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Money Laundering

Anti - Money Laundering

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Mutual Evaluation Report of Tanzania, 2009

The United Republic of Tanzania

Ministry of Finance

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Executive Summary

A. Background Information

1. This report provides a summary of the AML/CFT measures in place in the United Republic of Tanzania (comprising of Mainland Tanzania and Tanzania Zanzibar) as at the date of the on-site visit, which constitutes the period of 26 January to 06 February 2009 and within three months thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Tanzania's levels of compliance with the FATF 40+9 Recommendations (see the attached table on the Ratings of Compliance with the FATF Recommendations).
2. The AML/CFT system in the United Republic of Tanzania is still in its early stage of development and much work needs to be done with regard to the implementation of the AML/CFT system, capacity building and awareness raising within the reporting community and the general public. The Anti Money Laundering Act 2006 (AML Act) and the Prevention of Terrorism Act 2002 (POTA) are the key enactments which support the AML/CFT legal framework in the United Republic of Tanzania. AML Regulations have also been issued for implementing the AML Act. The overarching issue in need of resolution, which affects many of the individual FATF Recommendations, is the scope of the enforceability of the AML Act, POTA and POCA in Zanzibar. For example, at the time of the onsite visit, the assessors were informed that the AML Act is not enforceable in Zanzibar. To underscore this problem, a separate Anti Money Laundering and Proceeds of Crime Bill is under consideration in Zanzibar. Furthermore, the POTA has not come into effect in Zanzibar. The AML Act, POTA and POCA do not appear to be enforceable in Zanzibar. This significantly undermines the overall AML/CFT regime in the United Republic of Tanzania. This enforceability issue is a sensitive political

matter, but one that needs to be resolved by all the relevant authorities in the United Republic of Tanzania. It is not the role of this report to recommend how to achieve this crucial objective. This is most appropriately left to the relevant authorities.

3. The AML Act addresses some core requirements applicable to financial institutions by imposing AML/CFT obligations on “reporting persons”, which is defined to include certain financial institutions and all Designated Non-Financial Businesses and Professions (DNFBPs), except for Trust and Company Service Providers, under the FATF definitions of those terms. However, some of these requirements are not mandatory as there is no sanction for failure to comply with these requirements under the AML Act. Further guidance needs to be issued to the non-bank financial and DNFBP sectors for ensuring full implementation of the AML Act.
4. The Act also provides for the establishment of an administrative Financial Intelligence Unit as an extra-Ministerial Department and a National Multidisciplinary Committee on Anti-Money Laundering.
5. Following the bombing of the US Embassy in 1998, international terrorism remains a serious issue for the United Republic of Tanzania while the threat for domestic terrorism is low.
6. The major profit generating crimes include theft, robbery, corruption, smuggling of precious metals and stones and drug trafficking. Suspicious transaction reporting is relatively low and there has been no prosecution of the money laundering offence thus far.

B. Legal Systems and Related Institutional Measures

7. The AML Act criminalises money laundering in a manner that is largely consistent with the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the 2000

United Nations Convention against Transnational Organised Crime (Palermo Convention). The AML Act provides a list of predicate offences which covers to a large extent each of the 20 designated categories of offences. Fraud, counterfeiting of currency, piracy of products, murder and grievous bodily injury are the uncovered categories of the designated offences. A conviction for a predicate offence is required when proving that property is the proceeds of crime and predicate offences for money laundering do not extend to conduct that occurred in another country. There is also a broad range of ancillary offences to the money laundering offences. Liability for money laundering applies to both natural and legal persons. However, according to the authorities, the AML Act is not enforceable in Zanzibar. The overall effectiveness of the AML/CFT system in Mainland Tanzania could not be assessed as there has been no money laundering prosecution.

8. Terrorist financing is criminalised under Part IV of the POTA. The POTA criminalises the collection or provision of funds with the intention that it be used for the purpose of committing a terrorist act or by a terrorist organisation or an individual terrorist for committing or facilitating the commission of a terrorist act. While the term “terrorist act”, as defined under the POTA is very broad, overall it does not satisfy Special Recommendation III of the FATF as the United Republic of Tanzania has ratified only some of the relevant UN Conventions and Protocols. In addition, it has not criminalised all the acts that they cover.. The TF offences under Part IV of the POTA make reference to the terms “funds” and “property”. There seems to be a gap in the legislation as the term “funds” has not been defined under the Act. On the other hand, the term “property” is broadly defined and there is no requirement for the funds or property to be used to carry out or attempt a terrorist act, or be linked to a specific terrorist act. Terrorist financing is a predicate offence for money laundering. A broad range of ancillary offences also apply to TF offences. Legal and natural persons are both criminally liable. The TF offences under the POTA are punishable by imprisonment for a term not less than 15 years and not more than 20 years. In addition the Court may order the forfeiture of any property used for or in connection with or received as payment or reward for

the commission of a TF offence. The effectiveness of the measures under the POTA could not be assessed. It is also notable that according to the authorities the POTA is not effective in Zanzibar.

