UGANDA MICROFINANCE REGULATORY AUTHORITY

GUIDANCE NOTES ON ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

FOR

TIER 4 MICROFINANCE INSTITUTIONS AND MONEY LENDERS

OCTOBER 2023

1. INTRODUCTION

1.1 This Guidance is issued by the Uganda Microfinance Regulatory Authority (**UMRA**) pursuant to S. 27 of the Anti-Money Laundering Act, 2013 as amended.

1.2 The Anti- Money Laundering Act, 2013 (the "**AMLA**") identifies any person who conducts the business of lending, inter alia; consumer credit, mortgage credit, factoring with or without recourse and finance of commercial transactions [1] as accountable persons and therefore imposes duties and responsibilities on them to prevent and detect money laundering and the financing of terrorism.

1.3 The purpose of this Guidance is to provide industry specific guidance for tier 4 microfinance institutions on their legal obligations for measures to deter and detect money laundering and the financing of terrorism activities. It provides clarity and an interpretation of the issues arising out of the AMLA and the Anti-Money Laundering (AML) regulations. This Guidance explains the most common situations under the specific laws and related regulations which impose Anti-Money Laundering/Countering Financing of Terrorism (AML/CFT) requirements. It is not legal advice, and is not intended to replace the Acts and Regulations but is provided as general information only.

1.4 Tier 4 microfinance institutions and money lenders and other reporting entities should always refer directly to legislation when considering their statutory obligations. Tier 4 microfinance institutions are responsible for continuously monitoring developments in the law and, where

[1] Schedule 2 item 14(b) of the AMLA .

applicable, keeping their own internal procedures effective and up to date.

2. WHAT IS MONEY LAUNDERING?

2.1 Section 1 of the AMLA, 2013 as amended defines the offence of money laundering as a process by which illegally obtained funds are given appearance of having been legitimately obtained. Money laundering begins with the commission of a criminal activity which results in benefits/gains (illegal funds) to the perpetrator.

2.2 The perpetrator will then try to disguise the fact that the funds were generated from criminal activity through various processes and transactions which may also involve other individuals, businesses and companies. There is no one single method of money laundering. Methods can range from the purchase and resale of a luxury items (e.g., cars or jewellery) to passing money through legitimate businesses and "shell" companies or drug trafficking or other serious crimes. The proceeds usually take the form of cash which needs to enter the financial system by some means.

3. WHO IS AN ACCOUNTABLE PERSON?

3.1 An accountable person is any business activity or profession listed in the Second Schedule to the Anti-Money Laundering Act, 2013 as amended. Entities ie; one carrying out the business of lending, inter alia; consumer credit, mortgage credit, factoring with or without recourse and finance of commercial transactions.

3.2 All citizens of Uganda are subject to the AMLA and the Anti-Terrorism Act ("ATA"), 2002 as amended. However, further obligations are imposed on those business activities which face a greater risk of coming across

proceeds of crime and terrorist property. Business activities which have been identified as more vulnerable include those in the tier 4 sector. It is the duty of all tier 4 microfinance institutions to comply with the legal obligations under the AML/CFT laws of Uganda.

3.3 There are three (3) acknowledged methods in the process of money laundering.

a) **Placement**: 'Placement' refers to the process by which funds derived from criminal activity are reintroduced into the financial system. In the case of drug trafficking, and some other serious crimes, such as robbery, the proceeds usually take the form of cash which needs to enter the financial system. Examples of placement are; depositing cash into bank accounts, saving with SACCOs, fixing deposits with SACCOs, conducting money lending business or using cash to purchase assets. Techniques used include "structuring" or 'smurfing'-where instead of making a large deposit transaction and in order to avoid suspicion or detection the illegal receipts are broken up into smaller sums and deposited into single or multiple accounts sometime using other persons to deposit the cash.

b) **Layering:** "Layering" place after the funds have entered into the financial system. It involves the movement of the money. Funds may be shuttled through a complex web of multiple accounts, companies, and countries in order to disguise their origin. The intention is to conceal, and obscure the money trail in order to deceive Law Enforcement Agencies (LEAs), to make the paper trail very difficult to follow and to hide the criminal source of the funds.

c) **Integration:** The money comes back to criminals "cleaned", as apparently legitimate funds. The laundered funds are used to fund

further criminal activity or spent to enhance the criminal's lifestyle such as investment into real estate and the purchase of luxury assets. Successful Money Laundering allows criminals to use and enjoy the income from the criminal activity without suspicion which is why the AML/CTF legislative and compliance regimes are important crime fighting tools.

