

THE UNITED REPUBLIC OF TANZANIA

No. 2

31th January, 2022

SPECIAL BILL SUPPLEMENT

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THE ANTI-MONEY LAUNDERING (AMENDMENT) ACT, 2022

ARRANGEMENT OF SECTIONS

Section Title

PART I

PRELIMINARY PROVISIONS

1. Short title.

PART II

GENERAL AMENDMENTS

2. Amendment of long title.
3. Amendment of section 2.
4. Amendment of section 3.
5. Amendment of section 4.
6. Amendment of section 6.
7. Amendment of section 8.
8. Repeal and replacement of section 9.
9. Amendment of section 12.
10. Amendment of section 14.
11. Amendment of Heading to Part IV.
12. Repeal and replacement of section 15.
13. Addition of section 15A.
14. Repeal and replacement of section 16.
15. Amendment of section 17.

16. Repeal and replacement of sections 18 and 19.
17. Amendment of section 21.
18. Amendment of section 22.
19. Amendment of section 23.
20. Amendment of section 23A.
21. Amendment of section 28B.
22. Addition of section 28D.
23. Amendment of section 29.

PART III

CONSEQUENTIAL AMENDMENTS

*(a) Amendment of the Bank of Tanzania Act,
(Cap. 197)*

- 24. Construction.
- 25. Amendment of section 47.

*(b) Amendment of the Capital Markets and Securities Act,
(Cap. 79)*

- 26. Construction.
- 27. Amendment of section 11.

*(c) Amendment of the Insurance Act,
(Cap. 394)*

- 28. Construction.
- 29. Amendment of section 143.

*(d) Amendment of the Mutual Assistance in Criminal Matters Act,
(Cap. 254)*

- 30. Construction.
- 31. Amendment of section 4.

*(e) Amendment of the Prevention of Terrorism Act,
(Cap. 19)*

- 32. Construction.
- 33. Amendment of section 3.
- 34. Deletion and substitution of Heading to Part II.
- 35. Amendment of section 4.
- 36. Amendment of section 7.
- 37. Addition of Sub-Part (b) and section 11B in Part II.
- 38. Amendment of section 12.
- 39. Addition of section 12A.

40. Repeal and replacement of sections 13 and 14.
41. Addition of section 14A.
42. Amendment of section 15.
43. Amendment of section 17.
44. Amendment of section 18.
45. Amendment of section 20.
46. Amendment of section 26.
47. Addition of section 27A.
48. Amendment of section 48.

*(f) Amendment of the Proceeds of Crime Act,
(Cap. 256)*

49. Construction.
50. Amendment of section 3.

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NOTICE
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This Bill to be submitted to the National Assembly is published for general information to the general public together with a statement of its objects and reasons.

Dodoma,
31th January, 2022

HUSSEIN A. KATTANGA,
Secretary to the Cabinet

A Bill
for

An Act to amend the Anti-Money Laundering Act and to make consequential amendments to other related laws.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title
Cap.423

1. This Act may be cited as the Anti- Money Laundering (Amendment) Act, 2022 and shall be read as one with the Anti-Money Laundering Act, hereinafter referred to as the “principal Act”.

PART II
GENERAL AMENDMENTS

Amendment
of long title

2. The principal Act is amended by deleting the long title and substituting for it the following:
“An Act to make better provisions for the prevention and prohibition of money laundering, terrorist financing and proliferation financing, to provide for the disclosure of information on

money laundering, terrorist financing and the proliferation financing, to establish a Financial Intelligence Unit and the National Multi-Disciplinary Committee on Anti-Money Laundering, Counter Terrorist Financing and Counter Proliferation Financing and to provide for matters related thereto.”

Amendment
of section 2

3. The principal Act is amended in section 2(2) by adding the words “Counter Terrorist Financing and Counter Proliferation Financing” immediately after the words “money laundering”.

Amendment
of section 3

4. The principal Act is amended in section 3-
(a) by deleting the definitions of the terms “beneficial owner”, “financial institution”, “money laundering”, “politically exposed person”, “predicate offence” and “terrorist financing” and substituting for them the following:

““beneficial owner” means any natural person who ultimately owns or controls the customer, the natural person on whose behalf a transaction or activity is being conducted, a person who exercises ultimate effective control over a legal person or legal arrangement or beneficiary of an insurance policy or other investment linked insurance policy and includes-

(a) in the case of a customer being a legal person-

(i) the natural person who ultimately owns or controls the legal person through direct or indirect ownership of a majority shares or voting rights or ownership interest in that legal person and such ownership, ownership interest or

- control also includes possession of bearer shares, the ability to appoint or remove the majority of board members, the chief executive officer or senior management;
- (ii) a shareholding of five percent or more in the legal person or an ownership interest of five percent or more in the legal person held by a natural person shall be an indication of direct ownership or a sufficient percentage of the shares or voting rights or ownership interest in that legal person, or a shareholding of five percent or more or an ownership interest of five percent or more in the legal person held by a legal person, which is under the control of a natural person, or by multiple legal persons, which are under the control of the same natural person, shall be an indication of indirect ownership;
 - (iii) if, after having exhausted all possible means and provided there are no grounds for suspicion of money laundering, terrorist financing and proliferation financing, no natural person under subparagraph (i) is identified, or if there is any doubt that the natural person identified is the beneficial owner, the natural person who holds the position of senior managing official;
- (b) in the case of a customer being a trust-
- (i) the settlor, trustee or the protector;

- (ii) the beneficiaries, or where the natural person benefiting from the trust has yet to be determined, the class of natural persons in whose main interest the trust is set up or operates; or
 - (iii) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;
- (c) in the case of a customer being any other legal arrangement, the natural person holding equivalent or similar positions to those referred to in subparagraph (b);
- “financial institution” means any person who conducts as a business one or more of the following activities or operations:
- (a) acceptance of deposits and other repayable funds from the public including private banking and other repayable funds from the public, issuing and managing means of payment, trading in foreign exchange or transferable securities or decentralised virtual currencies exchangers, wallet providers, payments processors or senders, and other virtual currency business models;
 - (b) lending, including consumer credit, mortgage

- credit, factoring with or without recourse, finance of commercial transactions including forfeiting;
- (c) financial leasing;
 - (d) mortgage and house financing;
 - (e) money or value transfer services without extending to persons that solely provide messaging or other support systems for transmitting the funds;
 - (f) issuing and managing means of payment including credit cards, debit cards, money orders, cheques, traveler's cheques, money, bankers' drafts and electronic money;
 - (g) financial guarantees and commitments;
 - (h) dealing in gold bullion;
 - (i) trading in:
 - (i) money market instruments including cheques, bills, certificates of deposit and derivatives;
 - (ii) foreign exchange;
 - (iii) exchange, interest rate and index instruments;
 - (iv) transferable securities; and

- (v) commodity futures trading;
 - (j) securities dealership, brokerage and securities market intermediation;
 - (k) individual and collective portfolio management;
 - (l) trusteeship and management of collective investment schemes;
 - (m) safekeeping and administration of cash or liquid securities on behalf of other persons;
 - (n) investing, administering or managing funds or money on behalf of other persons;
 - (o) pension fund management;
 - (p) insurance, insurance agency and brokerage; and
 - (q) money and currency changing;
- “money laundering” means offences referred to under section 12;
- “politically exposed person” means a natural person-
- (a) within or outside the United Republic who is or has been entrusted with a prominent public function;
 - (b) who is or has been entrusted with a prominent function in an international organisation including a member of senior management such as a member of the board of directors, the chief executive officer, director, head of

department, their deputies and equivalent functions, and includes family members and close associates of such a natural person;

Cap. 256 “predicate offence” means a serious offence as defined in the Proceeds of Crime Act;

“terrorist financing” means-

- (a) the provision of finance or economic resources or making available financial or related services to-
 - (i) a terrorist, terrorist group, terrorist entity, terrorist course or a terrorist act;
 - (ii) an individual, a group or entity that is concerned with a terrorist, terrorist group, terrorist entity, terrorist course or a terrorist act;
- (b) conducting a financial transaction or facilitating a financial transaction directly or indirectly, in order to deal with property that is owned or controlled by a terrorist, terrorist group or terrorist entity;
- (c) conducting financial transaction or facilitating a financial transaction directly or indirectly, in order to deal with property on behalf of a terrorist, terrorist group or terrorist entity;
- (d) financing or facilitating travel of any individual or a group of individuals to a country other than their country of residence or nationality in order to participate in

