



Financial Intelligence Centre
Republic of Zambia

Suspicious Transactions Reporting Guidelines

Ministry of Lands

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1.0 INTRODUCTION

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

It is the responsibility of the Centre to issue guidelines pursuant to section 56 of the Act to ensure compliance with the provisions of the Act. The purpose of these guidelines is to explain common reporting situations under the Act and assist the office of the Commissioner of Lands, the Chief Registrar's office and local authorities, as agents of the of the Commissioner of Lands in alienation of Land, to report suspicious transactions in relation to their areas of mandate.

These Suspicious Transaction Reporting (STR) Guidelines have been issued pursuant to section 56 and pursuant of the Act. In accordance with section 36 of the Act, one of the cardinal responsibilities of supervisory authorities is to submit suspicious transaction reports to the Centre where there are reasonable grounds to believe that a business transaction indicates that a person has or may have been engaged in money laundering, the financing of terrorism or any other serious offence.

1.1 The Role of Ministry of Lands

i. Lands Department

The department is responsible for land allocation and alienation. It is headed by the Commissioner of Lands who is assisted by three (3) Chief Lands Officers. The department consisted of the following sections:

- a. Land Administration Section:** This section is responsible for ensuring that new parcels of land required for development are properly planned by Local Authorities (Municipal and City Councils), Provincial Planning Authorities, Department of Field Services in the Ministry of Agriculture and Co-operatives and Department of Resettlement.

- b. Estates and Valuation Section:** This section is responsible for managing government property portfolios by keeping an up-to-date register of government properties, managing the landlord and tenant relationship for government rented premises and vice-versa, valuing for the government in instances where the government require capital valuations for the properties it either wants to dispose of or purchase, managing the lesser and lessee relationship between the President, as custodian of all land, and members of the public or developers, monitoring compliance of the development clause in the offer letter through the physical property inspections and distributing annual ground rent bills and collecting payments in all districts to lessees, conducting inspections that are required before repossession and other actions such as re-entries are effected by the Legal Section and the Commissioner of Lands.

c. Legal Section: The Legal section is responsible for the preparation of state consents for all transferees and assignees eligible to hold land in Zambia and who are bonafide owners of such properties. The section is further responsible for the preparation of certificates of incorporation and managing of repossessions and court cases.

d. Folios Section: The folios section is responsible for noting and plotting on maps plans received from Planning Authorities, verifying the availability of land, confirming the size of a parcel, changing of scales (conversions), map reading to help officers and the general public to identify properties, inspection of properties and miscellaneous work assigned to the section.

ii. Lands and Deeds Department

Lands and Deeds Department is responsible for issuance of certificates of title and the registration of various interests. It is headed by the Chief Registrar who is the Custodian of the Lands Register and Certificate of Title. The Chief Registrar is assisted by two (2) Assistant Chief Registrars.

The functions of the Department are to:

- i. efficiently register rights and interests in land;
- ii. efficiently issue certificates of titles to provide security of land holding;
- iii. undertake timely and accurate updating of various registers in order to facilitate efficient storage and retrieval of information;
- iv. contribute to government revenue by ensuring that all registration and search fees are paid;

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- v. act in a quasi-judicial capacity and make rulings on the applications arising under the Lands and Deeds Registry Act subject to appeal to the High Court; and
 - vi. appear in court where matters dealing with registered interests and rights are being adjudicated upon.

iii. **Survey Department**

The Survey Department is responsible for undertaking and coordinating all survey works in the country and production of maps for various usages. The department is headed by the Surveyor-General and assisted by three (3) Assistant Surveyors-General who coordinate programme implementation of the three (3) branches of the department namely:

