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**TYOLOGIES REPORT ON MONEY LAUNDERING AND
TERRORIST FINANCING
THROUGH THE MONEY REMITTANCE AND CURRENCY
EXCHANGE SECTOR IN THE ESAAMLG
REGION**

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A. Abbreviations

AML/CFT	Anti-Money Laundering/Combating Financing of Terrorism
CDD	Customer Due Diligence
CE	Currency Exchange(s)
ESAAMLG	Eastern and Southern Africa Anti Money Laundering Group
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
IMF	International Monetary Fund
KYC	Know Your Customer
LEA	Law Enforcement Agencies
MVTs	Money or Value Transfer Service(s)
MVT/CE	Money or Value Transfer/Currency Exchange
MDGs	Millennium Development Goals
ML	Money Laundering
ML/TF	Money Laundering/Terrorist Financing
MR	Money Remittances
MR/CE	Money Remittance/Currency Exchange
PEP	Politically Exposed Persons
RSA	Republic of South Africa
SAR	Suspicious Activity Report
STR	Suspicious Transaction Report
TF	Terrorist Financing
UNSC/S/RES	United Nations Security Council Special Resolution
USD	United States Dollars (US\$)
ZAR	South African Rands (R)

B. Executive summary

This typology report looks at money laundering and terrorist financing methodologies associated with the money or value transfer and currency exchange sector in the ESAAMLG Region and makes reference to other regions, where necessary. The findings in this report derive from information provided by the ESAAMLG Member States and other open source material reviewed by the project team.

The report aims to provide an overview on the regulatory framework, the supervision and sanctioning regimes, as well as identified money laundering and terrorist financing methods and techniques involving money or value transfer and currency exchange service providers.

The identified risks of ML/TF through the sector detailed in the report are mainly related to clients, owners or agents. The case studies cited and described in the report also point to links between money laundering in the money or value transfer sector and other criminal activities (e.g., fraud, tax evasions, trafficking in human beings, smuggling, drug trafficking).

A number of vulnerabilities to anti-money laundering across the sector that make up the money or value transfer and currency exchange sector were identified. The report's findings indicate that, in exception to a few countries, the majority of ESAAMLG member countries have not identified the money or value transfer and currency exchange sectors as targets for those advancing terrorism financing activities. This finding is despite other open sources regarding this sector as high risk as far as terrorism financing activities is concerned. This is attributed to the lack of or poor controls that mitigate its inherent terrorist financing risk exposures. Through the analysis of case studies and other materials, the project team was also able to compile numerous examples of indicators of potential money laundering activities related to transactions, customer profile and behaviour as well as specific indicators for currency exchanges and money or value transfer service providers that may help the industry to identify and describe suspicious behaviours and protect themselves against money launderers and other criminals.

Although our findings, based on responses from ESAAMLG member countries do not support this, other sources indicate that particular risks involved with the sector are related

not only to the misuse of the sector services for laundering money but also to the owning of such businesses by criminal groups and corrupt employees co-operating with criminals.

The report equally points to regulatory and supervisory control weaknesses which clearly encourages laundering through the money or value transfer and currency exchange sectors. From the findings, it is clear that there is a low detection of money laundering in comparison to the size of the industry as a whole. Unlike other sectors like the banking sector, it is also clear that many countries in the ESAAMLG Region do not have adequate mechanisms to help increase the detection rate of money laundering and terrorist financing activities in bureaux de changes and other money remitters. With an understanding of risk exposures in the sector, the report also provides recommendations (points for considerations) at an international cooperation level and at national level for involved stakeholders such as LEAs, FIUs etc.

C. INTRODUCTION

A report¹ produced by the Financial Action Task Force (FATF) and the Moneyval Member States made reference to the fact that the sector is vulnerable to money laundering and terrorism financing due to the absence or lax implementation of AML/CFT standards. The report further states that inadequate policies provide opportunities which are being exploited by money launderers and other criminals. This report will therefore highlight matters for consideration by policy makers, regulators/supervisors, MVTs and CE service providers and Law Enforcement Agencies (LEAs) in an effort to mitigate relevant ML/TF risks. Further more, the report presents findings on ML/TF trends, indicators and methodologies in the sector, in the ESAAMLG Region.

ML/TF activities through the money or value transfer service (MVTs) and currency exchange (CE) sectors have become prevalent in recent years. This is confirmed by the increase in ML related STRs received in the ESAAMLG Region from these sectors over the last four years. Consequently, ESAAMLG has found it necessary to carry out a study on ML/TF activities in these two sectors in its effort to combat the aforementioned vices. Additionally, inadequate related policies create gaps which are being exploited by money launderers and other criminals.

¹ Report on Money Laundering through Money Remittance and Currency Exchange Providers, June 2010

The FATF/Moneyval report mentioned above also recognised that in order for criminals to move, hide and eventually use the funds generated by their illegal activities, they seek ways to launder those funds without drawing the attention of the authorities. Due to the range of products and services offered, the variety of distribution channels, the high transfer speed and cash intensity, the MVT/CE sectors may provide significant opportunities for criminals desirous of laundering funds unless appropriate safeguards are in place. Particular risks involved with the sectors are related not only to the misuse of the sectors for ML/TF purposes, but also to the owning of such service providers by criminal groups and corrupt employees who collude with criminals.

According to IFAD (The International Fund for Agricultural Development), over 30 million African people live outside the country they call home. In 2012, migrants from the African continent sent home over US\$50 billion in international remittances. These flows are of vital importance to the continent, as Africa is home to almost a quarter of the 40 countries worldwide that receive 10 per cent or more of GDP from migrants living abroad². These remittances refer to funds movement between two or more natural persons and exclude trading remittances.

Given the nature and extend of cross border transactions in the MVT sector, this study highlights the need for greater international cooperation in combating ML/TF activities. Therefore, this study seeks to identify the vulnerabilities, methods and trends used by criminals in the MVT/CE sectors, and to assist ESAAMLG member countries to implement measures that mitigate ML/FT risks.

The project was approved by the ESAAMLG Council of Ministers at its meeting in Swakopmund, Namibia in September, 2013. The project team consisted of Zambia, Swaziland, Malawi and was chaired by Namibia.

D. Objectives

The objectives of this study are as follows:

- i) To identify methods used to channel proceeds of crime through the Money Remittance and Currency Exchange service sectors in the ESAAMLG Region.

² IFAD is a specialized agency of the United Nations, established as an international financial institution in 1977. It keeps records of worldwide remittances.

- ii) To identify mechanisms to prevent and mitigate money laundering and terrorism financing risks in these sectors.
- iii) To augment regulatory, supervisory and enforcement framework in the ESAAMLG member countries, in relation to predicate offences committed through the sectors.
- iv) To determine the level of overall compliance with FATF standards by ESAAMLG member countries in relation to MVT/CE service sectors
- v) To identify and describe ML/TF methods associated with MVT/CE service sectors,
- vi) To identify AML/CFT measures that are useful in detection of ML/TF methods associated with MVT/CE service providers,
- vii) To identify red flag or indicators for detection of suspicious ML/TF transactions relating to money or value transfer and currency exchange service providers,
- viii) To identify gaps in the legal framework and/or weaknesses in the operational interaction of LEAs, FIUs and others in preventing successful investigation and prosecution of ML/TF cases arising from money or value transfer and currency exchange service providers
- ix) To identify predicate offences linked to MVT/CE sectors in the ESAAMLG member countries.

E. Methodology

The Project Team working jointly with the ESAAMLG Secretariat developed a comprehensive questionnaire that was distributed to all ESAAMLG member countries in November 2013. Together with information derived from open sources, the responses received to the questionnaire form the basis for the findings of this report. This is supported by additional data and information sourced from structured interviews and published articles.

F. DETAILED ANALYSIS OF THE RESPONSES RECEIVED TO THE QUESTIONNAIRE

CHAPTER I – ESTABLISHING MVT/CE SERVICES IN THE ESAAMLG REGION

1.1 General overview on the MVT & CE service sectors

Countries that responded to the questionnaire indicated that MVT/CE service providers are registered companies in terms of their respective laws. Both MVTs/CE service providers are licenced by the respective member countries' Reserve Banks to provide customers with money remittance and/or currency exchange services. In most jurisdictions, it was noted that most entities licensed as MVTs are also licensed to facilitate buying and selling of currency

(foreign currency dealers) and vice versa. As an exception, Zimbabwe, currently a multi-currency jurisdiction does not permit outward remittance through money transfer agents such as Western Union, MoneyGram but only through commercial banks.

