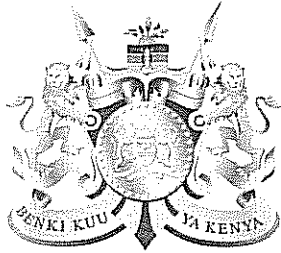


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**TO CHIEF EXECUTIVES OF COMMERCIAL BANKS, NON-BANK FINANCIAL INSTITUTIONS AND MORTGAGE FINANCE COMPANIES**

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**GUIDANCE NOTE NO.3 of 2011 – COMBATING FINANCING OF TERRORISM**

**1. Background**

Combating Financing of Terrorism constitutes one of the primary components of the overall fight against terrorism. Indeed, the number and gravity of terrorist acts depends largely on the financial resources held by persons or entities involved in terrorist-related activity.

Kenya, like most other developing countries, has unique features that make the country's financial sector vulnerable to terrorist financing risks. These features emanate from amongst others, the high volume of cash based transactions and borders with countries facing civil strife and institutional breakdown/failure.

In view of these concerns and their potential negative effects on the financial sector, the Central Bank of Kenya has deemed it necessary and urgent to issue guidance to the banking sector on the need to safeguard against terrorism financing.

**2. What is the financing of terrorism?**

Financing of Terrorism can be defined as the wilful provision or collection, by any means, directly or indirectly, of funds with the intention of providing financial support to terrorists or terrorist organizations, so as to facilitate terrorist activity.

To a large extent, the techniques and methods used in money laundering and terrorist financing are similar, with a few crucial differences. In money laundering, the funds are normally derived from illegal activity that the launderer seeks to legitimise, while with terrorist financing, the funds may be derived from a variety of sources, both legitimate and illegitimate.

Financing of Terrorism encompasses the use of legitimate or clean funds to commit or attempt to commit, facilitate or participate in the commission of both national and international terrorism. Terrorist groups are increasingly turning to criminal activities such as human trafficking, money laundering, extortion, and drug trafficking as alternative sources of financing.

### 3. The Financial Action Taskforce (FATF) Nine Special Recommendations on Terrorist Financing

In 2001, in response to the events of September 11, 2001, the Financial Action Taskforce (FATF) expanded its mandate beyond Anti-Money Laundering (AML) to also include Combating the Financing of Terrorism (CFT) by adopting the Nine Special Recommendations on Terrorist Financing.

The Nine Special Recommendations outline the basic framework to detect, prevent and suppress the financing of terrorism and terrorist acts. The Recommendations require countries to:

- i. Ratify and implement UN conventions relating to terrorism;
- ii. Criminalize the financing of terrorism, terrorist acts and terrorist organizations;
- iii. Freeze and confiscate terrorist funds and other assets of designated persons;
- iv. Require financial institutions to report suspicious transactions linked to terrorism or terrorism financing;
- v. Ensure international cooperation on terrorism financing investigations;
- vi. Have in place measures for licensing/registering money or value transfer services and ensuring their compliance with FATF recommendations;
- vii. Strengthen customer identification measures in international and domestic wire transfers;
- viii. Ensure that non-profit organizations are not misused to finance terrorism; and,
- ix. Ensure that countries have effective measures to detect cross border transportation of currency.

#### 4. Preventive measures

The Government of Kenya, being a party to the 1999 United Nations International Convention for the Suppression of Terrorism recognizes the need to have in place effective mechanisms and tools to detect, disrupt and dismantle terrorist financing networks and to combat terrorism. In this regard, the Government is in the process of establishing a framework for appropriately combating the financing of terrorism. In the meantime, pending the enactment of appropriate legislation to address the issue, the Central Bank of Kenya is hereby advising institutions to undertake the following preventative measures in an effort to protect the financial system from the risks posed by the financing of terrorism but also provide a framework for reporting such activities more effectively.

##### a) Customer Due Diligence

Institutions should develop practices and put in place procedures that will help to detect and deter those transactions that may involve funds used in terrorism financing. Detecting terrorism involvement in otherwise legitimate financial activity requires strong application of the “Know Your Customer” (KYC) principle and Customer Due Diligence (CDD) policies and procedures.

Unlike typical transactions relating to money laundering, the funding of terrorism and terrorist groups may not necessarily be associated with large, complex or unusual transactions. Therefore, ongoing monitoring of transactions and scrutiny of the sources of funds is critical to identifying/establishing patterns that may indicate possible financing of terrorism. General indicators relating to the financing of terrorism include, but are not limited to the following characteristics: -

- Inability to ascertain the customer’s source of funds;
- Multiple deposits at different branches;
- Third party deposits in cash;
- Wire transfers following cash deposits;
- Wire transfers to specific locations/accounts on regular basis;
- Media coverage of account holder’s activities;
- Sending or receiving funds by international transfers from and/or to locations identified as having a high risk of terrorism financing; and
- Uncharacteristic or unusual business/account behaviour.

The characteristics of terrorism financing are similar to those of Anti-Money Laundering hence making a distinction between the two may not necessarily be easy, but vigilance is required at all times.

#### **b) Reporting of Suspicious Transactions relating to Terrorist Financing**

Once an institution has established reasonable grounds to suspect a transaction is possibly related to terrorist financing, it will be expected to file a suspicious transaction report with the Central Bank of Kenya in accordance with the procedures for reporting suspicious transactions laid out in Guidance Note No. 1 of 2011 on Suspicious Transaction Reporting.

#### **c) Wire Transfers**

The speed and ease with which funds can be moved within the international financial system allows terrorists to move funds efficiently and effectively and often without detection between jurisdictions. Financial institutions may thus unknowingly serve as conduits for moving funds that support terrorist organisations or fund acts of terrorism. Institutions are therefore expected to pay particular attention to the use of wire remittances by their customers by ensuring that they adhere to the following minimum standards:

- i. Include accurate and meaningful originator information i.e. name, address and account number on funds transfers and related messages that are sent;
- ii. Ensure that the information remains with the transfer or related message throughout the payment chain; and,
- iii. Conduct enhanced scrutiny of, and monitor for suspicious activity, funds transfers which do not contain complete originator information (name, address and account number).
- iv. Institutions should maintain all necessary records on transactions, identification data, account files and business correspondence for all wire transfers for at least seven years following the completion of the transaction, or longer if requested by Central Bank. This should apply regardless of whether the account or business relationship is ongoing or has been terminated.
- v. Before initiating one-off wire transfers on the instructions of non-account holding customers, the originating institution must verify the identity and address (or a permitted alternative to address) of the payer.

#### **d) Terrorist Designations**

- (i) Financial institutions are reminded that they are required to frequently check and verify their customers' database against the United Nations

Security Council List (UN 1267 Consolidated Listing at <http://www.un.org/sc/committees/1267/consolist.shtml>. and to file declarations with the Central Bank of Kenya on a quarterly basis.

- (ii) Institutions may, subject to their internal policies and procedures, verify their customer's database against other listings such as the Financial Action Taskforce (FATF) website or other similar databases.

This Guidance Note is issued with the purpose of apprising institutions on their obligations with regards to measures to combat the financing of terrorism in the banking sector. In the event of any query or clarification, please contact:

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