

GOVERNMENT OF ZAMBIA

**ACT**

**No. 16 of 2020**

Date of Assent: 11th December, 2020

**An Act to amend the Financial Intelligence Centre Act, 2010.**

[15th December, 2020]

ENACTED by the Parliament of Zambia.

Enactment

**1.** This Act may be cited as the Financial Intelligence Centre (Amendment) Act, 2020, and shall be read as one with the Financial Intelligence Centre Act, 2010, in this Act referred to as the principal Act.

Short title  
Act No. 46 of  
2010

**2.** Section 2 of the principal Act is amended by the—

Amendment  
of section 2

(a) deletion of the definition of “close associate”, “high risk customers”, and “immediate family member”;

(b) deletion of the definitions of “currency”, “designated non-financial business and profession”, “law enforcement agency”, “politically exposed person”, “reporting entity”, “supervisory authority”, “suspicious transactions report” and the substitution therefor of the following:

“currency ” means the legal tender of the Republic or of a foreign country that is customarily used and accepted as a medium of exchange and may be represented in coin, paper, electronic or virtual form;

“law enforcement agency ” means—

(a) the Zambia Police Service, established under the Constitution;

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- Act No. 6 of 2018
- (b) the National Anti -Terrorism Centre established under the Anti-Terrorism and Non -Proliferation Act, 2018;
- Act No. 18 of 2010
- (c) the Immigration Department established under the Immigration and Deportation Act, 2010;
- Cap. 1
- (d) the Drug Enforcement Commission, established under the Constitution;
- Act No. 14 of 2001
- (e) the Anti-Money Laundering Investigations Unit established under the Prohibition and Prevention of Money Laundering Act, 2001;
- Cap. 1
- (f) the Anti-Corruption Commission established under the Constitution;
- Cap. 321
- (g) the Zambia Revenue Authority established under the Zambia Revenue Authority Act; and
- (h) any other investigative institution that the Minister may, on the recommendation of the Centre, prescribe;

“ prominent influential person ” means—

- (a) an individual who is or has, been entrusted with a prominent public function by a State or an international or local body or organisation but is not of middle or junior ranking and includes—
- (i) a head of State or of Government;
  - (ii) a minister;
  - (iii) a member of an executive organ of a political party;
  - (iv) a magistrate, judge and other senior officials of quasi judicial bodies;
  - (v) a senior military official;
  - (vi) a senior government official; and
  - (vii) a member of the board or an official in senior management of an administrative or supervisory body, or a state owned enterprise or statutory body;

(b) an immediate family member of an individual under paragraph (a) and includes—

- (i) a spouse;
- (ii) a sibling;
- (iii) children and their spouses; and
- (iv) parents; and

(c) a known close associate of an individual under paragraph (a) and includes—

- (i) any individual who is known to have joint beneficial ownership or control of a legal entity or legal arrangement, or any other close business relationship, with an individual referred to in paragraph (a);
- (ii) any individual who has sole beneficial ownership or control of a legal entity or legal arrangement which is known to have been set up for the benefit of an individual referred to in subparagraph (a); and
- (iii) any individual who is closely connected to an individual referred to under paragraph (a), either socially or professionally;

“ reporting entity ” means an institution required to make reports under this Act which is regulated by a supervisory authority, and includes a financial service provider, a designated non-financial business or profession or a virtual asset service provider;

“ supervisory authority ” means—

- (a) the Bank of Zambia established under the Constitution;
- (b) the Pensions and Insurance Authority established under the Pension Scheme Regulation Act, 1996;
- (c) the Securities and Exchange Commission established under the Securities Act, 2016;
- (d) the licensing committee established under the Tourism and Hospitality Act, 2015;

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Act No. 28  
of 1996

Act No. 41  
of 2016

Act No. 13  
of 2015

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- Act No. 21  
of 2000
- Cap. 31
- Act No. 13  
of 2008
- Cap. 185
- Cap.1
- Act No. 34  
of 2010
- Act No. of  
2020
- (e) the Registrar of Estate Agents appointed under the Estate Agents Act, 2000;
- (f) the Law Association of Zambia established under the Law Association of Zambia Act;
- (g) the Zambia Institute of Chartered Accountants established under the Accountants Act, 2008;
- (h) the Centre;
- (i) Chief Registrar of Lands appointed under the Lands and Deeds Registry Act;
- (j) any other authority established under any written law as a supervisory authority; and
- (k) an authority that the Minister may prescribe; and
- “suspicious transaction report ” means a report submitted on suspected or attempted money laundering, financing of terrorism or proliferation or any other serious offence whether in form of a data message or otherwise; and
- (c) insertion of the following new definitions in the appropriate places in alphabetical order:
- “accountable institution” includes—
- (a) a motor vehicle dealer;
- (b) a property development services provider;
- (c) a safe deposit or custody services provider;
- (d) a cooperative society;
- (e) a travel agent; and
- (g) any other institution that the Minister may prescribe, on the recommendation of the Centre;
- “ citizen ” has the meaning assigned to the word in the Constitution;
- “competent authority ” includes—
- (a) a law enforcement agency;
- (b) a supervisory authority;
- (c) the National Prosecution Authority established under the National Prosecutions Authority Act, 2010;
- (d) the Patents and Companies Registration Agency established under the Patents and Companies Registration Agency Act, 2020;

