issued. The Prisons and Police implement the surrender warrant. Police in requesting country is notified through Interpol.

417. As shown on table 8.1 below, URT has received 19 extradition requests over the last four years. Of the 19 extradition requests, 3 related to ML while the rest related to other criminal offences. Table 8.2 gives a breakdown of the extradition requests received by year. However, there is a discrepancy on the provided statistics on the number of incoming extradition requests on the three tables. The provided data is therefore inconclusive and the Assessors could not reliably determine the exact number of extradition requests received and processed.

Table 8.1: Extradition Requests: 2015-2018

	Money Laundering	Terrorist Financing	Other criminal offences (specify)
Number of extradition requests received relating to domestic nationals	1	Nil	11
Number of extradition requests received relating to foreign nationals	2	Nil	5
Number of extradition requests granted relating to domestic nationals	1	Nil	9
Number of extradition requests granted relating to foreign nationals	Nil	Nil	7
Number of extradition requests refused relating to domestic nationals	Nil	Nil	1
Number of extradition requests refused relating to foreign nationals	Nil	Nil	Nil

Table 8.2: Extradition: Requests Received by URT Year By Year

Types of requests/ year request received	2015	2016	2017	2018	Total
Extradition	5	4	2	7	18
Requests received	5	4	1	5	15
Executed	5	4	1	5	15
Declined	0	0	0	0	0

418. Though there is a discrepancy in the statistics, the above 2 tables show that extradition requests received by URT is related to both foreign and Tanzanian nationals. The authorities indicated that like with MLA, they maintain contact with their counterparts from the requesting state throughout the extradition process. The case highlighted in Box 8.4 below illustrates an instance where URT was able to provide assistance in relation to extradition.

Box 8.4: Extradition case with neighbouring country

In March 2017 the Competent Authorities in neighbouring country submitted a request to obtain evidence that would assist them in the prosecution of the fugitives who were extradited to neighbouring country between 25th June, 2015 and 14th July 2015. This request was granted, the evidence including documentary and real evidence were collected as requested. Documentary evidence was transmitted to the Competent Authority in neighbouring country while real evidence was handed to the Authorities at Mutukula, a border between the two countries .

In May 2018 the Competent Authority of neighbouring country submitted another request to request for authorization to charge additional offences of murder which were not included in the extradition request. Tanzania granted consent to charge additional offences as requested.

419. This puts into question the capability of the URT's authorities to detect and investigate TF activities.

Box 8.5 - URT Assistance in an Extradition Case Relating Terrorism and TF

In June 2015 URT granted three requests from neighbouring country for extradition of three persons who were suspected to have committed offences of terrorism and murder. The trio were Ugandan nationals who had fled to another neighbouring country where they had established a terrorist group. Acting on the extradition requests, they were traced by Tanzanian Authorities and extradited between 25th June, 2015 and 14th July 2015.

The URT Authorities acting on the information that were receiving from abroad cash and material support for the purposes of financing terrorist operations in the second neighbouring country conducted investigation which uncovered real evidence connected with terrorist operations. This went hand in hand with financial investigation which was led a State Attorney from the Office of the DPP.

The financial investigation revealed that one of the persons had used false documents to purchase and register two houses and two plots of land in his name. Further, the trio were in possession of 5 motor vehicles which were imported from UK using the name of a Tanzania lady married to the suspect. The suspect had also opened three bank accounts at three different banks which were receiving deposits in cash. There was no transaction relating to transfer as all the money were withdrawn in cash. At the time of investigation there was no money in the accounts. The properties that were identified were immediately frozen.

420. URT does not have simplified proceedings for extradition. URT has as yet not given any guidance to assist jurisdictions seeking extradition from URT.

421. The Assessors were informed that the duration of the extradition proceedings is dependent on how the request is addressed but on average it takes about one month including court proceedings. The stated period of one month is, however, contradictory to that given by the authorities in the statistical template which (realistically) indicated that it takes an average of 6-12 months to process a request for extradition. The Assessors are of the view that the period indicated in the statistical template i.e. 6-12 months is more practical in the circumstances and more in line with the period for considering and determining legal proceedings in URT. In one case, it took less than a week for the arrest of the fugitive, consideration of the matter by the court and the tendering of the ruling. This however could be more of an exception rather than the general rule.

8.2.2 Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

422. URT seeks MLA and extradition requests. The number of requests made by URT is however low when compared against the requests made to URT.

Mutual Legal Assistance

423. URT has adopted a system of prosecution guided investigations. If in the course of investigations, it is determined that evidence or other support is required from a foreign jurisdiction, the attorney coordinating the investigations liaises with the attorney in the ARTCD for collection of the evidence. The ARTCD Unit guides the investigative agency on the drafting of the request and inspection of the required supporting documents.

424. The Unit has developed templates to be used by Competent Authorities in making requests. It has also conducted training to the Competent Authorities on how to conduct MLA requests. When the request gets to the DPP, the Unit looks at it to determine if it is in a format that will be acceptable to

the requested state and if there is sufficient information and supporting documentation to execute the request.

425. URT maintains informal communication between the DPP's office and their counterparts in the requested state. The purpose of the informal consultations is to determine if the request meets that country's standards for MLA. If it is a high profile or an urgent case the two sides may have a video conference within the parameters of the informal consultations to discuss the case.

426. Outward requests are received from the DPP and sent to MFA for onward transmission under cover of a note verbale to the requested country through the country's embassy in Dar es salaam and where there is no embassy of the foreign country in Dar Es Salaam, it will be sent to the embassy of the foreign country coordinating the activities of URT.

427. Over the last four years, URT has made 6 requests for MLA, among which, 2 related to ML while the other 4 related to other criminal offences (pyramid scheme, email fraud and dealing with government trophy). Among the 6 cases, 1 was executed and remaining 5 were pending at the time of the onsite. However, statistics provided by MFA indicates that during the period spanning from 2015 to 2017 alone, a total number of 186 MLA requests (6 ML and 180 other predicate offenses) were sought by the NPS through the Ministry to a foreign jurisdiction. Due to the discrepancies with the statistics, the Assessors could not reliably determine the exact number of MLA requests sent and processed.

428. There was no request for MLA request made by URT on terrorism financing. The number of MLA requests on ML by URT are not consistent with its risk profile. With URT position being adjacent to, if not, being in the Horn of Africa where terrorism activities are rampant, it would also be expected that URT would be more aggressive in seeking MLA on terrorism or TF. The lack of MLA requests on TF could be attributed to amongst others, low understanding and inadequate investigation expertise on TF of the LEAs as more particularly set out in IO.9.

429. Of the MLA requests made by URT, it takes an average of 1 year to get a response. URT made an MLA request to the UK in October 2017 and received a response in November, 2018. In another case, a request was sent to Comoros on 11th April, 2016 but no response had been received as at the time of the onsite visit. This position is, however, not consistent with the position set out by the authorities to the effect that they maintain informal contact with their counterparts throughout the processing of the MLA request. If this was the case, the authorities of Comoros would have responded timely and or otherwise indicated the status of the request.

Extradition

430. Outbound extradition requests are dealt with in more or less a similar manner as outbound MLA requests save that the Central Authority is the MLCA.

431. Over the last four years, URT made 7 extradition requests. Of these requests, 2 related to ML involving foreign nationals while the other 5 related to other criminal offences also involving foreign nationals. There was no extradition request made by Tanzania relating to TF or terrorism. It takes an average time of 6 to 12 months for the requested nation to finalise a request for extradition.

8.2.3 Providing and seeking other forms of international cooperation for AML/CFT purposes

432. The competent authorities in URT are able to provide information to counterparts through the use of informal channels and bilateral agreements entered into between competent authorities in URT and counterparts in other jurisdictions.

FIU

433. Tables 8.3 & 8.4 below, highlight requests made by the FIU during the period 2015 to 2018. The information in general is exchanged in a timely manner and the exchange of information was for AML purposes. However, the FIU did not receive feedback on the usefulness of the information provided. Moreover, the information provided by the authorities does not reflect the nature of the requests received and sought by the FIU. It was not also clear for the Assessors whether the remaining cases under Table 8.3 (2 in 2014/15, 6 in 2015/16, 2 in 2016/17 and 12 in 2017/18 in relation to the requests sought) were handled or not. Further, the statistics provided by the FIU only specified the average times taken in any given year and not the range of timing from the earliest to the longest period and as a result, the statistics provided do not give a comprehensive view on how long it takes to process requests in a manner that would allow the Assessors to determine whether such responses were timely, based on the nature of the request made. Despite the lack of proper statistics, the FIU was able to demonstrate the informal exchange of information it had undertaken. In other circumstances, the FIU provides assistance directly to its foreign counterparts through the EGMONT Group Secure Web system by disseminating information both on request and spontaneously.

Table 8.3: Requests for Assistance Made by the FIU on AML Related Issues

Year	No. of requests for assistance made	Number of Requests granted	Number of requests refused	Average Response Time (days)
2014/15	25	20	3	75
2015/16	26	18	2	60
2016/17	20	15	3	30
2017/18	12	-	-	15

Table 8.4: Other Forms of International Cooperation-Requests for Assistance Received by the FIU Involving AML/CFT Related Issues.

Year	Number requests of assistance received	Number Requests of granted	Number of requests refused	Average Response Time
2014/15	6	6	-	60
2015/16	10	10	-	30
2016/17	14	14	-	30
2017/18	26	26	-	15

PCCB and TPF

434. TPF and PCCB are able to deal with requests for information informally through other forms of cooperation. LEAs particularly the TPF, DCEA and PCCB have executed Multilateral and Bilateral agreements with their counterparts to facilitate timely exchange of information in carrying out effective investigation of ML and predicate offences. The Police are members of Interpol, SAPCO and EAPCCO. The PCCB is a member of ARINEA, ARINSA, ICAR [International Centre for Asset Recovery (Basel institute)]. Between 2015 and 2018, TPF made 4,216 requests through Interpol 24/7. All requests were granted. There is also numerous exchange of information through ARINSA and SAPCO. Between 2015 and 2018 the Police received 9,636 requests from their foreign counterparts through Interpol 24/7. The requests were executed spontaneously to assist the investigation in foreign jurisdictions. The information provided was complete and satisfied the need of the requesting state as no addition information was further requested. The PCCB, on the other hand, requested information relating to one ML case from their counterpart in the Republic of Kenya and also responded to two requests made by the authority in Kenya. The authorities indicated that accuracy and integrity of the information provided resulted into smooth and expeditious formal requests in extradition and MLA. The requests were related to predicate offences and only 7 were for ML. There was no request made or sought for TF. URT has received requests for information from the private sector. The requests were executed by LEAs using their existing powers and protocols to get information from the private sector. Other than the total number of requests received per year over the last four years, the Authorities did not provide any further information making it difficult to determine whether the information requested was provided in a timely and constructive manner.

BOT and CMSA

435. BoT and CMSA have also executed Multilateral and Bilateral agreements with their counterparts to expedite exchange of supervisory information. BoT demonstrated that it had made and received requests for information from counterparts. In 2015, BoT made a request for information to South Africa and in 2016, it made requests to Botswana and Kenya. In 2017, it made a request to Djibouti while in 2018 it made requests to Pakistan, India, Rwanda, Nigeria and Namibia. On the other hand, in 2015, BoT received a request from Kenya; in 2016, it received a request from the UAE; In 2017, BoT received requests from Uganda and Kenya while in 2018 it received requests from the United Kingdom, Kenya, Hong Kong, South Africa and Botswana. However, feedback received from international partners confirms that the assistance provided by BoT was not in general done timely and in a constructive manner. The requests from BoT to its counterparts mainly related to information for fit and proper purposes. The tables below highlight the requests received and sought by BoT and CMSA during the period 2015 to 2018. However, no further information was provided by BoT and CMSA beyond the year and the number of requests. This makes it difficult to determine whether the requests made/ received related to AML/CFT, whether constructive and timely assistance was provided and whether there was any feedback from the requesting country or by the authorities where it had itself made requests.

Table 8.5(a): Other Forms of International Cooperation-Requests for Assistance Made by CMSA on AML/CFT Related Issues -

CMSA				
Year	No. of requests for assistance made	Number of Requests granted	Number of requests refused	Average Response Time
2015	1	1	0	1 Month

2016	0	0	0	0
2017	0	0	0	0
2018	5	4	0	2 Weeks

Table 8.5(b): Other Forms of International Cooperation-Requests for Assistance Made by BoT on AML/CFT Related Issues

Bank of Tanzania				
Year	No. of requests for assistance made	Number of Requests granted	Number of requests refused	Average Response Time
2015	21	21	0	30-50 DAYS
2016	32	32	0	30-50 DAYS
2017	10	10	0	30-50 DAYS
2018	12	11	1	30-50 DAYS

Table 8.6(a): Other Forms of International Cooperation-Requests for Assistance Received by CMSA Involving AML/CFT Related Issues

CMSA				
Year	Number of requests for assistance received	Number of Requests granted	Number of requests refused	Average Response Time
2015	1	1	0	0
2016	0	0	0	0
2017	1	1	0	1 Week
2018	1	1	0	1 Week

Table 8.6(b): Other Forms of International Cooperation-Requests for Assistance Received by CMSA Involving AML/CFT Related Issues

Bank of Tanzania				
Year	Number of requests for assistance received	Number of Requests granted	Number of requests refused	Average Response Time
2015	2	2	0	10-15 DAYS
2016	3	3	0	10-15 DAYS
2017	7	7	0	10-15 DAYS
2018	7	7	0	10-15 DAYS

8.2.5 International exchange of basic and beneficial ownership information of legal persons and arrangements

436. There is no requirement in the URT to obtain and maintain BO information. URT is therefore generally unable to exchange BO information. Where however the BO information is available, it is provided to the requesting party.

437. Legal persons and legal arrangements are registered and regulated by BRELA and RITA respectively. BRELA is the sole custodian of information on legal persons. The authorities also indicated that it is common for BRELA and RITA to provide information to domestic law enforcers who collect the information on behalf of their foreign counterparts as highlighted in Box 8.4 below.

Box 8.4 Case involving request for Beneficial Ownership Information

URT received a request from the United Kingdom (UK) for ultimate beneficial ownership information. The request related to information on businesses operated by suspects in URT. The suspects came to URT in the 1990s and had been operating businesses in URT since then. The authorities in the UK started investigating them in 2010 for tax evasion and money laundering. The UK authorities traced them to URT and made a request in 2014. The holding company was incorporated in URT in the 1990s but as at the time that the request was made, the company had closed shop hence it was challenging to get information on the ultimate beneficial owners as they had several companies in URT. UK sent investigators to URT. The investigations took more than three months with searches being conducted in banks, BRELA, TIRA amongst others.

438. Though there is no adequate legal requirement in the URT to obtain and maintain BO information authorities, the authorities are able to exchange basic and beneficial ownership information of legal persons and arrangements with their foreign (international) counterparts though to a very limited extent. This also limits the extent of assistance that authorities in URT can support their counterparts. Because of the limited exchange of BO information, the Assessors were unable to establish if in the few instances that this was done, if it was in a timely manner.

Overall conclusions on IO.2

439. **URT is rated as having a moderate level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE ANNEX

This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2009. This report is available from https://www.esaamlg.org/index.php/Mutual_Evaluations/readmore_me/7.

Recommendation 1 – Assessing risks and applying a risk-based approach

This is a new Recommendation which came into force after completion of the First Round of MEs and therefore there was no requirement to assess Tanzania on this in 2009.

Criterion 1.1 (Met)- United Republic of Tanzania (URT) identified and assessed the ML/TF risks through the national risk assessment (NRA) process which was carried out from September 2015 to December 2016 using the World Bank NRA Tool. The NRA identified the threats and vulnerabilities as well as the authorities' final understanding of the national ML risks (categorised into high, medium high, medium, medium low, low). The NRA used a wide range of information, including analysis of the legal framework and data on predicate crimes. Among other things, the NRA report indicates the ML and TF risks and highlights the highest proceeds generating crimes and their ranking as well as the ML risk ratings of various key sectors of the country.

Criterion 1.2 (Met)- In terms of S.9 (as amended) of the AML Act, the National Multi-disciplinary Committee on Anti-money Laundering which was established under S.8 is responsible for formulation, assessment and improvement of the effectiveness of the policies and measures to combat money laundering. (s.9 of AMLA was amended in 2012 to include TF in the functions of the Committee). This Committee appointed the FIU to coordinate the NRA exercise which worked in close collaboration with the Bank of Tanzania. The FIU and the Committee are recognised in Tanzania Zanzibar (S. 6A and 6B of AMLPOCA). In addition, the Committee formed a National Risk Assessment Workgroup (NRAWG) comprising of participants from Government and private sector institutions which was subdivided into eight (8) subgroups.

Criterion 1.3 (Mostly Met)- There is no legal requirement to update the NRAs, however, URT has committed itself to update the risk assessment *constantly to keep up with the evolving nature of the crimes of ML and TF* (Executive Summary of the NRA Report). The 2015/16 NRA has not yet been updated. Although the term *constantly* means continuously or frequently, Assessors are of the view that it is too early to determine compliance/ non-compliance with this criterion.

Criterion 1.4 (Met)- The NRA exercise and development of the report involved all relevant competent authorities and Self-Regulatory Bodies (SRBs), representatives of industry associations. These stakeholders were therefore privy to the results of the risk assessment. In addition to this, the authorities conducted meetings, seminars and workshops during which the results of the NRA exercise were shared and the NRA report was published on the FIU website in May 2019. In view of this, URT had mechanisms for purposes

of providing information on the results of the risk assessment to all relevant competent authorities and Self-Regulatory Bodies (SRBs), FIs and DNFBPs.

Criterion 1.5 (Not Met)- The authorities have not demonstrated that URT allocates its resources and implements AML/CFT measures based on the authorities' understanding of ML/TF risks. While it is noted that URT has developed an Action Plan, the activities specified in the Plan and their sequence are not commensurate with the nature and level of risks highlighted in the NRA report.

Criterion 1.6 (Not Met)-

- (a) URT waives production of any evidence of identity where the customer is a reporting person under the AML/CFT law [S.15(6) of AMLA and S.10(7) of AMLPOCA]. The understanding of the Assessors is that whenever reporting entities such as foreign exchange bureaus, real estate agents, dealers in precious stones and metals etc want to open a bank account, they are not required to produce identification documents for purposes of verifying their identity. However, the NRA report shows that ML rating for institutions such as real estate agents and dealers in precious stones and metals is high and one of the reasons is that they don't have a regulator. There is no proven low risk of ML/TF to support the above-mentioned exemptions. In addition, TCSPs are not covered by the AML/CFT regime although they were not assessed and rated as having low ML/TF risk.
- (b) the legal framework does not provide for an exemption in relation to a financial activity carried out by a natural or legal person on an occasional basis or on a very limited basis.

Criterion 1.7 (Partly Met)-

- (a) URT has not specifically reviewed its AML/CFT regime to address all areas which have been identified as having higher risks during the NRA exercise. However, reporting entities in Mainland Tanzania are required to apply enhanced CDD measures where they have identified higher ML/TF risks (Regulation 28A of AML Regulations). This addresses part of the criterion as it is understood to have wider scope than a requirement of enhanced CDD measures which is addressed by this Regulation. In relation to Zanzibar, there is general requirement for reporting entities to determine the extent of CDD measures on a risk sensitive basis depending on the type of person, business relationship, product or transaction [Regulation 37(7) of AMLPOCA Regulations]. However, there is no specific requirement regarding the application of enhanced measures (see c.10.17) where the country identifies higher risks.
- (b) In relation to Mainland Tanzania, reporting entities are also required to take into account findings of the NRA report and incorporate areas of higher risks into their risk assessments.

Criterion 1.8 (Partly Met)- Reporting persons in Mainland Tanzania are permitted to apply simplified CDD measures in relation to a particular business relationship or transaction which present a lower ML/TF risk which has been determined through their own ML/TF risk assessments (Regulation 28B of the AML Regulations). The reporting persons must take into account the risks of the NRA when carrying out their risk assessments. However, in relation to Zanzibar, although reporting persons are required to determine the extent of CDD measures on a risk sensitivity basis, there is no explicit requirement for FIs to apply simplified CDD measures only when lower risks have been identified through an adequate analysis of risks by the country or the FI. In addition, URT exempts FIs from verifying the identity of other reporting although some of them such as real estate agents were rated as having a high ML risk in the NRA report.

Criterion 1.9 (Mostly Met)- Supervisors have the responsibility to enforce compliance by FIs with the requirements of the AML laws (s. 23A of AMLA and s. 18A of AMLPOCA). In particular, for Mainland Tanzania this includes enforcing compliance with the obligation for reporting entities to identify and understand ML/TF risks; establish and maintain policies, controls and procedures to mitigate and manage the identified risks. However, the legal and regulatory frameworks for Zanzibar do not specifically require FIs and DNFBPs to identify, assess and understand their ML/TF risks and have AML/CFT policies which are approved by senior management.

Criterion 1.10 (Mostly Met)- In relation to Mainland Tanzania, reporting entities are required to take appropriate steps to assess and understand their ML/TF risks taking into account the type of customers, countries or geographic area, products and services, transactions or delivery channels depending on the nature and size of the business. In carrying out this exercise, the reporting entities are required to consider a wide range of factors including the NRA report, sectoral ML/TF risk assessments, information from the FIU and Supervisors (Regulation 17A of AML Regulations). As for Zanzibar, there is a requirement for FIs and DNFBPs to determine the extent of CDD measures on a risk sensitive basis depending on the type of customers, business relationship, products or transactions. This implies that FIs and DNFBPs have to carry out risk assessments which will be the basis for determining the nature and scope of CDD measures [Regulation 37(7) of AMLPOCA Regulations]. However, for both Mainland Tanzania and Zanzibar, there are no legal or regulatory requirements in relation to Items c.1.10 (a), (c) and (d).

Criterion 1.11 (Mostly Met)-In terms of Regulation 17B and 28A of AML Regulations, FIs and DNFBPs in Mainland Tanzania are required to:

- (a) have policies, controls and procedures, which are approved by the Board of Directors to enable them manage and mitigate the risks that they have identified;
- (b) monitor implementation of those controls, and
- (c) enhance them if necessary. In addition, the policies and controls are required to be proportionate to the size and nature of the business of the reporting person.

However, there are no similar requirements in Zanzibar. Considering the relative size of institutions in Zanzibar, the deficiency is considered to be minor.

Criterion 1.12 (Partly met) Mainland Tanzania allows simplified CDD measures in relation to a particular business relationship or transaction which present a lower ML/TF risk (Regulation 28B of the AML Regulations). Simplified due diligence is not permitted when the FI or DNFBP suspects ML or TF or when specific higher risk scenarios exist [Regulation 28B (6) of the AML Regulations]. However, in relation to Zanzibar, although FIs are required to determine the extent of CDD measures on a risk sensitivity basis, there is no explicit requirement for FIs to apply simplified CDD measures only when lower risks have been identified through an adequate analysis of risks by the country or the FI.

Weighting and Conclusion

Although most of the requirements have been met, there are moderate shortcomings. URT has identified and assessed its ML/TF risks. However, it has not demonstrated that, based on its understanding of ML/TF risks, it applies a risk-based approach to allocate resources and implement measures to prevent or mitigate ML/TF risks. In addition, URT waives the requirement for reporting entities to verify the identity of customers which are also other reporting entities even where the NRA report has identified them as high risk. In relation to Zanzibar, there is no specific requirement for supervisors to ensure that FIs and DNFBPs implement their obligations under R.1 and have AML/CFT policies and procedures to manage and mitigate the risks. There is also no explicit requirement for FIs to apply simplified CDD measures only when lower risks have been identified through an adequate analysis of risks by the country or the FI.

URT is rated Partially Compliant with Recommendation 1.

Recommendation 2 - National Cooperation and Coordination

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant (formerly R31). The main deficiencies were lack of mechanisms in terms of the AML Act to enable domestic operational cooperation and coordination on AML/CFT matters between LEAs and the FIU or between supervisors, LEAs and the FIU

Criterion 2.1 (Not Met)- The URT does not have AML/CFT policies which are informed by the risks identified. However, the URT has an AML/CFT Strategy for the period 2010 to 2013 which was developed before NRA conducted between 2015 and 2016. The Strategy was based on the self-assessment of gaps existing in its legal, law enforcement, financial sector and corporate governance frameworks which the authorities carried out and was further informed by the recommendations of the 2009 MER. Hence, the

AML/CFT Strategy was not based on risks which were identified through the NRA and has not been reviewed to take into account the findings of the NRA.

Criterion 2.2 (Met)- The National Multi-Disciplinary Committee on Anti-Money Laundering is the designated authority responsible for formulating, assessing and improving policies for combating ML and TF in URT (ss. 8 & 9 of the AMLA and s.6B of AMLPOCA).

Criterion 2.3 (Met)- The National Multi-Disciplinary Committee on Anti-Money Laundering provides a platform to policy makers, FIU, LEAs, supervisors and other relevant authorities to interact on issues pertaining to AML/CFT policies as per s.9 of the AMLA. At the operational level, there are various interagency coordination mechanisms such as National Criminal Justice Forum, the National Task Force on Anti-Poaching, Task Force on Serious Crimes and National Counter Terrorism Centre which facilitate cooperation and exchange of information.

Criterion 2.4 (Not Met)- There are no mechanisms at the policy and operational level to foster cooperation and coordination in relation to combating financing of proliferation of weapons of mass destruction.

Criterion 2.5 (Met)- There is cooperation and coordination between relevant authorities to ensure compatibility of AML/CFT with Data Protection and Privacy Rules. The composition of the Multi-Disciplinary Committee includes Attorney General's Chambers for both Mainland and Zanzibar, and LEAs, and the Committee has powers to involve, in its work, non-members depending on the special knowledge and experience of the person. The mandate of the Committee under section 9 (b) of AMLA is to advise the Government on legislative, regulatory reforms in respect of anti-money and combating predicate offences. This essentially ensures an alignment of legislation, practice and measures with the constitutional rights, as well as Data Protection, and Privacy Rules. On the operational level, sharing and communication of information must be made within the framework of the law or upon an order of Court. Information may only be communicated and secrecy provisions are overridden in furtherance of the objective of the relevant acts.

Weighting and Conclusion

The National Multi-Disciplinary Committee is the designated authority responsible for formulating, assessing and improving policies for combating ML/TF in URT. However, the URT does not yet have AML/CFT policies which are informed by identified ML/TF risks. This is considered to be a significant deficiency. While there are coordination mechanisms at an operational level in relation to ML and TF, there are no coordination mechanisms in relation to proliferation financing.

URT is rated Partially Compliant with Recommendation 2.

Recommendation 3 - Money laundering offence

In the MER under the First Round of MEs, Tanzania was rated Non-Compliant (formerly R.1 and R.2). The main technical deficiencies were that: the AML Act required a conviction for a predicate offence when proving that property is the proceeds of crime; the definition of a predicate offence did not cover all categories of designated offences; the legal framework did not provide for civil and administrative liability to run parallel with criminal money laundering proceedings and the AML Act was not enforceable in Zanzibar. Another deficiency related to effectiveness which is not part of technical compliance under the 2013 FATF Methodology.

Criterion 3.1 (Met) – There are two legal regimes for ML operating in URT. The Anti-Money Laundering Act, 2006 (AMLA) applies to Mainland Tanzania with certain aspects of that legislation applying to Tanzania Zanzibar. The Anti Money Laundering and Proceeds of Crime Act, 2009 (AMLPOCA) applies to

Tanzania Zanzibar.³⁶ S. 3 as read with s. 12 of the AMLA fully criminalises the offence of ML in Mainland Tanzania, whereas in Tanzania Zanzibar the offence of ML is fully criminalised in terms of s. 7 of the AMLPOCA. The two pieces of legislation are largely the same save that s. 12 of the AMLA refers to predicate offences while the s. 7 of the AMLPOCA refers to serious offences. Criminalisation of ML under s. 12 of AMLA and s. 7 of AMLPOCA is consistent with Article 3(1) (b) & (c) of the Vienna Convention and Article 6 (1) of the Palermo Convention. The said sections provide for the mental elements (intention and knowledge) and physical elements (conversion, transfer, concealment, association etc.) of the offence of money laundering.

