

## **Anti-Money Laundering Act, 2008 (Act 749)**

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### **SCHEDULE**

## **ACT OF THE PARLIAMENT OF THE REPUBLIC OF GHANA**

ENTITLED

### **ANTI-MONEY LAUNDERING ACT, 2008**

AN ACT to prohibit money laundering, establish a Financial Intelligence Centre and to provide for related matters.

**DATE OF ASSENT: 22nd January, 2008.**

**ENACTED by the President and Parliament:**

## *Money laundering*

### **Money laundering**

1. (1) A person commits an offence of money laundering if the person knows or ought to have known that property is or forms part of the proceeds or unlawful activity and the person

(a) converts, conceals, disguises or transfers the property.

(b) conceals or disguises the unlawful origin of the property. Or

(c) acquires, uses or takes possession of the property.

(2) For the purpose of this Act, unlawful activity means conduct which constitutes a serious offence, financing of a terrorist act or contravening or non-compliance with a law which occurs after the commencement of this Act whether the conduct occurs in this country or elsewhere.

### **Aiding: and abetting money laundering activities**

2. A person commits an offence if the person knows or ought to have known that another person has obtained proceeds from an unlawful activity and enters into an agreement with that other person or engages in a transaction where

(a) the retention or the control by or on behalf of that other person of the proceeds from unlawful activity is facilitated, or

(b) the proceeds from that unlawful activity are used to make funds available to acquire property on behalf of that other person,

### **Penalty for money laundering**

3. A person who contravenes section 1 or 2 commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not less than twelve months and not more than ten years or to both,

## *Financial Intelligence Centre*

### **Establishment of Financial Intelligence Centre**

4. (1) There is established by this Act a body to be known as the Financial Intelligence Centre,

(2) The Centre is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Centre may for the performance of its functions acquire and hold movable and immovable property and may enter into a contract or any other transaction.

## **Objects of the Centre**

5. The objects of the Centre are to

(a) assist in the identification of proceeds of unlawful activity and the combat of money laundering activities;

(b) make information available to investigating authorities, the intelligence agencies and the revenue agencies"; to facilitate the administration and enforcement of the laws of the Republic; and

(c) exchange information with similar' bodies in other countries as regards money laundering activities and similar offences.

## **Functions of the Centre**

6. To achieve the objects, the Centre shall

(a) process, analyse, disseminate and interpret information disclosed to or obtain by the centre in terms of this Act

(b) retain the information in the manner and for the period required under this Act:

(c) inform, advise and co-operate with investigating authorities, supervisory bodies, the revenue agencies, the intelligence agencies and foreign counterparts; and

(d) monitor and give guidance to accountable instillations, supervisory bodies and other persons on the discharge of their duties and in compliance with this Act.

## **Governing body of the Centre**

7 The governing body of the Centre is a Board consisting of

(a) one representative each from:

(i) the Ministry of Finance not below the rank of director,

(ii) the Ministry responsible for National Security not below the rank of director,

(iii) ?the Bank of Ghana not below the rank of director;

(b) one senior police officer not below the rank of Assistant Commissioner nominated by the Minister for the Interior;

(c) the Chief Executive Officer,

(d) one lawyer in private practice with at least ten years experience nominated by the Attorney-General and Minister for Justice, on the advice of the Ghana Bar Association, and

(e) one other person from the private sector with accounting, banking and finance experience nominated by the Minister.

(2) The President shall appoint the chairperson and the other members of the Board in accordance with article 70 of the Constitution.

### **Functions of the Board on policy formulation**

8. The Board shall formulate and ensure the implementation of policies necessary for the achievement of the objects of the Centre.

### **Tenure of office of members**

9. (1) A member of the Board other than the Chief Executive Officer shall hold office for a period of four years and is eligible for re-appointment, but a member shall not be appointed for more than two terms.

(2) Where a member of the Board resigns, dies, is removed from office or is for a sufficient reason unable to act as a member, the Minister shall notify the President of the vacancy and the President shall, in accordance with article 70 of the Constitution, appoint another person to hold office for the unexpired portion of the member's term of office.

(3) A member of the Board other than the Chief Executive Officer may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President, by a letter addressed to a member

(a) may revoke the appointment of that member where there are sufficient grounds for the revocation; and

(b) shall revoke the appointment of a member at the request of the nominating body.

