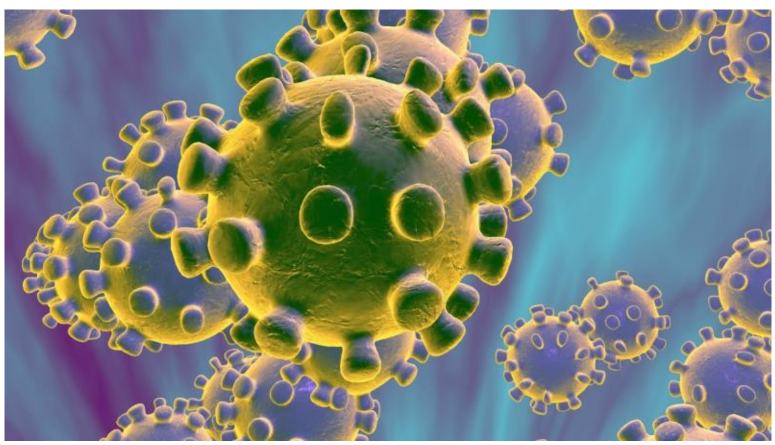
REGULATORY GUIDANCE ON COMPLYING WITH AML/CFT CONTROL REQUIREMENTS FOR REPORTING ENTITIES IN LIGHT OF COVID-19 MEASURES



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1.0 INTRODUCTION

Zambia and the world at large general, has faced an unprecedented set of circumstances linked to the coronavirus (COVID-19) pandemic, particularly social distancing, self-isolation and other disruptions to everyday business. The Financial Intelligence Centre (FIC) is cognizant of challenges that this may pose in implementing traditional mechanisms and ensuring compliance with Know your Customer (KYC), Customer Due Diligence (CDD), and reporting obligations as required under the Financial Intelligence Centre Act No.46 of 2010 (as amended). The FIC is committed to working closely and efficiently with the reporting entities (Financial Institutions and Designated Non-Financial Businesses and Professions (DNFBPs) throughout this disruptive period. During the COVID-19 social distancing restrictions, it is anticipated that reporting entities may still need to establish new business relationships or conduct occasional activities or transactions for new customers, screening new and existing customers, and still comply with reporting obligations. However, we expect that the volume of new business relationships established during this period will be lower than normal.

2.0 LEGAL PROVISIONS

The FIC emphasizes the importance of continuing to provide essential financial services by using the flexibility as provided under Regulations 8 and 12 of the FIC (General) Regulations, S.I No. 56 of 2016 (FIC (General) Regulations, 2016) to address the challenges posed by the COVID-19 social distancing restrictions. During this period, the FIC expects reporting entities to continue complying with the customer due diligence and verification of identity requirements, reporting obligations as outlined in the FIC Act and Regulations thereof.

Please note that Section 18 of the FIC Act, further allows for appropriate measures to be implemented addressing the risks of non-face-to-face interactions and transactions. The measures include; taking adequate steps to address the specific risk of money laundering, financing of terrorism and any other serious offence; ensuring that the due diligence conducted is no less effective than where the customer appears in person; and requiring additional documentary evidence or supplementary measures to verify or certify the documents supplied by the customer, or confirmatory certification from financial institutions or other documentary evidence or measures as may be prescribed.

In addition, section 19 of the FIC Act as read with Regulation 10 of the FIC (General), Regulations, 2016 provides measures to be undertaken by reporting entities when dealing with high risk customers. On the other hand, reporting entities are reminded that Regulation 9 of the FIC (General), Regulations, 2016 allows for flexibility in instances of lower risk and for the application of simplified due diligence measures. Overall, even during this period of COVID-19, reporting entities should continue to gather sufficient information to form a general understanding of the customer's identity and profile so that it remains possible to assess the money laundering, terrorism and proliferation financing ("ML/TF/PF") risks.

