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MONEY LAUNDERING PREVENTION AND DETECTION

Money Laundering

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.

Money laundering prevention and detection

All citizens of Uganda are subject to the Anti-Money Laundering Act (AMLA) and the Anti-Terrorism Act (ATA) of 2002 (as amended). However, additional and more stringent obligations apply to certain business activities that carry a higher risk of exposure to proceeds of crime or terrorist property. These higher-risk businesses are legally classified as **Accountable Persons**.

These entities are vulnerable to ML and terrorist financing (TF) because they handle large volumes of funds or high-value assets. It is mandatory for all Accountable Persons to fully comply with the requirements of Uganda's AML/CFT laws.

Whose is an Accountable person?

An accountable person is any business activity or profession listed in the Second Schedule to the Anti-Money Laundering Act, 2013 as amended.

Full List (Second Schedule):

- Advocates, notaries, accountants, and independent legal professionals.
- Boards of executors, trust companies, or persons administering trust property (Trustees Act).
- Casinos (including internet casinos).
- Real estate agents.
- Dealers in precious metals and gems.
- Financial institutions (banks/credit institutions under the Financial Institutions Act; insurance companies under the Insurance Act).
- Brokers, dealers, or investment advisors licensed under the Capital Markets Authority Act.
- Trust and company service providers (formation agents, nominee directors, registered offices, etc.).
- Registrars of Companies, Land, Uganda Investment Authority, and all licensing authorities.
- Persons conducting businesses such as deposit-taking, lending, money/value transfer, issuance of payment instruments, trading in securities/foreign exchange, portfolio management, etc.
- Virtual Asset Service Providers (VASPs – added 2020).

- NGOs, churches, and charitable organisations (subject to ongoing review).

Money Laundering prevention measures

Identification of clients, customers, other persons

Section 2 of the AMLA (2017) requires an accountable person who maintains an account for a client or customer to keep the account in the true name of the account holder. Such a person shall not open or maintain any anonymous accounts or accounts held in fictitious or incorrect names.

Risk Assessment

Section 6A of AMLA (as amended) and regulations 8 stipulate that an accountable person shall, at least once every three years, conduct a risk assessment to enable the accountable person to identify, assess, understand, monitor, manage and mitigate their money laundering and terrorism financing risks.

The risk assessment shall be carried out to identify, assess and, take appropriate measures to manage and mitigate the money laundering or terrorism financing risks that may arise in relation to;

- (a) the development of new products and new business practices; including new delivery mechanisms for products and services; and
- (b) the use of new or developing technologies for both new and pre-existing products.

The risk assessment is also required to take place prior to the launch of the new product or business practice, or the use of a new or developing technology.

Cross border movements of currency and negotiable bearer instruments.

Section 10 of AMLA 2013 stipulates that; Any person who enters or leaves Uganda while carrying cash or bearer negotiable instruments exceeding one thousand five hundred currency points (or its equivalent in foreign currency), or who arranges for the transfer of such an amount into or out of Uganda through mail, shipping services, or any other means, is required to declare that amount to the Uganda Revenue Authority in the manner prescribed by the Minister through regulations. The Uganda Revenue Authority may also request additional information regarding the source and intended use of the cash or bearer negotiable instruments.

Internal control measures

Accountable persons are required to develop, adopt, and implement internal control measures, policies, and procedures aimed at preventing money laundering and the financing of terrorism. These measures must include monitoring systems for complex, unusual, large transactions or suspicious activities; enhanced due diligence procedures for high-risk persons, business relationships, and transactions; monitoring systems for persons in jurisdictions that lack adequate anti-money laundering and counter-terrorism financing systems; continuous training programmes for employees, managers, and directors to keep them updated on all aspects of anti-money laundering and counter-terrorism financing requirements.

Reporting

Section 4 of the AMLA 2017 stipulates that an accountable person shall establish and maintain all necessary books and records relating to the identity of every person obtained through customer due diligence measures.