- a terrorist course, terrorist training or terrorist act, or in order to directly or indirectly conduct, perpetrate, plan or prepare terrorist acts;
 - (e) organising or directing others to commit any of the acts in paragraphs (a), (b), (c) or (d) or participating in any of those acts as an accomplice; or
 - (f) an attempt to commit any of the acts in paragraphs (a), (b), (c), (d) or (e);”;
- (b) in the definition of the term “law enforcement agency” by deleting the words “investigative agency dealing with anti-money laundering and combating the financing of terrorism” appearing at the end of that definition and substituting for them the words “body dealing with criminal investigations”;
- (c) in the definition of the term “Minister” by deleting the words “monetary affairs” and substituting for them the word “finance”;
- (d) in the definition of the term “regulator” by-
- (i) deleting paragraph (e) and substituting for it the following:
 - “(e) “Registrar of Societies”;
 - (ii) adding immediately after paragraph (m) the following:
 - “(n) Tanganyika Law Society;
 - (o) Architects and Quantity Surveyors Registration Board;
 - (p) National Board of Accountants and Auditors;” and
 - (iii) renaming paragraphs (n) and (o) as paragraphs (r) and (s) respectively;
- (e) in the definition of the term “reporting person” by-

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- Cap.
407
- (i) inserting the words “auditor, tax adviser” between the words “agent” and “dealer” appearing in paragraph (c);
 - (ii) deleting paragraphs (d) and (e) and substituting for them the following:
 - “(d) trust and company service provider;
 - (e) credit reference bureau;
 - (f) motor vehicle dealer;
 - (g) clearing and forwarding agent;”;
 - (iii) deleting the word “attorneys” appearing at the beginning of paragraph (f) and substituting for it the word “advocates”;
 - (iv) deleting the words “micro financing institutions” appearing in paragraph (g) and substituting for them the words “microfinance service providers except for community microfinance groups classified as Tier 4 in the Microfinance Act”;
 - (v) renaming paragraphs (f), (g), (h) and (i) as paragraphs (h), (i), (j) and (k) respectively;
 - (f) by adding in their appropriate alphabetical order the following new definitions:
 - ““bearer negotiable instrument” means a monetary instrument in bearer form such as-
 - (a) traveler’s cheques;
 - (b) negotiable instruments including cheques, promissory notes and money orders that are either in bearer form, endorsed without restriction, made out to a fictitious payee or otherwise in such form that title to that instrument passes upon delivery;
 - (c) incomplete instruments such as cheques, promissory notes and money orders signed, but with the payee’s name omitted;

“bearer shares” means negotiable instruments that accord ownership in a legal person to the person who possesses the bearer share certificate;

“business relationship” means an arrangement between a reporting person and a customer that is characterised by the following:

- (a) it is a business, professional or commercial arrangement;
- (b) the arrangement involves the reporting person setting up a customer account and the exchange of goods, products or services and is facilitated by transactions that are conducted involving that account; or
- (c) transactions are conducted frequently, habitually or on a regular basis;

“close associate” means-

- (a) a natural person who is known to have joint beneficial ownership of body corporate, or any other close business relations with the politically exposed person;
- (b) a natural person who has sole beneficial ownership of a body corporate which is known to have been set up for the *de facto* benefit of the politically exposed person; or
- (c) a natural person who is reasonably found or believed to be closely connected with a politically exposed person for any other reason, either socially or professionally;

“competent authority” means any public entity with designated responsibilities for combatting money laundering, terrorist financing or proliferation financing including a regulator, customs authority, a law enforcement agency, licensing agency or authority, FIU and the National Committee;

“customer” means any natural person, legal person or legal arrangement that receives goods, products or services from a reporting person for exchange for money or any other consideration;

“customer due diligence” includes establishing the identity of the customer, a beneficial owner or a person purporting to act on behalf of the customer, whereby-

- (a) in the case of a customer, doing any or all of the following, depending on the perceived money laundering, terrorist financing or proliferation financing risk-
 - (i) verifying the identity of the customer using reliable, independent source documents, data or information;
 - (ii) understanding, and where appropriate, obtaining the required information on the nature and purpose of the business relationship;
 - (iii) understanding the occupation of the customer;
 - (iv) understanding the ownership and control structure of the customer

- who is a legal person or legal arrangement;
 - (v) ascertaining the source of customer income and funds;
 - (vi) establishing the identity of beneficial owners and taking reasonable measures to verify their identities using reliable, independent source documents, data or information; or
 - (vii) ascertaining that any person purporting to act on behalf of the customer is so authorised and to identify and verify the identity of that person using reliable, independent source documents, data or information;
- (b) in the case of a beneficial owner, doing any or all of the following, depending on the perceived money laundering, terrorist financing or proliferation financing risk:
- (i) taking reasonable measures to verify the identity of the beneficial owner using reliable, independent source documents, data or information;
 - (ii) understanding the occupation of the beneficial owner; or
 - (iii) ascertaining the source of income and funds of the beneficial owner;

- (c) in the case of a person purporting to act on behalf of the customer, doing any or all of the following, depending on the perceived money laundering, terrorist financing or proliferation financing risk:
- (i) verifying the identity of the person using reliable, independent source documents, data or information;
 - (ii) understanding the occupation of the person;
 - (iii) understanding the relationship between the person and the customer; or
 - (iv) ascertaining that the person is authorised to act on behalf of the customer; and
- (d) in all cases above, in paragraphs (a), (b) and (c), reviewing existing records to ensure that they are up-to-date and relevant;

Act No.
1 of 2004

“customs” has the meaning ascribed to it under the East African Community Customs Management Act;

“proliferation financing” means an act by any person who by any means directly or indirectly, renders help or provides in whole or in part any assets, funds, economic resources, technology or services to any proliferation of weapons of mass destruction course or to any person or jurisdiction or for the benefit of any person designated by the United Nations Security Council to acquire, possess, broker, manufacture, develop, store, transport, convey, transfer, import or export nuclear,

- chemical or biological weapons and their means of delivery or related materials including technologies and dual use goods used for non legitimate purpose;
- Cap. 256 “forfeiture” has the meaning ascribed to it under the Proceeds of Crime Act;
- Cap. 19 “funds” has the meaning ascribed to it under the Prevention of Terrorism Act;
- “family member” means an individual who is related to a politically exposed person either directly on consanguinity or through marriage or similar civil forms of relationships or partnership, and includes a spouse, sibling, child and spouse of a child, parent and parent in-law;
- “legal arrangement” means trusts or other similar arrangements;
- “occasional transaction” means a transaction carried out by a reporting person on behalf of a customer with whom it does not have a business relationship and the transaction is carried out otherwise than through an account and it may be a single transaction or a series of transactions in a single operation or several operations that appear to be linked to each other;
- Cap. 256 “proceeds of crime” has the meaning ascribed to it under the Proceeds of Crime Act;
- “prominent public function” or “prominent function” means-
- (a) in the case of Government and public sector functions in the United Republic, an office or function held by a public leader mentioned in the Public Leadership Code of Ethics Act and any
- Cap. 398

person in the capacity of deputy of the identified leader;

- (b) in the case of a foreign government or jurisdiction, an office or function held by heads of state or government, senior politicians, senior executives of state owned corporations or agencies, high level and senior functions in the foreign states, governments or diplomatic missions, foreign institutions and international organisations affiliated to the United Republic and foreign countries and jurisdictions including high commissioners, ambassadors and their deputies, military and other attaches, directors, assistant directors, managers and assistant managers and other senior and principal officers; or
- (c) any other prominent function which the Minister may, by notice published in the *Gazette*, specify;

“reasonable measures” means appropriate measures which are commensurate with the money laundering, terrorist financing or proliferation financing risk;

“risk assessment” means identifying, assessing and understanding risks and documenting the process and the findings or results;

“senior management” means natural persons within a body corporate at the highest level of management who have the day to day task of managing the body corporate and includes directors, chief executive officers, their deputies and where appropriate, members of the board of directors or of equivalent function;

“trust and company service provider” means any person who, by way of business, provides any of the following services:

- (a) the formation of body corporate;
- (b) acting as, or arranging for another person to act as, a director, secretary or a similar position in relation to a body corporate;
- (c) providing a registered office, business address, correspondence or administrative address and other related services for a body corporate;
- (d) acting as, or arranging for another person to act as, a trustee of a trust or a similar legal arrangement; or
- (e) acting as, or arranging for another person to act as, a nominee shareholder for another person other than a company listed in a regulated market that is subject to disclosure requirements in accordance with the laws of the United Republic or subject to equivalent international standards;

“virtual asset” means a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes and is recognised by the government of the United Republic and does not include digital representations of fiat currencies, securities and other financial assets that are already covered in the laws of the United Republic;

“virtual asset service provider” means any person who conduct one or more of the following activities or operations for or on behalf of a customer:

- (a) exchange between virtual assets and fiat currencies;
- (b) exchange between one or more forms of virtual assets;
- (c) transfer of virtual assets;
- (d) safekeeping or administration of virtual assets or instruments enabling control over virtual assets; and
- (e) participation in and provision of financial services related to an issuer's offer or sale of a virtual asset;".

