

ACT

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THE ANTI-MONEY LAUNDERING AND COMBATING OF FINANCING OF TERRORISM AND FINANCING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION ACT, 2024.

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SCHEDULE

SIGNED this 13th day of May, 2024.

DR. JULIUS MAADA BIO,
President.



No. 4



2024

Sierra Leone

**The Anti-Money Laundering and Combating of Financing of
Terrorism and Financing the Proliferation of Weapons of Mass
Destruction Act, 2024.** Short title.

Being an Act to provide for the transformation of the Financial Intelligence Unit into an autonomous and independent body to be known as the Financial Intelligence Agency which would serve as the national central authority for the receipt, analysis, and dissemination of financial information, to provide for the criminalisation of money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction, and other related matters.

[

] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I-PRELIMINARY

Interpretation.

1. In this Act unless the context otherwise requires -

"account" means a facility or arrangement by which a financial institution does at least one of the following

- (a) accepts deposits of currency or securities;
- (b) allows withdrawal of currency or securities, or transfer of currency or securities into or out of the account;
- (c) pays cheques or payment orders drawn on a financial institution or collects cheques or payment orders on behalf of a person;
- (d) supplies a facility or arrangement for safe deposit; or
- (e) facilitates trading in securities for or on behalf of a customer.

"agent" means a person who acts for and on behalf of the Agency thereby creating a legal relationship with a third party pursuant to an authority conferred on the agent by the Agency either expressly or by necessary implication.

"authorised officer" means a person authorised by the Agency to exercise, in accordance with the terms of such authorisation, a power specified in this Act."

"Attorney-General" means the Attorney-General and Minister of Justice;

"basic expense" means an expense required for the purposes of-

- (a) obtaining foodstuffs;
- (b) paying rent or mortgage;
- (c) obtaining medical or medical treatment;

- (d) paying taxes;
- (e) paying insurance premiums;
- (f) paying utility charges;
- (g) paying reasonable professional fees;
- (h) paying reasonable expenses associated with the provision of legal services; and
- (i) educational expenses.

"beneficial owner" means-

- (a) a natural person who ultimately owns or controls the right to or benefit from property, including a person on whose behalf a transaction is conducted; or
- (b) a person who exercises ultimate effective control over a legal person or arrangement;

"business relationship" means an arrangement between a person and a reporting entity where -

- (a) the purpose or effect of the arrangement is to facilitate an occasional, frequent, habitual or regular course of dealing between the person and the reporting entity; and
- (b) the total amount of payment to be made by a person to another reporting entity in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made;

"business transaction record" includes -

- (a) the identification records of all the parties to a transaction;
- (b) a description of a transaction sufficient to identify its purpose and method of execution;
- (c) the details of any bank account used for a transaction, including bank branch and short code; and
- (d) the total value of that transaction.

"central bank" means the Bank of Sierra Leone;

"Central Intelligence and Security Agency" means the Central Intelligence and Security Agency referred to in section 14 of the National Security and Central Intelligence Act, 2022 (Act No.2 of 2022);

"close associate" includes a controlling party, beneficial owner, a subsidiary of a legal person or arrangement and in relation to an individual includes a close relation of the individual or a partner or a close relation of the partner and includes a beneficial owner;

"competent authorities" means the Office of the Attorney-General and Minister of Justice, the Office of the Director of Public Prosecutions, National Investment Board, the Sierra Leone Police, The Immigration Department, National Revenue Authority, the Anti- corruption Commission, the Central Bank, the Office of National Security, the Central Intelligence and Security Agency, the Financial Intelligence Agency, the Nuclear Safety and Radiation Protection Authority and any law enforcement agency or person lawfully exercising such powers on behalf of these authorities;

"confiscation" means the permanent deprivation of funds or other assets by order of a competent authority or a court and includes forfeiture.

