



Financial Intelligence Centre
Republic of Zambia

SUSPICIOUS TRANSACTION REPORTING GUIDELINES FOR THE

*Accounting and Audit
Sector*

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1. INTRODUCTION

In keeping with international obligations and ensuring that Zambia's financial institutions and other non-financial businesses and professions are not abused by persons involved in money laundering or the financing of terrorism, the Financial Intelligence Centre ('the Centre') was established to receive suspicious transaction reports from reporting entities, analyze and disseminate intelligence to law enforcement agencies (LEAs), pursuant to the Financial Intelligence Centre Act No 46 of 2010 ('the Act').

It is the responsibility of the Centre to issue guidelines to Accounting and Audit Firms (as reporting entities) to ensure Accounting and Audit Firms comply accordingly with the provisions of the Act. These Suspicious Transaction Reports (STRs) Guidelines have been issued in accordance with section 56 and pursuant to section 29 of the Act. One of the cardinal responsibilities of Accounting and Audit Firms is to submit a suspicious transaction report where there is suspicion that a transaction may arise from the commission of a crime or may be linked to the financing of terrorism.

1.0 Overview of the Accounting and Audit Sector

Undoubtedly the accounting and auditing sectors are important to business as well as to the nation because they are the base that offer great support to prudent management for planning, controlling as well as decision making process in the utilization of financial resources. It is with the aid of accounting/auditing information that the performance of a country can be evaluated. The two may be used to combat predicate offences to money laundering such as fraud and theft as well as to combat money laundering and terrorist financing.

Accountants/Auditors in practice may provide a very wide range of services, to a very diverse range of clients. For example, services may include but not limited to:

- i. Audit and assurance services.
- ii. Book-keeping and the preparation of annual and periodic accounts.
- iii. Tax compliance work, and advice on the legitimate minimisation of tax burdens.
- iv. Internal audit and advice on internal control and risk minimisation
- v. Insolvency/receiver-managers/bankruptcy related services
- vi. Advice on the structuring of transactions, and succession advice
- vii. Advice on investments and custody of client money
- viii. Forensic accountancy.

Some of the functions performed by accountants that are the most useful to potential Money Launderers/ Financiers of Terrorism include:

- i. Financial and tax advice – Criminals with a large amount of money to invest may pose as individuals hoping to minimise their tax liabilities or desiring to place assets out of reach in order to avoid future liabilities;
- ii. Creation of corporate vehicles or other complex legal arrangements (trusts, for example) – such structures may serve to confuse or disguise the links between the proceeds of a crime and the perpetrator;
- iii. Buying or selling of property – Property transfers may serve as the cover for transfers of illegal funds;

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- iv. Performing financial transactions – Sometimes accountants may carry out various financial operations on behalf of the client (e.g. cash deposits or withdrawals on accounts, retail foreign exchange operations, issuing and cashing cheques, purchase and sale of stock, sending and receiving international funds transfers etc.)

Accountancy and auditing in Zambia are regulated professions and are subjected to regulatory or professional requirements which complement the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) domestic measures. According to the Accountants Act No. 13 of 2008, all accountants and auditors must be registered with the Zambia Institute of Chartered Accountants (ZICA) to practice accountancy in Zambia. ZICA is required to devise AML/CFT policies and procedures for accountants in a way that harmonises with other regulatory or professional requirements in accordance with the provisions under section 36 of the Financial Intelligence Centre Act, No. 46 of 2010.

1.1 Scope of the Guidelines

The purpose of these guidelines is to explain common reporting situations under the Act and assist the Accounting and Audit Firms (sole practitioners, partners/auditors or employed professionals within accounting /audit professional firms) to comply with the Act. The STR Guidelines are provided as general information only and as such do not represent all the requirements under the law as the obligations imposed by the Supervisory Authority.

To this effect, the guidelines do not constitute legal advice and are not intended to replace the Act or any other guidelines, directives or regulations issued by ZICA for the reporting entities.

