



Suspected Tax Evasion Syndicates (II)



A joint task team with the Zambia Revenue Authority was set up during the last quarter to carry out inquiries into the suspected tax evasion reports. The inquiries conducted, in some instances established that the subjects involved have been evading taxes. Consequently, ZRA issued tax assessments amounting to **ZMW 320 million**. Of this amount, **ZMW 29 million** had been paid by the end of Quarter 1. This compares to assessments worth ZMW 1.5 billion issued in quarter 4 of 2023.

During the first quarter of 2024, the FIC observed a continuing trend in the form of suspected tax evasion and/or money laundering involving foreign nationals who are engaged in the transfer of suspected illicit funds out of Zambia. Foreigners continued to establish companies and use Zambians as proxies to maintain control over their respective bank accounts, a pattern that had been observed in the preceding quarter. The FIC disseminated **810** intelligence reports in Q1 2024, compared to **450** in Q4 2023, with estimated outflows of Kwacha equivalent of **ZMW 61 billion** related to suspected illicit financial flows (IFF). Illicit Financial Flows (IFFs) refer to the cross-border transfer, utilisation, or sourcing of funds that are against legal regulations. Inquiries and verifications conducted during the quarter uncovered, among other significant sources, fraudulent activities, tax evasion-tainted legitimate trade operations and illicit mining.

In the preceding quarter (Q4, 2023), the suspected IFF's disseminated amounted to USD 2.8 billion (ZMW56.5 billion).

Inquiries further revealed that shell companies were established using counterfeit permits and passports for directors, shareholders, and signatories. These fraudulent documents were used to open accounts in multiple banks. The issue of identity fraud will continue to escalate with the incidence of Artificial Intelligence. Banks are encouraged to enhance Customer Due Diligence (CDD) measures to arrest the scourge. Further, the Centre wishes to implore Government to urgently complete the project on the digital identity as it will assist curb some of the vices identified.

Money Laundering, Terrorism and Proliferation Financing National Risk Assessment (NRA)

Second Round NRA

In 2027, Zambia will undergo the Mutual Evaluation (ME), a process under the Financial Action Task Force (FATF) to determine its compliance with the FATF requirements. In this regard the country is undertaking the 2nd Round Money Laundering, Terrorist Financing, Proliferation Financing (ML/TF/PF) National Risk Assessment (NRA) in order to update the risk assessment conducted in 2016 and to align Zambia's Anti-Money Laundering/Countering the Financing of Terrorism and Proliferation (AML/CFTP) systems with the (FATF) standards for combating money laundering, terrorism and proliferation financing. Non-compliance with the FATF standards can adversely affect capital inflows and restrict the country's access to development funds and

international banking networks.

The Government of the Republic of Zambia designated the Financial Intelligence Centre to coordinate the undertaking of the second money laundering and terrorism financing National Risk Assessment (NRA).

During the 1st quarter of 2024, the NRA process was launched by the Ministry of Finance and National Planning (MOFNP). The sectors that are being assessed during the 2nd NRA include the banking, insurance, designated non-financial businesses and professions, virtual asset service providers (VASPs) and capital markets. Data collection is envisaged to commence in the 2nd quarter of 2024. The entire process of the NRA is expected to take one year to be completed.

Beneficial Ownership Study

In the period under review the FIC finalized and launched a study on the "Availability and Access to Beneficial Ownership Information for Law Enforcement Investigations in Zambia". The study broadly aimed to explore the structure of the Beneficial Ownership (BO) regime in Zambia and provide recommendations to address the gaps observed. Among the study's findings were inadequacies in the data verification mechanisms and inconsistent understanding of the concept of BO among stakeholders. The recommendations included adoption of an "All government approach" model to beneficial ownership disclosure, increased sensitization and involvement of the private sector in the data verification process. The full study report can be downloaded from the following link:

<https://www.fic.gov.zm/about-us/79-fic-news/122-beneficial-ownership-study>



Suspected Tax Evasion Syndicate

The Centre also collaborated with the Department of Immigration in an operation that led to the arrest of three foreign nationals who are believed to be among persons at the centre of various syndicates. Further, some bank employees and a university student were arrested for aiding the foreign nationals. Banks should continue to enhance preventative measures and in particular, ensure appropriate know your employee (KYE) measures are adopted.