"correspondent banking" means the provision of banking services by one bank ("the correspondent bank") to another bank ("the respondent bank") and includes other similar relationships or arrangements;

"counter-terrorism convention" means a counter-terrorism convention or other related instrument signed and ratified by the Government of Sierra Leone;

"court" means the High Court of Sierra Leone;

"currency" means the coin and paper money of Sierra Leone or of a foreign country that is designated as legal tender, and which is customarily used and accepted as a medium of exchange in the country of issue and may be represented in coin, paper, or electronic form.

"customer due diligence" means the process of -

- (a) identifying a customer and verifying his identity based on documents, data or information obtained from a reliable and independent source;
- (b) identifying, where there is a beneficial owner who is not the customer, and taking adequate measures, on a risk sensitive basis, to verify his identity so that the relevant person is satisfied that he knows who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, introduce measures to understand the ownership and control structure of the person, trust or arrangement;

- (c) obtaining information on the purpose and intended nature of a business relationship; and
- (d) ongoing monitoring.

"customer" in relation to a transaction or an account, includes -

- (a) a person in whose name a transaction or accounts is arranged, opened, or undertaken;
- (b) a signatory to a transaction or account;
- (c) a person to whom a transaction has been assigned or transferred;
- (d) a person who is authorised to conduct a transaction on behalf of another; or
- (e) a person who the minister may describe as such by notice published in the Gazette;

"data" means a representation of information or concepts.

"designated person or entity" means a person or entity, designated as terrorist or linked to terrorism or the proliferation of weapons of mass destruction or the financing thereof or related activities in a list issued by -

- (a) the Government of Sierra Leone;
- (b) the United Nations Security Council; or
- (c) the Economic Community of West African States;

"Director-General" means the Director General of the Financial Intelligence Agency appointed under section 11;

"designated non-financial businesses and professions" means an entity listed as a Related Non-Financial Businesses and Professions in Part II of the First Schedule;

"ECOWAS" means the Economic Community of West African States;

"enhanced due diligence" means, in addition to conducting customer due diligence by a reporting entity, taking specific and adequate measures including-

- (a) ensuring that a customer's identity is established by additional documents, data or information;
- (b) supplementary measures to verify or certify documents supplied or requiring confirmatory certification by a reporting entity which is subject to anti-money laundering, counter-financing of terrorism and the proliferation of weapons of mass destruction regime;
- (c) obtaining the approval of senior management where appropriate and conducting enhanced monitoring;
- (d) ensuring that the first payment or transaction is carried out through an account opened in the customer's name with a credit or financial institution;

"financial crime" means a criminal offence whether arising under a financial services law or relating to a financial institution, that involves -

- (a) fraud or dishonesty;
- (b) financing or facilitating a criminal offence;
- (c) dealing with proceeds of an unlawful activity and includes offences under this Act;

"financial institution" means an entity whose activity is listed in Part I of the First Schedule;

"Financial Intelligence Agency" means the Financial Intelligence Agency referred to in section 3;

"financing of terrorism" means the financing or provision of support to a terrorist, terrorist group, terrorist organisation or foreign terrorist fighter for any purpose;

"freezing" means the prohibition of the transfer, conversion, disposition or movement of funds or other assets on the basis of an action initiated by a competent authority or an order of the court;

"foreign terrorist fighter" means an individual who travels to a state other than his state of residence or nationality for the purpose of perpetrating, planning, supporting, preparing, organising, counselling, participating in a terrorist act or terrorism-related activity;

"funds" mean financial assets or property of every kind or financial instruments in any form, including electronic or digital, evidencing title to or interest in, the funds or other assets, including bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by the funds or other assets;

"identification record" means, in the case of -

- (a) a body corporate, the details of-
 - (i) the body corporate, including a nominee, agent, beneficiary, or principal, in relation to a business transaction;
 - (ii) the memorandum and articles of association and certificate of incorporation or such memorandum and articles of association and certificate of incorporation as notarised, where the corporate body is incorporated abroad;
 - (iii) the most recent annual return to the Registrar under the Companies Act, 2009, or such returns as notarised, where the corporate body is incorporated abroad;
 - (iv) an authorised officer of the body corporate;
 - (vi) sufficient documentary evidence to prove to the satisfaction of a reporting entity that the body corporate is that which it claims to be;
- (b) a trust, the details of -
 - (i) the grantor;
 - (ii) the trustee; and
 - (iii) the beneficiary;

