

GUIDANCE TO FIRMS LICENSED BY THE CAPITAL MARKETS AUTHORITY REGARDING SUSPICIOUS TRANSACTION MONITORING AND REPORTING OBLIGATIONS

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Summary

The Capital Markets Authority (CMA) is issuing this guidance note to all licensees regarding suspicious transaction monitoring and reporting obligations in its quest to fulfill its obligation under Recommendation 34 of the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation.

Questions concerning this guidance notice should be directed to: Edgar Mutebi, The Senior Anti Money Laundering Officer on email; edgar.mutebi@cmauganda.co.ug;

Background

“Money-Laundering” means the process of turning illegitimately obtained property into seemingly legitimate property and it includes concealing or disguising the nature, source, location, disposition or movement of the proceeds of crime and any activity which constitutes a crime under section 116 of the Anti-Money Laundering Act, 2013.

Pursuant to Sec 5 (2)(u) of the CMA Act, Cap 84, For the purpose of carrying out its objects, the Authority may exercise, perform and discharge all or any of the following powers, duties and functions act as the supervisory authority for anti-money laundering and combating of financing of terrorism in the capital markets and perform the functions conferred on the Authority, as an accountable person, under the Anti-Money Laundering Act, 2013.

Recommendation 34 of the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation requires competent authorities such as CMA to establish guidelines, and provide feedback, which will assist financial institutions (in this case, those in the securities sector) in applying national measures to combat money laundering and terrorist financing, and, in particular, in detecting and reporting suspicious transactions. The guidance notice covers the following **potential red flags** in the securities industry,

<p>I. Potential Red Flags in Customer Due Diligence Interactions with Customers</p>	<p>1. When a customer gives the company strange or doubtful ID papers that are hard to check, or they don't match what the customer has already said or given. It could also happen if the details they give don't match what's known about them. This could happen when they open an account or during later interactions after opening the account</p>
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	<ol style="list-style-type: none">2. If a customer doesn't want to or refuses to give all the information the company needs, like details about their business, past financial connections, expected transactions, where their business is, and sometimes, who runs the company.3. The customer refuses to identify the legitimate source of funds or information is false, misleading or substantially incorrect.4. If the customer lives, works, or often does business or regularly transacting with counterparties in a jurisdiction that is known as a bank secrecy haven, tax shelter, high-risk geographic location (e.g., drug production or jurisdictions known to have ineffective AML/Combating the Financing of Terrorism systems) or conflict zone, including those with an established threat of terrorism.5. The customer has difficulty describing the nature of his or her business or lacks general knowledge of his or her industry in which the business operates.6. The customer has faced rejection or had their relationship ended by other financial firms in the past."7. The customer seems to be representing someone else without revealing who they're representing, which is called an undisclosed principal. They might be acting on behalf of another person or company but are hesitant or unwilling to share details about this arrangement.8. The customer is a trust, shell company or private investment company that is reluctant to provide information on controlling parties and underlying beneficiaries.9. The customer is known to have legal issues or associations with people facing legal problems involving crimes, corruption, or misusing public funds. This information might come from news, the internet, or databases.10. The customer's background is questionable or differs from expectations based on business activities.11. An account is opened by a politically important person (PEP), especially when combined with other risks like the account being opened through a company owned by the PEP, the PEP belonging to a country flagged for anti-money laundering issues, or if the PEP is from a corrupt-prone country such as Uganda
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	<ol style="list-style-type: none"> 12. An account is opened by a non-profit organization (aka Non-Government Organization) that provides services in geographic locations known to be at higher risk for being an active terrorist threat. 13. An account is opened in the name of a legal entity that is involved in the activities of an association, organization or foundation whose aims are related to the claims or demands of a known terrorist entity. 14. An SCD account is opened for a purported stock loan company, which may hold the restricted securities of corporate clients who have pledged the securities as collateral for, and then defaulted on, purported loans, after which the securities are sold through an across books transaction on an exchange. 15. An account is opened in the name of a foreign financial institution, such as an offshore bank or broker-dealer but is not licensed in the primary jurisdiction.
<p>II. Potential Red Flags in Deposits of Securities</p>	<ol style="list-style-type: none"> 1. A customer has a pattern of depositing physical share certificates (immobilizing) and immediately selling the shares and then wiring, or otherwise transferring out the proceeds of the sale(s). 2. The customer's explanation or documents purporting to evidence how the customer acquired the shares does not make sense or changes upon questioning by the firm or other parties. Such documents could include questionable legal opinions or securities purchase agreements.
<p>III. Potential Red Flags in Securities Trading</p>	<ol style="list-style-type: none"> 1. The customer's activity makes up a significant portion of the daily trades for a thinly traded or low-priced security. 2. A customer buys and sells securities without any clear purpose or in circumstances that seem unusual. 3. Industry-known individuals who promote stocks sell securities through the broker-dealer. 4. A customer gradually accumulates stock in small amounts throughout the trading day to boost the price. 5. A customer engages in pre-planned or other non-competitive trading of securities, like wash or cross trades, without any obvious business reason. 6. A customer tries to influence a stock's closing price by placing purchase or sale orders near the market's close.