- (a) **Mapping Services Branch-** This branch deals with national mapping and is responsible for developing and managing geo-information for the purpose of providing spatial information to the general public for diverse planning and developmental needs;
- (b) **Survey Services Branch-** The role of this branch is to advance, maintain and improve the National Survey Control Network as surveying technologies evolve. The branch therefore secures and keeps, in good order, all records of permanent control stations across the country. The branch is also responsible for surveying and maintaining of International boundaries. In addition, the Branch has a field survey subsection whose functions are to plan, co-ordinate and carry out control surveys

for the establishment, extension and maintenance of the National Geodetic Network; and

- (c) **Cadastral Services Branch**-This branch is responsible for Cadastral Surveys and maintenance of survey records including noting, compilation of property index maps, examination and processing of legal documents including diagrams required for registration at the Lands and Deeds Registry and custodian of various legal maps for other agencies.

The department also coordinates the survey activities through Survey Control Board established under Section 6 of the Land Survey Act CAP. 188 of the Laws of Zambia.

1.2 Scope of the Guidelines

These Guidelines have incorporated essential elements of the Act, relevant FATF-Recommendations, the sound practices and other international best practices on Anti-Money Laundering and the Combating of the Financing of Terrorism (AML/CFT). They cover among others the following key areas of AML/CFT policy; Customer due diligence, the AML/CFT Compliance programme; monitoring and responding to suspicious transactions.

These Guidelines are provided as general information only and as such do 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 relevant competent authorities.

For the purposes of these guidelines the office of the Commissioner of Lands, the Lands and Deeds Department and other relevant stakeholders in this respect will have the responsibilities highlighted herein.

2.0 DEFINITION OF KEY TERMS

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

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) standard.

Money Laundering: Under *The Prohibition and Prevention of Money Laundering Act No 14 of 2001, as amended by Act No.44 of 2010*, a money laundering offence involves various acts committed with the intention to conceal or convert property or the proceeds of property (e.g. money) knowing or believing that these were derived from the commission of a designated offence. In this context, a designated offence means a serious offence as defined in the *Forfeiture of Proceeds of Crime Act, 2010*. It includes among others those relating to illegal drug trafficking, corruption, bribery, fraud, forgery, murder, robbery, counterfeit money, stock manipulation. A money laundering offence may also extend to property or proceeds derived from illegal activities that took place outside Zambia.

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

Reporting Entity: An institution regulated by a Supervisory Authority and required to make a suspicious transaction report under the Act.

Supervisory Authority: Includes the Commissioner of Lands and is required to disclose, or cause to be disclosed to the Centre information relating to a business transaction that indicates that a person has or may have been engaged in money laundering, the financing of terrorism or any other serious 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 Act No. 21 of 2007, it is an offence to knowingly collect or provide property, such as funds, either directly or indirectly, to carry out terrorism or terrorist financing activities.

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 transactions conducted by your customers.

Part III of the Act requires you to institute measures to ensure effective CDD at all times. You shall undertake CDD measures when:

- i. Initiating a transaction with a customer;
- ii. There is a suspicion of money laundering or terrorist financing
- iii. There are doubts about the veracity or adequacy of previously obtained customer identification data.

3.1 Customer Due Diligence Procedures

- a. Customer Due Diligence (CDD) procedures within the ambit of the Act involve the identification of customers (whether permanent or occasional; natural or legal persons; or legal arrangements) and verification of the customers' identities using reliable, independently sourced documents, such as the National Registration Card, Certified Certificate of Incorporation, investment licenses or such other information as may be prescribed.
- b. In respect of customers that are legal persons or legal arrangements, the law requires verification of:
 - i. any person purporting to have been authorised to act on behalf of such a customer by obtaining evidence of his/her identity and verifying the identity of such a person; and
 - ii. the legal status of the legal person or legal arrangement by obtaining proof of incorporation from recognised

established body or similar evidence of establishment or existence and any other relevant information.