(c) a natural person-

- (i) a valid international passport;
- (ii) driver's licence;
- (iii) national identification document;
- (iv) such other documentary evidence to prove to the satisfaction of a reporting entity that the person is who that person claims to be;

"law enforcement agency" means a Government agency such as the Sierra Leone Police, the National Revenue Authority, Central Intelligence and Security Agency, the Anti-Corruption Commission, National Drugs Law Enforcement Agency and the Immigration Department and any other agency with law enforcement powers;

"Minister" means the Minister responsible for finance;

"money laundering" means -

- (a) converting or transferring property knowing or having reason to believe that the property is derived directly or indirectly from an unlawful activity, with the aim of concealing or disguising the illicit origin of that property or aid a person involved in the commission of an unlawful activity to evade the legal consequences of the unlawful activity;
- (b) concealing or disguising the true nature, origin, location, disposition, movement, or ownership of property, knowing or having reason to believe that the property is derived directly or indirectly from an unlawful activity;

- (c) acquiring, possessing, or using property, knowing or having reason to believe that the property is derived directly or indirectly from an unlawful activity; or
- (d) engaging directly or indirectly in a transaction which involves property that is the proceeds of crime;

"negotiable bearer instrument" means a document representing ownership of debts or obligations, including bills of exchange, promissory notes, or certificates of deposit, whether made payable to a bearer or not;

"nuclear weapon" means a weapon capable of releasing nuclear energy, and includes component parts of such weapon;

"occasional transaction" means a transaction involving cash that is conducted in a financial institution by a person who is not a customer of that financial institution;

"over-the-counter exchange transaction" means the immediate exchange of bank notes or coins in different currencies or the handing over of cash against settlement by a different means of payment in a different currency;

"police" means the Sierra Leone Police;

"politically-exposed person" means a person who holds a prominent public position domestically or in a foreign country such as a head of state or government, a senior politician on the national level, senior government, judicial, military, or political party officials at national level, or senior executives of state-owned enterprises, senior officials of international organisations or individuals or undertakings identified as having close family ties or personal or business connections to such persons;

"proceeds of a crime" means money or property that is derived, obtained or realised, directly or indirectly from an unlawful activity;

"production order" means an order requiring a person to produce a document or information in readable form for the purpose of identifying or locating property or a person who has been convicted or is believed to have committed an offence of money laundering, terrorist financing, financing proliferation of weapons of mass destruction and other unlawful activities;

"reporting entity" is an individual, entity or organisation that conducts business for or on behalf of a customer as specified in the list of activities in Parts I and II of the First Schedule or by the Financial Intelligence Agency;

"requesting state" means a state which makes a request for assistance under Part XIV;

"securities account" means-

- (a) transferable securities, including equities and bonds or similar debt instruments;
- (b) money-market instruments;
- (c) investment funds, including units in collective investment undertakings;
- (d) options, futures, swaps, forward rate agreements and any other derivative contracts relating to -

- (i) securities, currencies, interest rates or yields or other derivatives instruments, financial indices or financial measures, which may be settled physically or in cash;
- (ii) commodities that must be settled in cash or may be settled in cash;
- (iii) climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that are settled in cash, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this section, which have the characteristics of other derivative financial instruments;
- (e) derivative instruments for the transfer of credit risk; and
- (f) financial contracts for differences;

"Sanctioned country or territory" means a country or territory under sanction or some form of restriction imposed by the Government of Sierra Leone, the United Nations Security Council or the Economic Community of West African States;

"sanctioned person, group, or entity" means a person, group or entity under sanction or some form of restrictions imposed by the Government of Sierra Leone, the United Nations Security Council or the Economic Community of West African States.