9. As at the date of the on-site visit no implementing regulations had been issued to give effect to the freezing mechanisms under the POTA for the purposes of the UNSCR 1267 and 1373.
10. The Proceeds of Crime Act is the primary legislation which provides for criminal forfeiture in Mainland Tanzania. The scope of tainted property that may be subject to confiscation is undermined as the definition of predicate offences under the AML Act does not cover all designated categories of offences. It was not clear that property of corresponding value can be subject to forfeiture. Provisional measures to prevent dealing in property subject to confiscation are available and applications for freezing and /or seizing property subject to confiscation may be made ex-parte or without prior notice. There is no authority to prevent or void actions that can prejudice the ability of the authorities to recover property subject to confiscation. It was not possible to obtain an accurate picture of the effectiveness of these measures as no statistics were available.
11. According to the authorities, the Proceeds of Crime Act is not enforceable in Zanzibar.
12. While the FIU was established in July 2007 it was not fully operational and did not have the required capacity to undertake its statutory functions effectively. The FIU has powers under the law to exchange information with other financial intelligence units and for issuing guidelines to the reporting persons. Shortly after the onsite visit, the FIU issued guidelines for the Verification of Customers' Identities, Anti-Money Laundering Guidelines to Banking Institutions and Anti-Money Laundering Guidelines for Bank of Tanzania (collectively referred to as the "FIU Guidelines"). However, these guidelines are not enforceable.

13. The Tanzanian Police is responsible for the investigation of money laundering and terrorist financing in the United Republic of Tanzania. The Criminal Investigation Department has a special unit that deals with financial crime and money laundering. The Police in the United Republic of Tanzania have a broad range of investigative powers. There were five money laundering investigations that were ongoing at the time of the onsite visit.
14. The scope of the legal framework implemented with respect to Special Recommendation IX is not clear. Under the AML Act, transportation of cash or bearer negotiable instruments beyond a certain threshold is subject to customs authorities. No threshold has been prescribed and the meaning of the term “subject to customs authorities” has not been defined.

C. Preventive Measures – Financial Institutions

15. AML/CFT preventative measures have been implemented through the application of the AML Act and the AML Regulations. The FIU has also issued guidelines on the Verification of Customers’ Identities and Anti-Money Laundering Guidelines to Banking Institutions. In general, there is a scope issue in that a limited number of financial institutions as defined by the FATF are not subject to the AML/CFT requirements under the AML Act. Save for failure to report suspicious transactions, the Act and Regulations do not provide for sanctions where reporting institutions fail to comply with AML/CFT preventative measures. It is to be noted that the FIU guidelines do not constitute other enforceable means. As noted previously, according to the authorities, the AML Act is not enforceable in Zanzibar.
16. Financial institutions covered by the AML Act (referred to under the Act as reporting persons) are required to take reasonable measures to satisfy themselves as to the true identity of their client before establishing a business relationship or carrying out a single transaction and where any person is acting on behalf of another person. The AML Regulations set out further details on

the CDD documentation that must be obtained by the reporting person. There is however, no specific requirement in law or regulation for reporting persons to identify or verify the identity of beneficial owners (i.e. the natural persons who ultimately own and control the customer). There are no explicit requirements to undertake CDD measures where there is a suspicion of money laundering or terrorist financing. With regard to legal persons or arrangements there is no specific requirement to verify that the person purporting to act on behalf of the customer is so authorised and for reporting persons to take reasonable measures to understand the ownership and control structure of the customer. The AML framework does not require financial institutions to perform enhanced due diligence measures for higher risk categories of customers, business relationship or transaction. The CDD measures with respect to PEPs are inadequate and there are no requirements relating to correspondent banking relationships.

17. The provisions relating to record keeping under the AML Act were inoperative as the threshold amount had not been specified. The use of a threshold approach may undermine investigations as information of individual transactions below the specified threshold will not be available to follow the financial trail. It is, therefore, recommended that the authorities should do away with the threshold approach. Further, the AML Act or regulations should contain provisions to ensure that records should be made available on a timely basis to domestic competent authorities.
18. The financial institutions use the SWIFT messaging formats for all wire transfers. The requirements under SRVII have not been fully implemented. In 2004, The Bank of Tanzania issued the Tanzania Interbank Settlement System Rules and Regulations (“TISS Rules”) that apply to domestic wire transfers. These rules require financial institutions to comply with SWIFT requirements which in turn require the elements of the originator information to be provided in SWIFT messages. There is also the requirement for the verification of identity of clients for all transactions, including both domestic and international

wire transfers, under section 15 of the AML Act. However, the requirement is undermined by the absence of sanction in case of non-compliance.

19. The licensing requirements under the Banking and Financial Institutions Act are sufficiently robust to prevent the establishment of shell banks in the United Republic of Tanzania. Nevertheless, financial institutions are not prevented from entering into or continuing correspondent banking relationships with shell banks and there are no requirements for financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. Similarly, there is no requirement that foreign branches and subsidiaries apply AML/CFT measures consistent with the FATF recommendations and apply the higher of either domestic or Tanzanian standards and inform the home supervisors if they are unable to do so.
20. Financial institutions are required to pay special attention to complex, unusual or large business transactions and to unusual patterns of transactions and to insignificant but periodic transactions which have no apparent economic or lawful purpose. This requirement is, however, not mandatory as no sanction has been provided for non-compliance.
21. Reporting persons under the AML Act are required to report all suspicious transactions to the FIU within 24 hours of forming the suspicion. In practice, the reporting regime is not well implemented. Since its establishment, the FIU has received only 5 STRs. No guidelines, as required under the AML Regulations, have yet been issued to prescribe the format and manner in which STR must be made to the FIU. Draft guidelines have however been prepared. The safe harbour provisions under the AML Act are limited to breach of "banking or professional secrecy". However, it was not clear that non-bank financial institutions were covered under "professional secrecy" as these terms are not defined under the Act. "Tipping off" is prohibited under the Act, but it is a defence where the person did not know or have reasonable grounds to suspect that the disclosure was likely to prejudice any investigation of money

laundering or a predicate offence. This exception effectively undermines the entire tipping off prohibition.