Criterion 3.2 (Partly Met) – The predicate offences in URT are listed under s.3 in the AMLA and s.2 of the AMLPOCA. Under the AMLA (as amended), all designated categories of predicate offences as provided under the FATF Glossary are listed as predicate offences, however, it is not clear if the offence of tax evasion under the AMLA is wide enough to cover tax crimes. The FATF glossary indicates tax crimes as relating to direct taxes and indirect taxes. It is not clear to the Assessment Team if tax evasion in the Tanzanian context meets the FATF definition as the term “tax evasion” appears to be narrower in context as compared to tax crimes i.e. it appears to be a subset of tax crimes. Similarly, the AML Act also provides a definition of “terrorist financing” which is not consistent with the terrorist financing offences under the Prevention of Terrorism Act. The definition of serious offences under s.2 of the AMLPOCA does not cover environmental crimes, extortion (though there is an offence referred to as exertion but no guidance is provided by the authorities as to what kind of offence this is) and tax crimes which are the designated categories of offences for the purposes of FATF definition.

Criterion 3.3 – N/A - URT does not apply a threshold approach. It has adopted a listing approach in terms of section 3 of the AMLA (as amended) and section 2 (as amended) of the AMLPOCA.

Criterion 3.4 (Met) – The AMLA adopts the definition of property as given under the Proceeds of Crime Act (POCA). The definition of property in the AMLPOCA is consistent with that in the POCA. The ML offence in the two pieces of legislation is wide enough to cover any type of property provided it can be connected to the specific offences listed in both the AMLA and the AMLPOCA respectively. Property is defined as real or personal property of every description, whether situated in the Mainland Tanzania or in Zanzibar as the case may be or elsewhere and whether tangible or intangible and includes an interest in any such real or personal property. The definition of property in the context of URT is broad enough to cover all property regardless of the value as well as indirect property. Property is defined as real or personal property *of every description*....and includes *an interest in any such real or personal property*.

Criterion 3.5 (Met)– Neither the AMLA, AMLPOCA or POCA require a person to be convicted of the predicate offence in order for the property to be considered proceeds of crime. This position has been supported by case law within the criminal justice system of URT where in the case of **DPP vs. ELLADIUS TESHU, Criminal Appeal No. 135 of 2013 (HCT Dsm)** the High Court of Tanzania held that the offences of money laundering and predicate offences listed in the Anti-Money Laundering Act. No. 12 of 2006 can be charged together in the same charge provided there is sufficient information for each of the offences intended to be charged. When proving that property is the proceeds of crime, the case is not explicit or does not pronounce itself on the issues for the necessity for a person to be convicted of a predicate offence. Given however that the Court has held that the offence of money laundering and predicate offences can be charged together, it can safely be presumed that this does away with the need for a prior conviction on the predicate offence.

³⁶ Part II of the AML Act which relates to the Financial Intelligence Unit and the National Multi-Disciplinary Committee on Anti-Money Laundering are applicable to both Mainland Tanzania and Tanzania Zanzibar.

Criterion 3.6 (Not Met)– There is no law that provides for predicate offences for ML to extend to conduct that occurred in another country, which constitutes an offence in that country and which would have constituted an offence had it occurred in the URT.

Paragraphs “dd” of the definition of predicate offence in the AMLA and specified offence in the AMLPOCA provide that “(dd) any other offences as the Minister may, by notice in the Gazette, declare, whether committed within or outside the United Republic of Tanzania”. This seems to suggest that prosecutions for money laundering based on predicate offences committed outside the URT are limited to those ‘predicate’ offences that the Minister has published in the Gazette.

Criterion 3.7 (Met) – Money laundering as defined in ss. 3 and 2 of the AMLA and AMLPOCA, respectively and as criminalized in ss 12 and 7 of the AMLA and AMLPOCA, respectively, is broad enough to cover self-laundering. This been bolstered by the case of **DPP vs. ELLADIUS TESHA, Criminal Appeal No. 135 of 2013 (HCT Dsm)** whereby the High Court of Tanzania *inter alia* held that the offences of money laundering and predicate offences listed in AMLA can be charged together in the same charge provided there is sufficient information for each of the offences intended to be charged.

Criterion 3.8 (Met) –The laws of Tanzania do not explicitly provide that the mental element of the offence may be proved based on objective factual circumstances. It however appears that the concept of inference being drawn from circumstances is acceptable. The Criminal Procedure Act amends s397 of the Police Force Ordinance to allow a police officer interrogating a suspect to inform him that an inference adverse to him may be drawn from his failure or refusal to answer any question drawn from his refusal to answer any question or from his failure or refusal to draw at that stage any matter which may be material to the charge. The Court of Appeal of Tanzania in the case of *Majuto Samuel vs the Republic (Criminal Appeal No. 61 of 2002)* in an appeal against a conviction of murder noted that “...at any rate, it is common knowledge that motive is not necessary in establishing the offence of murder. The intention to cause death may not be manifested in words or utterances to that effect, it can be inferred from the action of the accused, the appellant in this case.”

Criterion 3.9 (Met) – Criminal sanctions for natural persons for ML in the URT are provided under s.13(1)(a) of AMLA and s. 7 of the AMLPOCA respectively. S.13 (1) (a) of AMLA provides the penalty for acts of ML if the person is an individual, is liable to be sentenced to a fine not exceeding five hundred million shillings and not less than one hundred million shillings or to a term of imprisonment not exceeding ten years and not less than five years. The AMLPOCA at s. 8 (a) provides that if the person is an individual, is liable to a fine of not less than one hundred million shillings or imprisonment for a period of not less than seven years. The AMLA places a limit on the fine or jail term that can be imposed for a person convicted of a ML offence while the AMLPOCA prescribes a minimum sentence.

The Written Laws (Miscellaneous Amendment) Act, 2016 amended the Economic and Organised Crime Control Act, (Cap. 200) (EOCCA) to amongst others, include offences under the Anti-Money Laundering Act Cap.432 and offences under the Prevention of Terrorism Act (Cap.19) amongst the offences listed in the First Schedule of that Act. In the EOCCA an economic offence is defined as meaning any offence triable under that Act. S.2 (2) provides that all offences created by or punishable under the First Schedule to the Act shall be referred to as economic offences. The EOCCA was also amended in s.60 to introduce additional penalties. Under s.60 (2) a person convicted of corruption or economic offence is liable to imprisonment for a term of not less than twenty years but not exceeding thirty years, or to both that imprisonment and any other penal measure provided for under that Act: Provided that, where the law imposes penal measures greater than those provided by the EOCCA, the Court shall impose such sentence. The sanctions for natural persons in URT appear to be proportionate and dissuasive.

Criterion 3.10 (Met)- Under the interpretation of Laws and General Provisions Act of Zanzibar (Act No. 7 of 1984), a person or any word or expression descriptive of a person, includes a corporation. Under S.4 of the Interpretation of Laws Act of Mainland Tanzania, person is defined as meaning any word or expression descriptive of a person and includes a public body, company, or association or body of persons, corporate or

unincorporated. The law is applicable in both Mainland Tanzania and Tanzania Zanzibar. S. 13 (b) of the AMLA provides for penalties for acts of ML where the person is a corporate body. It stipulates that if the person is a body corporate, it shall be liable to a fine not exceeding one billion shillings and not less than five hundred million shillings or be ordered to pay the amount equivalent to three times the market value of the property, whichever amount is greater. S. 14 of the AMLA, provides further penalties where the act is committed by a corporate body. It provides that where an offence committed by a body corporate or an association of persons, every person who, at the time of the commission of the offence, was a director, manager, controller or partner; or concerned in the management of its affairs, may be convicted of that offence and shall be liable to a penalty specified in s. 13 of that Act. Further, the director, manager, controller, partner or a person concerned in the management of affairs of the body corporate or an association may be convicted for an ML offence notwithstanding that, such body corporate or association of persons has not been convicted. Under the AMLPOCA, the penalties for committing a ML offence are, a fine of not less than two hundred and fifty million shillings or three times the market value of the property, whichever is greater if the person is a body corporate. The sanctions for legal persons in URT are criminal in nature and appear to be proportionate and dissuasive.

Criterion 3.11 –(Met) Ancillary offences to the ML offence are criminalised pursuant to s. 12 (e) of the AMLA. It provides that a person who participates in, associates with, conspires to commit, attempts to commit, aids and abets, or facilitates and counsels the commission of any of the acts described in paragraphs (a) to (d) of this section (section 12), commits the offence of money laundering. A similar provision exists in the AMLPOCA where at s. 7 (2) (e), a person commits the offence of money laundering if he intentionally- participates in, associates with, conspires to commit, attempts to commit, aids and abets, or facilitates and counsels the commission of any of the acts described in paragraphs (a) to (d) of that subsection. Under s. 301 of the Criminal Procedure Code, when a person is charged with an offence, he may be convicted of having attempted to commit that offence, although he was not charged with the attempt.

Weighting and Conclusion

The legal framework addresses the requirements of this Recommendation to some extent. However, it is not clear if the offence of tax evasion under the AMLA is wide enough to cover tax crimes. The definition of serious offences under s.2 of the AMLPOCA does not cover environmental crimes, extortion (though there is an offence referred to as exertion but no guidance is provided by the authorities as to what kind of offence this is) and tax crimes which are high categories of crimes as per the risk profile of URT. There is no provision for a person to be prosecuted for ML if such person committed the predicate offences outside the URT. According to the NRA report, URT faces a high cross border ML threat and therefore this deficiency is considered significant.

URT is rated Partially Compliant with Recommendation 3.

Recommendation 4 - Confiscation and provisional measures

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R.3). The main technical deficiencies highlighted were: the limited scope of predicate offences undermining the scope of tainted property that might be subject to confiscation; no legal provisions supporting confiscation of property of corresponding value; inadequate legal provisions protecting the rights and interests of bona fide third parties and the legal framework for freezing, seizing and confiscation of proceeds of crime not being enforceable in Zanzibar. Another deficiency related to effectiveness which is not part of technical compliance under the 2013 FATF Methodology.

Criterion 4.1 (Mostly met)

Under the POCA and AMLA, a confiscation order includes a forfeiture order or a pecuniary order.

- (a) The DPP can apply for forfeiture of any tainted property (any property relating to a serious offence as defined in s. 3 of POCA) in connection with a serious offence within 6 months from the date of conviction of a person (s. 9(1) of POCA). A serious offence is defined under the same Act to mean any

offence against provisions of any law in Tanzania of which the maximum penalty is death or imprisonment of not less than twelve months and includes ML and predicate offences. Similar provisions to the POCA are provided in ss. 19(1) and (2) of the AMLPOCA of Zanzibar. The above provisions are wide enough to cover confiscation of laundered property.

- (b) Tainted property which can be forfeited upon conviction of a person for a serious offence (s. 9(1) of POCA) includes any property derived or realized directly or indirectly from the commission of a serious offence as well as property used in connection with the commission of the offence (s. 3 of POCA). S. 351(1)(b) of the Criminal Procedure Act provides for forfeiture/confiscation of property intended to be used for the commission of an offence. These provisions adequately provide for confiscation of proceeds and all types of instrumentalities on Mainland Tanzania. In Zanzibar, the AMLPOCA has a similar provision enabling forfeiture upon conviction (s. 19(1) and s. 2 provides for the definition of tainted property to cover any proceeds of crime (which has the same meaning as under POCA) as well as property used in the commission of a crime. However, the legal framework in Zanzibar does not provide for confiscation of instrumentalities intended to be used in the commission of a crime and s. 351(1)(b) of the Mainland's Criminal Procedure Act is not applicable in Zanzibar. S. 60 (3) of Economic and Organised Crime Control Act (EOCCA) (as amended with the Written Laws (Miscellaneous Amendments) Act 2016) also provides for forfeiture of proceeds derived from commission of corruption and economic crimes which includes money laundering.
- (c) The relevant provisions of both POCA and the AMLPOCA defining 'proceeds of crime' as well as 'tainted property' and its confiscation described in (a) and (b), above, equally apply to proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations. Ss. 36 and 43(1) of POTA further provide measures for forfeiture of any tainted property associated with commission of acts listed in the preceding sentence as well as property owned or controlled by, or on behalf of, a terrorist group. POTA applies to the whole of URT.
- (d) S. 13(5) of the Written Laws (Miscellaneous Amendment) Act, 2016 provides for confiscation of property of corresponding value in circumstances where the proceeds and instrumentalities relating to the offence committed have been destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly of the offender, or the proceeds or instrumentalities have been concealed, removed, converted or transferred to prevent the same from being found or to avoid forfeiture or confiscation, to pay the amount equal to the value of the proceeds or instrumentalities of the offence. However, the same provision is not covered under the Zanzibar Law.

Criterion 4.2 (Met) – URT has a number of measures, both procedural and legislative, that enable competent authorities to identify, trace and evaluate property that is subject to confiscation.

- (a) Where the Inspector General of Police considers any evidence of the commission of a serious offence, predicate offence or ML can be found in a bank account kept, he can authorize in writing, a police officer, of or above the rank of Assistant Superintendent to investigate the bank account. The authorization is sufficient to warrant the production of the bank account for scrutiny by that police officer and to take copies of any relevant entries from the account (s. 63A of POCA). The DPP can apply to a court for a monitoring order directing a FI to give information to the Inspector-General of Police about financial transactions conducted through an account held by a particular person with that FI (s. 63A of POCA). S. 22 of the POCA has provisions for assessment of pecuniary penalty orders³⁷.

Both the AMLA and the AMLPOCA, under common sections 2, 72, 73 have provisions for obtaining a property tracking document.

³⁷ A pecuniary penalty order is an assessment by the court against a person ("the defendant"), to determine the value of the benefits derived by the defendant from the commission of an offence.

- (b) All the provisions cited in (a) above are also applicable to this requirement. In addition, s.31 of POCA and ss. 44, 48 of AMLPOCA provide for police officers to search a person for, and seize, any property believed to be tainted. Upon reasonable grounds of commission of a serious offence, predicate offence or ML, the Inspector General of Police or the Director of Criminal Investigation may authorize and direct a police officer of the rank of Assistant Superintendent of Police or above to freeze a bank account and seize any document from that bank or financial institution for seven days during which leave of the court for continued seizure shall be obtained (s. 31A of the POCA). The AG may where a person has been convicted of a serious offence or has been or is about to be charged with a serious offence, apply *ex parte* to a court for a restraining order against all or any specified property of that person including property acquired after the issue of the restraining order and property of a person other than the person convicted (s. 38(1) of the POCA).
- (c) The AG, in terms of s. 58(1) of the EOCCA, where he is satisfied that any person has in his possession or to his credit any property or advantage involved in or arising from the commission by any person of an economic offence, may by notice addressed to that person or to any other person to whom the property or advantage or the proceeds or value is believed to have been transferred or conveyed by that person or his agent, direct that person not to transfer, dispose of or part with the property specified in the notice. Failure to comply with such notice is an offence and liable upon conviction to imprisonment for a term not exceeding 15 years.
- (d) More appropriate investigative measures which can be taken by competent authorities are described in R. 31 (see analysis to R. 31).

Criterion 4.3 (Met)– The laws of the URT protect the rights of bona fide third parties. Ss. 16(1), 43(3) of the POCA and 36(1), 53(3) of AMLPOCA adequately provide for the protection of *bona fide* third parties, including for variation of restraining orders where such orders affect interests of *bona fide* third parties.

Criterion 4.4 (Met)– The POCA ably provides mechanisms for managing immovable property or other property forfeited to the URT with the Permanent Secretary and the Minister taking full responsibility on the management and disposal of the property (s. 25(3) of POCA). Courts are also empowered to direct property (subject to a restraining order) or such part of the property as is specified in the order, to be taken into the custody and control of a trustee appointed by the court for such purpose (s. 38(2)(b) of POCA). Similar provisions exist in ss.35(3) and 48(2) of the AMLPOCA.

Weighting and Conclusion

The URT has set up a confiscation/forfeiture regime which is enforceable throughout the country. The POCA and the AMLPOCA provide an adequate legal framework to enable tracing, seizure, confiscation of all types of tainted property and protection of third-party rights. The confiscation of property of corresponding value is well provided on Mainland Tanzania but there are no corresponding requirements in Zanzibar, Tanzania.

URT is rated Largely Compliant with Recommendation 4.

Recommendation 5 - Terrorist financing offence

In the last MER under the First Round of MEs, URT was rated NC with this Recommendation (formerly SR. II). The factors underlying this rating were, not all the relevant UN Conventions and Protocols under the International Convention for Suppression of Financing of terrorism had been ratified in URT; the term “funds” for the purposes of the TF offence under section 13 of the POTA was not defined hence it was not possible to determine if it met the standard under the TF Convention; it was also not clear whether parallel actions were possible against legal persons; the AMLA and the POTA were not enforceable with respect to Zanzibar and lastly, the assessors could not assess the overall effectiveness of the legislation.

Criterion 5.1 (Partly Met) – URT criminalises TF in line with the United Nations Convention for the Suppression of the Financing of Terrorism (TF Convention). Section 2 (1) of the Prevention of Terrorism Act (POTA) provides for the POTA’s application to Mainland Tanzania as well as to Tanzania Zanzibar.

The POTA criminalises terrorism financing under sections 13 and 14. The provisions largely cover the elements set out in Article 2 (1) of the International convention for the suppression of terrorism as it provides for the key elements of intent, knowledge, direct or indirect provision or collection of funds. It is not however clear if the term “terrorist act” is broad enough to cover all the offences listed in the annex to the convention. The Act also stipulates that a person commits a terrorist act if, with “*terrorist intention*”. The term “terrorist intention” is not clear under the Act. *Moreover, all types of terrorist act offenses under the conventions and protocols annexed to the UN SFT Convention are not covered under the POTA.*

Criterion 5.2 (Partly Met) – Section 13 of POTA provides for the willful provision or collection of funds whether directly or indirectly. It does not however cover provision or collection of other assets. Section 14 of POTA provides for provision or collection of property or provision of financial services and the definition of ‘property’ is wide enough to include funds. The indirect element is however lacking. Also, the element of financing individual terrorist appears to be missing in section 14 (1).

5.2^{bis} (**Not Met**) – The POTA has not criminalised financing of individuals who travel to a state other than their state of residence or nationality for purposes of the perpetration, planning or preparation of, or participation in, terrorist acts.

Criterion 5.3 (Met) – The URT law does not differentiate between legally and illegally obtained funds or property. Section 3 of the POTA defines property as meaning “*any property and any assets of every description, whether corporeal or incorporeal movable or immovable, tangible or intangible and deeds and instruments evidencing title to, interest in, such property or assets and includes bank account.*” The definition of property is wide enough to cover all sorts of assets.

Criterion 5.4 (Partly Met) – Section 14 of POTA covers the provision of funds for purposes of benefitting a terrorist group. In this regard, it is not required that the funds are actually used to carry out or attempt a terrorist act or be linked to specific terrorist act. However, there is no provision that provides for the offence of TF being committed without requiring the funds provided to a terrorist individual to have been actually used to carry out or being linked to a specific terrorist act.

Criterion 5.5 (Met) – The POTA or other laws of Tanzania do not explicitly provide that the mental element of the offence may be proved based on objective circumstances. It however appears that the concept of inference being drawn from circumstances is acceptable. The Criminal Procedure Act amends section 397 of the Police Force Ordinance to allow a police officer interrogating a suspect to inform him that an inference adverse to him may be drawn from his failure or refusal to answer any question or from his failure or refusal to draw at that stage any matter which may be material to the charge. The Court of Appeal of Tanzania in the case of *Majuto Samuel vs the Republic* (Criminal Appeal No. 61 of 2002) in an appeal against a conviction of murder noted that “*...at any rate, it is common knowledge that motive is not necessary in establishing the offence of murder. The intention to cause death may not be manifested in words or utterances to that effect, it can be inferred from the action of the accused, the appellant in this case.*” Based on the above provision and the determination of the Court, it is the Assessor’s consideration that the element of intent and knowledge can be inferred from objective factual circumstances.

Criterion 5.6 (Partly Met) - Proportionate and dissuasive criminal sanctions apply to natural persons convicted of terrorism financing offences. The sanctions are as per the table below:

Statue	Section	Issue	Sanctions
POTA	13.	Provision or collection of funds to commit terrorist acts	...shall on conviction be liable to imprisonment for a term not less than fifteen years and not more than twenty years.
	14.	Collection of property or provision of property and services	shall on conviction, be liable to imprisonment for a term not less than

Statue	Section	Issue	Sanctions
		for commission of terrorist acts	twenty years and not more than twenty-five years.
	15.	Use of property for commission Of terrorist act	shall on conviction, be liable to imprisonment for a term not less than fifteen years and not more twenty years.
	16.	Arrangement for retention or control of terrorist property	shall on conviction be liable to imprisonment for a term not less than fifteen years and not more than twenty five years.
EOCA	60 (2)	Orders for compensation, restitution etc.	Notwithstanding provision of a different penalty under any other law and subject to subsection (3), a person convicted of corruption or economic offence shall be liable to imprisonment for a term of not less than twenty years but not exceeding thirty years, or to both that imprisonment and any other penal measure provided for under this Act: Provided that, where the law imposes penal measures greater than those provided by this Act, the Court shall impose such sentence.
	60(3)	Orders for compensation, restitution etc.	In addition to the penalty imposed under subsection (2), the court shall order the confiscation and forfeiture, to the Government of all instrumentalities and proceeds derived from the offence committed under this Act.

These various possible sentences do not include monetary penalties. In addition, the scope of the TF offence is limited in that it does not cover the financing of an individual terrorist and as such also limits the availability of sanctions for individual terrorists. However, the sanctions appear to be proportionate and dissuasive.

Criterion 5.7 (Mostly Met) – Criminal liability and sanctions apply to legal persons. Under the Interpretation of Laws Act (Chapter 1) a person is defined in section 4 as meaning “any word or expression descriptive of a person and includes a public body, company, or association or body of persons, corporate or unincorporated.” Further, 71. (1) of that Act provides that “every enactment relating to an offence punishable on conviction or on summary conviction shall be taken to refer to bodies corporate as well as to individuals.” In terms of section 72 of EOCA it is not clear if a person can be (simultaneously) penalized for the criminal offence as well as be subject to civil or administrative action. Section 72 provides as follows: “Where any act constitutes an offence under two or more Acts, the offender shall unless the contrary intention appears, be liable to be prosecuted and punished under either or any of such Act, but shall not be liable to be punished more than once for the same offence.”

Criterion 5.8 (Mostly Met) – S. 27 of POTA appears to criminalize the ancillary offences related to TF such as attempt, participation, aiding and abetting. It provides as follows:

“Every person who-

- (a) aids and abets the commission;
- (b) attempts to commit;
- (c) conspires to commit;
- (d) counsels or procure the commission of;

an offence under this Act, is guilty of an offence and shall on conviction, be liable to the same punishment as is prescribed for the first mentioned offence.”

Paragraph (d) provides for counseling and procuring the commission of an offence and can be equated to organizing or directing others to commit a TF offence. It is not however clear how participation as an accomplice in an attempted TF offence and organizing or directing others in an attempted TF offence are covered by this or any other provision. Also, section 27 appears not to cover criterion 5.8 (d) “contribute to the commission of one or more TF offence(s) or attempted offence(s), by a group of persons acting with a common purpose.”

Criterion 5.9 (Met) – TF is listed as a predicate offence under paragraph (b) of the definition of “predicate offence” in S.3 of the AMLA and paragraph (b) of the definition of “specified offence” offence in S.2 (2) of the AMLPOCA.

Criterion 5.10 (Met) – Under section 2 (2) of the POTA, any person who commits an offence punishable under that Act beyond the URT shall be dealt with under the POTA in the same manner as if the act constituting an offence was committed in the United Republic of Tanzania. Also, under s.34 (6) of the POTA, for the purposes of prosecuting offences under the POTA, an act or omission committed outside the United Republic and which would, if committed in the United Republic constitute an offence under the POTA, shall be deemed to have been committed in the United Republic if the person committing the act or omission is present in the United Republic and cannot be extradited to a foreign state having jurisdiction over the offence constituted by such act or omission.

Weighting and Conclusion

There are moderate shortcomings in URT’s criminalisation of TF. The term “terrorist intention” is not clear under the POTA. The financing of terrorist individual is not criminalised. Financing of individuals who travel to a state other than their state of residence or nationality for purposes of the perpetration, planning or preparation of, or participation in, terrorist acts is also not criminalised. There is a provision that provides for the offence of TF being committed without requiring the funds provided to terrorist individuals to have been actually used to carry out or being linked to a specific terrorist act but does not cover an attempt to carry out a TF offence. In terms of section 72 of EOCA it is not clear if a person can be (simultaneously) penalized for the criminal offence as well as be subject to civil or administrative action.

URT is rated Partially Compliant with Recommendation 5.

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly SR III). The main technical deficiencies were that: that was no legal framework and implementing procedures in place to enable the freezing of funds and other assets of persons designated under UNSCR 1267 and 1373 and the POTA was not enforceable in Zanzibar.

Criterion 6.1 (Not Met) –

- (a) URT has not identified a competent authority or a court as having responsibility for proposing persons or entities to the 1267/1989 Committee for designation.
- (b) Tanzania does not have a mechanism(s) for identifying targets for designation, based on the designation criteria set out in the relevant United Nations Security Council Resolutions (UNSCRs).
- (c) Given the analysis in (a) and (b) above, there is no authority responsible for proposing designations and neither is there a mechanism for identifying targets for designation.
- (d) The Authorities indicated that submission for listing under 1267/1989 committee is made by using the UN standard form and procedures. This is however not set out in the POTA Regulations or written procedure.
- (e) The Authorities indicated that the relevant information provided in the submission for listing includes identification information and basis for listing. This is however not set out in the POTA Regulations or written procedure.

Criterion 6.2 (Mostly Met) – URT implements UNSCR 1373 principally through the POTA General Regulations.

- (a) URT has identified the Minister responsible for Home Affairs as the competent authority for designation of persons or entities meeting designation criteria set forth in UNSCR 1373 either at its own initiative or at the request of another country. U/s 12 (1) and (2) of POTA, the Minister may declare any person or organisation to be a suspected international terrorist or international terrorist organisation where the person or organisation is considered as a person or organisation involved in international terrorist acts by such State or other international organization. Regulation 7 of the POTA Regulations provides for implementation of third party requests by inter alia providing that a third party state or international organisation may request the Minister to declare a person or entity as a suspected international terrorist or terrorist group.
- (b) Identification of designation targets is covered by Reg. 7 of the POTA Regulations. (c) Under Reg. 7 (3), upon receipt of a third-party request, the Minister is required to direct the Inspector General of Police to examine the request within five working days and to advise the Minister on the request. The Minister under Reg. 7 (4) shall, based on the advice received from the Inspector General of Police determine within twenty-four hours whether to declare that person or entity an international terrorist or international terrorist group.
- (d) Under Regulation 7 (3) of the POTA Regulations, the Inspector General of Police shall on the advice of the Minister, examine if there are reasonable grounds in deciding on whether or not to make a designation. Existence of criminal proceedings is not a pre-condition for designations.
- (e) There is no requirement to request another country to give effect to the actions initiated under the freezing mechanisms or provide as much identifying information, and specific information supporting the designation, as possible.

