FINANCIAL INTELLIGENCE AUTHORITY

ANTI-MONEY LAUNDERING GUIDELINES IN RELATION TO HIGH-RISK COUNTRIES

(Pursuant to Section 20(d) of the Anti-Money Laundering Act, 2013)

These Guidelines are hereby issued by the Financial Intelligence Authority pursuant to section 20(d) of the Anti-Money Laundering Act, 2013 this .....07..... day of .....02....., 2024.

PART I – PRELIMINARY

1. Title.

These Guidelines may be cited as the Anti-Money Laundering Guidelines in relation to High-Risk Countries.

2. Application.

These Guidelines shall apply to all accountable persons as listed in the second schedule of the Anti-Money Laundering Act, 2013 –

(a) Advocates as defined in the Advocates Act, Notaries licensed and certified under the Notaries Public Act, Accountants as defined in the Accountants Act, and other independent legal professionals and accountants.[1]

(b) A board of executors or a trust company or any other person that invests, keeps in safe custody, controls, or administers trust property within the meaning of the Trustees Act.

(c) Casinos (which also includes internet casinos).

(d) Real estate agents.

(e) Dealers in precious metals and gems.

(f) Trust and company service providers not covered elsewhere in this Schedule which as a business provide any of the following services to third parties –

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

[1] This refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to 'internal' professionals that are employees of other types of business nor to professionals working for government agencies.

(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;

(v) acting as (or arranging for another person to act as) a nominee shareholder for another person.

(g) A financial institution as defined in the Financial Institutions Act.

(h) A broker, dealer or investment advisor licensed under the Capital Markets Authority Act.

(i) An insurance company licensed under the Insurance Act.

(j) Registrars of Companies.

(k) Registrars of Land.

(l) The Uganda Investment Authority.

(m) All licensing authorities in Uganda.

(n) Any other person who conducts the business of:

(i) acceptance of deposits and other repayable funds from the public including private banking;

(ii) lending including, inter alia, consumer credit, mortgage credit, factoring with or without recourse, and finance of commercial transactions;

(iii) financial leasing (not including financial leasing arrangements in relation to consumer products);

(iv) the transfer of money and value;[2]

(v) issuing and managing means of payment e.g., credit and debit cards, cheques, traveler's checks, money orders, bankers' drafts, electronic money;

(vi) financial guarantees and commitments;

(vii) trading in:

a. Money market instruments (cheques, bills, CDs, derivatives, etc.),

b. Foreign exchange,

c. Exchange, interest rate and index instruments,

d. Transferable securities,

e. Commodity futures trading;

(viii) Participation in securities issues and provision of financial services related to such issues;

(ix) Individual and collective portfolio management;

(x) Safekeeping and administration of cash or liquid securities on behalf of other persons;

(xi) Otherwise investing, administering or managing funds or money on behalf of other persons;

(xii) Underwriting and placement of life insurance and other investment related insurance, including non-life insurance business;[3]

(xiii) Money and currency changing.

(o) Non-governmental organizations, churches and other charitable organizations.

---

[2] This applies to financial activity in both the formal and informal sector, e.g. Alternative remittance activity. It does not apply to any natural or legal person that provides other persons solely with message or other support systems for transmitting funds.

[3] This applies to both insurance undertakings and to insurance intermediaries (agents and brokers).

(p) Virtual Assets Service Providers

3. Introduction.

These Guidelines are issued by the Financial Intelligence Authority pursuant to section 20(d) of the *Anti-Money Laundering Act, 2013* (AMLA), section 6(12) of the AMLA as amended, regulation 30 of the Anti-Money Laundering (AML) Regulations, 2023 and recommendation 19 of the FATF Recommendations which, is part of the FATF international standards on AML/CFT. Take note that regulation 30 of the 2023 AML Regulations amends Regulation 44 of the AML Regulations 2015.