22. Other than the requirement to establish internal reporting requirements, reporting persons are not required to establish and maintain internal procedures, policies and controls to prevent money laundering and terrorist financing that cover CDD, record retention and the detection of unusual or suspicious transactions. There is also no requirement to develop appropriate compliance management arrangements and to maintain an adequately resourced and independent audit function to test compliance with the internal AML/CFT procedures, policies and controls.
23. There is no designated authority to monitor and ensure compliance by financial institutions with AML/CFT requirements under the AML Act.
24. There are no mechanisms in place to ensure that reporting persons are to be advised of concerns about weaknesses in the AML/CFT systems of other countries. There are also no specific provisions for reporting persons to apply counter measures in situations where countries do not sufficiently apply the FATF recommendations.

D. Preventive Measures Designated Non-Financial Businesses and Professions

25. The following categories of DNFBPs are designated as reporting persons under the AML Act: accountants, real estate agents, dealers in precious stones, work of arts or metals; attorneys, notaries and other independent legal professionals and operators of gaming activities (including casinos). There are no independent trust and company service providers in the United Republic of Tanzania. These services are provided by accountants and lawyers.
26. Generally, DNFBPs have not implemented AML/CFT measures as required under the Act and there is no designated authority to monitor and ensure that DNFBPs comply with these requirements. There has been no suspicious transaction reporting by DNFBPs thus far.

E. Legal Persons and Arrangements & Non-Profit Organisations

27. The United Republic of Tanzania has a registration system for companies. Companies must be registered under the Companies Act in Mainland Tanzania and the Companies Decree in Zanzibar. All companies must have a registered office in the United Republic of Tanzania and must keep an up- to -date register of their members and directors. There is no registration system for trusts. While trusts do exist they are not commonly used in the United Republic of Tanzania.
28. To prevent the unlawful use of legal persons and legal arrangements for money laundering and terrorist financing, the investigative and other powers of law enforcement are relied upon. While the investigative powers work well in practice there are no adequate measures in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities.
29. Information kept by the registrars of companies pertains only to legal ownership and control (as opposed to beneficial ownership). It is not verified and is not necessarily reliable. Nominees and other legal persons can act as directors and shareholders , which can hamper the investigative trail. Share warrants may also be issued to bearer and there are no measures in place to ensure that they are not misused for money laundering and terrorist financing purposes. It is recommended that the authorities in the United Republic of Tanzania review the current system to determine ways in which adequate and accurate information on beneficial ownership may be available on a timely basis to law enforcement authorities.
30. The United Republic of Tanzania has separate legal frameworks for registration and coordination of NPO sector in Mainland Tanzania and Zanzibar. In both parts, NPOs are required by law to register with a designated registrar.

Effective implementation of the NPO sector's laws for purposes of combating terrorist financing is fairly new. No risk assessment has been undertaken to determine the nature and extent of the sector's vulnerability to terrorist financing. The authorities should undertake effective outreach programs to protect the sector from possible terrorist financing abuse.

F. National and International Co-operation

31. There are no established mechanisms to cooperate on operational matters to combat money laundering and terrorist financing in the United Republic of Tanzania. The newly established FIU has no mechanism in place to exchange information and coordinate with the regulators and law enforcement agencies effectively and to cooperate effectively amongst themselves.
32. The United Republic of Tanzania acceded to the Vienna Convention in 1996 and to the Palermo Convention in July 2005. The provisions of the Conventions have been implemented to a large extent. As at the date of on-site visit, there was no implementing regulation to give effect to the freezing mechanism under the Prevention of Terrorism Act for the purposes of the United Nations Security Council Resolutions 1267 and 1373.
33. The United Republic of Tanzania is able to render a wide range of mutual legal assistance under the Mutual Assistance in Criminal Matters Act (MACM Act). Pursuant to the provisions of the MACM Act, the Attorney General can exercise his discretion to refuse a request for mutual legal assistance in the absence of dual criminality. The other grounds for refusal of legal assistance set out under the MACM Act do not appear to be prohibitive or subject to unreasonable, disproportionate or unduly restrictive conditions. However, it is not clear that mutual legal assistance for ML/TF investigations and prosecutions could be made available with respect to Zanzibar as the AML Act and the POTA are not enforceable in Zanzibar.
34. The MACM Act further provides for the enforcement of foreign forfeiture or foreign pecuniary penalty order in respect of property located in Tanzania and

it is also possible to apply for an order restraining any person from dealing with property. Search warrants in respect of property tracking documents may also be obtained.

35. Extradition is governed by the Extradition Act, which applies to both Mainland Tanzania and Zanzibar. The Act sets out the procedure for extraditing offenders to and from a foreign state. Dual criminality is a requirement for extradition but technical differences in the statutes of different jurisdictions do not pose an impediment to extradition. While money laundering is an extraditable offence, terrorist financing offences under the POTA are not extradition crimes for which extradition may be granted under the Extradition Act. The United Republic of Tanzania can extradite its own nationals.
36. The FIU, law enforcement agencies and supervisors are able to provide international co-operation to foreign counterparts however, the overall effectiveness of such co-operation could not be assessed.

G. Other Issues

37. All relevant government agencies expressed concern about the lack of qualified and skilled human resources, funding and other technical resources to meet their requirements.
38. The authorities in the United Republic of Tanzania should develop mechanisms to record and maintain comprehensive statistics on money laundering investigations, prosecutions and convictions, mutual legal assistance and extradition matters so as to be able to assess the effectiveness of the AML/CFT systems and procedures.