4. WHAT IS FINANCING OF TERRORISM?

4.1 Section 9A of the Anti- Terrorism Act, 2002 as amended, provides that financing of terrorism is the process by which funds are provided to an individual or group to fund terrorist activities. Unlike money laundering, funds can come from both legitimate sources as well as from criminal activity.

4.2 Funds may involve low dollar/shilling value transactions and give the appearance of innocence and may come from a variety of sources.

4.3 Funds may come from personal donations, profits from businesses and charitable organizations.

4.4 A charitable organization may organise fundraising activities where the contributors to the fundraising activities believe that the funds will go to relief efforts abroad but all the funds are actually transferred to a terrorist group.

4.5 Funds may also originate from criminal sources, such as the drug trade, the smuggling of weapons and other goods, fraud, kidnapping and extortion.

4.6 Unlike money laundering, which always involves proceeds derived from criminal activity, the financing of terrorism involves both legitimate funds as well as funds derived from criminal activity being used in support of executed and planned terrorist activity. Similar to money launderers, terrorist financiers also move funds to disguise their source, destination and purpose for which the funds are to be used. This is to prevent leaving a trail of incriminating evidence, to distance the funds from the crime or the source, and to obscure the intended destination and purpose thereby avoiding suspicion or detection.

5. MONEY LAUNDERING/FINANCING TERRORISM (ML/TF) RISKS RELEVANT TO THE SECTOR

5.1 Recent studies have concluded that the nature of tier 4 microfinance institutions and money lenders coupled with the characteristics of the markets in their trade, make them inherently vulnerable to misuse or exploitation by criminals for the purpose of money laundering and the financing of terrorism. Tier 4 microfinance institutions are therefore equally vulnerable to ML/FT risks. Among the reasons noted for this vulnerability are the facts that:

(i) Tier 4 microfinance institutions and money lenders represent a large proportion of the economic sector and can be used both as a means to generate criminal proceeds (i.e. through various predicate offences), as well as vehicles to launder them;

(ii) Tier 4 microfinance institutions and money lenders can be used for illicit purposes, including ML/TF, in a variety of ways, either directly (through physical exchange, as a form of currency) or indirectly (through exchange of value via various formal and informal financial

systems, as well as via international trade and the financial products and services related to it);

(iii) The informality of the sector makes it easier for criminals to exploit cross-border, multi-jurisdictional situations in order to obscure the paper and money trails, while at the same time rendering it more difficult for national law enforcement authorities to detect and investigate cases;

(iv) The scale and diversity of small and mid-sized participants in the markets and the generally low level of awareness and education among them in regard to the ML/FT risks, due-diligence requirements, and the red-flag indicators associated with their trade, increase the vulnerability of tier 4 microfinance institutions to exploitation by criminals and terrorists.

(v) The nature of the tier 4 sector where a large proportion of lenders are unlicensed.

(vi) Lack of; Know Your Customer (KYC) and Customer Due Diligence (CDD) procedures by many tier 4 lenders and records largely still being kept manually.

(vii) A significant growth in the tier 4 sector possibly attributed to illicit proceeds eg; from corruption, embezzlement, theft etc.

6. DO THESE OBLIGATIONS APPLY TO YOU?

6.1 This guidance applies if you are carrying on the business of lending, inter alia; consumer credit, mortgage credit, factoring with or without recourse and finance of commercial transactions under the tier 4 sector.

6.2 If you are an employee of such a company or firm, these obligations are the responsibility of your employer.

6.3 For avoidance of doubt, this guidance applies to; Saving And Credit Co-operations (SACCOs), Non Deposit Taking Microfinance Institutions and Money Lenders.