Amendment
of section 4

- 5.** The principal Act is amended in section 4, by-
- (a) deleting the words "of Finance" appearing in subsection (1) and substituting for them the words "responsible for finance"; and
 - (b) deleting the words "regarding potential money laundering or terrorist financing" appearing in subsection (2) and substituting for them the words "regarding actual or potential money laundering, terrorist financing or proliferation financing".

Amendment
of section 6

- 6.** The principal Act is amended in section 6, by-
- (a) deleting subsection (1) and substituting for it the following:
 - "(1) For the purposes of section 4, the Financial Intelligence Unit shall be a national center responsible for receiving and analyzing suspicious transaction reports and other information concerning money laundering and associated predicate offences, terrorist financing and proliferation financing and in that respect, the FIU shall-
 - (a) receive suspicious transaction reports, currency transaction reports, cross border currency reports, electronic funds transfer reports and such other reports or

- information submitted by reporting persons or submitted from any other source and conduct operational and strategic analysis on such reports and information;
- (b) disseminate the results of the analysis to law enforcement agencies, supervisory authorities or other competent authorities;
 - (c) supervise reporting persons for compliance with anti-money laundering, countering terrorist financing and countering proliferation financing obligations under this Act and any other written laws;
 - (d) compile statistics and records and share information relating to money laundering, terrorist financing and proliferation financing within or outside the United Republic;
 - (e) make recommendations and advise the National Committee on matters relating to anti-money laundering, countering terrorist financing and countering proliferation financing;
 - (f) in consultation with regulators of the relevant reporting persons, issue guidelines to such reporting persons in respect of obligations provided for under this Act, and any other anti-money laundering, countering terrorist financing and countering proliferation financing obligations under any other written laws;

- (g) create training requirements and provide such training for stakeholders including reporting persons their employees, judicial officers and competent authorities;
- (h) consult with any relevant person, institution or organisation for the purpose of discharging its duties under this section;
- (i) request for or have access to information from any reporting person, regulator or law enforcement agency or any other relevant legal person in the manner provided for in the regulations;
- (j) require any reporting person to report to FIU any suspicious transaction or activity where that reporting person suspects that the transaction or activity involves money laundering, terrorist financing or proliferation financing;
- (k) in collaboration with the regulator or on its own, supervise reporting persons for anti-money laundering, countering terrorist financing or countering proliferation financing compliance;
- (l) prepare periodic reports on money laundering, terrorist financing and proliferation financing typologies and trends, in the manner provided for in the regulations;
- (m) enter into agreements or related arrangements overseas with

- financial intelligence units and comparable bodies and other foreign counter parts for exchange of information pertaining to combating money laundering and associated predicate offences, terrorist financing and proliferation financing;
- (n) exchange information with domestic competent authorities in combating money laundering, terrorist financing and proliferation financing; and
 - (o) liaise with the relevant investment and business registration and licensing authorities in assessing genuine investors.”;
- (b) adding immediately after subsection (1) the following:
- “(2) Upon analysis of the reports and information, the Commissioner or any employee of the FIU designated by him may-
- (a) where there are reasonable grounds to suspect money laundering, terrorist financing, proliferation financing or any other crime, disseminate spontaneously or upon request intelligence or any other information to relevant law enforcement agencies for investigation and possible prosecution;
 - (b) disseminate spontaneously or upon request reports to any competent authority for any relevant action including reporting person supervisory action, recovery of taxes, and inform on anti-money laundering, countering terrorist

- financing and countering proliferation financing; or
- (c) share the information with any other relevant stakeholders within or outside the United Republic.”;
- (c) renumbering subsections (2) and (3) as subsections (3) and (4), respectively; and
- (d) deleting the reference to "subsection (2)" appearing in subsection (4) as renumbered and substituting for it the reference to "subsection (3)".

Amendment
of section 8

7. The principal Act is amended in section 8-
- (a) in subsection (1), by adding the words “Counter Terrorist Financing and Counter Proliferation Financing” immediately after the word “Laundering”;
- (b) in subsection (2), by-
- (i) inserting immediately after paragraph (i) the following:
- “(j) one representative from the National Prosecutions Service;
- (k) one representative from the office of the Director of Public Prosecutions from the Revolutionary Government of Zanzibar;
- (l) one representative from the Tanzania Revenue Authority;
- (m) one representative from the Zanzibar Revenue Board;
- (n) one representative from the Business Registration and Licensing Agency;
- (o) one representative from Zanzibar Business and Property Registration Agency;
- (p) one representative from the Ministry responsible for wildlife conservation;
- (r) one representative from the Zanzibar Anti-Corruption and Economic Crimes Authority;
- (s) one representative from the Drug Control and Enforcement Authority;

- (t) one representative from the Commission for National Coordination and Drug Control Zanzibar;"; and
- (ii) renaming paragraphs (j) and (k) as paragraphs (u) and (v), respectively.
- (c) by deleting subsection (4) and substituting for it the following:
 - “(4) Members of the National Committee established under subsection (1) shall be-
 - (a) appointed by the Minister;
 - (b) senior officers who possess knowledge and experience in matters relating to money laundering, terrorist financing and proliferation financing.”.

Repeal and replacement of section 9

8. The principal Act is amended by repealing section 9 and replacing for it the following:

“Functions of National Committee

9. The functions of the National Committee shall be to-

- (a) formulate, assess, regularly review and improve the effectiveness of the policies and measures to combat money laundering and associated predicate offences, terrorist financing and proliferation financing;
- (b) advise the Government on legislative, regulatory and policy reforms in respect of anti-money laundering, countering terrorist financing, countering proliferation financing and combating crimes;
- (c) coordinate activities to identify, assess and create

- understanding of money laundering, terrorist financing and proliferation financing risks at the national, sectoral, institutional and individual level, to recommend risk mitigation measures, to oversee implementation of the risk assessment action plans and to ensure that such risk assessments are kept up-to-date;
- (d) coordinate engagements and engage with regional and international anti-money laundering, countering terrorist financing and countering proliferation financing bodies and advise the Government accordingly;
- (e) coordinate country assessments or evaluations by regional and international anti-money laundering, countering terrorist financing and countering proliferation financing bodies and advise the Government on implementation of the resulting action plans; and
- (f) establish and oversee operational mechanisms within the United Republic to coordinate and share information among competent authorities and

other stakeholders, in order to combat money laundering, terrorist financing and proliferation financing.”.

Amendment
of section 12

- 9.** The principal Act is amended in section 12, by-
- (a) designating the content of section 12 as subsection (1); and
 - (b) adding immediately after subsection (1) as designated, the following:

"(2) The offence of money laundering under subsection (1) shall be separate, independent and distinct from the crime underlying money laundering offence.

(3) It shall not be necessary that a person first be convicted of the crime underlying money laundering offence, in order for that person to be convicted of money laundering in subsection (1).

(4) Conviction for the offence of money laundering in subsection (1) shall not amount to conviction for the associated underlying crime to money laundering offence.".

Amendment
of section 14

- 10.** The principal Act is amended in section 14-
- (a) in subsection (1) by adding the words “or a person holding a position” immediately after the word "partner" appearing at the end of paragraph (a); and
 - (b) by inserting the words “within the body corporate” between the words “person” and “who” appearing in subsection (3).

Amendment
of Heading to
Part IV

- 11.** The principal Act is amended by deleting the heading to Part IV and substituting for it the following:

“PART IV

SUPERVISION OF ANTI-MONEY LAUNDERING, COUNTERING
TERRORIST FINANCING AND PROLIFERATION FINANCING”.