H. Priorities for recommended plan of action

39. In the short term, the priority for the authorities should be to-
 - resolve the enforceability of the AML Act, the POTA and the POCA with respect to Zanzibar;

- strengthen the application of the preventative measures under the AML Act and Regulations by providing for a wide range of proportional and effective sanctions for failure to comply with these measures;
- take steps to enhance the human and other technical capacity of the FIU to enable it to expeditiously perform its functions under the AML Act;
- build the technical AML/CFT capacity of law enforcement agencies, the regulators, the public prosecutors and the judiciary; and
- engage more aggressively with the non-bank financial services and the DNFBP sectors to encourage and assist rapid development of compliance with AML/CFT requirements.

Table 1. Ratings of Compliance with FATF Recommendations

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

Forty Recommendations	Rating	Summary of factors underlying rating ¹
Legal systems		
1. ML offence	NC	<ul style="list-style-type: none"> • The AML Act requires a conviction for a predicate offence when proving that property is the proceeds of crime. • The definition of predicate offence under the AML Act does not cover all the categories of designated categories of offences as defined by the FATF. • Predicate offences for money laundering do not extend to conduct that occurred in another country. • It is not clear that prosecution for laundering one's own funds is possible under the AML Act. • An assessment of the effective implementation could not be made as the AML Act had not been tested in the Courts.

¹ These factors are only required to be set out when the rating is less than Compliant.

		<ul style="list-style-type: none"> • The AML Act is not enforceable with respect to Zanzibar..
2. ML offence – mental element and corporate liability	NC	<ul style="list-style-type: none"> • Neither the AML Act, nor any other law provide for civil or administrative liability to run parallel with criminal money laundering proceedings. • The AML Act is not enforceable with respect to Zanzibar. • An assessment of the effective implementation could not be made as the AML Act had not been tested in the Courts.
3. Confiscation and provisional measures	NC	<ul style="list-style-type: none"> • The definition of predicate offences does not cover all designated categories of offences. This undermines the scope of tainted property that may be subject to confiscation under section 14 of the POCA. • It is not clear that property of corresponding value may be subject to confiscation when the property subject to confiscation is not available. • There is no authority to take steps to void actions. • The provisions for the protection of the rights and interests of bona fide third parties under the Economic and Organised Crime Control Act are inadequate.

		<ul style="list-style-type: none"> • A comprehensive legislative framework for the freezing, seizing and confiscation of the proceeds of crime is not enforceable in Zanzibar. • The overall effectiveness could not be determined.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • There are some legal provisions which may prevent the sharing of information between financial institutions where it may be required for the purposes of criterion 7.5 of R.7 & R.9. • The AML Act is not enforceable with respect to Zanzibar. • The overall effectiveness could not be assessed.
5. Customer due diligence	NC	<ul style="list-style-type: none"> • There are no enforceable requirements to- <ul style="list-style-type: none"> ▪ undertake CDD measures where there is a suspicion of money laundering or terrorist financing ▪ undertake CDD measures where the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. ▪ identify the beneficial owner or take reasonable measures to verify the identity of the beneficial owner using relevant information or data

		<p>from a reliable source such that the reporting person is satisfied that it knows who the beneficial owner is (as defined by the FATF standards).</p> <ul style="list-style-type: none">▪ determine the natural persons that ultimately own or control the legal person or arrangement <ul style="list-style-type: none">• There is also no requirement-<ul style="list-style-type: none">▪ where the customer is a legal person or arrangement, for reporting persons to verify that any person purporting to act on behalf of the customer is so authorised.▪ in the case of private trusts, for the authorisation given to each trustee to be verified.▪ for customers that are legal persons or arrangements, that financial institutions must take reasonable measures to understand the ownership and control structure of the customer.• The AML framework does not require financial institutions to perform enhanced due diligence measures for higher risk categories of customer, business relationship or transaction.• There is no requirement for financial
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		<p>institutions to perform CDD measures on existing customers if numbered accounts exist.</p> <ul style="list-style-type: none"> • The AML Act and the POTA are not enforceable with respect to Zanzibar. • There are some uncovered institutions to which the CDD measures under the AML Act do not apply. • The AML/CFT measures under the AML Act and the AML Regulations do not appear to be mandatory as there are no sanctions that apply for failure to comply with these requirements.
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • Whilst there is a legal or regulatory requirement under section 15(1)(b)(ii) of the AML Act for reporting persons regarding PEPS there is no requirement to: <ul style="list-style-type: none"> ▪ put in place appropriate risk management systems to determine whether a potential customer or the beneficial owner is a PEP. ▪ obtain senior management approval to continue a business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be or consequently becomes a PEP. ▪ take reasonable measures to establish the source of wealth and

		<p>the source of funds of beneficial owners identified as PEPs.</p> <ul style="list-style-type: none"> • The AML Act and the POTA are not enforceable with respect to Zanzibar. • There are some uncovered institutions to which the CDD measures under the AML Act do not apply. • The AML/CFT measures under the AML Act and the AML Regulations do not appear to be mandatory as there are no sanctions that apply for failure to comply with these requirements.
7. Correspondent banking	NC	<ul style="list-style-type: none"> • There are no enforceable requirements on financial institutions relating to correspondent banking relationship(s). • The AML Act and the POTA are not enforceable with respect to Zanzibar.
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> • There are no requirements providing for prevention of the misuse of technological developments in ML/TF schemes. • There is no requirement for the other reporting persons to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. • The AML Act and the POTA are not enforceable with respect to Zanzibar.