FATF Recommendation 19 provides as follows,

> *"Financial Institutions should be required to apply enhanced due diligence measures to business relationships and transactions with natural and legal persons, and financial institutions, from countries for which this is called for by the FATF. The type of enhanced due diligence measures applied should be effective and proportionate to the risks.*
>
> *Countries should be able to apply appropriate countermeasures when called upon to do so by the FATF. Countries should also be able to apply countermeasures independently of any call by the FATF to do so. Such countermeasures should be effective and proportionate to the risks."*

Similarly, section 6(12) of the AMLA as amended provides that an accountable person shall apply enhanced due diligence measures to business relationships and transactions with persons or financial institutions from or in countries identified by the Authority or the accountable person as high risk.

Regulation 30(1) of the Anti-Money Laundering Regulations, 2023 provides that,

> *"(1) The Authority shall identify high-risk countries in respect of money laundering and terrorism financing and shall prescribe, by guidelines hosted on the official website of the Authority, measures to be applied by accountable persons in respect of a person or customer from, or transactions involving, those countries."*

These Guidelines are to give effect to the above provisions of the law and to implement FATF Recommendation 19.

4. Background.

The Financial Action Task Force (FATF) is an inter-governmental body that sets international standards on anti-money laundering (AML) and countering the financing of terrorism/proliferation (CFT/P). The FATF is also mandated to promote effective implementation of legal, regulatory and operational measures for combating ML/TF/PF and other related threats to the integrity of the international financial system.

The FATF works in collaboration with other international stakeholders and through its FATF Style Regional Bodies (FSRBs), to identify national-level vulnerabilities and jurisdictions with significant weaknesses in their AML/CFT regimes, and to work with them to address those weaknesses. The FATF's process helps protect the integrity of the international financial system by issuing public warnings about the risks emanating from the identified jurisdictions. These public warnings also put pressure on the identified jurisdictions to address their deficiencies in order to maintain their position in the global economy. Public identification, and the prospect of public identification encourages countries to swiftly make significant improvements.

The FATF identifies jurisdictions with weak measures to combat money laundering and terrorist financing in two FATF public documents that are issued three times a year. These include;

1. "**Public Statement**" (which identifies jurisdictions with strategic AML/CFT deficiencies to which countermeasures apply, and jurisdictions with strategic AML/CFT deficiencies that have not made sufficient progress or have not expressed a political commitment to address identified deficiencies); and

2. "**Improving Global AML/CFT Compliance: On-going Process**" (which identifies jurisdictions with strategic AML/CFT deficiencies that provided a high-level commitment to implement the action plan developed together with the FATF).

For all high-risk countries, the FATF calls on all members and urges all jurisdictions to apply enhanced due diligence. In the most serious cases, it asks countries to apply counter-measures to protect the international financial system from on-going ML/TF/PF risks emanating from the high-risk country. Such countries are often referred to as being on the 'FATF blacklist.'

It is against this background that these Guidelines are issued by the Financial Intelligence Authority for the following purposes;

1. To put in place mechanisms to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries;

2. To provide measures to be applied by accountable persons with respect to business relationships and transactions with persons or financial institutions from high-risk countries.

PART II – THE GUIDELINES

The Financial Intelligence Authority hereby issues these guidelines;

1. Identification of High - Risk Countries

According to regulation 30, the Financial Intelligence Authority shall identify high-risk countries in respect of money laundering and terrorism financing and shall prescribe, by notice in the Gazette, measures to be applied by accountable persons in respect of a person or customer from, or transactions involving those countries.

This shall be done in the following ways;

a) FIA shall notify all financial institutions through the GoAML Message board immediately after issuance of the FATF Public Statement.

b) FIA shall issue a circular to all supervised Financial Institutions immediately after FATF has issued a public statement, with a copies to; Bank of Uganda, Capital Markets Authority, Insurance Regulatory Authority and Uganda Microfinance Regulatory Authority as the financial sector supervisory bodies to monitor and ensure compliance.

c) FIA shall issue guidelines prescribing the measures to be applied by accountable persons.

d) The Circular and guidelines notice shall be uploaded on the FIA website.