Having regard to the foregoing, we encourage the responsible use of electronic and digital customer on-boarding measures, while ensuring that risk based controls are in place to mitigate ML/TF/PF risks. It is also important for reporting entities to remain alert to new and emerging ML/TF/PF risks at this time of COVID-19. The FIC recognises that reporting entities may need to temporarily amend their AML compliance programmes to implement alternative processes to verify customers' identity, but may face challenges in making formal amendments during this period. In these circumstances, we expect that reporting entities will keep a record of approved changes in policies and procedures made due to the COVID-19 pandemic. The changes to your institutional AML/CFT policies should be made available to the FIC and respective supervisory authorities within three (3) days of the changes.

3.0 ON-BOARDING NEW CUSTOMERS

The following are some considerations for the acceptance of electronic or digital identification where a person's identity cannot immediately be verified face-to-face during the COVID-19 period. These measures are not exhaustive and are not intended to be used as a checklist. Reporting entities are urged to consider the ML/TF/PF risks on a case-by-case basis:

a) Applying simplified due diligence measures where lower risks are identified, for example, where accounts are created specifically to facilitate government payments for economic relief to individuals or businesses

b) Delaying physical verification of documents where non-face-to-face business relationships are established and imposing limitations or restrictions on account usage until identity can be verified with original documents. For example, impose restrictions on wire transfers, loan facilities, or by implementing transaction limits. Reporting entities may accept digital copies of documents as an interim measure, until the original documents can be physically verified when it is practical to do so before the relaxation of restrictions.

c) Accepting scanned documentation sent by e-mail, preferably as a PDF. Consider requiring that these scanned copies be accompanied by some form of declaration, for example, “I certify that this document is a true copy of the original” and for identification documents a declaration stating: “I certify that the photograph is a true likeness of my facial features”

4.0 EXAMPLES OF INTERIM VERIFICATION CHECKS

After customers have provided digital copies of identification documents, additional verification measures may include:

a) using secure video-calling services to compare the physical likeness of a customer with scanned or photographed copies of identification documents;

b) requiring the customer to provide a clear, front view photo of themselves or ‘selfie’ that can be compared with the scanned or photographed copies of identification documents;

c) interviewing the customer through video or telephone calls to ask questions about their identification, their reason for requesting the financial service or other questions to ascertain whether the customer is who they claim to be and the nature and purpose of the business relationship;

d) conducting an independent search of the companies registry to validate documentation submitted by companies

e) seeking third party verification of identity to corroborate information provided by the customer or by placing reliance on the due diligence carried out by third parties, such as intermediaries or the customer’s primary bank account provider, where appropriate agreements are in place to provide access to such information

f) where possible, gathering and analysing additional data to verify the evidence provided by the customer, such as physical addresses or by verifying phone numbers, or by sending codes to the customer to validate access to accounts

g) For existing clients, requiring that the first deposit to the account (if opened), be made by electronic transfer from the customer's account at their existing bank for source of funds verification.

5.0 ONGOING CUSTOMER DUE DILIGENCE

With respect to ongoing customer due diligence, based on the current circumstances i.e. COVID 19, there may be legitimate reasons for customers not providing information for KYC 'refreshers'. As such, the usual processes for dealing with these situations such as exiting the customer relationship may not be appropriate at this time. Customers should be encouraged to send additional information/updated information electronically. For customers to whom simplified due diligence measures were applied during this time, reporting entities must ensure that there are processes and controls to detect and review changes in the risk profile of the customer and to apply the appropriate due diligence measures, in such instances.

6.0 REMAINING VIGILANT TO NEW AND EMERGING ML/TF/PF RISKS

As most economies are facing a downturn, financial flows are likely to diminish. However, experience from past crises suggests that in many cases, illicit finance will continue to flow. As criminals are highly adaptive, new techniques and channels of laundering money are likely to emerge. For example, there are international reports of increased levels of cyber-crime; COVID-19-related frauds and medical scams targeting vulnerable people and companies; fraudulent fundraising campaigns; criminals exploiting vulnerabilities due to remote working arrangements, to by pass customer due diligence controls; fraudulent investment opportunities; phishing schemes that prey on COVID-19 related fears; insider trading; and criminal networks selling rationed goods at a higher price.

