

CHAPTER 423

THE ANTI-MONEY LAUNDERING ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 423

THE ANTI-MONEY LAUNDERING ACT

An Act to make better provisions for the prevention and prohibition of money laundering, terrorist financing and proliferation financing, to provide for the disclosure of information on money laundering, terrorist financing and the proliferation financing, to establish a Financial Intelligence Unit and the National Multi-Disciplinary Committee on Anti-Money Laundering, Counter Terrorist Financing and Counter Proliferation Financing and to provide for matters related thereto.¹

[1st July, 2007]

[GN. No. 160 of 2007]

Acts Nos.
12 of 2006
6 of 2008
1 of 2012
1 of 2013
14 of 2015
4 of 2016
8 of 2020
2 of 2022

PART I

PRELIMINARY PROVISIONS

Short title **1.** This Act may be cited as the Anti-Money Laundering Act.

Application
Acts Nos.
1 of 2012 s. 2;
2 of 2022 s. 3 **2.**—(1) This Act shall, subject to subsection (2), apply to Mainland Tanzania.

(2) This Act shall apply to Tanzania Zanzibar in respect of Part II which relates to Financial Intelligence Unit and the National Multidisciplinary Committee on Anti-Money Laundering, Counter Terrorist Financing and Counter Proliferation Financing.

¹ The long title is amended by Act No. 2 of 2022 under section 2.

Interpretation
Acts Nos.
6 of 2008 s. 41;
1 of 2012 s. 3;
1 of 2013 s. 4;
14 of 2015 s. 57;
8 of 2020 s. 4;
2 of 2022 s. 4;
Cap. 332
Cap. 197

3. In this Act, unless the context otherwise requires-

“Act” means the Anti-Money Laundering Act;

“arrangement” has the meaning ascribed to it under the Income Tax Act;

“bank” has the meaning ascribed to it under the Banking and Financial Institutions Act;

“Bank” has the meaning ascribed to it under the Bank of Tanzania Act;

“bearer negotiable instrument” means a monetary instrument in bearer form such as-

- (a) traveler’s cheques;
- (b) negotiable instruments including cheques, promissory notes and money orders that are either in bearer form, endorsed without restriction, made out to a fictitious payee or otherwise in such form that title to that instrument passes upon delivery;
- (c) incomplete instruments such as cheques, promissory notes and money orders signed, but with the payee’s name omitted;

“bearer shares” means negotiable instruments that accord ownership in a legal person to the person who possesses the bearer share certificate;

“beneficial owner” means a natural person who ultimately owns or controls the customer, the natural person on whose behalf a transaction or activity is being conducted, a person who exercises ultimate effective control over a legal person or legal arrangement or beneficiary of an insurance policy or other investment linked insurance policy and includes-

- (a) in the case of a customer being a legal person-
 - (i) the natural person who ultimately owns or controls the legal person through direct or indirect ownership of a majority shares or voting rights or ownership interest in that legal person and such ownership, ownership interest or control also includes possession of bearer shares, the ability to

- appoint or remove the majority of board members, the chief executive officer or senior management;
- (ii) a shareholding of five percent or more in the legal person or an ownership interest of five percent or more in the legal person held by a natural person shall be an indication of direct ownership or a sufficient percentage of the shares or voting rights or ownership interest in that legal person, or a shareholding of five percent or more or an ownership interest of five percent or more in the legal person held by a legal person, which is under the control of a natural person, or by multiple legal persons, which are under the control of the same natural person, shall be an indication of indirect ownership;
 - (iii) if, after having exhausted all possible means and provided there are no grounds for suspicion of money laundering, terrorist financing and proliferation financing, no natural person under subparagraph (i) is identified, or if there is any doubt that the natural person identified is the beneficial owner, the natural person who holds the position of senior managing official;
- (b) in the case of a customer being a trust-
- (i) the settlor, trustee or the protector;
 - (ii) the beneficiaries, or where the natural person benefiting from the trust has yet to be determined, the class of natural persons in whose main interest the trust is set up or operates; or
 - (iii) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;
- (c) in the case of a customer being any other legal arrangement, the natural person holding equivalent or similar positions to those referred to in subparagraph (b);

“business relationship” means an arrangement between a reporting person and a customer that is characterised by the following:

- (a) it is a business, professional or commercial arrangement;
- (b) the arrangement involves the reporting person setting up a customer account and the exchange of goods, products or services and is facilitated by transactions that are conducted involving that account; or
- (c) transactions are conducted frequently, habitually or on a regular basis;

“cash dealer” means-

- (a) a person who carries on a business of an insurer, an intermediary insurance broker, a securities dealer or broker;
- (b) a person who carries on a business of dealing in gold bullion, or issuing, selling or redeeming traveler’s cheques, money orders or similar instruments, of collecting, holding and delivering or transmitting money;
- (c) an operator of a gaming activity;
- (d) a trustee or a manager of a Collective Investment Scheme; and
- (e) an operator of a bureau de change;

“Chairman” means the Chairman of the National Committee appointed under section 8;

“close associate” means-

- (a) a natural person who is known to have joint beneficial ownership of body corporate, or any other close business relations with the politically exposed person;
- (b) a natural person who has sole beneficial ownership of a body corporate which is known to have been set up for the *de facto* benefit of the politically exposed person; or
- (c) a natural person who is reasonably found or believed to be closely connected with a politically exposed person for any other reason, either socially or professionally;

“Commissioner” means the Commissioner of the FIU appointed under section 5;

- “comparable body” means an overseas Government agency with functions similar to those of the FIU;
- “competent authority” means a public entity with designated responsibilities for combatting money laundering, terrorist financing or proliferation financing including a regulator, customs authority, a law enforcement agency, licensing agency or authority, FIU and the National Committee;
- “customer” means a natural person, legal person or legal arrangement that receives goods, products or services from a reporting person for exchange for money or any other consideration;
- “customer due diligence” includes establishing the identity of the customer, a beneficial owner or a person purporting to act on behalf of the customer, whereby-
- (a) in the case of a customer, doing any or all of the following, depending on the perceived money laundering, terrorist financing or proliferation financing risk-
 - (i) verifying the identity of the customer using reliable, independent source documents, data or information;
 - (ii) understanding, and where appropriate, obtaining the required information on the nature and purpose of the business relationship;
 - (iii) understanding the occupation of the customer;
 - (iv) understanding the ownership and control structure of the customer who is a legal person or legal arrangement;
 - (v) obtaining information on the source of customer income and funds;
 - (vi) establishing the identity of beneficial owners and taking reasonable measures to verify their identities using reliable, independent source documents, data or information; or
 - (vii) obtaining information that a person purporting to act on behalf of the customer is so authorised and