Criterion 6.3 (Not Met) – There is no legal authority, procedures or mechanisms to (a) collect or solicit information to identify persons and entities that, based on reasonable grounds, or a reasonable basis to suspect or believe, meet the criteria for designation and, (b) operate *ex parte* against a person or entity who has been identified and whose (proposal for) designation is being considered.

Criterion 6.4 (Not Met) – Regulation 6(2) (c) and Regulation 7(6) of the POTA Regulations require accountable entities to freeze funds, financial assets or properties of designated persons or entities without delay. Regulation 6(2) (c) provides for UNSCR 1267/1989 designations and the freezing appears to be automatic upon a positive match of the communicated list. However, Reg 6 does not refer to this. Instead, it mentions 24 hours. The ‘without delay requirement’ starts to be implemented by accountable entities from the time the Minister has issued a notice to accountable institutions. Moreover, this requirement under the Regulations is limited in scope since it is only an obligation on accountable institutions listed under Part II of the Schedule. Further, the period from the UN to the Ministry of Foreign Affairs and from MoFA to the Minister of Home Affairs has not been mentioned. In the case of designations pursuant to UNSCR 1373/2001 under Regulation 7(6), the freezing takes place after designation though the obligation is imposed only on the accountable entities and not on any person as required under the Standard. The upshot of the above, what is required under the URT legislation does not meet the ‘without delay’ requirements as set out in the FATF Standards.

Criterion 6.5 (Not Met)– In general, URT has legal authority and identifies domestic competent authorities responsible for implementing and enforcing TFS (Sections 12-16 of POTA). However, there are some shortcomings as highlighted below:

- (a) **Criterion 6.5 (Not Met)**– In general, URT has legal authority and identifies domestic competent authorities responsible for implementing and enforcing TFS (Sections 12-16 of POTA). However, there are some shortcomings as highlighted below:
 - (a) Regulation 6(2) (c) and Regulation 7(6) of POTA Regulations require Accountable entities to freeze without delay the funds, financial assets or properties of designated persons and entities listed under

Part II of the Schedule. There is however no requirement for the freezing to be done without prior notice. The POTA Regulations define “funds” as having the meaning ascribed to it under the POTA. The POTA was amended by the Written Laws (Miscellaneous Amendment) (No. 2) Act of 2012 to introduce a definition of “funds” as meaning: “funds” includes (a) assets of any kind, whether tangible or intangible, movable or immovable by whatever means acquired; (b) legal document or instrument in any form, including electronic or digital, evidencing title to, or interest in such assets; and (c) bank credits, traveller’s cheque, bankers cheque, money orders, shares, bonds and other securities, draft and letters of credits;”.

- (b) (i) The term “funds” as used in the POTA is broad enough to cover funds held by other parties. POTA defines "property" as meaning any property and any assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, interest in, such property or asset and includes bank account. The definition of property is quite wide but there is no indication if it only refers to those tied to a particular terrorist act. The POTA Regulations however define “terrorist funds” as meaning funds which are intended to be used for terrorist purposes, resources of a person or entity which is declared as a terrorist organisation, cash or other resources obtained through terrorism. “Proceeds of terrorism” are defined meaning all kinds of properties which have been derived or obtained from commission of funds traceable to a terrorist act, and include cash irrespective of a person in whose name such proceeds are standing or in whose possession or control they are found. There however seems to be no connection to these terminologies and the term funds and property as used in the POTA and POTA Regulations particularly as regards the freezing of such funds or properties.
- (b) The obligation to freeze in Regulations 6 (2) and 7 (6) of the POTA Regulations do not extend to:
 - (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities;
 - (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as
 - (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.
- (c) Section 17 of the POTA criminalises dealing with property owned or controlled by terrorist groups while section 18 criminalises soliciting and giving support to terrorist groups for the commission of terrorist act. Section 19 criminalises harbouring of persons committing terrorist act while section 20 criminalises provision of weapons to terrorist group. There is however no provision in the POTA or the POTA Regulations prohibiting Tanzanian nationals or any persons and entities within URT from making any funds or other assets, economic resources, or financial or other related services, available, directly or indirectly, wholly or jointly, for the benefit of designated persons and entities; entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless licensed, authorised or otherwise notified in accordance with the relevant UNSCRs.
- (d) There are mechanisms for communicating designations to the accountable entities listed under Part II of the Schedule of the POTA Regulations immediately upon taking such action. However, not all DNFBPs including TCSPs and casinos are covered on the Schedule. Moreover, there is no clear guidance to financial institutions and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms.
- (e) Regulation 6(1) (d) and 7(6)(b) of POTA Regulations requires accountable entities to inform the Minister of the full particulars of the funds frozen, financial assets or properties under the Regulation. However, not all DNFBPs including TCSPs and casinos are covered on the Schedule. In addition, it does not cover attempted transactions.

- (f) There are no measures which protect the rights of *bona fide* third parties acting in good faith when implementing the obligations under Recommendation 6.

Criterion 6.6 (Mostly Met) – URT applies the following procedures for de-listing and unfreezing the funds or assets of persons and entities no longer meeting the designation criteria:

- (a) Regulation 18 of POTA Regulations provides delisting procedures for persons and entities designated pursuant to the UNSCR1267/1989 Sanctions Regime where the person no longer meets the criteria for designation. A listed person or entity may apply to the relevant United Nations Security Council Committee to be delisted from that list. A person or group may submit a request for delisting through the Ministry of Foreign Affairs or directly to the office of the Ombudsman specified in the relevant United Nations Security Council Resolution. The Procedures are set out in the POTA Regulations and are therefore publicly known.
- (b) Regulation 11 as read with Regulation 17 of the POTA Regulations provide for the procedures and mechanisms for one to apply for delisting and unfreezing pursuant to the UNSCR 1373.
- (c) Under Regulation 17 of the POTA Regulations, a person aggrieved by the Minister’s declaration or freezing order may apply to the High Court for the decision to be set aside.
- (d) Regulation 18 of POTA Regulations set out the procedures for one to apply for delisting by the 1988 *Committee*. Under Regulation 18, a listed person may apply to the relevant United Nations Security Council Committee to be delisted from that list. A person or group may submit a request for delisting through the Ministry of Foreign Affairs or directly to the office of the Ombudsman specified in the relevant United Nations Security Council Resolution. These do not however fully meet the delisting criteria set out in paragraph 8 of the 1988 Sanctions Committee Guidelines. For example, there is no mention of consultations by member states either bilaterally or with the Government of Afghanistan. Also, there is no guidance on channelling delisting requests through the focal point or use of the standard form for delisting etc.
- (e) The Authorities state that a declaration notice to the designated persons or entities issued by the Minister under Regulation 9 of POTA Regulations contains the procedures for considerations of delisting request. (Assessors have called for a sample copy of the notice to confirm if it meets the requirements of criterion 6.6 (e).
- (f) There is a procedure for unfreezing due to a false positive match in relation to UNSCR 1267. However, there is no a similar framework or procedure for UNSCR 1373.
- (g) Under Regulation 19 of the POTA Regulations the Minister shall, upon receipt of information of delisted persons or group of persons from the United Nations or any. International community instrument, instruct accountable entities to defreeze the properties of listed persons or group of persons and provide the mechanisms for communicating de-listings and unfreezing to the accountable entities. Under Regulation 11 (3) where a declaration is varied or revoked, the Minister shall take steps as he considers appropriate to bring the variation to the attention of the persons who were previously notified of the declaration. Under Regulation 17 (3), where a declaration or freezing is varied, revoked or set aside, the Minister shall issue a notice of the fact to the persons who were previously notified of the declaration. In both Regulations 11 (3) and 17 (3) there is no guidance given to financial institutions, DNFBPs or other person on their obligations in respect of the delisting or unfreezing.

Criterion 6.7 (Not Met) – There are no legal provisions or measures in place which allow 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 UNSCR 1452. Similarly, there are no legal provisions or measures permitting access to funds or other assets pursuant to UNSCR 1373.

Weighting and Conclusion

URT generally implements the TFS obligations. However, there are still major shortcomings outstanding. The legislation in relation to freezing assets does not meet the ‘without delay’ requirements as set out in the FATF Standards. There is no requirement to request another country to give effect to the actions initiated under the freezing mechanisms or provide as much identifying information, and specific information supporting the designation, as possible. There is no legal authority, procedures or mechanisms to implement the requirements under Criterion 6.3, 6.5(c-d). There is no requirement for the freezing to be done without prior notice. Under Regulation 18 of the POTA Regulations, there is no mention of consultations by member states either bilaterally or with the Government of Afghanistan. Also, there is no guidance on channelling delisting requests through the focal point or use of the standard form for delisting etc. There is no requirement or procedure to authorise access to funds or other assets on account of freezing measures pursuant to UNSCRs 1452 and 1373.

URT is rated Not Compliant with Recommendation 6.

Recommendation 7 – Targeted financial sanctions related to proliferation

These obligations were added during the revision of the FATF Recommendations in 2012 and were thus not considered in the framework of the evaluation of Tanzania in 2009 under the 1st Round of MEs.

Criteria 7. 1-7.5 (Not Met): URT does not have measures in place to implement requirements relating to prevention of proliferation financing.

Weighting and Conclusion

URT does not have mechanisms on targeted financial sanctions relating to the financing of proliferation of weapons of mass destruction more particularly, URT does not have mechanisms for the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing.

URT is rated Non-Compliant with Recommendation 7.

Recommendation 8 – Non-profit organisations

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly SR VIII). The main technical deficiencies were that: no risk assessment of the NPO sector regarding misuse for the sector for terrorist financing had been conducted; no outreach programmes had been undertaken to raise awareness on vulnerabilities of NPOs to terrorist abuse; no specified record keeping period for NPOs; no mechanisms to ensure effective domestic cooperation, coordination and information sharing amongst competent authorities which hold relevant information and the POTA was not enforceable in Zanzibar. FATF amended R. 8 by, among other things, requiring countries to apply focused and proportionate measures, in line with the risk-based approach, to non-profit organisations at the risk of abuse to protect them from terrorist financing abuse.

Criterion 8.1 – (Not met)

- (a) The URT has not yet identified the subset of organisations which fall within the FATF definition of NPO, nor has it used all relevant sources of information to identify the features and types of NPOs which by virtue of their activities are likely to be at risk of TF abuse.
- (b) Although the overall TF threat was assessed to be Medium during the NRA (pg 97 of the NRA report), the NRA did not specifically identify the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs. No further specific assessment of the sector has been done to enable such TF threats to be identified.
- (c) The amendment to the Non-Governmental Organisations (Amendment) Regulations, GN No. 609 of Tanzania Mainland, was aimed at reviewing the adequacy of measures relating to NPOs. However, the amendments brought in by Regulations 12 and 13 apply to all NPOs not necessarily to those which fall under the subset of NPOs that may be abused for TF. Further, the amendments do not address the

review of the measures adopted with a view to take proportionate and effective actions to address the risks identified with the subset of NPOs which are at risk of being abused for TF.

- (d) The authorities have not carried out periodical reassessments of the NPO sector to review new information to determine the sector's potential vulnerabilities to terrorists activities to ensure effective implementation of mitigating measures.

Criterion 8.2 (a), (b), (c) and (d) (Partly Met) Mainland Tanzania issued the Non-Governmental Organisations Code of Conduct, G. N. 20, No. 363 (2008) in terms of s. 27 of the NGOs Act and the National Policy on NGOs in November 2001. Both documents provide a comprehensive framework for promoting accountability, integrity and public confidence in the administration and management of NPOs. This is the same with the NGOs Policy issued by the Ministry of Justice of Zanzibar in September 2011. These documents provide among other things the formation of NGO Council with an Ethics Committee as one of the Committees of the Council to monitor the conduct of NGOs in doing their work, including regularly, in a clear and accessible manner communicate its values, governance structure, mission objectives, approaches and progress made in its work by conducting periodic evaluations and sending all this information to the National Council of NGOs, and office of the Registrar of NPOs as well as other requirements. However, there is no indication in any of the documents/information provided that the authorities in both Mainland Tanzania and Zanzibar undertake outreach and educational programmes to raise and deepen awareness among NPOs as well as the donor community on the potential vulnerabilities of NPOs to TF abuse and risks, and measures that NPOs can take to protect themselves against such abuse and that the information submitted to the Registrars is being used to determine such TF vulnerabilities and risks. Further, no information was provided that the Authorities in either jurisdiction work with the NPOs to develop and refine best practices to address TF risk and vulnerabilities and thus protect them from TF abuse and encourage them to conduct transactions through regulated financial channels wherever possible.

Criterion 8.3 (Not Met) URT has not taken steps to promote effective supervision or monitoring to the extent that it is able to demonstrate that risk based measures apply to NPOs that are at risk of TF abuse.

Criterion 8.4 (Partly Met)

- (a) Registrars of NPOs in both Mainland Tanzania and Zanzibar under ss. 23A of the AMLA and 18A of the AMLPOCA, have the obligation to monitor compliance by the NPOs. However, as already described under criterion 8.3 above, there is no risk-based supervision applied to NPOs. From the provisions being relied on by the authorities, 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 and a risk assessment on this basis is not done .
- (b) The NGO Act 24, 2004 [s. 20(1)(a),(c),(d)] of Tanzania Mainland and the Societies Act No.6, 1995 (s. 14(1)) of Zanzibar, empower the NGO Board and the Minister responsible for Societies registration, respectively, to suspend or cancel a certificate of registration if it is satisfied that the NPO has violated the terms and conditions of its registration (Tanzania Mainland), or revoke registration of such an NPO (Zanzibar). Ss. 23A of the AMLA and 18A of the AMLPOCA empowers the Regulator to impose administrative sanctions on violating NPOs. Although, the range of administrative sanctions under the two Acts are not specified, the framework enables to a large extent effective, proportionate and dissuasive sanctions to be imposed.

Criterion 8.5 (Partly Met)

- (a) S. 7(3) of the NGO Act, No 24 of 2002 requires the NGOs Board (Tanzania Mainland) to maintain as far as practicable, a system of consultation, coordination and cooperation with Ministries, Government institutions or other public or private bodies established under any written law, having functions similar to those which are performed by any of the Non-Governmental Organizations. Whilst in Zanzibar, under s. 40(1) of the Societies Act, No. 6 of 1995, the Registrar in the course of having reason to believe that a person is able to give any information of

an unlawful society, or suspected unlawful society, or as to the operations of any registered or exempted society, may, in writing, require the attendance of such a person before him. However, the authorities did not indicate how these provisions are used to ensure effective co-operation, co-ordination and information-sharing among all levels of appropriate authorities or organisations, e.g. how frequent the appropriate authorities meet to exchange information and take other actions.

- (b) The Registrars of NPOs having powers (as Regulators) to supervise and monitor NPOs for compliance with AML/CFT obligations in both Tanzania Mainland and in Zanzibar (see sub-criteria 8.3 and 8.4(a), above), should be able to examine those NPOs suspected of being exploited by terrorists or terrorist organisations before passing on such information to either the FIU for proper analysis or TISS or Police for investigations. However, apart from existence of the legal provisions, the Tanzanian authorities did not appear to have specific investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations.
- (c) Both Registrars of NPOs in Tanzania Mainland and Zanzibar are able in terms of the Acts they administer on NPOs to have full access to information held by an NPO (s. 27(1) of the Societies Act, No. 6 of 2012, and s. 7(1)(l) as read with s. 7(2)(b) of the NGOs Act. In addition, s. 10(2) of the Criminal Procedure Act empowers a police officer carrying out an investigation to summon any person to provide information or produce documents connected with the investigation.
- (d) All reporting entities in Tanzania Mainland and Zanzibar are required to report suspicious transactions to the FIU, including when there is suspicion or reasonable grounds to suspect that a particular NPO is involved in any of the activities set out in this sub-criterion. The FIU is thereafter supposed to analyse the information and promptly share it as financial intelligence information with other competent authorities, in order for such authorities to take preventive or investigative action. However, the authorities could not demonstrate that the other competent authorities have put in place mechanisms enabling prompt sharing of such information and what these mechanisms are. Other than the information shared by the FIU, no procedure on prompt sharing of information between competent or investigative authorities was provided.

Criterion 8.6 (Partly Met) S. 37(a) of the Prevention of Terrorism Act, No. 21 of 2002 provides the Inspector General of Police, or Commissioner of Police as the appropriate point of contact to respond to international requests for information regarding particular actions or movements of terrorist groups or persons suspected of involvement in commission of terrorist acts, which may include particular NPOs suspected of TF or involvement in other forms of terrorist support. However, the procedures to respond to such requests are not provided in the Act.

Weighting and Conclusion

URT does not meet most of the requirements of this Recommendation. All the measures regulating the activities of NPOs in URT under the laws are not for purposes of dealing with the possible exposure of the NPO sector to abuse for TF activities. URT has not identified a subset of NPOs likely to be at risk of TF abuse. As a result, the authorities have not taken any steps to implement targeted risk-based supervision or monitoring of NPOs. The NPO sector and the donors have not been engaged to raise awareness about potential vulnerabilities to TF abuse and risks.

URT is rated Non-Compliant with R 8.

Recommendation 9 – Financial institution secrecy laws

In its MER under the 1st Round of MEs, Tanzania was rated Partially Compliant with requirements of this Recommendation (formerly R 4). The main technical deficiencies were that: some legal provisions might prevent sharing of information between financial institutions and the AML Act was not enforceable in Zanzibar

Criterion 9.1

Generally, FIs are subject to secrecy obligations as part of contractual obligations between FIs and their clients/ customers [s.48 (1) of the Banking and Financial Institutions Act]. In addition, BoT is also required to observe confidentiality provisions in relation to information on the affairs of customers of a FI accessed when carrying out its supervisory activities [s.48 (4) of the Banking and Financial Institutions Act]. However, there are also specific provisions within the laws of URT which ensure that these obligations do not inhibit the implementation of the FATF Recommendations by competent authorities.

Access to information by competent authorities

Financial secrecy laws do not appear to inhibit the implementation of the AML/CFT measures. Competent authorities have statutory powers to request information from FIs (see analysis under R.27, 29 and 31). Competent authorities have the ability to access information they require to perform their AML/CFT functions.

Sharing of information between competent authorities

There are no laws which restrict sharing of information between competent authorities domestically or internationally (see analysis under R40). There are also various mechanisms which some competent authorities have established to facilitate sharing of information at an operational level. For instance, BoT has powers to share information with another agency (domestic or international) responsible for supervising a bank or FI pursuant to an agreement. However, there does not appear to be provisions in the law to regulate the *sharing* of information among supervisors of non-bank FIs (under TIRA and CSMA).

Sharing of information between FIs

The legal framework has some provisions which override restrictions on secrecy obligations relating to disclosure of information imposed by any law or otherwise (S. 21 of AMLA and S.16 of AMLPOCA). However, the overriding provisions are limited to Part IV of AMLA and Part III of AMLPOCA which deal with obligations of FIs. Obligations in relation to R.13, 16 or 17 fall outside the Parts covered by this overriding provision. In addition, s.16 (2) of AMLPOCA information sharing relating to its customers or their affairs is restricted to matters related to ML only (the provision does not cover matters related to TF).

Weighting and Conclusion

FI secrecy laws do not inhibit implementation of the FATF Recommendations. There is a legal basis for information exchange from FIs to authorities and between competent authorities. However, there are gaps in relation to provisions to regulate the sharing of information by supervisors of non-bank FIs and amongst FIs due to the limited scope of the secrecy overriding provision.

URT is rated Largely Compliant with Recommendation 9.

Recommendation 10 – Customer due diligence

In its MER under the 1st Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R. 5). The main technical deficiencies were that: not all financial institutions were covered as reporting institutions; there were no enforceable requirements for reporting entities to undertake CDD measures; no requirements for reporting institutions to verify identity of a person purporting to act on behalf of a customer who is a legal person or legal arrangement; there was no legal requirement for reporting entities to carry out enhanced CDD measures; the AML Act and Regulations did not contain sanctions for failure to comply with the requirements and the AML Act and POTAs were not enforceable in Zanzibar. The new FATF Recommendation imposes more detailed requirements, particularly concerning the identification of legal persons, legal arrangements and beneficiaries of insurance policies.

Scope of AML/CFT Obligations

In relation to Tanzania Mainland, the definition of ‘reporting person’ in the AML Act does not include a, bureau de change (the Act refers to ‘operator’ of a bureau de change), fund managers, investment dealers (other than securities dealer/ broker). With respect to Zanzibar, the definition of a ‘reporting person’ does

not include entities which carry out the following activities: lending, financial leasing, bureau de change, fund managers, investment dealers (other than securities dealer/ broker). This limited scope of a reporting entity has been taken into account in the analysis and conclusion on R.10 and Recommendations related to preventive measures.

Criterion 10.1 – (Not Met) FIs are not prohibited from opening or maintaining anonymous or accounts in obviously fictitious names. On the other hand, the prohibition set out under S. 19(2) of AMLA and S.14(2) of AMLPOCA is placed on customers and not FIs.

Criterion 10.2 – (Mostly Met) FIs are obliged to carry out CDD measures when:

- (a) establishing business relations [AML Regulation 28(1)(a) and AMLPOCA Regulation 37(1)(a)];
- (b) carrying out an occasion transaction [AML Regulation 28(1)(b) and AMLPOCA Regulation 37(1)(b)];
- (c) carrying out occasion transactions that are wire transfers covered under R.16 [AML Regulation 28(1)(b) and AMLPOCA Regulation 37(1)(b)]; The obligations apply to all types of transaction and irrespective of the amount involved;
- (d) there is suspicion of ML/TF [AML Regulation 28(1)(c) and AMLPOCA Regulation 37(1)(c)];
- (e) The FI has doubts about the veracity or adequacy of previously obtained customer identification data [AML Regulation 28(1)(d) and AMLPOCA Regulation 37(1)(d)].

Criterion 10.3 – (Partly Met) In relation to Mainland Tanzania, a FI is under obligation to identify and verify the identity of any customer seeking to establish a business relation or carry out a transaction using an official record capable of establishing a true identity of the person [Regulations 3, 5 and 7 of AML Regulations and S.15(1) of AMLA]. With respect to Zanzibar, there is no requirement in law for a FI to identify its customer. However, a FI is required to verify the identity of any customer (S. 10 of AMLPOCA). For both Mainland and Zanzibar, FIs are not required to verify the *identity of reporting entities* whenever they want to open an account or conduct an occasion transaction, irrespective of their risk profile [S.15(6) of AMLA and S.10(7) of AMLPOCA]. This deficiency applies to the rest of criteria of R.10 relating to verification of identity.

Criterion 10.4 – (Partly Met) In relation to Mainland Tanzania, FIs are required to identify and verify the identity of a representative of a customer (Schedule A 4.d of AML Regulations). However, there is no requirement for a FI to verify that the representative has appropriate authority. In addition, with respect to Zanzibar, there is no requirement in law for FIs to verify that any person purporting to act on behalf of the customer is so authorised, and verify the identity of that person.

Criterion 10.5 – (Partly Met) In relation to Mainland Tanzania, FIs are required to identify and verify the identity of a beneficial owner when establishing a business relationship or conducting a transaction (s.15(4) of AMLA and Regulation 28 of AML Regulations). However, the provision which applies to banks does not include a definition of beneficial owner [see details under c.10.10(a)]. In Zanzibar, there is no requirement in law for FIs to identify a beneficial owner. FIs are just required to take reasonable measures to verify the true identity of any person on whose behalf or for whose ultimate benefit a customer is acting in the proposed transaction [s.10(4) of AMLPOCA] using information or data obtained from a reliable source, such as birth certificate or passport. In addition, there is no requirement in law for FIs to verify the natural persons that ultimately own or control the legal person or legal arrangement. While the obligation is in the Regulations [AMLPOCA Regulation 37], it does not meet the standard because the FATF requirements is that it must be set out in law.

Criterion 10.6 – (Partly Met) Regulation 17 (e) of AML Regulations requires FIs to obtain information on, the purpose and intended nature of the business relationship. However, the provisions do not include the obligation to understand the purpose and nature of the business relationship. While the obligation is in

the Zanzibar Regulations [Regulation 17(e) of AMLPOCA Regulations], it does not meet the standard because the FATF requirement is that it must be set out in law.

Criterion 10.7 – (Mostly Met) FIs in Mainland Tanzania are required under Regulation 17(f) and (g) of AML Regulations to conduct ongoing due diligence on business relationships, including:

- (a) scrutinizing transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the FI's knowledge of the customer, their business and risk profile, including where necessary, the source of funds; and
- (b) ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant, by undertaking reviews of existing records particularly for higher risk categories of customers.

With respect Zanzibar, there is no similar provision in law.

Criterion 10.8 – (Partly Met) In relation to legal persons and legal arrangements, there is no requirement both in mainland Tanzania and Zanzibar for FIs to understand the nature of the customer's business. On the other hand, there is an implied requirement for FIs to understand the customer's ownership and control structure. Regulations 7(h)(iii) and 8 of AMLR and Regulation 7(i)(iii) and 8 of AMLPOCA Regulations oblige FIs to obtain and verify names of individuals, partnerships or trusts which own 5% or more of the voting rights of companies. In relation to legal arrangements, FIs are under obligation to obtain and verify names of trustees and founders of trust [Regulation 14(e), (g) and 15 of AML Regulations, and Regulation 14(e), (g) and 15 of AMLPOCA Regulations]. It is assumed that this information is intended to help FIs understand the ownership and control structure of legal persons and legal arrangements.

Criterion 10.9 – (Partly Met) In relation to customers which are legal persons, FIs are required to verify the identity through the following information (Regulation 7 & 8 of AML Regulations and Regulation 8 of AMLPOCA Regulations):

- (a) name, legal form and proof of existence;
- (b) powers that regulate and bind the legal person as well as names of senior management, and
- (c) the address of the registered office.

With respect to legal arrangements, the corresponding obligations are set out in Regulation 14 and 15 of AML Regulations and 14 & 15 of AMLPOCA Regulations. In addition to information mentioned under c.10.8 above, FIs are required to obtain the trust deed or founding instrument. However, the Regulations do not include an obligation to identify a legal person or legal arrangement (See also analysis under c.10.3).

Criterion 10.10 – (Partly Met) FIs are required to identify and verify the identity of a beneficial owner:

- (a) by taking reasonable measures to verify the identity of the natural person who owns or controls the legal person [Regulation 28(2) and (7) of AMLR and Regulation 37(2), (4) & (7) of AMLPOCA Regulations]. However, the term 'beneficial owner' is only defined in relation to insurers, capital market and securities licencees and collective investment schemes (Schedule D Paragraph 10, Schedule E Paragraph 10 and Schedule F Paragraph 7). The parts which relate to banks and other financial institutions do not have a definition of the term and therefore it cannot be determined whether the definition is consistent with the FATF definition.
- (b) However, there is no provision for FIs to use other means where they have doubts as to whether the person with controlling ownership interest and no natural person exerts control through ownership interest;
- (c) On the other hand, although it is not explicitly required for purposes of determining the beneficial owner, FIs are required to identify managers or legal persons [Regulation 7 of AMLR and Regulation 7 of AMLPOCA Regulations].

Criterion 10.11 – (Met) For customers that are legal arrangements, FIs are required to identify and take reasonable measure to verify the identity of beneficial owners through [Regulation 28(2) and (7) of AMLR and Regulation 37(2), (4) & (7) of AMLPOCA Regulations:

- a) for trusts, FIs are required to identify and verify the identity of (a) trustees, founders (settlers), beneficiaries of the trust [Regulation 14 & 15 of AMLR and Regulation 14 & 15 of AMLPOCA Regulations];
- b) Furthermore, Regulation 28(7) of AMLR and 37(4&7) of AMLPOCA mandates a reporting person when dealing with entities (the definition of which include foundations) to undertake CDD measures of any legal person or arrangement to determine the natural person that ultimately own or control the legal person or arrangement.