During this period of COVID-19, Non-Profit Organisations ("NPOs") will be engaged in charitable services to ensure social relief is provided for those in need and affected by COVID-19. Reporting entities are reminded that not all NPOs are high risk and some carry little to no risk for terrorist financing. The intent is that NPOs utilize legitimate and transparent channels and that their services benefit those in need. Therefore, a risk based approach must be applied to ensure that financial transactions conducted with NPOs, are for legitimate activities and such transactions are not unnecessarily delayed, disrupted or discouraged. Reporting entities should also be alert to criminals who may seek to profit from the Government's COVID-19 relief programmes. Reporting entities should take risk-sensitive measures to establish the legitimate origin of unexpected financial flows, where these financial flows stem from customers in sectors that are known to have been impacted by the economic downturn and COVID-19 mitigation measures. Examples of such customers include cash intensive businesses in the retail and service sector setting up companies or NPOs to receive social assistance funds, or taking advantage of legitimate businesses to obtain and subsequently launder economic stimulus funds, and any companies in sectors affected by the economic downturn which continue to maintain pre-COVID-19 financial flows, notwithstanding restrictions on non-essential services and economic activity.

7.0 REPORTING OBLIGATIONS

Reporting entities are at the front line in combating financial crime. We encourage you to monitor for new and emerging threats associated with COVID-19. You are urged to remain vigilant during this time, as criminals will attempt to profit from the COVID-19 pandemic by exploiting persons in urgent need of care and the goodwill of the general public. Reporting entities are reminded to continue monitoring transactions and pay particular attention to unusual or suspicious patterns in customers' behaviour and financial flows, identifying risk indicators and implementing processes and controls to prevent the misuse of the aforementioned assistance packages for ML/TF/PF purposes.

In accordance with Sections 29 and 30 of the FIC Act, reporting entities are reminded that they have the obligation to report suspicious transactions and currency threshold transactions to the FIC. Reporting entities are advised to report all suspicious transactions, including attempted transactions associated with COVID-19, regardless of the amount of the transaction. Suspicious Transactions Reports (STRs) are supposed to be filed with the FIC not later than three (3) working days after forming the suspicion. In the case of Currency Transaction Reports (CTRs) of an amount equal to or above USD10, 000 should be promptly but not later than three working days from the date of the transaction be submitted to the FIC as well.

8.0 AML/CFT TRAINING PROGRAMMES BY THE FIC

Reporting entities are advised that the FIC has during this COVID-19 period put on hold face-to-face interactions with reporting entities. However, the FIC remains available for guidance through virtual means that would assist reporting entities still comply with regulatory training requirements.

9.0 SUMMARY OF POTENTIAL ML/TF RISKS DURING COVID-19

The potential ML/TF risks emerging from COVID-19 could be:

a) Criminals finding ways to by-pass CDD measures by exploiting temporary challenges in internal controls caused by remote working situations, in order to conceal and launder funds;

b) Increased misuse of online financial services and virtual assets to move and conceal illicit funds;

c) Misuse of financial aid and insolvency schemes as a means for natural and legal persons to conceal and launder illicit proceeds;

d) As individuals move money out of the banking system due to financial instability, this may lead to an increased use of the unregulated financial sector, creating additional opportunities for criminals to launder illicit funds;

e) Misuse and misappropriation of domestic and international financial aid and emergency funding by avoiding standard procurement procedures, resulting in increased corruption and consequent ML risks; and

f) Criminals and terrorists exploiting COVID-19 and the associated economic downturn to move into new cash-intensive and high-liquidity lines of business in developing countries, for the laundering of proceeds to fund their operations, as well as fraudulently claiming to be charities to raise funds online.

10.0 CONCLUSION

The FIC will continue to work closely with other sector supervisory authorities, Law Enforcement Agencies (LEAs) and our international regulatory partners throughout this period, to ensure integrity of the financial sector and other non-financial sectors. The FIC will continue to monitor and keep these measures under review especially as new issues arise and we look forward to our continued partnership with reporting entities and industry associations, as we navigate the COVID-19 impact. Do not let this crisis distract you from your compliance responsibilities, which in some ways are more important now than ever.

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