

Act 3 *Anti-Money Laundering (Amendment) Act* 2017

THE ANTI-MONEY LAUNDERING (AMENDMENT) ACT, 2017.

ARRANGEMENT OF SECTIONS

Section

1. Amendment of the Anti-Money Laundering Act, 2013.
2. Replacement of section 6 of the principal Act.
3. Insertion of new section 6A.
4. Replacement of section 7 of the principal Act.
5. Replacement of section 9 of the principal Act.
6. Insertion of new section 9A.
7. Replacement of section 10 of the principal Act.
8. Amendment of section 13 of the principal Act.
9. Amendment of section 14 of the principal Act.
10. Amendment of section 19 of the principal Act.
11. Amendment of section 20 of the principal Act.
12. Amendment of section 21 of the principal Act.
13. Insertion of new section 21A.
14. Amendment of section 24 of the principal Act.
15. Amendment of section 38 of the principal Act.
16. Replacement of section 116 of the principal Act.

**THE ANTI-MONEY LAUNDERING (AMENDMENT) ACT,
2017**

An Act to amend the Anti-Money Laundering Act, 2013, to harmonise the definitions used in the Act; to provide for the carrying out of risk assessments by accountable persons; to provide for the identification of customers and clients of accountable persons; to provide for procedures relating to suspicious transactions; to harmonise the record keeping requirements and exchange of information obligations with international practice; and for related matters.

DATE OF ASSENT: 13th May, 2017.

Date of Commencement: 26th May, 2017.

BE IT ENACTED by Parliament as follows:

1. Amendment of the Anti-Money Laundering Act, 2013.

The Anti-Money Laundering Act, 2013, in this Act referred to as the “principal Act” is amended in section 1—

- (a) by inserting immediately after the definition of “Authority” the following—

““bearer negotiable instruments” means monetary instruments in the form of a document such as traveler’s checks and negotiable instruments, including checks, promissory notes and payment orders, that are issued to bearer, endorsed unconditionally or issued to a fictitious payee, or in

another form that allows the transfer of the right upon delivery, and incomplete instruments including checks, promissory notes, and payment orders that are signed but have the payee's name crossed out or omitted;";

- (b) by substituting for the definition of "beneficial owner" the following—

""beneficial owner" means the natural person who ultimately owns or controls a customer or the natural person on whose behalf a transaction is conducted, and includes a natural person who exercises ultimate effective control over a legal person or legal arrangement;";

- (c) by inserting immediately after the definition of "court" the following—

""correspondent banking and other similar relationships" means the provision of banking or other similar services by one financial institution to another institution to enable the latter to provide services and products to its own customers;";

- (d) by inserting immediately after the definition of "document", the following—

""Financial group" means a group that consists of a parent company or of any other type of legal person exercising control and coordinating functions over the rest of the group for the application of group supervision under the Core Principles, together with branches and/or subsidiaries that are subject to Anti Money Laundering or Countering the Financing of Terrorism policies and procedures at the group level;";

- (e) by inserting immediately after the definition of “gift caught by this Act”, the following—

“ “international organization” means an entity established by formal political agreement between a member State that has the status of an international treaty; its existence is recognised by law in its member country; and it is not treated as resident institutional unit of the countries in which they are located;”

- (f) by repealing the definition of “monetary instrument”;
- (g) in the definition of “occasional transaction” by repealing the words “involving cash”;
- (h) by substituting for the definition of “politically exposed person” the following—

“ “politically exposed person” means—

- (a) an individual who is or has been entrusted with a prominent public function in Uganda or another country, and includes a head of state or head of government, senior politician, senior government official, judicial or military official, senior executive of a state owned corporation, and important party officials; and
- (b) a person who is or has been entrusted with a prominent function by an international organization, and includes a member of senior management, director, deputy director or member of a board and includes a related person of the individual;”;

- (i) by substituting for the definition of “proceeds” the following—

““proceeds” means any property or economic advantage derived from or obtained, directly or indirectly, through the commission of a crime, and includes property later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived from such property at any time after the commission of the crime;”;

