Zimbabwe's removal from the FATF grey list, a milestone worth celebrating. What does this mean for the Zimbabwean AML/CFT landscape going forward?

On the 4th of March, Zimbabwe was removed from the Financial Action Task Force (FATF) grey list. When the FATF places a jurisdiction under increased monitoring, it means the country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring. Jurisdictions under increased monitoring actively working with the FATF to address strategic deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing. The ESAAMLG 7th enhanced follow up report on Zimbabwe indicated that the country would remain in enhanced follow-up and will continue to inform the ESAAMLG of the progress made in improving and implementing its AML/CFT measures.

Zimbabwe is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) whose aim is to combat money laundering by implementing the FATF recommendations. There are eighteen (18) other member countries in east and southern Africa as well as a number of regional and international observers such as AUSTRAC, Commonwealth Secretariat, East African Community, FATF, IMF, SADC, United Kingdom, United States of America, UNODC, World Bank and World Customs Organization. ESAAMLG is a regional styled body which is a member of the FATF. The FATF is an inter-governmental policymaking body whose purpose is to establish international standards, and to develop and promote policies, both at national and international levels, to combat money laundering and the financing of terrorism.

The ESAAMLG evaluated the anti-money laundering and combating the financing of terrorism and proliferation financing regime of Zimbabwe under its Second Round of Mutual Evaluations from 15-24 July 2015. The Mutual Evaluation Report (MER) was adopted by the ESAAMLG Council of Ministers in September 2016. According to the MER, Zimbabwe was Compliant (C) with eleven (11) Recommendations, Largely Compliant (LC) with nine (9) Recommendations, Partially Compliant (PC) with fourteen (14) Recommendations and Non-Compliant (NC) with six (6) Recommendations. Out of the eleven (11) Immediate Outcomes (IOs), Zimbabwe was rated Moderate Level of Effectiveness on two (2) IOs and Low Level of Effectiveness on nine (9) IOs.

Some of the noted major short falls during the 2015 mutual evaluation were as follows,

- no mechanism(s) to communicate results of the National Risk Assessment (NRA)
- the authorities did not demonstrate an understanding of the Money Laundering / Terrorist Financing (ML/TF) risks identified in the NRA, and, as a result, they had not applied a risk-based approach to allocation of resources and implementation of Anti Money Laundering / Counter Financing of Terrorism (AML/CFT) measures to prevent or mitigate ML/TF risks.
- there was no specific requirement for Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) to include information on high-risk areas into their risk assessments.
- no specific requirement for FIs and DNFBPs to assess and understand their ML/TF risks, document the risks, consider the category of the risk and the appropriate mitigating controls, and have measures to communicate the risk assessments to supervisors; no requirement to develop and adopt procedures, policies and controls at a senior management level to manage and mitigate the risks nor monitor implementation of the controls and procedures with a view to adjusting them when necessary; and no specific obligation for FIs and DNFBPs to apply simplified measures on the basis of the level of risk.

The notable additional actions taken by Zimbabwe to address these short falls were

- Zimbabwe developed a National AML/CFT Strategic Plan 2020-2025 which has four strategic objectives: (a) Parallel Financial Investigations, (b) Capacity Building Awareness and Supervision, (c) Asset forfeiture and Confiscation and, (d) Beneficial Ownership and NPOs.
- The Zimbabwe Financial Intelligence Unit (FIU) has incorporated the major predicate offenses that were identified in the NRA in their prioritisation of cases for analysis and has created specialised desks to focus on each of the predicate offenses listed in the NRA.
- Various units have been established in some agencies such as the Zimbabwe Revenue Authority (ZIMRA) (to focus on tax evasion) National Prosecution Authority (NPA)(to focus on corruption) and Zimbabwe Republic Police (ZRP) to undertake specialised functions. The ZRP has set up units such as Asset Forfeiture Unit, Counter Terrorism Unit, Police Anti-Corruption Unit, a CID Minerals, Flora and Fauna, and others to effectively combat ML/TF.
- In relation to legislation, Zimbabwe introduced some provisions in the Money Laundering and Proceeds of Crime Act in 2018 to strengthen the civil forfeiture process.