9. Third parties and introducers	NC	<ul style="list-style-type: none"> • The AML/CFT regulatory framework does not address the requirements under recommendation 9 even if in practice financial institutions do rely on third parties or intermediaries to perform some elements of the CDD measures. • The AML Act is not enforceable with respect to Zanzibar.
10. Record keeping	NC	<ul style="list-style-type: none"> • The provisions pertaining to the retention of transaction records are not effective. • The threshold approach under section 16 of the AML Act goes against the principle set out under Rec. 10 which requires financial institutions to have transaction records to permit reconstruction of individual transactions. • There is no requirement under the AML Act to keep records of account files and business correspondence. • While the provisions of section 16(2) of the AML Act meet the requirement of criterion 10.1.1 it is still inoperative as the transaction threshold under section 16(1)(a) of the AML Act has not been specified. • There is no requirement that records

		<p>should be made available on a timely basis to domestic competent authorities upon appropriate authority.</p> <ul style="list-style-type: none"> • There are uncovered financial institutions that are not subject to the requirements of the AML Act and regulations. • There are no sanctions for failure to comply with the record retention requirements under the AML Act and the AML Regulations. • The AML Act and the POTA are not enforceable with respect to Zanzibar.
11. Unusual transactions	NC	<ul style="list-style-type: none"> • There are no provisions requiring reporting persons to maintain records in writing of the background and purpose of all complex, unusual large transactions or unusual patterns of transactions that have no visible economic or lawful purpose for at least five years. • There is no specific retention period for which the required records must be kept by reporting persons. • Not all reporting persons have put into place measures to comply with

		<p>this requirement.</p> <ul style="list-style-type: none"> • There are uncovered financial institutions that are not subject to the AML Act and regulations. • The requirement under regulation 20(1) of the AML Regulation is not mandatory as there is no sanction for failure to comply with this requirement. • The AML Act and the POTA are not enforceable with respect to Zanzibar.
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • The same deficiencies apply for DNFBPs as for reporting persons with respect to Recommendations 5, 6, 8-11 and 17. • DNFBPs have not adopted and implemented the requirements of the AML Act. • The AML Act and the POTA are not enforceable with respect to Zanzibar.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • The AML Act is not enforceable with respect to Zanzibar. • There are some uncovered financial institutions for reporting STRs under the AML Act. • Not all predicate offences required in recommendation 1 are included in the scope of the reporting requirement. • Not all the required aspects of

		<p>terrorist financing are included in the scope of the reporting requirement.</p> <ul style="list-style-type: none"> • The low number of STRs by reporting institutions, all four of which are from banks, raises concern in relation to the overall effectiveness of the reporting system.
14. Protection & no tipping-off	PC	<ul style="list-style-type: none"> • Non-bank financial institutions do not enjoy legal immunity in relation to STRs submitted in good faith. • Section 20 (3) of the AML Act seems to weaken the prohibition against non-disclosure of information related to an STR. • The AML Act is not enforceable with respect to Zanzibar.
15. Internal controls, compliance & audit	NC	<ul style="list-style-type: none"> • There are uncovered financial institutions that are not subject to the requirements of the AML Act and regulations. • Section 18 of the AML Act is limited the requirement of internal reporting procedures. • Requirement for policies and controls to prevent ML and FT not set out in law in AML Act or regulations while those in the FIU Guidelines are not enforceable. • There is no requirement for financial institutions to designate a compliance officer • Section 18(b) AML Act refers to

		<p>“reasonable access” and not timely access. Section 18 of the AML Act is not enforceable.</p> <ul style="list-style-type: none"> • Audit function is of limited benefit in the absence of an enforceable requirement to establish and maintain procedures, policies and controls. • Section 19 of the AML Act is deficient. It does not cover employee training in current ML and FT techniques, methods and trends. The requirements under the FIU Guidelines do not constitute other enforceable means. • Section 19 of the AML Act is not enforceable. • Apart from the banking institutions, there is no requirement for the other financial institutions to screen employees. • The AML Act is not enforceable with respect to Zanzibar.
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> • The same deficiencies that apply to recommendations 13, 14, 15 and 21 also apply to DNFBPs. • The DNFBPs have not implemented the AML/CFT requirements under the AML Act. • The AML Act and the POTA are not enforceable with respect to Zanzibar.
17. Sanctions	NC	<ul style="list-style-type: none"> • Civil and administrative sanctions are not available for persons that fail to comply with AML/CFT requirements • Criminal sanctions do not apply to all

		<p>the AML/CFT requirements</p> <ul style="list-style-type: none"> • Some sanctions for criminal offenses by legal persons are not extended to directors and senior managers • The AML Act and the POTA are not enforceable with respect to Zanzibar..
18. Shell banks	PC	<ul style="list-style-type: none"> • Financial institutions are not prohibited from entering into, or continuing, correspondent banking relationships with shell banks • There is no requirement for financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
19. Other forms of reporting	C	This requirement is fully met.
20. Other NFBP & secure transaction techniques	C	This recommendation is fully met
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • There is no effective implementation by a number of reporting persons of this requirement of the AML Act. • There are uncovered financial institutions that are not subject to the requirements of the AML Act and regulations. • There are no measures to ensure that reporting persons are advised of concerns about weaknesses in the AML/CFT systems of other countries. • There is no requirement to make these records available to auditors. • The AML Act and the POTA are not enforceable with respect to Zanzibar.