2. Enhanced Due Diligence Measures and Other Counter- Measures.

a) The enhanced due diligence measures applied should include;

(i) Applying specific elements of enhanced due diligence such as obtaining additional information on the customer, purpose of

transactions, nature of the business relationship and the source of funds or wealth of the customer;

(ii) Introducing enhanced relevant reporting mechanisms or systematic reporting of financial transactions;

(iii) Obtaining senior management approval to continue the relationship;

(iv) Increased monitoring of transactions;

(v) Reviewing, amending and if necessary, terminating of correspondent banking relationships.

b) Financial Institutions should apply the following Counter Measures
These measures applied should be proportionate to the risks: (a) when countries are called upon to do so by the FATF, and (b) independently of any call by the FATF to do so. They should include;

(i) Obtaining additional information on the customer (e.g. occupation, volume of assets, information available through public databases, internet, etc.), and updating more regularly the identification data of customer and beneficial owner.

(ii) Obtaining additional information on the intended nature of the business relationship.

(iii) Obtaining information on the source of funds or source of wealth of the customer.

(iv) Obtaining information on the reasons for intended or performed transactions.

(v) Obtaining the approval of senior management to commence or continue the business relationship.

(vi) Conducting enhanced monitoring of the business relationship, by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination.

(vii) Requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards.

(viii) Introducing enhanced relevant reporting mechanisms or systematic reporting of financial transactions;

(ix) Refusing the establishment of subsidiaries or branches or representative offices of financial institutions from the country concerned, or otherwise taking into account the fact that the relevant financial institution is from a country that does not have adequate anti-money laundering and countering the financing of terrorism systems;

(x) Limiting business relationships or financial transactions with the identified country or persons in that country;

(xi) Prohibiting financial institutions from relying on third parties located in the country concerned to conduct elements of the customer due diligence process;

(xii) Prohibiting financial institutions from relying on third parties located in the country concerned to conduct elements of the CDD process.

(xiii) Requiring financial institutions to review and amend, or if necessary terminate, correspondent relationships with financial institutions in the country concerned.

c) Supervisory authorities should take the following actions with respect to countries identified as high risk –

(i) Imposing additional reporting requirements on accountable persons;

(ii) Refusing the establishment in Uganda of subsidiaries or branches or representative offices of accountable person from that country;

(iii) Prohibiting accountable persons from establishing branches or representative offices in the countries identified as high risk;

(iv) Requiring accountable persons to limit business relationships or financial transactions with the country identified as high risk;

(v) Increasing supervisory examinations or external audit requirements for branches and subsidiaries in Uganda of accountable persons from the country identified;

(vi) Requiring increased external audit requirements by accountable persons of their branches and subsidiaries located in the country identified;

(vii) Requiring increased supervisory examination or external audit requirements for branches and subsidiaries of financial institutions based in the country concerned, and

(viii) Requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned.

d) Sanctions

In accordance with Regulation 44(4) of the Anti-Money Laundering Regulations (as amended), an accountable person who does not comply with a directive issued under Regulation 44(3) shall be liable to pay a fine not exceeding five thousand currency points (in case of a corporate person), and not exceeding five hundred currency points in case of a natural person.

PART III – REVIEW OF THE GUIDELINES

Accountable persons are encouraged to compile and record any comments, which arise in relation to these guidelines, and forward them to the Financial Intelligence Authority for its appropriate action.

The guidelines shall be revised considering the ML/TF emerging risk factors and the changes in the legal framework as well as any developments in the FATF recommendations.

PART IV – EFFECTIVE DATE

The Guidelines become effective on the 07 day of 02 2024.

Samuel Were Wandera
Executive Director
Financial Intelligence Authority