	LICENSED MVTs	UNLICENSED MVTs	LICENSED CEs	UNLICENSED CEs	COMMENTS
Angola	2		70		
Botswana	9		60		
Ethiopia	76		491		Information on the number unlicensed MVTs and Ces is unavailable
Kenya	6		105		Information on the number unlicensed MVTs and Ces is unavailable
Lesotho	8	1	4		
Malawi	12		16		Malawi has 12 forex bureaux with a total of 37 branches whilst a total number of banks is now 12 with a wide network of branches and service centres
Mauritius	26		10		Mauritius has 21 Banks & 5 Foreign Exchange entities that conduct MVT business
Mozambique	6		22		
Namibia	7		3		For Namibia there are 3 Bureaus and 4 Banks conducting MVT business
Republic of South Africa	8		38		
Seychelles	15		12		there are 3 Banks and 12 Bureau de Change offering MVT services
Swaziland	1		1		
Tanzania	4		234		
Zambia	26		30		
Zimbabwe	32		32		

Fig. 1 The statistics above are a summary of responses received from ESAAMLG member countries

It was also noted that some of the MVTs render their services through agents. Most established commercial banks have their own money remittance facilities and do not operate as agents of service providers.

As part of this study, most countries in the ESAAMLG Region provided statistics on transactional values, for both MVT and CE services for four years starting from 2009 until 2012. A few countries could not provide the transactional values for some of the years and others could not provide the statistics separately. It is not clear if all countries in the ESAAMLG Region keep records on the transactional values and volumes in the MVT and CE sectors.

1.2 Licensing, Supervision and Sanctioning Systems of MVT/CE Service Providers in ESAAMLG Member Countries

All responses to the questionnaire indicated that member countries have promulgated laws, regulations and policies that stipulate the requirements for licensing of MVTs/CEs service providers. It is therefore a legal requirement by all jurisdictions that all entities providing MVTs/CE services be licensed by the respective competent authorities. The study also found that licensing of MVTs/CEs in the ESAAMLG Region is done by Central Banks which are entrusted with supervisory and regulatory responsibilities for the MVT/CE sectors.

The following are the basic requirements for licensing MVTs/CEs followed by member countries:

- a. **Good standing of Beneficial Owners and Directors:** the beneficial owners and directors need to be of good standing to be licensed. Most countries apply the fit and proper tests to those requesting to be licensed to operate MVT/CE services. The directors and beneficial owners who exercise control are required to provide national police and tax clearance certificates, completion of a confidential questionnaire along with their application.
- b. **Sufficient start-up capital:** the licensing authorities require applicants to have sufficient start-up capital to commence business. The primary focus is on the capital adequacy to mitigate prudential risks with minimal attention on ML/TF risks. Although some FIUs within the ESAAMLG Region are part of or situated in Central Banks, it was observed that they are not consulted for AML/CFT purposes at the stage of licensing MVT/CE service providers particularly when verifying source of initial capital.
- c. **Ability to comply with relevant laws and regulations:** Applicants should demonstrate their ability to comply with provisions of relevant laws, regulations, policies, etc. This could be through indications of how they would meet their reporting obligations.

Central (Reserve) Banks have supervisory and regulatory responsibilities in most of the jurisdictions to impose administrative fines and penalties in cases of non-compliance with the banking laws and guidelines, directives and instructions administered by the Central/Reserve banks as competent authorities with the exception of AML/CFT non-compliance. The FIU on the other hand is designated as the primary AML/CFT regulator. It is empowered to issue directives not only to designated institutions but also to competent supervisory authorities in order to guide them on issues of AML/CFT supervision.

All jurisdictions within the ESAAMLG Region have indicated that the transactions relating to MVT/CE service providers are reported directly to the regulating authorities which are mostly the Central Banks. The general observation is that the Central Banks are said to conduct periodic prudential inspections to assess the level of compliance by MVT/CE service providers. The FIUs are responsible for ensuring that they conduct similar inspections with regard to assessing compliance levels with national AML/CFT controls. This also includes providing training and awareness on AML/CFT controls to MVTs and CE service providers.

CHAPTER II – ML/TF RISKS AND THREATS IN THE MVT/CE SECTOR

2.1 Assessing ML Risks and Threats within the MVT/CE Sector

The figure below shows how countries within the ESAAMLG Region rate the ML/TF risks within the MVT and CE sector.

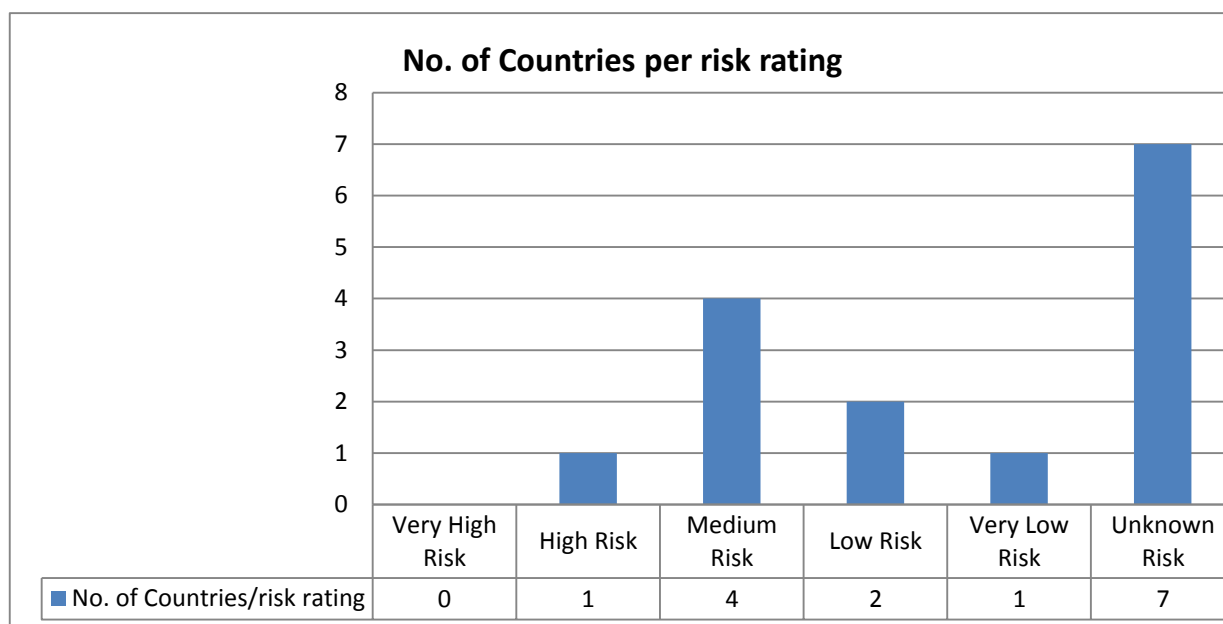


Fig. 2 Indication of ML risk ratings in the MVT/CE sector in ESAAMLG member countries

Below is a breakdown and description of the various ratings and the considerations, which justify the risk ratings.

2.1.1 High Risk

Poor AML controls were cited as the major reason for the high risk rating in the sectors. .

2.1.2 Medium Risk

Some of the major reasons for the medium risk ratings include the following:

- a. The use of informal money remittance channels as compared to the use of legitimate MR/CE services makes it difficult to detect ML activities in the sectors.
- b. Lack of a national identification system in some of the countries increases the risk in this sector and hinders proper customer due diligence processes.
- c. The involvement of international criminal syndicates
- d. Most ESAAMLG member countries are largely cash-based economies thereby increasing the ML risks, including fuelling informal funds transfer systems;
- e. The increasing numbers of illegal immigrants who may bring into the country proceeds whose sources are not known also increase risk;
- f. The prevalence of under/over-valuing invoices in order to disguise the movement of money increases trade based ML risks;
- g. Insufficient resources to advance AML/CFT awareness by stakeholders;

2.1.3 Low and Very Low Risks

Some countries rated the ML risk in their jurisdictions as low or very low due to the existence of low threshold limits that a client can transact on a daily basis.

However, some countries did not provide any ML risk rating citing the following reasons:

- i. No STRs were ever reported to the relevant authorities (FIU) from this sector
- ii. No national risk/threat assessment has been carried out to determine the risk rating in these sectors.