Repeal and
replacement
of section 15

12. The principal Act is amended by repealing section 15 and replacing for it the following:

“Undertaking risk assessment, risk mitigation measures and allocation of resources

15.-(1) There shall be conducted risk assessments on money laundering, terrorist financing and proliferation financing in the United Republic.

(2) Risk assessments in subsection (1) shall entail identifying, assessing and understanding risks at the national, sectoral and institutional level and commensurate risk mitigation measures shall be applied.

(3) Risk assessments in subsection (1) shall be conducted by competent authorities, reporting persons and other anti-money laundering, countering terrorist financing and countering proliferation financing stakeholders and shall be approved by senior management.

(4) A person conducting the assessment under subsection (1) may seek assistance, data or information from any other person from within or outside the United Republic.

(5) There shall be established mechanisms to provide and share with relevant stakeholders, information from risk assessments for awareness creation, to prioritize the allocation of resources, to help in mitigating the associated risks and to help institute implementation of adequate measures to prevent money laundering, terrorist financing and proliferation financing.

(6) Reporting persons shall conduct money laundering, terrorist financing and proliferation financing risk assessment associated with-

- (a) new and existing customers, countries or geographical areas, products, services, transactions and delivery channels;
- (b) new products, business practices, services, technologies and delivery channels prior to their launch or use;
- (c) existing products, business practices, services, technologies and delivery channels which have undergone changes, prior to their continued use; and
- (d) the use of new or developing technologies for both new and pre-existing products.

(7) Subject to subsection (6)(d), new products shall include any transfers within decentralized convertible virtual currencies or assets networks, person-to-person transfers involving hosted wallet providers, large value virtual currency payments or assets transfer, mobile payments and internet-based payments services.

(8) Subject to any relevant law allowing the use of virtual currencies or assets, when conducting risk assessment with respect of virtual currencies or virtual assets, the reporting persons shall pay particular attention to the risks posed by the nodes or points of

intersection that are used to move value into and out of fiat currencies and shall focus the efforts on identifying higher risks convertible virtual currencies or assets.

(9) Reporting persons shall have appropriate mechanisms to provide to competent authorities results, findings and other information on risk assessments conducted in subsection (6).

(10) Competent authorities and reporting persons shall-

- (a) have documented policies, controls and procedures approved by senior management, to manage and mitigate the risks identified in subsections (1) and (6);
- (b) ensure that the level of detail of the documented policies, controls and procedures in the case of reporting persons in paragraph (a) are commensurate with the size, structure and complexity of the business of the reporting person;
- (c) monitor and audit the implementation of policies, controls and procedures referred to in paragraph (a);
- (d) regularly review and update the policies, controls and procedures in paragraph (a) and document such reviews and updates; and
- (e) take enhanced measures to mitigate the risks in

paragraph (a) where higher risks are identified.

(11) The risk assessments referred to under subsections (1) and (6) shall be kept up-to-date at a frequency commensurate with the identified risks, but at least once a year.

(12) In accordance with the identified risks in subsections (1) and (6), a regulator shall effectively monitor reporting persons under its purview and take the necessary measures to ensure that the risks are managed and mitigated and to enforce anti-money laundering, countering terrorist financing and countering proliferation financing compliance.

(13) The United Republic may decide not to apply some of the anti-money laundering, countering terrorist financing and countering proliferation financing measures based on proven low risk of money laundering, terrorist financing or proliferation financing.

(14) The reporting persons may apply simplified measures to manage and mitigate the risks, if the risk assessments have identified low risk areas and there is no suspicion of money laundering, terrorist financing or proliferation financing.

(15) Countering measures applied shall be proportionate to the identified risks and explanations shall be made on their proportionality to the risks *suo motto* or when called upon to do so.

(14) Any person who fails to implement any anti-money laundering,

countering terrorist financing and countering proliferation financing measures or requirements in accordance with this section shall be liable to administrative measures as may be imposed by the FIU or the regulator as the case may be.”.

Addition of section 15A

13. The principal Act is amended by adding immediately after section 15 the following:

“Reporting person to conduct customer due diligence

shall-

15A.-(1) A reporting person

(a) conduct customer due diligence in accordance with the identified risks-

(i) before establishing a business relationship;

(ii) before carrying out an occasional transaction;

(iii) when money laundering, terrorist financing or proliferation financing is suspected;

(iv) when the veracity or adequacy of documents, data or information previously obtained for the purposes of customer due diligence is doubted; or

(v) any time after establishing the materiality of money laundering, terrorist financing and proliferation financing risk;

- (b) conduct ongoing customer due diligence after establishing a business relationship, including the updating of customer information;
 - (c) not open or operate an account in a false, disguised, anonymous or fictitious name;
 - (d) not commence a business relationship prior to completion of customer due diligence, provided that, under proven low risk, business relationship may commence pending the verification process;
 - (e) terminate an existing business relationship when customer due diligence cannot be completed; and
 - (f) submit a suspicious transaction report to the FIU when customer due diligence cannot be completed as provided under paragraphs (d) and (e).
- (2) The reporting person shall, when conducting customer due diligence-
- (a) obtain and verify information on the ultimate beneficial owners of a legal person, entity or arrangement;
 - (b) in relation to politically exposed person, in addition

to undertaking normal due diligence measures-

- (i) have appropriate risk management systems to determine whether the customer is a politically exposed person;
- (ii) obtain senior management approval for establishing business relationship with such customer;
- (iii) take reasonable measures to establish the source of wealth and source of funds; and
- (iv) conduct enhanced ongoing monitoring on that relationship.

(3) A reporting person may, subject to conditions prescribed in the regulations, rely on customer due diligence conducted by a third party.”.

Repeal and replacement of section 16

14. The principal Act is amended by repealing section 16 and replacing for it the following:

“Reporting persons to establish and maintain records

shall-

16.-(1) Every reporting person

- (a) establish and maintain records of all domestic and international transactions, know your customer files, customer due diligence, accounts, business correspondences, risk assessments on money laundering, terrorist

financing and proliferation financing and suspicious transaction reports and the results of any analysis carried out, and all other reports and statistics required by this Act; and

(b) retain records required under this section for a minimum period of ten years from the date-

(i) when all activities relating to a transaction or a series of linked transactions were completed or was last carried out;

(ii) when the business relationship was formally ended; and

(iii) when analysis or when money laundering, terrorist financing or proliferation financing risk assessment was completed.

(2) The reporting person shall, where a report has been made to the FIU or he knows or believes that a matter is under investigation, without prejudice to subsection (1), retain all relevant records for as long as may be required by the competent authority.

(3) Records required under subsection (1)(a) shall contain particulars sufficient to identify-

(a) the name, address and occupation or where appropriate, business or

principal activity of each person-

- (i) conducting the transaction; or
 - (ii) on whose behalf the transaction is being conducted, as well as the method used by the reporting person to verify the identity of each such person;
- (b) the nature and date of the transaction;
 - (c) the type and amount of currency involved;
 - (d) the type and identification number of any account with the reporting person involved in the transaction;
 - (e) the following details if the transaction involves a negotiable instrument:
 - (i) the name of the drawer of the instrument;
 - (ii) the name of the institution on which it was drawn;
 - (iii) the name of the payee, if any;
 - (iv) the amount and date of the instrument;
 - (v) the number, if any, of the instrument; and
 - (vi) details of any endorsements appearing on the instrument; and
 - (f) the name and address of the reporting person, and of the

officer, employee or agent of the reporting person who prepared the record.

(4) Records maintained pursuant to this section shall be made available on timely basis to competent authorities upon request.

(5) Where a reporting person is required by any provision of law to release any document referred to under this section, he shall retain a copy of the document and maintain a register of released documents with such particulars as may be prescribed in the regulations.

(6) Any reporting person who contravenes the provisions of this section commits an offence and shall-

(a) be liable to administrative sanctions as prescribed in the regulations made under section 19A; or

(b) on conviction, be liable to criminal sanctions as provided for under this Act.”.

Amendment
of section 17

- 15.** The principal Act is amended in section 17(1), by-
- (a) deleting the words “money laundering or predicate offence” appearing in the opening words and substituting for them the words “money laundering, proliferation financing or predicate offence”;
 - (b) deleting the words “transaction or proposed transaction” appearing in paragraph (a) and substituting for them the words “funds or property, transaction or proposed or attempted transaction”;
- and

- (c) deleting the words “transaction in accordance with subsection (2), and communicate the information” appearing in paragraph (b) and substituting for them the words “or attempted transaction in accordance with subsection (2), and submit the report”.