The Centre appreciates the feedback and collaborative efforts that are producing results and making it hard for criminals to hide illicitly obtained funds.



Implementation of the AML System

The FIC in 2023 embarked on the process of implementing a new anti-money laundering system – the goAML. The goAML application is a fully integrated software solution developed by the United Nations Office for Drugs and Crime (UNODC). It is specifically designed to meet the data collection, management, analytics, document management, workflow and statistical requirements of the AML/CFT regime. It also provides a facility for rapid exchange of information among stakeholders. Once implemented, the system will significantly enhance engagement with reporting entities and law enforcement agencies. Discussions with the UNODC have reached an advanced stage. We envisage to go-live in quarter 3 of 2025. The FIC will engage key stakeholders on the roll out of this robust AML system. Reporting entities are encouraged to contact the Centre for any clarifications regarding the upcoming changes.

Bulk Data Analysis

The FIC, during quarter one, developed a country risk barometer through bulk data analysis of wire transfer reports, suspicious transaction reports and cross border currency declaration reports to determine countries that may pose a high risk of ML/TF/PF in the context of Zambia. The analysis provides an indication of countries that are destinations of proceeds of crime from Zambia and countries that originate proceeds of crime destined for Zambia. The results of the country risk barometer will guide the Centre's approach towards entering into memoranda of understanding (MoUs) with countries for information exchange and other forms of cooperation. Further, the FIC intends to develop procedures to allow reporting entities to access the country risk barometer to support their transaction monitoring systems.