- c. The law further requires the identity of the beneficial-owner (Title Holder) and the verification thereof using relevant information or data obtained from a reliable source confirming who the beneficial-owner is.
- d. It is also a legal requirement to determine whether or not a customer is acting on behalf of another person. Where the customer is acting on behalf of another person, you shall take reasonable steps to obtain sufficient identification-data and to verify the identity of that other person.
- e. You shall take reasonable measures in respect of customers that are legal persons or legal arrangements to:
 - i. Understand the ownership and control structure of such a customer; and
 - ii. Determine the natural persons that ultimately own or control the customer. For **trusts** – The natural persons are the settlor, the trustee and person exercising effective control over the trust and the beneficiaries.
- f. You shall obtain information on the purpose and intended nature of the business relationship of their potential customers.
- g. You shall conduct on-going due diligence on the business relationship as stated by the customers above.

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- h. The on-going due diligence above includes scrutinizing the transactions undertaken by your customer throughout the course of their interaction with your institution to ensure that the transactions being conducted are consistent with your knowledge of the customer, its business and risk profiles, and the source of funds (where necessary).
 - i. You 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 transactions or customer categories. All books and records with respect to your customers and transactions should be maintained for a period of at least 10 years;

3.2 High-Risk Categories of Customers

Section 19 of the Act requires you to have appropriate risk management systems to identify customers whose activities may pose a high risk of money laundering and financing terrorism. You need to exercise enhanced identification, verification and on-going due diligence procedures with respect to High Risk Customers. You shall perform enhanced due diligence for high-risk categories of customers or transaction. Examples of high-risk customer categories include:

- i. Companies that have nominee-shareholders or shares in bearer form;
- ii. Non-resident customers;

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- iii. Legal persons or legal arrangements such as trusts that are personal-assets holding vehicles;
 - iv. Politically Exposed Persons (PEPs). PEPs are individuals who are or have been entrusted with prominent public functions both in Zambia and foreign countries and those associated with them. For example, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Middle ranking or more junior individuals are not categorised as PEPs.

It is important to note that in addition to performing CDD procedures, you are required to put in place appropriate risk management systems to determine whether a potential customer or existing customer or the beneficial-owner is a PEP.

The risk management systems used by you to identify customers whose activities may pose a high risk of money laundering and financing of terrorism pursuant to section 19(a) of the Act shall require:-

- I. **Enhanced identification:** Which involves identifying customers or activities engaged in by customers who may pose high risk of money laundering or financing of terrorism by taking into account:
 - a) the nature and business of customers;
 - b) customer activities, transaction patterns and operations;
 - c) geographic location of the customer and/or transaction
 - d) the magnitude of customer assets that a reporting entity handles;
 - e) third parties that may be involved in the customer's activities;

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- f) the beneficial ownership of an entity and their impact on risk;
 - g) volume of cash used by customer in their transactions; and
 - h) any other indicators that may be relevant.

II. Verification and on-going Due Diligence: Which includes:

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

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

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 your 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.

4.1. Elements of an AML/CFT Programme

4.1.1 A system of internal policies, procedures and controls

You shall adopt policies indicating your commitment to comply with AML/CFT obligations under the relevant Acts and

regulations to prevent any transaction that facilitates ML/TF activities. You shall formulate and implement internal rules procedures and other controls that will deter criminals from using your facilities for money laundering and terrorist financing and to ensure that your 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

You should designate an official (Compliance Officer) who shall receive suspicious or unusual transaction reports from persons handling transactions within the Ministry of Lands. 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 Ministry of Lands necessary to fulfil the responsibilities under the Act.

An employee 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 shall not be limited to the following:

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

The Commissioner of Lands 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 you to have a formal, written AML/CFT Compliance programme that includes training. On-going employee training programs should be in place to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends; and that there is a clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting.

The timing, coverage and content of the employee training program should be tailored to meet your perceived 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, you 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.

Monitoring of AML/CFT Compliance programme

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

I. Obligation to Report Suspicious Transactions

Whenever you process 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, you 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, you are required to exercise caution when carrying out a transaction which you suspect to be related to money laundering or

financing of terrorism. The Act also requires an STR to be submitted on **attempted** money laundering or financing of terrorism.