2.1.4 ML Vulnerabilities of the MVT/CE Sector in the ESAAMLG Region,

Most countries provided the following as primary reasons that make the sector vulnerable to ML activities:

- a. Inadequate and poor implementation of controls for remittances such as “gifts” of significant amounts in absence of sufficient CDD;
- b. Failure to conduct adequate CDD in establishing source and ultimate beneficiary; reporting entities not being able to effectively determine the relationship or the link between the transfers of funds and the person that sends or receives the funds;

- c. Unstable currencies and emerging black market which makes the hoarding of foreign currency attractive;
- d. ML is a new phenomenon to MVT/CE sectors hence the understanding and appreciation of ML risks is relatively low.
- e. Failure to strictly adhere to the KYC requirements in fear of losing clients;
- f. The speed in transfer for international and local remittances, and low commission associated with local MVT services makes it an attractive option for anyone wishing to remit money.

2.2 Local versus Cross border remittances: Difference in ML/TF risk exposure

The study found that cross border remittances may present a relatively higher ML/TF risk than local remittances. This is mainly attributed to the difficulties associated with establishing the true purpose of remitting funds, the identification and financial profile of a sender or receiver based overseas. A few countries pointed out that having to rely on the AML/CFT controls of other countries, could be contributing to making cross border remittances higher risk than local remittances. An analysis on the movement of funds to and from one country indicated that there were transactions including parties located in countries regarded as potential targets for terrorist acts/attacks. Although there are measures implemented to identify clients transacting, there are currently no monitoring or other preventive measures applied in this sector to reduce the overall vulnerability that the sector is exposed to.

The general observation in most countries is that local remittances have to be processed in accordance with general AML/CFT controls (basic KYC) as provided in the various AML/CFT laws and related regulations. On the other hand, cross-border remittances have to be processed in accordance with the provisions of the various cross-border remittance or Exchange Control Regulations.

Most countries regulate MVTs on a risk based approach. Since local remittances have different risk profiles from cross boarder remittances, the AML/CFT regulatory regimes applied are proportionate to the risk profiles identified.

2.3 Challenges associated with mitigating ML/TF risks in the MVT/CE sector

Major AML/CFT challenges in these sectors common to all member countries are as follows:

- a. *Monitoring controls*: There is nothing in place to monitor multiple purchases of foreign currency from different bureaux de change by an individual in order to circumvent set limits.
- b. Inadequate laws, regulations and policies.
- c. Occasional/once off clients make it difficult to understand the customer profile and behaviour.
- d. *Inadequate understanding of ML/TF obligations by MVT/CE sectors due to lack of awareness and training*, which may also be a result of insufficient resources.
- e. Unsatisfactory overseas co-operation.
- f. Cash based economies.

2.4 Identified ML/TF risk mitigation measures

The study found that in all ESAAMLG member countries MVTs/CEs are subject to the following minimum control measures;

- request a standard identification document or method to verify the identity of customers and keep record of same;
- keep record of transaction documents;
- monitor customer transactions/behaviour;
- train their staff on AML/CFT measures;
- have an internal AML/CFT control function

In practice, authorities in some countries conduct onsite inspections periodically to gauge the level of effective implementation of these controls within MVT/CE service providers.

In order to mitigate ML/TF risks in the MVT/CE sectors, most countries cited the following as the most effective (and primary) preventive measures:

- a. Thresholds and limits associated with remittances,
- b. KYC controls
- c. Basic transactional (client behaviour) monitoring systems

Other mentioned risk mitigation measures include:

- a. Ongoing AML/CFT awareness training;
- b. Adequate resources for awareness and training; and
- c. Drafting or amendment of relevant laws to address AML/CFT loopholes/issues.

CHAPTER III – METHODOLOGIES AND INDICATORS OF ML/TF IN THE MVT/CE SECTORS

This chapter highlights reporting behaviour observed from statistics pertaining to STRs from the sectors for the period under review.

3.1 ML STR Statistics in the MVT/CE Sector

3.1.1 ML STRs in the MVT Sector

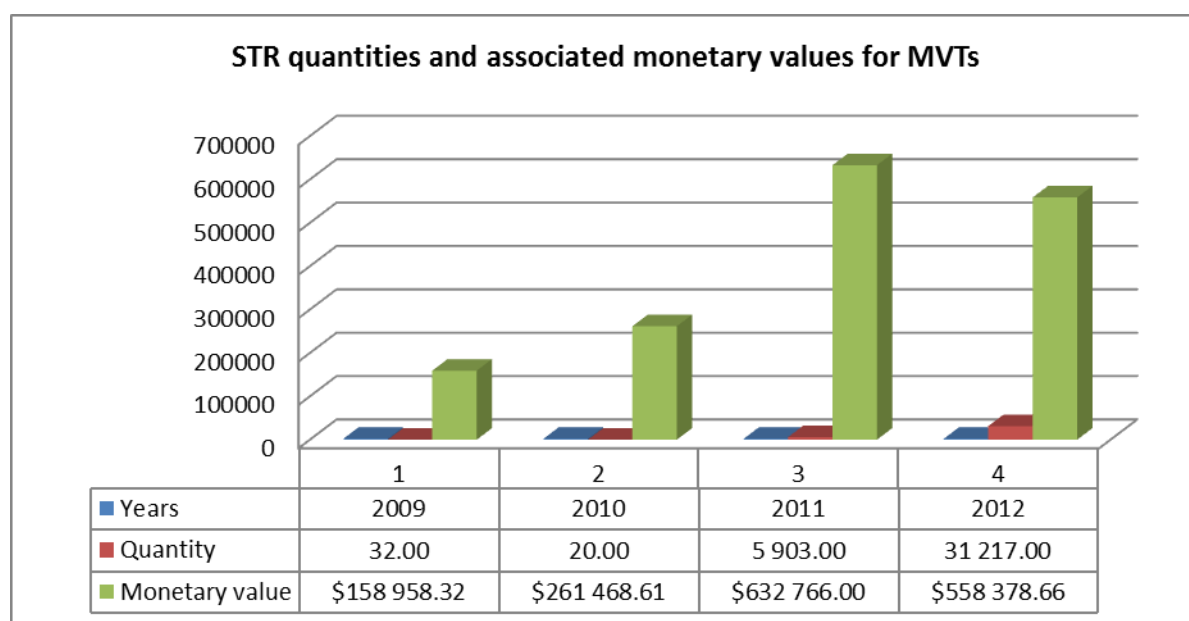


Fig 3. STR quantities and associated monetary value from MVT sector

The total number of STRs received from 2009 to 2012 pertaining to the two sectors was 37,172, while the monetary value associated with such STRs added up to USD 1,611,571.59. As seen in the graph above, the study found that the volume of STRs and monetary values (except for 2012) increased annually. However, most of the STR statistics on quantity were provided by one country as reflected below;

- a. STR quantities: 5,887 of the STRs were from one country in 2011
- b. STR quantities: 31,153 of the STRs were from one country in 2012

Despite one country providing the bulk of STR quantities, it could not provide monetary figures associated with these STRs for the period 2009 to 2012. Only four countries provided statistics on monetary values.

3.1.2 ML STRs in the CE Sector

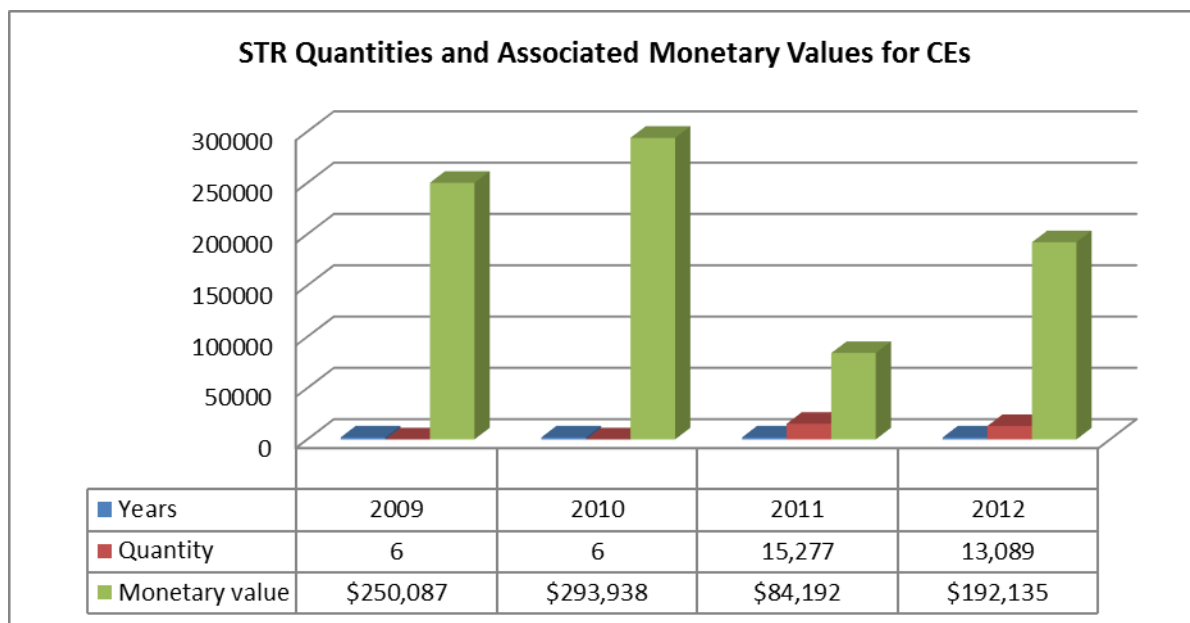


Fig. 4 STR quantities and associated monetary value from CE sector

Significant statistics on STR quantities were received from one member country for the period 2011 and 2012 (15,273 and 13088, respectively) but without monetary values, and the rest came from two other countries.