- to identify and verify the identity of that person using reliable, independent source documents, data or information;
- (b) in the case of a beneficial owner, doing any or all of the following, depending on the perceived money laundering, terrorist financing or proliferation financing risk:
- (i) taking reasonable measures to verify the identity of the beneficial owner using reliable, independent source documents, data or information;
 - (ii) understanding the occupation of the beneficial owner; or
 - (iii) obtaining information on the source of income and funds of the beneficial owner;
- (c) in the case of a person purporting to act on behalf of the customer, doing any or all of the following, depending on the perceived money laundering, terrorist financing or proliferation financing risk:
- (i) verifying the identity of the person using reliable, independent source documents, data or information;
 - (ii) understanding the occupation of the person;
 - (iii) understanding the relationship between the person and the customer; or
 - (iv) ascertaining that the person is authorised to act on behalf of the customer; and
- (d) in all cases above, in paragraphs (a), (b) and (c), reviewing existing records to ensure that they are up-to-date and relevant;

“customs” has the meaning ascribed to it under the East African Community Customs Management Act;

“family member” means an individual who is related to a politically exposed person either directly on consanguinity or through marriage or similar civil forms of relationships or partnership;

“financial institution” means a person who conducts as a business one or more of the following activities or operations:

- (a) acceptance of deposits and other repayable funds from the public including private banking and other repayable funds from the public, issuing and managing means of payment, trading in foreign exchange or transferable securities or decentralised virtual currencies exchangers, wallet providers, payments processors or senders, and other virtual currency business models;
- (b) lending, including consumer credit, mortgage credit, factoring with or without recourse, finance of commercial transactions including forfeiting;
- (c) financial leasing;
- (d) mortgage and house financing;
- (e) money or value transfer services without extending to persons that solely provide messaging or other support systems for transmitting the funds;
- (f) issuing and managing means of payment including credit cards, debit cards, money orders, cheques, traveler’s cheques, money, bankers’ drafts and electronic money;
- (g) financial guarantees and commitments;
- (h) dealing in gold bullion;
- (i) trading in:
 - (i) money market instruments including cheques, bills, certificates of deposit and derivatives;
 - (ii) foreign exchange;
 - (iii) exchange, interest rate and index instruments;
 - (iv) transferable securities; and
 - (v) commodity futures trading;
- (j) securities dealership, brokerage and securities market intermediation;
- (k) individual and collective portfolio management;

- (l) trusteeship and management of collective investment schemes;
- (m) safekeeping and administration of cash or liquid securities on behalf of other persons;
- (n) investing, administering or managing funds or money on behalf of other persons;
- (o) pension fund management;
- (p) insurance, insurance agency and brokerage; and
- (q) money and currency changing;

Cap. 256

“forfeiture” has the meaning ascribed to it under the Proceeds of Crime Act;

Cap. 19

“funds” has the meaning ascribed to it under the Prevention of Terrorism Act;

“Government” means the Government of the United Republic and where appropriate includes the Revolutionary Government of Zanzibar;

“law enforcement agency” means the Police Force, Prevention and Combating of Corruption Bureau, Immigration Services, Tanzania Revenue Authority and any other body dealing with criminal investigations;

“legal arrangement” means trusts or other similar arrangements;

“Minister” means the Minister responsible for finance;

“money laundering” means offences referred to under section 12;

“National Committee” means the National Multi-disciplinary Committee on Anti-Money Laundering Committee established by section 8;

“occasional transaction” means a transaction carried out by a reporting person on behalf of a customer with whom it does not have a business relationship and the transaction is carried out otherwise than through an account and it may be a single transaction or a series of transactions in a single operation or several operations that appear to be linked to each other;

“politically exposed person” means a natural person-

(a) within or outside the United Republic who is or has been entrusted with a prominent public function;

(b) who is or has been entrusted with a prominent function in an international organisation including a member of senior management such as a member of the board of directors, the chief executive officer, director, head of department, their deputies and equivalent functions,

and includes family members and close associates of such a natural person;

Cap. 256

“predicate offence” means a serious offence as defined in the Proceeds of Crime Act;

Cap. 256

“proceeds of crime” has the meaning ascribed to it under the Proceeds of Crime Act;

“proliferation financing” means an act by a person who by any means directly or indirectly, renders help or provides in whole or in part any assets, funds, economic resources, technology or services to any proliferation of weapons of mass destruction course or to a person or jurisdiction or for the benefit of a person designated by the United Nations Security Council to acquire, possess, broker, manufacture, develop, store, transport, convey, transfer, import or export nuclear, chemical or biological weapons and their means of delivery or related materials including technologies and dual use goods used for non legitimate purpose;

“prominent public function” or “prominent function” means-

Cap. 398

(a) in the case of Government and public sector functions in the United Republic, an office or function held by a public leader mentioned in the Public Leadership Code of Ethics Act and a person in the capacity of deputy of the identified leader;

(b) in the case of a foreign government or jurisdiction, an office or function held by heads of state or government, senior politicians, senior executives of state owned corporations or agencies, high level and senior functions in the foreign states, governments

or diplomatic missions, foreign institutions and international organisations affiliated to the United Republic and foreign countries and jurisdictions including high commissioners, ambassadors and their deputies, military and other attaches, directors, assistant directors, managers and assistant managers and other senior and principal officers; or

- (c) any other prominent function which the Minister may, by notice published in the *Gazette*, specify;

“property” has the meaning ascribed to it under the Proceeds of Crime Act;

Cap. 256

“reasonable measures” means appropriate measures which are commensurate with the money laundering, terrorist financing or proliferation financing risk;

“regulator” includes, the:

- (a) Bank of Tanzania;
- (b) Capital Markets and Securities Authority;
- (c) Tanzania Insurance Regulatory Authority;
- (d) Gaming Board of Tanzania;
- (e) Registrar of Societies
- (f) Registrar of Cooperatives;
- (g) Registrar of Titles;
- (h) Registrar of Non-Governmental Organisations;
- (i) Registrar of Political Parties;
- (j) Energy and Water Utilities Regulatory Authority;
- (k) Tanzania Communication Regulatory Authority;
- (l) Business Registration and Licensing Agency;
- (m) Tanzania Investment Centre;
- (n) Tanganyika Law Society;
- (o) Architects and Quantity Surveyors Registration Board;
- (p) National Board of Accountants and Auditors;
- (q) Registration, Insolvency and Trusteeship Agency; and
- (r) any other regulatory authorities or agencies which the Minister may, by order published in the *Gazette* specify;

“reporting person” means-

- (a) banks and financial institutions;
- (b) cash dealer;