- (e) the Commissioner of Lands;
- (f) the Zambia Development Agency established under the Zambia Development Agency Act, 2006; Act No. 1 of 2006
- (g) the Registrar of co-operatives appointed under the Co-operatives Act, 1998; Act No. 24 of 1998
- (h) the Registrar of Societies appointed under the Societies Act; Cap. 119
- (i) the Registrar of Non-Governmental Organisations appointed under the Non-Governmental Organisations Act, 2009; Act No. 16 of 2009
- (j) the Zambia Security Intelligence Service established under the Zambia Security Intelligence Act; Cap. 109
- (k) a designated foreign authority; and
- (l) any other authority that the Minister may prescribe, on the recommendation of the Centre;

“designated non-financial business or profession” includes—

- (a) a casino, gaming or gambling operator;
- (b) a trust or company service provider which, as a business, provides any of the following services to third parties:
  - (i) acting as an agent for the establishment of legal persons;
  - (ii) acting as, or arranging for another person to act as a director or secretary of a company, a partner in a partnership or a similar position in relation to other legal persons;
  - (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
  - (iv) acting as, or arranging for another person to act as, a trustee of an express trust; or
  - (v) acting as, or arranging for another person to act as, a nominee shareholder for another person;

(c) a legal practitioner, notary, other independent legal professional and accountant when they prepare for, or carry out, a transaction for a client concerning the following activities:

- (i) buying and selling of real estate;
- (ii) managing of client money, securities or other assets;
- (iii) management of bank, savings or securities accounts on behalf of clients;
- (iv) organisation of contributions for the creation, operation or management of companies; or
- (v) creation, operation or management of legal persons or arrangements, and buying and selling of business entities;

(d) an estate agent dealing in real estate, involved in a transaction for a client concerning the letting, buying and selling of real estate;

(e) a dealer in precious metals;

(f) a dealer in precious stones; and

(g) any other business or profession in which the risk of money laundering and financing of terrorism or proliferation or any other serious offence exists as the Minister may, on the recommendation of the Centre, prescribe;

Act No. 10  
of 2017

“ director ” has the meaning assigned to the word in the Companies Act, 2017;

Act No. 7 of  
2017

“ financial service provider ” has the meaning assigned to the words in the Banking and Financial Services Act, 2017 and includes a virtual asset service provider;

“ intermediary institution ” means an institution which participates in a transfer of funds that takes place through more than one institution but is not an ordering institution or a beneficiary institution;

Act No. 11 of  
2015

“ precious metal ” has the meaning assigned to the words in the Mines and Minerals Development Act, 2015;

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- “proliferation financing” has the meaning assigned to the words in the Anti-Terrorism and Non-Proliferation Act, 2018; Act No. 6 of 2018
- “senior management” means the executive committee or management team comprising a core group of individuals who are responsible and accountable for effective management of a reporting entity and includes board of directors;
- “terrorism” has the meaning assigned to the word in the Anti-Terrorism and Non-Proliferation Act, 2018; Act No. 6 of 2018
- “virtual asset” means convertible virtual asset such as crypto currency or other digital means of exchange where the virtual asset is accepted by a person as a means payment for goods or services, a unit of account, a store of value or a commodity; and
- “virtual asset service provider” means any person who as a business conducts one or more of the following activities or operations for or on behalf of another person:
- (a) exchange between virtual assets and fiat currencies;
  - (b) exchange between one or more forms of virtual assets;
  - (c) transfer of virtual assets;
  - (d) safekeeping and administration of virtual assets instruments enabling control over virtual assets;
  - (e) participation in and provision of financial services related to an issuer’s offer and sale of a virtual asset; and
  - (f) provision of intermediary services for the buying and selling of virtual assets, including through the use of virtual asset vending machine facilities.