	<ol style="list-style-type: none"> 7. A customer's transactions seem linked to cyber breaches in accounts, possibly involving unauthorized fund disbursements or trades. 8. Unrelated customer accounts at the firm suddenly and simultaneously trade an illiquid or low-priced security. 9. A customer makes a large purchase or sale of a security before news or a major announcement that affects the security's price is released. 10. The firm receives regulatory inquiries or subpoenas regarding the trading activities of its customers. 11. A customer's pattern of securities transactions suggests they're using securities to convert currencies. For example, they buy securities in one currency and then sell Depository Receipts (DRs) for U.S. dollars, although the securities were originally bought in a different currency.
IV. Potential Red Flags in Money Movements	<ol style="list-style-type: none"> 1. The customer attempts or makes frequent or large deposits of currency, insists on dealing only in cash equivalents, or asks for exemptions from the firm's policies and procedures relating to the deposit of cash and cash equivalents. 2. The customer "structures" deposits, withdrawals or purchases of monetary instruments below a certain amount to avoid reporting or recordkeeping requirements. 3. The customer frequently changes bank account details or information for redemption proceeds, in particular when followed by redemption requests. 4. The customer makes a funds deposit followed by an immediate request that the money be wired out or transferred to a third party, or to another firm, without any apparent business purpose. 5. Wire transfers are made in small amounts in an apparent effort to avoid triggering identification or reporting requirements. 6. Wire transfers are made to or from financial secrecy havens, tax havens, high-risk geographic locations or conflict zones, including those with an established presence of terrorism. 7. The parties to the transaction (e.g., originator or beneficiary) are from countries that are known to support terrorist activities and organizations. 8. The securities account is used for payments or outgoing wire transfers with little or no securities activities (i.e., account appears to be used as a depository account or a conduit for transfers, which may be purported to be for business operating needs).

	<ol style="list-style-type: none"> 9. Upon request, a customer is unable or unwilling to produce appropriate documentation (e.g., invoices) to support a transaction, or documentation appears doctored or fake (e.g., documents contain significant discrepancies between the descriptions on the transport document or bill of lading, the invoice, or other documents such as the certificate of origin or packing list). 10. Nonprofit or charitable organizations engage in financial transactions for which there appears to be no logical economic purpose or in which there appears to be no link between the stated activity of the organization and the other parties in the transaction.
V. Other Potential Red Flags	<ol style="list-style-type: none"> 1. The customer is reluctant to provide information needed to file reports to proceed with the transaction. 2. The customer exhibits unusual concern with the firm’s compliance with government reporting requirements and the firm’s AML policies. 3. The customer tries to persuade an employee not to file required reports or not to maintain the required records. 4. Law enforcement has issued subpoenas or freeze letters regarding a customer or account at the securities firm. 5. The customer makes high-value transactions not commensurate with the customer’s known income or financial resources. 6. The customer wishes to engage in transactions that lack business sense or an apparent investment strategy, or are inconsistent with the customer’s stated business strategy. 7. The stated business, occupation or financial resources of the customer are not commensurate with the type or level of activity of the customer. 8. The customer engages in transactions that show the customer is acting on behalf of third parties with no apparent business or lawful purpose. 9. The customer engages in transactions that show a sudden change inconsistent with normal activities of the customer. 10. A borrower defaults on a cash-secured loan or any loan that is secured by assets that are readily convertible into currency.

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