- (c) an accountant, real estate agent, auditor, tax adviser, dealer in precious stones work of arts or metals;
 - (d) trust and company service provider;
 - (e) motor vehicle dealer;
 - (f) clearing and forwarding agent;
 - (g) advocates, notaries and other independent legal professionals when:
 - (i) assisting clients in preparing or executing transactions involving:
 - (aa) the purchase or sale of real property or commercial enterprises;
 - (bb) management of funds, securities or other assets which belong to a client;
 - (cc) the opening or management of bank accounts, saving accounts or portfolios
 - (dd) the organisation of contributions required to create, manage or direct corporations or legal entities;
 - (ee) the creation, management or direction of corporations or legal entities; and
 - (ff) the buying or selling of business entities;
 - (ii) acting on behalf of a client in any financial or real estate transaction;
 - (h) pension funds managers, securities market intermediaries, financial leasing entities, microfinance service providers except for community microfinance groups classified as Tier 4 in the Microfinance Act and companies and financing housing companies;
 - (i) auctioneers; and
 - (j) any other person who the Minister may, by notice published in the *Gazette*, specify;
- “risk assessment” means identifying, assessing and understanding risks and documenting the process and the findings or results;
- “senior management” means natural persons within a body corporate at the highest level of management who have the day to day task of managing the body corporate and

includes directors, chief executive officers, their deputies and where appropriate, members of the board of directors or of equivalent function;

“terrorist financing” means-

- (a) the provision of finance or economic resources or making available financial or related services to-
 - (i) a terrorist, terrorist group, terrorist entity, terrorist course or a terrorist act;
 - (ii) an individual, a group or entity that is concerned with a terrorist, terrorist group, terrorist entity, terrorist course or a terrorist act;
- (b) conducting a financial transaction or facilitating a financial transaction directly or indirectly, in order to deal with property that is owned or controlled by a terrorist, terrorist group or terrorist entity;
- (c) conducting financial transaction or facilitating a financial transaction directly or indirectly, in order to deal with property on behalf of a terrorist, terrorist group or terrorist entity;
- (d) financing or facilitating travel of any individual or a group of individuals to a country other than their country of residence or nationality in order to participate in a terrorist course, terrorist training or terrorist act, or in order to directly or indirectly conduct, perpetrate, plan or prepare terrorist acts;
- (e) organising or directing others to commit any of the acts in paragraphs (a), (b), (c) or (d) or participating in any of those acts as an accomplice; or
- (f) an attempt to commit any of the acts in paragraphs (a), (b), (c), (d) or (e);

“trust and company service provider” means a person who, by way of business, provides any of the following services:

- (a) the formation of body corporate;
- (b) acting as, or arranging for another person to act as, a director, secretary or a similar position in relation to a body corporate;

- (c) providing a registered office, business address, correspondence or administrative address and other related services for a body corporate;
- (d) acting as, or arranging for another person to act as, a trustee of a trust or a similar legal arrangement; or
- (e) acting as, or arranging for another person to act as, a nominee shareholder for another person other than a company listed in a regulated market that is subject to disclosure requirements in accordance with the laws of the United Republic or subject to equivalent international standards;

“virtual asset” means a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes and is recognised by the government of the United Republic and does not include digital representations of fiat currencies, securities and other financial assets that are already covered in the laws of the United Republic;

“virtual asset service provider” means a person who conducts one or more of the following activities or operations for or on behalf of a customer:

- (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 or administration of virtual assets or instruments enabling control over virtual assets; and
- (e) participation in and provision of financial services related to an issuer’s offer or sale of a virtual asset.

PART II

THE FINANCIAL INTELLIGENCE UNIT AND THE NATIONAL COMMITTEE

Establishment
of Financial
Intelligence Unit
Acts Nos.
1 of 2012 s. 4;
2 of 2022 s. 5

4.–(1) There shall be established under the Ministry responsible for finance an Extra Ministerial Department to be known as a Financial Intelligence Unit also known by an acronym FIU.

(2) The FIU shall be responsible for receiving, analyzing and disseminating suspicious transaction reports, currency transaction reports, cross border currency reports, electronic funds transfer reports and other information regarding actual or potential money laundering, terrorist financing or proliferation financing received from the reporting persons and other sources from within and outside the United Republic.

(3) The FIU shall have operational and budgetary independence as may be necessary for effective discharge of its functions.

Appointment of
Commissioner
Act No.
1 of 2012 s. 5

5.-(1) The President shall appoint a person who has adequate knowledge and experience either in economics, monetary affairs, finance, law, financial crimes or any other field that is beneficial to the execution of this Act, to be the Commissioner of FIU.

(2) The Commissioner shall be responsible for the general administration of the FIU.

(3) The Commissioner shall be the Chief Executive Officer as well as the accounting officer of the FIU and shall perform the functions and exercise powers conferred upon him by this Act.

(4) The Commissioner shall hold office for a term of five years and may be re-appointed for another one term of five years subject to satisfactory performance.

(5) The President may remove the Commissioner from office on the grounds of misconduct, incompetency or for a ground of mental or physical incapacity.

(6) Where the removal of the Commissioner is in question, the President shall form a Committee to inquire into and make recommendation to the President on the matter.

(7) Where the Committee recommends that the removal of the Commissioner should not be made, the President shall not remove the Commissioner.

(8) The Committee shall consist of-

- (a) a judge of the High Court;
- (b) a senior police officer;

- (c) a senior officer from the Bank of Tanzania; and
- (d) two other prominent persons who have knowledge and experience on the matter which is the subject of inquiry.

(9) Where the inquiry is commended in terms of subsection (6), the Commissioner shall be temporarily relieved from duty pending completion of inquiry and measures taken by the President.

(10) The Committee shall make its own procedure for the conduct of investigation.

Powers and duties
of FIU
Acts Nos.
1 of 2012 s. 6;
2 of 2022 s. 6

6.—(1) For the purposes of section 4, the Financial Intelligence Unit shall be a national center responsible for receiving, analysing, keeping and maintaining suspicious transaction reports and other information concerning money laundering and associated predicate offences, terrorist financing and proliferation financing and in that respect, the FIU shall-

- (a) receive suspicious transaction reports, currency transaction reports, cross border currency reports, electronic funds transfer reports and such other reports or information submitted by reporting persons or submitted from any other source and conduct operational and strategic analysis on such reports and information;
- (b) disseminate the results of the analysis to law enforcement agencies, supervisory authorities or other competent authorities;
- (c) supervise reporting persons for compliance with anti-money laundering, countering terrorist financing and countering proliferation financing obligations under this Act and any other written laws;
- (d) compile statistics and records and share information relating to money laundering, terrorist financing and proliferation financing within or outside the United Republic;
- (e) make recommendations and advise the National Committee on matters relating to anti-money