Repeal and replacement of sections 18 and 19

16. The principal Act is amended by repealing sections 18 and 19 and replacing for them the following:

“Reporting persons to establish and maintain internal reporting procedures

18.-(1) A reporting person shall establish and maintain internal policies, controls and procedures that-

- (a) ensure that persons to be engaged or employed by the reporting person are properly screened and vetted, in order to recruit qualified persons with integrity;
- (b) designate a natural person as money laundering reporting officer, to whom its employees shall report any actual or suspicious activities or transactions in terms of money laundering, terrorist financing, proliferation financing or any other criminal activity which comes to the attention of employees in the course of work;
- (c) enable the money laundering reporting officer to have reasonable access to information that may be relevant in determining whether sufficient basis exists to report the

- suspicious activity or transaction to the FIU, pursuant to section 17;
- (d) require the money laundering reporting officer to report the suspicious activity or transaction to the FIU pursuant to section 17, in the event there exists reasonable grounds to report the matter;
 - (e) put in place measures to ensure that employees are made aware of the legislation relating to combating money laundering, terrorist financing and proliferation financing and related policies, procedures and controls, that are established and maintained pursuant to this Act;
 - (f) ensure that relevant employees are appropriately trained on a regular basis in the recognition and handling of suspicious transactions relating to money laundering, terrorist financing and proliferation financing;
 - (g) provide for compliance management arrangements that ensure that anti-money laundering, countering terrorist financing and countering proliferation financing matters are addressed by the compliance department or function; and

- (h) ensure independent and regular auditing of the internal policies, procedures and controls established in this section is carried out.

(2) In determining whether a person has complied with any requirement of paragraphs (e) and (f) of subsection (1), the court shall have regard to all the circumstances of the case, including such customs and practices as may, from time to time, be current in the relevant trade, business, profession or employment, and may take account of any relevant guidance adopted or approved by a public authority or other body that supervises, regulates or acts as a representative of the trade, business, profession or employment carried on by that person.

Reporting persons to implement group-wide programmes

19.-(1) A reporting person shall, in addition to requirements provided for under section 18-

- (a) in the case of reporting persons with group-wide corporate structures, formulate and implement consistent group-wide programmes to combat money laundering, terrorist financing and proliferation financing, which shall include policies, procedures and controls for sharing information within the group;
- (b) in the case of reporting persons whose corporate structures extend beyond the

United Republic, ensure that their foreign branches and majority-owned subsidiaries apply anti-money laundering, countering terrorist financing and countering proliferation financing measures consistent with the requirements of section 18;

- (c) in the case of foreign operations of such reporting persons, where the minimum anti-money laundering, countering terrorist financing and countering proliferation financing requirements of the host country or jurisdiction are less strict than those of the United Republic, ensure that their branches and majority-owned subsidiaries in host countries implement the requirements of the United Republic, to the extent that the host country legislation permits;
- (d) where the host country does not permit the proper implementation of the measures of the United Republic, apply appropriate additional measures to manage the money laundering, terrorist financing and proliferation financing risks, and inform their respective regulator in the host country

or jurisdiction, and in the United Republic; and

- (e) where the additional measures are not sufficient, the relevant regulator in the United Republic shall consider additional supervisory actions such as placing additional controls on the reporting person, including as appropriate, requesting the financial group to close down its operations in the host country or jurisdiction.

(2) Any person who contravenes the provisions of this section commits an offence and shall be liable-

- (a) to administrative sanctions as prescribed in the regulations made under section 19A; or
- (b) upon conviction, to a fine of not less than five hundred thousand shillings but not exceeding five million shillings or to imprisonment for a period of twelve months, in the case of a natural person; or
- (c) upon conviction, to a fine of not less than five million shillings but not exceeding ten million shillings, in the case of a body corporate."

Amendment
of section 21

17. The principal Act is amended in section 21 by deleting subsection (2) and substituting for it the following:

“(2) For the purpose of subsection (1), competent authorities and reporting persons

may, on any matters related to combating money laundering, terrorist financing and proliferation financing, share information among each other or with their counterparts overseas.”.

Amendment
of section 22

18. The principal Act is amended in section 22 by deleting the words “a bank or a financial institution, cash dealer, designated non-financial businesses or professions or their respective staff or partners” appearing in subsection (1) and substituting for them the words “a reporting person, or any person employed or engaged by the reporting person, or a partner of a reporting person”.

Amendment
of section 23

19. The principal Act is amended in section 23, by-
(a) deleting subsections (1) and (2) and substituting for them the following:

“(1) Any person, who transport into or out of the territory of the United Republic, cash or a bearer negotiable instrument in any amount equal to or above the amount prescribed in the regulations, shall declare to an officer of customs such cash or bearer negotiable instrument and the customs shall transmit that information to the FIU.

(2) Subject to subsection (1), a customs officer shall have powers to stop and restrain any cash or bearer negotiable instrument for a reasonable time in order to make the necessary enquiries or to ascertain whether evidence of money laundering, terrorist financing or proliferation financing may be found.

(3) Where a customs officer is satisfied that-

- (a) any amount of cash or bearer negotiable instruments has not been declared;
- (b) any amount of cash or bearer negotiable instruments or any other

- particular, detail or information has been falsely or inaccurately declared;
- (c) the person making the declaration has not provided convincing or satisfactory responses on, among others, the source of the cash or bearer negotiable instruments, the ultimate beneficiaries, or the intended use of the cash or bearer negotiable instruments; or
 - (d) there is suspicion of money laundering, terrorist financing, proliferation financing or predicate offence, even if cash or bearer negotiable instruments have been correctly or accurately declared, he shall take reasonable measures including seizing part or the whole amount of cash or bearer negotiable instruments.”;
- (b) in subsection (4), by deleting the words “law enforcement agency” and substituting for them the words “competent authority”; and
 - (c) renumbering subsections (3) to (6) as subsections (4) to (7), respectively.

Amendment
of section
23A

20. The principal Act is amended in section 23A-

- (a) in subsection (1), by-
 - (i) inserting the words “or FIU” between the word “regulator” and the word “shall” appearing in the opening words;
 - (ii) deleting the words “their regulated entities” and the words “regulated entities” appearing in paragraphs (a) and (b), respectively and substituting for them the words “reporting persons”;

(b) by deleting subsection (2) and substituting for it the following:

“(2) Subject to subsection (1)(b), the supervision for anti-money laundering, countering financing terrorism and countering proliferation financing compliance shall include the application of the consolidated group supervision or monitoring.”.

Amendment
of section
28B

21. The principal Act is amended in section 28B by deleting subsection (2) and substituting for it the following:

“(2) For purposes of subsection (1), every director, manager, controller, principal officer or any person holding a similar position in a body corporate shall be deemed to have committed the offence unless that person proves that, the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to the circumstances pertaining to commission of the offence.”.

Addition of
section 28D

22. The principal Act is amended by adding immediately after section 28C the following:

“Maintenanc
e of statistics

28D.-(1) Competent authorities shall keep and maintain the following statistics concerning money laundering, terrorist financing and proliferation financing and predicate offences:

(a) statistics on investigations, prosecutions, convictions, seizures, freezing, forfeiture and confiscations of proceeds and

instrumentalities of crime;
 and
 (b) information on mutual legal assistance, extraditions, suspicious transaction reports and other reports that are submitted to the FIU, intelligence reports that are disseminated by the FIU and any other information that competent authorities exchange with counterparts at the national and international level,
 and shall provide the statistics to the FIU semi-annually in the manner as the FIU and the relevant competent authority shall agree."

Amendment
 of section 29

- 23.** The principal Act is amended in section 29(2)-
 (a) by adding immediately after paragraph (b), the following:
 “(c) the manner and procedure for making declaration of cash or bearer negotiable instruments that are transported in or out of the United Republic;” and
 (b) renaming paragraph (c) as paragraph (d).

PART III

CONSEQUENTIAL AMENDMENTS

*(a) Amendment of the Bank of Tanzania Act,
(Cap. 197)*Construction
Cap. 197

24. This Part shall be read as one with the Bank of Tanzania Act, hereinafter referred to as the “principal Act”.

Amendment
of section 47
Cap. 423

25. The principal Act is amended in section 47 by adding the words “or to anti-money laundering and countering terrorist financing matters pursuant to the Anti-Money Laundering Act” immediately after the word “institution” appearing at the end of subsection (1).