7. SUMMARY OF AML/CFT OBLIGATIONS FOR TIER 4 MICROFINANCE INSTITUTIONS AND MONEY LENDERS

7.1 Tier 4 microfinance institutions are required by the AMLA and the AML Regulations to fulfil certain obligations. These obligations include:

(1) Register with the Financial Intelligence Authority (FIA)
(2) Reporting suspicious transactions (STR) and certain cash transactions
(3) Ascertain client identity (KYC/CDD/EDD) measures
(4) Ascertain whether the customer is acting for a Third Party
(5) Record keeping
(6) Develop and implement internal control measures, policies and procedures to mitigate ML/TF risks. These policies and procedures should be reviewed periodically.
(7) Appoint a Money Laundering Control Officer and Alternate Officer (MLCO)
(8) No Tipping Off
(9) Submit Reports to the FIA

7.2 Registration with FIA

In accordance with regulation 4 of the AML Regulations 2015, tier 4 microfinance institutions are required to register with the FIA for the purpose of identifying them as entities which are supervised by the Uganda Microfinance Regulatory Authority. They must also notify the FIA of a change of address of their registered office or principal place of business.

7.2.1 How to Register

The registration process is simple and free of charge. Registration forms are available on the FIA's website; www.fia.go.ug which, you may download, complete and have it delivered to FIA office, on Plot 6 Nakasero Road, 4th Floor Rwenzori Towers (Wing B).

7.3 Reporting suspicious transactions and certain cash transactions.

By virtue of section 9 of the AMLA as amended, tier 4 microfinance institutions are required to report to the FIA if they suspect or have reasonable grounds to suspect that;

i. A transaction or attempted transaction involves proceeds of crime or,
ii. A transaction or attempted transaction involves funds related or linked to or to be used for money laundering or,
iii. A transaction or attempted transaction involves funds related or linked to or to be used for terrorism financing, regardless of the value of the transaction.

According to section 9(2) of the AMLA, the STR must be submitted within two (2) working days of the date the transaction was deemed to be suspicious.

According to Regulation 12(7) and (8) of the Anti-Terrorism Regulations 2016, you **must submit an STR to the FIA immediately** if a designated entity* attempts to enter into a transaction or continue a business relationship. **You must not enter into or continue a business transaction or business relationship with a designated entity.**

* A designated entity means any individual or entity and their associates designated as terrorist entities by the United Nations Security Council (UNSC). **You can access the Security Council of the United Nations List ("the UN list") on the UN website.**

7.3.1 Defining Knowledge and Suspicion

The first criterion provides that, before you become obliged to report, you must know or have reasonable grounds for suspecting, that some other person is engaged in money laundering or terrorism financing.
If you actually 'know' that your customer is engaged in money laundering, then your situation is quite straightforward – the first criterion is met. However, knowledge can be inferred from the surrounding circumstances, so, e.g., a failure to ask obvious questions may be relied upon to imply knowledge.

You are also required to report if you have *'reasonable grounds'* to suspect that the customer or some other related person is engaged in money laundering or financing of terrorism. By virtue of this second, 'objective' test, the requirement to report will apply to you if based on the facts of the particular case, a person of your qualifications and experience would

be expected to draw the conclusion that those facts should have led to a suspicion of money laundering. The main purpose of the objective test is to ensure that tier 4 microfinance institutions and money lenders (and other regulated persons) are not able to argue that they failed to report because they had no conscious awareness of the money laundering activity, for example by having turned a blind eye to incriminating information which was available to them, or by claiming that they simply did not realize that the activity concerned amounted to money laundering.

7.3.2 Attempted Transactions

You also have to pay attention to **suspicious attempted transactions**. If a customer attempts to conduct a transaction, but for whatever reason that transaction is not completed, and you think that the attempted transaction is suspicious, you must report it to the FIA.

NOTE: It is only when you know or reasonably suspect that the funds are criminal proceeds or related to money laundering or financing of terrorism that you have to report: you do not have to know what the underlying criminal activity is or whether illegal activities occurred.

7.3.3 How to Identify a Suspicious Transaction/Activity

You are the one to determine whether a transaction or activity is suspicious based on your knowledge of the customer and of the industry. You are better positioned to have a sense of particular transactions which appear to lack justification or cannot be rationalized as falling within the usual parameters of legitimate business. You will need to consider factors such as; is the transaction normal for that particular customer or is it a transaction which is a typical i.e. unusual; and the payment methods.

Industry-specific indicators would also help you and your employees to better identify suspicious transactions whether completed or attempted.