- laundering, countering terrorist financing and countering proliferation financing;
- (f) in consultation with regulators of the relevant reporting persons, issue guidelines to such reporting persons in respect of obligations provided for under this Act, and any other anti-money laundering, countering terrorist financing and countering proliferation financing obligations under any other written laws;
 - (g) create training requirements and provide such training for stakeholders including reporting persons and their employees, judicial officers and competent authorities;
 - (h) consult with a relevant person, institution or organisation for the purpose of discharging its duties under this section;
 - (i) request for or have access to information from a reporting person, regulator or law enforcement agency or any other relevant legal person in the manner provided for in the regulations;
 - (j) require any reporting person to report to FIU any suspicious transaction or activity where that reporting person suspects that the transaction or activity involves money laundering, terrorist financing or proliferation financing;
 - (k) in collaboration with the regulator or on its own, supervise reporting persons for anti-money laundering, countering terrorist financing or countering proliferation financing compliance;
 - (l) prepare periodic reports on money laundering, terrorist financing and proliferation financing typologies and trends, in the manner provided for in the regulations;
 - (m) enter into agreements or related arrangements overseas with financial intelligence units and comparable bodies and other foreign counter parts for exchange of information pertaining to combating money laundering and associated predicate offences, terrorist financing and proliferation financing;

- (n) exchange information with domestic competent authorities in combating money laundering, terrorist financing and proliferation financing; and
 - (o) liaise with the relevant investment and business registration and licensing authorities in assessing genuine investors.
- (2) Upon analysis of the reports and information, the Commissioner or an employee of the FIU designated by him may-
- (a) where there are reasonable grounds to suspect money laundering, terrorist financing, proliferation financing or any other crime, disseminate spontaneously or upon request intelligence or any other information to relevant law enforcement agencies for investigation and possible prosecution;
 - (b) disseminate spontaneously or upon request reports to a competent authority for any relevant action including reporting person supervisory action, recovery of taxes, and inform on anti-money laundering, countering terrorist financing and countering proliferation financing; or
 - (c) share the information with any other relevant stakeholders within or outside the United Republic.
- (3) The Commissioner may, where he has received information from the reporting person pursuant to section 18 and upon reasonable grounds, suspend a suspicious transaction or activity for a period not exceeding five working days to allow time for investigation on the matter.
- (4) The suspension under subsection (3) shall lapse after five days.

Employees of FIU
Act No.
1 of 2012 s. 7

7.-(1) There shall be appointed such number and categories of employees of the Government or other public institutions of such qualifications as may be considered necessary to assist the Commissioner in the performance of FIU.

(2) In appointing such employees, the appointing authority shall in particular have regard to persons with experience in law, finance, customs and law enforcement.

(3) The employees referred to under subsection (1), shall hold office for a term of five years and shall be eligible for re-appointment.

(4) The employees of the FIU shall be subject to initial and periodical disclosure of financial position in the manner as may be prescribed under the regulations.

(5) An employee of the FIU shall be under the general obligation to keep all information that comes to his knowledge as confidential during his employment and after termination of employment.

(6) A person who contravenes the provisions of subsection (5), commits an offence and shall be liable-

- (a) in the case of an employee, to administrative actions or any other sanctions which may be imposed under section 33; and
- (b) in the case of former employee, a fine of five million shillings or imprisonment for a term of three years or to both.

Establishment
and composition
of National
Committee
Acts Nos.
1 of 2012 s. 8;
2 of 2022 s. 7

8.-(1) There is established for the purposes of this Act, a National Multi-Disciplinary Committee on Anti-Money Laundering, Counter Terrorist Financing and Counter Proliferation Financing.

- (2) The National Committee shall be composed of-
 - (a) one representative of the Bank of Tanzania, who shall be the Chairman;
 - (b) one representative of the Ministry of Finance;
 - (c) one representative of the Ministry of Finance of the Revolutionary Government of Zanzibar;
 - (d) one representative of the Office of the Attorney General;
 - (e) one representative of the Attorney General's Chambers of the Revolutionary Government of Zanzibar;
 - (f) two representatives of the Directorate of Criminal Investigation, one of whom shall come from its office in Tanzania Zanzibar;
 - (g) one representative of the Ministry responsible for foreign affairs;

- (h) the Commissioner of the FIU;
 - (i) one representative of the Capital Markets and Securities Authority;
 - (j) one representative from the National Prosecutions Service;
 - (k) one representative from the office of the Director of Public Prosecutions from the Revolutionary Government of Zanzibar;
 - (l) one representative from the Tanzania Revenue Authority;
 - (m) one representative from the Zanzibar Revenue Board;
 - (n) one representative from the Business Registration and Licensing Agency;
 - (o) one representative from Zanzibar Business and Property Registration Agency;
 - (p) one representative from the Ministry responsible for wildlife conservation;
 - (q) one representative from the Zanzibar Anti-Corruption and Economic Crimes Authority;
 - (r) one representative from the Drug Control and Enforcement Authority;
 - (s) one representative from the Zanzibar Drugs Control and Enforcement Authority;
 - (t) one representative of the Tanzania Intelligence and Security Service; and
 - (u) One representative from the Prevention and Combating of Corruption Bureau.
- (3) The National Committee may co-opt a person who appears to it to have special knowledge or experience in investigation of matters relating to anti-money laundering.
- (4) Members of the National Committee established under subsection (1) shall be-
- (a) appointed by the Minister; and
 - (b) senior officers who possess knowledge and experience in matters relating to money laundering, terrorist financing and proliferation financing.

(5) In appointing members of the Committee, the Minister shall take into consideration gender equality.

(6) The Minister shall appoint an employee from the public service to be the Secretary of the National Committee.

(7) The tenure of office for members of the Committee shall be three years but shall be eligible for re-appointment for another term.

Functions
of National
Committee
Acts Nos.
1 of 2012 s. 9
2 of 2022 s. 8

9. The functions of the National Committee shall be to-

- (a) formulate, assess, regularly review and improve the effectiveness of the policies and measures to combat money laundering and associated predicate offences, terrorist financing and proliferation financing;
- (b) advise the Government on legislative, regulatory and policy reforms in respect of anti-money laundering, countering terrorist financing, countering proliferation financing and combating crimes;
- (c) coordinate activities to identify, assess and create understanding of money laundering, terrorist financing and proliferation financing risks at the national, sectoral, institutional and individual level, to recommend risk mitigation measures, to oversee implementation of the risk assessment action plans and to ensure that such risk assessments are kept up-to-date;
- (d) coordinate engagements and engage with regional and international anti-money laundering, countering terrorist financing and countering proliferation financing bodies and advise the Government accordingly;
- (e) coordinate country assessments or evaluations by regional and international anti-money laundering, countering terrorist financing and countering proliferation financing bodies and advise the Government on implementation of the resulting action plans; and

- (f) establish and oversee operational mechanisms within the United Republic to coordinate and share information among competent authorities and other stakeholders, in order to combat money laundering, terrorist financing and proliferation financing.

Meetings
of National
Committee

10.—(1) The Members of the National Committee shall elect one from their number to be the Vice-Chairman.

(2) The Chairman shall preside over a meeting of the National Committee and in his absence the Vice-Chairman shall preside over the meeting.

(3) In the absence of both, the Chairman and Vice-Chairman, the members present shall elect one of their number to preside at that meeting.