**3.** The principal Act is amended by the repeal of section 5 and the substitution therefor of the following:

Repeal and replacement of section 5  
Functions of Centre

**5.** (1) The Centre is the designated National Centre for receipt, from reporting entities, and analysis of suspicious transaction reports, and any other information relevant to money laundering, and terrorism or proliferation financing and serious offences relating to money laundering, and terrorism or proliferation, including information from designated foreign authorities, made to the Centre under this Act or any other written law and for the dissemination of the results of that analysis.

(2) Despite the generality of subsection (1), the functions of the Centre are to—

- (a) receive, request, analyse and evaluate suspicious transaction reports and information from any other source authorised under any written law to make a suspicious transaction report including a designated foreign authority to determine whether there are reasonable grounds to transmit reports for investigation by law enforcement agencies or designated foreign authorities;
- (b) disseminate information, spontaneously or on request, to law enforcement agencies and other competent authorities, where there are reasonable grounds to suspect money laundering or financing of terrorism or proliferation;
- (c) provide information relating to suspicious transactions to any designated foreign authority, subject to conditions that the Director-General may determine, in accordance with this Act;
- (d) conduct strategic analysis to identify related trends and patterns relating to money laundering, financing of terrorism or proliferation or any other serious offence related to money laundering, financing of terrorism or proliferation;
- (e) provide information, advice and assistance to law enforcement agencies in furtherance of an investigation;
- (f) educate the public and reporting entities of their obligations and inform them of measures to detect, prevent and deter money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation;
- (g) provide information to supervisory bodies, law enforcement agencies and any other competent authority to facilitate law enforcement for prevention of money laundering, financing of terrorism or proliferation or any other serious offence related to money laundering, financing of terrorism or proliferation;
- (h) ensure compliance by reporting entities with this Act, Regulations, directives, determinations, notices and circulars issued by the Centre or supervisory authorities;



- (i) give guidance to reporting entities to combat money laundering, financing of terrorism or proliferation activities or any other serious offence related to money laundering, financing of terrorism or proliferation on a risk sensitive basis; and
  - (j) facilitate effective risk based supervision and enforcement of this Act by supervisory authorities.
- (3) The Centre may, in performing its functions under this Act—
  - (a) cooperate and exchange information with, or enter into any agreement or arrangement, in writing with a supervisory authority or designated foreign authority, law enforcement agency, competent authority or designated foreign authority as the Centre considers necessary or desirable for the performance of its functions under this Act;
  - (b) conduct inquiries related to suspicious transactions on behalf of foreign designated authorities and notify them of the outcome;
  - (c) access, directly or indirectly, on a timely basis, financial, administrative and law enforcement information required for the better carrying out of its functions under this Act;
  - (d) consult with any relevant person, legal person or legal arrangement for the purpose of exercising its functions under the Act;
  - (e) request information and statistics from a supervisory authority, law enforcement agency, public body, regulatory agency, person or legal arrangement for purposes of this Act or any other written law, where the information is required for the discharge of its functions under this Act or for purposes of the Act;
  - (f) request a law enforcement agency or competent authority to report progress and outcomes on a matter referred to it by the Centre;
  - (g) in consultation with a supervisory authority, where applicable, cause an inspection to be made by an officer authorised by the Director-General in writing;
  - (h) provide a law enforcement agency or supervisory authority with information derived from an inspection carried out under paragraph (g) if there are reasonable grounds to suspect that a transaction involves money laundering, financing of terrorism or proliferation or any other serious offence;

- (i) collaborate and coordinate with relevant competent authorities on risk based supervision or monitoring of non-governmental organisations for compliance with the requirements relating to countering financing of terrorism or proliferation or any other serious offence ; and
- (j) supervise and enforce compliance with this Act by reporting entities that are—
  - (i) not regulated or supervised by a supervisory authority in terms of this Act or any other written law; or
  - (ii) regulated or supervised by a supervisory authority in terms of this Act or any other written law, if that supervisory authority fails or neglects to enforce compliance.

(4) An officer authorised to conduct an inspection under subsection (3)(g) may exercise the powers of an inspector provided for under section 11B.

Amendment  
of section 11

**4.** Section 11 (1) of the principal Act is amended by the deletion of the words “as it may determine” and the substitution therefor of the words “that the Board may determine”.