*(b) Amendment of the Capital Markets and Securities Act,
(Cap. 79)*Construction
Cap. 79

26. This Part shall be read as one with the Capital Markets and Securities Act, hereinafter referred to as the “principal Act”.

Amendment
of section 11

27. The principal Act is amended in section 11(3), by-
(a) inserting immediately after paragraph (c) the following:

Cap. 423

- “(d) any information on countering terrorist financing and countering proliferation financing matters pursuant to the Anti-Money Laundering Act;” and
(b) renaming paragraphs (d) and (e) as paragraphs (e) and (f), respectively.

*(c) Amendment of the Insurance Act,
(Cap. 394)*Construction
Cap. 394

28. This Part shall be read as one with the Insurance Act, hereinafter referred to as the “principal Act”.

Amendment
of section
143

29. The principal Act is amended in section 143 by deleting subsection (1) and substituting for it the following:

“(1) The Commissioner may, for the purpose of this Act, require the production of any document or information relating to-

(a) the insurance business of any insurer, broker or agent or applicant for registration, as the case may be; or

(b) countering terrorist financing matters pursuant to the Anti-Money Laundering Act.”.

Cap.
423

*(d) Amendment of the Mutual Assistance in Criminal Matters Act,
(Cap. 254)*

Construction
Cap. 254

30. This Part shall be read as one with the Mutual Assistance in Criminal Matters Act, hereinafter referred to as the “principal Act”.

Amendment
of section 4

31. The principal Act is amended in section 4, by-

(a) inserting immediately after paragraph (m) the following:

“(n) carrying out of undercover operations and control delivery;” and

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

*(e) Amendment of the Prevention of Terrorism Act,
(Cap. 19)*

Construction
Cap. 19

32. This Part shall be read as one with the Prevention of Terrorism Act, hereinafter referred to as the “principal Act”.

Amendment
of section 3

33. The principal Act is amended in section 3 by adding in its appropriate alphabetical order the following:

Cap. 423 “proliferation financing” shall have the meaning ascribed to it under the Anti-Money Laundering Act;”.

Deletion and substitution of Heading to Part II

34. The principal Act is amended in Part II, by-

(a) deleting the heading to Part II and substituting for it the following:

“PART II

PROHIBITION OF ACTS OF TERRORISM AND
PROLIFERATION FINANCING”; and

(b) inserting immediately before section 4 the following Sub-Part:

“(a) *Prohibition of Acts of Terrorism*”.

Amendment of section 4

35. The principal Act is amended by deleting section 4 and substituting for it the following:

“Definition and prohibition of terrorism act

4.-(1) Any person within or outside the United Republic who commits a terrorist act commits an offence.

(2) A person commits a terrorist act if the act or omission is committed with the aim of-

- (a) intimidating or causing fear amongst members of the public or a section of the public;
- (b) intimidating or compelling the Government or an international organisation to do or refrain from any act; or
- (c) destabilising the religious, political, constitutional, economic or social institutions of a country or an international organisation.

(3) The term “terrorist act” means an act or threat of action or omission which involves:

- (a) an attack upon a person's life which may cause death or serious bodily harm;
 - (b) the kidnapping of a person;
 - (c) serious damage to property;
 - (d) a serious risk to the health or safety of the public or a section of the public;
 - (e) the use of firearms or explosives;
 - (f) releasing into the environment or any part of it or distributing or exposing the public or any part of it to any-
 - (i) dangerous, hazardous, radioactive or harmful substance;
 - (ii) toxic chemical; or
 - (iii) microbial or other biological agent or toxin;
 - (g) disruption of any computer system or the provision of services directly related to communications infrastructure, banking or financial services, utilities, transportation or other essential infrastructure; or
 - (h) disruption of the provision of essential emergency services such as police, civil defence or medical services.
- (4) An act which-
- (a) only disrupts services; and

(b) is committed in pursuance of a protest, demonstration or stoppage of work, shall be deemed not to be a terrorist act within the meaning of this section, so long as the act is not intended to result in any harm referred to under subsection (2).”.

Amendment of section 7

36. The principal Act is amended in section 7(1) by inserting the words “terrorist or” between the word “a” and the word “proscribed” appearing in paragraph (b).

Addition of Sub-Part (b) and section 11B in Part II

37. The principal Act is amended in Part II by inserting immediately after section 11A the following:

“(b) Prohibition of Proliferation Financing

"Prohibition of proliferation financing

11B. Any person who, by any means, directly or indirectly-

- (a) provides or collects funds, technology or services, with an intention or knowledge that the said funds, technology or services may be used, in full or in part, to carry out an act constituting proliferation financing or to any person or jurisdiction or for the benefit of any person designated by the United Security Council; or
- (b) deals with, enters into or facilitates any transaction or enables the acquisition of a business interest or performs any other act in connection with funds, which such person knows or ought reasonably to have known or suspected to have been

acquired, owned, collected, used, possessed or provided for proliferation financing, commits an offence and shall be liable, on conviction, to imprisonment for a term of not less than twenty years.”.

Amendment of section 12

38. The principal Act is amended in section 12(5), by-
(a) deleting paragraph (d); and
(b) renaming paragraph (e) as paragraph (d).

Addition of section 12A

39. The principal Act is amended by adding immediately after section 12 the following:

“Designation of domestic terrorists

12A.-(1) The Minister may, subject to the designation criteria set out in the United Nations Security Council Resolutions, by notice published in the *Gazette*, declare any person, body corporate or unincorporated, to be a suspected domestic terrorist or terrorist body and the conditions prescribed under section 12 shall, *mutatis mutandis*, apply.

(2) The Minister may make regulations prescribing the criteria, procedures and mechanisms of designating a domestic terrorist under this section.”.

Repeal and replacement of sections 13 and 14

40. The principal Act is amended by repealing sections 13 and 14 and replacing for them the following:

“Prohibition of financing of terrorism

13. A person who finances terrorism or a person who willfully provides or collects, by any means, directly or indirectly, funds within or outside the United Republic with the intention that the funds may be used, or with the knowledge that they may be

used, in order to carry out terrorist acts, commits an offence and shall upon conviction be liable to imprisonment for a term of not less than twenty years.

Collection
of property
or provision
of property
and services
for
commission
of terrorism
acts

14.-(1) A person who, directly or indirectly, collects property or provides, invites a person to provide, or makes available, property or financial or other related services-

- (a) intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act, financing of terrorism, proliferation or proliferation financing or for the purpose of benefiting any person who is committing or facilitating the commission of a terrorist act, financing of terrorism, proliferation or proliferation financing; or
- (b) knowing that in whole or in part, they may be used by, or shall benefit, individual terrorist or a terrorist group,

commits an offence and shall on conviction, be liable to imprisonment for a term of not less than twenty years but not more than twenty five years.

(2) Notwithstanding the provisions of subsection (1), it shall not be necessary to prove that the funds or other assets were used for carrying out, attempt, or linked to a terrorist act, financing of terrorism, proliferation or proliferation financing.”.

Addition of
section 14A

41. The principal Act is amended by adding immediately after section 14 the following:

“Prohibition of terrorism related to travel or conduct

14A. Any person who-

(a) travels or attempts to travel within or outside the United Republic; or

(b) funds, organises, facilitates or recruits such travel or attempted travel by another,

intending that the travel be for-

(i) perpetrating, planning, preparing or participating in a terrorist act, financing of terrorism, proliferation or proliferation financing;

(ii) providing or receiving terrorist training; or

(iii) joining or providing support to a proscribed organisation,

commits an offence and shall, on conviction, be liable to imprisonment for a term of not less than fifteen years but not exceeding twenty years.”.

Amendment
of section 15

42. The principal Act is amended in section 15 by adding the words “financing of terrorism, proliferation or proliferation financing” immediately after the words "terrorist act" appearing at the end of paragraphs (a) and (b).

Amendment
of section 17

43. The principal Act is amended in section 17 by inserting immediately before the words “terrorist group” wherever they appear in those provisions the words “an individual terrorist or”.