(4) A majority of the members of the National Committee shall constitute a quorum at a meeting.

(5) The National Committee may regulate its own procedure for the conduct of its meetings.

Allowances and
remunerations

11. There shall be paid to the members of the National Committee such allowances or remunerations and other payments as shall be determined by the Minister.

PART III

PROHIBITION OF MONEY LAUNDERING

Offence of money
laundering
Act No. 2 of 2022
s. 9

12.—(1) A person who-

- (a) engages, directly or indirectly, in a transaction that involves property that is proceeds of a predicate offence while he knows or ought to know or ought to have known that the property is the proceeds of a predicate offence;
- (b) converts, transfers, transports or transmits property while he knows or ought to know or ought to have known that such property is the proceeds of a predicate offence, for the purposes of concealing, disguising the

illicit origin of the property or of assisting a person who is involved in the commission of such offence to evade the legal consequences of his actions;

- (c) conceals, disguises or impedes the establishment of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, while he knows or ought to know or ought to have known that such property is the proceeds of a predicate offence;
- (d) acquires, possesses, uses or administers property, while he knows or ought to know or ought to have known at the time of receipt that such property is the proceeds of a predicate offence; or
- (e) participates in, associates with, conspires to commit, attempts to commit, aids and abets or facilitates and counsels the commission of any of the acts described in paragraphs (a) to (d),

commits offence of money laundering.

(2) The offence of money laundering under subsection (1) shall be separate, independent and distinct from the crime underlying money laundering offence.

(3) It shall not be necessary that a person first be convicted of the crime underlying money laundering offence, in order for that person to be convicted of money laundering in subsection (1).

(4) Conviction for the offence of money laundering in subsection (1) shall not amount to conviction for the associated underlying crime to money laundering offence.

13.—(1) A person who contravenes the provisions of section 12 shall, on conviction-

- (a) if the person is an individual, be sentenced to a fine not exceeding five hundred million shillings and not less than one hundred million shillings or an amount equivalent to three times the market value of the property, whichever is greater or to a term of imprisonment not exceeding ten years and not less than five years; or

Penalties for
acts of money
laundering
Acts Nos.
1 of 2012 s. 10;
4 of 2016 s. 4

- (b) if the person is a body corporate, be liable to a fine not exceeding one billion shillings and not less than five hundred million shillings or be ordered to pay the amount equivalent to three times the market value of the property, whichever amount is greater.

(2) Notwithstanding the provisions of subsection (1), the Financial Intelligence Unit or regulator may apply to the court for an order against a body corporate that has been convicted of an offence under this section, namely-

- (a) barring that body corporate from carrying on business directly or indirectly for a period not exceeding three years;
- (b) placing that body corporate under supervision of the regulator; or
- (c) permanently barring that body corporate from carrying on business in respect of which an offence was committed directly or indirectly.

Offences by
corporate bodies
Act No.
2 of 2022 s. 10

14.-(1) Where an offence under the provisions of section 12 is committed by a body corporate or an association of persons, a person who, at the time of the commission of the offence, was-

- (a) a director, manager, controller or partner or a person holding a similar position; or
- (b) concerned in the management of its affairs,

may be convicted of that offence and shall be liable to a penalty specified in section 13 unless that person proves that, the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to the circumstances pertaining to commission of the offence.

(2) The director, manager, controller, partner or a person concerned in the management of affairs of a body corporate or an association may be convicted for an offence under subsection (1) notwithstanding that, such body corporate or association of persons has not been convicted of the offence.

(3) A person within the body corporate who would have committed an offence if any act had been done or omitted to be

done by him personally, commits that offence and on conviction shall be liable to the same penalty as if such act had been done or omitted to be done by his agent or officer in the course of that agent's business or in the course of that officer's employment unless he proves that the offence was committed without his knowledge or consent and he took all reasonable precautions to prevent the doing of, or omission to do, such an act.

PART IV

SUPERVISION OF ANTI-MONEY LAUNDERING, COUNTERING TERRORIST FINANCING AND PROLIFERATION FINANCING²

Undertaking
risk assessment,
risk mitigation
measures and
allocation of
resources
Acts Nos.
8 of 2020 s. 5;
2 of 2022 s. 12

15.—(1) There shall be conducted risk assessments on money laundering, terrorist financing and proliferation financing in the United Republic.

(2) Risk assessments in subsection (1) shall entail identifying, assessing and understanding risks at the national, sectoral and institutional level and commensurate risk mitigation measures shall be applied.

(3) Risk assessments in subsection (1) shall be conducted by competent authorities, reporting persons and other anti-money laundering, countering terrorist financing and countering proliferation financing stakeholders and shall be approved by the senior management.

(4) A person conducting the assessment under subsection (1) may seek assistance, data or information from any other person from within or outside the United Republic.

(5) There shall be established mechanisms to provide and share with relevant stakeholders, information from risk assessments for awareness creation, to prioritise the allocation of resources, to help in mitigating the associated risks and to help institute implementation of adequate measures to prevent

² The Heading to Part IV is amended by Act No. 2 of 2022 under section 11

money laundering, terrorist financing and proliferation financing.

(6) Reporting persons shall conduct money laundering, terrorist financing and proliferation financing risk assessment associated with-

- (a) new and existing customers, countries or geographical areas, products, services, transactions and delivery channels;
- (b) new products, business practices, services, technologies and delivery channels prior to their launch or use;
- (c) existing products, business practices, services, technologies and delivery channels which have undergone changes, prior to their continued use; and
- (d) the use of new or developing technologies for both new and pre-existing products.

(7) Subject to subsection (6)(d), new products shall include transfers within decentralised convertible virtual currencies or assets networks, person-to-person transfers involving hosted wallet providers, large value virtual currency payments or assets transfer, mobile payments and internet-based payments services.

(8) Subject to any relevant law allowing the use of virtual currencies or assets, when conducting risk assessment with respect of virtual currencies or virtual assets, the reporting persons shall pay particular attention to the risks posed by the nodes or points of intersection that are used to move value into and out of fiat currencies and shall focus the efforts on identifying higher risks convertible virtual currencies or assets.

(9) Reporting persons shall have appropriate mechanisms to provide to competent authorities results, findings and other information on risk assessments conducted in subsection (6).

(10) Competent authorities and reporting persons shall-

- (a) have documented policies, controls and procedures approved by senior management, to manage and mitigate the risks identified in subsections (1) and (6);
- (b) ensure that the level of detail of the documented policies, controls and procedures in the case of

reporting persons in paragraph (a) are commensurate with the size, structure and complexity of the business of the reporting person;

- (c) monitor and audit the implementation of policies, controls and procedures referred to in paragraph (a);
- (d) regularly review and update the policies, controls and procedures in paragraph (a) and document such reviews and updates; and
- (e) take enhanced measures to mitigate the risks in paragraph (a) where higher risks are identified.