Repeal and  
replacement  
of section 16

**5.** The principal Act is amended by the repeal of section 16 and the substitution therefor of the following:

Customer  
identification  
requirements

**16.** (1) A reporting entity shall identify its customers and verify its customers’ identities by means of reliable and independent source documents, data or information, when—

- (a) opening an account for, or otherwise establishing a business relationship with a customer;
- (b) a customer, who is neither an account holder nor in an established business relationship with a financial service provider, wishes to carry out a transaction in an amount equal to, or above, a prescribed amount whether conducted as a single transaction or several transactions that appear to be linked, except that if the amount of the transaction is unknown, the customer’s identification shall be verified as soon as the amount of the transaction has reached the prescribed amount;

- (c) despite paragraph (b), the customer wishes to carry out a domestic or international wire transfer of monetary amounts in the amount equal to, or above, the prescribed amount;
- (d) doubts exist about the veracity or adequacy of previously obtained customer identification information; or
- (e) there is a suspicion of money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation involving the customer or that customer's account.

(2) A reporting entity shall identify and verify the identity of each customer, and obtain other information required by this section before it establishes an account or a business relationship, or before it carries on further business, if it suspects money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation or doubts the veracity or adequacy of previously obtained customer identification information.

(3) The Minister may, prescribe the circumstances in which the verification of identity may be completed as soon as reasonably practicable after the commencement of the business if—

- (a) the risk of money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation is effectively managed; and
- (b) a delay in verification is essential not to interrupt the normal conduct of business.

(4) A reporting entity shall, with respect to each customer, obtain and verify, as part of its obligation under subsection (1)—

- (a) for a natural person, the full name and physical address, and date and place of birth or a mobile number linked to a registered international mobile equipment identity number or sim card in place of a physical address;
- (b) for a legal person, the corporate name, head office address, identities of directors, proof of incorporation or similar evidence of legal status and legal form, provisions governing the authority to bind the legal person, and information that is necessary to understand the ownership and control of the legal person; or

- (c) for legal arrangements, the name, legal form and proof of existence, the address of the registered office or the principal place of business, the powers that regulate and bind the arrangement, the identity of the settlor, the trustee, the protector, where applicable, the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, including through a chain of control or ownership, and any other parties with authority to manage, vary or otherwise control the arrangement;
  - (d) in addition to the identity of a customer, the identity of any person acting on behalf of the customer, including evidence that the person is properly authorised to act in that capacity;
  - (e) information on the intended purpose and nature of each business relationship; and
  - (f) sufficient information about the nature and business of the customer to permit the reporting entity to fulfill its obligations under this Act.
- (5) A governing body of a trust shall, with respect to each trust—
- (a) obtain and hold adequate, accurate, and current information on the identity of the settlor, the trustee, the protector, if any, the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust; and
  - (b) obtain and hold basic adequate, accurate, and current information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors.
- (6) A reporting entity shall, as part of its obligations under subsections (1) and (4)—
- (a) understand the purpose and intended nature of the business relationship; and
  - (b) identify the beneficial owner and take reasonable measures that are necessary to verify the identity of the beneficial owner, except that the Minister may prescribe the circumstances, such as the ownership of publicly held corporations, in which that identification and verification is not necessary.

(7) In addition to subsections (1) and (4), an insurance company shall take the following measures on the beneficiary of life insurance and other investment related insurance policies, as soon as the beneficiary is identified or designated:

- (a) for a beneficiary that is identified as specifically named natural or legal persons or legal arrangements, by taking the name of the person; or
- (b) for a beneficiary that is designated by characteristics or by class or by other means, obtaining sufficient information concerning the beneficiary to satisfy the reporting entity that it will be able to establish the identity of the beneficiary at the time of the payout except that—
  - (i) the verification of the identity of the beneficiary shall occur at the time of the payout;
  - (ii) the insurance company shall include the beneficiary of a life insurance policy as a relevant risk factor in determining whether on going due diligence is applicable; and
  - (iii) if the insurance company determines that a beneficiary who is a legal person or a legal arrangement presents a higher risk, it shall take enhanced measures which should include reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary, at the time of payout.

(8) A reporting entity shall apply the identification and verification requirements stipulated under subsections (1) and (4) to customers and beneficial owners with which it has a business relationship on the basis of materiality and risk, at appropriate times, depending on the type and nature of the customer, business relationship, product or transactions, or as may otherwise be prescribed.

(9) Where a reporting entity is unable to comply with the customer due diligence requirements under this section, it shall not open the account, commence business relations or perform the transaction, and where appropriate, it shall terminate the business relationship, and shall make a suspicious transactions report in relation to the customer.

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(10) Where a reporting entity forms a suspicion of money laundering or financing of terrorism or proliferation or any other serious offence and it reasonably believes that conducting customer identification and verification requirements shall tip off the customer, it shall not conduct customer identification and verification, and instead shall file a suspicious transaction report under this Act.

(11) For the purposes of this Part, “independent source document or information” means a passport, a driver’s licence, a national identification document or a certified certificate of incorporation or other information that the Minister may prescribe.