Criterion 10.12 – (Partly Met) Insurers are not required to conduct the following CDD measures on the beneficiaries of life insurance or other related insurance policies, as soon as the beneficiary is identified or designated by:

- (a) taking the name of the natural person or legal person or legal arrangement who/which has been specifically named;
- (b) obtaining sufficient information concerning the beneficiary in situations where the beneficiaries is designated by characteristics or class or by other means.

However, Insurers are required to identify a payee (beneficiary), where the payee is not a customer, and verify the identity of the payee before a payout of the insured amount is made [Schedule D, Paragraph 19 of the AMLR and Schedule B, Paragraph 19 of the AMLPOCA Regulations].

Criterion 10.13 – (Not Met) There is no requirement in law or regulation in relation to the obligation for Insurers to include the beneficiary of a life insurance policy as a risk factor in determining whether or not to apply enhanced CDD measures and that if the beneficiary who is a legal person or legal arrangement presents a higher risk, Insurers should apply enhanced CDD measures.

Criterion 10.14 – (Partly Met) FIs are required to verify the identity of a customer and beneficial owner when establishing a business relationship or conducting transactions for occasional customers [S.15 of AMLA, Regulation 28 of AMLR and S.10 of AMLPOCA & Regulation 37 of AMLPOCA Regulations]. In relation to insurance companies and capital market players, they are required to perform CDD measures when establishing relationships. The nature of business in these two sectors entails establishing business relationships- occasional transactions do not exist [Schedule C item 4, Schedule D item 2, Schedule E item 2, Schedule F item 2 of AMLR and Schedule B item 2 of AMLPOCA Regulations]. The law does not permit completion of verification by banks after the establishment of business relationship but insurance and securities are permitted to complete CDD after establishing a business relationship, (schedule D.26 and E.22).

Criterion 10.15 – (Not Met) There is no requirement to adopt risk management procedures concerning the conditions under which the customer may utilise the business relationship prior to verification.

Criterion 10.16 – (Mostly Met) FIs are required to undertake CDD measures at other appropriate times on a risk sensitive basis [Regulation 28(6) of AMLR and Regulation 37(5) of AMLPOCA Regulations]. Furthermore, Schedule An Item (e) (2) (a) of AMLR and Schedule A Item (e)(2)(a) of AMLPOCA Regulations require FIs to apply KYC procedures to existing customers on the basis of materiality and risk, and conduct CDD reviews of such existing relationships as appropriate. However, the provisions do not specifically state that the review should take into account whether and when the CDD measures had previously been undertaken and the adequacy of data obtained.

Criterion 10.17 – (Mostly Met) FIs in Mainland Tanzania are required to apply enhanced CDD measures where they find the ML/TF risks to be higher (Regulation 28A of AML Regulations). This also takes into account higher risks identified through NRA since the FIs are required to incorporate the NRA findings when carrying out risk assessments (Regulation 17A of AML Regulations). In relation to FIs in Zanzibar, they are required to determine the extent of CDD measures on a risk sensitivity basis which should involve

considering the type of customer, business relationship, product or transaction. There is no similar provision in AMLPOCA Regulations which specifically requires FIs to apply enhanced CDD for higher risks.

Criterion 10.18 – (Mostly Met) FIs in Mainland Tanzania are permitted to apply simplified CDD measures in relation to a particular business relationship or transaction which present a lower ML/TF risk which has been determined through their own ML/TF risk assessments (Regulation 28B of the AML Regulations). Furthermore, FIs are prohibited from applying simplified CDD measures whenever there is suspicion of ML/TF or when specific higher risk scenarios exist [Regulation 28B (6) of the AML Regulations]. However, in relation to Zanzibar, although FIs are required to determine the extent of CDD measures on a risk sensitivity basis, there is no explicit requirement for FIs to apply simplified CDD measures only when lower risks have been identified through an adequate analysis of risks by the country or the FI.

Criterion 10.19 – (Mostly Met) If a FI is unable to verify the identity of a customer, it is required [Regulation 17(c) AMLR. Schedule C item 11, Schedule D item 28, Schedule E item 27, and Schedule F item 20 of AMLR and Regulation 17(c) and Schedule D item 28 of AMLPOCA Regulations:

- (a) not to open the account, commence business relationship or conclude the transaction or terminate the business relationship;
- (b) file an STR in relation to the customer.

However, the provisions of the schedules are only limited to banks, insurers, securities and CIUs. Regulation 17(c) which applies to all FIs requires FIs not to continue business relationship or single transaction where a FI is unable to obtain satisfactory CDD information is also limited in that it does not extend to terminating the business relationship and filing of STR.

Criterion 10.20 – (Not Met) FIs are not permitted to stop the CDD process and file an STR whenever they form a suspicion of ML/TF and reasonably believe that performing the CDD process would tip off the customer.

Weighting and conclusion

URT legal and regulatory system complies with requirements of Recommendation 10 to some extent. However, there are moderate shortcomings. For instance, in Zanzibar, the requirements to identify a customer or beneficial owner, to understand the purpose and intended nature of business relationship, to verify that a person purporting to act on behalf of a customer is so authorised and conduct ongoing due diligence are not set out in law. In addition, the requirements have limited scope in view of the narrow definition of a ‘financial institution’ in the AML Act and AMLPOCA. Furthermore, FIs are exempted from verifying the identity of other reporting entities such as bureaux de change and DNFBPs and the basis of such exemptions has not been explained. Although Insurers are required to identify and verify the identity of a beneficiary at the time of payout, they are not required to include the beneficiary of a life insurance policy as a risk factor in determining whether or not to apply enhanced CDD measures.

URT is rated Partially Compliant with R.10.

Recommendation 11 – Record-keeping

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R. 10). The main technical deficiencies were that: not all financial institutions were covered as reporting institutions; no sanctions for failure to comply with record keeping requirements under the AML Act; no requirement to keep records of account files and business correspondence; records pertaining to transactions below a threshold were not subject to record keeping requirements and AML Act and POTA were not enforceable in Zanzibar.

Criterion 11.1 – (Met) S.16 of the AMLA as read with Regulations 30(1) AMLR and s.11 of AMLPOCA as read together with Regulation 39(1) of the AMLPOCA require every FI to establish and maintain records of all transactions whether domestic or international, for a minimum period of 10 years from the date the transaction or a series of linked transactions was completed, when the business relationship was formally

terminated and when the last transaction was conducted in cases where the business relationship was not formally terminated.

Criterion 11.2- (*Partly Met*) FIs in URT are required to maintain records of all transactions, ID verification documents, accounts, files and business correspondences for a minimum period of 10 years following termination of the business relation or after the date of the occasional transaction [S.16 of the AMLA (as amended) read together with Regulations 30(1) AMLR and s.11 of AMLPOCA as read together with Regulation 39(1) of the AMLPOCAR]. However, the scope of the requirements does not include keeping results of any analysis undertaken.

Criterion 11.3- (*Mostly Met*)– S. 16(2) of AMLA and S.11(2) of AMLPOCA set out detailed information which must be kept which is considered adequate to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of a criminal activity. However, as discussed under c.11.2, FIs are not required to keep results of analysis undertaken. Absence of this requirement may hamper provision of critical information needed to reconstruct individual transactions for evidence in prosecution of criminal activity.

Criterion 11.4- (Met)– Regulation 31 of AMLR and Regulation 40 of AMLPOCA Regulation require FIs to ensure that any records required to be maintained are retrievable without delay and in legible format. S.16(3) of AMLA states that the records shall be available to the FIU upon request and supervisory authorities have powers to obtain information from the FIs under their purview. LEAs can also obtain information from FIs (see c.30). In addition, Schedule D, Item 46 requires Insurers to keep information and analysis of transactions which have no apparent or visible economic or lawful purposes with a view to making it available to the relevant competent authorities should the need arises.

Weighting and Conclusion

FIs are required to maintain records of all transactions, CDD information, account files and business correspondence for at least 10 years after the termination of a business relationship or completion of an occasional transaction. However, the obligation does not include results of any analysis undertaken. Absence of these records may limit the reconstruction of individual transactions to provide evidence for prosecution.

URT is rated Largely Compliant with R.11.

Recommendation 12 – Politically exposed persons

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R 6). The main technical deficiencies were that: not all financial institutions were covered; there were no legal provisions which addressed requirements set out under R.6 and AML Act and POTA were not enforceable in Zanzibar.

Criterion 12.1- (Partly Met) In relation to foreign PEPs, FIs in Mainland Tanzania are required to:

- (a) have risk management systems to determine whether a customer is PEP. In addition, the requirement to determine whether the beneficial owner is a PEP applies to Insurers and Capital and Securities Authority (CMSA) Licencees [s.15(1)(b)(i) of AMLA, Schedule D, Item 29(a) and Schedule E 32 (a) of AMLR]. However, there is no similar obligation in relation to banks and other FIs under BoT. In addition, the definition of a PEP does not include persons who are or have been entrusted with a prominent public function by an international organisation and important political party officials.
- (b) Obtain senior management approval before establishing the business relationship [s.15(1)(b)(ii) of AMLA]. In addition, the obligation to obtain senior management approval for an existing business relationship is contained in Schedule D Item 29 and Schedule E Item 32(b) of AML Regulations in relation to Insurers and CMSA licensees. However, there is no similar obligation in respect of banks and other FIs under BoT.

- (c) Take reasonable measures to establish the source of wealth and source of funds of the customer [s.15(1)(b)(iii) of AMLA]. However, in relation to Insurers and CMSA licensees, the obligation gives an option to establish the source of wealth and source of funds of either a customer or beneficial owner which is not entirely consistent with this criterion [Schedule D item 29(c), Schedule E item 32(b) of AMLR]. In addition, there is no similar obligation requiring other FIs (apart from insurers and CMSA licensees) to establish the source of wealth and source of funds of beneficial owners identified as PEPs.
- (d) Conduct enhanced ongoing monitoring on the relationship [s.15(1)(b)(iv) of AMLA].

There are no similar obligations in relation to FIs in Zanzibar.

Criterion 12.2 (Not Met)– In relation to domestic PEPs or persons who have been entrusted with a prominent function by an international organisation, there is no legal or regulatory requirement in URT for FIs to:-

- (a) Take reasonable measures to determine whether a customer or beneficial owner is such a person; and
- (b) In cases when there is a higher risk business relationship with such a person, adopt measures in criterion 12.1 (b) to (d).

Criterion 12.3 (Not met)– FIs are not required to apply the relevant requirements of c.12.1 and 12.2 to family members or close associates of the foreign PEPs. As indicated under, c12.2, there are no requirements in relation to domestic PEPs and persons who have a prominent function by an international organisation.

Criterion 12.4 (Not Met)– In relation to life insurance policies, FIs are not required to take reasonable measures to determine whether the beneficiary or beneficial owner of the beneficiary is a PEP at the time of payout. In addition, where higher risks are identified, FIs are not required inform senior management before payout of the policy proceeds and conduct enhanced scrutiny on the whole business relationship with the policyholder and consider filing a suspicious transaction report.

Weighting and Conclusion

The obligations of FIs in relation to PEPs do not apply to Zanzibar. In relation to Mainland Tanzania, there are no requirements for FIs to comply with in relation to domestic PEPs and persons who have been entrusted with a prominent public function by an international organisation. In addition, FIs are not required to apply the requirements set out under c. 12.1 and c.12.2 to family members or close associates of PEPs and FIs are not required to take reasonable measures to determine whether the beneficiary or beneficial owner of the beneficiary is a PEP.

URT is rated Non-Compliant with R.12.

Recommendation 13 – Correspondent banking

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R 7). The main technical deficiencies were that: there were no enforceable requirements on financial institutions relating to correspondent banking relationships. The new FATF Recommendation has added a requirement to prohibit relationships with shell banks.

Criterion 13.1 (Partly Met) – In relation to cross border correspondent banking and other similar relationships, FIs in Tanzania Mainland are required under Schedule C 13 of AMLR to: -

- a) Gather sufficient information about a respondent institution to understand fully the nature of the respondent’s business and determine from publicly available information the reputation of the institution and quality of its supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;
- b) Assess the respondent institution’s AML/CFT controls;
- c) Obtaining senior management approval before establishing a new correspondent relationship;

However, FIs are not obliged to clearly understand the respective AML/CFT responsibilities of each institution.

Criterion 13.2 (Partly Met)– With respect to “payable-through accounts”, FIs in Tanzania Mainland are required under Schedule C 13(d) to satisfy themselves that: -

- a) The respondent bank has verified the identity of and performed ongoing due diligence on the customers having direct access to accounts of the correspondent, and
- b) it is able to provide relevant customer identification data upon request to the correspondent bank.

Criterion 13.3 (Partly Met)- FIs are not prohibited from entering into or continuing a correspondent banking relationship with shell banks. Furthermore, there are not required to satisfy themselves that respondent FIs do not permit their accounts to be used by shell banks. However, Schedule C item 5 of the AML Regulations requires banks and FIs to refuse entering into, or continuing a correspondent business banking relationship with shell banks and guard themselves against establishing relations with a respondent foreign banks or FIs which permit their accounts to be used by shell banks.

All obligations in relation to cross-border correspondent relationships do not apply to Zanzibar.

Weighting and Conclusion

The legal and regulatory framework in Zanzibar does not put obligations on banks and FIs in relation to cross-border correspondent relationships. While Tanzania Mainland has in place requirements relating to cross-border correspondent relationships, there are some gaps. For instance, FIs are not obliged to clearly understand the respective AML/CFT responsibilities of each institution and they are not specifically prohibited from entering into or continuing a correspondent banking relationship with shell banks.

URT is rated Partially Compliant with R.13.

Recommendation 14 – Money or value transfer services

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly SR VI). The main technical deficiencies were that: money value transfer service providers, other than banks, were not subject to AML/CFT requirements; no requirements for the MVTS providers to be subject to licensing and supervision for AML/CFT purposes and there were no sanctions against unlicensed informal operators.

Criterion 14.1 (Met)– S. 5 of the National Payment System Act (NPS Act), 2015 requires any person who wishes to operate a payment system to obtain a licence. The definition of a ‘payment system’ includes transfer of money through a payment instrument. A ‘payment instrument’ means an instrument in electronic or written form used for ordering transmission or payment of money.

Criterion 14.2 (Partly Met)- URT conducts investigations with a view to identifying natural or legal persons which carry out MVTS without a licence. Ss.5 and 24 of NPS Act make it a criminal offence for any person to provide MVTS without a license or approval by the Bank of Tanzania. On conviction, - a natural person is liable to a fine of not less than fifty million shillings or imprisonment for a term not exceeding five years or both. For a corporate entity, the sanctions are a fine of not less than five hundred million shillings. There are no provisions for civil or administrative sanctions.

Criterion 14.3 (Met) – MVTS providers (which are described as ‘Cash dealers’ and are further defined under S.3 of the AML Act, 2006 and S. 2 of AMLPOCA) are subject to monitoring for AML/CFT compliance by BoT.

Criterion 14.4 (Met)– The Electronic Money Regulations 2015 stipulate conditions under which an electronic money issuer may appoint an agent to provide services on its behalf as per Regulation 36. Additionally, Regulation 40 requires the electronic money issuer to maintain and submit to the Bank of Tanzania records of appointed agents.

Criterion 14.5 (Met) - Regulation 41 of the Electronic Money Regulations 2015 requires the electronic money issuer to conduct training for the agents and operations of the agency business including internal controls, accounting, risk management, consumer protection and anti-money laundering and combating financing of terrorism. Moreover, the Regulation requires the electronic money issuer to conduct effective oversight of the agent and its outlets and take appropriate action in events of breach of the agency agreement. In terms of Regulation 36, the Agency Agreement must include compliance with AML/CFT laws.

Weighting and Conclusion

MVTS providers are required to be licensed and any person who carries out MVTS without a licence or approval from the BoT commits an offence and is subject to prosecution. However, the legal frameworks do not provide for administrative sanctions. The MVTS providers maintain a register of their agents and also conduct AML/CFT training for them.

URT is rated Largely Compliant with R.14.

Recommendation 15 – New technologies

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R 8). The main technical deficiencies were that: There were no requirements providing for prevention of the misuse of technological developments on ML/TF schemes and no obligations requiring institutions to have policies in place to prevent the misuse of technological developments. The new R. 15 focuses on assessing risks related to new products, new business practices and new delivery channels and the use of new technologies for both new and existing products.

Criterion 15.1 (Partly Met)- URT identified and assessed ML/TF risks associated with electronic money as part of the 2016 NRA. However, the scope of the exercise did not include the use of new delivery mechanisms and use of new technologies for both new and pre-existing products. In relation to FIs in Tanzania Mainland, while it is noted that Schedule C Item 6 of AMLR requires banks or FIs to pay special attention to any money laundering threats that may arise from new or developing technologies that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes, there is no specific obligation for the FIs to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

Criterion 15.2 (Partly Met) – There is no specific requirement in law or regulation for FIs to conduct risk assessment prior to the launch or use of products, practices and technologies, and there is no requirement for FIs to take appropriate measures to manage and mitigate the risks. However, in relation to institutions licensed by BoT, Regulation 15 of the Banking and Financial Institutions (Licensing) Regulation, 2014 requires banks and other financial institutions to obtain prior approval before introducing a new product or service in the market. When seeking the approval, a bank or financial institution is expected to submit to the BoT description of the product or service, risks inherent in it and mitigation strategies. This implies that the FIs will have carried out a risk assessment in the first place.

Weighting and Conclusion

URT identified and assessed ML/TF risks associated with electronic money as part of the 2016 NRA. However, the scope of the exercise did not include the use of new delivery mechanisms and the use of new technologies for both new and pre-existing products. Institutions under BoT are implicitly required to carry out risk assessment prior to launching new products or services. There is no similar obligation for insurance and capital market players.

URT is rated Partially Compliant with R.15.

Recommendation 16 – Wire transfers

In its MER under the First Round of MEs, URT was rated Non-Compliant with requirements of this Recommendation (formerly SR VII). The main technical deficiencies were that: no requirement for FIs to obtain and maintain originator information on cross-border wire transfers; requirement to verify the identity of originator for all wire transfers was not enforceable; beneficiary institutions were not required to adopt effective risk-based procedures for handling wire transfers which do not contain complete originator information; no requirement for intermediary institutions to keep records for 5 years and AML Act and POTA were not enforceable in Zanzibar. The FATF requirements in this area have since been expanded to include requirements relating to beneficiary information, concerning identification of parties to transfers and the obligations incumbent on the FIs involved, including intermediary financial institutions.

AML (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 which have been issued under the AMLA contain provisions which address some obligations in relation to wire transfers apply to Mainland Tanzania and there is no similar regulatory framework for Zanzibar. The analysis and conclusions made under R.16 have taken into account this limitation.

Criterion 16.1 (Partly Met)– In relation to Mainland Tanzania, FIs are required to ensure that every electronic funds transfers (domestic and international transfers) are accompanied by (a) the required and accurate originator information (customers’ full name, account number and address), and (b) beneficiary information (full name, address and account number) [Regulation 4 of AML (Electronic Funds Transfer and Cash Transaction Reporting, 2019)].

Criterion 16.2 (Not Met)– There is no legal or regulatory requirements in URT which provides for requirements, in situations where several individual cross border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, that cross-border batch files should contain accurate originator and full beneficiary information that is fully traceable within the beneficiary country.

Criterion 16.3)– (N/A) – The Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 requires every electronic funds transfer to be accompanied by the prescribed originator and beneficiary information. URT does not apply the de minimis threshold.

Criterion 16.4- (N/A) As discussed under c16.3, URT does not apply the de minimis threshold.

Criterion 16.5- (Met) – Regulation 4 of the Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 requires every electronic funds transfers to be accompanied by originator information as indicated under c16.1 above.

Criterion 16.6 (Not Met) – There is no specific provision requiring the Ordering Institution to make available information accompanying wire transfers within three business days of receiving the request either from the beneficiary financial institution, appropriate competent authorities or law enforcement agencies.

Criterion 16.7- (Met) Regulation 9 of the Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 compels an ordering institution to maintain all originator and beneficiary information collected in line with Regulation 4(1) for a period of ten (10) years.

Criterion 16. 8-(Met) Regulation 9(b) prohibit ordering institutions from executing a wire transfer if it does not comply with the requirements of Regulation 4(1).

Criterion 16.9-(Met) Regulation 10(a) of the Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 requires intermediary institutions to ensure that all originator and beneficiary information that accompanies a wire transfer is retained with it.

Criterion 16.10- (Mostly Met) Regulation 10(b) of the Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 requires intermediary institutions to keep records of all information from the ordering institution or another intermediary institution for ten (10) years. However, there is no explicit provision requiring intermediary financial institutions to keep such records in situations

where technical limitations prevent the required originator or beneficiary information accompanying a cross border wire transfer from remaining with a related domestic wire transfer.

Criterion 16.11-(Met) Regulation 10 (c) of the Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 requires an Intermediary institution to take reasonable measures to identify electronic funds transfer lack required originator or beneficiary information.

Criterion 16.12 – (Met) Regulation 10 (d) of the Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 requires an Intermediary institution to have risk based policies and procedures for determining when to execute, reject, or suspend an electronic funds transfer that lacks required originator or beneficiary information and to take appropriate follow up action.

Criterion 16.13 (Not Met) – Beneficiary FIs are not required to monitor cross-border wire transfers for identification of those lacking required originator and beneficiary information.

Criterion 16.14 (Not Met) – There is no requirement for a beneficiary FI to verify the identity of the beneficiary of cross-border wire transfers of USD/EUR 1 000 or more if the identities have not been previously verified. The requirements contained in s.15 of AMLA and s.10 of AMLPOCA for FIs to verify customers applies to situations where the applicant seeks to establish a business relationship or carry out an occasional transaction. This does not apply to what a beneficiary FI is required to do after receiving inward cross-border wire transfers. However, in relation to record keeping, there is a general requirement for FIs to keep records of all transactions, which may include inward cross-border wire transfers (see R.11).

Criterion 16.15 (Not Met) - Beneficiary FIs are not required to have risk-based policies and procedures for determining (a) when to execute, reject, or suspend an electronic funds transfer that lacks originator or beneficiary information and, (b) the appropriate follow-up action.

Criterion 16.16 (Partly Met) - MVTS providers are reporting persons under the category of cash dealers in the definition of reporting persons as per Section 3 of AMLA and Section 2 of AMLPOCA. MVTS providers are therefore subjected to AML/CFT compliance requirements as provided for in the AMLA and AMLPOCA. Hence, the AML (Electronic Funds Transfer and Cash Transaction Reporting) Regulations issued under the AMLA also apply to MVTS providers. However, AMLPOCA and AMLPOCA Regulations do not have provisions dealing with wire transfers which implies that MVTS providers in Zanzibar are not subjected to the requirements of Recommendation 16.

Criterion 16.17 (Mostly Met) There is a general requirement for MVTS providers, as a reporting person, to file a suspicious transaction report (see analysis under R.20). However, there is no specific obligation for MVTS providers to:

- a) take into account all information from both the ordering and beneficiary sides of a wire transfer sides in order to determine whether an STR has to be filed;
- b) file an STR in any country affected by the suspicious wire transfer and make relevant transaction information available to an FIU.

Criterion 16.18 (Partly Met)– The POTA Regulations 2014 is the implementing framework which gives effect to the freezing mechanism under the Prevention of Terrorism Act for purposes of the UNSCRs 1267 and 1373. Accountable institutions, including FIs, are required to freeze without delay funds, financial assets or properties of sanctioned persons or entities as per Regulation 6 of POTA Regulations. Additionally, the Regulations prohibits any dealings, directly or indirectly with the declared persons as per Section 12 (see R 6 for the detailed analysis and deficiencies noted).

Weighting and Conclusion

The Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting) Regulations, 2019 provide a legal framework for application of wire transfers which includes the basic requirements for originator and beneficiary requirements. However, the Regulations apply to Tanzania Mainland only and shortcomings in relation to dealing with wire transfers by beneficiary FIs and MVTS providers have also been identified.

URT is rated Partially Compliant with Recommendation 16.

Recommendation 17 – Reliance on third parties

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R 9). The main technical deficiency was that the AML/CFT regulatory framework did not address the requirements of the Recommendation.

Criterion 17.1-17.3– (Not Met) There are no specific legal or regulatory provisions which prohibit or permit reliance on third party FIs and DNFBPs to carry out CDD measures on their behalf. However, in practice, professional participants in the securities market rely on foreign third party FIs when dealing with foreign based customers to carry out CDD measures on their behalf. In such situations, they are not obliged to comply with requirements of this Recommendation.

Weighting and Conclusion

There are no legal provisions to comply with criterion 17.1 – 17.3

URT is rated Non-compliant with R.17.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R 15 and R 22). The main technical deficiencies were that: not all financial institutions were covered for AML/CFT purposes; some requirements were not enforceable; no requirement for FIs to designate a compliance officer; no requirement for other FIs (part from banks) to have screening procedures for hiring new employees; no requirement for FIs to apply AML/CFT measures to their foreign subsidiaries and AML Act and POTA were not enforceable in Zanzibar. The new Recommendation introduces some new requirements on implementing AML/CFT programmes for financial groups.

Criterion 18.1- (Partly Met) In relation to Mainland Tanzania, FIs are required to establish and maintain policies, controls and procedures to mitigate and manage ML/TF risks which are proportionate with regard to the size and business of the FI (Regulation 17B of the AML Regulations as amended in 2019). For Zanzibar, FIs are obliged to apply CDD measures on a risk sensitive basis. However, except for CDD related measures, there are no specific legal or regulatory provisions which require FIs to implement programs against ML/TF risks, which have regard to the ML/TF risks and the size of the business.

On the other hand, FIs in URT are required to have written internal procedures in respect of the following:

- a) designation of a MLRO (Regulation 21 of AMLR and Regulation 21 of AMLPOCA). However, the Regulations do not state that such a person should be at a management level;
- c) In relation to FIs in Mainland Tanzania, s.19 of AMLA requires FIs to take appropriate measures for the purposes of making employees aware of domestic AML/CFT laws and internal policies established pursuant to the legal framework and provide training to its employees to enable them detect and handle suspicious transactions. There is no similar obligation for FIs in Tanzania Zanzibar;
- d) FIs under BoT are required to ensure that the Internal Audit is independent and well-resourced [Regulation 19 of the Banking and Financial Institutions (Internal Control and Internal Audit) Regulations 2014. There is no similar obligation for the rest of the FIs.

There is no requirement for FIs to have screening procedures to ensure high standards when hiring employees.

Criterion 18.2 (Not Met)– There is no legal or regulatory requirement for financial groups to implement group-wide programmes against ML/TF which are applicable and appropriate to all branches and majority-owned subsidiaries of the financial group including measures such as:

- a) policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management;
- b) the provision, 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; and

- c) adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off.

Criterion 18.3 (Not Met)– There is no provision requiring FIs to ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country, to the extent that host country laws and regulations permit. In addition, there is no obligation for financial groups to apply appropriate additional measures to manage ML/TF risks and report to the home country supervisors, if the host country does not permit proper implementation of AML/CFT measures.

Weighting and Conclusion

URT requires FIs to have written internal reporting procedures which should include designation of MLRO. Although there are requirements to have training programmes and well-resourced and independent internal audit functions, these are limited to FIs in Mainland Tanzania and FIs licenced by BoT respectively. In addition, there are no obligations for financial groups to implement group-wide programmes against ML/TF which are applicable and appropriate to all branches and majority-owned subsidiaries of the financial group. Furthermore, FIs are not required to ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country.

URT is rated Non-Compliant with R.18.

Recommendation 19 – Higher-risk countries

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R21). The main technical deficiencies were that: not all financial institutions were covered; no measures to ensure that reporting entities were advised of concerns about weaknesses in the AML/CFT systems of other countries and that AML Act and POTA were not enforceable in Zanzibar. The new R.19 strengthens the requirements to be met by countries and FIs in respect of higher-risk countries.

