

Anti-Money Regulations Legal Update

July 18, 2022

CLIENT LEGAL UPDATE

The Anti-Money Laundering (Electronic Funds Transfer and Cash Transactions Reporting) Regulations, 2019 (Regulations) vide GN No. 420 of 2019 has just been published on the 24th May 2019 which regulations have been made under section 29 of the Anti-Money Laundering Act No. 12 of 2006.

- Requirement to report currency transactions and electronic funds transfer within the capped amount to FIU;
- This obligation is upon reporting persons;
- Failure to report a transactions to the FIU attracts sanctions;
- Records of such transactions to be maintained for 10 years;

Regulation 4 requires every electronic fund transfer or currency transaction to contain detailed information as prescribed under the first and second schedule respectively of the regulations which includes information about; the person reporting the transaction, the transaction itself and related details including account used, purpose of the transaction, personal details of the person transacting and/or the transacting entity amongst other details.

The most notable requirement is to report to the Financial Intelligence Unit (FIU) in electronic form or otherwise not later than five working days after the day the transaction involving the following have been done:

- a currency transaction involving Tanzanian Shillings or any foreign currency equivalent to USD 10,000 or more in the course of a single transaction;
- an Electronic Funds Transfer involving Tanzanian Shillings or any foreign currency equivalent to USD 1,000 or more in the course of a single transaction.

This obligation to report is tasked upon the Reporting Person who is defined under the Anti-Money Laundering Act No. 12 of 2006

to mean either banks and financial institutions, cash dealers, accountants, real estate agents, dealers in precious stones,

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ALERT MEMORANDUM

work of arts or metals, a regulator, customs officer, attorneys, notaries and other independent legal professionals when assisting clients in preparing or executing transactions or when acting on behalf of a client in any financial or real estate transaction.

Under the Anti-Money Laundering Act Section 17 a reporting person has been required under the act to report any “suspicious transactions” when he 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 indicating of money laundering or predicate offence to the FIU. Sub section 3 of the Act stipulated that the mode and of reporting shall be specified in regulations to be made which are these Regulations herein.

A failure to report currency transaction or international electronic funds transfer to the FIU attracts administrative sanctions from the FIU after issuance of relevant notice to the defaulting party which include but not limited to warning or caution not to repeat the conduct, a reprimand, directives to take remedial action, restriction or suspension of certain business activities, a fine not exceeding five million shillings and not less than one million shillings per day for which a default is committed, suspending a business license and/or suspension or removal from office of any member of staff who causes or fails to comply.

Attorneys, notary or independent legal professional have been tasked with the responsibility to report currency transactions when engaged in assisting clients prepare or execute transactions of various kinds and/or acting on behalf of a client in any financial or real estate transaction. The obligation also extends to accountants or accounting firms who are also required to report currency transaction when receiving or paying funds, purchasing or selling securities, shares, real properties or business assets or entities, transferring funds or securities by any means or while managing funds.

Operators of gaming activity shall also be required to report cash transactions received from a customer, disbursed to a customer for the redemption of chips, tokens or plaques or front cash withdrawals, safekeeping withdrawals, advances on any form of credit and payments on bets and slot jackpots.

Any information received by any ordering institution (the reporting person transferring the funds) is required to legally maintain all originator and beneficiary information for a period of ten years and will not execute electronic funds transfer if it does not comply with the requirements of regulation 4. An intermediary institutions shall ensure that all originator and beneficiary information that accompanies a wire transfer is retained with it for at least ten years with all the information from the ordering institution or another intermediary institution, shall take reasonable measures to identify electronic funds transfer that lack required originator or beneficiary information, have risk-based

ALERT MEMORANDUM

policies and procedures for determining when to execute, reject, or suspend an electronic funds transfer that lacks required

originator or beneficiary information and the appropriate follow up actio