Amendment  
of section  
17

**6.** Section 17 of the principal Act is amended by the insertion of the following new subsection immediately after subsection (4):

(5) Where the third party is part of the same financial group, the home and host competent authorities shall satisfy themselves that the requirements in subsection (1) are met in the following circumstances:

(a) the group applies same or stricter customer due diligence and record keeping, and internal control requirements against money laundering and financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation;

(b) the implementation of those customer due diligence, record keeping requirements and programmes to counter money laundering and financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation is supervised at a group level by a competent authority; and

(c) any higher national risk is adequately mitigated by the group’s anti-money laundering or combating financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation.

Repeal and  
replacement  
of section 19

Risk  
management

**7.** The principal Act is amended by the repeal of section 19 and the substitution therefor of the following:

**19.** (1) A reporting entity shall identify, assess, and understand the money laundering and financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation risks with regard to its products, services, delivery channels and its customers, geographical locations and country risk.

(2) A reporting entity shall, based on the assessment in subsection (1), apply a risk based approach to ensure that measures to prevent or mitigate money laundering and financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation are commensurate with the risks identified.

(3) A reporting entity shall, in relation to subsection (1)—

(a) prior to the launch or use of a new product and new business practices, including a new delivery mechanism, and the use of a new or developing technology for both new and pre existing products, identify, assess, manage and mitigate the risks that may arise in relation to the development and use thereof;

(b) document its risk assessments;

(c) consider all the relevant risk factors before determining the level of overall risk and the appropriate level and type of mitigation to be applied; and

(d) keep the assessments up to date.

(4) Where a reporting entity identifies customers whose activities may pose a high risk of money laundering and financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation, the reporting entity shall exercise enhanced identification, verification and ongoing due diligence procedures with respect to those customers and shall—

(a) obtain approval from senior management of the reporting entity before establishing a business relationship with the customer, or later, as soon as an existing customer is identified as a high risk customer;

(b) take all reasonable measures to verify the source of wealth and funds and other assets of the customer;

(c) provide increased and ongoing monitoring of the customer and the business relationship to prevent money laundering, financing of terrorism or proliferation or the commission of any other serious offence related to money laundering, financing of terrorism or proliferation and to permit the reporting entity to fulfil its obligations under this Act, including all of its due diligence and reporting requirements;

(d) take reasonable measures to determine whether the beneficiary of a life insurance policy or, where the beneficiary is not a natural person, the beneficial owner of the beneficiary is a prominent influential person before a payout is made; and

(e) where higher risks are determined, inform senior management before the payout of the policy proceeds is made, conduct enhanced scrutiny of the entire business relationship and consider submitting a suspicious transaction report.

(5) Where the reporting entity identifies lower risks in relation to its products, services, delivery channels and its customers or geographical locations, the reporting entity may allow simplified measures for customer due diligence.

(6) Where the reporting entity identifies higher risks in relation to its products, services, delivery channels and its customers or geographical locations, the reporting entity shall undertake enhanced customer due diligence measures.

(7) A reporting entity shall—

(a) apply risk based counter- measures against any country when called on to do so by the Centre or any duly delegated competent authority, as communicated from time to time; and

(b) apply enhanced due diligence, proportionate to the risks, to business relationships and customer transactions with natural or legal persons, including financial service providers, from countries which have been designated as high risk by the Centre or any competent authority, as communicated from time to time.

Amendment  
of section 22

**8.** Section 22 of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

(1) A reporting entity shall maintain all the books and records with respect to its customers and transactions set out in subsection (2), and shall ensure that those records and underlying information are available on a timely basis to the Centre, supervising authority, law enforcement agency or other competent authority.



**9.** The principal Act is amended by the repeal of section 23 and the substitution therefor of the following:

Repeal and replacement of section 23

**23.** (1) A reporting entity shall develop and implement programmes for the prevention of money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation.

Internal programmes to combat money laundering, financing of terrorism or proliferation and other serious offence

- (2) A programme under subsection (1) shall include—
- (a) internal policies, procedures and controls to fulfil obligations under this Act;
  - (b) adequate screening procedures to ensure high standards when hiring employees;
  - (c) ongoing training for officers and employees to make them aware of the laws relating to money laundering, the financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation, to assist them in recognising transactions and actions that may be linked to money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation and instruct them in the procedures to be followed in those cases;
  - (d) policies and procedures to prevent the misuse of technological developments including those related to electronic means of storing and transferring funds or value;
  - (e) mechanisms for preventing money laundering, financing of terrorism or proliferation, or any other serious offence;
  - (f) independent audit arrangements to review and verify compliance with and effectiveness of the measures taken in accordance with this Act;
  - (g) risk based approach in implementing the requirements under this Act;

- (h) customer identification procedures;
- (i) record keeping and retention;
- (j) reporting procedures;
- (k) confidentiality requirements and procedures;
- (l) transaction monitoring systems; and
- (m) adequate screening procedures for customers against relevant sanctions lists.