- (j) by inserting immediately after the definition of “record”, the following—

“ “related person” means an associate or close relative of the person”

- (k) by substituting for the definition of “shell bank” the following—

““shell bank” means a bank incorporated in a jurisdiction in which it has no physical presence and which is not affiliated with a regulated financial group that is subject to effective consolidated supervision;”

- (l) by inserting immediately after “shell bank” the following—

““supervisory authority” means a body that regulates or supervises any of the persons and businesses listed in paragraph 14 of the Second Schedule, and who, for the purposes of this Act, shall supervise those persons and businesses in matters relating to anti-money laundering and countering the financing of terrorism;”;

- (m) by inserting immediately after the definition of “tainted property” the following—

“ “terrorism financing” means the offence specified in the Anti-Terrorism Act, 2002;”.

2. Replacement of section 6 of the principal Act.

The principal Act is amended by substituting for section 6 the following—

“6. Identification of clients, customers, other persons and other anti-money laundering measures.

(1) An accountable person who maintains an account for a client or customer shall maintain the account in the true name of the account holder, and shall not open or keep anonymous accounts or accounts which are in fictitious or incorrect names.

(2) An accountable person shall carry out due diligence measures in the following circumstances—

- (a) before or during the course of opening an account for or establishing a business relationship with a customer;
- (b) before carrying out an occasional transaction equal to or above the amount of five thousand currency points or its equivalent in foreign currency; whether conducted as a single transaction or several transactions that appear to be linked;
- (c) before carrying out an occasional transaction that is a domestic or international wire transfer;
- (d) whenever there is a suspicion of money laundering or terrorism financing;
- (e) understand the ownership and control structure of the customer;
- (f) whenever doubts exist about the veracity or adequacy of previously obtained customer identification data;

- (g) take any other measures as may be specified by the Minister by regulation.

(3) An accountable person shall apply the following due diligence measures on a risk sensitive basis and shall take into account the outcome of a risk assessment—

- (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 this 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) take any other measures as may be specified by the Minister upon the advice of the Board and the Authority.

(4) An accountable person shall, in addition to the measures specified in subsection (3), undertake further customer due diligence measures to—

- (a) 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 prescribed by regulations made under this Act, in addition to documents providing convincing evidence of legal existence and powers of legal representatives;

- (b) verify the identity of the beneficial owner of the account, in the case of legal persons and other arrangements, including taking reasonable measures to understand the ownership, control and structure of the customer obtaining information concerning provisions regulating the power to bind the legal person and verifying that any person purporting to act on behalf of the customer is authorised, and to identify those persons; and
- (c) 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.

(5) An accountable person shall identify and verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting an occasional transaction.

(6) An accountable person may complete the verification of the customer or beneficial owners' identity after the establishment of the business relationship or carrying out of the occasional transaction provided that—

- (a) the verification occurs as soon as reasonably practicable;
- (b) the money laundering and terrorism financing risks are effectively managed; and
- (c) delaying the verification is essential not to interrupt the normal conduct of business.

(7) In addition to customer due diligence measures, an accountable person shall implement appropriate risk management systems to determine whether a customer or beneficial owner is a politically exposed person and if so, apply the following additional measures—

- (a) for a foreign politically exposed person, take reasonable measures to establish the source of wealth and funds;
- (b) apply enhanced ongoing monitoring of the business relationship and obtain the approval of senior management before establishing or continuing a business relationship with such a person;
- (c) for a domestic politically exposed person, and a person who is or has been entrusted with a prominent function by an international organization, apply the measures referred to in paragraph (a) where the risks of money laundering or terrorism financing are high.