1.2 Definition of Key Concepts

“Attempted Transaction” is one where a client intended to conduct a transaction and took some form of action to do so. It is different from a simple request for information, such as an enquiry as to the fee applicable to a certain transaction. An attempted transaction includes entering into negotiations or discussions to conduct the transaction and involves concrete measures to be taken by either you or the client.

“Accountant”-a person qualified in the theory and practice of accountancy, an auditor, tax consultant and tax adviser and registered under then Accountants Act No 13 of 2008 and “accountancy” shall be construed accordingly.

“Auditor”-a person holding a practicing certificate or a firm registered under the Accountants Act No. 13 of 2008 and appointed to perform any auditing functions.

“Client”- a customer of an accountant or firm of accountant(s) registered under the Accountants Act No 13 of 2008.

“Money Laundering”-Under The *Prohibition and Prevention of Money Laundering Act No 14 of 2001, as amended by Act No.44 of 2010*, a money laundering offence involves various acts committed with the intention to conceal or convert property or the proceeds of property (e.g. money) knowing or believing that these were derived from the commission of a designated offence. In this context, a designated offence means a serious offence as defined in the *Forfeiture of Proceeds of Crime Act, 2010*. It includes among others those relating to illegal drug trafficking, corruption,

bribery, fraud, forgery, murder, robbery, counterfeit money, stock manipulation. A money laundering offence may also extend to property or proceeds derived from illegal activities that took place outside Zambia.

“Reporting Entity”-an institution regulated by a Supervisory Authority and required to make a suspicious transaction report under the Act. Examples of Accounting and Audit Firms include institutions supervised by the Zambia Institute of Chartered Accountants established under the Accountants Act, 2008.

“Supervisory Authority” for the purpose of these guidelines, a Supervisory Authority refers to ZICA with mandate of providing accountability in the quality and service of the accounting profession in Zambia.

“Terrorist Financing” Terrorist financing offences extend to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used in full or in part to carry out a terrorist act by a terrorist organization or an individual terrorist. Under the Anti-Terrorism Act No. 21 of 2007, it is an offence to knowingly collect or provide property, such as funds, either directly or indirectly, to carry out terrorism or terrorist financing activities.

2. CLIENT DUE DILIGENCE

Client Due Diligence (CDD) is the identification and verification of both the Client and beneficiary including but not limited to continuous monitoring of the business relationship with the reporting entity. Accounting and Audit

Firms are not permitted to operate anonymous accounts or accounts in fictitious names on behalf of a Client.

Part III of the Act requires Accounting and Audit Firms to institute measures to ensure effective CDD at all times. Accounting and Audit Firms shall undertake measures when:

- i. establishing a business relationship with a Client;
- ii. There is a suspicion of money laundering or terrorist financing;
- iii. There are doubts about the veracity or adequacy of previously obtained Client identification data.

2.1 CDD PROCEDURES

- a. If you cannot satisfactorily apply your due diligence measures in relation to a client e.g. you are unable to identify and verify a client's identity or obtain sufficient information about the nature and purpose of a transaction, you must not carry out a transaction for that client or enter into business relationship with the client. In this regard, Accounting and Audit Firms shall identify their Clients and verify the Clients' identities using reliable, independently sourced documents, such as the National Registration Card, Valid Passport, Valid Drivers' Licence, Certified Certificate of Incorporation or such other information as the Minister may prescribe.
- b. In respect of Clients that are legal persons or legal arrangements, Accounting and Audit Firms shall:
 - i. verify any person purporting to have been authorised to act on behalf of such a Client by obtaining evidence of his/her

identity and verifying the identity of such a person with independent sources; and

- ii. Verify the legal status of the legal person or legal arrangement by obtaining proof of incorporation from recognised established body or similar evidence of establishment or existence and any other relevant information.
- c. Accounting and Audit Firms shall identify a beneficial-owner and take reasonable measures to verify his/her identity using relevant information or data obtained from a reliable source to satisfy themselves that they know who the beneficial-owner is.
- d. Accounting and Audit Firms shall in respect of all Clients determine whether or not a Client is acting on behalf of another person. Where the Client is acting on behalf of another person, the reporting entity shall take reasonable steps to obtain sufficient identification-data and to verify the identity of that other person.
- e. Accounting and Audit Firms shall take reasonable measures in respect of Clients that are legal persons or legal arrangements to:
- i. understand the ownership and control structure of such a Client; and
 - ii. determine the natural persons that ultimately own or control the Client. For **trusts** –The natural persons are the settlor, the trustee and person exercising effective control over the trust and the beneficiaries.