		<ul style="list-style-type: none"> • The AML/CFT framework does not make provision for the possibility to apply appropriate counter measures where a country continues not to apply or insufficiently applies the FATF Recommendations
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> • The AML Act and the POTA are not enforceable with respect to Zanzibar. • There are uncovered financial institutions that are not subject to the requirements of the AML Act and regulations. • There is no requirement for financial institutions to apply AML/CFT requirements to subsidiaries. • There is no requirement for financial institutions to inform supervisory authority in case a foreign branch or subsidiary is unable to comply with home country AML/CFT requirements.
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • Implementation of the AML/CFT requirements is still in its infancy stage. • Some AML/CFT provisions in the AML Act are not enforceable • AML Act has not designated any competent authority with responsibility for ensuring compliance by financial institutions with AML/CFT requirements. Only BoT had limited authority. • There are no legal or regulatory measures for preventing criminals or their associates from holding or being

		<p>the beneficial owner of a significant interest in a financial institution.</p> <ul style="list-style-type: none"> • The legal framework in the United Republic of Tanzania does not provide for the licensing or registration of stand-alone MVT service providers and are no prohibitions that apply for unlicensed MVT operators. • There is an uncovered category of financial institutions that are not subject to AML/CFT requirements. • The AML Act and the POTA are not enforceable with respect to Zanzibar..
<p>24. DNFBP - regulation, supervision and monitoring</p>	<p>NC</p>	<ul style="list-style-type: none"> • There are no competent authorities designated to monitor and ensure compliance by DNFBPs with AML/CFT requirements • The Tanzania Gaming Board has limited inspection powers • The other categories of DNFBPs in Mainland Tanzania are subject to the AML/CFT requirements under the AML legislative framework. There are however, no effective systems for monitoring and ensuring compliance with AML/CFT requirements. • There is no designated authority responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements. • Only criminal sanctions are available. Civil and administrative sanctions are not provided for.

		<ul style="list-style-type: none"> • The AML Act and the POTA are not enforceable with respect to Zanzibar.
25. Guidelines & Feedback	PC	<ul style="list-style-type: none"> • The FIU has not issued guidelines to non-bank financial institutions and DNFBPs to assist them to implement and comply with AML/CFT requirements. • The AML Act and the POTA are not enforceable with respect to Zanzibar. • The FIU does not provide adequate and appropriate feedback to reporting persons as set out under the FATF Best Practice Guidelines on providing feedback to reporting persons and other Persons.
Institutional and other measures		
26. The FIU	NC	<ul style="list-style-type: none"> • Since the AML Act is not enforceable with respect to Zanzibar, the FIU does not serve as a national centre. • The FIU has not yet issued guidelines, including STR reporting guidelines, to all reporting institutions. The guidelines issued to banking institutions are inadequate. • The provisions to safeguard the operational independence of the FIU are inadequate. • The AML Act does not have a provision enabling the FIU to have access to information on timely basis and no administrative mechanisms in

		<p>place to facilitate sharing information with competent authorities domestically.</p> <ul style="list-style-type: none"> • No legal provisions requiring secure protection, confidentiality and use of information held by the FIU. • Due to the AML Act being relatively new, the overall effectiveness could not be determined.
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> • The overall effectiveness of money laundering and terrorist financing investigations could not be assessed. • The AML Act, the POCA and the POTA are not enforceable with respect to Zanzibar..
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • The definition of “financial institutions” under the POCA is restricted to financial institutions licensed under the Banking and Financial Institutions Act, 2006 and does not cover other non-bank financial institutions. This undermines the powers of the police to have access to financial records held by other reporting persons. • The powers of the police are undermined as the AML Act, the POCA and the POTA are not enforceable with respect to Zanzibar.. • The overall effectiveness in the investigation of ML and FT matters

		could not be assessed.
29. Supervisors	NC	<ul style="list-style-type: none"> • Supervisory authorities to do not have adequate powers to monitor and ensure compliance by financial institutions with requirements to combat ML and TF consistent with the FATF recommendation. • Supervisors do not have authority to conduct AML/CFT onsite inspections of financial institutions. • There are some uncovered institutions to which the CDD measures under the AML Act do not apply. • Supervisory authorities to do not have powers of enforcement and sanction against financial institutions and their directors and senior management for failure to comply with AML/CFT requirements. • The AML Act and the POTA are not enforceable with respect to Zanzibar..
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> • The FIU does not have adequate staff to enable it carry out supervisory functions as envisaged by the Act. • Appointment of staff is restricted to the public sector. • The FIU does not have a legal mandate to establish its own staff terms and conditions of employment. • Only the Commissioner of FIU is required to declare assets and liabilities.

		<ul style="list-style-type: none"> • No legal requirement for staff to be subjected to the rigorous screening process. • Overall the Police Force in the United Republic of Tanzania did not appear to be adequately resourced to combat money laundering and terrorist financing. • Technical and other resources required in the investigation of ML/FT also appeared to be inadequate to enable law enforcement to fully and effectively perform their duties. • It was not clear that members of staff of the ISD and the CMSA have direct requirements to be of high integrity and to maintain confidentiality. • Inadequate training to equip staff of supervisory authorities with adequate skills to enable them undertake effective AML/CFT supervision of regulated institutions.
31. National co-operation	PC	<ul style="list-style-type: none"> • No mechanisms have been put in place in terms of the Anti-Money Laundering Act to enable domestic operational cooperation and coordination on AML/CFT matters between law enforcement agencies and the FIU or between supervisors, law enforcement agencies and the FIU. • Effectiveness of domestic development and implementation of cooperation and coordination of policies relating to