In exceptional cases, making a suspicious transaction report to the Centre does not prevent you from reporting suspicions of money laundering or financing of terrorism directly to law enforcement agencies. The Centre encourages you to maintain established relationships with law enforcement agencies.

II. Prohibition against Tipping Off

A person is not allowed to disclose to any person the contents of the STR Form as well as that a report has been made or any other information from which the person whom the information is disclosed could reasonably be expected to conclude that a suspicion has been formed or that a report has been or may be made. Any person who contravenes this requirement commits an offence and is liable to a fine of up to five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

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

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

IV. Protection of entities/persons reporting

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

5.0 HOW TO IDENTIFY A SUSPICIOUS TRANSACTION

A **suspicious transaction** will often be one which is inconsistent with the usual trend in transactions handled by you. Therefore, the first key to recognition is knowing enough about your customer and customer's business, to recognize that a transaction or series of transactions are unusual.

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

I. Common Predicate Offences

Below are some common predicate offences related to acquisition or transfer of property:

- i. Forgery–manipulation of records;
- ii. Fraud;
- iii. Tax evasion;
- iv. Embezzlement;
- v. Corruption; and
- vi. Other offences relating to the governing law of the sector.

II. The Common methods used to launder money

The common methods used to launder money through the acquisition or transfer of property includes the following:

- i. Purchase of property using large cash amounts;
- ii. Use of third parties, gate keepers (lawyers/real estate agents)/fronts to purchase property;
- iii. Buying of multiple pieces of property by one individual;
- iv. Foreign PEPs and nationals, investing in property;
- v. Foreign nationals using locals to acquire property;
- vi. The use of corporate structures through buying and/or owning companies or corporations which own property;
- vii. Use of third parties (spouses, other family members, companies, trusts etc.) to acquire or transfer property, mainly for tax evasion; and
- viii. The use of unregistered real estate agents, who are not accountable to the regulators.

III. Industry-Specific Indicators

The indicators for detecting suspicious transactions in the Real Estate sector can be categorized as follows:

Unusual Possession

- i. Client purchases property in someone else's name such as an associate or a relative (other than a spouse);
- ii. Client does not want to put his or her name on any document that would connect him or her with the property or uses different names on Offers to Purchase, application for consent to assign, contracts and assignments;

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- iii. Client inadequately explains the last minute substitution of the purchaser's name;

Unusual Transactions

- i. Client wants to build a luxury house in non-prime locations;
- ii. Client exhibits unusual concerns regarding the institution compliance with government reporting requirements and the firm's anti-money laundering policies;
- iii. Transactions carried out on behalf of minors, incapacitated persons or other persons who, although not included in these categories, appear to lack the economic capacity to make such purchases;
- iv. Transactions in which the parties show a strong interest in completing the transaction quickly, without there being good cause;
- v. Client buys back a property that he or she recently sold;
- vi. Frequent change of ownership of same property, particularly between related or acquainted parties; and
- vii. Property is re-sold shortly after purchase at a significantly different purchase price, without corresponding changes in market values in the same area.

6.0 HOW TO OBTAIN SUSPICIOUS TRANSACTION FORMS

You may obtain the STR forms by contacting the FIC office using the address provided under paragraph nine (9) of this document or emailing fic@ficzambia.gov.zm. Further, an electronic copy of the STR form can be accessed on the FIC website (www.fic.gov.zm).

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.

8.0 HOW TO SEND YOUR SUSPICIOUS TRANSACTION REPORTS TO CENTRE

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

- i. On the FIC e-system (applicable only to reporting institutions with electronic link with the FIC);
- ii. Authenticated FIC email address provided for under paragraph six (6) of this document;
- iii. Registered courier service providers using the address provided for in paragraph nine (9) below; and
- iv. To be hand delivered to designated officials of the Monitoring and Analysis department of the Centre.

9.0 FINANCIAL INTELLIGENCE CENTRE CONTACT DETAILS

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

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