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- f. Accounting and Audit Firms shall obtain information on the purpose and intended nature of the business relationship of their potential Clients.
 - g. Accounting and Audit Firms should conduct a review that ensures that business is being conducted in accordance with stated objectives in Articles of Association
 - h. The review should include scrutinizing the transactions undertaken by the client throughout the course of the client relationship to ensure that the transactions being conducted are consistent with the reporting entities' knowledge of the client, its business and risk profiles, and the source of funds.
 - i. Accounting and Audit Firms shall ensure that documents, data or information collected under the CDD-process are kept up-to-date and relevant by undertaking reviews of existing records, particularly the records in respect of higher-risk business relationships or Client categories. All books and records with respect to its Clients and transactions should be maintained for a period of at least 10 years;

2.2 HIGH-RISK CATEGORIES OF CLIENTS

Section 19 of the Act requires Accounting and Audit Firms to have appropriate risk management systems to identify Clients whose activities may pose a high risk of money laundering and financing terrorism. Accounting and Audit Firms need to exercise enhanced identification, verification and ongoing due diligence procedures with respect to High Risk Clients. Accounting and Audit Firms shall perform enhanced due diligence for high-risk categories of Clients, business relationships or transactions. Examples of high-risk Client categories include:

- a. Companies that have nominee-shareholders or shares in bearer form;

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- b. Non-resident Clients;

 - c. Legal persons or legal arrangements such as trusts that are personal-assets holding vehicles;

 - d. Politically Exposed Persons (PEPs). PEPs are individuals who are or have been entrusted with prominent public functions both in Zambia and foreign countries and those associated with them. For example, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Middle ranking or more junior individuals are not categorised as PEPs.

 - e. Accounting and Audit Firms shall, in addition to performing CDD procedures, put in place appropriate risk management systems to determine whether a potential Client or existing Client or the beneficial-owner is a PEP.

 - f. The risk management systems used by Accounting and Audit Firms to identify Clients whose activities may pose a high risk of money laundering and financing of terrorism pursuant to section 19(a) of the Act shall require:-

(1) Enhanced identification-which involves identifying Clients or activities engaged in by Clients who may pose high risk of money laundering or financing of terrorism by taking into account:

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- a. the nature and business of Clients;
 - b. Client activities, transaction patterns and operations;
 - c. geographic location of the Client and/or transaction
 - d. the magnitude of Client assets that a reporting entity handles;
 - e. third parties that may be involved in the Client's activities;
 - f. the beneficial ownership of an entity and their impact on risk;
 - g. volume of cash used by Client in their transactions; and
 - h. any other indicators that may be relevant.

(2) Verification and on-going Due Diligence-which includes:

- a. Seeking additional information beyond the minimum requirements under the law to substantiate the Client's identity or the beneficial ownership of an entity and
- b. Obtaining additional information about the intended nature and value of a given transaction.

Accounting and Audit Firms shall conduct standard acceptance procedures which should include identification of any PEP.

Where a Client has been accepted or has an ongoing relationship with the reporting entity and the Client or beneficial-owner is subsequently found to be or becomes a PEP, the reporting entity shall updates its records accordingly to continue the business relationship.

Accounting and Audit Firms shall take reasonable measures to establish the source of wealth and the sources of funds of Clients and beneficial-owners identified as PEPs and report all anomalies or unusual and abnormal transactions immediately to the Centre.

Accounting and Audit Firms in business relationships with PEPs are required to conduct enhanced ongoing monitoring of that relationship.

3. THE ANTI-MONEY LAUNDERING (AML) AND COUNTERING THE FINANCING OF TERRORISM (CFT) COMPLIANCE PROGRAMME

An AML/CFT programme is an essential component of a reporting entity's compliance regime. The AML/CFT compliance programme should be risk-based, and should be designed to mitigate the Money Laundering and Terrorist Financing risks the reporting entity may encounter.