### **Meetings of the Board**

10. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request of not less than three of the members of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

- (3) The quorum at a meeting of the Board is three.
- (4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members from among their number shall preside.
- (5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.
- (6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.
- (7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.
- (8) Subject to this section, the Board may determine the procedure for its meetings.

### **Disclosure of interest**

11. (1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Board in respect of that matter.

(2) Where a member contravenes sub section (1) the chairperson shall notify the Minister who shall inform the President to revoke the appointment of the member.

### **Committee of the Board**

12. (1) The Board may constitute committees consisting of members of the Board or non-members or both, to perform a function of the Board.

(2) A committee of the Board may be chaired by a member of the Board.

(3) Section 11 applies to a member of a committee of the Board.

### **Allowances**

13. Members of the Board and members of a committee of the Board shall be paid allowances approved by the Minister.

### *Administrative and financial matters* Appointment of Chief Executive Officer

14. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Chief Executive Officer for the Centre.

(2) The Chief Executive Officer shall hold office on the terms and conditions specified in the letter of appointment.

### **Functions of the Chief Executive Officer**

15. (1) The Chief Executive Officer is responsible for the day to day administration of the Centre and is answerable to the Board in the performance of functions under this Act.

(2) The Chief Executive Officer may delegate a function to the Deputy Chief Executive Officer but the Chief Executive Officer shall not be relieved of the ultimate responsibility for the performance of the delegated function.

### **Appointment of Deputy Chief Executive Officer**

16. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Deputy Chief Executive Officer for the Centre.

(2) In the absence of the Chief Executive Officer, the Deputy Chief Executive Officer shall perform the functions of the Chief Executive Officer.

### **Appointment of other staff**

17. (1) The President shall in accordance with article 195 of the Constitution, appoint other staff of the Centre that are necessary for the proper and effective performance of the functions of the Centre,

(2) Other public officers may be transferred or seconded to the Centre or may otherwise give assistance to the Centre.

(3) The Centre may engage the services of consultants on the recommendation of the Board.

(4) The Chief Executive Deputy Chief Executive and staff of the centre shall be subject to security screening.

### **Funds of the Centre**

18. The funds of the Centre shall include

(a) moneys approved by Parliament

(b) donations, grants, and

(c) any other moneys that are approved by the Minister responsible for Finance

### **Accounts and audit**

19. (1) The Board shall keep books of account and proper records in relation to the Centre in the form approved by the Auditor-General.



(2) The Board shall, within three months after the end of the financial year, submit the accounts of the Centre to the Auditor-General for audit.

(3) The Auditor-General shall, not later than three months, after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Board.

(4) The Internal Audit Agency Act, 2003 (Act 658) applies to this Act. (S) The financial year of the Centre is the same as the financial year of the Government.

### **Annual report and other reports**

**20.** (1) The Board shall, within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and operations of the Centre for the year of which the report relates.

(2) The annual report shall include the Auditor-General's report.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other report which the Minister may require in writing.

### *Accountable institutions, records and information*

#### **Accountable institutions**

**21.** (1) For the purposes of this Act accountable institutions are as set out in the First Schedule.

(2) The Minister may by Legislative Instrument amend the First Schedule.

#### **Register of accountable institutions**

**22.** (1) Each supervisory body shall furnish the Centre with a list of accountable institutions which are registered with it.

(2) The Centre shall allocate to each registered accountable institution a number for identification purposes.

(3) The Centre shall maintain a register of accountable institutions.

#### **Accountable institutions to keep records**

**23.** (1) An accountable institution that establishes a business relationship with a person shall keep records of

(a) the identity of the person or the agent of the person;

(b) transaction made through the accountable institution, and (c) suspicious transactions reports made to the Centre.

(2) For the purposes of this Act records may be kept on a computer system or an electronic device capable of being used to store information.

(3) This section applies to each single transaction with an accountable institution.

### **Duration for keeping records**

24. (1) An accountable institution shall keep the records for

(a) not less than six years after the date on which a relationship is terminated in case of a business relationship, or

(b) not less than six years after the date a transaction is concluded.

(2) An accountable institution may appoint a person to keep records on behalf of the accountable institution.

(3) An accountable institution that appoints a person to keep records on its behalf shall inform the Centre of the appointment in writing.

(4) At the end of the six year period, the accountable institution shall send the records to the Public Records and Archives Administration Department.