"self-regulatory body" means a body that represents a profession, including legal practitioners, notaries, other independent professionals or accountants, that

- (a) is made up of professionals;
- (b) regulates persons that are qualified to enter and who practice in the profession;
- (c) enforces rules to ensure that high ethical and moral standards are maintained by those practicing the profession; and
- (d) performs certain supervisory or monitoring type functions;

"shell bank" means a financial institution that does not have physical presence in the country where it is incorporated and licensed and is not affiliated to a financial services group that is subject to supervision;

"structured group" means a group that is not randomly formed for the immediate commission of a terrorist act;

"supervisory authority" means an authority having oversight over a reporting entity;

"terrorist" means a person who commits or attempts to commit, participates in or facilitates or conspires to commit a terrorist act;

"terrorist act" means an act or omission whether committed in or outside Sierra Leone, which constitutes an offence within the scope of a counter-terrorism convention to which Sierra Leone is signatory and includes an act or threat of action in or outside Sierra Leone which -

(a) is used -

- (i) in furtherance of a political, ideological, economic or religious cause;
- (ii) for the benefit of a proscribed person, group or organisation; or
- (iii) to put the public or a section of the public in fear; and -

- (b) causes serious bodily harm to a person;
- (c) causes serious damage to property;
- (d) endangers a person's life;
- (e) creates a serious risk to the health or safety of the public;
- (f) involves the use of firearms or explosives;
- (g) releases into the environment or exposes the public to -

- (i) dangerous, hazardous, radioactive or harmful substance;

- (ii) toxic chemicals; or

- (iii) microbial or other biological agents or toxins; and

(h) is prejudicial to national security or public safety or designed or intended to disrupt -

- (i) a computer system or the provision of services directly related to transportation or communications;
 - (ii) banking or financial services;
 - (iii) utilities;
 - (iv) other essential services; or

- (i) is designed or intended to cause damage to essential infrastructure;

"terrorist organisation" means a legal person or a group of persons that, directly or indirectly commits or attempts to commit, a terrorist act;

"terrorist property" means the property of a terrorist or property consisting of funds that are intended to be used to finance or otherwise assist the commission of a terrorist act;

"virtual asset" is a digital representation of value that can be digitally traded, transferred or used for payment or investment purposes but does not include digital representation of fiat currencies, securities and other financial assets;

"weapons of mass destruction" includes atomic explosive weapons, radioactive materials, chemical and biological weapons and any weapon which have characteristics comparable in destructive effect.

Application
of Act.

2. This Act shall apply to the activities of the Financial intelligence Agency, supervisory authorities, competent authorities, relevant law enforcement and security agencies and international partners in relation to money laundering, terrorism financing, financing proliferation of weapons of mass destruction and other predicate offences.

Financial
Intelligence
Agency.

PART II- THE FINANCIAL INTELLIGENCE AGENCY

3. (1) "There shall continue in existence, the Financial Intelligence Unit established under subsection (1) of section 2 of the Anti-Money Laundering and Combating of Financing of Terrorism Act, 2012 (Act No. 2 of 2012), as the Financial Intelligence Agency.

(2) The Agency shall be a body corporate having perpetual succession, a common seal and capable of acquiring, holding and disposing of property, whether movable or immovable, and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The Agency shall have a common seal and every document purporting to be an instrument executed or issued by or on behalf of the Agency and sealed with the common seal shall be deemed to be so executed or issued without further proof unless the contrary is proved.

(4) In appropriate cases the common seal of the Agency may be affixed to documents outside Sierra Leone.

(5) The Agency shall not, in the performance of its functions, be subject to the direction, supervision, control or influence of any person or authority.

PART III - THE FINANCIAL INTELLIGENCE AGENCY ADVISORY BOARD

4. (1) There shall be a body to be known as the Financial Intelligence Agency Advisory Board in which shall be vested, subject to this Act, the responsibility to -

Financial
Intelligence
Agency
Advisory
Board.

- (a) formulate and ensure the implementation of policies necessary for the achievement of the objects of the Agency; and
- (b) oversee the sound and proper financial management of the Agency.

