



Financial Intelligence Centre
Republic of Zambia

Reporting Guidelines 2019

*Bureaux De Change
Sector*

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1.0 INTRODUCTION

In keeping with international obligations and ensuring that Zambia's financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs) 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 reports to law enforcement agencies and other competent authorities, pursuant to the Financial Intelligence Centre Act No. 46 of 2010 (as amended) ('the Act').

It is the responsibility of the Centre to issue guidelines to reporting entities to ensure reporting entities comply accordingly with the provisions of the Act and any other regulations issued pursuant to the Act.

The purpose of these guidelines is to explain reporting obligations under the Act and assist the reporting entities under the supervision of Bank of Zambia (BOZ) to comply with the Act.

These Reporting Guidelines have been issued in accordance with section 56 and pursuant to sections 29 and 30 of the Act. One of the responsibilities of reporting entities is to file suspicious transaction reports (STRs) and currency transaction reports (CTRs) to the Centre.

These Reporting Guidelines replace the STR Guidelines which were issued by the Centre in 2015.

1.1 OVERVIEW OF THE BUREAU DE CHANGE SECTOR

In Zambia, a Bureau de Change is considered to be an institution that carries out retail foreign exchange operations in cash. It is intended to satisfy the foreign currency needs of individual tourists, travellers and small-scale cross-border traders. This is the fastest growing sector in the Zambian financial services industry in terms of the numbers of institutions that have sprouted the last 15 years.

Due to the nature of services and products that Bureau de Change offer to customers, the industry is vulnerable to Money Launderers and Terrorist Financiers. To this end, Bureau de Change are designated as reporting entities under the Act and as such they are required to exercise care and avoid entering into transactions that may involve money laundering or financing of terrorism. In

addition, Bureaux de Change are required to develop and implement policies and procedures for the detection and prevention of Money Laundering and Terrorist Financing. The Bank of Zambia is the regulatory authority of the Bureau de Change industry.

1.2 SCOPE OF THE BUREAU DE CHANGE REPORTING GUIDELINES

These Guidelines replace those, which were initially issued by the Financial Intelligence Centre (FIC) in 2015 and shall be referred to as the Reporting Guidelines 2019. The Bureau De Change Reporting Guidelines 2019 have incorporated essential elements of the Act, relevant FATF-Recommendations and other international best practices on AML/CFT regime. These guidelines cover among others the following key areas of AML/CFT policy; Customer due diligence, the AML/CFT Compliance programme; monitoring and reporting of suspicious transactions.

These Guidelines are provided as general information only and as such does not represent all the requirements under the law. 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 Supervisory Authorities for the Reporting Entities. Therefore, a Reporting Entity should also consult with its respective Supervisory Authority.

2.0 DEFINITION OF KEY TERMS

Attempted Transaction: is one where a customer 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 customer.

Beneficial Owner: means an individual- (a) who owns or effectively controls a client of a reporting entity, including the individual on whose behalf a transaction is conducted; or (b) who exercises effective control over a legal person or trust.

Financial Action Task Force (FATF): Is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standards.

Money Laundering: Any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources. This definition is in line with how ML has been defined under the Prohibition and Prevention of Money Laundering Act No. 14 of 2001, as amended by Act No.44 of 2010.

Proliferation: Means an act by any person who by any means, directly or indirectly, willfully or negligently provides funds or financial services with the intention that the funds or financial services should be used or knowing that they are to be used in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials, including both technologies and dual use of goods used for non-legitimate purpose.

Politically Exposed Persons:

Foreign PEPs are individuals who are or have been entrusted with prominent public functions by a foreign country, 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.

Domestic PEPs are individuals who are or have been entrusted domestically with prominent public functions, 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.

Persons who are or have been entrusted with a prominent function by an international organisation refers to members of senior management, i.e. directors, deputy directors and members of the board or equivalent functions.

Reporting Entity: An institution regulated by a supervisory authority and required to make a suspicious transaction report under the Act. Examples of reporting entities include all institutions supervised and regulated by the Bank of Zambia (BOZ).