(8) In relation to cross-border correspondent banking and other similar relationships, an accountable person shall, in addition to customer due diligence measures, apply the following measures—

- (a) adequately identify and verify the respondent institution with which it conducts such a business relationship;
- (b) gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information, the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;

- (c) assess the respondent institution's anti-money laundering and terrorism financing controls;
- (d) document the respective responsibilities of the accountable person and the respondent institution;
- (e) obtain written approval from the Central Bank before establishing a new correspondent financial institution relationship;
- (f) obtain approval from senior management before establishing a new correspondent relationship;
- (g) with respect to payable-through accounts, be satisfied that the respondent institution has verified the identity of and performed on-going due diligence on the customers having direct access to accounts of the correspondent and that the respondent bank is able to provide relevant customer identification data upon request to the correspondent bank.

(9) An accountable person shall apply the requirements under this section to cross-border correspondent banking and similar relationships established prior to the commencement of this Act.

(10) An accountable person shall not enter into, or continue, a correspondent banking relationship with a shell bank, or a respondent institution that is known to permit its accounts to be used by a shell bank.

(11) An accountable person shall implement specific and adequate measures to address the risks of money laundering and terrorism financing where the accountable person opens an account or establishes a business relationship or executes a transaction with a customer that is not physically present for the purpose of identification.

(12) An accountable person shall apply enhanced due diligence measures to business relationships and transactions with persons or financial institutions from or in countries identified by the Authority or the accountable person as high risk.

(13) An accountable person shall, as far as reasonably possible, examine the background and purpose of all complex, unusual large transactions and all unusual patterns of transactions which have no apparent economic or lawful purpose, document all information concerning those transactions and the identity of all parties involved in those transactions, and retain such records in accordance with this Act.

(14) Where the accountable person considers the risk of money laundering or terrorism financing is high, an accountable person shall apply enhanced customer due diligence measures, and shall increase the degree and nature of monitoring of the business relationship to determine whether those transactions or activities appear unusual or suspicious.

(15) An accountable person shall not, when unable to comply with the provisions of this section, open an account, commence a business relationship, or conduct the transaction, or shall terminate the business relationship, and make a suspicious transactions report in relation to the customer.

(16) An accountable person shall apply the provisions of this section to accounts and customers existing prior to the commencement of this Act and on the basis of materiality and risk, and shall conduct due diligence on such existing relationship at appropriate times, or as prescribed by supervisory authorities.

(17) An accountable person shall develop and implement programs for the prevention of money laundering and terrorism financing that are appropriate to the risks and the size of the accountable person's business and the programs shall include—

- (a) internal policies, procedures, and controls to fulfil the obligations under this Act;
- (b) appropriate compliance management arrangements;
- (c) adequate screening procedures to ensure high standards when hiring employees;
- (d) an employee training program to ensure that employees, managers and directors are kept informed of all the aspects of the anti-money laundering and combating terrorism financing requirements, new developments, money laundering and terrorism financing techniques, methods and trends, and concerning due diligence measures and suspicious transaction reporting;
- (e) an independent audit function to test and verify compliance with and the effectiveness of the measures taken in accordance with the Act;
- (f) mechanisms for sharing with other members of the financial group, information obtained under this section, and to protect the confidentiality and use of exchanged information.

(18) An accountable person shall apply the measures under this section to its branches and majority owned subsidiaries to the extent permissible by the laws of the host country where the subsidiary or branch is situated.

(19) Where the laws of the host country do not permit the proper implementation of the requirements under this Act, the accountable person shall implement additional measures, as appropriate, to manage the money laundering and terrorism financing risks and inform its supervisory authority.

(20) An accountable person may rely on a third party to perform elements of the due diligence process where the following conditions are satisfied—

- (a) the accountable person immediately obtains all information required under this section;
- (b) the accountable person is satisfied that copies of identification data and other relevant documentation relating to customer due diligence under this section shall be made available from the third party upon request and without delay; and
- (c) the accountable person is satisfied that the third party is regulated, supervised or monitored for and has measures in place to comply with the requirements of this section.