		<p>AML could not be determined.</p> <ul style="list-style-type: none"> • Lack of a national framework dealing with domestic cooperation and coordination on TF. • The AML Act and the POTA are not enforceable with respect to Zanzibar..
32. Statistics	NC	<ul style="list-style-type: none"> • Due to the AML Act being relatively new, the overall AML/CFT systems effectiveness could be determined. • No statistics collected on international transportation of currency as the enabling legal provision appears inadequate. • The Act does not empower the FIU to collect statistics on ML/TF investigations, prosecutions and convictions from LEAs. • There is no statistics on STRs that led to investigations, prosecutions and convictions. • No mechanism in place to record and maintain comprehensive statistics on money laundering investigations, prosecutions and convictions, mutual legal assistance , extradition matters and other forms of mutual assistance. • There is no mechanism in place to review the effectiveness of systems for combating ML/TF on a regular basis.
33. Legal persons – beneficial owners	NC	<ul style="list-style-type: none"> • No information on beneficial ownership and control in terms of the FATF definitions is available. • The use of corporate directors and

		<p>nominee shareholders obscures beneficial ownership and control information of companies that use them.</p> <ul style="list-style-type: none"> • Information kept in the company registers and at the registrars is not verified and is not necessarily accurate. • The use of a manual filing system may undermine the timely access to the information kept by the registrars. • There are no measures in place to ensure that share warrants are not misused for money laundering purposes. • The AML Act and the POTA are not enforceable with respect to Zanzibar.
34. Legal arrangements – beneficial owners	NC	<ul style="list-style-type: none"> • No information on the ownership or control of private trusts is available. • There are no measures in place to prevent the unlawful use of trusts for money laundering and terrorist financing. • The AML Act and the POTA are not enforceable with respect to Zanzibar.
International Co-operation		
35. Conventions	PC	<ul style="list-style-type: none"> • No effective framework to administer implementation of AML matters • The United Republic of Tanzania has not fully implemented the Palermo Convention and the UN International Convention for the Suppression of the

		<p>Financing of Terrorism as it has no provisions, (but to mention a few), for:</p> <ul style="list-style-type: none"> - witness assistance, protection and relocation; and - use of Special Investigative Techniques as far as it relates to controlled delivery - no Central Authority tasked with the responsibility and power to receive requests for mutual legal assistance and either to execute or transmit such requests to competent authorities for execution - no adequate training programmes and technical assistance on Money Laundering at National level to enhance effective implementation of the UN Palermo Convention. <ul style="list-style-type: none"> • The AML Act, the POCA and the POTA are not enforceable with respect to Zanzibar. • Not all the relevant UN Conventions and Protocols under the SFT Convention have been ratified and fully implemented in the United Republic of Tanzania.
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> • It was not clear to the assessors that mutual legal assistance for ML/TF investigations and prosecutions could be made available with respect to Zanzibar as The AML Act and the

		<p>POTA are not enforceable with respect to Zanzibar..</p> <ul style="list-style-type: none"> • In the absence of statistics it could not be determined that assistance is provided in a timely, constructive and effective manner. • In the absence of statistics it could not be determined that requests were executed in a timely way and without undue delays. • In the absence of a judicial pronouncement on this issue the assessment team was unable to determine the impact of the secrecy provision under section 48 of the Banking and Financial Institutions Act on mutual legal assistance requests pertaining to disclosure of financial and other records held by a bank or financial institution. • No provision for avoiding conflict of jurisdiction. • Overall effectiveness could not be determined.
37. Dual criminality	NC	<ul style="list-style-type: none"> • The absence of dual criminality can be a ground for refusal of a request. This may be an issue as certain designated categories of predicate offences are not predicates under the AML Act. • The AML Act and the POTA are not enforceable with respect to Zanzibar. • Terrorist Financing Offences under the POTA are not extradition crimes for

		<p>which extradition may be granted under the Extradition Act.</p> <ul style="list-style-type: none"> • Overall effectiveness could not be assessed.
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • Instrumentalities intended to be used in the commission of the ML, FT or other predicate offences are not covered. • As no statistics were made available to the assessment team it was not possible to determine the effectiveness of the mutual legal assistance regime in place and the timeliness of the response to requests for assistance. • The definition of “tainted property” under the POCA does not appear broad enough to cover property of corresponding value. • There are no formal arrangements in place to coordinate seizure and confiscation actions with foreign countries. • The laws of the United Republic do not make provision for the establishment of an asset forfeiture fund. • The AML Act, the POCA and the POTA are not enforceable with respect to Zanzibar.
39. Extradition	PC	<ul style="list-style-type: none"> • The AML Act is not enforceable with respect to Zanzibar. • Overall effectiveness of the extradition regime in relation to ML could not be

		assessed.
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> • The scope of the powers of the FIU under section 6(i) could not be determined as the FIU does not have access to law enforcement data bases, public data bases, administrative databases and commercially available databases. • Except for police to police cooperation the overall effectiveness of international cooperation could not be determined. • The ISD does not appear to have authority to conduct inquiries on behalf of its foreign counterparts. • In the absence of a judicial pronouncement the scope of the confidentiality provision under the Banking and Financial Institutions Act and the Foreign Exchange (Bureaux de Change) Regulations 2008 could not be determined. • The scope of the powers of the FIU under section 6(i) could not be determined as the FIU does not have access to law enforcement data bases, public data bases, administrative databases and commercially available databases. • The AML Act and the POTA are not enforceable with respect to Zanzibar.

Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	NC	<ul style="list-style-type: none"> • No implementing regulations have been issued to give effect to the freezing mechanism under the UN Security Council Resolutions 1267 and its successor resolutions and UNSCR 1373 have not been implemented. • Not all the relevant UN Conventions and Protocols under the SFT Convention have been ratified and fully implemented in the United Republic of Tanzania. • The POTA is not enforceable with respect to Zanzibar.
SR.II Criminalise terrorist financing	NC	<ul style="list-style-type: none"> • Not all the relevant UN Conventions and Protocols under the International Convention for Suppression of Financing of Terrorism have been ratified and fully implemented in the United Republic of Tanzania. • As the term funds for the purposes of the TF offence under section 13 of the POTA is not defined it was not possible to determine if it meets the standard under the TF Convention. • It is not clear whether parallel actions are possible against legal persons. • The assessors could not assess the overall effectiveness of the legislation.

		<ul style="list-style-type: none"> • The AML Act and the POTA are not enforceable with respect to Zanzibar.
<p>SR.III Freeze and confiscate terrorist assets</p>	<p>NC</p>	<ul style="list-style-type: none"> • There is no legal framework in place to enable the freezing of funds and other assets of persons designated under the UNSCR 1267. • There is no legal framework in place to freeze without delay terrorist funds or other assets of persons designated in the context of UNSCR 1373. • There is no definition of the term “funds” under the POTA and the definition of “property” does not meet the standard. • There are no effective and publicly known procedures and processes for de-listing requests and unfreezing funds of de-listed persons. • There are no procedures for the unfreezing of funds of persons inadvertently affected by freezing mechanism. • There are no procedures in place to allow access to frozen funds for expenses and other purposes. • There are no procedures in place for challenging freezing decisions. • There are no procedures in place for the protection of rights of bona fide third parties consistent with the TF Convention.

		<ul style="list-style-type: none"> • There are no mechanisms and processes in place for communicating with the financial institutions and other stakeholders within the United Republic of Tanzania for the purposes of SRIII. • No guidance to financial institutions and other persons or entities that may be holding targeted funds or assets, concerning their obligations in taking action under freezing mechanisms has been issued. • The POTA is not enforceable with respect to Zanzibar.
SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • The AML Act and the POTA are not enforceable with respect to Zanzibar. • Not all financial institutions and DNFBPs are covered as reporting persons of the purposes of the AML Act. • The definition of terrorist financing is inadequate. • The overall effectiveness of the reporting system could not be assessed.
SR.V International co-operation	NC	<ul style="list-style-type: none"> • The same deficiencies that apply to Recommendations 36, 37 and 38 also apply to SRV. • It was not clear to the assessors that mutual legal assistance related to TF offences could be made available with respect to Zanzibar as the POTA is

		<p>not enforceable with respect to Zanzibar.</p> <ul style="list-style-type: none"> • Terrorist Financing Offences are not extradition crimes for which extradition may be granted under the Extradition Act. • As POTA is not enforceable with respect to Zanzibar it was not clear whether Zanzibar will be able to provide international cooperation in TF matters under Recommendation 40. • Overall effectiveness of international cooperation in TF matters under recommendation 40 could not be determined.
<p>SR VI AML requirements for money/value transfer services</p>	<p>NC</p>	<ul style="list-style-type: none"> • MVT service operators such as mobile phone operators and the Tanzania Postal Corporation are not subject to AML/CFT requirements. • MVT service operators are not monitored for compliance with AML/CFT requirements. • The BoT has powers to sanction licensed banks and financial institutions for non-compliance with any laws; however, most of the applicable provisions of the AML Act are not enforceable. • MVT service operators are not required to maintain current list of agents. • There are no requirements for MVT

		<p>service providers outside the banking system to be licensed and/or registered and supervised for AML/CFT purposes.</p> <ul style="list-style-type: none"> • There are no sanctions against unlicensed informal operators.
SR VII Wire transfer rules	NC	<ul style="list-style-type: none"> • Financial institutions are not required to obtain and maintain complete originator information cross-border wire transfers. • The requirement to verify the identity of the originator for all wire transfers under section 15 of the AML Act is not enforceable. • Each intermediary and beneficiary financial institution in the payment chain is not required to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. • Beneficiary financial institutions are not required to adopt effective risk-based procedures for handling wire transfers that do not contain complete originator information. • Supervisory authorities are not monitoring compliance of financial institutions with rules and regulations implementing SR VII.

		<ul style="list-style-type: none"> • There is no requirement for the receiving intermediary financial institution to keep a record for five years of all the information received from the ordering financial institution where technical limitations prevent the full originator information accompanying a cross- border wire transfer from being transmitted with a related domestic wire transfer. • The AML Act and the POTA are not enforceable with respect to Zanzibar..
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> • No risk assessment of the NPO sector regarding misuse of the sector for terrorist financing has been conducted. • No periodic assessment is undertaken on the sector’s potential vulnerabilities to terrorist activities. • There has been no outreach programmes undertaken in the United Republic of Tanzania to raise awareness in the NPO sector about the vulnerabilities of the NPOs to terrorist abuse and terrorist financing risks and the measures that NPOs can take to protect

		<p>themselves from such abuse.</p> <ul style="list-style-type: none">• There is no specified record keeping period prescribed for NPOs to maintain and make available to the appropriate authorities records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organisation.• There is no mechanism in place that allow for prompt investigative or preventative action against such NPOs that are suspected of either being exploited or actively supporting terrorist activity or terrorist organisations.• There is no mechanism to ensure effective domestic cooperation, coordination and information sharing to the extent possible among all levels of appropriate authorities or organisation that hold relevant information on NPOs of potential terrorist financing.• The Registrars of NGOs and Societies are under-resourced to effectively implement the NPO
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		legislations. <ul style="list-style-type: none">• The POTA is not enforceable with respect to Zanzibar.
SR.IX Cross Border Declaration & Disclosure	NC	The requirements under SRIX have not been implemented.