In considering the STR statistics, the following was noted:

- Some countries could not provide relevant information because they did not have operational FIUs
- Operations of some FIUs were still in infancy stage to ensure receipt of STRs from all sectors including the MVT/CE sector

3.2 ML Techniques in the MVT/CE Sector

3.2.1 Analysis of Identified ML Techniques and Mechanisms used to launder funds in the MVT/CE service sectors in the ESAAMLG Region

A total of 37,172 STRs, related to the two sectors were received in the ESAAMLG region from 2009 to 2012. In terms of this study, only 165 STRs of the 37,172 could be traced to a particular ML technique. It was not clear whether there was analysis of ML techniques for the remaining 37,007 STRs.

Below are the ML techniques and mechanisms said to be used to launder funds through the MVT/CE sectors:

- a. *Disguising the purpose of remittance*: There is misrepresentation with regards to the purpose of funds being remitted. Most remittances pertain to gifts, family allowances, medical purposes, loans, even importations, etc.;
- b. *Structuring/smurfing*: funds being sent/received to/from a single destination in various amounts below set thresholds;
- c. Huge deposits or sudden inflows that are quickly remitted;
- d. Suspected proceeds of crime used to buy foreign currency;
- e. *Mismatch between client profile and volume of transactions*: The profile of some clients did not fit the values/volumes for which they were transacting when remitting funds. For example, Salaried employees who are not earning as much were said to be remitting huge funds;
- f. *Using underground remittances*: One country cited the use of underground remittance facilities as a means that was used to launder funds.

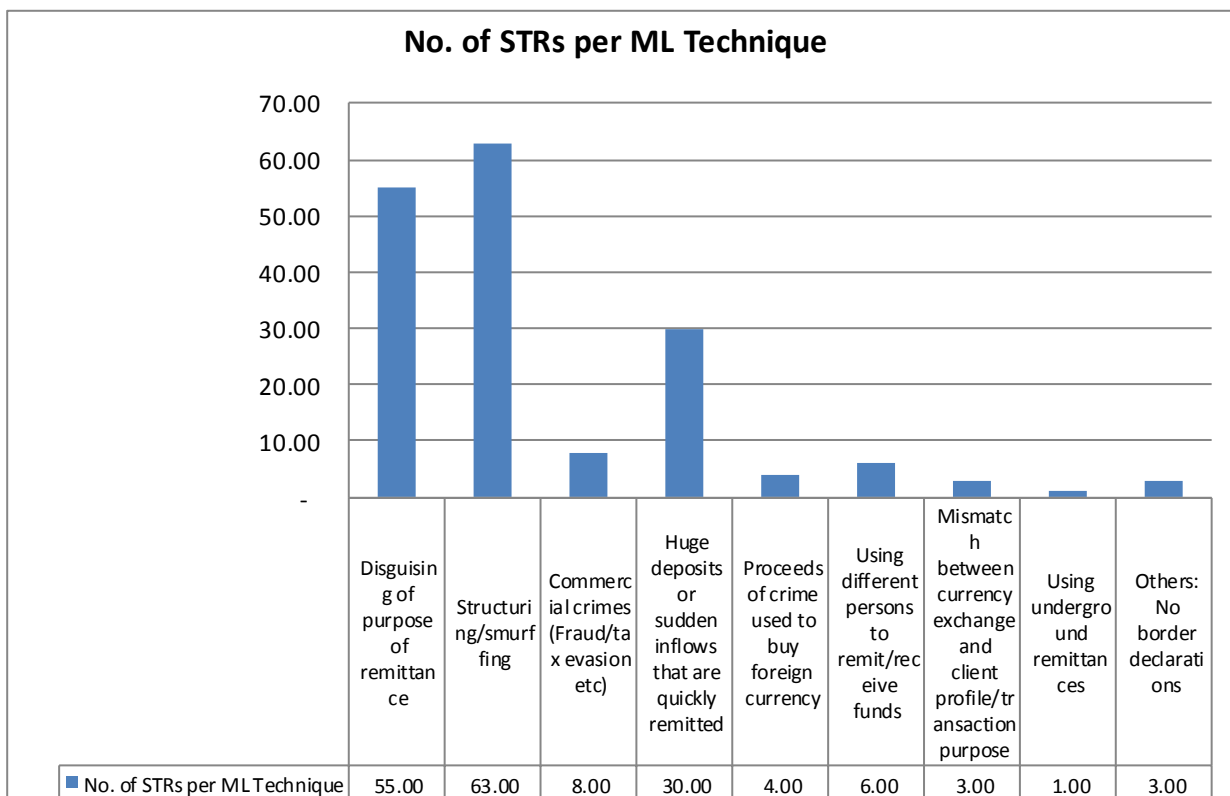


Fig. 5 Number of STRs per identified ML techniques

3.3 ML Indicators: MVT/CE Service Providers

Below are some of the cited indicators of ML techniques;

3.3.1 Disguise of Purpose of Remittance

- a. Regular transfer of funds in the form of *gifts, living allowances, medical expenses, advance payments* etc by the same client to the same recipient in the absence of any relationship;
- b. The use of third parties to transfer funds to known high risk persons in certain jurisdictions;
- c. The customer is unwilling to provide routine information when requested; or, the information provided is insufficient or false.

3.3.2. Structuring/Smurfing

- a. Sending multiple transactions through different MVT service providers to conceal the value of total funds being remitted to circumvent set thresholds;
- b. Sending/Receiving to/from different sources/beneficiaries(with indications of relations between the various receivers);
- c. Money transfers from one account to numerous unrelated accounts;
- d. Series of foreign exchange transactions structured just below the legal threshold;
- e. Frequent exchange of cash into other currencies;

3.3.3 Huge Deposits or Sudden Inflows that are quickly remitted.

- a. Money transfers from one account to numerous unrelated accounts ;
- b. The immediate remittance or transfer of funds once they are deposited into an account.

3.3.4 General listing of ML indicators in MVT/CE Sectors

- a. Large or frequent transfers of money from several unrelated individuals in different areas;
- b. Transferring funds without any apparent economic reason and carrying out transactions which do not make economic sense;

- c. Money transfers to high risk jurisdictions without reasonable explanation, which are not consistent with the customer's usual foreign business dealings;
- d. Multiple senders toward a single individual;
- e. Using numerous individuals to purchase forex using preloaded visa cards/cash passports and cashing the funds in a neighbouring country;
- f. Customers walking in MVT outlets/premises with huge volumes of currency for exchange;
- g. Bringing into a country forex from unknown sources which some may be from criminal activities, which may end up being put into formal financial circulation;
- h. Receivers, senders or people changing money being accompanied by other suspicious people when going to send, receive or exchange currency;
- i. Accounts (especially in remote areas) in receipt of regular large deposits.

3.4 Potential Predicate Offences Common to ML in MVT/CE Sector

A total of 37,172 STRs, related to the MVT/CE sector were received in the region from 2009 to 2012. In terms of this study, only 44 STRs of the 37,172 could be traced to a suspected underlying criminal activity or predicate offence. Member countries grouped the STRs in accordance with the suspected underlying criminal activity.

