

THE UNITED REPUBLIC OF TANZANIA

*Supplement No. 47**22nd November, 2023****SPECIAL SUPPLEMENT***

To The Special Gazette Of The United Republic Of Tanzania No. 48 Vol. 104 Dated 22nd November, 2023
Printed By The Government Printer, Dodoma By Order Of Government

TANGAZO LA SERIKALI Na. 853E la tarehe 22/11/2023

**THE ANTI-MONEY LAUNDERING ACT,
(CAP. 423)****REGULATIONS***(Made under section 29)***THE ANTI-MONEY LAUNDERING (AMENDMENT) REGULATIONS, 2023**

Citation

GN. No.
397 of 2022

1. These Regulations may be cited as the Anti-Money Laundering (Amendment) Regulations, 2023 and shall be read as one with the Anti-Money Laundering Regulations, hereinafter referred to as the “principal Regulations”.

Amendment of
regulation 3

2. The principal Regulations are amended in regulation 3(2) by deleting the words “once a year” and substituting for them the words “after every three years”.

Amendment of
regulation 6

3. The principal Regulations are amended in regulation 6, by-

(a) adding immediately after subregulation (1) the following:

“(2) The frequency and intensity of on-site and off-site anti-money laundering or financing terrorism supervision of reporting persons or reporting entity group shall be determined on the basis of-

(a) the money laundering or terrorist

financing risks and the policies, internal controls and procedures associated with the reporting person or group, as identified by the regulator's assessment of the reporting person or the reporting entity group's risk profile;

(b) the money laundering or terrorist financing risks present in the country;

(c) the characteristics of the reporting person or reporting entity group, in particular the diversity and number of financial institutions and the degree of discretion allowed to them under the risk-based approach;

(d) in the case of financial entities, the most recent risk assessment, audit or on-site inspection findings presented in the reporting person's regular or special report conducted by their respective sectoral regulatory bodies;

(e) significant non-compliance trends observed in one of the entities within the group of entities regardless of the nature of business (financial or non-financial) or location (local or external).

(3) Notwithstanding subregulation (2), the supervision of designated non-financial businesses and professions pursuant to section 23A, shall be on a risk-sensitive basis, by-

(a) determining the frequency and intensity of supervision on the basis of the understanding of the money laundering terrorist financing and proliferation

financing risks they face, taking into consideration their characteristics, in particular their diversity and number; and

- (b) taking into account the money laundering, terrorist financing and proliferation financing risk profile and the degree of discretion allowed to them under the risk-based approach, when assessing the adequacy of the anti-money laundering, counter terrorist financing and counter proliferation financing internal controls, policies and procedures.”; and

- (b) renumbering subregulations (2) and (3) as (4) and (5) respectively.

Addition of
regulation 6A

4. The principal Regulations are amended by adding immediately after regulation 6 the following:

“Regulator
review of risk
profile of
reporting
persons

6A. A regulator shall review the assessment of the money laundering, terrorist financing and proliferation financing risk profile of a reporting person or reporting person’s group including the risks of non-compliance periodically and when there are major events or developments in the management and operations of the financial institution or group.”.

Amendment of
regulation 8

5. The principal Regulations are amended in regulation 8, by-

- (a) designating the contents of regulation 8 as subregulation (1); and
(b) adding immediately after subregulation (1) as designated the following:

“(2) A reporting person shall undertake customer due diligence measures when carrying out occasional transactions

above Tanzanian shillings equivalent to fifteen thousand United States Dollars, including situations where the transaction is carried out in a single operation or in several operations which appear to be linked.

(3) A reporting person shall adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification in which activities that may be conducted pending verification shall include opening and allowing an initial deposit or deposit of funds for any new or existing low risk services.

(4) In relation to politically exposed persons and in addition to customer due diligence requirements under this regulation, reporting persons shall-

(a) take reasonable measures to determine whether a customer or the beneficial owner is such a politically exposed person; and

(b) in case there is higher risk business relationship with such politically exposed person, adopt the measures under section 15A(2)(b) of the Act.

(5) Trust and company service providers shall conduct customer due diligence pursuant to section 15A of the Act and this regulation when preparing for or carrying out transactions for a client concerning the following activities:

(a) acting as a formation agent of legal persons;

(b) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal

- persons;
- (c) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - (d) acting as or arranging for another person to act as a trustee of an express trust or performing the equivalent function for another form of legal arrangement; and
 - (e) acting as or arranging for another person to act as a nominee shareholder for another person.”.

Addition of
regulation 8A

6. The principal Regulations are amended by adding immediately after regulation 8A the following:

“Identification
of beneficial
owner

8B.-(1) Without prejudice to the provisions of the Act, these Regulations and any other written law, in order to facilitate proper identification of beneficial owner of legal person and legal arrangements, reporting persons shall, when identifying beneficial owner of the legal person or legal arrangements, identify the natural person who ultimately owns or controls the customer or the natural person on whose behalf a transaction or activity is being conducted including a natural person who exercises ultimate effective control over a legal person of legal arrangement.