### **Unauthorised access to computer system or application data**

25. A person shall not

(a) access a computer system,

(b) access application data held in a computer system, or

(c) cause a computer system

that belongs to, or is under the control of the Centre or an accountable institution to perform or fail to perform a function without the consent of the Centre or the accountable institution.

### **Unauthorised modification of computer system**

26. A person shall not

(a) modify,

(b) erase, or

(c) destroy

the contents of a computer system or application data of a computer system that belongs to the Centre or an accountable institution without the consent of the Centre or the accountable institution.

### **Duty of operators of games of chance**

**27.** (1) The Gaming Commissioner shall not issue or renew a licence for the operation of a game of chance under the Gaming Act, 2006 (Act 721) unless the applicant for the licence or renewal provides proof of the lawful origin of the capital for the intended operation or in the case of a renewal, the origin of its additional capital to the Games Commissioner.

(2) A betting or gaming operator shall

(a) verify the identity of a person who buys or exchanges chips or tokens, by requesting the person to present an authentic document bearing the name and address of the person;

(b) keep records of gaming transactions in chronological order in a register indicating

(i) the nature and amount of currency involved in each transaction, and

(ii) the full name and address of the person in a register in a form authorised by the Centre.

(3) The register shall be preserved for at least six years after the last recorded transaction in the register and after the six year period, the register shall be sent to the Public Records and Archives Administration Department.

### **Request for information**

**28.** (1) The Centre or an authorised representative of the Centre may request an accountable institution to disclose whether

(a) a person is or has been a client of the accountable institution,

(b) a person is acting or has acted on behalf of a client of the accountable institution, or

(c) a client of the accountable institution is acting or has acted on behalf of another person

and the accountable institution shall comply.

(2) The Centre may request further information where the Centre is of the opinion that the information given to the Centre is not adequate.

## **Information held by supervisory bodies and revenue agencies**

**29.** (1) Where a supervisory body or a revenue agency becomes aware or believes that an accountable institution, as a result of a transaction concluded by or with the accountable institution,

(a) has received or is about to receive the proceeds of unlawful activity, or

(b) has been used or may be used for money laundering or a suspicious transaction,

the supervisory body or revenue agency shall advise the Centre of the fact and furnish the Centre with the information and records in respect of the knowledge or suspicion which the Centre may reasonably require.

(2) Where the Centre believes that a supervisory body or revenue agency may have information indicating that an accountable institution

(a) is about to receive the proceeds of unlawful activity as a result of a transaction, or

(b) has been used or may be used for money laundering or for the purpose

of any suspicious transaction,

the Centre may request the supervisory body or revenue agency to confirm or rebut the belief and the supervisory body or revenue agency shall comply.

## **Suspicious transaction report**

**30.** (1) A person who or an institution which knows or suspects that

(a) a business entity, an accountable institution or a trust has received or is about to receive the proceeds of unlawful activity, or

(b) a transaction to which the business entity is a part

(i) facilitated or is likely to facilitate the transfer of the proceeds of unlawful activity,

(ii) has no apparent business or lawful purpose,

(iii) is conducted to avoid or give rise to a reporting duty under this Act,

(iv) may be relevant to an investigation into tax evasion or an attempt to evade the payment of tax, duty or a levy imposed by legislation, or

(v) has been used or is about to engage in money laundering, shall within twenty four hours after the knowledge or the ground for suspicion of the transaction submit a suspicious transaction report to the Centre.

(2) Where a person suspects a transaction to be linked to or used for the financing of a terrorist act as defined by law, the person shall make a report to the Centre within twenty four hours of the suspicion.

(3) A person who makes a suspicious transaction report shall not (a) disclose the contents to another person, or

(b) reveal the personal details of the officer of the Centre who receives the report to another person.

(4) A person who receives a suspicious transaction report shall not

(a) disclose the contents of the report to a person not authorised to know the contents of the report, or

(b) disclose the personal details of the person who made the report to another person.

(5) A person who makes a suspicious transaction report shall disclose the contents where

(a) the person is required by law to disclose the contents,

(b) it is to carry out the provisions of this Act,

(c) it is for legal proceedings, or

(d) it is by an order of a Court.

### **Conducting transaction to avoid giving rise to a reporting duty**

**31.** A person shall not conduct two or more transactions separately with one or more than one accountable institution so as to avoid the duty to report a transaction or in breach of the duty to disclose information under this Act.