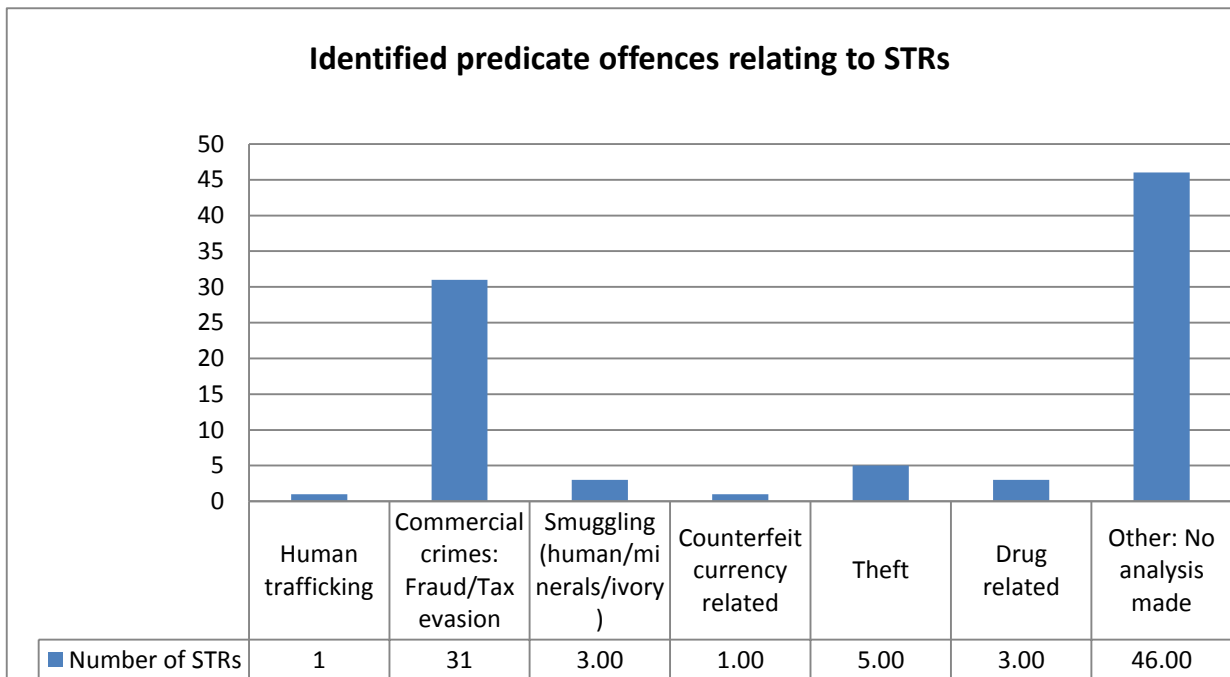


Fig. 6 This graph depicts the number of STRs associated to certain identified underlying criminal activities.

3.5 Potential Perpetrators of ML Activities through the MVT/CE Sector

It is worth noting that some countries had indication of possible organized criminal activities being involved. One country indicated that there could be drug traffickers and fraudsters laundering funds through MVT/CE, while other countries identified individual natural persons as the possible perpetrators.

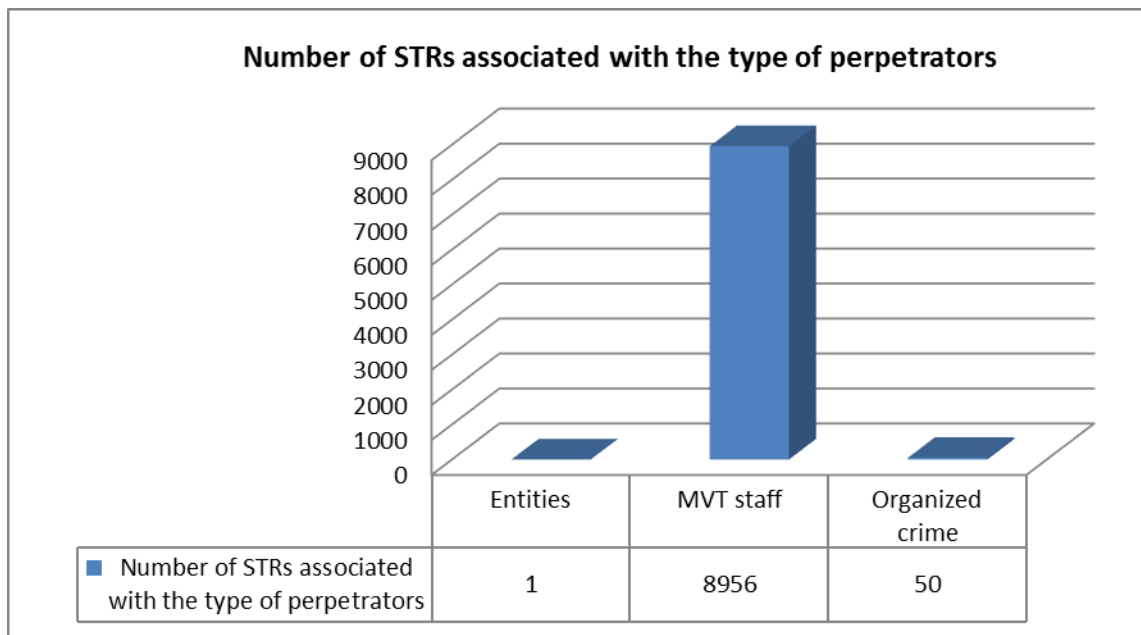


Fig. 7 The graph shows the number of STRs associated with the identified type of potential perpetrators.

The following helps place the above information in perspective:

- a. *Entity (legal person)*: Only one country indicated that an entity (legal person) may have been involved in laundering funds through MVTs/CE sector;
- b. *MVT staff*: Typologies in two of the countries indicated that staff members employed in MVTs were involved;
- c. *Organized crime*: one country indicated that organized criminal syndicates were involved in laundering funds through MVTs/CE sector. The authorities indicated that there were no clear indicators of organised crime. However, it was highlighted that most trends that resembled organised crime were linked/related to people repeatedly sending or receiving funds. Most of these people:
 - Shared addresses and contact details
 - Some of them had been arrested for drugs and abalone smuggling
 - Some have been on the wanted list of LEAs for other possible crimes.

3.6 TF risk, Techniques and indicators: MVTs and CE service providers

Three countries in the region have experienced acts of Terrorism. One country in particular has registered five cases, two of which are currently pending before courts, while three are still under investigation. However, no country’s FIU indicated to have received SARs/STRs on potential TF activities, relating to the MVT/CE sector. One FIU has received a false positive. It is also worth noting that many countries indicated that their TF risk exposure ranges from low to very low. However, this is so because most countries have not conducted their respective national risk assessment. The chart below shows the ratings ESAAMLG member countries have assigned to TF risks, related to MVTs and CE services in their countries.

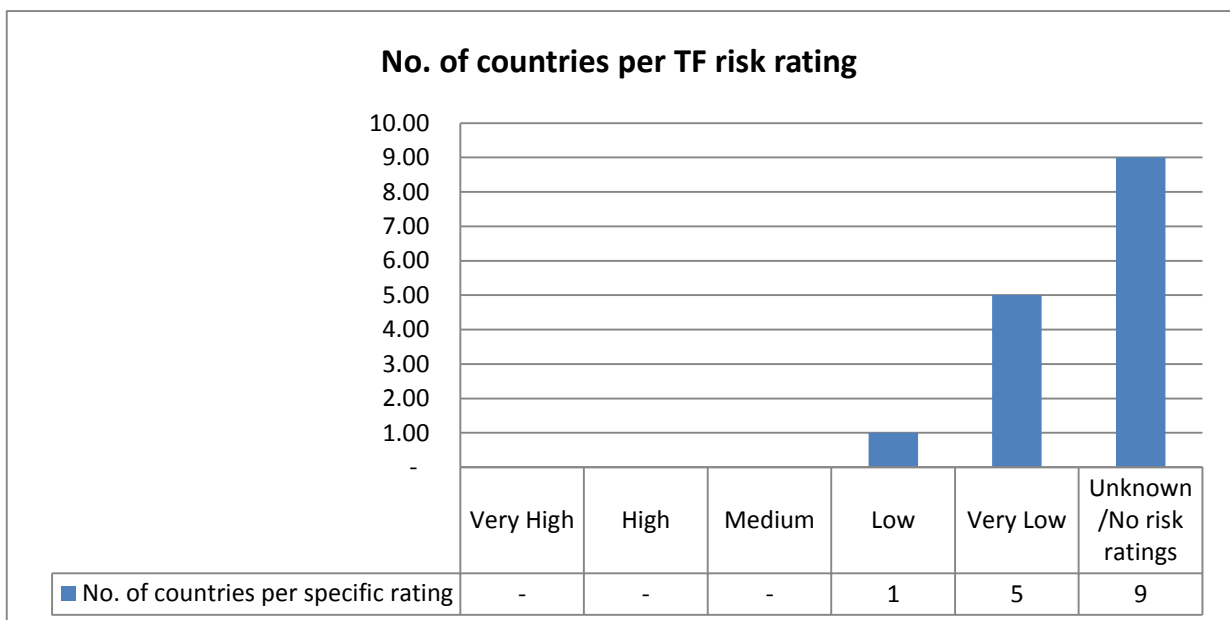


Fig. 8 TF risk rating as indicated by ESAAMLG member countries

CHAPTER IV – OVERVIEW OF AML/CFT LEGAL FRAMEWORK IN THE MVT/CE SECTORS

One of the common objectives of the various international conventions that the FATF recommends countries to ratify and domesticate is the harmonization of legal frameworks when it comes to combating ML/TF activities. Due to the nature of services in these two sectors, combating ML/TF requires international cooperation. The study found that when most STRs from the MVT and CE sectors are analysed by local FIUs, there is usually a link to a foreign jurisdiction.