(21) An accountable person who relies on a third party that is part of the same financial group as the accountable person may consider that the requirements are satisfied where—

- (a) the group applies customer due diligence and record-keeping requirements and applies internal controls and measures in accordance with the requirements of this Act;
- (b) the implementation of the controls and measures referred to in paragraph (a) is supervised at a group level by a competent authority; and
- (c) any higher country risk is adequately mitigated by the group's anti money laundering and combatting the financing of terrorism policies.

(22) For the avoidance of doubt, the responsibility for customer identification and verification shall at all times remain with the accountable person relying on the third party.

(23) An accountable person shall ensure that simplified or reduced customer due diligence measures permitted for customers resident in another country are limited to countries that are compliant with or which have effectively implemented the internationally accepted standards.

(24) An accountable person shall ensure that documents, data or information collected under the customer due diligence process are kept up to date and relevant by undertaking regular reviews of existing documents.

(25) An accountable person shall ensure that it has or establishes policies and procedures to address specific risks associated with non face-to-face business relationships.

(26) An accountable person shall pay special attention to business relationships with persons from or in countries which do not apply or insufficiently apply or observe internationally recognized anti-money laundering and combatting of terrorism requirements.

(27) A competent authority shall establish guidelines to assist accountable persons to implement and comply with the anti-money laundering and combatting of terrorism requirements under this Act.

(28) A competent authority shall provide feedback to all accountable persons reporting under this Act.

(29) An accountable person shall take reasonable measures to ascertain the purpose of any transaction in excess of five thousand currency points or of five thousand currency points in case of cash transactions and the origin and ultimate destination of the funds involved in the transaction.”

3. Insertion of new section 6A.

The principal Act is amended by inserting immediately after section 6, the following—

“6A. Risk assessment.

(1) An accountable person shall take appropriate steps to identify, assess and monitor its money laundering and terrorism financing risks.

(2) An accountable person shall 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.

(3) The risk assessment under subsection (2) shall take place prior to the launch of the new product or business practice, or the use of a new or developing technology.”

4. Replacement of section 7 of the principal Act.

The principal Act is amended by substituting for section 7 the following—

“7. Record-keeping

(1) An accountable person shall establish and maintain all necessary books and records relating to—

- (a) the identity of a person obtained in accordance with customer due diligence measures;

(23) An accountable person shall ensure that simplified or reduced customer due diligence measures permitted for customers resident in another country are limited to countries that are compliant with or which have effectively implemented the internationally accepted standards.

(24) An accountable person shall ensure that documents, data or information collected under the customer due diligence process are kept up to date and relevant by undertaking regular reviews of existing documents.

(25) An accountable person shall ensure that it has or establishes policies and procedures to address specific risks associated with non face-to-face business relationships.

(26) An accountable person shall pay special attention to business relationships with persons from or in countries which do not apply or insufficiently apply or observe internationally recognized anti-money laundering and combatting of terrorism requirements.

(27) A competent authority shall establish guidelines to assist accountable persons to implement and comply with the anti-money laundering and combatting of terrorism requirements under this Act.

(28) A competent authority shall provide feedback to all accountable persons reporting under this Act.

(29) An accountable person shall take reasonable measures to ascertain the purpose of any transaction in excess of five thousand currency points or of five thousand currency points in case of cash transactions and the origin and ultimate destination of the funds involved in the transaction.”

3. Insertion of new section 6A.

The principal Act is amended by inserting immediately after section 6, the following—

“6A. Risk assessment.

(1) An accountable person shall take appropriate steps to identify, assess and monitor its money laundering and terrorism financing risks.

(2) An accountable person shall 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.

(3) The risk assessment under subsection (2) shall take place prior to the launch of the new product or business practice, or the use of a new or developing technology.”