(11) The risk assessments referred to under subsections (1) and (6) shall be kept up-to-date at a frequency commensurate with the identified risks, but at least once a year.

(12) In accordance with the identified risks in subsections (1) and (6), a regulator shall effectively monitor reporting persons under its purview and take the necessary measures to ensure that the risks are managed and mitigated and to enforce anti-money laundering, countering terrorist financing and countering proliferation financing compliance.

(13) The United Republic may decide not to apply some of the anti-money laundering, countering terrorist financing and countering proliferation financing measures based on proven low risk of money laundering, terrorist financing or proliferation financing.

(14) The reporting persons may apply simplified measures to manage and mitigate the risks, if the risk assessments have identified low risk areas and there is no suspicion of money laundering, terrorist financing or proliferation financing.

(15) Countering measures applied shall be proportionate to the identified risks and explanations shall be made on their proportionality to the risks *suo motto* or when called upon to do so.

(16) A person who fails to implement any anti-money laundering, countering terrorist financing and countering proliferation financing measures or requirements in accordance with this section shall be liable to administrative measures as may be imposed by the FIU or the regulator.

Reporting person
to conduct
customer due
diligence
Act No.
2 of 2022 s. 13

- 16.**—(1) A reporting person shall—
- (a) conduct customer due diligence in accordance with the identified risks—
 - (i) before establishing a business relationship;
 - (ii) before carrying out an occasional transaction;
 - (iii) when money laundering, terrorist financing or proliferation financing is suspected;
 - (iv) when the veracity or adequacy of documents, data or information previously obtained for the purposes of customer due diligence is doubted; or
 - (v) any time after establishing the materiality of money laundering, terrorist financing and proliferation financing risk;
 - (b) conduct ongoing monitoring after establishing a business relationship, including the updating of customer information;
 - (c) not open or operate an account in a false, disguised, anonymous or fictitious name;
 - (d) not commence a business relationship prior to completion of customer due diligence, provided that, under proven low risk, business relationship may commence pending the verification process;
 - (e) terminate an existing business relationship when customer due diligence cannot be completed; and
 - (f) submit a suspicious transaction report to the FIU when customer due diligence cannot be completed as provided under paragraphs (d) and (e).
- (2) The reporting person shall, when conducting customer due diligence—
- (a) obtain and verify information on the ultimate beneficial owners of a legal person, entity or arrangement;
 - (b) in relation to politically exposed person, in addition to undertaking normal due diligence measures—
 - (i) have appropriate risk management systems to determine whether the customer is a politically exposed person;

- (ii) obtain senior management approval for establishing business relationship with such customer;
- (iii) take reasonable measures to establish the source of wealth and source of funds; and
- (iv) conduct enhanced ongoing monitoring on that relationship.

(3) A reporting person may, subject to conditions prescribed in the regulations, rely on customer due diligence conducted by another reporting person.

[s. 15A]

Reporting persons to establish and maintain records
Acts Nos.
1 of 2012 s. 11;
2 of 2022 s. 14

17.-(1) A reporting person shall-

- (a) establish and maintain records of all domestic and international transactions, know your customer files, customer due diligence, accounts, business correspondences, risk assessments on money laundering, terrorist financing and proliferation financing and suspicious transaction reports and the results of any analysis carried out, and all other reports and statistics required by this Act; and
- (b) retain records required under this section for a minimum period of ten years from the date-
 - (i) when all activities relating to a transaction or a series of linked transactions were completed or was last carried out;
 - (ii) when the business relationship was formally ended; and
 - (iii) when analysis or when money laundering, terrorist financing or proliferation financing risk assessment was completed:

Provided that, a reporting person who closes business shall submit all records required under paragraph (a) to the regulator or, where there is no regulator in respect of the reporting person, to the FIU and the provisions of this paragraph shall not apply.

(2) The reporting person shall, where a report has been made to the FIU or he knows or believes that a matter is under investigation, without prejudice to subsection (1), retain all relevant records for as long as may be required by the competent authority.

(3) Records required under subsection (1)(a) shall contain particulars sufficient to identify-

- (a) the name, address and occupation or where appropriate, business or principal activity of each person-
 - (i) conducting the transaction; or
 - (ii) on whose behalf the transaction is being conducted, as well as the method used by the reporting person to verify the identity of each such person;
- (b) the nature and date of the transaction;
- (c) the type and amount of currency involved;
- (d) the type and identification number of any account with the reporting person involved in the transaction;
- (e) the following details if the transaction involves a negotiable instrument:
 - (i) the name of the drawer of the instrument;
 - (ii) the name of the institution on which it was drawn;
 - (iii) the name of the payee, if any;
 - (iv) the amount and date of the instrument;
 - (v) the number, if any, of the instrument; and
 - (vi) details of any endorsements appearing on the instrument; and
- (f) the name and address of the reporting person, and of the officer, employee or agent of the reporting person who prepared the record.

(4) Records maintained pursuant to this section shall be made available on timely basis to competent authorities upon request.

(5) Where a reporting person is required by any provision of law to release any document referred to under this section, he shall retain a copy of the document and maintain a register of

released documents with such particulars as may be prescribed in the regulations.

(6) A reporting person who contravenes the provisions of this section commits an offence and shall-

- (a) be liable to administrative sanctions as prescribed under section 21; or
- (b) on conviction, be liable to criminal sanctions as provided for under this Act.

[s. 16]

Reporting persons to report suspicious transactions Acts Nos. 1 of 2012 s. 12; 2 of 2022 s. 15

18.-(1) Where a reporting person suspects or has grounds to suspect that, funds or property are proceeds of crime, or are related or linked to or are to be used for commission or continuation of a predicate offence or has knowledge of a fact or an activity that may be an indication of money laundering, terrorist financing, proliferation financing or predicate offence, he shall within twenty-four hours after forming that suspicion and, wherever possible, before any transaction is carried out-

- (a) take reasonable measures to ascertain the purpose of the funds or property, transaction or proposed or attempted transaction, the origin and ultimate destination of the funds or property involved, and the identity and address of any ultimate beneficiary; and
- (b) prepare a report of the transaction or proposed or attempted transaction in accordance with subsection (2), and submit the report to the FIU by any secure means as may be specified by FIU.

(2) A report required under subsection (1) shall contain such particulars as may be specified in the regulations to be made.

(3) A reporting person who has reported a suspicious transaction or proposed suspicious transaction in accordance with this Part shall, if requested to do so by the FIU or a law enforcement agency investigating the suspicious transaction, give such further information in relation to such transaction.

(4) A person who contravenes the provisions of subsection (1) commits an offence and on conviction shall-

- (a) if the person is an individual, be liable to a fine not exceeding five million shillings or imprisonment for a term not exceeding five years; or
 - (b) if the person is a body corporate, be liable to a fine of not exceeding ten million or three times the market value of the property, whichever is greater.
- (5) Notwithstanding the provisions of subsection (3), the records of other transactions shall be kept in the manner as prescribed in the regulations.