Given the above, the study found that most countries in the region have ratified most of the international conventions relevant to AML/CFT. However, one country has not yet ratified the Convention on TF. Nonetheless, the country submitted that the TF Convention was in the process of being ratified to give it full effect. Conventions that have been ratified by most countries in the region include;

- a. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, (Vienna Convention) 1988
- b. United Nations Convention against Transnational Organised Crime, (Palermo Convention) 2000;
- c. International Convention for the Suppression of the Financing of Terrorism , 1999
- d. United Nations Convention against Corruption, 2003

Most countries indicated that there is a need to improve current relevant laws in an effort to enhance AML/CFT, with regard to the MVT/CE sectors. One of the specific areas that warranted review of relevant laws and regulations related to reinforcement of the regulatory framework regarding the identity of foreign recipients and senders.

CHAPTER V – PROSECUTIONS AND CONVICTIONS

As mentioned above, a total of 37,172 STRs, related to the MVT/CE sectors were received in the region from 2009 to 2012. Of the STRs received, only 13 ML related cases were forwarded for prosecution whilst no record of convictions was submitted/exists

CHAPTER VI – FUNCTIONS AND POWERS OF SPECIFIC AGENCIES

6.1 Law Enforcement Agencies (LEAs)

According to Recommendation 30, countries should ensure that designated law enforcement authorities have responsibility for money laundering and terrorist financing investigations within the framework of national AML/CFT policies. This should include cases where the associated predicate offence occurs outside their jurisdictions. Countries should ensure that competent authorities have responsibility for expeditiously identifying, tracing and initiating actions to freeze and seize property that is, or may become, subject to confiscation, or is suspected of being proceeds of crime. Countries should also make use,

when necessary, of permanent or temporary multi-disciplinary groups specialised in financial or asset investigations.

Most of the countries indicated to have LEAs that are independent of the FIU with the majority having commercial crime divisions including ML/TF specialised investigations sub-sections. Only one country indicated that its FIU is a specialised unit mandated to investigate ML cases. The specialised commercial crime unit's functions in most member countries were as follows;

- a. Carrying out special investigations including using special investigative techniques covering undercover operations, intercepting communications/transfers, monitoring transactions of money remitted and currency exchanged, tracing, freezing and recovery of proceeds of crime, when necessary.
- b. Confiscation of exhibits and recording statements.

This was largely consistent with the FATF Recommendation 31, Powers of Law Enforcement and Investigative Authorities.

6.2 Financial Intelligence Units (FIUs)

Most countries indicated to have functioning FIUs that amongst other tasks are entrusted with the receipt of information regarding cross border transactions. It was indicated that some reports are threshold based whilst others are not. The study further identified that though FIUs generally carry out training/awareness/outreach programmes but there has not been much done in these sectors. Worthy to mention is that inadequate training has affected the reporting of STRs.

6.1.1 Challenges

Limitations on investigations include;

- Inadequate powers for investigators to use special investigative techniques;
- lack of adequate training and skills/expertise to investigate ML offences related to the sector
- Poor appreciation and awareness of ML offences related to the sector
- Complications arising from the transnational nature of ML activities related to the sectors;
- Inadequate financial and other resources;

- Poor coordination and cooperation between domestic agencies;

6.3 International Cooperation

Combating ML/TF in the MVT/CE sector would to a large extent require cooperation and assistance of foreign jurisdictions. In this regard, there is need to harmonise legal frameworks of member countries, if international cooperation has to work.

The following factors were found to hinder exchange of information:

- Lengthy procedures required to enter and implement MoUs and other agreements;
- Untimely delivery and sometimes lack of response to information requests;
- Poor quality and credibility of information received;
- Unexplained rejection of requests;
- Language barriers making communication more difficult;
- Inadequate bilateral or multilateral arrangements to enable joint investigations;
- Inadequate enforcement of foreign judicial orders/judgments; and
- Not all FIUs are members of the EGMONT Group

The above factors were also noted to have affected the effective implementation of Recommendation 38 (relating to freezing and confiscation mutual legal assistance) of the FATF standards.

CHAPTER VII – RECOMMENDATIONS

The following are key recommendations identified to enhance AML/CFT control weaknesses within the MVT/CE service sector:

7.1 Risk assessment: The starting point of combating ML/TF in any sector is to understand the level of relevant ML/TF risk exposure. Once this exposure is understood, it presents the jurisdictions (and at micro level, the MVT/CE service provider) with an opportunity to design, direct and implement AML/CFT controls geared towards mitigating those identified risks, accordingly;

7.2 Training and awareness creation: The report overwhelmingly indicates that there is a need to enhance the MVT/CE service provider's understanding of ML/TF and how their

services could be abused for ML/TF purposes. Enhancing this understanding can positively contribute to AML/CFT efforts within the member countries;

7.3 Unregulated and unsupervised MVT/CE service providers: Informal service providers that are mostly illegal and unregulated present a high risk for potential ML/TF activities as controls are almost minimal given lack of AML/CFT supervision;

7.4 Enhance international cooperation: Given the transnational nature of ML activities related to the MVT/CE sector as stated in this report, there will always be a need to engage FIUs and other stakeholders in foreign jurisdictions. It is therefore recommended that jurisdictions explore various means of enhancing international cooperation with other jurisdictions. This may include signing Memoranda of Understanding (MoUs) with other jurisdictions, having bilateral or multilateral arrangements to enable joint investigations and joining the EGMONT Group.

7.5 Enhance the licensing, supervision and sanctioning mechanisms of MVT/CE service providers to include measures that enhance ML/TF risk mitigation. In some countries, the study found that upon licensing, there are no provisions to ensure that beneficial owners in MVT/CE entities are not involved in activities relating to ML and TF;

7.6 Others: The lack of a national identification system in some countries enhances the risk of ML/TF through the MVT/CE sector as adequate identification of clients cannot be done. The relevant authorities within member states should be sensitized and encouraged to place national identification systems in place as this enhances ML/TF risk mitigation.

CHAPTER VIII – CASE STUDIES

8.1 Money Laundering Case studies in MVT/CE sector

8.1.1 Case Study 1

Cyber Crime by the use of Money Remittance Channels

Individual X is employed and earns a monthly net income of about USD 472.33. He has been contacted via the internet by some people claiming to be founders and managers of a non-profit organisations based in Europe and West African countries. He has been promised to earn some commission should he agree to act as a middle person to establish an

organisation in his home country community that will provide houses for the needy. To get the alleged project started, X was required to pay an advance fee for the release of the funds.

During a six months period, X sent about USD 3,200.00 via a money transmitter.

The FIU received a report on X, and during analysis, it was discovered that X was victim of an on-line scam.

Offence: Fraud

Customer: Individuals

Industry: Money Transmitter

Jurisdiction: Namibia, Europe, West Africa

Indicators: Multiple remittances to unrelated individuals in other Jurisdictions
Remittance of funds to unknown individuals

8.1.2 Case Study 2

Human Trafficking via use of Money Remitter Services

Individual Y is a foreign national residing and operating a business in Country Z. Individual Y receives regular fund transfers through money remittance service from several unrelated individuals in other African countries.

An STR was received by the FIU on Y stating that he is involved in suspicious transactions.

During analysis of the STR, it was discovered that Y received a total of approximately USD 12,000.00 in a period of 7 months from unrelated parties in other African Jurisdictions. Further investigations by Law Enforcement Agencies revealed that Y could have been linked to an international syndicate of smuggling of immigrants of mostly young men. The funds received through a money remittance provider were basically for facilitation, harbouring and transferring the immigrants from West Africa to Country Z destined for employment opportunities in other neighbouring countries.

Offence: Human Trafficking

Customer: Individuals

Industry: Money Transmitter

Jurisdiction: Namibia, Some West African Countries

Indicators: Receipt of Various Transactions from unrelated third parties from Some West African Countries

Remittance of funds to unknown individuals

8.1.3 Case Study 3

In Country Q, a local newspaper company revealed that syndicates of illegal forex dealers were issuing receipts and stamps of known banking brands to their clients to legitimise their unclean business.