Criterion 19.1 (Partly Met) – In relation to Mainland, FIs are required to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with a person from countries identified by credible sources such as the FATF as not having effective systems to counter ML/TF [Regulation 28A(1)(b) as read together with sub-regulation (2)(c)]. The definition of a ‘person’ includes natural and legal persons.

Criterion 19.2 (Not Met) – Regulation 28(8) of AML Regulations requires reporting persons to determine the extent of CDD measures on a risk sensitive basis taking into account the type of customer, business relationship, product or transaction and be in a position to demonstrate to the supervisory authority that the extent of the measures is appropriate in view of the ML/TF risks. However, there is no requirement to apply countermeasures proportionate to the risks when called upon to do so by the FATF or (b) independently of any call by the FATF to do so.

Criterion 19.3 (Not Met) – There are no measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.

Weighting and Conclusion

There are requirements for FIs to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons from countries for which this is called for by the FATF. However, these are limited to FIs in Tanzania Mainland. In addition, there is requirement or operational mechanisms for URT to apply countermeasures proportionate to the risks when called upon to do so by the FATF or (b) independently of any call by the FATF to do so.

URT is rated Non-Compliant with R.19.

Recommendation 20 – Reporting of suspicious transaction

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R13 and SRIV). The main technical deficiencies were that: not all categories of financial institutions and DNFBPs were subject to STR reporting obligations; not all predicate offences required under R.1 were included in the scope of the reporting requirements and the AML Act and POTA were not enforceable in Zanzibar.

Criterion 20.1 (Mostly Met)– FIs are required to report suspicious transactions to the FIU. Such a report should be made when there is suspicion or grounds to suspect that, funds or property are proceeds of crime, or are related or linked to or are to be used for commission or continuation of a predicate offence or when the reporting person has knowledge of a fact or an activity that may be an indication of money laundering or predicate offence. The laws require the report to be made within twenty-four hours after forming that suspicion (S. 17(1) of the AMLA, S.12 of AMLPOCA and Regulation 27 of AMLPOCAR). In view of the limited scope of the definition of reporting persons, other FIs are not under obligation to report an STR (see details under R.10) and the outstanding predicate offences which have not been criminalised (see detail under R.3).

Criterion 20.2 (Met) – Section 17(1) of AMLA and s.12 of AMLPOCA require FIs to report all transactions including proposed transactions and regardless of the amount. There is no prescribed threshold for reporting of suspicious transactions, which means that all transactions are reportable.

Weighting and Conclusion

FIs are required to file STRs to the FIU on transactions and attempted transactions regardless of the amount. However, some FIs are not obliged to do so since they are not covered in the definition of a ‘reporting entity’.

URT is rated Largely Compliant with R.20.

Recommendation 21 – Tipping-off and confidentiality

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant with requirements of this Recommendation (formerly R14). The main technical deficiencies were that: non-bank financial institutions did not have legal immunity in relation to STRs submitted in good faith and that the AML Act and POTA were not enforceable in Zanzibar.

Criterion 21.1 (Met) S.22 of the AMLA and s.17 of the AMLPOCA provide protection to FIs, and their directors, officers, employees or representative against any action, suit or other proceeding for breach of banking or professional secrecy arising from reporting their suspicions in good faith to the FIU.

Criterion 21.2 (Met) S.20 of the AMLA and s.15 of AMPOCA prohibit any person from disclosing the fact that an STR or related information is being filed with the FIU. The prohibition is applicable to ‘any person’ and this is understood to include the FI, its directors, officials and employees. In addition, the prohibition is not only related to informing the person involved in the transaction but also any unauthorized third party and is not intended to inhibit information sharing.

Weighting and Conclusion

All criteria are met. **URT is rated Compliant with R.21.**

Recommendation 22 – DNFBPs: Customer due diligence

In its MER under the First Round of MEs, URT was rated Non-Compliant with requirements of this Recommendation (formerly R12). The main technical deficiencies were: some DNFBPs not subject to requirements of AML Act; no specific retention period for which the required documents must be kept; the requirement set out in the Regulations was not enforceable and that the AML Act and POTA were not enforceable in Zanzibar.

Criterion 22.1 (Partly Met) DNFBPs are reporting persons under s.3 of AMLA and section 2 of AMLPOCA and are subject to the CDD requirements under s.15 of AMLA and s.10 of AMLPOCA. However, the definition of ‘reporting persons’ in both AMLA and AMLPOCA does not include TCSPs.

The deficiencies highlighted under R. 10 also apply to DNFBPs.

Criterion 22.2 (Partly Met) DNFBPs are subject to the same record-keeping requirements as FIs. However, as noted under c.22.1, some DNFBPs are not covered and therefore not subject to the record keeping requirements. In addition, deficiencies highlighted under R. 11 also apply to the DNFBPs.

Criterion 22.3- (Partly Met) DNFBPs in Mainland Tanzania are required to comply with the same additional due diligence requirements for PEPs under section 15 of AMLA. However, in addition to the limited scope, the deficiencies highlighted under R.12 also apply to c.22.3. Obligations relating to PEPs are not covered in the Zanzibar AML/CFT laws and regulations.

Criterion 22.4- (Not Met) URT and the DNFBPs have not identified and assessed the ML/TF risks related to development of new products and business practices and the use of new technologies in the DNFBP sector. In addition, DNFBPs are not required in law or regulation to conduct risk assessment prior to the launch or use of products, practices and technologies, and there is no requirement for them to take appropriate measures to manage and mitigate the risks.

Criterion 22.5- (Not Met)-The legal framework is silent on whether or not DNFBPs are permitted to rely on third party FIs to perform relevant elements of CDD measures set out under R.10 (refer to R.17).

Weighting and Conclusion

The definition of reporting entities does not include TCSPs and in addition deficiencies highlighted under Recommendations 10, 11, 12, 15 and 17 also apply to DNFBPs.

URT is rated Partially Compliant with R.22.

Recommendation 23 – DNFBPs: Other measures

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R16). The main technical deficiencies were that: some DNFBPs not subject to requirements of AML Act, including reporting obligations; same deficiencies in relation to R 14, 15 and 21 (requirements in relation to internal controls, compliance, audit, legal immunity and high-risk countries) were applicable to DNFBP and the AML Act and POTA were not enforceable in Zanzibar.

Criterion 23.1 (Mostly Met) Suspicious transactions reporting obligations set out under s.17 of the AMLA and s.12 of AMLPOCA also apply to DNFBPs. However, as indicated under c.22.1, some DNFBPs are not covered and therefore not subject to the reporting obligations. In addition, deficiencies in relation to scope of predicate offenses noted under R.20 also apply to DNFBPs.

Criterion 23.2 (Partly Met) In general, DNFBPs are subject to the same requirements related to implementation of risk policies, controls and procedures commensurate to the risks and size of the businesses. Hence, the analysis and deficiencies highlighted under R.18 are also relevant to DNFBPs. For instances, DNFBPs are required to have written internal procedures in respect of the following:

- a) designation of a MLRO (S. 18 of AMLA, Regulation 21 of AMLR and Regulation 21 of AMLPOCA).
- b) DNFBPs in Mainland Tanzania are required under s.19 of AMLA to take appropriate measures for the purposes of making employees aware of domestic AML/CFT laws and internal policies established pursuant to the legal framework and provide training to its employees to enable them detect and handle suspicious transactions.;

Considering that most of the DNFBPs are small in size and do not have foreign based branches or subsidiaries, Assessors are of the view that the deficiencies noted under R.18 carry less weight for them than FIs.

Criterion 23.3 (Not Met) In relation to Mainland, DNFBPs are required to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with a person from countries identified by the FATF as not having effective systems to counter ML/TF [Regulation 28A(1)(b) as read together with sub-regulation (2)(c)]. The legal framework in Zanzibar does not require DNFBPs to comply with the higher-risk countries requirements set out in R.19.

Criterion 23.4 (Mostly Met) S.22 of the AMLA and s.17 of the AMLPOCA provide protection to reporting entities, and their directors, officers, employees or representative against any action, suit or other proceeding for breach of banking or professional secrecy arising from reporting their suspicions in good faith to the FIU. S.20 of the AMLA and s.15 of AMPOCA prohibit any person from disclosing the fact that an STR or related information is being filed with the FIU. The legal frameworks apply to both FIs and DNFBPs. As highlighted under c.23.1, TCSPs are not covered and therefore not subject to tipping-off requirements.

Weighting and Conclusion

The obligation to file STRs and provisions relating to tipping off and legal immunity also applies to DNFBPs. However, as noted under c.22.1, R 18 and R.19, there are some significant deficiencies in the legal framework of URT.

URT is rated Partially Compliant with R.23.

Recommendation 24 – Transparency and beneficial ownership of legal persons

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R. 33). The main technical deficiencies were that: the use of corporate directors and nominee shareholders obscured beneficial ownership and control information of companies; no measures in place to ensure that share warrants were not misused for ML purposes; definition of beneficial owner not consistent with the FATF definition and the AML Act and POTA were not enforceable in Zanzibar. The new FATF Recommendation and the accompanying Interpretive Note, contains more detailed requirements particularly with respect to the information to be collected about beneficial owners.

Criterion 24.1 – (Met) URT has adequate mechanisms that identify and describe different types, forms and basic features of legal persons in the country and the process on how those legal persons are created, and for obtaining and recording of basic and BO information. The information is publicly available on the websites of both Registry of Companies in Tanzania Mainland (BRELA) and the Registry of Companies in Zanzibar (BPRA). In addition, the information can be publicly accessed through booklets provided by both BRELA and BPRA. The information on creation of companies is also directly available from two registry offices.

Criterion 24.2 – (Not Met) The authorities have not assessed the ML/TF risks associated with all types of companies created in URT. No information is provided in the NRA indicating that it covered risk assessment relating to the different types of legal persons created in URT.

Criterion 24.3 – (Met) All companies created in URT are required to be registered (s. 14 of both the Companies Act, 2002 and Companies Act, 2013 of Tanzania Mainland and Tanzania Zanzibar, respectively). Tanzania Mainland: In terms of s. 451(1) the Registrar has to keep a Companies Register containing all information about the companies created and identified by a company registration number (s. 451(2)). In Zanzibar, the appointment of the Registrar is done in terms of the Registrar General's Act. At the time of creating the company a statement is required by the Registrar in a prescribed form providing the name and address of the director(s) and secretary(ies) of the company (s. 14(2)) and the intended address of the company's registered office upon incorporation (s. 14(3)) and the Registrar should not register the company if information is missing (s. 14.4). The Registrar, upon registration of the Memorandum and

Articles of Association, has to certify under his hand that the company is incorporated and whether it is a limited or a public company (s. 15). Tanzania Zanzibar: Whilst similar provisions exist under the Companies Act in Zanzibar, it only provides for the Registrar upon registration of the company to only state the type of it, if it is a limited company. A company incorporated in Zanzibar is required within fourteen (14) days from the date of incorporation to provide the Registrar with the address of the registered office of the company (s. 112(2)). A certificate of incorporation issued by the Registrars in both Tanzania Mainland (s. 16(1)) and Zanzibar (s. 16) is conclusive evidence of a company being registered. Under Ss. 458(1) of the Companies Act of Tanzania Mainland and 257(1) of the Companies Act of Zanzibar, the documents kept by the Registrar are all publicly available for inspection and obtaining of certified copies upon payment of a prescribed fee for members of the public and for free for competent authorities.

Criterion 24.4 – (Mostly Met) In addition to requirements under c. 24.3, companies in both Tanzania Mainland (s. 210 of the Companies Act, 2002) and Zanzibar (s. 214 of the Companies Act, 2013) should maintain registers of directors, which among other things should provide information on their name, surname, usual address, nationality, business occupation, and in the case of a corporate, its corporate name and registered principal office. Under ss. 115 and 116 of the Companies Act, 2002 of Tanzania Mainland, and 116 and 117 of the Companies Act, 2013 of Zanzibar, there are requirements for a company to maintain a register of its members. The information kept in the register shall include: the name and address of each member and if it's a company having a share capital, a statement on the shares held by each member distinguishing each share by its number and where possible by its class, and the amount paid on the shares or agreed to be considered as paid for the shares of each member; the date which each person was entered into the register as a member or ceased to be a member. The register is supposed to be kept at the registered office of the company and where the register of members is kept elsewhere other than the registered office of the company, the company shall send a notice to the Registrar of the place where it is kept and of any change in that place, thereafter.

Criterion 24.5 – (Mostly Met) Companies in both Tanzania Mainland and Tanzania Zanzibar are required to keep information in criteria 24.3 and 24.4 accurate and to be updated on a timely basis. Ss. 128, 129, 130, 132 of the Companies Act of Tanzania Mainland, and 129, 130 of the Companies Act of Zanzibar require companies to file annual returns in a prescribed form within 28 days of the date of the company's anniversary, audited accounts (with supporting documents attached), and timely reporting of changes of any information provided to any of the Registrars at the time of registering the company (to be reported within varying periods from six to fourteen days of the change). Ss. 215 and 8 of the Companies Acts of Tanzania Mainland and Zanzibar, respectively, provide for the Registrar when necessary, to call for any information from the companies. However, in Zanzibar, there is no requirement for the Registrar to maintain the information.

Criterion 24.6 - (Mostly Met) Companies are required to maintain registers of members. Where it is an individual, name and address of the person who is a member and if it is a company having share capital, a statement showing the shares belonging to each of the members will be required to be kept as part of the register by the company at its registered address or inform the Registrar of the address where the register is being kept if it is not at the registered address (s. 115 Companies Act, Tanzania Mainland; ss. 116, 117 Companies Act, Tanzania Zanzibar). However, there is no requirement for a member to disclose if he is acting under the control of someone else.

In both Mainland Tanzania and in Zanzibar reporting entities, which include both FIs and DNFBPs are required to obtain information relating to BO as part of carrying out their CDD requirements (Regulations 7, 8, 9 and 12 of both the AMLA Regulations, 2012 and the AMLPOCA Regulations, 2015, respectively). The only difficulty might be getting information of other legal persons which might not be using financial institutions since both Mainland Tanzania and Zanzibar are still largely cash economies.

Criterion 24.7- (Mostly Met) The Companies Act of both Mainland Tanzania and Zanzibar require that information on members (see c. 24.6 above) is accurate and up to date by submitting annual returns to the

Registrar (ss. 128, 129, 130 of the Companies Act of Mainland Tanzania and ss 129, 130 of the Companies Act of Zanzibar). The annual returns with information on persons who are still members and those who have ceased to be members of a company, shares still held by each member and each class of transferred shares have to be submitted within 28 days of the return date. Companies are also required to notify the Registrar within 14 days if there is a change in the place where its register of members is kept or any other changes pertaining to the members (ss. 115(3), 128, 130(4), (5) of the Companies Act, 2002 Tanzania Mainland, and ss. 116(3), 129, 130 of the Companies Act, 2013 Zanzibar). However, see c. 24.6 above, on the concern of a member who might be in ultimate control of the shares being represented by another person.

Reporting entities are required to keep accurate and as up-to-date as possible information on BO.

Criterion 24.8 – (Mostly Met) URT has got requirements to ensure that companies co-operate with competent authorities to the fullest extent possible in determining the beneficial owner. Directors, agents and secretaries have the general responsibility for compliance of the company with requirements of the Companies Act. In the event of the Registrar asking for any information, it is the duty of the company and all persons who are officers of the company to provide such information or explanation required (s. 216). During an investigation, it is the duty of all officers and agents of the company to provide all books and documents of, or relating to the company, or to attend before an inspector when required to do so and to give the inspector all the assistance required in connection with the investigation. S. 386(5) of the Companies Act, 2002 also requires companies and their agencies (past and present) to provide the necessary assistance to an investigation, or proceedings conducted by the AG against the company. Foreign companies which establish a place of business in Tanzania Mainland are required within 30 days of the establishment of the place of business to deliver to the Registrar for registration, the name(s) and address(es) of one or more persons resident in Tanzania authorised to accept service of process on behalf of the company and all notices served on the company and a statement indicating the extent of the authority to be exercised by the representative. The last part of the above requirement might however limit the representative on what kind of information or assistance he/she might provide to competent authorities (s. 434(1)(d)). A similar provision exists under the Companies Act, No. 15 of 2013 of Zanzibar (s. 239(1)(c)).

Criterion 24.9 – (Partly Met) The Registrar of Companies on Tanzania Mainland is expected to retain any originals of documents delivered to the Registry in paper form for companies that have been dissolved for two years from the date that the company was dissolved and thereafter to remove the records to the Archives and Records Management Office where such records will be disposed of in accordance with the Archives' laws and rules (s. 455(3)). There are no such requirements in Zanzibar. The period of two years required to retain the records by the Registrar falls short of the 5 years required under the criterion. Reporting entities in Tanzania Mainland are required to retain records for a minimum period of ten years from the date when all activities to a transaction or a number of linked transactions are completed; or when the business relationship was formally ended; or where the business relationship was not formally ended but when the last transaction was carried out. The reporting entity where such records are required before the end of the ten-year period, shall keep copies of such records and for a matter under investigation, retain all relevant records for as long as required by the FIU (Regulation 30 of the AMLA Regulations). Zanzibar has got similar requirements (Regulation 39 of the AMLPOCA Regulations).

Criterion 24.10 – (Met) Competent authorities, including law enforcement authorities have the necessary powers to obtain timely access to basic and beneficial ownership information held by relevant parties. All information kept by the Registrar is accessible to members of the public and law enforcement authorities. There are no restrictions on accessing of information retained by the Registrar (s. 458-I(a), (b) of Companies Act, Tanzania Mainland) on basic and shareholders and members who might be the ultimate beneficial owners, although this might not always be the case. Law enforcement authorities in both Tanzania Mainland and Zanzibar have got powers to ask for information and documents that may be required for an investigation from any person (s. 2 of the Criminal Procedure Act, s. 10(b) of the Corruption Prevention and Combating Corruption Act, Tanzania Mainland and 24 of Zanzibar Anti-Corruption and

Economic Act). In addition, s. 63A of the POCA Miscellaneous Amendment Act, 2007 empowers a Police Officer to investigate a bank account and obtain copies of relevant documents from the account including on BO information.

Criterion 24.11 - (Partly Met) Under s. 85 of the Companies Act, Tanzania Mainland, and s. 90 of the Companies Act, No. 15 of 2013 Zanzibar, a company limited by shares, if authorised by its articles, may with respect to any fully paid-up shares, issue under its common seal a warrant setting out that the bearer is entitled to shares specified therein, and may provide for payments by coupons or otherwise, for future dividends on the shares included in the warrant and the share warrant entitles the bearer thereof to the shares specified therein and the shares may be transferred by delivery of the warrant. However, ss. 86 and 87 of the Companies Act, Tanzania Mainland, and ss. 91 and 92 of the Companies Act Zanzibar, set out various acts relating to the share warrants which are prohibited. Share warrants can be converted into registered shares in both Tanzania Mainland (s. 117 of the Companies Act, 2002) and Zanzibar (s. 118 of the Companies Act No. 15 of 2013). These requirements however fall short of the requirement to ensure that share warrants are not misused for money laundering or terrorism financing purposes in that they do not prohibit bearer shares and share warrants; or prohibit the conversion of bearer shares and share warrants into registered shares or share warrants through, for example through dematerialization. The provisions do not also have measures or requirements for immobilising bearer shares and share warrants by requiring them to be held with a regulated financial institution or professional intermediary. They also do not require shareholders with a controlling interest to notify the company and for the company to record their identity.

Criterion 24.12 – (Not Met) The authorities contend that s. 122 of the Companies Act, Tanzania Mainland which provides as follows: *No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the Registrar* by implication prohibits nominee shareholders and nominee directors. The word “trust” is not defined in the Companies Act to enable the assessors to conclusively say that this is what the section implies by using the word. No other authoritative source supporting this view was provided by the authorities.

Criterion 24.13 – (Partly Met) The provisions of the Companies Act of both Tanzania Mainland and Zanzibar provide a range of sanctions for non-compliance with the requirements of the two Acts. These range from refusal by the Registrar to register a company in the event of inadequate information being provided (ss. 14(5), 453(4), Regulation 8(6) of Companies Regulations 2017, Zanzibar); cumulative fines for failure to submit company returns (s. 128(3), s. 129(3)); failure to notify the Registrar of any changes to the information previously provided to the Registrar (s. 55). However, for all these violations there are no specific penalties provided in terms of either a fine or custodial term to enable determination to be made as to whether the sanctions for these violations are proportionate and dissuasive.

Criterion 24.14 – (Met) The MLA regime of the URT provides a wide range of mechanisms for formal and informal exchange of information with foreign authorities and counterparts. Basic information held by both the company registries of Tanzania Mainland and Tanzania Zanzibar is mostly accessible on the websites of the two registries, in addition to it being accessible at the offices of both Registries. The information on shareholders can be shared through police to police arrangements as police in URT have powers to access the information from the Company Registries of both Tanzania Mainland and Zanzibar. The information on shareholders and BO can also be obtained formally through requests made through the DPP’s office as the Central Authority for providing MLA (see R. 37 – 40). LEAs in URT have adequate powers to obtain BO information on behalf of foreign counterparts (see R. 31 and R. 40).

Criterion 24.15 – (Met) The addition of s. 8A to the Mutual Assistance in Criminal Matters Act, CAP 254 of 2002, through amendments introduced under the Written Laws (Miscellaneous Amendment) (No. 2) Act, 2018, mandates the DPP through various approaches provided under the section to monitor the quality of assistance in general. Under this section, the DPP has to ensure that requests for legal assistance conform to the laws of URT and expected international obligations; execute and arrange for the execution of such requests directly with foreign countries; certify or authenticate documents or materials provided in response to a request for assistance; negotiate and agree on conditions relating to such requests and ensure

compliance with the agreed conditions; and make arrangements deemed necessary to transmit the evidentiary material to requesting states or authorise another competent authority to do so.

Weighting and Conclusion

URT has complied with some criteria. While URT has legislation governing legal persons, it has not assessed the ML/TF risks relating to all types of legal persons created in URT. In addition, there are no express provisions prohibiting nominee shareholders and nominee directors. The sanctions regime for non-compliance with any of the requirements in the Companies Acts of both Tanzania Mainland and Tanzania Zanzibar is not clearly provided. On the other hand, Competent Authorities particularly LEAs have adequate powers to obtain both basic and BO information and also to assist foreign counterparts with the same information.

URT is rated Partly Compliant with Recommendation 24.

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R 34). The main technical deficiencies were that: no information on ownership and control of private trusts was available; no measures to prevent unlawful use of trusts for ML/TF purposes and the AML Act and POTA were not enforceable in Zanzibar.

Criterion 25.1- (Not Met)

Criterion 25.1(a)- There is no obligation on trustees to obtain and hold adequate, accurate and current information on the identity of the settlor, the trustees, the protector (if any), the beneficiaries and any other natural person exercising ultimate effective control over the trust. While s.3 of the Trustees Incorporation Act provides for the compulsory incorporation of charitable trustees, there is no requirement in the Act for the trustees or trustee making the application to disclose the full details of the settlor or the beneficiaries or any other natural person who has full control of the trust.

Criterion 25.1 (b) There is no provision in law requiring trustees to hold basic information on other regulated agents and service providers to the trust. To the extent that a trustee fits within the definition of a “reporting person”, they are therefore required to seek information from clients. It will then result in basic information being imparted by regulated agents of, service providers, including investment advisers’ managers, accountants and tax advisers.

Criterion 25.1(c) There is no law which requires professional trustees to maintain or retain any information on the trusts they would have been involved with for a period of five years after the trustees have ceased to be associated with the trust. TCSPs are not also designated as reporting entities in URT.

Criterion 25.2 (Not Met)- In the absence of URT having clear requirements for trustees to obtain and maintain information on settlor, protector (if any), beneficiaries, and on any other person exercising effective control over the trust, the requirement to keep this information accurate and up-to-date is not met. There are no requirements to keep information on beneficial ownership relating to legal arrangements accurate, up to date or to be updated on a timely basis.

Criterion 25.3 (Not Met)- There is no specific obligation as such for trustees to disclose their status to FIs and DNFBPs when establishing a business relationship or carrying out an occasional transaction. The obligation on reporting person, (which would include Financial Institutions and DNFBPs), as per the Regulations made under the AMLA and the AMLPOCA, to identify and verify customers or those acting on behalf of customers does not provide for the requirement.

Criterion 25.4 (Met)- There is no prohibition in law or enforceable means to prevent trustees from providing information relating to trusts to competent authorities, FIs and DNFBPs. On the *Mainland*, s.25 of the Trustees Incorporation Act, Cap 318 R.E 2002) provides a means for any person (which would include the competent authorities, FIs and DNFBPs) to request and obtain certified extract of documents available on request by the public.

Criterion 25.5 (Partly Met)- Competent Authorities particularly LEAs have got powers to obtain relevant information held by FI and DNFBPs, regarding trusts created in, or operating in, URT, including information on the residence of the founder (settler), trustee and beneficiaries any assets held or managed by a FI or DNFBP. Some of the relevant provisions are set down below. LEAs on Tanzania Mainland have powers to apply for a search warrant, property tracking document upon reasonable suspicion of an offence being committed or conviction (s. 63 of POCA); in terms of s. 10(b) of the same Act; an officer may order production of any book, document or certified copy or article which may assist the investigation of an offence; powers described under R. 4.2(e) to identify, trace and evaluate tainted property and proceeds of crime also apply to this criterion. FIs upon reasonable grounds that information about an account is relevant to the investigation of an offence or prosecution, may provide the said information to LEAs (s. 70(1) of POCA). In Tanzania Zanzibar, the DPP can issue summons to a person to produce a document to an LE officer (s. 132 of the Criminal Procedure Act), and s. 24 of the Anti-Corruption and Economic Act allows officers to apply for production orders to obtain documents and any other information needed for an investigation, and LEAs also have powers to apply for a search warrant to look for property tracking documents held by any person, when there is reasonable ground to suspect that the document is in relation to an offence. Information on the ultimate beneficial owner or natural persons with effective control of trusts may be obtained from FIs, particularly banks, and some of the DNFBPs listed as reporting entities which are under obligation to obtain such information as part of their CDD when entering into a business relationship or occasional transaction with such entities (see R. 10). However, this will only apply where the trust or a professional trustee on behalf of the trust holds an account with a bank as it is not compulsory for a trust to hold an account with a bank in URT. Therefore, although LEAs have powers to access BO information, such information may not always be available in a timely manner.

Criterion 25.6 (Mostly Met)

Criterion 25.6 (a) International co-operation for the provision of documents and other records is addressed under S. 4 (b) of Mutual Assistance in Criminal Matters Act, 1991. This provision enables authorities to seek and provide information which will include beneficial interests. Reference is made to section 35 of the MACM, as amended in 2018, which enables the DPP, whenever criminal proceedings are ongoing or about to be initiated in the foreign state, to refer the request to the head of the relevant agency, who will then make full use of their domestic investigative powers to comply with the request.

Criterion 25.6 (b) Information held by registries and other domestic authorities is made available to any person upon request, under s. 25 of the Trustees Incorporation Act, Cap 318 R.E 2002) (*Mainland Tanzania*). Likewise, under s.7 of the Land Perpetual Succession Decree Cap. 101, request to the appropriate body may be made by any person. S.18 and S.19 of Business Entity Registration Act No.12 of 2012 ensure that information is accessible. Moreover s.5 of the MACM, as amended in 2018, of the Mutual Assistance in Criminal Matters Act, 1991, is to the effect that assistance in a criminal matter is not restricted to the provisions under the said act.