Supervisory Authority: Under the Act includes the Bank of Zambia as established under the Bank of Zambia Act, No 43 of 1996. According to Section 4(2)(a) of the Act, the Bank of Zambia shall license, supervise and regulate the activities of banks and financial institutions so as to promote the safe, sound and efficient operations and development of the financial system.

Suspicious Transactions: Suspicious transactions are financial transactions that you have reasonable grounds to suspect are related to the commission of a money laundering offence or commission of a terrorist activity financing offence. This includes transactions that you have reasonable grounds to suspect are related to the attempted commission of a money laundering or terrorist financing activity offence.

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 and Non-Proliferation Act No. 6 of 2018, 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.

3.0 CUSTOMER DUE DILIGENCE

Customer Due Diligence (CDD) is the identification and verification of both the customer and beneficiary including but not limited to continuous monitoring of

the business relationship with the reporting entity. Reporting Entities are not permitted to conduct any business transaction with anonymous person whose identity is not ascertained.

Part III of the Act requires reporting entities to institute measures to ensure effective CDD at all times. Reporting Entities shall undertake CDD measures when:

- i. Opening an account for, or otherwise establishing a business relationship with a customer
- ii. Carrying out a transaction in an amount equal to, or above such amount as may be prescribed including where the transaction is carried out in a single operation or several operations that appear to be linked
- iii. The Customer wishes to carry out a domestic or international wire transfer of monetary amounts in the amounts equal to, or above, the prescribed amount.
- iv. There is a suspicion of money laundering or terrorist financing
- v. There are doubts about the veracity or adequacy of previously obtained customer identification data.

3.1 CUSTOMER DUE DILIGENCE PROCEDURES

a. Reporting Entities shall identify their customers (whether permanent or occasional; natural or legal persons; or legal arrangements) and verify the customers' identities using reliable, independently sourced documents, such as a validly issued National Registration Card, Passport, Drivers' Licence, (which should not have expired at the time of conducting CDD) Certified Certificate of Incorporation or such other information as the Minister may prescribe.

b. In the case of a foreign national, a National Registration Card and a valid Passport with, where applicable, a duly issued visa shall be used to identify customers.

c. When reporting entities have doubts as to the identity of a customer in the course of conducting business transactions with that customer, the reporting entity shall require that customer to renew that customer's identification or provide further identification documents.

d. Reporting entities 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.

e. Reporting entities shall in respect of all customers determine whether or not a customer is acting on behalf of another person. Where the customer 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.

f. Reporting entities shall obtain information on the purpose and intended nature of the business relationship of their potential customers.

g. Reporting entities shall conduct ongoing due diligence on the business relationship as stated by the customers above.

h. The ongoing due diligence above includes scrutinizing the transactions undertaken by the customer throughout the course of the financial institution's relationship with the customer to ensure that the transactions being conducted are consistent with the reporting entities' knowledge of the customer, its business and risk profiles, and the source of funds (where necessary).

i. Reporting entities 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 high-risk business relationships or customer categories. All books and records with respect to its customers and transactions should be maintained for a period of at least 10 years following the termination of the business relationship or after the date of the occasional transaction.

3.2 HIGH-RISK CATEGORIES OF CUSTOMERS

Section 19 of the Act requires reporting entities to have appropriate risk management systems to identify customers whose activities may pose a high risk of money laundering and financing of terrorism. Reporting entities need to exercise enhanced identification, verification and ongoing due diligence procedures with respect to high risk customers. Reporting entities shall perform

enhanced due diligence for high-risk categories of customers, business relationships or transactions. Examples of high-risk customer categories include:

- a. Non-resident customers;
- b. Politically Exposed Persons (PEPs).

Reporting Entities shall, in addition to performing CDD procedures, put in place appropriate risk management systems to determine whether a potential customer or existing customer or the beneficial-owner is a PEP. Reporting Entities shall obtain senior management approval before they establish a business relationship with a PEP. Reporting entities shall take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial-owners identified as PEPs and report all anomalies or unusual and abnormal transactions immediately to the Centre. Reporting Entities in business relationships with PEPs are required to conduct enhanced ongoing monitoring of that relationship.