7.3.4 Reporting Terrorist Funds

In accordance with regulation 12(7) and (8) of the Anti-Terrorism Regulations 2016, tier 4 microfinance institutions and money lenders **must report immediately** to the FIA the existence of funds within your business where you know or have reasonable grounds to suspect that the funds belong to an individual or legal entity who:

- commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism; or
- is a designated entity.

NB: You **must report immediately** to the FIA where you know or have reasonable grounds to believe that a person or entity named on the United Nations Security Council (UNSC) sanctions' list or the list circulated by the FIA, has funds in Uganda.

You can access the UNSC Sanctions' list **("the UN list")** by visiting the United Nations website.

7.3.5 Reporting Cash Transactions

By virtue of section 8 of the AMLA, tier 4 microfinance institutions and money lenders are required to report all cash and monetary transactions equivalent to or exceeding one thousand currency points.

7.4 Undertake Customer Due Diligence (CDD) Measures

1. In accordance with section 6 of the AMLA, tier 4 microfinance institutions and money lenders are required to conduct CDD when the institution

engages in any cash transaction with a customer of high risk or in any foreign currency equivalent to or above United States Dollars 10,000. CDD in general will be conducted as a minimum requirement. However, when it comes to situations where a customer is identified as of high risk with respect to ML and TF, the reporting entity should apply enhanced due diligence measures.

2. Tier 4 microfinance institutions and money lenders should ensure that they have in place a process for screening existing and prospective business relationships and customers against Sanctions Lists (see clause 7.3.5 above), and for performing background checks on them to identify any potentially adverse information (including associations with Politically Exposed Persons - PEPs, or financial or other crimes) about them. In this regard, tier 4 microfinance institutions and money lenders should become familiar with the various tools available for these purposes, including but not limited to: publicly accessible government and intergovernmental Sanctions Lists; commercially available or subscription-based customer intelligence databases and due-diligence investigation services; and the use of internet search techniques.

3. Tier 4 microfinance institutions and money lenders should be particularly attentive to establishing and verifying the identity of the true beneficial owner and, considering the risk involved, corroborating the legitimacy of their source of funds through reliable independent sources, wherever ongoing business relationships are concerned, or when high risk situations are identified involving occasional or one-off customer transactions.

4. Tier 4 microfinance institutions and money lenders should be alert to situations in which existing or prospective business partners or

customers appear unable or unwilling to divulge relevant ownership information or to grant any required permissions to third parties to divulge such information about them for corroboration or verification purposes.

5. Tier 4 microfinance institutions and money lenders should be alert to customer due-diligence factors such as:
    i. Compatibility of the customer's profile (including their economic or financial resources, and their personal or professional circumstances) with the specifics (including nature, size, frequency) of the transaction or activities involved;

    ii. Utilisation of complex or opaque legal structures or arrangements (such as trusts, foundations, personal investment companies, investment funds, or offshore companies), which may tend to conceal the identity of the true beneficial owner or source of funds;

    iii. Possible association with PEPs, especially in regard to foreign customers.

    iv. Customer due diligence (CDD) measures as defined in section 6(3) of the Anti- Money Laundering Act as amended include but are not limited to:

        a) verify the identity of the client using reliable, independent source documents, data or information;
        b) identify and take reasonable measures to verify the identity of a beneficial owner;
        c) understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship to

permit the accountable person to fulfil its obligations under the Act;

d) if another person is acting on behalf of the customer, identify and verify the identity of that other person, and verify that person's authority to act on behalf of the customer;

e) verify the identity of a customer using reliable, independent source documents, data or information, such as passports, birth certificates, driver's licences, identity cards, national identification card, utility bills, bank statements, partnership contracts and incorporation papers or other identification documents;

f) verify the identity of the beneficial owner of the account, in the case of legal persons and other arrangements;

g) conduct ongoing due diligence on all business relationships and scrutinise transactions undertaken throughout the course of the business relationship to ensure that the transactions are consistent with the accountable person's knowledge of the customer and the risk and business profile of the customer, and where necessary, the source of funds.

6. High Risk Customers/ Transactions

6.1 There are customers and types of transactions, services and products which may pose higher risk to your business and you are required to apply additional measures in those cases. The AML/CFT laws have identified certain high risk customers and require you to conduct enhanced due diligence ("EDD") on these customers. You may also determine that certain customers', transactions and products pose a higher risk to your business and apply EDD.