(3) A reporting entity shall designate a compliance officer at senior management level to be responsible for the implementation of, and ongoing compliance with this Act by that reporting entity.

(4) A person shall not be designated as a compliance officer unless that person—

- (a) has two years' experience in the field of regulatory compliance;
- (b) is not convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment of not less than six months without the option of a fine; and
- (c) is certified and approved by the Centre.

(5) A compliance officer designated under subsection (3) shall access all the books, records and employees of the reporting entity necessary to fulfil the responsibilities specified under this Act.

(6) The Centre may disapprove the designation of a compliance officer on grounds relating to—

- (a) misconduct in relation to the responsibility of the compliance officer under this Act;
- (b) the conviction of a person for an offence under this Act or any other relevant written law for which that person is sentenced to a term of imprisonment of not less than six months without the option of a fine; and
- (c) inability or unfitness to perform the functions of a compliance officer under this Act.

(7) The Minister may prescribe the type and extent of measures that reporting entities shall undertake with respect to each of the requirements under this section having regard to the risk of money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation and the size of the business or profession.

(8) A reporting entity that uses an agent to provide its services shall include the agent in the programme under subsection (2) and shall monitor the agent for compliance with that programme.

**10.** The principal Act is amended by the repeal of section 24 and the substitution therefor of the following:

Repeal and replacement of section 24

**24.** A reporting entity shall exercise ongoing due diligence using a risk based approach with respect to a business relationship with a customer which includes—

Ongoing due diligence

- (a) scrutinising transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the financial service provider's knowledge of the customer, their business and risk profile, including where necessary, the source of funds;
- (b) maintaining current and accurate information and records relating to the customer or beneficial owner; and
- (c) ensuring the obligations under sections 19 and 20 relating to risk management and correspondent banking relationship are fulfilled.

**11.** The principal Act is amended by the repeal of section 26 and the substitution therefor of the following:

Repeal and replacement of section 26

**26.** (1) A financial service provider undertaking a wire transfer equal to, or above, a prescribed threshold shall—

Obligations regarding wire transfers

- (a) identify and verify the identity of the originator;
- (b) obtain and maintain information on the identity of the beneficiary;
- (c) obtain and maintain the account number of the originator and beneficiary, or in the absence of an account number, a unique reference number;

(d) obtain and maintain the originator's address or, in the absence of address, the national identity number, or date and place of birth; and

(e) include information from paragraphs (a) to (c) in the message or payment form accompanying the transfer.

(2) Despite the requirements of subsection (1), a financial service provider is not required to verify the identity of a customer with which that financial service provider has an existing business relationship and where the financial service provider is satisfied that it already knows and has verified the true identity of the customer.

(3) Where a financial service provider acts as an intermediary in a chain of payments, it shall retransmit all of the information it received with the wire transfer and any other information that may be necessary to identify the originator and beneficiary.

(4) Where several individual cross border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file should contain required and accurate originator information, and full beneficiary information, that is fully traceable within the beneficiary country, and the financial service provider shall include the originator's account number or unique transaction reference number.

(5) Where the information accompanying the domestic wire transfer can be made available to the beneficiary financial service provider and appropriate authorities by other means the —

(a) ordering financial service provider shall include the account number or a unique transaction reference number, except that this number or unique transaction reference number will permit the transaction to be traced back to the originator or the beneficiary;

(b) ordering financial service provider shall make the information available within three business days of receiving the request either from the beneficiary financial service provider or from the Centre or supervisory authority; and

(c) law enforcement agencies shall compel immediate production of that information where required.

(6) Where the required originator or beneficiary information accompanying a cross border wire transfer does not remain with a related domestic wire transfer, the intermediary financial service provider shall keep a record, for at least ten years, of all the information received from the ordering financial service provider or another intermediary financial service provider.

(7) An intermediary financial service provider shall develop and implement risk based policies and procedures for determining—

(a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and

(b) the appropriate follow up action.

(8) A beneficiary financial service provider shall take reasonable measures, including, where feasible, post event monitoring or real time monitoring to identify cross border wire transfers that lack required originator information or required beneficiary information.

(9) A beneficiary financial service provider shall develop and implement risk based policies and procedures for determining—

(a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and

(b) the appropriate follow up action.