Criterion 25.6 (c) Sections 6 and 7 of the MACM Act set out the circumstances in which mutual assistance shall not or may not be considered. Otherwise, there is no restriction upon competent authorities and the latter may therefore use their investigative powers in accordance with domestic law in order to obtain beneficial ownership information on behalf of foreign counterparts. The DPP is entrusted to handle the requests and will refer it to the appropriate LEA for needful action. Reference is made to s.35 of the MACM, as amended in 2018. However, the limitations in obtaining BO information described in c. 25.5, above also apply to the whole of this criterion.

Criterion 25.7-25.8 (Not Met) - The duties of trustees under this Recommendation are not adequately provided for under URT's legal and regulatory framework. There is no clearly spelt out duty on trustees to obtain and hold information relating to the trustees, settlor, beneficiary, any person who exercises ultimate control over the trust as well as information on other professional intermediaries with whom a trust has a relationship. In the absence of such obligations, there is therefore no clearly defined liability or sanction on trustees in relation to these requirements.

Weighting and Conclusion

While URT has legislation governing legal arrangements, there are no specific provisions which address the requirements of this Recommendation. There is no obligation on trustees to obtain and hold adequate, accurate and current information on the identity of the settlor, the trustees, the protector (if any), the beneficiaries and any other natural person exercising ultimate effective control over the trust. There is no provision of the law in the URT requiring trustees to hold basic information on other regulated agents and service providers to trust. There is no law which provides for trustees to maintain or retain any information on the trusts they would have been involved with for a period of five years after the trustees have ceased to be associated with the trust. There are no requirements to keep information on beneficial ownership relating to legal arrangements accurate, up to date or to be updated on a timely basis. Information on the ultimate beneficial ownership or natural persons with effective control may not be available, as it is not required to be kept by trustees (see c. 25.1). Moreover, access to information may not be timely in all cases as not all trustees deal with FIs, URT being largely a cash economy. There is no clearly defined liability or sanction on trustees in relation to these requirements.

URT is rated Non-Compliant with Recommendation 25.

Recommendation 26 – Regulation and supervision of financial institutions

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R.23). The main technical deficiencies were that: the AML Act had not designated any competent authority with responsibility for ensuring compliance by FIs with AML/CFT requirements; no legal or regulatory measures for preventing criminals or their associates from holding or being a beneficial owner of significant interest in FIs; no legal requirement for licensing or registration of stand-alone MVTS operators and the AML Act and POTA were not enforceable in Zanzibar. The new FATF Recommendation strengthens the principle of supervision and controls using a risk-based approach.

Criterion 26.1 (Mostly Met)-In relation to Mainland Tanzania, ss.3 and 23A of the AMLA designate the BoT, CMSA and the TIRA as competent authorities responsible for monitoring and ensuring compliance of financial institutions with AML/CFT requirements. However, in Zanzibar, the legal framework only designates BoT and TIRA as supervisory authorities (s.2 and s.18A of AMLPOCA). Insurance sector does not have a designated supervisory authority. In addition, some FIs are not covered as reporting entities and therefore not subject to AML supervision (see details under R.10).

Criterion 26.2 (Mostly Met)-Under s.6 of the BAFIA, ss 32–35 of the CMSA, Core Principles financial institutions other than insurance companies, are required to be licensed. Under s.21 of the Insurance Act, an insurer is required to be registered. Money or value transfer service providers are required under section 5 of the National Payment System Act, to be licensed by the BoT. Under Regulation 4 of the Foreign Exchange (Bureau de Change) Regulations, 2015, a person is prohibited from engaging in bureau de change business without a valid licence issued by the BoT.

Regulation 26(2) of the Banking and Financial Institutions (Licensing) Regulations, 2014 prohibits a bank from commencing business unless its business premises have been inspected by the BoT. However, this requirement falls short of measures required to prevent the establishment, or continued operation, of shell banks. The FATF definition of “physical presence” specifically requires that meaningful mind and management of a bank must be located within a country.

Criterion 26.3 (Partly Met) BoT and TIRA take regulatory measures to prevent criminals and their associates from holding a significant or controlling interest, or a management function, in a financial institution (ss 8 and 9 of BAFIA and s.26 of Insurance Act). BoT investigates the character of the shareholders, board directors, chief executive officers and any officer directly reporting to the chief executive officer. Furthermore, under Regulation 13 of the Banking and Financial Institutions (Licensing Regulations), BoT is required to conduct background checks to satisfy itself that proposed directors or senior managers of a bank or financial institution members are fit and proper to hold the position. The fit

and proper tests include checking the criminal records of proposed directors or senior managers. However, for both BoT and TIRA the regulatory framework does not cover prevention of criminals from becoming beneficial owners of a significant or controlling interest in a FI. In relation to CMSA licencees, the entry controls do not include evaluating criminal background of shareholders and beneficial owners (s. 36 of CMS Act and the Capital Market and Securities (licensing) Regulations).

Criterion 26.4 (Partly Met)

- a) The BoT, CMSA and TIRA subject their licensees to AML/CFT supervision consistent with the Basle Core principles where relevant for AML/CFT purposes [s.23A of the AMLA and s.18A of the AMLPOCA]. The supervisors are mandated to (a) enforce compliance with the requirements of the AML Act and AMLPOCA (b) conduct onsite and offsite examinations for purposes of monitoring compliance by its licencees. However, there it is not clear whether this covers consolidated supervision for AML/CFT purposes.
- b) Other FIs such as those which provide money or value transfer service providers are designated as reporting entities and therefore subject to compliance monitoring with AML/CFT requirements. As indicated under R.10, money or currency changing service provider don't appear to be designated reporting entities.

Criterion 26.5 (Not Met) The BoT applies a risk-based approach to prudential supervision of its licensees of which compliance risk is an integral part. ML/TF risk falls within the compliance risk. In view of the fact that compliance risks constitute a small percentage of prudential risks, even where the ML/TF risk rating may be high, it may be affected/overshadowed by ratings of variables under prudential risks in the overall rating. On this basis, the frequency and intensity of AML/CFT supervision is not on the basis of ML/TF risks. Hence, the system does not meet the requirements of criterion 26.5. Further, the authorities did not provide any information on the approach to ML/TF supervision of the CMSA and TIRA to satisfy the requirements of criterion 26.5.

Criterion 26.6 (Not Met) Supervisors do not review the assessment of ML/TF risk profile of FIs or group whether periodically or when there are major event or developments in the management and operations of the FI or group.

Weighting and Conclusion

BoT and the TIRA are designated as competent authorities responsible for monitoring and ensuring compliance of financial institutions with AML/CFT requirements in URT whereas CMSA is designated for Mainland Tanzania and not Zanzibar. All financial sector supervisory authorities do not carry out risk-based AML/CFT supervision. There are moderate shortcomings with regard to R.26.

URT is rated as Partially Compliant with R. 26.

Recommendation 27 – Powers of supervisors

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R29). The main technical deficiencies were that: supervisory authorities did not have adequate powers to monitor and ensure compliance by FIs with AML/CFT requirements; some FIs were not covered for AML/CFT purposes; supervisory authorities did not have authority to conduct onsite inspection; no powers to sanctions FIs, directors and senior management and the AML Act and POTA were not enforceable in Zanzibar.

Criterion 27.1 (Met)-Under s.23A of the AMLA and s.18A of the AMLPOCA Act, supervisors have powers to monitor and ensure their regulated entities comply with AML/CFT requirements.

Criterion 27.2 (Met)-Under section 23A of the AML (Amendment) Act and section 18A of the AMLPOCA, supervisors have authority to conduct inspections of their regulated entities to check their compliance with AML/CFT requirements.

Criterion 27.3 (Not Met)-Under s.47 of the BOT Act, under s.11 of CMSA and under s.143 of the Insurance Act, all the three financial sector supervisory authorities have adequate powers to compel production of documents without the need for a court order. However, the powers are linked to the purposes of the respective legislations which do not specifically include AML/CFT matters and there is no cross reference to the AML Act and AMLPOCA.

Criterion 27.4 (Mostly Met)-Under sections 19A and 23A of the AMLA and sections 14A and 18A of the AMLPOCA, supervisors have powers to impose administrative sanctions for non-compliance with AML/CFT requirements. However, the authorities have not yet issued regulations prescribing the administrative sanctions in terms of s.19A of AMLA and s.14A of AMLPOCA.

Weighting and Conclusion

Supervisory authorities have powers to supervise and ensure compliance by FIs with the AML/CFT requirements; powers to conduct inspections and impose sanctions against non-compliance with AML/CFT requirements. However, there is need to issue regulations prescribing the administrative actions in terms of s.19A of AMLA and s.14A of AMLPOCA. There are minor shortcomings with regard to R.27.

URT is rated Largely Compliant with R.27.

Recommendation 28 – Regulation and supervision of DNFBPs

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R24). The main technical deficiencies were that: lack of designated supervisory authority to monitor and ensure compliance by DNFBPs with AML/CFT requirements; the legal framework did not provide for civil or administrative sanctions and the AML Act and POTA were not enforceable in Zanzibar.

Criterion 28.1 (Partly Met)-Casinos are designated as reporting entities and therefore subject to AML/CFT regulation and supervision (S.3 of AMLA and s. 2 of AMLPOCA).

- a) S.13 of the Gaming Act requires any person carrying out business or holding himself out as carrying on gaming activities or business or dealing in gaming business must hold a gaming license issued under the Act. However, as provided for under section 2 of the Gaming Act, the Act only applies to Mainland Tanzania and not to Zanzibar, because under s.175 and s.176 of the Penal Decree of Zanzibar, casinos are prohibited in Zanzibar.
- b) Regulation 3(f) of the Gaming Regulations also requires the Gaming Board of Tanzania to ensure that a gaming licence is not issued to any person who has been convicted of any criminal offence involving fraud or dishonesty. However, the measure falls short of extending to associates of criminals and does not preclude criminals from being beneficial owner of a gaming business or holding a management function, or being an operator of a casino.
- c) The Gaming Board of Tanzania is the designated supervisory authority for casinos licensed in Tanzania Mainland and it is mandated to (a) enforce compliance with the requirements of the AML Act (b) conduct onsite and offsite examinations for purposes of monitoring compliance by casinos (s.3 and s. 23A of AMLA). There is no designated regulator for casinos in Zanzibar because under s.175 and s.176 of the Penal Decree Act of Zanzibar, casinos are prohibited in Zanzibar.

Criterion 28.2 (Not Met)-In relation to Zanzibar, the Zanzibar Law Society is a designated supervisory authority responsible for monitoring and ensuring compliance by lawyers with AML/CFT requirements [s. 2 and 18A of AMLPOCA]. Although lawyers (in Mainland Tanzania), accountants, real estate agents and dealers in precious metals and stones are designated as reporting persons, the legal frameworks do not designate authorities responsible for monitoring and ensuring compliance with the AML/CFT requirements. The FIU has powers under s. 6(k) of AMLA to conduct inspection on the reporting persons for purposes of detecting any ML/TF activities. However, these powers do not necessarily mean the designation to ensure compliance with AML/CFT requirements.

Table TC 1:

Sector	Relevant legal provision	Designated regulator/ supervisor	
		Mainland	Zanzibar
Casino	s.3 and 23A of AML Act	Gaming Board	Not applicable
Accountants	None	None	None
Attorneys & Other Independent legal practitioners	s. 2 and 18A of AMLPOCA.	None	Zanzibar Law Society
Real Estate Agents	None	None	None
TCSPs	None	None	None
Dealers in Precious Metals and Stones	None	None	None

Criterion 28.3 (Not Met)-All the DNFBPs do not have supervisory authorities as indicated under c.28.2 above and therefore they are not subject to systems for monitoring compliance with AML/CFT requirements.

Criterion 28.4. (Partly Met)

- a) The designated competent authorities (the Zanzibar Law Society) have adequate powers to perform their functions, including powers to monitor compliance with AML/CFT requirements (s.23A of the AMLA and s.18A of the AMLPOCA).
- b) As highlighted above, apart from the Zanzibar Law Society and Tanzania Gaming Board, the rest of the DNFBPs do not have designated competent authorities for AML/CFT supervision. However, in relation to accountants, s.20(1) of the National Board of Accountants and Auditors (Membership and Registration) By-laws, 1997 (Revised 2012) provide criteria for disqualification of a member of NBAA. The criteria include conviction on financial crime offences. With regard to lawyers, under section 8(3) of the Advocates Act 2002, the Chief Justice is required to consider the adequacy of the professional legal qualification, testimonials regarding the character and the general suitability of an advocate who has applied for admission to the advocates roll. Through this mechanism, criminals are prevented from obtaining an advocate's practicing certificate. As for dealers in precious metals and dealers in precious stones, s. 74(1) of the Mining Act, 2010 provides that a license will not be granted to an applicant who has been convicted of a criminal offence relating to the buying and selling or possession of mineral or minerals. This means that a person who was convicted of other financial crimes would not be disqualified. In addition, in the real estate sector, there is no designated competent authority with the responsibility of preventing criminals from entering the real estate agents' market. Overall, designated competent authorities in Zanzibar and on the Mainland take the necessary measures to prevent criminals or their associates from being professionally accredited, or holding (or being the beneficial owner of) a significant or controlling

interest, or holding a management function in a DNFBP except for a shortcoming identified for real estate agents and precious metals and dealers in precious stones.

- c) The regulators have sanctions available to them to apply against violation of the AML/CFT requirements in terms of S.23 (A) (c) of AMLA) and s.18A of AMLPOCA However, deficiencies cited under R.35. also apply here.

Criterion 28.5. (Not Met)-There is no provision in law or regulation that allows for risk-sensitive supervision of DNFBPs including:

- a) Determining the frequency and intensity of AML/CFT supervision of DNFBPs on the basis of their understanding of ML/TF risks, taking into account their different characteristics; and
- b) Taking into account the ML/TF risk profile of those DNFBPs when assessing the adequacy of their AML/CFT internal controls, policies and procedures.

Weighting and Conclusion

There are competent authorities with responsibility for implementing measures to prevent criminals and their associates from participating in the ownership, control or management of DNFBPs except for real estate agents and TCSPs. Further, apart from the Gaming Board of Tanzania and the Zanzibar Law Society, there are no other designated AML/CFT supervisory authorities responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements. Furthermore, there is no AML/CFT risk-based supervision of the DNFBPs. Considering the high ML/TF risks in the DNFBP sectors for real estate agents, lawyers and dealers in precious metals and stones, these are major shortcomings with regard to R.28.

URT is rated Non-Compliant with R.28.

Recommendation 29 - Financial intelligence units

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R26). The main technical deficiencies were that: since AML Act was not applicable to Zanzibar, the FIU was not a national centre; the FIU had not yet issued guidelines, including STR reporting guidelines; no legal provisions empowering the FIU to have access to information on a timely basis and no mechanisms in place to facilitate sharing of information with competent authorities.

Criterion 29.1(Met)-The FIU is established under s.4(1) of AMLA as an Extra Ministerial department which in definition, operates or undertakes its functions independent of oversight of the Ministry of Finance. The FIU is recognised in Zanzibar as provided in terms of s.6A (1) of AMLPOCA (amended). In relation to Tanzania Mainland, the FIU receives and analyses STRs and other relevant information on Money Laundering, associated predicate offences and terrorism financing and disseminates financial intelligence to law enforcement agencies for investigation and possible prosecution under s.4(2) and s.6(a) – (b) of AMLA. In relation Zanzibar, the legislation states that the FIU shall be responsible for receiving, analyzing and disseminating information received from the reporting persons and other sources from within and outside Zanzibar [s.6A (2) of AMLPOCA as amended].

Criterion 29.2 (Partly Met)-URT has established an FIU under s.4 (1) of AMLA which is recognized in Zanzibar under s.6A (1) of AMLPOCA (amended). However,

- a) In relation to Mainland Tanzania, the FIU receives STRs filed by reporting persons in accordance with R.20 and R. 23 [S.4(2) and s.6(1)(a)-(c) of AMLA (as amended)]. In relation to Zanzibar, there is no explicit reference in the legislation to receipt of STRs but information [s.6A (2) of AMLPOCA]. In addition, the word ‘information’ has not been defined.
- b) In relation to Mainland Tanzania, the FIU has the mandate to receive currency transaction reports, cross border declarations and electronic funds transfers (s. 4(2) of AMLA). On the other hand, the legislation for Zanzibar is not explicit- it simply states that the FIU shall be responsible for receiving information from the reporting persons [See s. 6A (2) of AMLPOCA].

Criterion 29.3 (Mostly Met) The FIU has powers to:

- (a) request additional information from reporting entities as needed to perform its functions [s.6 (1) (i) of AMLA, Regulation 32(1) of AMLA Regulations and s.12 (3) of AMLPOCA].
- (b) access a range of financial, administrative and law enforcement information that it requires to properly undertake its functions [s.6(1) (j) of AMLA (amended)]. However, the section limits the agencies from which the FIU can access information as it has specified reporting entities, supervisors and LEAs. This seems to exclude land registries, company registries etc. S.6B (2) of AMLPOCA provides for application of provisions of AML Act relating to FIU in Zanzibar.

Criterion 29.4 (Met)-There is no explicit legislative requirement to conduct either operational or strategic analysis of information related to ML/TF. However, the FIU conducts:

- a) operational analysis and this have been demonstrated by providing statistics of dissemination of operational analysis products and having a manual for operational analysis.
- b) strategic analysis and has produced Strategic analysis products that have been shared with TRA, ZRB and Tanzania Police.

Criterion 29.5 (Mostly Met)- S.6 (b) of AMLA (as amended) provides for the FIU to disseminate reports to LEAs after having established that there are reasonable grounds for suspicion of money laundering and relevant predicate offences. The provision further provides for the FIU to disseminate to LEA information derived from inspections; and where the FIU has reasonable ground that a transaction involves proceeds of crime or terrorist financing. The intelligence reports are disseminated physically (hand delivery) and delivery is preceded by telephone calls to ensure that the reports are handed to the right recipients. However, there is no provision which provides for submission of intelligence reports by the FIU upon request.

Criterion 29.6 (Met) - The FIU protects information by:

- a) having an ICT security policy and guidelines to protect information throughout its business process.
- b) All FIU staff undergo security clearance and such staff have general security training and awareness so that they understand their responsibilities of handling and disseminating sensitive and confidential information.
- c) The FIU is located in a secure *location* with restricted access to the premises and network resources. The premises are guarded by police and private security company. This also applies to computerized information systems. Apart from relevant ICT staff, only financial Analysts are registered and can login into the computer system called goAML, which is used for analysis of STRs and other AML/CFT reports.

Criterion 29.7 (Partly Met)-

- a) S.4 (3) of AMLA (as amended) provides for operational independence of the FIU for it to effectively discharge its functions [(s.4(3) of AMLA as amended)]. However, s. 6(3) of AMLPOCA (as amended) states that the provisions for establishment of the FIU in AMLA, shall, in so far as they relate to their application in Zanzibar, not be deemed to have been automatically amended when they are amended by' the Parliament and that the amendment shall not apply and extend to Zanzibar until the same be amended by the House of Representatives of Zanzibar.
- b) The FIU is also able to exchange information with other FIUs through Egmont secure web. However, there is no explicit provision in the legislation which enables the FIU to exchange information with other domestic competent authorities.
- c) The FIU is not located within and it is not part of any other authority or organisation. It is established as an independent Extra Ministerial department, with distinct core functions.

- d) The FIU is able to obtain and deploy its resources in discharge of its responsibilities without any undue political, government or industry interference. S.24 of AMLA states: “The funds of the FIU shall consist of – (a) such sums as may be appropriated by the Parliament; and (b) grants and donations lawfully received by the FIU.” The FIU has its own vote (Vote 13) and budget as allocated by Parliament annually and it does not seek approval from any other authority to spend its budget.

Criterion 29.8 (Met) URT FIU is a member of Egmont Group of FIUs. It has been a member since June 2014.

Weighting and Conclusion

URT established an FIU under s.4 of AMLA and s. 6 of AMLPOCA. However, there are minor deficiencies. In relation to Zanzibar, there is no explicit reference in the legislation to receipt of STRs and other information relevant to ML, associated predicate offences and TF. In addition, the word ‘information’ has not been defined. a) S.4 (3) of AMLA (as amended). The AMLA, was amended, provides for operational independence and additional powers of the FIU for it to effectively discharge its functions. However, there is no evidence that the amendments were adopted for Zanzibar as required under AMLPOCA.

URT is related Largely Compliant with Recommendation 29.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

In its MER under the First Round of MEs, Tanzania was rated Largely Compliant with requirements of this Recommendation (formerly R27). The main technical deficiency was that the AML Act and POTA were not applicable to Zanzibar. The deficiency identified has been addressed with the POTA now applicable in Tanzania Zanzibar and Tanzania Zanzibar having enacted its AMLPOCA.

Criterion 30.1 (Met)-LEAs responsible for investigation of ML/TF have been identified and named, under s. 3 of AMLA (*Mainland*), and s.2 of AMLPOCA (*Zanzibar*). LEAs entrusted to investigate ML, TF and associated predicate offences are Tanzania Police Force, Prevention and Combating Corruption Bureau, Tanzania Revenue Authority, Drug Control Enforcement Authority, Zanzibar Anti-Corruption and Economic Crime Authority, Immigration Services, Tanzania Wildlife Authority and Zanzibar Revenue Board. The definition extends to any other investigative agency authorized to perform investigation of money laundering or terrorism financing. This would include ZAECA which is not listed under the AMLPOCA.

Criterion 30.2 (Met)-There is no central agency with the mandate to carry out financial investigation. However, the same LEAs, listed under Criterion 30.1, and ZAECA, which are responsible for investigating predicate offences, have powers to conduct parallel financial investigations. Joint investigations may also be carried out between the different agencies and a case may be referred to another agency for more investigations, particularly where specialised investigations are required.

Criterion 30.3 (Met)-LEAs listed under the POCA and AMLA, in the course of any investigation would also be required to identify, trace and initiate freezing or seizing, of any property upon reasonable grounds, that the property constitutes tainted property, which includes proceeds of crime. Although URT may designate one authority to deal with investigation of proceeds of crime, joint task forces can be established to investigate and identify proceeds of crime where necessary.

Criterion 30.4 (Met)-The URT has listed among LEAs, Tanzania Revenue Authorities and Zanzibar Revenue Board as Law Enforcement Agencies, mandated to investigate tax related offences. The authorities have not indicated any other competent authority, which is not an LEA, but mandated with the responsibility to pursue financial investigation of predicate offences.

Criterion 30.5 (Met)-The statutory framework of PCCB and ZAECA, which are the two bodies designated to investigate and deal with corruption issues in both Tanzania Mainland and Tanzania Zanzibar, respectively, enable these agencies to identify, trace and initiate freezing and seizing assets. Under ss 10, 12

and 34(2) of the Prevention and Combating of Corruption Act, the PCCB has power to obtain information that will assist it in the identification of assets, search and seizure and freezing of assets. Whilst in Tanzania Zanzibar, ss 15, 22, 24 & 25 of the Zanzibar Anti-Corruption and Economic Act, provide ZAECA with powers to obtain information and records and to conduct search on premises, that will ultimately assist in the identification of asset and seizure of assets.

Weighting and Conclusion

All criteria are fully met. **URT is rated Compliant with Recommendation 30.**

Recommendation 31 - Powers of law enforcement and investigative authorities

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant with requirements of this Recommendation (formerly R 28). The main technical deficiencies were that: some FIs were not covered by POCA which undermined powers of LEAs to have access to financial records held by those FIs and that POCA and AML Act did not apply to Zanzibar. This Recommendation was expanded and now requires countries to have, among other provisions, mechanisms for determining in a timely manner whether natural or legal persons hold or manage bank accounts.

Criterion 31.1 (a)(Met)-LEAs responsible for investigations of money laundering, associated predicate offences and terrorist financing, can access necessary information and documents for investigation and prosecution through the use of various powers. These extend to documents held by banks and other financial institutions. Following amendment, the definition of banks and financial institutions under the Banking and Financial Institutions Act now applies to both Mainland and Zanzibar. Information may be provided upon or without a request. S. 63 A of the POCA provides for the investigation and placing under surveillance of bank accounts, while section 63 B (c) provides for access to notarial deeds, and records of financial institutions and commercial transactions. Recourse may also be made to property monitoring order which can be issued under section 65 (of POCA). The following sections of the POCA are relevant to LEAs during conducting of financial investigations, collecting information, including interviewing and recording of any statement from a person based on information or document on the property as provided under s. 31 B of POCA, as amended in 2018; s. 8 (5) of the POCA, empowers PCCB to seek and obtain records from Banks and any other source for investigation. In *Zanzibar*, LEAs may proceed under s. 68 of AMLPOCA for the production of a property tracking document when a person is reasonably suspected of having committed a serious offence. Section 14 (7) of the ZAECA enables inspection of accounts and books by ZAECA officers, whilst s. 24 of Zanzibar Anti-Corruption and Economic Act empowers it to require any person to provide a document or records that may be required for an investigation. Other powers of LEAs on production of documents, or thing relating to bank accounts are set out in ss. 132, 135 of the CPA 2018.

Criterion 31.1 (b) (Met)-LEAs responsible for investigations of money laundering, associated predicate offences and terrorist financing, have powers to conduct search of persons and premises. Under s. 25 of Zanzibar Anti-Corruption and Economic Act, search of persons and premises can be affected. Similarly, ss. 41 and 42 of AMLPOCA provide LEAs with powers to conduct search on persons and premises upon reasonable belief of possession of *tainted property*. S. 146 of CPA, 2018 enables a police officer in charge of a police station to affect a search, upon reasonable grounds that same is relevant to the commission of any offence. On Mainland Tanzania, the PCCB can proceed under s. 12 of the POCA to search of any person, or premises.

Criterion 31.1 (c) (Mostly met)- In Tanzania Mainland, s. 10(3) of CPA [Cap 20 R.E.2002] gives general powers to Police, including recording of witness statements. Different LEAs in Tanzania Mainland are also empowered under their own enactments to request attendance of any person for purposes of an interview in respect of any matter which may assist in an investigation, or in respect of any property (s. 10(a) of POCA). In addition, amendment 62B to POCA in 2018, now provides for recording of witness statements by PCCB. In Zanzibar, under section 15(a) of ZAECA 2012, a person may be ordered to appear before the Director General of ZAECA for the purpose of being interviewed on any matter which may assist the investigation

of an alleged offence. However, the recording of statements from witnesses is not expressly provided in other enactments in Zanzibar.

Criterion 31.1 (d) (Met)-URT has enabling powers providing for seizure and obtaining of evidence. LEAs investigating money laundering, associated predicate offences and terrorist financing, have powers to seize and obtain evidence. S. 29 of the POTA is applied to seize, remove and detain anything relevant to commission or likelihood of commission of an offence under the POTA. Under the POCA, LEAs on Mainland Tanzania, can proceed to seize tainted property in terms of ss. 31 (1) and (2). In Zanzibar, s. 41 of AMLPOCA provides for the search and seizure of property liable for confiscation with consent, the conduct of a search and seizure, under a warrant (s. 42) and emergency searches with seizure under s. 43. S. 25 of ZAECA Act is to the effect that search may be conducted, with or without warrant for any record, property or other thing which has not been produced as required and s. 26 provides for seizure of such records, property or any other thing.

Criterion 31.2 (a) (Met)- In Tanzania Mainland, s. 63B(b) and (c) of POCA and s. 30 of the Drugs and Prevention of Illicit Traffic Drugs Act of Zanzibar enable LEAs conducting investigations of ML, associated predicate offences and TF to use undercover operations techniques to gather evidence. S. 86 of the AMLPOCA (Zanzibar) and the equivalent provision in POCA which is s. 63(C) confers protection on investigators for acts done in furtherance of the need to gather evidence.

Criterion 31.2 (b) (Largely Met)-Section 31 of POTA, which is enforceable both in Tanzania Mainland and Zanzibar, empower LEAs conducting investigations of terrorism, associated predicate offences and TF to intercept communications, with leave of court but does not apply to ML and other predicate offences.