3.1 Elements of an AML/CFT Programme

3.1.1 A system of internal policies, procedures and controls

Accounting and Audit Firms shall adopt policies indicating its commitment to comply with AML/CFT obligations under the relevant Acts and regulations to report any transaction that facilitates ML/TF activities. Every reporting entity shall formulate and implement internal rules procedures and other controls aimed at detecting use of company facilities for money laundering and terrorist financing and to ensure that its obligations under the relevant laws and regulations are always met. These procedures, policies and controls

should cover the CDD, record retention, the detection of unusual and suspicious transactions, the reporting obligation, among other things.

3.1.2 Compliance Officer

Accounting and Audit Firms should designate a Compliance Officer within its organisation at senior level in accordance with Section 23 (3) and such an officer shall receive suspicious or unusual transaction reports from persons handling transactions within the entity. The Compliance Officer shall be equipped with the relevant competence, authority and independence to implement the institution's AML/CFT compliance programme. The Compliance Officer shall have ready access to all client books, records and the employees of the reporting entity conducting services to clients necessary to fulfil the responsibilities under the Act.

The duties of the Compliance Officer shall include but shall not be limited to the following:

- i. Developing an AML/CFT Compliance Programme;
- ii. Receiving and vetting suspicious transaction reports from staff;
- iii. Filing suspicious transaction reports with the Centre;
- iv. Ensuring that the reporting entities' compliance programme is implemented;
- v. Co-ordinating the training of staff in AML/CFT awareness, detection methods and reporting requirements; and
- vi. Serving both as a liaison officer with the Centre as well as a point-of-contact for all employees on issues relating to money laundering and terrorist financing. Every reporting entity shall ensure that the Compliance Officer has access to other

information that may be of assistance to the anti-money laundering reporting officer in consideration of a suspicious or unusual transaction.

3.1.3 Training

The Act requires Accounting and Audit Firms to have formal, written AML/CFT Compliance programmes that include training. Ongoing employee training programs should be in place in all Accounting and Audit Firms to ensure that employees are kept informed of new developments, including information on current ML and TF techniques, methods and trends; and that there is a clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting.

The timing, coverage and content of the employee training program should be tailored to meet the perceived needs of the reporting entity.

3.1.4 Independent Compliance Monitoring

Putting your AML/CFT Compliance programme in place is not enough. The programme must be monitored and evaluated. Therefore, Accounting and Audit Firms are supposed to have an independent audit performed by people not involved with the entity's AML/CFT Compliance staff to test compliance with the procedures, policies and controls. The individuals conducting the audit should report directly to the partners of the entity.

Monitoring of AML/CFT Compliance programme

The Financial Intelligence Centre will from time to time undertake on and off-site visits to Accounting and Audit Firms to monitor how the AML/CFT Compliance programmes are being implemented.

I. Obligation to Report Suspicious Transaction

Whenever an Accounting or Audit Firm processes a transaction to which there is reasonable grounds to suspect that any property is the proceeds of crime, or is related to, or is to be used for, terrorism, terrorist acts or by terrorist organisations or persons who finance terrorism, it should take reasonable measures to ascertain the purpose of that transaction and submit a report to the Centre, setting out the suspicion, within three (3) working days of forming that suspicion.

Further, an Accounting or Audit Firm is required to exercise caution when carrying out a transaction which it suspects to be related to money laundering or financing of terrorism. The Act also requires an STR to be submitted on attempted money laundering or financing of terrorism.

In exceptional cases (transactions that require immediate action), making a suspicious transaction report to the Centre does not prevent an Accounting or Audit Firm from reporting suspicions of money laundering or financing of terrorism directly to law enforcement agencies. The Centre encourages Accounting and Audit Firms to maintain established relationships with law enforcement agencies. In accordance with section 45 of the Act, failure to submit a suspicious transaction report to the Centre may lead to imprisonment upon conviction to a term of up to seven years or payment of a fine of seven hundred thousand penalty units or to both.