### **Protection against civil or criminal liability**

**32.** A person who makes a suspicious transaction report under section 30 is not liable for the breach of a restriction on disclosure of information imposed by contract or by any law if the person reports the suspicion to the Centre in good faith.

### **Conveyance of currency to or from the country**

**33.** (1) A person who intends to convey currency that exceeds the amount prescribed by the Bank of Ghana to or from this country shall declare the particulars of the currency and the amount to be conveyed to the Bank of Ghana or its authorised agent at the port of entry or exit.

(2) A person authorised to receive the declaration shall immediately on receipt of the declaration send a copy to the Centre.

(3) The declaration shall be made in accordance with the Foreign Exchange Act, 2007 (Act 723) and Regulations made under that Act.

### **Electronic transfer of currency**

**34.** Where an accountable institution through electronic means and in accordance with the Foreign Exchange Act, 2007 (Act 723) and Regulations made under that Act,

*(a)* transfers currency outside the country, or *(b)* receives currency from outside the country

which exceeds the amount prescribed by the Bank of Ghana, the accountable institution shall within twenty-four hours after the transfer or receipt of the currency, report the particulars of the transfer or receipt to the Centre.

### **Reporting procedures**

**35.** (1) A report to the Centre on the conveyance of currency and the electronic transfer of currency by an accountable institution shall be made in a manner prescribed.

(2) The Centre or an authorised officer, may request an accountable institution that has made a report to furnish the Centre or body with additional information concerning the report.

### **Continuation of transactions**

**36.** (1) An accountable institution required to make a report to the Centre may continue to carry out the transaction in respect of which the report is required to be made but shall inform the Centre.

(2) The Centre may within three days, direct an accountable institution or a person not to proceed with a transaction on which a report has been made.

### **Intervention by the Centre**

**37.** Where the Centre after consulting an accountable institution, or a person required to make a report, has reasonable grounds to suspect that a transaction or proposed transaction may involve the proceeds of unlawful activity or may constitute money laundering, the Centre may direct the accountable institution or person to

*(a)* make the necessary inquiries concerning the transaction, or

*(b)* inform and advise an investigating authority,

where the Centre considers it appropriate.

### **Monitoring orders**

**38.** (1) A Court may, on written application by the Centre, make a monitoring order requesting an accountable institution to make a report to the Centre.

(2) The order may request that transactions conducted by a specified person with an accountable institution and transactions conducted in respect of a specified account or facility at the accountable institution shall be reported if there are reasonable grounds to suspect that

(a) that person has transferred or may transfer the proceeds of unlawful activity through the accountable institution or is using or may use the accountable institution for money laundering, and

(b) the account or other facility has received or may receive the proceeds of unlawful activity or is being or may be used for money laundering purposes.

(3) The order lapses after three months except that before the expiry of the three months an application may be made to the Court to extend the order for a period of not more than three months at a time if

(a) the grounds on which the order is based still exists, and

(b) the Court is satisfied that the interest of justice may best be served by monitoring the person, account or facility referred to in subsection (1) and in the manner provided for in this section.

(4) An application under this section shall be made by one party without notice to the other.

### **Offences in relation to records and information**

**39.** (1) A person who without reasonable excuse

(a) fails to keep records, contrary to section 23;

(b) accesses a computer system, application data held in a computer system or causes a computer system that belongs to or is under the control of the Centre or an accountable institution to fail to perform contrary to section 25;

(c) modifies a computer system contrary to section 26;

(d) fails to comply with section 27 (2);

(e) fails to or refuses to advise the Centre or an authorised representative of the Centre of a client contrary to section 28;

(f) fails to report a suspicious transaction contrary to section 30;

(g) fails to protect the identity of the officer of the Centre who receives the report contrary to section 30;

(h) fails to protect the identity of a person who makes a suspicious transaction report contrary to section 30;

(i) conducts transactions in a manner to avoid a reporting duty contrary to section 31;

(j) fails to give notice of the conveyance of currency within, to or from the Republic contrary to section 33;

(k) fails to inform the Centre of the electronic transfer of currency contrary to section 34;

(l) fails to furnish the Centre with additional information contrary to section 35;

(m) fails to comply with a direction of the Centre and proceeds with a transaction contrary to section 37; or

(n) fails to comply with a monitoring order contrary to section 38, commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than three years or to both.