(2) The Board shall consist of the Minister responsible for finance who shall be the Chairman and the following other members or their deputies-

- (a) The Attorney-General & Minister of Justice;
- (b) The Minister of Foreign Affairs;

- (c) The Minister of Internal Affairs;
- (d) The Governor of the Bank of Sierra Leone;
- (e) The Commissioner, the Anti-corruption Commission;
- (f) The Director of Public prosecutions;
- (g) The Chief Immigration officer;
- (h) The Inspector General of Police;
- (i) The Commissioner General, National Revenue Authority;
- (j) The Director-General, the Central Intelligence and Security Agency;
- (k) The Executive Secretary, the Nuclear Safety and Radiation Protection Authority;
- (l) The Commissioner, the Sierra Leone Insurance Commission; and
- (m) The Director-General, National Minerals Agency.
- (n) The Executive Director National Drugs Law Enforcement Agency

(3) The Director General of the Agency shall be the Secretary to the Board, with no voting right.

Committees
of Board.

5. (1) The Board may, for the discharge of its functions, appoint one or more committees to perform such functions as the Board may determine.

(2) A committee appointed under subsection (1), shall consist of members of the Board or non-members or both as the Board may determine.

(3) Without prejudice to the generality of subsection (1), the Board shall appoint an audit committee consisting of such members of the Board, excluding the Director-General, and performing such functions as the Board may determine.

6. (1) The Board shall meet for the dispatch of its business at least once every 6 months and at such time as the Chairman may determine. Meetings of Board.

(2) The Chairman shall preside at every meeting of the Board, and in his absence, the members present shall appoint one of their number to preside.

(3) A minimum of 5 members of the Board may, by notice in writing signed by them, request the Chairman to summon a special meeting of the Board for such purposes as may be stated in the notice.

(4) The Chairman or, in his absence, a member appointed to act on his behalf, shall summon a special meeting within 5 days of his receipt of the notice referred to in subsection (3).

(5) The quorum at a meeting of the Board shall be 7.

(6) Each member of the Board shall have one vote and the Chairman or other person presiding shall have a casting vote where there is an equality of votes.

(7) A proposal circulated among all members and agreed to in writing by a two-thirds majority of all members shall be of the same force or effect as a decision made at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such proposal be placed before a meeting of the Board, this subsection shall not apply to such proposal.

(8) The Board may co-opt any person to attend and participate in its deliberations on any matter but such person shall not vote on any issue for decision by the Board.

(9) The Board shall cause minutes of all its meetings to be taken and signed by the Chairman and kept in proper form.

(10) Subject to this Act, the Board shall regulate its own procedure.

Disclosure
of interest.

7. (1) A member of the Board who has an interest, whether direct or indirect, in a matter being considered or to be considered by the Board, shall disclose the nature of his interest to the Board and the disclosure shall be recorded in the minutes of the Board and such member shall not take part in a deliberation or decision of the Board relating to that matter.

(2) A member of the Board who contravenes subsection (1) shall be guilty of misconduct and shall be removed from the Board.

Immunity of
members.

8. (1) An action or other proceedings shall not be instituted against a member of the Board or member of a committee of the Board for or in respect of an act or thing done or omitted to be done in good faith in the exercise of his functions under this Act.

(2) A member of the Board shall not be personally liable for a debt or obligation of the Agency.

Remuneration
of members.

9. The Chairman and the other members of the Board and any person co-opted by the Board shall be paid sitting fees approved by the Minister and shall be reimbursed by the Agency for expenses incurred in connection with the discharge of their functions as the Board may, with the approval of the Minister, determine.

Filling of
vacancies.

10. (1) Where the Chairman or a member of the Board dies, resigns, is removed from office or is absent for a continuous period exceeding 3 months or is by reason of illness unable to perform the functions of his office for a continuous period of 6 months, in the case of -

- (a) the Chairman, the members of the Board shall elect one of their number to act as Chairman until such time as the Chairman resumes his office or another is appointed in his stead; and
- (b) a member, the Chairman shall, subject to this Act, have another person appointed to the Board.

PART IV -ADMINISTRATIVE PROVISIONS

11. (1) There shall be a Director-General of the Agency appointed by the President subject to the approval of Parliament. Director-General.