Details of the investigation were that the syndicate forged Authorised Dealer Banks (ADB) authenticating documents, thereby assisting in the externalisation of huge sums of forex from a country whose official import cover was at the time less than one month against the internationally recommended three-month cushion. This further deprived the formal forex market of the hard currency with which to import critical goods such as drugs and fuel, which were also in short supply.

As part of an undercover investigation, the Country Q's Police Service went to the forex underworld and bought ZAR 300 (USD 28.30) from a vendor. They paid K11 400 (USD 29.00) and an additional K3 500 (USD 9.00) as processing fee. The vendor then produced a ZAR300 (USD 28.30) in cash backed by a local banks' seemingly official stamp.

The value of the transaction on the receipt was exaggerated, showing ZAR 3 000 (USD 283.00) instead of the ZAR300 (USD 28.30) that was asked for. In addition, the passport given as proof of identity of the forex buyer had a bank stamp which had an inscribed order on it, stating that no entries were to be made on the page except by a bank or authorised dealer. •

The receipt also had an account number 022000004236 for the applicant who had never held an account with the respective bank. The receipt further recorded the applicant's postal address which was not a valid address.

Another suspicious detail on the receipt was the forged signature of the applicant. The signature was an imitation of the one in the passport. After the vendor handed back the passport, receipt and the money, he offered advice stating that when travelling out of the country, the applicant was not required to show the money they were carrying, but to just

produce the passport which had a Bank stamp in it. They were further advised to tell the authorities that they bought the money from the bank and that they had already used part of the money they got from the bank to sort out a problem. In the event that they showed the receipt to the authorities, they would be forced to disclose physical amounts of all the money indicated on the receipt or pay a fine.

Further investigation from the bank, revealed that the receipt, stamp and signature on the stamp, purported to be from the bank had been forged. In addition, the bank account on the receipt was once in their books but was closed³.

Offence: Externalisation of Forex, Forgery

Customer: Individuals

Industry: Banking, Foreign Exchange Dealers

Jurisdiction: Malawi

Indicators: Presentation of falsified documents

8.1.4 Terrorist Financing Case Studies in MVT/CE Sector

Due to the lack of enabling laws in some of the ESAAMLG member countries, especially on Mutual Legal Assistance, has hindered successful investigation and prosecution of some known terrorist groups. With the foregoing, this section looks at some regional terrorist financing case studies as well as one international case study demonstrating how the MVT/CE sector can be abused to support Terrorist Financing activities.

8.2. Terrorist Financing Case Studies in the MVT/CE sector

8.2.1 Terrorist Financing Case Studies from the ESAAMLG region

i. Case study 4

Terrorist Financing through MVT/CE services

Following the attack of one of the Malls in Kenya, Police Officers through the exhibits recovered reconstructed a torn foreign currency bureau receipt.

³ The Nation publication: Sourced from: <http://mw-nation.com/malawi-banks-caught-in-forex-syndicate/>

The reconstructed receipt revealed the origins of the transaction to be a Foreign Currency Bureau based in X, Nairobi. The receipt contained identification details of the suspect and the beneficiary of funds transferred to Somalia. Investigators acting on a Court order searched the Forex Bureau and recovered financial records confirming transfer of the funds to Somalia on the instruction of the suspect. The investigation was not able to connect the Forex Bureau to the offence of terrorism financing. However, the accused was charged jointly with others.

The same person (cited above) was again suspected of receiving funds from a person in UK in order to support terrorism activities in the country. He received funds through a Forex Bureau located in X, Nairobi. A search warrant was obtained from a court compelling production of documents by the Bureau. The records recovered showed that the suspect used to collect huge amounts of money from the Bureau. The suspect managed several mobile telephone money transfer (M-pesa) businesses within Nairobi City; all suspected to have been used in the financing of terrorism within and outside the country. During the Kampala bombing investigations, the suspect was mentioned severally as a key financier of the terrorist acts. This led to his arrest and subsequent handing over to the Ugandan Authorities for further interrogation. The suspect is still in Uganda facing charges of financing terrorism and other allied offences.

Source: Kenya

Offence: Transmitting funds for TF activities (source of funds not known)

Customer: Individual person managing several businesses

Industry: Money and Value Transfer service providers (Forex Bureaus)

Jurisdiction: Kenya

Indicators: Collection of huge amounts from same MVT service provider and using various money transfer businesses, managed by one person, to channel funds to terrorist organizations.

8.2.2 International Terrorist Financing Case Studies

ii. Case Study 5

In February 2010 Mr. Shahzad's handlers in Pakistan (Tehrik-e-Taliban) arranged for USD 4,900 to be sent via an unregistered hawala network operated by two brothers, one of whom, Aftab Ali Khan, was an illegal Pakistani immigrant living in Brookline, Massachusetts.

On February 24 or 25th Mr. Ali Khan met Mr. Shahzad just outside of his Massachusetts apartment to hand over USD 4,900 in cash.⁴ There was no suggestion in any subsequent investigations that Mr. Ali Khan knew what the money would be used for. He was merely completing an anonymous business transaction.

In April Mr. Shahzad received an additional tranche of funds from the Pakistani Taliban. Perhaps because of the inconvenient distance between Boston and New York, another hawala network was used. This new network, operated by Mohammad Younis on Long Island and his brother in Pakistan, was also unregistered. On April 10th, just three weeks before the bombings, Mr. Younis spoke to Mr. Shahzad by phone and arranged a meeting in a parking lot in Ronkonkoma, New York to hand over USD 7,000 sent by Mr. Shahzad's Pakistani Taliban handlers.⁵

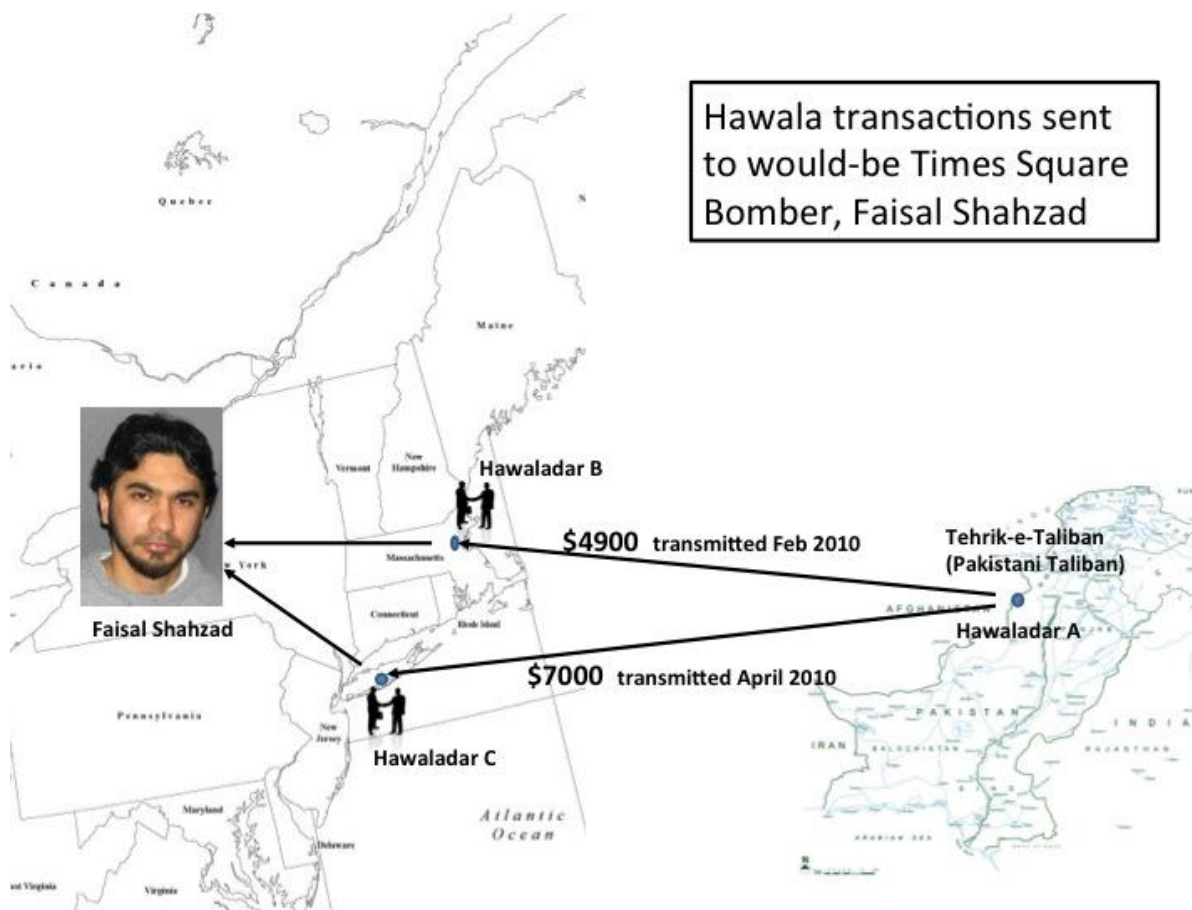


Fig 12 Hawala transactions sent to would be times-square bomber

Offence	Illegal fund remittance to fund TF activity
Target	United States of America