Amendment
of section 18

- 44.** The principal Act is amended in section 18, by-
- (a) inserting immediately before the words “terrorist group” appearing in subsection (1)(a) the words “individual terrorist or”; and
 - (b) deleting the words “a member of a terrorist group constitutes giving of support to a terrorist group” appearing in subsection (2) and substituting for them the words “an individual terrorist or a member of a terrorist group constitutes giving of support to an individual terrorist or a terrorist group”.

Amendment
of section 20

- 45.** The principal Act is amended in section 20, by-
- (a) inserting immediately before the words “terrorist group” appearing in paragraph (a) the words “an individual terrorist or”; and
 - (b) inserting the words “an individual terrorist” immediately after the words “benefit of” appearing in paragraph (c).

Amendment
of section 26

- 46.** The principal Act is amended in section 26(1) by adding the words “an individual terrorist or” immediately after the words “addressed by” appearing in paragraph (c).

Addition of
section 27A

- 47.** The principal Act is amended by adding immediately after section 27, the following:

“Financial
penalties

27A.-(1) Where a person contravenes the provisions of this Act or regulations made under this Act and no specific financial penalty is stipulated, that person shall, on conviction:

- (a) in the case of an individual person, be liable to a fine not exceeding five hundred million shillings but not less than one hundred million shillings or be ordered to pay three times the amount

of money involved or market value of the property, whichever amount is greater; or

- (b) in the case of a body corporate, be liable to a fine of not less than five hundred million shillings or be ordered to pay three times of the amount of money involved or market value of the property, whichever amount is greater.

(2) For the purposes of subsection (1)(b), every director, manager or principal officer and member of the board of directors of the company shall be deemed to have committed the offence.”

Amendment
of section 48

48. The principal Act is amended in section 48, by-
(a) inserting immediately after subsection (1), the following:

“(2) Without prejudice to the generality of subsection (1), the regulations may provide for-

- (a) procedure and mechanisms to collect or solicit information to identify persons and entities that meet the criteria for designation and persons or entities who have been identified and whose proposal for designation has been considered;
- (b) preventive measures for funds, assets and properties of sanctioned persons or entity;
- (c) procedures for proposing persons or entities for designation and

- delisting under the United Nations Security Council Resolutions relating to terrorist financing and proliferation financing and the authority responsible for proposing designation;
- (d) mechanism and criteria for identifying targets for designation;
 - (e) implementation of targeted sanctions and other measures imposed by the United Nations Security Council Resolutions;
 - (f) procedure to respond to international request for information regarding particular actions or movements of terrorist or terrorist groups pursuant to section 37(a); and
 - (g) any other matter which is required to be prescribed for proper implementation of this Act.”; and
- (b) renumbering subsections (2) and (3) as subsections (3) and (4), respectively.

*(f) Amendment of the Proceeds of Crime Act,
(Cap. 256)*

Construction
Cap. 256

49. This Part shall be read as one with the Proceeds of Crime Act, hereinafter referred to as the “principal Act”.

Amendment
of section 3

50. The principal Act is amended in section 3 by deleting the words “includes any” appearing in the definition of the term “serious offence” and substituting for them the words “any other”.

OBJECTS AND REASONS

This Bill proposes amendment to the Anti-Money Laundering Act, Cap. 423 and make consequential amendments to other laws in order to address challenges in combating money laundering and countering financing of terrorism and countering the proliferation financing. The Bill proposes to make consequential amendment to five other laws, namely the Bank of Tanzania Act, Cap. 197, the Capital Markets and Securities Act, Cap. 79, the Insurance Act, Cap. 394, the Mutual Assistance in Criminal Matters Act, Cap. 254, the Prevention of Terrorism Act, Cap. 19 and the Proceeds of Crimes Act, Cap. 256.

This Bill is divided into Three Parts as follows:

Part I of the Bill deals with preliminary provisions which include the title of the Bill and the manner in which the laws proposed to be amended are amended in their respective Parts.

Part II of the Bill proposes amendments to the Anti-Money Laundering Act, Cap. 423 where section 3 is amended by deleting and substituting certain definitions and providing definitions of new technical terms that are used in the Act and are commonly used in combating money laundering, terrorist financing and the proliferation financing.

Sections 4 and 6 of the Act are proposed to be amended for the purpose of introducing the aspect of supervision of proliferation financing by FIU, requiring the FIU to collect and maintain

statistics, cooperate with law enforcement agencies and exchange information with law enforcement agencies and other stakeholders.

The Bill also proposes amendment to section 8 for the purpose of adding representatives from the National Prosecution Office, the Office of the Director of Public Prosecutions in Zanzibar, Zanzibar Anti-Corruption and Economic Crimes Authority, the Drugs Control and Enforcement Authority, the Commission for National Coordination and Drugs Control Zanzibar, to be members of the National Anti-Money Laundering Multi-Disciplinary Committee. Section 9 is proposed to be amended by conferring upon the National Committee the responsibility of coordinating the national risk assessment, ensuring that it is updated regularly and ensuring that its functions include advising the Governments on matters relating to proliferation financing.

Section 12 of the Act is proposed to be amended to distinguish between an offence of money laundering from the underlying predicate offence. The proposal intends to remove the necessity of a person to be convicted of the predicate offence for him to be convicted for money laundering offence.

Section 15 is proposed to be repealed and replaced in order to make it a requirement for conducting money laundering risk assessment at national, sectoral, and on the individual reporting person's levels. Further, it is proposed to add a new section 15A that sets the conditions for reporting person's conduct of Customer Due Diligence measures. This provision also imposes a duty on reporting persons to identify politically exposed persons and the beneficial owners of companies and other legal arrangements when conducting Customer Due Diligence.

Sections 16, 18 and 19 are proposed to be repealed and replaced in order to impose a mandatory requirement for every reporting person to establish and maintain records relevant for countering money laundering, financing of terrorism and proliferation financing such as information relating to domestic and international transactions and know your customer files. The provisions also impose a condition for reporting persons to establish and maintain internal policies, controls and procedures for combating money laundering and countering financing of terrorism and proliferation financing. The internal controls include policies for screening and vetting persons engaged in the employment by the reporting person, capacity building of employees and anti-money laundering audit functions to test the systems.

The Bill also proposes to add a new section 28D that imposes a requirement for all law enforcement agencies and other Government bodies to keep and maintain comprehensive and updated statistics concerning money laundering, terrorism financing, proliferation financing, confiscation and seizures, mutual assistance, cases under investigation and decided cases.

Part III proposes consequential amendment to various laws, whereby Sub-Part (a), (b) and (c) propose to amend the Bank of Tanzania Act, Cap. 197, the Capital Markets and Securities Act, Cap. 79 and the Insurance Act, Cap. 394 for the purpose of facilitating the regulators to obtain information relating to money laundering, financing of terrorism and proliferation financing.

Sub-Part (d) proposes to amend the Mutual Assistance in Criminal Matters Act, Cap. 254 in section 4 in order to include undercover operations under the provisions of that section. The aim of the

amendment is to enable mutual assistance in the carrying out of undercover operations and control delivery.

Sub-Part (e) proposes to amend the Prevention of Terrorism Act, Cap. 19 whereby a new section 11A is added to provide for prohibition of financing of terrorist or acts of terrorism and make it an offence to provide or collect funds that may be used by terrorists or to carry out a terrorist act. It is also proposed to add a new section 12A that empowers the Minister responsible for home affairs to designate domestic terrorists and ensure that they are registered by the United Nations Security Council. Sections 13 and 14 are proposed to be repealed and replaced for the purpose of prohibiting the financing of terrorist acts and terrorism and collection of properties or provision of property and services for the purpose of committing terrorist acts. A new section 14A is added that prohibits terrorism related travels within and outside the United Republic.

Sub-Part (f) proposes amendment to the Proceeds of Crime Act, Cap. 256 in order to improve the definition of the term “serious crime” to correspond with the definition under various international instruments to which the United Republic is a party.

MADHUMUNI NA SABABU

Muswada huu unapendekeza marekebisho katika Sheria ya Kudhibiti Utakasishaji wa Fedha Haramu, Sura ya 423, na kufanya marekebisho yatokanayo katika sheria nyingine tano ili kukabiliana na changamoto katika udhibiti wa utakasishaji wa fedha haramu, ufadhili wa ugaidi na ufadhili wa silaha za maangamizi. Marekebisho ya sheria nyingine yatokanayo na marekebisho ya Sheria ya Kudhibiti Utakasishaji wa Fedha Haramu, ni Sheria ya Benki Kuu ya Tanzania (Sura ya 197), Sheria ya Masoko ya Mitaji na Dhamana, (Sura ya 79), Sheria ya Bima, (Sura ya 394), Sheria ya Ushirikiano Katika Masuala ya Jinai (Sura ya 254), Sheria ya Kuzuia Ugaidi (Sura ya 19) na Sheria ya Mapato ya Uhalifu, (Sura ya 256).