Criterion 31.2 (c) (Met)-LEAs conducting investigations of ML, associated predicate offences and TF can access computer systems. S. 63B(a) on the Amendments to POCA (Written Laws (Miscellaneous Amendments) No 15, 2007) provides for access of computer systems on Mainland Tanzania. The corresponding provision in Zanzibar is s. 85 (a) of AMLPOCA which provides for access to computer systems and network services. The following provisions are also relevant: ss. 136 to 147 of Criminal Procedure Act, which provide for a comprehensive range of powers including access and search of computer data and equipment during an investigation.

Criterion 31.2 (d) (Not Met)- The URT did not provide any laws confirming that controlled delivery is allowed or has been done.

Criterion 31.3 (a) (Met)-LEAs can have timely access to records held by FIs and DNFBPs in order to identify whether natural or legal persons hold or control account in any financial institution. In addition to the measures described under c. 31.1(a) on production orders, as already described in criterion 4.2(a), the DPP on Tanzania Mainland can also apply for monitoring order to be issued to any bank to provide information to the Inspector General of Police on an account of interest (s. 63A of the Written Laws (Miscellaneous Amendments) No 15, 2007 which amended the POCA). All measures which can assist in determining in a timely manner whether natural or legal persons hold or control accounts.

Criterion 31.3 (b) (Met)-There are mechanisms enabling competent authorities to either apply *ex-parte* or authorise access to public records as well as those held by Financial Institutions and DNFBPs to identify assets subject to an investigation without prior notification to the owner (see c. 4.1(a) and (c)). There is a prohibition on unauthorised disclosure of information on an account by a financial institution to which it is subject to a Monitoring Order (s. 66 of POCA). S. 31C criminalises the disclosure by any person of information relating to an impending or ongoing investigation under the POCA or any other law, with the intention to frustrate or interfere with the investigation. Under s. 16 of the AMLPOCA, banks and financial institutions may share information relating to its customers, with or without a request. The equivalent provisions to s. 66 of POCA are replicated in s. 76 of the AMLPOCA. The provisions adequately protect any information obtained under the POCA and the AMLPOCA of an on-going investigation from being disclosed.

Criterion 31.4 (Not Met)- Regulation 35 of AMLA Regulations and ss. 6A and 6B of AMLPOCA provide a statutory basis for FIU to interact with LEAs conducting investigations of money laundering, associated predicate offences and terrorist financing. Provision is made under both AMLA and AMLPOCA for the FIU to obtain information from reporting persons and other sources, from within and outside, for the purposes of analysis and dissemination. However, the URT has not enacted any provision to enable LEA to make requests for any relevant information from the FIU.

Weighting and Conclusion

The competent authorities in URT have adequate powers to enable them to carry out ML, predicate and TF investigations, and identification, tracing and seizing/confiscation of tainted assets. However, the absence of provisions enabling the LEAs to request for relevant information from the FIU to enhance their investigations compromises the extent of the quality of investigations and recoveries of tainted property done by most of if not all the LEAs.

URT is rated Partly Compliant with Recommendation 31.

Recommendation 32 – Cash Couriers

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly SR IX). The main technical deficiencies were that Tanzania had not implemented all the requirements of the SR IX.

Criterion 32.1 (Mostly Met)-Travellers entering or leaving URT with currency or bearer negotiable instruments (BNIs) are required to make a declaration to the customs authority [s.23 of AMLA (as amended) as read with Regulation 5 of AML (Declaration of Cross Border Currency and Negotiable Instruments) Regulations, s.18 of AMLPOCA as read with Regulation 29 of AMLPOCA Regulations]. However, there is no requirement to declare currency or BNIs transported through mail and cargo into or outside the territory.

Criterion 32.2 (Met)-All travellers carrying amounts above USD 10,000 of currency or BNIs under Regulation 5(2) of AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016 and Regulation 28 of AMLPOCA Regulations for *Mainland* and *Zanzibar*, respectively are required to make a written declaration.

Criterion 32.3 (N/A) - URT uses a declaration system.

Criterion 32.4 (Not Met)-In case of false declaration or failure to declare, there is no explicit requirement in law or regulation giving powers to the competent authorities to request and obtain further information from the carrier with regard to the origin of the currency or BNIs and their intended use.

Criterion 32.5 (Mostly Met)-In relation to Mainland Tanzania, Regulation 6 of AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016 as read with s.28B provide that any person who contravenes the requirement to declare currency or BNIs commits an offence and shall be liable upon conviction to pay between 100 and 500 mil TZ shillings or the equivalent of the amount involved, whichever is greater, or not more than 3 years imprisonment. False declaration can be construed to be a contravention of the declaration requirement. In addition to this, in terms of Regulation 6 of AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, a Customs Officer may impose a penalty of 10% of the falsely declared or undeclared amount provided that:

- a) the currency or BNIs are not related to TF, ML or any predicate offence;
- b) the currency or BNIs do not exceed Tanzanian Shillings or any foreign currency equivalent to USD 30,000;
- c) the person concerned admits in writing that he has committed the said offence and agrees to pay the penalty imposed.

The equivalent provisions for Zanzibar are s.81B of AMLPOCA and Regulations 30 and 31 of AMLPOCA Regulations. However, the threshold for Zanzibar is USD 10,000. The provisions in URT legal framework leaves some gaps which may lead to the sanctions not being proportionate and dissuasive. For instance, it implies that after paying a penalty of 10%, the balance of 90% of the falsely declared or undeclared amount is returned to the person. In addition, there are no administrative sanctions in relation to falsely declared or undeclared currency or BNIs of more than USD10,000 (for Zanzibar) or USD30,000 (for Mainland).

Criterion 32.6 (Met) The competent authority is required to submit a report in respect of every declaration form received under Regulation 7 of AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016 to the FIU within seven working days. For Zanzibar, Regulation 32 of AMLPOCA Regulations is to the same effect. The report includes information about passenger details, travel details, type of and value of the currency/ BNI and intended use of the currency/BNI (First Schedule of AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations).

Criterion 32.7 (Met) The authorities rely on the definition of Customs Officer under the AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016 and of AMLPOCA Regulations which includes “*Immigration officer and other government officials performing duties in relation to the customs who are coordinated with a customs officer in-charge at a particular exit and entry point*”. The URT has implemented mechanisms at entry and exit points for Customs Officers to liaise, coordinate and exchange information with LEAs.

Criterion 32.8 (a) (Not Met) There is no legal or regulatory provision which empowers competent authorities to stop or restrain currency or BNIs where there is suspicion of ML/TF in order for them to ascertain evidence of ML/TF or predicate offence.

Criterion 32.8 (b) (Not Met) There is no legal or regulatory provision which empowers competent authorities to stop or restrain currency or BNIs where there is a false declaration in order for them to ascertain evidence of ML/TF or predicate offence.

Criterion 32.9 (Met)- The declaration forms are retained by the Customs Officer In-Charge, a report of such declarations is submitted to the FIU within 7 days (Regulation 7 of AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016 and Regulation 32 of AMLPOCA Regulations). In order to facilitate international cooperation, the report submitted to the FIU includes:

- (a) all declarations above the prescribed threshold, which include the amount of currency/BNIs and identification data and travel details of the bearer;
- (b) information on false declarations, and
- (c) information on suspicions of ML/TF.

An accurate data recording system enables international co-operation and assistance in accordance with Recommendations 36 to 40.

Criterion 32.10 (Met) Regulation 10 (1) of AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016 prohibits and Regulation 10 (2) criminalises any disclosure by any person to any unauthorised third person any information collected through the declaration form, or which he came to know through his employment, except when such information is required by a law enforcement agency. The equivalent Regulation for Zanzibar is 36 of AMLPOCA Regulations.

Criterion 32.11 (Met) Sanctions imposed on persons who transport currency or BNIs which is related to ML/TF or a predicate offence are proportionate and dissuasive as they replicate:

- a) penalties for the ML or TF offences (see R.3 and R.5);
- b) Currency or BNI related to suspected ML or TF would be subject to seizure and confiscation (see R.4.

In addition, persons who transport currency or BNIs which is undeclared or falsely declared are subject to penalties as outlined under c.32.5.

Weighting and Conclusion

The set of Regulations under AML (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016 of AMLPOCA cover the requirements under this Recommendation. The issue is the extent to which suspicion, may arise, and be addressed, if there is no excess of prescribed threshold. There are no explicit requirements in law or under the Regulations giving powers to the Customs Officer or any other officer to temporarily seize, stop or restrain currency or BNIs for a reasonable period to determine whether evidence of ML/TF may be found where there is suspicion of ML/TF or predicate offence. Further, the Customs Officer is not provided with powers to request and obtain further information from the carrier with regard to the origin of the currency or BNIs and their intended use.

The URT is rated Partially Compliant with Recommendation 32

Recommendation 33 - Statistics

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R 32). The main technical deficiencies were that no statistics were collected on cross-border currency transportation; no mechanisms to record and maintain statistics on investigations, prosecution, convictions, mutual legal assistance, extradition etc.

Criterion 33.1 (a) (Partly Met) Under Regulation 36(2)(a) of AML Regulations for Mainland and Regulation 45(2)(a) of AMLPOCA Regulations) for Zanzibar, the FIU is required to maintain statistics on STR received and intelligence reports disseminated. However, there were discrepancies in the number of financial intelligence reports provided by the FIU and received by LEAs.

Criterion 33.1 (b) (Partly Met) Under Regulation 36(2)(g) of AML Regulations (Mainland), and Regulation 45(2)(g) of AMLPOCA Regulations, the FIU is required to include statistics of money laundering and terrorist financing analysis. There is no express mention of ML/TF investigations, prosecutions and convictions. In addition, FCU and NPS provided different statistics on investigations and prosecutions.

Criterion 33.1 (c) (Partly Met) Under Regulation 36(2)(h) of AML Regulations and Regulation 45(2)(h) of AMLPOCA Regulations, FIU is required to maintain comprehensive statistics on the number of cases and the amounts of property frozen, seized or confiscated, in relation to money laundering and terrorist financing. The authorities had been amending statistics on confiscations throughout the assessment period until F2F meetings.

Criterion 33.1(d) (Mostly Met) Regulation 36(2)(i) of AML Regulations and Regulation 45(2)(i) of AMLPOCA Regulations require FIU to maintain comprehensive statistics on mutual legal assistance and extradition requests made or received. However, there were discrepancies in the statistics provided by the NPS and MFA on the MLA requests received (see IO.2).

Weighting and Conclusion

Statistics fall within Union Matters under the Constitution, and have been dealt by way of Regulations to create an obligation on the FIU to maintain comprehensive statistics. However, there were discrepancies in statistics provided by different competent authorities and some statistics had been amended several times throughout the assessment period.

The URT is rated Partially Compliant with Recommendation 33.

Recommendation 34 – Guidance and feedback

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant with requirements of this Recommendation (formerly R. 25). The main technical deficiencies were that: the FIU had not issued guidelines to non-bank FIs and DNFBPs and the FIU was not providing feedback to reporting institutions.

Criterion 34.1 (Partly Met)

FIU

Under sub-section 6(f) of the AMLA and Regulation 34 of the AMLR (2012), the FIU has powers to issue guidelines to reporting entities in respect of suspicious transactions reporting, record keeping and other reporting obligations imposed on reporting persons under the Act. The FIU issued the following guidelines to reporting entities under the Bank of Tanzania (banking institutions), the Capital Market Securities Authority, the Tanzania Insurance Regulatory Authority, in order to assist reporting persons, apply national AML/CFT measures:

- Guidelines to Insurers
- Guidelines to Bank of Tanzania
- Guidelines to Banking Institutions
- Guidelines for Verification of Customers
- Guidelines to CMSA licences
- Guidelines to CIS.

In relation to feedback, Regulation 33 requires the FIU to provide reporting persons with feedback including acknowledgement of the receipt of STR and the results of the investigation, the status of the disseminated intelligence born from an STR, whether a report was found to relate to a legitimate transaction and information on the decision of the results.

Supervisors and other competent authorities

The NBAA also issued Guidelines for Accountants and Auditors. The rest of the regulators and competent authorities have not issued any guidelines. Furthermore, the supervisors and other competent authorities do not provide feedback to reporting persons.

Weighting and Conclusion

The FIU has issued guidelines to some reporting persons in the financial sector. However, designated AML/CFT supervisory authorities have not issued any AML/CFT guidelines to their regulated entities. The authorities have also not provided feedback to assist regulated entities in applying national AML/CFT measures. There are moderate shortcomings with regard to R.34.

URT is rated Partially Compliant with R.34.

Recommendation 35 – Sanctions

In its MER under the First Round of MEs, Tanzania was rated Non-Compliant with requirements of this Recommendation (formerly R17). The main technical deficiencies were that: no legal provisions in relation to civil and administrative sanctions; criminal sanctions did not apply to some violations/ non-compliance; some criminal sanctions did not apply to directors and senior managers of legal persons and the AML Act and POTA were not enforceable in Zanzibar.

Criterion 35.1 (Partly Met) There are a range of proportionate and dissuasive criminal and administrative sanctions available to deal with natural or legal persons that fail to comply with the AML/CFT requirements. However, the sanctions do not cover failure to comply with requirements R.13, R.14, R.15, R.16, R.18 and R.19.

a) R. 6: Targeted Financial Sanctions

Breaches of obligations related to TFS do not constitute criminal offenses. Regulation 23 of POTA Regulations empowers the FIU to apply administrative sanctions against reporting persons for non-

compliance with obligations to freeze funds or other assets without delay in relation to domestic designations, third party designations and UNSCR designations. The sanctions include a warning, removal from office any member of staff who caused or failed to comply and suspension of a business licence. However, monetary fines are not covered in these Regulations.

The sanctions are not provided for in the parent legislation. S. 48 (3) of the POTA Regulations require that every regulation ‘*should be brought before the National Assembly for approval and any regulation which is not so approved shall be deemed to be revoked from the date of disapproval, but without prejudice to anything previously done on the authority of those regulations.*’ Authorities have not provided evidence that these Regulations were approved by the National Assembly.

b) R. 8: Non-Profit Organisations

Regulators have access to a range of sanctions for failing to comply with relevant requirements [See analysis of c.8.4(b) and c.8.5].

c) R.9-23 (Preventive Measures and Reporting)

Various sections of AMLA and AMLPOCA provide criminal sanctions against non-compliance with obligations related to preventive measures and reporting of suspicious transactions. In addition, under ss.19A and 28B of the AMLA, sections 11, 12, 14, 14A of the AMLPOCA provide a range of proportionate and dissuasive criminal and administrative sanctions available to deal with natural or legal persons that fail to comply with the AML/CFT requirements. However, the sanctions do not cover failure to comply with requirements R.13, R.14, R.15, R.16, R.18 and R.19.

Criterion 35.2 (Partly Met) Under section 28B of the AMLA, where an offence under the AMLA has been committed by reporting entities, the sanctions are applicable not only to reporting entities but also to their directors, managers, controllers or principal officers of the reporting entities. Similarly, the administrative sanctions under Regulation 23 of POTA Regulations include sanctions against natural persons. However, there is no similar provision under AMLPOCA.

Weighting and Conclusion

There is a range of proportionate and dissuasive criminal and administrative sanctions available to deal with natural or legal persons that fail to comply with the AML/CFT requirements. However, the sanctions do not cover failure to comply with requirements under R.13, R.14, R.15, R.16, R.18 and R.19 and the breaches of the obligations related to TFS do not constitute criminal offenses. There are moderate shortcomings with regard to R.35.

URT is rated Partially Compliant with R.35.

Recommendation 36 – International instruments

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant with formerly R35 and Non-Compliant with formerly SR I. The main technical deficiencies were that: The Palermo and UN International Convention for the Suppression of the Financing of Terrorism (STF) had not been fully implemented; some protocols of the STF had not been ratified and that AML Act, POCA and POTA were not enforceable in Zanzibar. The deficiency concerning implementation of targeted financial sanctions is no longer assessed under this Recommendation but is now covered in R. 6.

Criterion 36.1 (Met) – URT acceded to the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention 1988) in 1996 and to the UN Convention Against Transnational Organized Crime (2000) (Palermo Convention) in July 2005. It also acceded to the UN International Convention for Suppression of Financing of Terrorism (1999) on 22 January 2003. It ratified the United Nations Convention against Corruption in May 2005.

Criterion 36.2 (Mostly Met) – URT, in particular Mainland Tanzania, has adopted legislative provisions to implement the provisions in Article 3 (on offences and sanctions related to narcotics and psychotropic

substances); Article 4 (on establishing jurisdiction over offences related to narcotics and psychotropic substances); Article 5 (on confiscation of instrumentalities); Articles 6 and 7 (on extradition and mutual legal assistance); Articles 8-11 (on transfer of proceedings, other forms of cooperation and training, international cooperation and controlled delivery); and Articles 15 and 19 (on commercial carriers and the use of the mails). The articles have been implemented pursuant to the Anti-Money Laundering Act, 2006; the Mutual Assistance in Criminal Matters Act; the Extradition Act; the Drugs and Prevention of Illicit Trafficking in Drugs Act and The Proceeds of Crime Act

Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34- c. 35.1)-URT has adopted legislative provisions to implement the provision in Articles 5, 6, 7,10, 11, 12-16, 18 (on criminalization of participation in an organized criminal group, on criminalization of the laundering of proceeds of crime; on establishing the FIU; liability of legal persons; prosecution, adjudication and sanctions for ML; confiscation and seizure of instrumentalities of crime; providing international cooperation for purposes of confiscation; establishing jurisdiction over ML offences; and extradition and mutual legal assistance). In addition, URT has adopted legislation to implement Articles 26, 27, 29, 30, 31, and 34 (on law enforcement and prevention of organized crime). They are implemented in the Anti-Money Laundering Act, 2006; the Mutual Assistance in Criminal Matters Act; the Extradition Act; the Proceeds of Crime Act and the Economic and Organized Crime Control Act.

URT has not as yet adopted legislative measures to give effect to the following provisions of the Palermo Convention: Article 24 & 25: the protection of witnesses and victims. Current laws only cater for assistance to be provided to victims, but not protection; Article 29: No training programmes for law enforcement personnel, including prosecutors, investigating magistrates, customs personnel and other personnel charged with the prevention, detection and control of the offences covered by the Palermo Convention. URT has adopted legislative measures to implement Articles 14-17, 23-24, 26-31, 38, 40, 43-44, 46, 48, 50-55, 57-58) of the Merida Convention. It has also taken steps to adapt legislative measures in line with the United Nations Convention for the Suppression of the Financing of Terrorism (TF Convention). Some deficiencies however exist as highlighted in Rec. 5 above.

Weighting and Conclusion

URT has not as yet adopted legislative measures to give effect to the following provisions of the Palermo Convention: Article 24 & 25: the protection of witnesses and victims.

URT is rated Largely Compliant with Recommendation 36.

Recommendation 37 - Mutual legal assistance

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant with formerly R36 and rated Non-Compliant with formerly SR V. The main technical deficiencies were that: AML Act, POCA and POTA were not enforceable in Zanzibar and there MLA for investigation and prosecutions relating to Zanzibar could not be provided; the Banking and Financial Institutions Act had secrecy provisions which would impact on requests for MLA relating to records kept by FIs; no statistics to determine that assistance would be provided in a timely manner and no provision for avoiding conflict of jurisdiction.

Criterion 37.1 (Met) – URT has a legal basis for provision of a wide range of mutual legal assistance in relation to ML, predicate offences and TF investigation and prosecution. The Mutual Assistance in Criminal Matters Act, [Cap 254 R.E.200] (MACM) which is applicable throughout URT in accordance with Article 64 (4) (c) of the URT Constitution. The Act provides for mutual assistance in criminal matters between URT and foreign countries and facilitates the provision and obtaining by URT of such assistance. Ss 3, 4 and 5 of the MACM provides a legal basis to allow a mutual legal assistance in relation to ML, associated predicate offences and terrorist financing investigations, prosecutions and related proceedings. The MACM does not distinguish between ML, TF or any other serious predicate offence. It defines a money-laundering offence, in relation to the proceeds of a serious narcotics offence as meaning an offence involving, (a) the engaging, directly or indirectly, in a transaction which involves money or other property; which is, in terms

of the Proceeds of Crime Act; (b) the receiving, possessing, concealing, disposing of property, which is proceeds of crime in terms of the Proceeds of Crime Act. Under the POCA, serious offence includes ML and a predicate offence. S. 8A(d) of MACM Act which was introduced by the September 2018 amendment, allows the Director of Public Prosecutions to take practical measures to facilitate the orderly and rapid disposition of requests for legal assistance.

Criterion 37.2 (Met)- The Director of Public Prosecutions (DPP) as the central authority for transmission and execution of requests³⁸. S. 8 provides that any request by URT for assistance in any criminal matter shall be made by the DPP (previously Attorney-General) while S. 9 stipulates that a request by the appropriate authority of a foreign country for assistance in a criminal matter shall be made to the Attorney-General (now Director of Public Prosecutions). S.11 of the National Prosecution Service Act provides for that the NPS shall take the necessary steps to facilitate mutual assistance in criminal matters. DPP has a prioritisation policy in place for incoming and outgoing requests by which Treaty requests are prioritized above non-treaty requests. Crimes of ML and TF including terrorism cases, are given a high priority. There is a dedicated Unit at the Office of the DPP that is responsible for the handling of requests. The Office of DPP maintains procedures for a case management system.

Criterion 37.3 (Met) – MLA is not prohibited or made subject to unreasonable or unduly restrictive conditions. S.5 of the MACM provides that nothing in the Act shall be construed as preventing the provision or obtaining of assistance in criminal matters otherwise than as provided in that Act. S.6 provides the grounds upon which MLA may be refused. In terms of s.3, the Minister requires to be satisfied of the existence of reciprocal arrangements before applying the provision of the Act to a foreign country. This does not however apply in the case of assistance in relation to taking of evidence and production of documents or other articles. Further, under S. 3(2) the Minister may stipulate conditions or modifications with respect to a specified foreign country.

The provisions of S.3 imply that MLA can be refused if there are no reciprocal arrangements in place or the Minister stipulates conditions or modifications. It seems like this may be on a case to case basis and not a blanket rule.

Criterion 37.4 (Met) –

- a) S.6 of the MACM Act provides the grounds upon which URT may refuse a request for MLA. Refusal on the sole ground that the offence is also considered to involve fiscal matters is not one of the circumstances or grounds listed in that section.
- b) Similarly, under s.6 of the MACM Act, mutual legal assistance request cannot be refused on the grounds of secrecy or confidentiality requirements on financial institutions or DNFBPs.

Criterion 37.5 (Met) – The MACM Act was amended in September 2018 to provide a new section S. 9A which requires the maintaining of confidentiality of a request and its contents and the information and materials supplied except for disclosures specified in the request and where otherwise authorised by the requesting state.

Criterion 37.6 (Met) – The legislation in URT is not explicit on coercive or non-coercive action. The wording of the provisions, however, seems to suggest that dual criminality will be a consideration where the mutual legal assistance requires involves coercive action.

Criterion 37.7 (Met) – URT appears to focus on the underlying criminal act and not the terminology. The test is based on the act or conduct constituting the offence, not categorization of the offence in the same terminology.

³⁸ The MACM was amended by the Written Laws (Miscellaneous Amendments) (No.2) Act, 2018 in September 2018 in various areas. Amongst the amendments was to substitute the Attorney General with the Director of Public Prosecutions.

Criterion 37.8 (Partly Met) – LEAs in URT can use some powers and investigative techniques that are required under R. 31 or otherwise available to domestic competent authorities in response to MLA requests. In particular:

- (a) S.13 (2) provides for search warrants; S.13 (3) provides for search and seizure warrants; Ss.13(4) and (5) provide for search and seizure on land or premises; S.11 (1) (a) authorizes the DPP to authorise the taking or collection of evidence or production of documents or other articles, and the transmission of such evidence, documents or other articles; S.11 (2) (c) provide for interviewing of a person and recording of his statement and collection of documents, articles or other materials. There are however no provisions relating to the production of records held by financial institutions, DNFBPs and other natural or legal persons for MLA purposes.
- (b) mutual legal assistance in criminal matters as defined in the amended S.4 of the MACM Act includes, intercepting communications and accessing computer systems. It does not however include undercover operations and controlled delivery.

Weighting and Conclusion

The legal framework of URT meets the requirement of this Recommendation to a large extent. However, there are minor deficiencies. MLA in criminal matters as defined in the amended S.4 of the MACM Act does not include undercover operations and controlled delivery.

URT is rated Largely Compliant with Recommendation 37.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant with requirements of this Recommendation (formerly R. 38). The main technical deficiencies were that: instrumentalities to be used for the commission on an ML, TF or predicate offence were not covered; definition of property did not include property of corresponding value; no formal arrangements to coordinate seizure and confiscation actions with foreign jurisdictions; no provision for establishment of an Asset Forfeiture Fund and AML Act, POCA and POTA were not enforceable in Zanzibar.

Criterion 38.1 (Partly Met) – S.37 of the POCA which is similar to S.47 of the AMLPOCA empowers a police officer to apply for a search warrant for tainted property in respect of a foreign specified offence. The Written Laws (Miscellaneous Amendments) (No.2) Act, 2018 substituted the term “foreign specified offence” in the Act with the words “foreign serious offence”. A similar amendment has not however been undertaken in the AMLPOCA. Tainted property has been defined in the POCA, in relation to a serious offence, as meaning - (a) any property used in, or in connection with, the commission of the offence; (b) any proceeds of the offence; or (c) any property in the United Republic which is the proceeds of a foreign serious offence in respect of which an order may be registered in terms of Part VI of the Mutual Assistance Act; and when used without reference to a particular offence means tainted property in relation to an arrestable offence.” The definition of tainted property in the POCA does not cover property of corresponding value. In addition the definition in the AMLPOCA was not amended as in the case of the POCA and still retains the terminology “foreign specified offence”.

S. 37 of POCA and S. 47 of AMLPOCA authorize identification and seizure of tainted property while awaiting registration of a foreign restraining order under section 32 of Mutual Assistance in Criminal Matters Act. It would appear that the POCA and AMLPOCA provide authority to take expeditious action in response to request made by foreign countries to identify, freeze, seize or confiscate tainted property. -S. 61, 63 and 64 of POCA and ss. 71, 73 and 74 of AMLPOCA provide for identification of a tainted property -S. 53 of POCA and 63 of AMLPOCA allow granting of interim restraining order while awaiting registration of a foreign restraining order under section 32 of Mutual Assistance in Criminal Matters Act, [Cap 254 R.E 2002].

Criterion 38.2 (Met) S. 32 (1) (b) of the MACM Act, which previously required the DPP to be satisfied that (i) the person has been convicted of the offence; and (ii) the conviction and the order are not subject to appeal in the foreign country, before applying for the registration of the order with the High Court was

amended by the Written Laws (Miscellaneous Amendments) (No. 2) Act, 2018. It now provides that the Director of Public Prosecutions should be satisfied that (i) the forfeiture order or pecuniary penalty order was properly made against the person; and (ii) forfeiture order or pecuniary penalty order is not subject to appeal in the foreign country,

Criterion 38.3 (Met) –

- (a) The amended S.5 of the MACM Act allows URT to have arrangements and agreements for provision of MLA. It provides that “Nothing in this Act shall be construed as preventing the provision or obtaining of assistance in criminal matters under a separate agreement, arrangement or practice with another foreign state otherwise than as provided in this Act.”. S.8 A (e) which was introduced by the September 2018 Amendment Act, allows the DPP to negotiate and agree on conditions related to requests for legal assistance as well as ensuring compliance with those conditions. This provision appears broad enough to cover arrangements for coordinating seizure and confiscation actions with other countries.
- (b) Ss. 18 and 55 of POCA and ss 28 and 65 of AMLPOCA provide measures for the management and disposal of property which is the subject of a foreign forfeiture order.