(2) A person shall not be appointed Director-General under subsection (1), unless he -

- (a) is a Sierra Leonean;
- (b) has at least a university degree in law, economics, accounting, banking, auditing or other related fields, from an accredited university and with at least ten years of work experience.
- (c) has proven experience in matters relating to anti-money laundering and combating of financing of terrorism and financing proliferation of weapons of mass destruction.

(3) The Director-General shall be the Chief Executive Officer of the Agency and shall perform such functions and duties, and exercise such powers, as are conferred upon him by this Act.

(4) Notwithstanding the generality of subsection (3), the Director-General shall be responsible for -

- (a) the day-to-day administration of the Agency;
- (b) the supervision and discipline of other staff of the Agency; and
- (c) the management of the funds, property, and business of the Agency.

(5) The Director-General shall hold office for a term of 5 years and shall be eligible for reappointment for a further term of 5 years only.

Deputy
Director-
General.

12. (1) The Agency shall have a Deputy Director-General who shall be the principal assistant of the Director-General, appointed by the President in consultation with the Director-General, subject to the approval of Parliament.

(2) A person shall not be appointed Deputy Director-General under subsection (1) unless he is-

- (a) a Sierra Leonean"
- (b) has at least a university degree in law, economics, accounting, banking, auditing or other related fields, from an accredited university and with at least ten years of work experience."
- (c) has proven experience in matters relating to anti-money laundering and combating of financing of terrorism and financing the proliferation of weapons of mass destruction"

Other staff.

13. (1) The Agency shall have, in addition to the Director-General and Deputy Director-General, such other staff, as the Director-General may, after consultation with the Board, appoint.

(2) The Director-General may, subject to the Public Procurement Act, 2016 (Act No. 10 of 2016), engage the services of such consultants or advisers as may be necessary for the efficient performance of the Agency.

Secondment
of public
officers.

14. Public officers may at the instance of the Agency, be seconded or otherwise render assistance to the Agency but the Agency may request the withdrawal of any such seconded staff who is unable to carry out assigned functions in a manner satisfactory to the Agency.

Protection
of officers.

15. An officer or employee of the Agency or a person acting on the direction of an officer or employee of the Agency shall not be liable in respect of any matter or thing done by him in good faith under this Act.

16. (1) The Board may, on the advice of the Director-General, Departments of Agency, approve the establishment of such departments as may be necessary for the performance of the functions of the Agency, including -

- (a) Human Resource and Support;
- (b) Litigation and Sanctions;
- (c) Intelligence and Analysis;
- (d) Research, Policy and Cooperation;
- (e) Examination and compliance;
- (f) Information Technology;
- (g) National Risk Assessment and Outreach; and
- (h) Ethics and Professional Standards.

17. The Director-General, Deputy Director-General, and other employees of the Agency including consultant and agents of the Agency shall be required to subscribe to the Oath of Secrecy and to observe utmost confidentiality in the execution of their functions under this Act.

PART V - FUNCTIONS AND POWERS OF THE AGENCY

18. The Agency shall have exclusive authority to receive, analyse, and disseminate financial intelligence to be used for the purpose of -

- (a) preventing and combating money laundering, terrorism financing, the financing of proliferation of weapons of mass destruction and other related matters; and
- (b) tracing, identifying, tracking, freezing, seizing, or confiscating proceeds and instrumentalities of crime.

19. (1) The Agency shall be responsible to -

Functions
of Agency.

- (a) review and make recommendations for the enactment of laws on money laundering, terrorism financing and financing proliferation of weapons of mass destruction and predicate offences;
- (b) advise Government on evolving trends of money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction and predicate offences;
- (c) send information it receives from a report or any other information to the appropriate law enforcement agency and supervisory authorities if it has reasonable grounds to suspect that the transaction is suspicious;
- (d) compile statistics and records and disseminate 'information on money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction and predicate offences within Sierra Leone and elsewhere;
- (e) obtain further information on parties or transactions referred to in a report made to it;
- (f) provide training programs on money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction and predicate offences for reporting entities, and other stakeholders;
- (g) conduct research into trends and developments in money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction and improved ways of detecting, preventing and determining money laundering, financing of terrorism and financing proliferation of weapons of mass destruction activities;