[s. 17]

Reporting persons to establish and maintain internal reporting procedures
Act No. 2 of 2022 s. 16

19.–(1) A reporting person shall establish and maintain internal policies, controls and procedures that-

- (a) ensure that persons to be engaged or employed by the reporting person are properly screened and vetted, in order to recruit qualified persons with integrity;
- (b) designate a natural person as money laundering reporting officer, to whom its employees shall report any actual or suspicious activities or transactions in terms of money laundering, terrorist financing, proliferation financing or any other criminal activity which comes to the attention of employees in the course of work;
- (c) enable the money laundering reporting officer to have reasonable access to information that may be relevant in determining whether sufficient basis exists to report the suspicious activity or transaction to the FIU, pursuant to section 18;
- (d) require the money laundering reporting officer to report the suspicious activity or transaction to the FIU pursuant to section 18, in the event there exists reasonable grounds to report the matter;
- (e) put in place measures to ensure that employees are made aware of the legislation relating to combating money laundering, terrorist financing and proliferation financing and related policies, procedures and controls, that are established and maintained pursuant to this Act;

- (f) ensure that relevant employees are appropriately trained on a regular basis in the recognition and handling of suspicious transactions relating to money laundering, terrorist financing and proliferation financing;
- (g) provide for compliance management arrangements that ensure that anti-money laundering, countering terrorist financing and countering proliferation financing matters are addressed by the compliance department or function; and
- (h) ensure independent and regular auditing of the internal policies, procedures and controls established in this section is carried out.

(2) In determining whether a person has complied with any requirement of paragraphs (e) and (f) of subsection (1), the court shall have regard to all the circumstances of the case, including such customs and practices as may be current in the relevant trade, business, profession or employment, and may take account of any relevant guidance adopted or approved by a public authority or other body that supervises, regulates or acts as a representative of the trade, business, profession or employment carried on by that person.

[s. 18]

Reporting
persons to
implement group
wide programmes
Act No.
2 of 2022 s. 16

20.—(1) A reporting person shall, in addition to requirements provided for under section 19—

- (a) in the case of reporting persons with group-wide corporate structures, formulate and implement consistent group-wide programmes to combat money laundering, terrorist financing and proliferation financing, which shall include policies, procedures and controls for sharing information within the group;
- (b) in the case of reporting persons whose corporate structures extend beyond the United Republic, ensure that their foreign branches and majority-owned subsidiaries apply anti-money laundering, countering terrorist financing and countering proliferation

financing measures consistent with the requirements of section 19;

- (c) in the case of foreign operations of such reporting persons, where the minimum anti-money laundering, countering terrorist financing and countering proliferation financing requirements of the host country or jurisdiction are less strict than those of the United Republic, ensure that their branches and majority-owned subsidiaries in host countries implement the requirements of the United Republic, to the extent that the host country legislation permits;
- (d) where the host country does not permit the proper implementation of the measures of the United Republic, apply appropriate additional measures to manage the money laundering, terrorist financing and proliferation financing risks, and inform their respective regulator in the host country or jurisdiction, and in the United Republic; and
- (e) where the additional measures are not sufficient, the relevant regulator in the United Republic shall consider additional supervisory actions such as placing additional controls on the reporting person, including as appropriate, requesting the financial group to close down its operations in the host country or jurisdiction.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable-

- (a) to administrative sanctions as prescribed in the regulations made under section 21; or
- (b) on conviction, to a fine of not less than five hundred thousand shillings but not exceeding five million shillings or to imprisonment for a period of twelve months, in the case of a natural person; or
- (c) on conviction, to a fine of not less than five million shillings but not exceeding ten million shillings, in the case of a body corporate.

[s. 19]

Administrative
sanctions
Acts Nos.
1 of 2012 s. 13;
2 of 2022 s. 17

21. Where a reporting person fails to comply with the provisions of section 15, 17, 18 or 19, the FIU or regulator shall impose any of the following administrative sanctions:

- (a) warning or caution not to repeat the conduct which led to non-compliance;
- (b) reprimand;
- (c) directives to take remedial action or to make specific arrangement to remedy the default;
- (d) restriction or suspension of certain business activities;
- (e) suspending a business licence; or
- (f) suspension or removal from office a member of staff who caused or failed to comply.

[s. 19A]

Tipping off
Act No.
1 of 2012 s. 14

22.-(1) A person shall not disclose or warn any person involved in the transaction or to an unauthorised third party, during the establishment or course of customer relationship or when conducting occasional transactions-

- (a) that, a suspicious transaction report under section 18 may be prepared, or is being prepared or has been sent to the FIU; or
- (b) any other information or matter, except so far as is required by this Act.

(2) A person who contravenes the provisions of subsection (1), commits an offence and on conviction shall-

- (a) if the person is an individual, be liable to a fine not exceeding five hundred million shillings and not less than one hundred million shillings or to imprisonment for a term not exceeding ten years and not less than five years;
- (b) if the person is a body corporate, be liable to a fine not exceeding one billion shillings and not less than five hundred million shillings or three times the market value of the property, whichever amount is greater.

[s. 20]

Secrecy obligation
overridden
Acts Nos.
1 of 2012 s. 15;
2 of 2022 s. 18

23.-(1) The provisions of this Part shall have effect notwithstanding any obligation as to secrecy or other

restrictions, upon the disclosure of information imposed by any law or otherwise.

(2) For the purpose of subsection (1), competent authorities and reporting persons may, on matters related to combating money laundering, terrorist financing and proliferation financing, share information among each other or with their counterparts overseas.

[s. 21]

Protection
of reporting
persons,
witnesses and
informers
Acts Nos.
1 of 2012 s. 16;
2 of 2022 s. 19

24.–(1) Notwithstanding any other written law, no criminal, civil or administrative proceedings for breach of banking or professional secrecy or contract shall be instituted against a reporting person, or a person employed or engaged by the reporting person, or a partner of a reporting person who, in good faith, submitted a report or supplied information in compliance with this Act.

(2) In any criminal proceedings brought under this Act, the court may, upon an application by the Attorney General, order-

- (a) witness testimony to be given through the use of communication technology such as video conferencing;
- (b) non-disclosure or limitations as to the identity and whereabouts of a witness taking into account the security of the informer or witness; or
- (c) any other protection as the court may, upon application by the Attorney General, order.

(3) The provisions of subsection (1) shall apply equally to victims in so far as are witnesses.

[s. 22]

Obligation to
report physical
cross border
transportation
of cash or bearer
negotiable
instruments
Acts Nos.
1 of 2012 s. 17;
2 of 2022 s. 20

25.–(1) A person, who transports into or out of the territory of the United Republic, cash or a bearer negotiable instrument in any amount equal to or above the amount prescribed in the regulations, shall declare to an officer of customs such cash or bearer negotiable instrument and the customs shall transmit that information to the FIU.