Muswada huu umegawanyika katika Sehemu Tatu kama ifuatavyo:

Sehemu ya Kwanza ya Muswada inaainisha masharti ya utangulizi ambayo ni jina la Muswada na tamko kuhusu marekebisho ya Sheria mbalimbali zinazokusudiwa kufanyiwa marekebisho kupitia Muswada huu.

Sehemu ya Pili ya Muswada inapendekeza marekebisho katika Sheria ya Kudhibiti Utakasishaji wa Fedha Haramu (Sura ya 423) ambapo kifungu cha 3 kinafanyiwa marekebisho kwa kufuta na kuandika upya tafsiri ya baadhi ya maneno, kuweka tafsiri ya maneno mapya yanayohusiana na masuala ya utakasishaji wa fedha haramu, ufadhili wa ugaidi na ufadhili wa silaha za maangamizi ambayo yanapendekezwa kutumiwa kwenye Sheria. Vifungu vya 4 na 6 vya Sheria vinarekebishwa kwa madhumuni ya

kuongeza suala la usimamizi katika udhibiti wa ufadhili wa silaha za maangamizi, kukitaka Kitengo cha Kudhibiti Utakasishaji wa Fedha Haramu kuandaa na kutunza takwimu na kubadilishana taarifa na taasisi mbalimbali na wasimamizi wa sekta ya fedha.

Muswada pia unapendekeza kurekebisha kifungu cha 8 cha Sheria hiyo kwa lengo la kuongeza wajumbe wa Kamati ya Kitaifa ya Kudhibiti Utakasishaji Fedha Haramu kwa kuwajumuisha wawakilishi kutoka Ofisi ya Taifa ya Mashtaka, Ofisi ya Mkurugenzi wa Mashtaka Zanzibar, Mamlaka ya Kupambana na Rushwa na Uhujumu Uchumi Zanzibar, Mamlaka ya Kudhibiti na Kupambana na Dawa za Kulevya na Kamisheni ya Taifa ya Kuratibu na Kudhibiti Dawa za Kulevya, Zanzibar. Kifungu cha 9 kinapendekezwa kurekebisha kwa kuipa Kamati ya Kitaifa wajibu wa kuratibu zoezi la tathmini ya viashiria hatarishi kitaifa na kuhakikisha kuwa tathmini hiyo zinafanyiwa mapitio ili kuendana na wakati na kuzishauri Serikali kuhusu masuala ya ufadhili wa silaha za maangamizi.

Kifungu cha 12 kinapendekezwa kurekebisha ili kubainisha tofauti kati ya kosa tangulizi na kosa la kutakasisha fedha haramu ili kuondoa ulazima wa mtu kutiwa hatiani kwanza kwa kosa tangulizi ili mtu huyo atiwe hatiani kwa kosa la kutakasisha fedha haramu.

Kifungu cha 15 kinapendekezwa kufutwa na kuandikwa upya ili kuweka masharti ya kufanya tathmini ya viashiria hatarishi vya utakasishaji wa fedha haramu, ufadhili wa ugaidi na ufadhili wa silaha za maangamizi na namna ya kudhibiti viashiria hivyo. Vilevile, inapendekezwa kuongeza kifungu kipya cha 15A kinachoweka masharti ya utambuzi wa taarifa za wateja kwa watoa taarifa na kuendelea kuboresha taarifa za mteja mara kwa mara. Masharti haya pia yanaweka wajibu kwa watoa taarifa kuwatambua wamiliki wanufaika wa kampuni au taasisi zisizo

kampuni na kuwataka watoa taarifa kufanya utambuzi wa watu wenye nyadhifa katika taasisi za umma.

Vifungu vya 16, 18 na 19 vinapendekezwa kufutwa na kuandikwa upya ili kuweka masharti ya lazima kwa kila mtoa taarifa kuanzisha na kutunza kumbukumbu zinazohusiana na utakasishaji wa fedha haramu, ufadhili wa ugaidi na ufadhili wa silaha za maangamizi kama vile taarifa kuhusiana na miamala ya kitaifa na kimataifa na taarifa za utambulisho wa mteja. Masharti hayo yanajumuisha wajibu wa mtoa taarifa kuwa na sera ya udhibiti na taratibu za kupambana na utakasishaji wa fedha haramu, ufadhili wa ugaidi na ufadhili wa silaha za maangamizi pamoja na kuandaa taratibu za uhakiki na ukaguzi wa watumishi wanaoajiriwa na mtoa taarifa, utoaji mafunzo na kuwajengea uwezo watumishi hao na kuwa na taratibu za ukaguzi wa mifumo ya udhibiti.

Muswada pia unapendekeza kuongeza kifungu kipya cha 28D kinachoweza masharti kwa taasisi zote za utekelezaji wa sheria, taasisi za usimamizi na vyombo vingine vya Serikali kuanzisha na kutunza takwimu zinazohusiana na utakasishaji fedha haramu, ufadhili wa ugaidi na ufadhili wa silaha za maangamizi, kesi zilizo katika hatua ya uchunguzi na kesi zilizotolewa uamuzi, taarifa za utafishaji wa mali na taarifa kuhusu ushirikiano katika masuala ya jinai.

Sehemu ya Tatu, inapendekeza marekebisho mengineyo ya sheria nyingine yatokanayo na marekebisho ya Sheria ya Kudhibiti Utakasishaji wa Fedha Haramu (Sura ya 423) ambapo, Sehemu Ndogo za (a), (b) na (c) zinapendekeza marekebisho katika Sheria ya Benki Kuu ya Tanzania, (Sura ya 197), Sheria ya Masoko ya Mitaji na Dhamana, (Sura ya 79) na Sheria ya Bima (Sura ya 394) kwa madhumuni ya kuziwezesha taasisi za usimamizi katika Sheria hizo kupata taarifa za utakasishaji fedha haramu, ufadhili wa ugaidi na ufadhili wa silaha za maangamizi kutoka kwa wanaowasimamia.

Sehemu Ndogo ya (d) inapendekeza kurekebisha Sheria ya Ushirikiano Katika Masuala ya Jinai, Sura ya 254 katika kifungu cha 4 ili kujumuisha katika masharti ya kifungu hicho operesheni zinazofanyika kwa njia ya kificho. Marekebisho yanayopendekezwa yanalenga kuwezesha ushirikiano katika operesheni za kificho.

Sehemu Ndogo ya (e) inapendekeza marekebisho katika Sheria ya Kuzuia Ugaidi, Sura ya 19 ambapo kinaongezwa kifungu kipya cha 11B kinachoainisha masharti ya kuzuia ufadhili wa ugaidi na matendo ya ugaidi na kutamka kuwa kutoa au kukusanya fedha zinazoweza kutumika na magaidi au kufanya kitendo cha ugaidi kuwa kosa. Kifungu kipya cha 12A kinapendekezwa kuongezwa ili kumpa Waziri mwenye dhamana ya masuala ya mambo ya ndani ya nchi mamlaka ya kuwatangaza magaidi wa ndani ya nchi na kuhakikisha kuwa wanasajiliwa na Baraza la Usalama la Umoja wa Mataifa. Vifungu vya 13 na 14 vinapendekezwa kufutwa na kuandikwa upya kwa lengo kuzuia vitendo vya kufadhili ugaidi na ukusanyaji wa mali au utoaji wa mali na huduma kwa madhumuni ya kutekeleza vitendo vya ugaidi. Kifungu kipya cha 14A kinaongezwa ili kukataza vitendo vinayohusiana na safari za ndani na nje ya Jamhuri ya Muungano kwa madhumuni ya kufanya ugaidi.

Sehemu Ndogo ya (f) inapendekeza marekebisho katika Sheria ya Mapato ya Uhalifu, Sura ya 256 katika tafsiri ya neno “kosa kubwa” ili kuendana na tafsiri inayotumika katika mikataba mbalimbali ya kimataifa.

Dodoma,
26 Januari, 2022

MWIGULU LAMECK NCHEMBA MADELU,
Waziri wa Fedha na Mipango