

August 9, 2010

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

GUIDANCE NOTE No. 1 of 2010 - ANTI-MONEY LAUNDERING

1. Background:

The Proceeds of Crime and Anti-Money laundering Act, 2009 (Act No. 9 of 2009) was passed by Parliament in December, 2009 and came into operation on June 28, 2010. As result of this and other recent developments in the anti-money laundering regime in the country, the Central Bank has seen it fit to issue the following guidance to institutions.

2. Reporting of Suspicious Transactions

Section 44 (2) of The Proceeds of Crime and Anti-Money laundering Act, 2009 requires Reporting Institutions to report suspicious transactions to the Financial Reporting Centre. Pending the establishment of the Financial Reporting Centre and issuance of guidance on submission of Suspicious Transaction Reports to the Centre under The Proceeds of Crime and Anti-Money laundering Act, 2009, institutions licensed under the Banking Act will in the meantime continue to submit Suspicious Transaction Reports to the Central Bank of Kenya in accordance with the Guideline on Proceeds of Crime and Money Laundering Prevention (CBK/PG/08).

3. United Nations 1267 List

Kenya as a member of the United Nations is party to several major international protocols relating to anti-money laundering and combating the financing of terrorism. These include the United Nations Security Council Resolution 1373 on combating terrorism and 1267 Sanctions Committee that designates individuals and entities that are suspected to be linked to terrorism. Clause 3.3 of the Guideline on Proceeds of Crime and Money Laundering Prevention (CBK/PG/08) provides the link to the UN 1267 List and requires Institutions to have in place internal control measures which ensure the detection of designated persons including making a declaration of the same to the Central Bank of Kenya on a quarterly basis. Institutions are hereby reminded that they are required to regularly check on the UN 1267 List as part of their AML/CFT checks and to make quarterly declarations to the Central Bank as required by clause 3.3 of the Guideline.

4. Watch-listing of Designated Individuals and Entities contributing to conflict in Somalia

In April, 2010, the United Nations Security Council listed a number of individuals and one entity as the main financiers of conflict in Somalia in contravention of the United Nations Security Council Resolution 1884 of 2008. The list can be accessed at the UN

website at <http://www.un.org/News/Press/docs/2010/sc9904.doc.htm>. Institutions are advised to review all existing accounts with the object of ensuring that none of the accounts domiciled in the institution is linked to any of the designated individuals or entities. Institutions are further advised to be diligent and to apply appropriate countermeasures when dealing with the said individuals or entities.

5. Dealing with High Risk Jurisdictions

The Financial Action Task Force (FATF) is the global standard setting body for combating money laundering and the financing of terrorism. In order to protect the international financial system from money laundering/terrorism financing (ML/FT) risks and to encourage greater compliance with the Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) standards, the FATF identifies jurisdictions that have strategic AML/CFT deficiencies. Accordingly, FATF from time to time issues public statements on dealings with jurisdictions that do not apply or inadequately apply the FATF requirements. In its public statements of February and June 2010, FATF called upon its members and urged all jurisdictions to apply counter measures to protect the international financial system from ongoing and substantial money laundering and terrorist financing risks emanating from jurisdictions listed in the FATF statement. In making this call, FATF urged financial institutions to give special attention to business relationships and transactions with those jurisdictions including companies and financial institutions in those jurisdictions. In addition to enhanced scrutiny, the FATF statement urges jurisdictions to protect against correspondent relationships being used to bypass or evade countermeasures and risk mitigation practices. As the FATF requirements equally apply to Kenya, the Central Bank advises Institutions to take note of the FATF recommendations which amongst others require enhanced due diligence measures in dealing with institutions in high risk jurisdictions. Copies of the FATF statements can be obtained at the FATF website at <http://www.fatf-gafi.org/dataoecd/34/29/44636171.pdf> and <http://www.fatf-gafi.org/dataoecd/17/5/45540828.pdf>. In addition, the Central Bank advises Institutions to exercise caution and enhance due diligence when dealing with jurisdictions who are deemed not to be adequately applying the FATF requirements on anti-money laundering and combating the financing of terrorism. The United Nations Security Council has from time to time issued resolutions which have a bearing on international banking and finance. Some of these resolutions such as 1929 (2010) amongst others require financial institutions to be diligent when dealing with jurisdictions which are subject to the resolution. The Central Bank again advises institutions to be diligent and ensure enhanced due diligence when dealing with persons or jurisdictions subject to the Security Council Resolution.

6. Other Measures

Clause 4.1 (c) of Guideline on Proceeds of Crime and Money Laundering Prevention (CBK/PG/08) requires institutions to ensure that their staff are trained on a regular basis on the prevention, detection and control of money laundering and the

identification of suspicious transactions. The Central Bank calls upon institutions to ensure that they comply with this requirement. The Central Bank further advises Institutions to ensure that they conduct enhanced Customer Due Diligence when dealing with High Risk Customers.

This Guidance Note is issued with the purpose of apprising institutions on their obligations with regard to anti-money laundering measures in the banking sector.

In the event of any query or clarification, kindly direct the same to:

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