What does these improvements mean for Zimbabwe?

- Zimbabwe's removal from the list of countries that are considered to be insufficiently compliant in implementing AML/CFT standards is an important milestone in Zimbabwe considering that the country is already facing a myriad of challenges ranging from sanctions, high levels of corruption to name just a few. This explains why Zimbabwe has seen a massive de-risking by most correspondent banks in the past decade. This has negatively impacted the country's ability to effect cross border payments, resulting in financial exclusion. Donor payments, lines of credits, money transfer payments(remittances) and developmental finance have also not been spared by this development. The removal of Zimbabwe from the FATF grey list of countries with strategic AML/CFT deficiencies will improve the countries perceived risk and will most likely see an increased appetite from correspondent banks.

- Related to the FATF stance on the country, the European Union (EU) has also come up with a policy on high risk third countries. The aim is to protect the integrity of the EU financial system. Zimbabwe is part of the countries added on to the list on 01 October 2020. The effect of Zimbabwe being removed on the FATF grey list would be that it could also be seen as less risky by the EU.

  The EU follows moral suasion as an appeal to compliance, to influence or change behaviour when listing and delisting high risk third countries based on their progress and efforts being made to address the noted deficiencies by the FATF. In its assessment on removing countries with strategic deficiencies in their regimes on anti-money laundering and countering terrorist financing, the EU takes into account new information from international organisations and standard setters, such as those issued by FATF. Zimbabwe's commitment to remediating the identified deficiencies will go a long way in contributing to the removal of the country from the list of identified high-risk third countries with strategic deficiencies.

  The removal of the country from the FATF grey list and the potential removal from the EU high risk third countries could boost the prospects of attracting new foreign direct investment in the country and increase attractiveness of the country for potential credit lines. This is because adherence to AML/CFT standards is a major risk factor considered for jurisdictional profiling by correspondent bankers and international creditors. Subsequently, even international cross border flow of funds will improve owing to an improvement in AML/CFT controls.

- Important to note that Zimbabwe is also listed as the 12th riskiest country by the Basel Institute of Governance. The removal of Zimbabwe from the FATF grey list means the Zimbabwe's Basel AML index could improve.

The way forward for Zimbabwe?

The ESAAMLG 7th enhanced follow up report on Zimbabwe indicated that the country would remain in enhanced follow-up and will continue to inform the ESAAMLG of the progress made in improving and implementing its AML/CFT measures. What this effectively means is that Zimbabwe is still under the radar and evidence of continued improvement on the remaining areas of concern will be of paramount importance. This will also ensure that the country will not be reinstated on to the grey list on successive mutual evaluation exercises.

There are areas like recommendation 15 on new technologies which are still of great concern. From the follow up report it can be noted that Zimbabwe submitted that it has prohibited Virtual Assets (VA) and Virtual Assets Service Providers (VASPs), there is no legislative framework to support such a proposition. Therefore, the operations of VASPs are not specifically prohibited. There are no requirements for VASPs to be licensed or registered. No action has been taken to identify natural or legal persons that carry out VASP activities without the requisite license or registration and apply appropriate sanctions to them. Further, there are no legal or regulatory requirements for VASPs to be supervised and supervisory authorities do not have powers to supervise or ensure compliance with AML/CFT requirements. This means that the relevant authorities still need to work on putting adequate controls with regard to the risks that are presented by new technologies.

Botswana through an extra ordinary gazette on the 25th of February 2022, enacted into law the Virtual Assets Bill whose objective is to: (a) regulate new and developing virtual assets businesses; (b) manage, mitigate and prevent money laundering and financing of terrorism and proliferation risks associated with virtual assets; and (c) provide new emerging business practices and technologies. Zimbabwe must be guided and take cues from such developments to also regulate new technologies. The relevant authorities must ensure that all areas of concern highlighted in the mutual reports must be attended to and ensure consistency in their regulation efforts going forward.