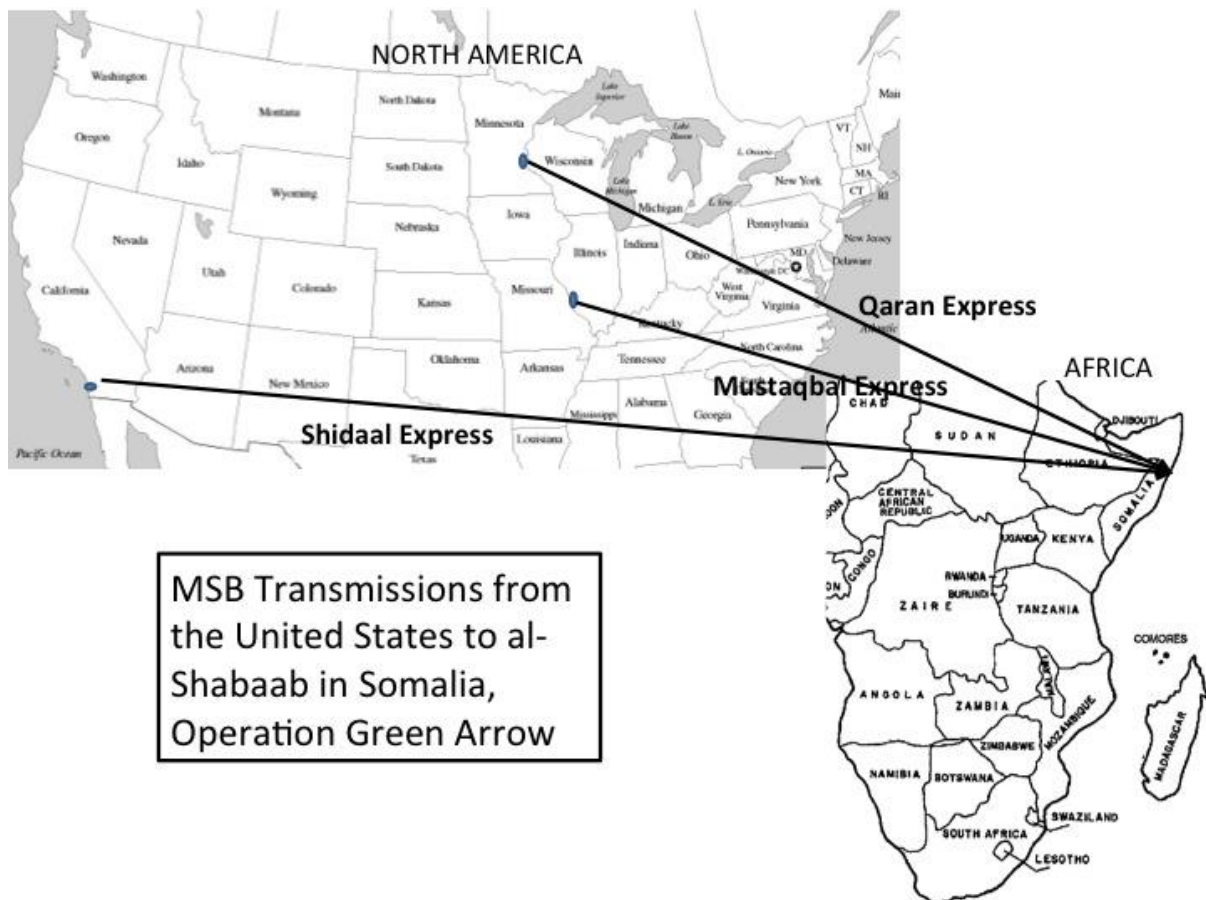
⁴ Evan Perez, "Case Shows Rise of Non-Bank Transfers to Fund Terror," Wall Street Journal (17 November 2010).

⁵ Bray, Chad, "Plea in Bomb-Link Case," Wall Street Journal (19 August 2011).

Sector Money Remitter (MVT)
 Channel Hawalas (MVT)
 Jurisdiction Domestic and foreign jurisdiction

iii. **Case study 6**

In February 2013, a federal jury in San Diego convicted four Somali immigrants of conspiring to fund al Shabaab, a militant terrorist group in Somalia⁶. While all four men were involved in raising funds, one of them, Issa Doreh, worked at the Shidaal Express, a registered MSB from which he sent funds directly to one of al-Shabaab’s leaders, Aden Hashi Ayrow, who was in regular telephone contact with one of the other defendants. Months of wiretapped telephone conversations led to additional arrests in two related cases in St.Louis, Missouri and Minneapolis, Minnesota. Again, the goal was to raise funds for al-Shabaab and wire transfer those funds through registered MSB’s, getting lost in the traffic of numerous legitimate remittances sent by the sizeable Somali immigrant communities in those cities. (See Figure 13 below)



⁶ “San Diego Jury Convicts Four Somali Immigrants of Providing Support to Foreign Terrorists: Defendants Sent Money to al-Shabaab in Somalia,” Office of the United States Attorney, Southern District of California (22 February 2013).

Fig 13 below MSB remittances to al-shabaab in Somalia

Offence	Illegal fund remittance to fund TF activity
Target	United States of America
Sector	Money Remitter (MVT)
Channel	MSB (MVT)
Jurisdiction	Domestic and foreign jurisdiction

9. Conclusion

It is evident from this study that like all other countries in the world, the ESAAMLG region is not spared from the ML/TF vulnerability through the MVT/CE service sectors. Poor ML/TF controls, ignorance in ML/TF issues coupled with insufficient resources for capacity building purposes, difficulties in knowing sources of funds, drawbacks in international and domestic cooperation together with temptations by MVT/CE service providers to balance up issues of compliance vis-a-vis business/profit-earnings, makes ML/TF risks a challenge in these two sectors. Poor documentation or procedures may have left well defined ML/TF cases within the ESAAMLG Region uncaptured/unrecorded. Considering that within ESAAMLG Region there have been countries with well-known ML/TF encounters, which also trade internationally with other ESAAMLG member countries and the rest of the world, which others may be ML/TF congested areas, it is a contagious situation that at least each country's MVT/CE sector may have been exposed to potential ML/TF abuse. The fastness with which money (or value) moves through these sectors, which may be an attraction (incentive) to money launderers and terrorist financiers, coupled with poor knowledge and AML/CFT frameworks, aide to the ML/TF problems in these sectors.

Though it is clear from the study that all member countries have almost a common definition of MVTs and CE service providers and that there are mechanisms in place that facilitate licensing and supervision of MVT/CE service providers, it is also evident that despite entrusting their Central Banks with the prudential regulatory and supervision responsibility, most countries within the region do not have vigilant AML/CFT mechanisms which are robust enough. With countries indicating that most FIUs in the ESAAMLG region are part of or have close working relations with Central Banks, the close ties should be used as an ideal platform to enhance AML/CFT monitoring and supervision in the sectors.

However, prioritising capacity building regarding ML/TF risk assessment and awareness is crucial to member countries. It is until the region has enough expertise on ML/TF issues,

that the problems ML/TF poses to the MVT/CE sectors can be appreciated and authorities can deal with them decisively. This will also help bring countries in the Region together and come up with strategies and best practices which are better suited to the Region in curbing and combating ML/TF.

The study also confirms the need to improve both international and domestic cooperation as it came out that the nature of some of the STRs and investigations relating to ML/TF in the MVT/CE sectors are usually extra-territorial. This therefore calls for legal frameworks and international cooperation relating to AML/CFT to be further enhanced to facilitate and ensure timeous and satisfactory provision of mutual legal assistance. The member countries involved, to ensure simultaneous AML/CFT efforts, can even consider joint law enforcement initiatives. Member countries in the ESAAMLG Region can successfully fight ML/TF by combining forces as a region.

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