II. Prohibition against Tipping Off

A reporting entity or any director, partner, officer, principal or employee of the reporting entity is not allowed to disclose to any person the contents of the STR Form. Further, the disclosure of any other information from which a person could reasonably be expected to conclude that a suspicion has been formed or that a report has been or may be made is prohibited.

In accordance with section 47, any person who contravenes this requirement commits an offence and is liable to a fine of up to five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

III. Protection of identity of persons and information relating to STRs

A reporting entity is not allowed to disclose any information that identifies, or is likely to identify the person who prepared or made a suspicious transaction report, or handled the underlying transaction. In light of the foregoing, the disclosure of identity of the above mentioned person is confidential. Section 47 of Act prohibits the disclosure of confidential information. Such disclosure is an offence which may result in a fine of up to five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

IV. Protection of entities/persons reporting

In accordance with section 35 of the Act, no civil, criminal, administrative or disciplinary proceedings for breach of professional secrecy or contract shall be taken against you for submitting a completed STR Form, in good faith, or in compliance with directions given by the Act.

4.2 HOW TO IDENTIFY A SUSPICIOUS TRANSACTION

Where there is a business relationship, a **suspicious transaction** will often be one which is inconsistent with a Client's known, legitimate or personal activities or with their normal business. Therefore, the first key to recognition is knowing enough about your Client and Client's business, to recognize that a transaction or series of transactions are unusual.

Reliance on what should be reported is largely on one's assessment, based on knowledge and experience, as well as specific circumstances of the transaction. The assessment should therefore be based on a reasonable evaluation of relevant factors, including the knowledge of the Clients business, financial history, background and behavior.

4.1 ML/TF indicators for Accounting/Audit Firms

- i. Client appears to be living beyond his or her means;
- ii. Client has cheques inconsistent with sales (i.e. unusual payments from unlikely sources);
- iii. Client has a history of changing bookkeepers or accountants yearly;
- iv. Client is uncertain about location of company records;
- v. Company carries non-existent or satisfied debt that is continually shown as current on financial statements;
- vi. Company has no employees, which is unusual for the type of business;
- vii. Company is paying unusual consultant fees to offshore companies;
- viii. Company records consistently reflect sales at less than cost, thus putting the company into a loss position, but the company

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- continues operating without reasonable explanation of the continued loss;
- ix. Company shareholder loans are not consistent with business activity;
 - x. Examination of source documents shows misstatements of business activity that cannot be readily traced through the company books;
 - xi. Company makes large payments to subsidiaries or similarly controlled companies that are not within the normal course of business;
 - xii. Company acquires large personal and consumer assets (i.e., boats, luxury automobiles, personal residences and cottages) when this type of transaction is inconsistent with the ordinary business practice of the client or the practice of that particular industry; and
 - xiii. Company is invoiced by organizations located in a country that does not have adequate money laundering laws and is known as a highly secretive banking and corporate tax haven.
 - xiv. Frequent change of external auditors (opinion shopping)
 - xv. High concentration of revenues from a single client

5. HOW TO OBTAIN SUSPICIOUS TRANSACTION FORMS

You may obtain the STR forms by contacting the FIC office using the address provided under paragraph seven (7) of this document or emailing fic@ficzambia.gov.zm. Further, an electronic copy of the STR form can be accessed on the FIC website (www.fic.gov.zm).

6. HOW TO COMPLETE A SUSPICIOUS TRANSACTION REPORT

When completing an STR form, you MUST follow the instructions contained in the form and ensure that mandatory fields are duly completed.

7. HOW TO SEND YOUR SUSPICIOUS TRANSACTION REPORTS TO FIC

The completed STR form by confidential cover, must be reported through the following means:

1. On the FIC e-system (applicable only to reporting institutions with electronic link with the FIC);
2. Authenticated FIC email address provided for under four (4) of this document;
3. By courier or in person to the address indicated below; and

8. FINANCIAL INTELLIGENCE CENTRE CONTACT DETAILS

All the completed reports or any queries should be sent to:

The Director
Financial Intelligence Centre
Plot 50, Kudu Road, Kabulonga
P O Box 30481
Lusaka
ZAMBIA