Zimbabwe is still lagging behind with regards to recommendation 24 /25 which require countries to prevent the misuse of legal persons for money laundering or terrorist financing and to ensure that there is adequate, accurate and up-to-date information on the beneficial ownership and control of legal persons. The recent FATF amendments to these recommendations require countries to explicitly require a multi-pronged approach, i.e., to use a combination of different mechanisms, for collection of beneficial ownership information to ensure it is available to competent authorities in a timely manner. Countries should require companies to obtain and hold adequate, accurate and up-to-date information on their own beneficial ownership and make such information available to competent authorities in a timely manner. Countries should also require beneficial ownership information to be held by a public authority or body functioning as beneficial ownership registry or may use an alternative mechanism if such a mechanism also provides efficient access to adequate, accurate and up-to-date beneficial ownership information by competent authorities. This will go a long way in ensuring transparency in aspects relating to beneficial ownership.

The country must also take a holistic approach in analysing the issues that affect the AML/CFT landscape. There is a thin line that separates regulation of AML/CFT issues and the political side as well. As such the relevant AML/CFT authorities must take a leading role in engaging government and other political stakeholders on the need to priorities issues like sanctions, corruption, respect for human rights, etc all at once. Taking an isolated approach will not likely result in tangible results that are required to see Zimbabwe progress on the AML/CFT front.

Compliance officers have a critical role to play in improving and implementing the country's controls on AML/CFT deficiencies. There are industry specific bodies like the Bankers Association of Zimbabwe Compliance Committee which plays an integral part in driving compliance and being the middleman between the financial industry players and the various regulators that controls the sector. However, compliance issues affecting Designated Non-Financial Businesses and Professions (DNFBPs) were not being adequately addressed at the industry level. This is the gap that the Compliance Society of Zimbabwe (CoSoZ) has bridged. It is an organisation that is represented by specialists across a lot of industries and sectors. The organisation focuses on continuous professional development, compliance program and framework formulation and implementation, specialist training that is tailored to meet organisational needs among other things. Dialogue and cross partnerships being spearheaded by CoSoZ with the Central Bank of Zimbabwe's Financial Intelligence Unit, Zimbabwe Anti-Corruption Commission and other stakeholders should also take into cognisance national issues like the FATF mutual evaluation findings so that the multi-disciplinary efforts yield the much-needed results.

The multi sector AML/CFT taskforce set up by the Central Bank of Zimbabwe's Financial Intelligence Unit, is noble idea since it is constituted by stakeholders from diverse backgrounds which makes it easier to have a balance when national events inclined to AML/CFT issues are being addressed. However, the authorities must consider adding more stakeholders like new car dealerships and dealers in precious art, jewellers among other players since they also play a crucial role in the fight against ML/FT.

However, the removal of the country from the FATF grey list is a welcome achievement that deserves celebration. The relevant stakeholder must still be reminded that a lot still needs to be done and the country must keep its blinkers on to avoid getting carried away.

Zimbabwe is one of the first countries in the region to conduct NRA ahead of other bigger economies like South Africa, Botswana and consequently requesting regulated entities to conduct Institutional Risk assessments informed by the findings of the NRA. This is a good development that ensures adoption of the risk-based approach premised on identified high risk areas. For the 2018/2019 NRA, the national money laundering threat for Zimbabwe was assessed to be medium, with the main ML major predicate offences being used to generate proceeds being (a) Fraud, (b) Contravention of the Customs & Exercise Act, (c) Contravention of the Gold Trade Act, (d) Corruption and (e) Contravention of the Income Tax Act. Zimbabwe must continue to prioritise addressing these issues and evidence the remedial efforts being applied.

The financial crime landscape is ever evolving and requires continuous improvement of the AML/CFT frameworks/programs for the country. Both the private sector and the private sector have a duty of making sure that best practice and good standards are adopted from an AML/CFT point of view. Guided by the FATF and other international bodies best practice must be adopted to ensure that our systems are not used and manipulated by financial criminals and/or for terrorism related activity.

Jeoffrey Mugwagwa writes in his capacity as a Financial Crime Specialist (jefmug@gmail.com).