4.0 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. A risk-based Compliance Programme entails that a reporting entity should identify its ML/TF risks by conducting a ML/TF risk assessment and treatment of the risks identified should be on a risk sensitive basis. This means that clients, business transactions, products or activities that pose the highest risk should be given more attention in terms of monitoring and treatment in order to mitigate the highest risks.

4.1 ELEMENTS OF AN AML/CFT PROGRAMME

4.1.1 A SYSTEM OF INTERNAL POLICIES, PROCEDURES AND CONTROLS

Reporting Entities shall adopt policies indicating its commitment to comply with AML/CFT obligations under the relevant Acts and regulations to prevent any transaction that facilitates ML/TF activities. Every reporting entity shall formulate and implement internal rules procedures and other controls that will

deter criminals from using its 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.

4.1.2 COMPLIANCE OFFICER

Section 23 of the FIC Act, No. 46 of 2010 (as amended) requires a reporting entity to designate a Compliance Officer to be responsible for the implementation of the Act. The Compliance Officer should be at Management Level and should have more than two years experience in regulatory compliance.

The Compliance Officer shall be responsible for managing the AML/CFT matters including filing of STRs and CTRs to the Centre. 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 the books, records and employees of the reporting entity necessary to fulfil the responsibilities under the Act.

An employee of a reporting entity shall promptly report to a designated Compliance Officer all cases where:

- (a) the employee becomes aware, has knowledge or suspects or has reasonable grounds to believe, that a customer has been or is involved in an illegal activity or crime; or
- (b) a customer in respect of whom the employee becomes aware, has knowledge or suspects or has reasonable grounds to believe, that another customer has been engaging in illegal activities or crimes.

The duties of the Compliance Officer shall include but not 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. Coordinating the training of staff in AML/CFT awareness, detection methods and reporting requirements; and

- vi. Serving both as a liaison officer with the Centre (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 him in consideration of a suspicious or unusual transaction.
- vii. Depending on the size of the reporting entity, a reporting entity may appoint employees under the supervision of the designated and approved compliance officer to be suspicious transaction reporting officers to the Centre. The names and necessary documentation of these officers should be submitted to the Centre for vetting, approval and subsequent configuration to the online reporting portal.

A reporting entity shall cooperate with the Law enforcement Agencies to facilitate the exchange of information relating to money laundering and terrorist financing.

4.1.3 TRAINING

The Act requires reporting entities to have formal, written AML/CFT Compliance programmes that include training. Ongoing employee training programs should be in place in all reporting entities to ensure that employees are kept informed of new developments, including information on current ML and TF techniques, Proliferation Financing 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 specific needs and functions of the reporting entity including targeted training. Upon the request of the reporting entity, the FIC can provide training to the employees of the reporting entity based on the training needs.

4.1.4 INDEPENDENT AUDIT

Putting your AML/CFT Compliance programme in place is not enough. The programme must be monitored and evaluated. Therefore, reporting entities 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 board of directors or to a designated board committee composed primarily or completely of outside directors. The independent audit can be undertaken by internal audit or external audit as long as they are not part of the entity's AML/CFT day-to-day functions and they should have the necessary skills and competence to conduct the audit.

4.2 MONITORING OF AML/CFT COMPLIANCE PROGRAMME

The Financial Intelligence Centre will from time to time undertake on-site and off-site inspections of reporting entities to monitor how the AML/CFT Compliance programmes is being implemented.

4.3 OBLIGATIONS FOR REPORTING ENTITIES

Reporting entities have a number of obligations under the FIC Act which among others include the following;

4.3.1. OBLIGATION TO REPORT SUSPICIOUS TRANSACTIONS

Whenever a reporting entity 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, a reporting entity 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 transactions that have not been conducted but are suspected to be 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 a reporting entity from reporting cases of money laundering or financing of terrorism directly to law enforcement agencies. The Centre encourages reporting entities to maintain established relationships with law enforcement agencies.

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 700,000 penalty units or to both.