These records must also include all domestic and international transactions carried out by the accountable person, as well as any correspondence relating to those transactions, in such a manner as to

enable the transactions to be readily reconstructed at any time by the Authority or any other competent authority. The records shall contain such particulars as the Minister may prescribe by regulations.

In addition, the accountable person must keep records of all reports made to the Authority under this Act, including any accompanying documentation, and of any enquiries relating to money laundering and the financing of terrorism made by the Authority.

Recording and reporting cash and monetary transactions

For each cash and monetary transaction involving a domestic or foreign currency exceeding one thousand currency points (UGX 20 million), an accountable person shall record the cash or monetary transaction and file/report them with the authority. Multiple cash and monetary transactions which altogether exceed the prescribed amount shall be treated as a single transaction if they are undertaken by or on behalf of any one person during any one day or such other period prescribed by the Minister. Such records are supposed to be maintained for a period of ten years from the date of the transaction.

Reporting of suspicious transactions.

Accountable persons are mandated to report to the Authority if it suspects or has reasonable grounds to suspect that a transaction or attempted transaction involves proceeds of crime or funds related or linked to or to be used for money laundering or terrorism financing, regardless of the value of the transaction.

Customer Due Diligence

Customer Due Diligence (CDD), often referred to as "Know Your Customer" (KYC), forms the cornerstone of preventive anti-money

laundering (AML) and countering the financing of terrorism (CFT) measures under Uganda's framework.

Part V of the Regulations (Regulations 13–28) details the requirements for accountable persons (e.g., banks, financial institutions, designated non-financial businesses and professions) to verify customer identities, understand business relationships, and mitigate ML/TF risks.

The objectives of carrying due diligence is to enable an accountable person—

- (a) to verify the identity of a customer or person using reliable, independently sourced documents, data or information, and in the case of a person acting on behalf of a customer, to identify and verify the identity of that person and the authority to act on behalf of the person or customer;
- (b) to identify beneficial owners, and to take reasonable measures to verify the identity of beneficial owners;
- (c) to ascertain, in the case of legal person, the ownership and control structure of a customer or person;
- (d) to obtain information relating to the purpose and nature of the business relationship; and
- (e) to ensure that any transaction being conducted is consistent with the accountable person's knowledge of the customer or person, their nature of business and risk profile, including where necessary, the source of funds.

When CDD is required?

CDD is mandatory in these situations:

- before or during the course of opening an account for a person or customer;
- before establishing a business relationship with a person;

- before carrying out a transaction for a person with whom it is not in an established business relationship with, whether conducted as a single transaction or several transactions that appear to be linked;
- before carrying out a domestic or international wire transfer for a person with whom it is not in an established business relationship;
- where there is a suspicion of money laundering or terrorism financing by any person or customer;
- where there is doubt as to identity of the customer or any person, and in particular, where there is doubt as to the authenticity or adequacy of previously obtained identification data of the customer or person.

CDD must be applied on a risk-sensitive basis, informed by the accountable person's own risk assessment (under Regulations 8–9).

Low risk → Simplified Due Diligence (SDD) permitted (e.g., reduced verification), but never where suspicion exists.

High risk → Enhanced Due Diligence (EDD) mandatory, including:

- Additional identity information.
- Extra document verification.
- Senior management approval for relationships/transactions.
- Source of funds/wealth verification.
- Intensified ongoing monitoring. EDD applies throughout the relationship and must be ongoing.

Politically Exposed Persons

Accountable persons are required to implement appropriate risk management systems to determine whether a person or customer is a politically exposed person.

An accountable person shall take the following measures where a person or customer is a politically exposed person—

- a) obtain written approval from senior management to transact or establish or continue a business relationship with that person;
- b) take adequate measures to establish the source of wealth and the source of funds involved in the proposed business relationship or transaction including for all domestic politically exposed persons;
- c) determine the purpose of the transaction or account and the expected volume and nature of account activity;
- d) Review public sources of information on the politically exposed person; and
- e) conduct enhanced ongoing monitoring of the business relationship, once the account has been established.

These regulations apply to a family member or close associate of a politically exposed person.