- (h) inform and educate the public on matters relating to money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction and predicate offences;
- (i) disclose a report or information derived from the report or received from elsewhere to an institution or agency of a foreign state or an international organization established by Governments of foreign states, if on the basis of its analysis and assessment it has reasonable grounds to suspect that the report or information will be relevant to investigating or prosecuting money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction offence;
- (j) provide assistance to other countries on property tracking, monitoring, and confiscation orders;
- (k) perform or participate in the examination of reporting entities in accordance with this Act and other relevant enactment;
- (l) enter into agreement with public institutions on the exchange of information on money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction and predicate offences; and
- (m) perform such other acts ancillary or incidental to the discharge of its functions under this Act.

20. (1) The Agency shall, for the purpose of carrying out its functions under this Act, have power to-

Powers of
Agency.

- (a) issue, in consultation with the relevant supervisory authorities, such regulations, directives and guidelines to reporting entities as it may consider necessary for carrying out its functions under this Act;
- (b) impose and enforce administrative sanctions and penalties on reporting entities for breach of this Act without prejudice to any other criminal, civil or administrative proceedings that may be instituted by law enforcement and supervisory authorities;
- (c) issue such advisory, to supervisory authorities or self-regulatory bodies as it may consider necessary for carrying out its functions under this Act;
- (d) access financial, administrative and law enforcement information necessary for the proper discharge of the functions of the Agency under this Act from Government ministries, departments, agencies, supervisory authorities, financial regulatory authorities, fiscal or tax agencies, competent authorities, and investigation agencies;
- (e) request information that it considers necessary for the proper discharge of the functions of the Agency under this Act from persons, institutions or their agents, whether local or international;
- (f) request and obtain feedback progress reports from law enforcement or prosecutorial agencies on matters referred to them by the Agency;

- (g) instruct a reporting entity to take such steps as may be appropriate to facilitate an investigation under this Act.
- (h) enter the premises of a reporting entity during business hours to inspect any record kept by the reporting entity, ask questions relating to the records, make notes or copies of the record or where the records are kept on data storage devices, take them away for detailed inspection.

(2) The Agency shall keep information obtained by virtue of the powers conferred upon it under subsection (1) confidential.

(3) Notwithstanding subsection (2) the Agency may share information obtained by virtue of the powers conferred upon it under subsection (1) with other financial intelligence institutions and international partners on condition that the report or information shall only be used for intelligence purposes, treated as confidential and shall not be disclosed without the prior written consent of the Agency.

PART VI-FINANCIAL PROVISIONS

21. (1) The activities of the Agency shall be financed by funds consisting of - Funds of Agency.

- (a) moneys appropriated from time to time by Parliament for the purposes of the Agency;
- (b) moneys given to the Agency by way of gifts, endowments, bequests, grants or other contributions by persons and organisations for the purposes of the Agency;
- (c) any other moneys which may, from time to time, accrue to the Agency;

- (d) monies received from fines imposed by the Agency on reporting entities and share of fines jointly imposed by the Agency and a supervisory authority.

(2) Without prejudice to subsection (1) the Agency shall not receive funds from-

- (a) a country, territory, organisation, entity or individual that is subject to sanctions or restrictions imposed either by the Government of Sierra Leone or the United Nations Security Council or the Economic Community of West African States
- (b) a source of funding that is in conflict with the mandate or interest of the Agency.

(3) The funds of the Agency shall be applied only for the purposes of the approved budget of the Agency.

Accounts
and audit.

22. (1) The Agency shall keep proper books of accounts and proper records in relation to the funds of the Agency and the books of accounts and records shall be in the form approved by the Auditor-General.

(2) The books of accounts shall be audited by the Auditor-General or an auditor appointed by him within three months after the end of each financial year.

(3) For the purposes of subsection (2), the Auditor General or the auditor appointed by him shall be entitled to have access to all books of account, vouchers and other financial records of the Agency and to require such information and explanation thereon as he may think fit.