4.3.2 OBLIGATION TO REPORT CURRENCY TRANSACTIONS

As a reporting entity you are required to promptly but not later than 3 working days to submit a currency transaction report of an amount equal to or above the kwacha equivalent of 10,000 USD whether conducted as a single transaction or several transactions that appear to be linked. Please note that this report is not the same as a suspicious transaction report.

4.3.3. 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 or that a suspicious transaction report has been submitted to the Centre. 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.

Any person who contravenes this requirement commits an offence and is liable to a fine of up to 500,000 penalty units or to imprisonment for a period not exceeding five years, or to both.

4.3.4. 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. A person shall not be required to disclose a suspicious transaction report or any information contained in the report or provided in connection with it, or the identity of the person preparing or making such a report or handling the underlying transaction in any judicial proceeding unless the court is satisfied that the disclosure of the information is necessary in the interests of justice. This is provided for under section 34 of the Act.

4.3.5. CONFIDENTIALITY VIOLATIONS

A person who intentionally or negligently discloses to a customer or a third party information contrary to the FIC Act, commits an offence and is liable, upon conviction, to a fine not exceeding 500,000 penalty units or to imprisonment for a period not exceeding five years, or to both.

4.3.6. PROTECTION OF ENTITIES/PERSONS REPORTING

No civil, criminal, administrative or disciplinary proceedings for breach of banking or 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. This is provided for under section 35 of the FIC Act.

5.0 HOW TO IDENTIFY A SUSPICIOUS TRANSACTION

Where there is a business relationship, a suspicious transaction will often be one which is inconsistent with the customer's known, legitimate or personal activities or with their normal business. Therefore, the first key step to recognizing suspicious transactions is knowing enough about your customer and customer's business. This will help you to recognize that a particular 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 customers business, financial history, background and behavior. Below is a list of indicators possible indicators of Money Laundering that could result in suspicious transaction report.

Money Laundering/Terrorist Financing Indicators for Bureau de Change Sector

The common indicators of money laundering in the Bureau de Change Sector include the following;

- i. Customer requests a transaction at a foreign exchange rate that exceeds the posted rate;

- ii. Customer knows little about address and contact details for payee, is reluctant to disclose this information, or requests a bearer instrument;
- iii. Customer enters into transactions with counter parties in locations that are unusual for the customer;
- iv. Customer instructs that funds are to be picked up by a third party on behalf of the payee;
- v. Customer requests numerous cheques in small amounts and various names, which total the amount of the exchange; and
- vi. Customer requests that a large amount of foreign currency be exchanged to another foreign currency.
- vii. Customer admits or makes statements about involvement in criminal activities;
- viii. Customer conducts transactions at different physical locations in an apparent attempt to avoid detection;
- ix. Customer shows uncommon curiosity about internal systems, controls and policies.

It should be noted that none of the above indicators on their own necessarily mean that a customer or any third party is involved in money laundering. However, in most circumstances a combination of some of the factors above should arouse suspicion.

6.0 HOW TO OBTAIN STR AND CTR FORMS

In order for a reporting entity to report an STR or CTR to the FIC, the designated compliance officer should obtain login credentials from the FIC for the FIC online reporting portal.

In exceptional circumstances, reporting entities may obtain the STR forms by contacting the FIC office on the address provided under paragraph nine (9) or accessing soft copy of the STR form on the FIC website at www.fic.gov.zm.

7.0 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. Complete as much information of the STR form as possible. Fields marked with an asterisk (*) are

mandatory, except for attempted transactions. Complete form on the online reporting portal using the login credentials given and where not clear on how to complete certain fields please contact the FIC for assistance.

8.0 HOW TO SEND YOUR SUSPICIOUS TRANSACTION REPORTS TO FIC

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

- i. FIC online reporting portal
- ii. **Only** in exceptional circumstances should the STR be reported via email to FICSTR@fic.gov.zm or hand delivered to designated officials of the Monitoring and Analysis department of the FIC to the address provided below:

9.0 FINANCIAL INTELLIGENCE CENTRE CONTACT DETAILS

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

The Director General

Financial Intelligence Centre

Plot 50L, Kudu Road, Kabulonga

P O Box 30481

LUSAKA, ZAMBIA.