(2) Where the offence is committed by a company or a body of persons the penalty shall be a fine of not more than one thousand penalty units, and

(a) in the case of a body corporate, other than a partnership, each director or an officer of the body is considered to have committed the offence; and

(b) in the case of a partnership, each partner or officer of that body is considered to have committed that offence.

(3) A person shall not be convicted of an offence under subsection (2), if the person proves that the offence was committed without the person's knowledge or connivance and that the person exercised due care and diligence to prevent the commission of the offence having regard to all the circumstances.

(4) The court shall in addition to the penalty, refer the matter to the Bank of Ghana for administrative sanction where the offence is committed by a bank.

(5) A court shall refer the conviction of an accountable institution to the supervisory body concerned for administrative sanction

### *Compliance*

#### **Formulation and implementation of internal rules**

**40.** (1) An accountable institution shall in consultation with the Centre formulate and implement internal rules concerning



(a) the establishment and verification of the identity of persons whom the institution is required to identify,

( b) information of which records must be kept,

(c) the manner in which and the place at which the records must be kept,

(d) the steps to be taken to determine when a transaction is reportable, and (e) other matters that an institution may determine.

(2) An accountable institution shall make its internal rules available to its employees involved in dealing with transactions to which this Act applies.

(3) An accountable institution shall, on request, make a copy of its internal rules available to

(a) the Centre, and

( b) a supervisory body which performs regulatory or supervisory functions over that accountable institution.

(4) An accountable institution shall ensure that the foreign branches and subsidiaries of the accountable institution observe the rules consistent with a subsidiary company of the accountable institution registered in the Republic.

### **Training and monitoring for compliance**

**41.** An accountable institution shall

(a) train its employees on the provisions of this Act and the internal rules, and

(b) appoint a compliance officer to ensure observance

(i) of the provisions of this Act and the internal rules by the employees of the accountable institution, and

(ii) of the obligations under this Act by the accountable institution.

### **Referral of suspected offences to investigating authorities and other public bodies**

**42.** Where the Centre has reasonable grounds to suspect that an accountable institution or a person other than a supervisory body subject to the provisions of this Act, has contravened or failed to comply with a provision of this Act or a rule

or guideline applicable to the accountable institution or person which facilitates compliance with this Act, the Centre shall refer the matter to

(a) the relevant investigating authority, or

(b) an appropriate supervisory body, a public body or other authority affected by the contravention or non-compliance,

together with recommendations considered appropriate by the Centre.

### **Responsibility for the supervision of accountable institutions**

**43.** (1) Where the Centre refers a matter to a supervisory body, public body or authority, the supervisory body, public body or authority shall investigate the matter and may after consultation with the Centre take steps to remedy the matter.

(2) Where the supervisory body, public body or an authority fails to take steps to remedy the matter, the Centre may in consultation with the supervisory Body, public body or authority take steps to remedy the matter.

### **Offences in relation to compliance**

**44.** An accountable institution, which fails to

(a) formulate and implement internal rules contrary to section 40, or

(b) provide training or appoint a compliance officer contrary to section 41, commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units.

### *Miscellaneous provisions*

#### **Extraditable offence**

**45.** Money laundering and terrorist financing are extraditable offences under the Extradition Act, 1960 (Act 22).

#### **Trial court and proceedings**

**46.** (1) The High Court and Circuit Court have jurisdiction to try an offence under this Act.

(2) In a trial for an offence under this Act, the accused person may be presumed to have unlawfully obtained pecuniary resources or property in the absence of evidence to the contrary if the accused person,

(a) is in possession of pecuniary resources or a property for which the accused cannot account and which is disproportionate to the accused person's known sources of income, or

(b) had at the time of the alleged offence obtained access to personal pecuniary resources or property for which the accused cannot satisfactorily account.

## **Freezing of transactions or accounts**

**47.** (1) The Centre shall not investigate serious offences but where the Chief Executive Officer is of the opinion that it is necessary to freeze a transaction or an account to prevent money laundering, the Chief Executive Officer may direct the freezing of a transaction or account of any accountable institution.

(2) The Chief Executive Officer shall apply to a court within seven days after freezing a transaction or account for confirmation of the action taken and the court may confirm the freezing on conditions or direct the de-freezing of the transaction or account.

(3) Where a transaction or account has been frozen, the person affected shall be notified by the Chief Executive Officer within forty-eight hours of the freezing of the transaction or account and the person affected may seek redress from court.