(2) Subject to subsection (1), a customs officer shall have powers to stop and restrain cash or bearer negotiable instrument for a reasonable time in order to make the necessary enquiries or to ascertain whether evidence of money laundering, terrorist financing or proliferation financing may be found.

(3) Where a customs officer exercises the powers under subsection (2), he shall notify the owner of the cash or bearer negotiable instrument on the time expected to be spent to conduct the necessary enquiries or ascertainment which shall not exceed fourteen days.

(4) Where a customs officer is satisfied that-

- (a) amount of cash or bearer negotiable instruments has not been declared;
- (b) amount of cash or bearer negotiable instruments or any other particular, detail or information has been falsely or inaccurately declared;
- (c) the person making the declaration has not provided convincing or satisfactory responses on, among others, the source of the cash or bearer negotiable instruments, the ultimate beneficiaries, or the intended use of the cash or bearer negotiable instruments; or
- (d) there is suspicion of money laundering, terrorist financing, proliferation financing or predicate offence, even if cash or bearer negotiable instruments have been correctly or accurately declared,

he shall take reasonable measures including seizing part or the whole amount of cash or bearer negotiable instruments.

(5) The FIU shall open a special account into which all the seized cash or bearer negotiable instruments shall be kept.

(6) Where a person fails to comply with the reporting obligation provided for under subsection (1), competent authority may impose any administrative sanction against such person.

(7) A person who contravenes the provisions of subsection (1) or otherwise, commits an offence and shall be liable to a penalty provided for in section 33.

(8) A person who, knowingly, makes false or wrong reporting of cash or a bearer negotiable instruments, commits an offence and shall be liable to a penalty provided for under section 33, and in addition, the court may order confiscation of cash or a bearer negotiable instrument in respect of which an offence was committed.

[s. 23]

Regulator's
obligation
Acts Nos.
1 of 2012 s. 17;
2 of 2022 s. 21

26.—(1) The regulator or FIU shall-

- (a) enforce compliance by reporting persons in accordance with the requirements of this Act;
- (b) conduct onsite and offsite examinations for the purpose of monitoring and ensuring compliance by reporting persons; and
- (c) impose administrative sanctions for non-compliance.

(2) Subject to subsection (1)(b), the supervision for anti-money laundering, countering financing terrorism and countering proliferation financing compliance shall include the application of the consolidated group supervision or monitoring.

[s. 23A]

PART V FINANCIAL PROVISIONS

Sources of fund

27. The funds of the FIU shall consist of-

- (a) such sums as may be appropriated by the Parliament; and
- (b) grants and donations lawfully received by the FIU.

[s. 24]

Financial year

28. The financial year of the FIU shall be the period of twelve calendar months beginning on the first day of July of every year.

[s. 25]

Accounts and
audit
Act No.
1 of 2012 s. 18

29.—(1) The FIU shall keep accounts and records of its transactions and affairs and shall ensure that all moneys received are properly brought to account and all payments out of its moneys are correctly made and properly authorised and adequate control is maintained over its property.

(2) The Commissioner shall, as soon as practicable but not later than ninety days after the thirtieth day of June in each year, cause to be submitted to the Controller and Auditor-General, accounts and financial records of the FIU, who shall audit them and prepare a report on the accounts and submit the report to the Minister, who shall lay it before the National Assembly.

[s. 26]

PART VI MISCELLANEOUS PROVISIONS

Immunity

30. An action shall not be taken against the FIU, the Commissioner, members of the National Committee and employees of FIU in respect of an act done or omission made by the FIU, Commissioner, members of the Committee or an employee of the FIU in good faith, in the exercise of the functions conferred on the FIU under this Act and the Criminal Procedure Act.

Cap. 20

[s. 27]

Application of
proceeds of crime
Caps. 256
and 20

31. The procedure in relation to arrest, information gathering powers, trial, determination, confiscation, forfeiture, pecuniary penalty and restraining orders and control of property liable to confiscation, shall be in accordance with the provisions of the Proceeds of Crime Act and the Criminal Procedure Act.

[s. 28]

Disclosure of
information
Act No.
1 of 2012 s. 19

32. A person who is or was engaged in the administration of this Act and discloses any information acquired by that person by virtue of his position to unauthorised person, commits an offence.

[s. 28A]

General penalty
Acts Nos.
1 of 2012 s. 19;
2 of 2022 s. 22

33.—(1) Where a person contravenes any provision of this Act or regulations made under this Act and no specific penalty is stipulated for that offence, that person on conviction shall—

- (a) in case of an individual person, be liable to a fine not exceeding five hundred million shillings and not less than one hundred million shillings or be ordered to pay the amount equivalent to the total amount of money involved or market value of the property, whichever amount is greater or imprisonment for a term not exceeding three years;
- (b) in case of a body corporate, be liable to a fine of not less than five hundred million shillings or be ordered to pay the amount equivalent to the total amount of money involved or market value of the property, whichever amount is greater.

(2) For purposes of subsection (1), every director, manager, controller, principal officer or a person holding a similar position in a body corporate shall be deemed to have committed the offence unless that person proves that, the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to the circumstances pertaining to commission of the offence.

[s. 28B]

Court jurisdiction
over foreigner
Act No.
1 of 2012 s. 19

34.—(1) The High court shall have jurisdiction to try a person from a foreign state for an offence committed outside the United Republic which would constitute an offence under this Act.

(2) A person from a foreign state shall not be prosecuted except with the consent of the Director of Public Prosecutions.

(3) For the purpose of subsection (1), prosecution against a person who commits an offence outside the United Republic shall only be conducted where that person cannot be extradited to a foreign state where the offence was committed.

[s. 28C]

Maintenance of
statistics
Act No.
2 of 2022 s. 23

35.—(1) Competent authorities shall keep and maintain the following statistics concerning money laundering, terrorist financing and proliferation financing and predicate offences:

- (a) statistics on investigations, prosecutions, convictions, seizures, freezing, forfeiture and confiscations of proceeds and instrumentalities of crime; and
- (b) information on mutual legal assistance, extraditions, suspicious transaction reports and other reports that are submitted to the FIU, intelligence reports that are disseminated by the FIU and any other information that competent authorities exchange with counterparts at the national and international level,

and shall provide the statistics to the FIU semi-annually in the manner as the FIU and the relevant competent authority shall agree.

[s. 28D]

Regulations
Acts Nos.
1 of 2012 s. 20;
2 of 2022 s. 24

36.—(1) The Minister may make regulations for the better carrying out of the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations prescribing-

- (a) matters required or permitted by this Act to be prescribed;
- (b) manner and procedure of carrying out customer due diligence;
- (c) the manner and procedure for making declaration of cash or bearer negotiable instruments that are transported in or out of the United Republic; and
- (d) matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[s. 29]