4. Replacement of section 7 of the principal Act.

The principal Act is amended by substituting for section 7 the following—

“7. Record-keeping

(1) An accountable person shall establish and maintain all necessary books and records relating to—

- (a) the identity of a person obtained in accordance with customer due diligence measures;

- (b) all transactions both domestic and international, carried out by it and correspondence relating to the transactions as is necessary to enable the transaction to be readily reconstructed at any time by the Authority or other competent authority, and the records shall contain such particulars as the Minister may, by regulations prescribe;
- (c) all reports made to the Authority under this Act; including any accompanying documentation;
- (d) any enquiries relating to money laundering and financing of terrorism made by the Authority.

(2) For the purposes of subsection (1), books and records include—

- (a) account files, business correspondence including the results of any analysis undertaken and copies of documents evidencing the identities of customers and beneficial owners obtained through customer due diligence measures or in accordance with the provisions in this Act;
- (b) records on transactions and information obtained through customer due diligence measures, sufficient to reconstruct each individual transaction for both account holders and non-account holders including the amounts and types of currency involved, if any;
- (c) any findings set out in writing in accordance with this Act and related transaction information.

(3) The books and records referred to in subsection (1) shall be kept for a minimum period of ten years from the date—

- (a) on which the evidence of the identity of a person was obtained;

- (b) of any transaction or correspondence;
 - (c) on which the account is closed or business relationship ceases, whichever is the later.
- (4) The books and records established and maintained for purposes of subsection (1) shall—
- (a) be sufficient to enable the transaction to be readily reconstructed at any time by the Authority or competent authority to provide, if necessary, evidence for the prosecution of any offence; and
 - (b) be maintained in a manner and form that will enable the accountable institution to comply immediately with requests for information from the law enforcement agencies or the Financial Intelligence Authority;
- (5) Where any book or record is required to be kept under this Act, a copy of the book or record, with the appropriate back-up and recovery procedures, shall be kept in a manner prescribed by the Minister by regulations.
- (6) The records maintained under this section shall be made available, upon request, to the Authority, or to a competent authority for purposes of ensuring compliance with this Act and for purposes of an investigation or prosecution of an offence.”

5. Replacement of section 9 of the principal Act.

The principal Act is amended by substituting for section 9 the following—

“9. Reporting of suspicious transactions.

(1) An accountable person shall 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.

(2) An accountable person shall make the report under section (1) without delay but not later than two working days from the date the suspicion was formed.

(3) The report under subregulation (1) shall be in the form prescribed by the Minister by regulations and shall be accompanied by any documents directly relevant to that suspicion and the grounds on which it is based.

(4) An accountable person, if requested by the Authority, shall give the Authority any relevant information or copies of documents or files, however and wherever stored, inside or outside their buildings, and within the time prescribed by the Authority.

(5) Advocates and other independent legal professionals and accountants are not required to report a transaction under this section if the relevant information was obtained in circumstances where they are subject to professional secrecy.

(6) An accountable person or its directors and employees shall not disclose to a customer or any other person the fact that a report under this section or related information will be, is being, or has been, submitted to the Authority or that a money laundering or terrorism financing investigation is being or has been carried out.

(7) Subsection (4), shall not preclude any disclosure or communication between and among directors and employees of the accountable person, in addition to advocates and competent authorities.

(8) Where a supervisory authority or an auditor of an accountable person suspects or has reasonable grounds to suspect that information in its possession concerning any transaction or attempted transaction may be—

- (a) related to the commission of any offence under this Act or the offence of terrorism financing;

- (b) relevant to an act preparatory to the offence of financing of terrorism;
- (c) an indication of money laundering or the financing of terrorism, the supervisory authority or the auditor shall, as soon as practicable after forming that suspicion or receiving the information, but not later than two working days, report the transaction or attempted transaction to the Authority.”

6. Insertion of new section 9A.

The principal Act is amended by inserting immediately after section 9 the following—

“9A. Protection of identity of persons and information in suspicious transaction reports.

A person shall not disclose any information that will identify or is likely to identify—

- (a) any person who has handled a transaction in respect of which a suspicious transaction report has been made;
- (b) any person who has made a suspicious transaction report; or
- (c) any information contained in a suspicious transaction report or information provided pursuant to this Act; except for the purposes of—
 - (i) the investigation or prosecution of a person for an unlawful activity, a money laundering offence or an offence of financing of terrorism; or
 - (ii) the enforcement of this Act.”