Legal persons & arrangements

Financial Intelligence

Consistency

AML/CFTP

Statistics



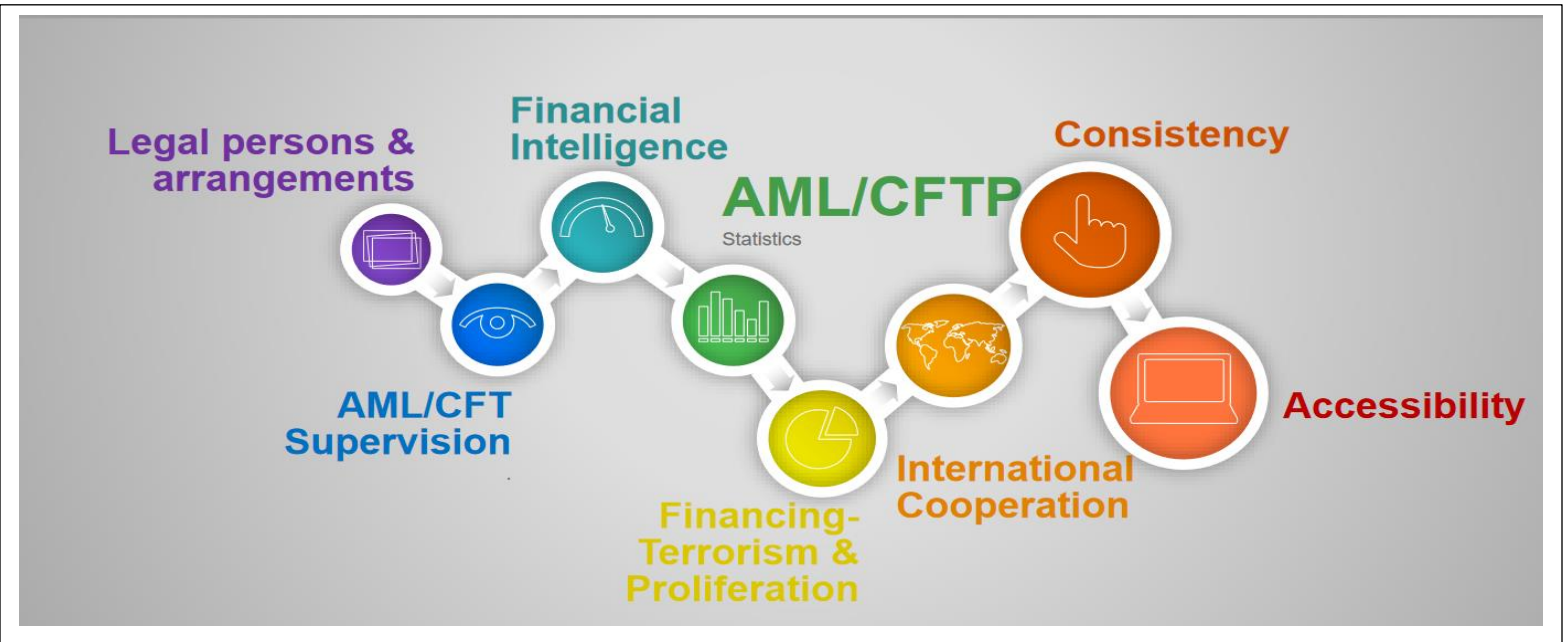
AML/CFT Supervision



Accessibility

Financing-Terrorism & Proliferation

International Cooperation



Recommendation 33 of the Financial Action Task Force (FATF) requires countries to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of their AML/CFT systems.

Management of Comprehensive Statistics on AML/CFTP

Further, Section 54 of the Financial Intelligence Centre Act mandates the Centre to implement a system for monitoring the effectiveness of AML/CFTP policies by maintaining comprehensive statistics on:

- a) suspicious transaction or suspicious activity reports received and transmitted to law enforcement agencies;
- b) money laundering, terrorism financing and any other serious offence, investigations and convictions;
- c) property frozen, seized and confiscated; and
- d) international requests for mutual legal assistance or other co-operation.

In this vein, the Centre embarked on implementing a system on management of statistics in order to address the requirements of Recommendation 33 of the FATF standards and section 54 of the FIC Act. The statistics will have a focus on International Cooperation, AML/CFTP Supervision, legal persons and arrangements, Financial Intelligence, AML Legal System and Operational Issues, Terrorism and Proliferation Financing (as depicted in the chart above). The system will enable presentation of data from different agencies in a consistent manner, use consistent definitions, using the same time periods, avoid double counting and monitor the evolution of statistics over time at a national level. It will further guide the allocation of resources to the AML/CFTP eco-system on a Risk-Based Approach. The Centre therefore appeals to stakeholders to cooperate and to allocate sufficient resources to ensure the success of this initiative. The system is expected to be rolled out in Quarter 3 of 2024.

Zambia is due for the 3rd round of Mutual Evaluation (ME) by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) in 2027. Effectiveness shall be the focus of the evaluation. This project is therefore critical for Zambia as comprehensive statistics will assist to demonstrate the effectiveness of the country's AML/CFTP systems.

Does The Financial Intelligence Centre Have the authority to Freeze an Account or Suspend a Transaction?

In recent times, the FIC has witnessed a surge in cases where entities, aggrieved by the freezing of their accounts or suspension of transactions due to suspected money laundering activities, have turned to Courts for recourse. Absent however has been their adherence to the prescribed legal avenue outlined in Section 10(4) of the Financial Intelligence Centre Act No. 46 of 2010 (as amended) ['the FIC Act'], despite its clear provisions for seeking redress.

To prevent instances of what could either be disregard for legally prescribed avenues of seeking redress or simply mere ignorance of the provisions of the law on the available recourse for aggrieved parties and also tackle the inquiry on the authority to freeze or suspend an account or a transaction, it is imperative to reiterate the following:

- i. The authority vested in the Director-General to either freeze an account or suspend a transaction as delineated in Section 10(3); and
- ii. The available recourse, as outlined in Section 10(4), for aggrieved parties in cases where the Director-General's authority pursuant to Section 10(3) is exercised.

The explicit legal basis for the FIC's power to either freeze an account or suspend a transaction is couched in Section 10(3) of the FIC Act which grants the Director-General the authority to order a reporting entity to freeze an account or suspend a transaction if there is reasonable suspicion of money laundering, financing of terrorism, proliferation, or other serious offenses. The freezing of an account or suspension of a transaction can last for a maximum of fifteen (15) days.