## **Oath of secrecy**

**48.** (1) A person

(a) appointed to an office,

(b) appointed to act in an office, or

(c) authorised to perform a function,

under this Act shall swear the oath of secrecy set out in the Second Schedule before assuming office or before performing the function under this Act.

(2) A person specified under subsection (1) shall not disclose information

obtained by the Centre under this Act from which a person can be identified except (a) to enable the Centre carry out its functions,

(b) for the prevention or detection of an offence,

(c) in connection with the discharge of an obligation under an international agreement,

(d) to comply with a court order, or

(e) as otherwise provided under any other law.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than three years or to both.

## **Co-operation by officers of public agencies**

**49.** (1) An officer of a public agency shall co-operate with officers of the Centre in the performance of the functions of the officers of the Centre under this Act.

(2) A public officer who refuses or fails without reasonable cause to cooperate with an authorised officer of the Centre commits an offence and is liable on summary conviction to a fine of not more than fifty penalty units or to a term of imprisonment of not more than three months or to both.

## **Regulations**

**50.** (1) The Minister, on the recommendations of the Board, shall by legislative instrument make Regulations

(a) to add to or vary the list of accountable institutions;

(b) on the records to be kept and retained by financial institutions and accountable institutions;

(c) on the format of suspicious transactions reports;

(d) for the rules and directives for accountable institutions to identify clients for the purposes of this Act;

(e) on the form of reports and other documentation required under this Act; and

(f) generally for the effective implementation of this Act.

(2) Despite the Statutory Instruments Act, 1959 (No. 52) as amended, the penalty for contravention of Regulations shall be a fine of not more than two thousand five hundred penalty units or a term of imprisonment of not more than three years or to both.

## **Interpretation**

**51.** In this Act unless the context otherwise requires:

"account" means a facility or an arrangement by which a financial institution does anyone or more of the following;

(a) accepts deposits of currency,

(b) allows withdrawals of currency or transfers into or out of the account,

(c) pays cheques or payment orders drawn on a financial institution or cash dealer by, or collects cheques or payment orders on behalf of, a person,

(d) supplies a facility or an arrangement for a safe deposit box; "accountant" means a person registered under the Chartered Accountants Act, 1963, (Act 176);

"accountable institution" includes the institutions set out in the First Schedule;

"application data" means a set of instructions which causes a computer system to perform a function when executed on the computer; "auctioneer" means a person registered under the Auction Sales Act, 1989 (P.N.D.C.L. 230);

"authorised officer" means a person authorised by the Centre to perform a function or discharge a duty on behalf of the Centre;

"bank" has the meaning given to it in the Banking Act, 2004 (Act 673); "Board" means the governing body of the Financial Intelligence Centre; "business entity" includes

(a) a firm,

(b) an individual licensed to carry out a business,

(c) a limited liability company, or

(d) a partnership,

for the purpose of providing a product or service either for profit or non-profit;

"business relationship" means an arrangement between a person and an accountable institution for the purpose of concluding a transaction; "Centre" means the Financial Intelligence Centre established under section 4; "Chief Executive" means the Chief Executive Officer appointed under section 14;

"computer system" includes an electronic, magnetic, optical, electrochemical or other data processing device, the physical components and any removable storage medium that is connected, to the device or a group of inter-connected or related devices, one or more of which is capable of

(a) containing data, or

(b) performing a logical, arithmetic or any other function in relation to data;

"Court" means the High Court or Circuit Court; "currency" means

(a) coins, money or notes of the Republic or of another country that is designated as legal tender and that circulates as and is customarily used and accepted as a medium of exchange in the country of issue,

(b) 'travellers' cheques or other financial instruments denominated in the currency of Ghana or in foreign currency, and

(c) any right to receive coins or notes in respect of a credit or balance with a financial institution or a non-resident;

"data" means a representation of

(a) information,

(b) knowledge,

(c) facts, or

(d) concepts

capable of being processed in a computer system; "electronic device" means anything or apparatus that is used or capable of being used to intercept a function of a computer system;

"electronic transaction" means a transaction made through an electronic device;

"intelligence agency" means the Internal or External Intelligence Agency established under the Security and Intelligence Agencies Act, 1996 (Act 526);

"entity" means a body corporate or unincorporated, an association or group of persons, a firm or a partnership;

"financial institution" means an entity that undertakes financial intermediation;

"financial instrument" means a physical or electronic document which embodies or conveys monetary value~