7. Replacement of section 10 of the principal Act.

The principal Act is amended by substituting for section 10 the following—

“10. Cross border movements of currency and negotiable bearer instruments.

(1) A person—

- (a) entering or leaving the territory of Uganda and carrying cash or bearer negotiable instruments exceeding one thousand five hundred currency points or the equivalent value in a foreign currency; or
- (b) arranging for the transfer of cash or bearer negotiable instruments exceeding one thousand five hundred currency points or the equivalent value in a foreign currency into or out of the territory of Uganda by mail, shipping service or any other means,

shall declare that amount to the Uganda Revenue Authority in the manner prescribed by the Minister by regulations.

(2) The Uganda Revenue Authority may request additional information concerning the source and purpose of use of the cash or bearer negotiable instruments referred to in subsection (1).

(3) The customs department of the Uganda Revenue Authority shall, without delay, forward to the Authority any form completed under the requirements of this section.

(4) The Uganda Revenue Authority shall, in case of suspicion of money laundering or terrorism financing, or in the case of a false declaration or a failure to declare, seize the currency or bearer-negotiable instruments for a period not exceeding six months and shall immediately notify the Authority.

(5) The court may, on application by the Authority, extend the time beyond that prescribed in subsection (4) in respect of a seizure.

(6) The Authority shall, in consultation with the Uganda Revenue Authority, issue instructions and guidelines for the purposes of implementing the provisions of this section.”

8. Amendment of section 13 of the principal Act.

Section 13 of the principal Act is amended by substituting for subsection (1) the following—

“(1) An accountable person who engages in electronic funds transfers shall obtain and include accurate originator information and information relating to the recipient when carrying out electronic funds transfers and shall ensure that the information remains with the transfer order or related message throughout the payment chain.

(1)(a) A financial institution originating the wire transfer that is unable to obtain the information referred to in subsection (1) shall not execute the transfer.”

9. Amendment of section 14 of the principal Act.

Section 14 of the principal Act, is amended—

(a) in subsection (1), by substituting for the word “no” occurring immediately after the words “confidentiality”, the word “any”;

(b) by inserting immediately after subsection (2), the following—

“(3) For the purposes of subsection (2), privileged communication means—

- (a) confidential communication, whether oral or in writing, passing between an advocate in his or her professional capacity and another advocate in that capacity; or
- (b) any communication made or brought into existence for the purpose of obtaining or giving legal advice or assistance; and
- (c) any communication not made or brought into existence for the purpose of committing or furthering the commission of an illegal or wrongful act.”

10. Amendment of section 19 of the principal Act.

Section 19 of the principal Act is amended by substituting for paragraph (e), the following—

- “(e) exchange, spontaneously or upon request, any information with similar bodies of other countries that may be relevant for the processing or analyzing of information relating to money laundering or terrorism financing.”

11. Amendment of section 20 of the principal Act.

Section 20 of the principal Act is amended in subsection (1)—

- (a) in paragraph (a) by inserting the word “receive” immediately before the word “process”;
- (b) by substituting for paragraph (b), the following—

- “(b) shall disseminate, either spontaneously or upon request, information and the results of its analysis to any relevant competent authority in Uganda and if the analysis and assessment shows that a money laundering offence, a terrorism financing offence or a crime has been, or is being committed, to send a copy of the referral or information to the relevant supervisory authority;”

12. Amendment of section 21 of the principal Act.

Section 21 of the principal Act is amended—

- (a) in subsection (1) by inserting immediately after paragraph (p), the following—

“(pa) impose administrative sanctions on an accountable person who fails to comply with directives, guidelines or requests issued by the Authority;

(pb) register accountable persons;

(pc) keep a register of accountable persons;

(pd) coordinate a national risk assessment on anti-money laundering and financing of terrorism.