You must apply EDD measures to high risk customers, which include, but are not limited to:

a) obtaining further information that may assist in establishing the identity of the person or entity;
b) applying extra measures to verify any documents supplied;
c) obtaining senior management approval for the new business relationship or transaction sought by the person or customer;
d) establishing the source of funds of the person or entity;
e) carrying out on-going monitoring of the business relationship.

6.2 The enhanced due diligence measures shall be applied at each stage of the customer due diligence process and shall continue to be applied on an on-going basis.

7.5 Record Keeping

As per section 7 of the AMLA, tier 4 microfinance institutions and money lenders are required to keep a record of each and every transaction for a specified period. Record keeping is important to anti-money laundering investigation which allows for swift reconstruction of individual transactions and provides evidence for prosecution of money laundering and other criminal activities.

Tier 4 microfinance institutions and money lenders must keep records in electronic or written form for a period of ten (10) years or such longer period as the FIA may direct. The records must also be kept for ten (10) years after the end of the business relationship or completion of a one-off transaction. The records to be kept are;

a) All domestic and international transaction records;
b) Source of funds declarations;
c) Customer's identification records;
d) Customer's information records;
e) Copies of official corporate records;
f) Copies of Suspicious Transaction Reports submitted by your staff to your Anti-Money Laundering Control Officer (MLCO);
g) A register of copies of suspicious transaction reports submitted to the FIA;
h) A register of all enquiries made by LEAs (date, nature of enquiry, name of officer, agency and powers being exercised) or other competent authority;
i) The names, addresses, position titles and other official information pertaining to your staff;
j) All wire transfer records; (originator and recipient identification data); and
k) Other relevant records.

7.6 Ascertain whether the customer is acting for a Third Party

In accordance with section 6(20) of the AMLA and regulation 16 of the AML Regulations, tier 4 microfinance institutions and money lenders must take reasonable measures to determine whether the customer is acting on behalf of a third party especially where you have to conduct enhanced due diligence.
Such cases will include where the customer is an agent of the third party who is the beneficiary and who is providing the funds for the transaction. In cases where a third party is involved, you must obtain information on the identity of the third party and their relationship with the customer.

In deciding who the beneficial owner is in relation to a customer who is not a private individual (e.g., a company), you should identify those who have ultimate control over the business and the company's assets such as the

shareholders. Particular care should be taken to ensure that any person purporting to act on behalf of the company is fully authorized to do so.

7.7. Internal Control Measures

7.7.1 In accordance with regulation 11 of the AML Regulations, Tier 4 microfinance institutions and money lenders should develop, adopt and implement internal control measures, policies and procedures for the prevention of money laundering and financing of terrorism.

7.7.2 Tier 4 microfinance institutions and money lenders must take appropriate measures to ensure that all officers, employees, and agents engaged in dealing with clients or processing business transactions understand and comply with all applicable AML/CFT procedures.

7.7.3 Tier 4 microfinance institutions and money lenders must appoint a money laundering control officer (MLCO) with overall responsibility for AML/CFT compliance.

7.7.4 The MLCO must be in a senior managerial position and possesses sufficient professional experience and competence in the legal profession. The MLCO acts as the liaison point with the FIA and relevant supervisory authorities in Uganda, and commands the necessary independence and authority to train and supervise all other officers, employees, and agents within the firm.

7.7.5 The MLCO should at all times be resident in Uganda. In addition, it is highly recommended that an alternate to the MLCO is appointed to assume the prescribed responsibilities and duties in the MLCO's absence.

7.7.6 The MLCO's specific responsibilities include:

a) establishing and maintaining a manual of compliance procedures;
b) establishing an audit function to test AML/CFT procedures and systems;
c) taking overall responsibility for all STRs; and
d) ensuring that all officers, employees, and agents:

i. are screened by the MLCO and other appropriate officers before recruitment;

ii. are trained to recognize suspicious transactions and trends and particular risks associated with money laundering and financing of terrorism; and

iii. comply with all relevant obligations under AML/CFT laws and with the internal compliance manual.

7.7.7 MLCOs and reporting entities should review their arrangements on a regular basis, both to verify compliance with internal procedures and to ensure that those procedures are updated in light of any amendments to the AML/CFT legislation.

7.7.8 These guidelines do not specify the nature, timing, or content of the training that must be provided. This is a matter that must be addressed by the MLCO.