(10) A money or value transfer service provider shall, in the case of a money or value transfer service provider that controls both the ordering and the beneficiary side of a wire transfer—

(a) take into account all the information from both the ordering and beneficiary sides in order to determine whether the wire transfer has to be reported; and

(b) submit a suspicious transaction report in any country affected by the suspicious wire transfer, and make relevant transaction information available to the Centre.

(11) The Minister may, on the recommendation of the Centre, by statutory instrument, modify the requirements set out in subsection (1)—

(a) with respect to domestic wire transfers, as long as the regulations provide for full originator information to be made available to the beneficiary financial service provider and appropriate authorities by other means; and

(b) with respect to cross border transfers where individual transfers from a single originator are bundled in a batch file, as long as the regulations provide for the originator's account number or unique reference number to be included, and that the batch file contains full originator information that is fully traceable in the recipient country.

(12) Subsections (1) and (2) do not apply to transfers executed as a result of credit card or debit card transactions or to transfers between financial service providers acting for their own account, except that the credit card or debit card number accompanies the transfer resulting from the transaction.

(13) Where a financial service provider under subsection (1) receives wire transfers that do not contain the complete originator information required under that subsection, that financial service provider shall take measures to obtain and verify the missing information from the ordering institution or the beneficiary.

(14) A financial service provider shall, where it fails to obtain any missing information, refuse acceptance of the transfer and report the transfer to the Centre.

(15) The Bank of Zambia shall provide wire transfer records to the Centre.

Repeal and replacement of section 27

Compliance with obligations by foreign subsidiaries and branches

**12.** The principal Act is amended by the repeal of section 27 and the substitution therefor of the following:

**27.** (1) A reporting entity shall require its foreign branches and majority owned subsidiaries to implement the requirements of this Part to the extent that domestic applicable laws of the host country so permit.

(2) A reporting entity shall, where the laws of the country where its branch or majority owned subsidiary is situated prevent compliance with the obligations stipulated under this Part, advise its supervisory authority, which may take steps that it believes to be appropriate to accomplish the purposes of this Act.

(3) The obligations set out in section 23 apply to all foreign branches and majority owned subsidiaries of a reporting entity and shall include—

(a) policies and procedures for sharing information within the group for money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation purposes;

(b) the provision, at group level compliance, audit, or money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation, functions, of customer, account, and transaction information from branches and subsidiaries when necessary for money laundering, financing of terrorism and proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation; and

(c) adequate safeguards on the confidentiality and use of information exchanged.

**13.** Section 29 of the principal Act is amended—

Amendment  
of section 29

(a) by the deletion of subsection (1)(b) and the substitution thereof of the following:

(b) is related or linked to, or is to be used for, terrorism and proliferation or any other serious offence, relating to money laundering, financing of terrorism or proliferation terrorist acts or by terrorist organisations or persons who finance terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation;

(b) by the deletion of subsection (4) and the substitution therefor of the following:

(4) A reporting entity shall refrain from carrying out a transaction which it suspects to be related to money laundering, financing of terrorism or proliferation or any other serious offence relating to money laundering, financing of terrorism or proliferation.

Amendment of section 36

**14.** Section 36 of the principal Act is amended—

(a) in subsection (1) by the insertion of the words “or proliferation” immediately after the word “terrorism”;

(b) by the insertion of the following new subsection immediately after subsection (6):

(7) A supervisory authority shall make available a report of its findings and recommendations to the Centre following an inspection conducted under this Act.

Amendment of section 45

**15.** Section 45 of the principal Act is amended by the deletion of the words “section twenty nine or thirty” and the substitution therefor of the words “under this Act”.

Repeal and replacement of section 49B

**16.** The principal Act is amended by the repeal of section 49B and the substitution therefor of the following:

Compounding of offences

**49B.** Subject to the written consent of the Director of Public Prosecutions and where a reporting entity or a person admits that the person has committed an offence under this Act, the Director-General may compound the offence by collection from that person a sum of money that the Director-General considers appropriate, but not exceeding fifty percent of the maximum amount of the fine to which that person would have been liable on conviction, and a person having made that payment shall not thereafter be prosecuted in relation to the offence so compounded.

Insertion of section 49C

**17.** The principal Act is amended by the insertion of the following section immediately after section 49B:



**49C.** (1) Without prejudice to section 49B, the Centre or a supervisory authority may impose one or more of the following administrative sanctions in addition to an offence under this Act or where a person or reporting entity is in breach of a provision of this Act which is not a criminal offence:

Administrative  
sanctions

- (a) a caution not to repeat the conduct which led to the non compliance of any of the provisions of this Act;
- (b) a reprimand;
- (c) a directive to take remedial action or to make specific arrangements;
- (d) the restriction or suspension of certain specified business activities;
- (e) publication of a public notice of any prohibition or requirement imposed by it under this Part and of any rescission or variation thereof, and any such notice may, if the Centre considers necessary, include a statement of the reasons for the prohibition, requirement, variation or rescission; and
- (f) a financial penalty not exceeding one million penalty units.