The effect of Section 10(3), is that on receipt of the Freezing or Suspension Order a reporting entity must for the period of time specified in that order stop all activities or suspend a specified transaction on the concerned account with the exception of credits being received into that account. However, it must be noted that the minimum requisite conditions for the FIC to exercise this power to either freeze an account or suspend a transaction is that the Director General must reasonably suspect that a transaction relates to money laundering, financing of terrorism or

proliferation or any other serious offence.

In many cases, the activation of the Director General's authority to freeze an account or suspend a transaction is prompted by the receipt of a Suspicious Transaction Report from a reporting entity. Such an action is usually an interim measure, designed for the short term, to allow the FIC sufficient time to conduct a thorough assessment. This evaluation aims to determine whether there are reasonable grounds to suspect that the funds or assets in question stem from illicit activities or are linked to terrorist financing.

It is noteworthy that, the freezing of an account or suspension of a transaction is not absolute. Section 10(4) outlines the process for challenging the Director-General's decision to freeze an account or suspend a transaction. It allows an aggrieved party after seventy-two (72) hours of the Director General placing an order to freeze an account or suspend a transaction apply to a Judge in Chambers to have it discharged and at the same time serve a Notice on the Director General to join the proceedings. Notwithstanding the legal recourse being sought by an aggrieved party through the already explained application to a Judge in Chambers, the Freezing or Suspension Order remains in effect until the Judge determines otherwise.

The effect of Section 10(4) is that it ensures that individuals or entities affected by a freezing order have recourse to judicial review, thereby safeguarding their rights and providing a mechanism for due process. It balances the need for immediate action with the rights of affected parties to challenge the decision through legal channels.

From the FIC's experience, it has been observed that aggrieved parties have consistently failed to utilize this available recourse, which is fully within their legal rights. Notably, when they eventually seek redress, it is often well after the expiration of the Freezing or Suspension Order due to the passage of time and at that point the Centre has ceased to have any interest in the matter.

To answer the question, 'Yes, the FIC does have the legal mandate to freeze an account or suspend a transaction.'

Awareness Raising

During the period under review, the FIC conducted awareness and training sessions for various stakeholders including reporting entities. A total number of seven hundred and fifty-seven (757) persons from both public and private sector institutions participated in these Anti-Money Laundering and Countering the Financing of Terrorism and Proliferation (AML/CFTP) awareness sessions.

Technical Assistance to the FIU of Madagascar

During the 1st quarter, the Madagascar Financial Intelligence unit (FIU) requested for technical assistance from the FIU of Zambia to assist with development of measures for Implementing Targeted Financial Sanctions related to Terrorism Financing and Proliferation Financing among other preventive programmes. The Zambian FIU accordingly offered technical assistance to the FIU of Madagascar in the period under review.

Supervisory Activities

As required by the FIC Act, the Centre undertook a number of supervision activities in the financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) sectors. The DNFBPs sector is comprised of law firms, dealers in precious stones and metals, casinos, real estate agents and accounting firms. The supervision activities undertaken included: onsite inspections and monitoring activities. The following trends were observed in the quarter under review:

- Weaknesses in implementation of customer identification requirements by DNFBPs;
- Weaknesses in understanding of the money laundering and terrorism financing risks by reporting entities;
- Weaknesses in implementation of reporting obligations by reporting entities;
- Inadequate independent audit;
- Non-disclosure of beneficial ownership by some reporting entities as required by the Companies Act No. 10 of 2017.

Administrative Sanctions

The Centre, in the period under review imposed administrative sanctions on one reporting entity for breach of the FIC Act. Further, as at the close of the quarter, eighteen (18) active cases were being reviewed by the Centre for suspected breaches of AML/CFTP requirements in the FIC Act. The majority of the reporting entities suspected to have breached the FIC Act were from the DNFBPs sector. Section 49C of the FIC Act provides for the Centre to impose administrative sanctions on reporting entities that are in breach of the FIC Act.

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