7.8. No Tipping Off

a) When you have made a suspicious transaction report to the FIA, you or your agent, employee must not disclose that you have made such a report or the content of such report to any person including the customer. According to section 117 of the AMLA, it is an offence

to deliberately tell any person, including the customer, that you have or your business has filed a suspicious transaction report about the customer's activities/transactions. You must also not disclose to anyone any matter which may prejudice money laundering or financing of terrorism investigation or proposed investigation.

b) The prohibition applies to any person acting, or purporting to act, on behalf of the tier 4 microfinance institutions and money lenders, including any agent, employee, partner, director or other officer, or any person engaged under a contract for services.

8. ML/TF INDICATORS (RED FLAGS) SPECIFIC TO TIER 4 MICROFINANCE INSTITUTIONS AND MONEY LENDERS

8.1 NATURAL PERSONS

1. Individuals who unexpectedly repay problematic loans or mortgages or who repeatedly pay off large loans or mortgages early, particularly if they do so in cash.

2. Transactions involving persons residing in tax havens or risk territories, when the characteristics of the transactions match any of those included in the list of indicators.

3. Transactions carried out on behalf of minors, incapacitated persons or other persons who, although not included in these categories, appear to lack the economic capacity to make such transactions.

4. Transactions involving persons who are being tried or have been sentenced for crimes or who are publicly known to be linked to criminal activities involving illegal enrichment, or there are suspicions of involvement in such activities and that these activities may be considered to underlie money laundering

5. Transactions involving persons who are in some way associated with the foregoing (for example, through family or business ties, common origins, where they share an address or have the same representatives or attorneys, etc.).

6. Transactions involving an individual whose address is unknown or is merely a correspondence address (for example, a P.O. Box, shared office or shared business address, etc.), or where the details are believed or likely to be false.

7. Several transactions involving the same party or those undertaken by groups of persons who may have links to one another (for example, family ties, business ties, persons of the same nationality, persons sharing an address or having the same representatives or attorneys, etc.).

8.2 LEGAL PERSONS

a. Transactions involving legal persons or legal arrangements domiciled in tax havens or risk territories, when the characteristics of the transaction match any of those included in the list of indicators.

b. Transactions involving recently created legal persons, when the amount is large compared to their assets.

c. Transactions involving legal entities, when there does not seem to be any relationship between the transaction and the activity carried out by the company, or when the company has no business activity.

d. Transactions involving foundations, cultural or leisure associations, or non-profit-making entities in general, when the characteristics of the, transaction do not match the goals of the entity.

e. Transactions involving legal persons which, although incorporated in the country, are mainly owned by foreign nationals, who may or may not be resident for tax purposes.

f. Transactions involving legal persons whose addresses are unknown or are merely correspondence addresses (for example, a P.O. Box number, shared office or shared business address, etc.), or where the details are believed false or likely to be false.

g. Various transactions involving the same party. Similarly, transactions carried out by groups of legal persons that may be related (for example, through family ties between owners or representatives, business links, sharing the same nationality as the legal person or its owners or representatives, sharing an address, in the case of legal persons or their owners or representatives, having a common owner, representative or attorney, entities with similar names, etc.).

h. Transactions in which unusual or unnecessarily complex legal structures are used without any economic logic.

8.3 NATURAL AND LEGAL PERSONS

1. Transactions in which there are signs, or it is certain, that the parties are not acting on their own behalf and are trying to hide the identity of the real customer.

2. Transactions which are begun in one individual's name and finally completed in another's without a logical explanation for the name change.

3. Transactions in which the parties are foreign or non-resident for tax purposes.

4. Transactions in which any of the payments are made by a third party, other than the parties involved. Cases where the payment is made by a credit institution registered in the country at the time due to the granting of a mortgage loan or loan buy off, may be excluded.

5. Transactions performed through intermediaries, when they act on behalf of groups of potentially associated individuals (for example, through family or business ties, shared nationality, persons living at the same address, etc.).

6. Transactions carried out through intermediaries acting on behalf of groups of potentially affiliated legal persons (for example, through family ties between their owners or representatives, business links, the fact that the legal entity or its owners or representatives are of the same nationality, that the legal entities or their owners or representatives use the same address, that the entities have a common owner, representative or attorney, or in the case of entities with similar names, etc.).