"financial intermediation" means a process of transferring funds from one entity to another entity;

"foreign counterpart" means the authority in another country that exercise *similar powers and performs similar functions as the Centre*;

"game of chance" includes a game other than lotto in which participants risk, in anticipation of winning award on the result of the game which depends on luck and which cannot be determined before the end of the game, pay money for the right to participate in the game;

"internal rules" means rules formulated by an accountable institution to enable the accountable institution comply with the reporting requirements of the Centre;

"investigating authority" means a body that is designated by legislation to investigate unlawful activities;

"Minister" means the Minister responsible for Finance;

"non-bank financial institution" means a financial institution that undertakes financial intermediation outside the bank;

"non-governmental organisation" means a civil organisation and includes a community based organisation, religious body and association; "notary" means a person appointed under the Notaries Public Act, 1960 (Act 26);

"order" means a monitoring order;

"prescribed" means prescribed by Regulations made under this Act; "proceeds" means property derived from or obtained, directly or indirectly

through the commission of an offence;

"property" includes assets of any kind situated in the country or elsewhere whether movable or immovable, tangible or intangible, legal documents and instruments evidencing title of interest in the assets;

"record" means a material on which data is recorded or marked and which is capable of being read or understood by a person, computer system or other device;

"record of identity" means the records maintained by accountable institutions on their clients in accordance with rules and directives

issued to the accountable institutions by relevant supervisory bodies; "Regulations" means Regulations made under this Act;

"religious body" means an association, a body or organisation which professes adherence to a belief in a system of faith or worship or which is established in pursuance of a religious objective; "Republic" means Republic of Ghana;

"revenue agency" means an agency authorised by law to collect revenue; "securities portfolio management" means the process of managing the

financial assets of a client by a brokerage firm for and on behalf of the client in accordance with selected investment strategy under agreed management principles and regulations;

"serious offence" means an offence for which the maximum penalty is death or imprisonment for a period of not less than twelve months; "supervisory body" means a body responsible for the supervision of the activities of accountable institutions under this Act;

"suspicious" means a matter which is beyond mere speculations and based on some foundation;

"transaction" includes an act which establishes a right or obligation or gives rise to a contractual or legal relationship between the parties to the contract or legal relationship and any movement of funds by any means with a covered institution; and

"trust and company service providers" means paid professional companies or unpaid persons who hold assets in a trust fund separate from their own assets;

## **SCHEDULES**

### **FIRST SCHEDULE**

*( section 21 )*

Accountable institutions include

*(a)* an entity which is a bank or a non-bank financial institution which carries on any of the following activities:

*(i)* accepting deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft, orders or by any other means,

*(ii)* financing, whether in whole or in part or by way of short, medium or long term loans or advances of trade, industry, commerce or agriculture,

*(iii)* the issue and administration of means of payment including credit cards, travellers' cheques bankers' drafts and other financial instruments,

*(iv)* the trade in foreign exchange, currency market instruments or transferable securities,

*(v)* securities portfolio management and advice concerned with the portfolio management,

*(vi)* dealing in shares, stocks, bonds or other securities,

*(vii)* leasing, letting or delivering goods to a hirer under a hire purchase agreement,

*(viii)* the conduct of any business,

*(ix)* the collection of money or acceptance of employer contributions and payment from these funds of legitimate claims for retirement benefits; and

*(x)* any other business activities that the Bank of Ghana may prescribe or recognise as being part of banking business;

*(b)* auctioneers;

*(c)* lawyers;

*(d)* notaries;

*(e)* accountants;

*(1)* religious bodies;



(g) non-governmental organisations;

(h) a person whose business or a principal part of whose business consists of providing financial services that involve the remittance or exchange of funds;

(i) operators of game of chance;

(j) a company carrying on insurance business within the meaning of the Insurance Act, 2006 (Act 724);

(k) a real estate company or agent, only to the extent that the real estate company or agent receives funds in the course of the agent's business to settle real estate transactions;

(l) dealers in precious metals and precious stones;

(m) dealers in motor vehicles; and

(n) trust and company service providers.

## SECOND SCHEDULE

( section 48)

### **THE OATH OF SECRECY**

I. .... holding the office of Do (in the name of the

Almighty God swear) (Solemnly affirm) that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall come to my knowledge in the discharge of my official duties or as may be specially permitted by law (so help me God).

*To be sworn before the President, the Chief Justice or such other person as the President may designate.*

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