Criterion 38.4 (Met) – URT has provisions for sharing of proceeds – S. 32A of the MACM allows the Government to dispose of property or proceeds confiscated within the URT upon a request by a foreign authority where there is an agreement concluded between URT and the Government of the requesting foreign territory. Further s.32A (2), the DPP may, where he considers it appropriate either for purposes of compliance with an international arrangement to which the URT is committed or for the interest of courtesy among states, order the property or any part of the property forfeited or the value of that property to be given out or remitted to the requesting Government. Further S.9 C (1) which was brought about by the September 2018 amendments, allows for sharing of costs and expenses between URT and foreign jurisdictions.

Weighting and Conclusion

URT is rated Largely Compliant with Recommendation 38 in view of the minor shortcomings noted in relation to the definition of tainted property.

Recommendation 39 – Extradition

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant with requirements of this Recommendation (formerly R. 39). The main technical deficiency was that the AML Act, POCA and POTA were not enforceable in Zanzibar. Extradition in URT is governed by the Extradition Act (Chapter 368). The Act applies to both Mainland Tanzania as well as Tanzania Zanzibar.

Criterion 39.1 (Met)

- (a) The Extradition Act (as amended by the Written Laws (Miscellaneous Amendments) Act, 2007) defines an “extradition crime” as meaning a crime which, if committed within the jurisdiction of URT, would be one of the crimes described in the Schedule to the Act. Money Laundering offense and offenses relating to Money Laundering are listed in the schedule. In addition, S.17 of the Act provides the procedure of how to deal with offences of a political nature and therefore non-extraditable. In this regard, in any proceedings under Part II (The Surrender of Fugitive Criminals) and Part III (Reciprocal Backing of Warrants) as well as under S. 17 (5) of the same Act (as amended), the acts of terrorism under the Prevention of Terrorism Act (which also includes TF as per S. 4(5) of the POTA) and money laundering under the Anti-Money Laundering Act are not of a political nature for the purposes of the Extradition Act and are therefore extraditable.

Criterion 39.1

- (b) - The Office of DPP which coordinates and executes extradition requests, maintains both an electronic and a manual case management system which captures information which assists in handling of extradition requests and other requests (see IO.2).

Criterion 39.1

(c) - The provision of Extradition Act, [Cap 368 R.E. 2002] as amended does not place unreasonable or unduly restrictive conditions on the execution of a request. Extradition can only be refused where it does not meet the conditions under S. 16 (1) of the Act, i.e., the offence is of political character or there are pending proceedings in URT or the fugitive is serving sentence in URT.

Criterion 39.2 (Met)

- a) S.4 of Extradition Act, [Cap 368 R.E. 2002] allows extradition of every fugitive criminal who is in URT accused of, or convicted of extradition crime. A Fugitive Criminal is defined broadly under section 2 of the Act as meaning “any person accused or convicted of an extradition crime committed within the jurisdiction of any other country who is in or is suspected of being in URT, and a reference to a fugitive criminal of a country is a reference to a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that country.” The definition does not distinguish between Tanzanians and non-Tanzanians. It can therefore be inferred that the term “any person” is wide enough to include a Tanzanian national. An example of cases where Tanzanian nationals have been extradited is in Misc. Crim. Appl. No 8/2017, Minister of Constitutional and Legal Affairs and the DPP versus Ali Khatibu Haji Hassan @ Shkuba @ Maiko Joseph Alex, Resident Magistrate Court of Dar es Salaam at Kisutu, where the Respondent, a Tanzanian national, was extradited to the United States of America to face his trial in relation to drug trafficking offences.

Criterion 39.2 (b) – This criterion is not applicable to URT.

Criterion 39.3 (Met) – Dual criminality is a requirement for extradition in URT. It is embedded in the definition of extradition crime under section 2 of Extradition Act. The Authorities state that the test for dual criminality is based on the act or conduct. There is no requirement for the offence to be categorized in the same terminology.

Criterion 39.4 (Met) – It would appear that the Extradition Act in URT allows for simplified extradition. S. 13A of Extradition Act, as amended allows for provisional arrest of a fugitive while awaiting extradition request to be formally submitted. It provides as follows: “Notwithstanding the provisions of subsection (1), the police officer may, without a foreign warrant having been endorsed or in the absence of provisional warrant if the circumstances so require, arrest a fugitive offender”.

Weighting and Conclusion

URT meets all the criteria. **URT is rated Largely Compliant with Recommendation 39.**

Recommendation 40 – Other forms of international cooperation

In its MER under the First Round of MEs, Tanzania was rated Partially Compliant with requirements of this Recommendation (formerly R. 40) The main technical deficiencies were that: the scope of powers of the FIU limited its access to law enforcement database, public databases and commercially available databases; insurance supervisory department had no authority to conduct enquiries on behalf of foreign counterparts and AML Act, POCA and POTA were not enforceable in Zanzibar.

Criterion 40.1 (Partly Met) The Police Force, Financial Intelligence Unit, the Prevention and Combating Corruption Bureau, Tanzania Revenue Authority, the Drugs Control and Enforcement Authority, Zanzibar Anti-Corruption and Economic Crimes Authority, and the Commission for National Coordination and Drugs Control are able to provide a range of international co-operation for exchange of information, both spontaneously and upon request, in relation to ML, associated predicate offences and TF. In general, the assistance can be provided rapidly but timeframes vary depending on the assistance and authority involved. S.5 of the MACMA provides that the Act should not be construed as preventing the provision or obtaining of assistance, under a separate agreement, arrangement or practice with another foreign state or otherwise than as provided in this Act. Accordingly, competent authorities, can provide a range of international cooperation, both on request and spontaneously. The prohibition on disclosure under the AMLA, POCA and AMLPOCA targets disclosure made to unauthorised person.

Criterion 40.2 (a) (Met) Sections 4 and 6A of AMLA and AMLPOCA provide for the establishment of the FIU in URT to receive and disseminate information received from reporting persons and other sources. There is no express provision which pertains to LEAs, although these would be included under LEAs. Section 37 of the POTA, which applies to both the Mainland and Zanzibar, is to the effect that the General Police or the Commissioner or Police shall have the power on a request made by the appropriate authority of a foreign state, to disclose to that authority any specific and relevant information in his possession or in the possession of any other government department or agency. This is however subject to the provision that such disclosure is not prohibited by any provision of law and will not, in the mind of the Inspector General of Police or Commissioner of Police, be prejudicial to national security or to public safety. Under section 7(1)(d) of the DECEA, provision and facilitation of information and data by the Commissioner General to the competent international authorities, may be made as required by treaties. Sections. 54-56 of PCCA are relevant for the sharing of information with the foreign states and governments. It was envisaged under Section 56, as indicated by the marginal notes, that there can be disclosure of information without prior request, which would be consistent with Section 5 of the Mutual and Legal Assistance Act. However, section 56 should be reviewed in order to provide clarity. The equivalent provisions under the ZAECA are sections. 86-87 which provide that a foreign state or government may disclose information which would assist in an investigation, prosecution and judicial proceedings. However, there is no corresponding provision for the authority in Zanzibar to disclose information to foreign states and governments. Section 7 of Tax Administration Act provides that the terms of international agreements for reciprocal assistance for administration or enforcement of tax laws, to which the URT is party to, if inconsistent with provisions under the law, shall prevail over any provisions in the act. Section. 7(3) of Illicit Drugs and Prevention of Drugs Traffic Act of Zanzibar is also noted. Also, of relevance, is the Vienna Convention (1956) on the establishment of International Police (INTERPOL) by virtue of which the Police Force may co-operate and exchange information with counter parts in a foreign jurisdiction. ARINSA- Prosecution Authorities and LEAs to exchange information within the Region.

Criterion 40.2 (b) (Met) The National Strategy is for LEAs to use the most efficient means to exchange information through cooperation arrangements under EAPCCO, EAACA, SARPCCO. This is not prohibited by any statutory provision.

Criterion 40.2 (c) (Met) The FIU uses Egmont's Secure Web system to exchange information while the Police, Immigration use Interpol system (I 24/7). ARINSA website is a medium for exchange of information for LEAs and Prosecution Authorities.

Criterion 40.2 (d) (Met) The FIU uses Egmont's secure web which is designed to achieve a timely response to the request. The Police and other law enforcement agencies that use I-24/7 (Interpol system) categorise the request as urgent or normal in order to prioritize and fast track urgent request.

Criterion 40.2 (e) (Met) The FIU and the Police have designed their processes to make use of Egmont's secure web and I-24/7 (Interpol system) in order to safeguard the information received. The member states are provided with accounts or IP addresses to impart the information to the intended recipient.

Criterion 40.3 (Met) There is no legal provision which requires any bilateral arrangement to cooperate with counterparts, although there are provisions such as in the Tax Administration Act wherein it is expressly stated that agreements will prevail over statutory provisions on the aspect of reciprocal mutual assistance.

Criterion 40.4 (Met) The DPP has been designated under s.8 A of the MACMA as the authority to manage the processing of MLA. The FIU compiles statistics in accordance with Regulations made under the AMLA, and the AMLPOCA. This includes the period of time for the response.

Criterion 40.5 (a) (Met) Competent authorities cannot refuse to exchange information on the sole ground that the request involves fiscal matters. This is not provided under section 6 (1) of MACMA.

Criterion 40.5(b) (Met) Sections 21 of AMLA and 16 of AMLPOCA override secrecy obligation and allow communication of information by financial institutions or DNFBPs.

Criterion 40.5 (c) (Partly met) Section 6 (2) (d) of MACMA may prohibit exchange of information on the grounds that there is an inquiry or proceeding underway.

Criterion 40.5 (d) (Met) There is no legal requirement that prohibits competent authorities to cooperate with counterparts on grounds that the nature or status of the requesting counterpart is different. This is not provided under section 6 (1) of the MACMA.

Criterion 40.6 (Met) Competent Authorities issue guidelines to control and safeguard information exchanged with counterparts to ensure that the information exchanged by competent authorities is used only for the purpose for, and by the authorities, for which the information was sought or provided, unless prior authorisation has been given by the requested competent authority. FIU applies the Egmont Group's principles with regards to sharing information with counterparts, and the use of GoAML to receive STR and CBCDR from reporting persons and transmission of intelligence reports to LEAs focal points. LEAs on their part have similar controls and guideline such as I-24/7 and I-link.

Criterion 40.7 (Mostly Met) Competent authorities have requirements to maintain confidentiality of information exchanged in the same manner as they would protect domestic information. The requirements are set out in various laws administered by the respective competent authorities (s.7 of AMLA, s.31C of POCA, s.16 of BoT, s.48 of BAFIA, s.9 of MACM Act). MOUs signed by financial sector supervisory authorities have clauses which allow them to deny a request if the request would violate their governing laws, regulations and rules or where the request would not be in accordance with the provisions of the MOU, which generally include the obligation to keep the exchanged information confidential. However, no information was provided on whether other competent authorities can refuse requests if the requesting party cannot protect the information.

Criterion 40.8 (Met) Competent authorities can conduct inquiries on behalf of foreign counterparts and exchange resulting information using the same mandate they have in relation to investigation of domestic cases. In addition, s.7 of Tax Administration Act allows entering into arrangement with a foreign country to assist enforcement of tax law of that country. S.55 of the Drug Control and Enforcement Act, 2015 also permits entering into arrangement with a foreign country for recovery and handing over possession of a property recovered on behalf of that country or preserve property on their behalf. Furthermore, the Police can carry out enquiries on behalf of a foreign counterparts in accordance with multilateral and bilateral conventions and arrangements (e.g. Interpol, SADC Political, Defence and Security Protocol (established SARPCCO) and EAC Peace and Security Protocol (established EAPCCO)).

Criterion 40.9 (Met) s.4 of the AMLA stipulates that the FIU can use information from other sources including sources outside Tanzania in its analysis to prepare dissemination packs. S.6 (i) further strengthens s.4 by giving the FIU power to exchange information with overseas FIUs and comparable bodies.

Criterion 40.10 (Met) Based on s.6 (i) of AMLA and absence of a contradictory provision, the FIU is free to provide feedback to foreign counterparts on the use of information provided to it as well as outcomes of the analysis conducted thereof.

Criterion 40.11 (Met) s.6(i) of the AMLA empowers the FIU to exchange information with foreign counterparts. In addition, s.6(h) of AMLA provides for the FIU to consult any relevant person or institution for the purposes of discharging its duties. s.6(i) of AMLA (amended) empowers the FIU to request or have access to information from any regulator, reporting person or law enforcement agency which is further provided under Regulation 32.

Criterion 40.12 (Partly Met) Under s.35 of the Banking and Financial Institutions Act, 2006, the BoT is permitted to enter into information sharing arrangements with foreign supervisory bodies on reciprocal basis. However, both the CMSA and TIRA do not have a legal basis for providing co-operation with their foreign counterparts with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes.

Criterion 40.13 (Partly Met) Based on the provisions of s.35 of the Banking and Financial Institutions Act and the fact that under the AMLA, the BoT is an AML/CFT supervisor for the institutions it licenses, it has ability to exchange with foreign counterparts on a reciprocal basis, information domestically available to it, including information held by financial institutions. The CMSA and TIRA have entered into MoUs on the exchange of information with foreign counterparts indicating that they are able to exchange information that is domestically available to them despite the absence of a legal basis for information exchange.

Criterion 40.14 (Met)-The scope of the MoUs that the BoT, CMSA and TIRA entered into with their counterparts provide for exchange of regulatory, prudential and general information related to the financial sector. They have provisions that are couched in broad terms that would satisfy the requirements to exchange AML/CFT information.

Criterion 40.15 (Partly Met)-Under the MoU that the CMSA entered into with its foreign counter-party, it is able to conduct inquiries on behalf of the foreign counterpart. However, the MoU does not authorize nor facilitate the ability of the foreign counterpart itself to conduct inquiries in the URT. Further, the BoT and TIRA do not conduct inquiries on behalf of their foreign counterparts. The BoT and TIRA also do not authorize nor facilitate the ability of their foreign counterparties themselves to conduct inquiries in the URT.

Criterion 40.16 (Not Met)-In the absence of specific cases that demonstrate that financial supervisors ensure that they have the prior authorization of the requested financial supervisors for any dissemination of information exchanged, it cannot be concluded that financial supervisors satisfy the requirements of 40.16.

Exchange of information between law enforcement authorities

Criterion 40.17 (Met)-LEAs can exchange information in relation to money laundering, associated predicate offences or terrorist financing with foreign counterparts. The prohibition on the disclosure of information pertains to unauthorised persons under the AMLA, POCA and AMLPOCA. Section 5 of the MLACMA makes it clear that assistance may be provided otherwise, than by way of MLA.

Criterion 40.18 (Met)-There is no provision in law to prevent LEAs from using their powers to conduct inquiries and obtain information on behalf of foreign counterparts. LEAs take into consideration restrictions imposed by INTERPOL, SARPPCO, EARPPCO, EACCA and other bodies when executing these requests.

Criterion 40.19 (Met)-There is no prohibition in law to prevent LEAs to form joint investigative teams, with LEAs from other states and agencies to conduct cooperative investigations, although there is no express statutory provision to the contrary. They may therefore, as and when necessary, establish bilateral or multilateral arrangements to conduct joint investigations.

Criterion 40.20 (Partly Met)-There is no statutory prohibition on indirect exchange of information with non-counterparts in URT, although there is no express provision to the contrary, either. Agencies exchanging information in URT require, through MoUs, that the competent authority that requests information indirectly always makes clear the purpose and the entity on whose behalf the request is made.

Weighting and Conclusion

Some of the requirements are met. CMSA and TIRA do not have a legal basis for providing co-operation with their foreign counterparts with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes. In addition, there is an option under section 6 (2) (d) of MACMA to refuse request for assistance on the ground of ongoing criminal proceedings or investigation.

URT is rated Largely Compliant with Recommendation 40.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<ul style="list-style-type: none"> • There is no risk-based approach to allocation of resources. • Legal framework permits simplified CDD measures for regulated reporting persons which have been rated in the NRA report as posing high ML risk • In Zanzibar, there is no explicit requirement for FIs to apply simplified CDD measures only in proven lower risk scenarios. • In Zanzibar, there is no explicit requirement for reporting entities identify and assess ML/TF risks.
2. National cooperation and coordination	PC	<ul style="list-style-type: none"> • There are no AML/CFT policies which are informed by identified ML/TF risks. • No coordination mechanisms in relation to PF
3. Money laundering offence	PC	<ul style="list-style-type: none"> • Environment crimes are not included as predicate offence for ML. • Predicate offences for ML do not extend to include conduct that occurred in another country. • Not clear whether the offence of tax evasion is wide enough to cover all other tax crimes.
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • No legal provision on confiscation of property of corresponding value.
5. Terrorist financing offence	PC	<ul style="list-style-type: none"> • Legal framework does not cover all terrorist acts in the protocols annexed to TF convention. • Legal framework does not criminalise wilful provision or collection of other assets to terrorists or terrorist organisation • No legal provision to cover financing of an individual terrorist. • Financing of foreign terrorist fighters is not covered. • No provision for a TF offence where the funds have not actually been used or linked to a specific terrorist act.
6. Targeted financial sanctions related to terrorism & TF	NC	<ul style="list-style-type: none"> • URT has not identified a competent authority or court with responsibility to propose persons or entities to the 1267/1989 Committee for designation. • There are no mechanisms for identifying targets for designation. • There is no legal authority and procedures or mechanisms for collecting or soliciting information to facilitate designations under UNSCR 1373.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • The provision to freeze funds, financial assets or properties does not meet the ‘without delay’ criterion and does not include freezing without prior notice. • The legal framework does not include funds or other assets that are (a) wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; (b) derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as (c) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities. • No provisions in relation to access of frozen funds or other assets to meet basic expenses.
7. Targeted financial sanctions related to proliferation	NC	<ul style="list-style-type: none"> • No legal or regulatory provisions in relation to implementation of TFS concerning PF.
8. Non-profit organisations	NC	<ul style="list-style-type: none"> • URT has not identified a sub-sector of NPOs likely to be at the risk of abuse for TF purposes. • No review of measures to facilitate application of TF risk-based interventions to mitigate the identified risks. • URT has not worked with the NPOs to develop best practices to address TF risks and vulnerabilities. • No risk based supervision of NPOs at the risk of abuse for TF purposes. • Authorities do not monitor compliance of NPOs with requirements of this Recommendation. • No specific provisions to facilitate sharing of information by competent authorities.
9. Financial institution secrecy laws	LC	<ul style="list-style-type: none"> • Legal provisions which facilitate sharing of information between FIs do not include requirements of R13, R.16 and R.17. • Legal provisions do not cover sharing of information amongst supervisors of insurance and capital market players.
10. Customer due diligence	PC	<ul style="list-style-type: none"> • The legal framework does not include bureaux de change, funds managers and investment dealers (other than securities dealer/broker). • There is no prohibition on anonymous accounts or accounts in fictitious name. • In Zanzibar, there is no requirement in law for FIs to identify a customer or beneficial owner. • In Zanzibar, there is no requirement in law for FIs to

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<p>understand and obtain information on the purpose and intended nature of a business relationship.</p> <ul style="list-style-type: none"> • No requirement for FIs to verify the identity of a customer which is also a reporting person irrespective of its risk profile. • No requirement for a FI to verify that a person purporting to act on behalf of a customer has appropriate authority. • No requirement for FIs to understand the business of their customers. • No requirement for Insurers to include the beneficiary of a life insurance policy as a risk factor. • No requirement for FIs to adopt risk management procedures concerning conditions under which a customer may use a business relationship prior to verification.
11. Record keeping	LC	<ul style="list-style-type: none"> • There is no requirement to keep records of any results of analysis undertaken.
12. Politically exposed persons	NC	<ul style="list-style-type: none"> • There is no obligation for banks to put in place risk management systems to determine whether a customer is beneficial owner of a PEP. • The definition of a PEP does not include domestic PEPs and persons who have been entrusted with a prominent function in international organisations. • There is no obligation for banks to establish source of wealth and source of funds of a beneficial owner who is a PEP. • There is no requirement to apply the requirements to family members or close associates of PEPs • There is no requirement for FIs to determine whether a beneficiary or beneficial owner of the beneficiary of a life insurance policy is a PEP.
13. Correspondent banking	PC	<ul style="list-style-type: none"> • FIs in Zanzibar are not subjected to requirements of correspondent banking relationships. • FIs in Mainland Tanzania are not required to understand the respective AML/CFT
14. Money or value transfer services	LC	<ul style="list-style-type: none"> • The legal frameworks do not provide for administrative sanctions.
15. New technologies	PC	<ul style="list-style-type: none"> • URT and FIs does not identify and assess the use of new delivery mechanisms and new technologies for both new and existing products. • There is no specific requirement for reporting entities to undertake a risk assessment prior to a launch or use of new product, practices and technologies.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
16. Wire transfers	PC	<ul style="list-style-type: none"> • There is not requirement for cross border batch files to contain accurate originator and full beneficiary information in Mainland Tanzania. • There is no specific requirement for ordering FIs to make available information accompanying wire transfers to beneficiary FI or competent authorities within 3 days, if required to do (Mainland Tanzania). • There are no obligations in law or regulations in relation to wire transfers in Zanzibar.
17. Reliance on third parties	NC	<ul style="list-style-type: none"> • There are no obligations in law or regulation applicable to the use of third parties by FIs for CDD purposes in URT
18. Internal controls and foreign branches and subsidiaries	NC	<ul style="list-style-type: none"> • There are no obligations in law or regulations for financial groups to implement group-wide programmes against ML/TF. • There are no obligations in law or regulations which requires FIs with foreign branches or majority owned subsidiaries to apply AML/CFT measures which are consistent with home country. • FIs licensed by CMSA and TIRA are not required to have independent audit function.
19. Higher-risk countries	NC	<ul style="list-style-type: none"> • FIs in Zanzibar are not required to apply EDD proportionate to the risks when dealing with persons and legal persons from countries for called to do so by the FATT
20. Reporting of suspicious transaction	LC	<ul style="list-style-type: none"> • Some FIs are not designated as reporting entities and therefore are not obliged to file STRs.
21. Tipping-off and confidentiality	C	<ul style="list-style-type: none"> • All criteria are met.
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> • The legal framework does not include persons which conduct trust and company services except lawyers when involved in the creation and management of legal persons or arrangements. • Deficiencies identified under the analysis of Recommendations 10, 11, 12, 15 and 17 have an impact on the rating of R22.
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> • The legal framework does not include persons which conduct trust and company services except lawyers when involved in the creation and management of legal persons or arrangements. • Deficiencies identified under the analysis of Recommendations 18 and 19 have an impact on the rating

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		of R.23.
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> • Competent authorities have not assessed ML/TF risks associated with all types of legal persons. • Zanzibar does not have requirements to retain information filed by companies after the companies have been dissolved. • No legal provisions or other mechanisms to avoid misuse of nominee shares and nominee directors. • The sanctions regime for non-compliance with requirements in URT is not clearly provided for in legislation.
25. Transparency and beneficial ownership of legal arrangements	NC	<ul style="list-style-type: none"> • There is no obligation on trustees to obtain and hold adequate, accurate and current information on the identity of the settlor, the trustees, the protector (if any), the beneficiaries. • There is no provision of the law in the URT requiring trustees to hold basic information on other regulated agents and service providers to the trust. • There are no requirements to keep information on beneficial ownership relating to legal arrangements accurate, up to date or to be updated on a timely basis. • There is no clearly spelt out duty on trustees to obtain and hold information relating to the trustees, settlor, beneficiary. • There is therefore no clearly defined liability or sanction on trustees in relation to requirements of R25.
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> • CMSA is not a designated AML/CFT supervisor for Zanzibar. • Frequency and intensity of AML/CFT supervision is not risk based. • There is no obligation for supervisors to review the assessment of ML/TF risk profile of FIs.
27. Powers of supervisors	LC	<ul style="list-style-type: none"> • The powers to compel production of documents is not linked to AML/CFT matters but prudential supervision requirements.
28. Regulation and supervision of DNFBPs	NC	<ul style="list-style-type: none"> • All DNFBPs except casinos and lawyers in Zanzibar do not have designated supervisory authorities. • There are no provisions or measures establishing risk based supervision for all DNFBPs. • The entry requirements for casino do not preclude criminals or their associates from being beneficial owners.
29. Financial intelligence units	LC	<ul style="list-style-type: none"> • There is no specific provision which allows the FIU to

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<p>exchange information with domestic competent authorities.</p> <ul style="list-style-type: none"> • There is no specific reference in Zanzibar legislation to receipt of STRs, currency transaction reports and electronic funds transfer reports.
30. Responsibilities of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> • All criteria are fully met.
31. Powers of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> • Some laws in Zanzibar do not provide for recording of witness statements. • No laws to enable competent authorities use controlled delivery.
32. Cash couriers	PC	<ul style="list-style-type: none"> • Currency or BNIs transported through mail or containerised cargo are not subject to declaration. • There are no requirements for competent authorities to obtain additional information whenever there is a false declaration or failure to declare.
33. Statistics	PC	<ul style="list-style-type: none"> • There were discrepancies in statistics between competent authorities on financial intelligence reports and MLA requests. • Statistics on property frozen, seized and confiscated were not reliable as the authorities changed them throughout the assessment period.
34. Guidance and feedback	PC	<ul style="list-style-type: none"> • All supervisory authorities have not issued guild lines and do not provide feedback to reporting persons.
35. Sanctions	PC	<ul style="list-style-type: none"> • The legal framework does not cover sanctions for failure to comply with requirements in relation to Recommendations 6, 13, 14, 15, 16, 18 and 19. • The legal framework in Zanzibar is unclear on the application of sanctions against natural persons: directors, principal officers and managers.
36. International instruments	LC	<ul style="list-style-type: none"> • There are no legislative measures to give effect to the following provisions of the Palermo Convention: Article 24 & 25: the protection of witnesses and victims. • No training programmes for competent authorities responsible for prevention, detection and control of the offences covered by the Palermo Convention

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> • The legal framework on MLA does not include undercover operations and controlled delivery
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> • The definition of tainted property in the POCA does not cover property of corresponding value. • The definition in the AMLPOCA was not amended as in the case of the POCA and still retains the terminology “foreign specified offence”.
39. Extradition	C	<ul style="list-style-type: none"> • All criteria are fully met.
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> • Supervisors for insurance and capital markets do not have legal basis for cooperation with foreign counterparts. • URT may refuse request for assistance on the grounds that an enquiry is underway. • The BoT and TIRA do not have legal mandate to conduct inquiries on behalf of their foreign counterparties.

ANNEX 1: First Schedule (Referred to in Article 4) Union Matters

1. The Constitution of Tanzania and the Government of the United Republic.
2. Foreign Affairs.
3. Defence and Security.
4. Police.
5. Emergency Powers.
6. Citizenship.
7. Immigration.
8. External borrowing and trade.
9. Service in the Government of the United Republic
10. Income tax payable by individuals and by corporations, customs duty and excise duty on goods manufactured in Tanzania collected by the Customs Department.
11. Harbours, matters relating to air transport, posts and telecommunications.
12. All matters concerning coinage, currency for the purposes of legal tender (including notes), banks (including savings banks) and all banking business, foreign exchange and exchange control.
13. Industrial licensing and statistics.
14. Higher education
15. Mineral oil resources, including crude oil and natural gas.
16. The National Examinations Council of Tanzania and all matters connected with the functions of that Council.
17. Civil aviation.
18. Research.
19. Meteorology.
20. Statistics.
21. The Court of Appeal of the United Republic.
22. Registration of political parties and other matters related to political parties.