(2) A reporting entity or person may, within thirty days of receipt of an administrative sanction, appeal to the High Court against an administrative sanction imposed by the Centre or a supervisory authority.

(3) The Centre or a supervisory authority shall consider the following factors when determining an appropriate administrative sanction:

- (a) the nature, duration, seriousness and extent of the relevant non-compliance;
- (b) whether the reporting entity or person has previously failed to comply with any written law;
- (c) any remedial steps taken by the reporting entity or person to prevent a recurrence of the non-compliance; and
- (d) any steps taken or to be taken against the reporting entity or person by—
  - (i) another supervisory authority;
  - (ii) a professional association which the reporting entity or person is a member; and
  - (iii) any other relevant factors, including mitigating factors.

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(4) The Centre or supervisory authority shall, before imposing an administrative sanction, give the reporting entity or person fourteen days' notice in writing specifying—

- (a) the nature of the alleged non-compliance;
- (b) the intention to impose an administrative sanction;
- (c) amount or particulars of the intended administrative sanction; and
- (d) that the reporting entity or person may, in writing, within a period specified in the notice, make representations as to the reasons the administrative sanction should not be imposed.

Amendment  
of section 54

**18.** Section 54 of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

(1) The Centre shall implement a system for monitoring the effectiveness of anti-money laundering and counter financing of terrorism and proliferation or any other serious offence related to money laundering, financing of terrorism or proliferation by maintaining comprehensive statistics on—

- (a) suspicious transaction or suspicious activity reports received and disseminated to law enforcement agencies;
- (b) money laundering, financing of terrorism or proliferation and any other serious offence related to money laundering, financing of terrorism or proliferation investigations and convictions;
- (c) property frozen, seized and confiscated; and
- (d) international requests for mutual legal assistance or other cooperation.

Amendment  
of section 55

**19.** Section 55 (2)(a) of the principal Act is amended by the insertion of the words “or proliferation” after the word “terrorism”.

Repeal and  
replacement  
of section 58

**20.** The principal Act is amended by the repeal of section 58 and the substitution therefor of the following:

Regulations

**58.** (1) The Minister may, by statutory instrument, in consultation with the Centre, make Regulations that are necessary to give effect to the provisions of this Act.

(2) Despite the generality of subsection (1), the regulations made under that subsection may—

- (a) require reporting entities to establish and maintain procedures relating to the identification of clients, the keeping of records, the making of reports and training;
- (b) prescribe offences and penalties for contravention of or failure to comply with the regulations made under this Act;
- (c) provide that contraventions of the regulations may be determined summarily by a court of competent jurisdiction;
- (d) provide that in determining whether a person has complied with the regulations, the trial court shall take account of any relevant guidelines issued by the Centre;
- (e) provide for measures for identifying, preventing and combating financing of terrorism or proliferation or any other serious offence related to money laundering, financing of terrorism or proliferation or using non-governmental organisations in terrorism or proliferation or serious offence, which measures include—
  - (i) sustained outreach to non-governmental organisations by relevant competent authorities;
  - (ii) targeted risk based supervision or monitoring of non-governmental organisations by relevant competent authorities;
  - (iii) effective investigation and information gathering; and
  - (iv) effective mechanisms for international co operation;
- (f) provide for obligations of accountable institutions;
- (g) prescribe for the proportion of fines to be remitted to the Centre by a supervisory authority following a fine being imposed under this Act; and
- (h) provide for mechanisms for certification of compliance officers by the Centre.

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- Amendment of Schedule      **21.** Part II of the Schedule is amended by the deletion of paragraph 6(1) and the substitution therefor of the following:
- Funds of Centre      **6.** (1) The funds of the Centre consists of moneys that may—
- (a) be appropriated to the Centre by Parliament for the purposes of the Centre;
  - (b) subject to the approval of the Minister, be paid to the Centre by way of grants or donations;
  - (c) be payable to, or levied by, the Centre under this Act or any other written law; and
  - (d) accrue to, or vest in, the Centre, in whichever form, whether in the course of the exercise of its functions or otherwise.
- General amendment      **22.** The principal Act is amended by the deletion of the word “financial institution” wherever it appears and the substitution therefor of the word “financial service provider”.
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