- (b) by inserting immediately after paragraph (q), the following—

“(r) to supervise, monitor and ensure compliance of this Act by all accountable persons in consultation with respective regulatory authorities.”

13. Insertion of new section 21A.

The principal Act is amended by inserting immediately after section 21, the following new section—

“21A. Powers to enforce compliance.

(1) The enforcement of compliance with the provisions of this Act by an accountable person shall be the responsibility of the supervisory body of the accountable person.

(2) Where the accountable person has no supervisory body, it is the responsibility of the Authority to ensure that that accountable person complies with the provisions of this Act.

(3) The Authority or a supervisory body may direct any accountable person that has, without reasonable excuse, failed to comply in whole or in part with any obligations under this Act to comply.

(4) Where an accountable person fails to comply with a directive issued under subsection (3), the Authority or the supervisory body, may, upon application to a court, obtain an order against any or all of the officers or employees of that accountable person on such terms as the court deems necessary to enforce compliance with the Act.

(5) Subject to subsection (4) the court may order that should the accountable person or any officer or employee of the accountable person fail, without reasonable excuse, to comply with all or any of the provisions of the order, the accountable person or officer or employee shall pay a fine not exceeding one thousand eight hundred currency points, and may in addition pay an additional fine of one hundred and eighty currency point for each day that the failure to comply continues.

(6) A supervisory body, in exercising its powers under this section may—

- (a) take any measures it considers necessary or expedient to meet its obligations as imposed by this Act or any other law, order, or directive made under this Act;
- (b) require a reporting person supervised or regulated by it and to whom the provisions of this Act apply, to report on that accountable person's compliance with this Act or any other law, order, or directive under this Act, in the form and manner determined by the supervisory body;
- (c) issue or amend any licence, registration, approval or authorisation that the supervisory body may issue or grant in accordance with any other law, to include the following conditions—

- (i) a requirement for compliance with this Act; or
 - (ii) the continued availability of human, financial, technological and other resources to ensure compliance with this Act or any order or directive made under this Act.
- (d) ascertain whether a person is fit and proper to hold office in a reporting institution taking into account any involvement, whether directly or indirectly by that person in any non-compliance with this Act, order, directive or Regulations made under this Act or in any money laundering activity.

(7) A supervisory body shall submit to the Authority, within such period and in such manner, as the Authority may in writing prescribe, a written report on any action taken against any reporting institution under this Act or any order, directive or regulations made under this Act.

(8) The Authority and every supervisory body shall co-ordinate the exercise of powers and performance of functions under this Act to ensure the consistent application of this Act.”

14. Amendment of section 24 of the principal Act.

Section 24 of the principal Act, is amended in subsection (1)—

- (a) by substituting for paragraph (f) the following—
 - (f) subject to sections 28,30 and 32 appoint, remove and suspend the members of staff of the Authority in accordance with the Human Resource Manual;
- (b) by inserting immediately after paragraph (f), the following—
 - (g) review and approve the budgetary estimates of the Authority;

- (h) review and approve the strategic plan of the Authority;
and
- (i) consider the annual report of the Authority and report to the Minister on any matter appearing in or arising out of such a report.

15. Amendment of section 38 of the principal Act.

Section 38 of the principal Act is amended by inserting immediately after section 38, the following new section—

“38A. Exchange of information by competent authorities.

Competent authorities may exchange information and provide international cooperation both upon request from and spontaneously to foreign counterparts in relation to possible or confirmed money laundering or terrorist financing and any related activity subject to the regulations made under this Act

16. Replacement of section 116 of the principal Act.

The principal Act is amended by substituting for section 116 the following—

“116. Offence of money laundering.

A person who engages in any act of money laundering prohibited in section 3, commits an offence.”

CROSS REFERENCES

Anti-Money Laundering Act, 2013, Act No. 12 of 2013

Anti-Terrorism Act, 2002, Act No. 14 of 2002

Financial Institutions Act, 2004, Act No. 2 of 2004