(2) A natural person shall be identified as an ultimate beneficial owner and more than one natural persons can be the ultimate beneficial owners of a legal person or a legal arrangement and the term “ultimate ownership or control” shall include situations in which ownership or control is exercised

directly or indirectly, alone or together, including through a chain of legal persons or legal arrangements and in that regard, the reporting person shall, when conducting customer due diligence have regard to-

- (a) in relation to a legal person-
 - (i) the natural person who is acting alone or jointly either directly or indirectly;
 - (ii) to the extent that there is doubt as to whether the person identified under subparagraph (i) is the beneficial owner or where no natural person is identified, the natural person exercising control of the legal person or legal arrangement through other means;
 - (iii) where exceptionally no natural person is identified under subparagraphs (i) and (ii), the natural person who holds the position of senior managing official;
- (b) in relation to trusts-
 - (i) the settlor;
 - (ii) the trustee;
 - (iii) the protector;
 - (iv) the beneficiaries or class of beneficiaries;
 - (v) any other natural person exercising



ultimate effective control over the trust including through a chain of control or ownership; and

- (vi) in relation to other legal arrangements, the natural persons referred to under subparagraph (v).”.

Amendment of regulation 9

7. The principal Regulations are amended in regulation 9, by-

- (a) adding immediately after paragraph (m) the following:

“(n) pursuant to sections 18 and 19 of the Act, implement programs against money laundering, terrorist financing and proliferation financing which have regard to money laundering risks and the size of the business which include the following policies, procedures and controls:

- (i) compliance management arrangements including the appointment of a compliance officer at the management level;
- (ii) screening procedures to ensure high standards when hiring employees;
- (iii) an ongoing employee training programme; and
- (iv) an independent audit function to test the system;

(o) implement group wide programmes against money laundering and terrorist financing which are applicable and appropriate to all branches and majority-owned subsidiaries of the financial group which include the measures set out in section 19 and-

(i) policies and procedures for sharing information required for the purposes of customer due diligence and money laundering, terrorist financing and proliferation financing risk management;

(ii) the provision, at group-level compliance of the audit or anti-money laundering, counter financing of terrorists and counter financing of proliferation functions of customers, accounts, and transactions information from branches and subsidiaries when necessary, including information and analysis of transactions or activities which appear unusual where such analysis was done;

(iii) provision to branches and subsidiaries of information referred to in subparagraph (ii) from the group-level functions when relevant and appropriate to risk management;

(iv) adequate safeguards on the confidentiality and use of information exchanged,

including safeguards to prevent tipping-off;”;

- (b) renaming paragraphs (n) and (o) as paragraphs (p) and (q) respectively.

Amendment of regulation 10

8. The principal Regulations are amended in regulation 10, by-

- (a) deleting paragraph (d); and
(b) renaming paragraphs (e) and (f) as paragraphs (d) and (e) respectively.

Amendment of regulation 13

9. The principal Regulations are amended in regulation 13 by deleting subregulation (2) and substituting for it the following:

“(2) A reporting person may rely on the information previously obtained by a third party which covers one or more of the following elements of customer due diligence:

- (a) identification of the customer, whether permanent or occasional, and whether natural or legal person or legal arrangement and verification of the customer’s identity using reliable, independent source documents, data or information;
(b) verification that a person purporting to act on behalf of the customer is so authorized, and the identity and verification of the identity of the customer;
(c) identification of the beneficial owner and measures of verification of the identity of the beneficial owner based on the relevant information or data obtained from a reliable source indicating who is the beneficial owner; .”.

Amendment of
regulation 16

10. The principal Regulations are amended in regulation 16, by adding immediately after subregulation (2) the following:

“(3) The requirements to report suspicious transactions under this regulation shall, to all designated non-financial businesses and professions, be subject to the following qualifications:

(a) for lawyers, notaries, other independent legal professionals and accountants, when, they engage in a financial transaction on behalf of, or for a client, in relation to the following activities:

(i) buying and selling of real estate;

(ii) managing of client money, securities or other assets;

(iii) management of bank, savings or securities accounts;

(iv) organisation of contributions for the creation, operation or management of companies;

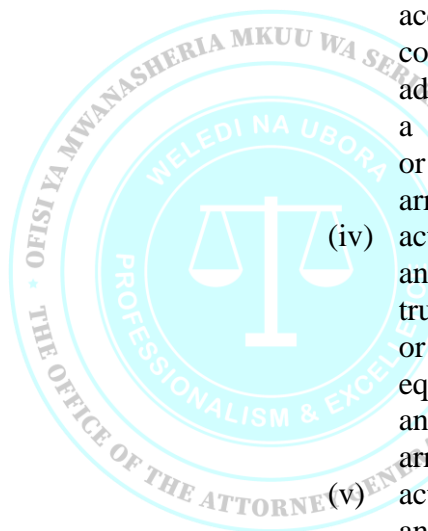
(v) creating, operating or management of legal persons or arrangements, and buying and selling of business entities;

(b) for dealers in precious metals or stones when they engage in a cash transaction with a customer equal to or above Tanzanian shillings equivalent to fifteen thousand United States Dollars;

(c) for trust and company service providers, when they engage in a transaction on behalf of or for a

client in relation to the following activities:

- (i) acting as a formation agent of legal person;
- (ii) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership or a similar position in relation to other legal persons;
- (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- (iv) acting as or arranging for another person to act as a trustee of an express trust or performing the equivalent function for another form of legal arrangement;
- (v) acting as or arranging for another person to act as a nominee shareholder for another person.”.



Dodoma,
21st November, 2023

MWIGULU LAMECK NCHEMBA MADELU,
Minister for Finance