7. Transactions taking place through intermediaries who are foreign nationals or individuals who are non-resident for tax purposes.

8.4 MEANS OF PAYMENT

a) Transactions involving payments in cash or in negotiable instruments which do not state the true payer, where the accumulated amount is considered to be significant in relation to the total amount of the transaction.

b) Transactions in which the party asks for the payment to be divided into smaller parts with a short interval between them.

c) Transactions where there are doubts as to the validity of the documents submitted with loan applications.

d) Transactions in which a loan granted, or an attempt was made to obtain a loan, using cash collateral or where this collateral is deposited abroad.

e) Transactions in which payment is made in cash, bank notes, bearer cheques or other anonymous instruments, or where payment is made by endorsing a third-party's cheque.

f) Transactions with funds from countries considered to be tax havens or risk territories, according to anti-money laundering legislation, regardless of whether the customer is resident in the country or territory concerned or not.

g) Transactions in which the buyer takes on debt which is considered significant in relation to the value of the collateral.

h) Transactions involving the subrogation of mortgages granted through institutions registered in the country may be excluded.

i) Transactions relating to the same property or rights that follow in rapid succession (for example, different loans secured by the same property) and which entail a significant increase or decrease in the amounts borrowed.

j) Transactions entered into at a value significantly different (much higher or much lower) from the real value of the collateral or differing markedly from market values.

PLEASE NOTE THAT THIS IS NOT AN EXHAUSTIVE LIST OF SUSPICIOUS INDICATION.

9. OFFENCES AND PENALTIES FOR NON-COMPLIANCE

9.1 Failure to comply with the obligations under the AMLA and the AML regulations may result in criminal and/or administrative sanctions. Penalties may include fines and terms of imprisonment. Sanctions include possible revocation of licenses, issuance of directives and court orders.

The offences under the AMLA include;

1. Money Laundering (section 3 and 116);
2. Tipping Off (section 117);
3. Falsification, Concealment of documents (section 118);
4. Failure to identify persons (section 119);
5. Failure to keep records (section 120);
6. Facilitating money laundering (section 121);
7. Destroying or tampering with records (section 122);

8. Refusal, omission, neglect or failure to give assistance (section 123);
9. Failure to report cash transactions (section 124);
10. Failure to report suspicious or unusual transactions (section 125)
11. Failure to report conveyance of cash into or out of Uganda (section 126);
12. Failure to send a report to the Authority (section 127);
13. Failure to comply with orders made under the Act (section 128);
14. Contravening a restraining order (section 129);
15. Misuse of information (section 130);
16. Obstructing an official in performance of functions (section 131)
17. Influencing testimony (section 132);
18. General non-compliance with requirements of this Act and conducting transactions to avoid reporting duties (section 133);
19. Unauthorised access to computer system or application or data (section 134);
20. Unauthorised modification of contents of computer system (section 135).

9.2 Penalties

According to section 136 of the AMLA, a person who commits money laundering is liable on conviction to:-

i.) in the case of a natural person, imprisonment for a period not exceeding fifteen years or a fine not exceeding one hundred thousand currency points or both;

ii.) in the case of a legal person by a fine not exceeding two hundred thousand currency points.

iii.) According to section 136(2) of the AMLA, a person who commits any other offence under the Act is punishable-

a) if committed by a natural person, by imprisonment for a period not exceeding five years or a fine not exceeding thirty three thousand currency points, or both;

b) if committed by a legal person such as a corporation, by a fine not exceeding seventy thousand currency points;

c) if a continuing offence, by a fine not exceeding five thousand currency points for each day on which the offence continues; or

d) if no specific penalty is provided, by a fine not exceeding nine thousand currency points and in case of a continuing offence, to an additional fine not exceeding five thousand currency points for each day on which the offence continues.

10. REVIEW OF THE GUIDANCE NOTE

These guidance notes shall be reviewed periodically by the Authority. Tier 4 microfinance institutions and money lenders are encouraged to compile and record any comments, which arise in relation to these notes, and forward them to UMRA for appropriate action.

For more information, visit our offices located at Wing B **Rwenzori Towers** along **Nakasero Road**, Kampala. You can also call **+256417799700** or Toll – free **0800 111 449.**

EXECUTIVE DIRECTOR,
UGANDA MICROFINANCE REGULATORY AUTHORITY (UMRA)