(4) The Agency shall provide the Auditor-General or the auditor appointed by him with all necessary and appropriate facilities for the examination of the accounts and records of the Agency.

(5) The Auditor-General or the auditor appointed by him shall submit to the Agency a report on the audited accounts and the financial statements referred to in subsection (1) and shall, in his report draw attention to-

- (a) irregularities in the accounts;
- (b) matters that are likely to adversely affect the operations of the Agency; and
- (c) any other matter which, in his opinion, ought to be brought to the notice of the Agency.

23. The financial year of the Agency shall be the same as the financial year of the Government. Financial year of Agency.

24. (1) The Agency shall, within three months after the end of the financial year submit to the President an annual report on the performance of its functions during that year. Annual report.

(2) The annual report shall include the accounts and annual financial statement prepared under section 22 and the report of the audit thereon.

(3) The President shall cause the report to be laid before Parliament.

PART VII - MONEY LAUNDERING

25. (1) A person shall not -

Money
laundering.

- (a) convert or transfer property knowing or having reason to believe that the property is derived directly or indirectly from an unlawful activity, with the aim of concealing or disguising the illicit origin of that property or aid a person involved in the commission of an unlawful activity to evade the legal consequences of the unlawful activity;

- (b) conceal or disguise the true nature, origin, location, disposition, movement, or ownership of property, knowing or having reason to believe that the property is derived directly or indirectly from an unlawful activity;
 - (c) acquire, possess, or use property, knowing or having reason to believe that the property is derived directly or indirectly from an unlawful activity;
 - (d) engage directly or indirectly in any transaction which involves property that is the proceeds of crime; or
 - (e) receive, possess, conceal, disguise, transfer, convert, dispose of, remove from or bring into Sierra Leone property that is the proceeds of crime.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to, in the case of -
 - (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le20,000.00 or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment;
 - (b) a body corporate to a fine of not less than Le100,000.00 or the revocation of its licence or to both.
- (3) A person who -
 - (a) organises or directs another person to commit;

- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction to a fine of not less than Le20,000.00 or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment.

PART VIII - FINANCING OF TERRORISM AND FINANCING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

26. (1) A person shall not, directly, or indirectly-

Funding of
terrorism.

- (a) provide, whether by giving, lending, or otherwise making available; or
- (b) collect, funds or property that are to be used, in full or in part, for carrying out a terrorist act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (b) a body corporate to a fine of not less than Le250,000.00 or to the revocation of its license or to both such fine and revocation.

27. (1) A person shall not finance or provide support to a-

Financing of
terrorism.

- (a) terrorist;
- (b) terrorist group;
- (c) terrorist organisation;
- (d) foreign terrorist fighter.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 15 years or to both such fine and imprisonment;
- (b) a body corporate to a fine of not less than Le250,000.00 or to the revocation of its license or to both such fine and revocation.

(3) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment.

(4) A person shall be deemed to finance, fund or provide support to terrorism under subsection (1) and (2), notwithstanding that the financing, funding or supporting is at a location different from where the terrorist or terrorist organisation is located, or the terrorist act occurred or will occur.

28. (1) A person shall not finance or provide funds or financial services for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling of nuclear, chemical, biological weapons and related materials and their means of delivery. Financing the proliferation of weapons of mass destruction prohibited.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person to a fine not less than Le250,000.00 or a term of imprisonment of not less than 15 years or to both such fine and imprisonment.
- (b) a body corporate to a fine of not less than Le500,000.00 or the revocation of its licence or to both such fine and revocation.

(3) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1), commits an offence and is liable on conviction to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment.

29. (1) The Agency may, in consultation with the competent authorities, issue directives to reporting entities or a class of reporting entities operating in the financial sector and persons or class of persons operating in the financial sector, in relation to- Agency may issue directives on combating the financing of weapons of mass destruction.

- (a) the types of transactions;
- (b) the sources of funds,
- (c) the nationalities of persons or entities on whose behalf transactions are conducted, carried out or facilitated;

- (d) the type of products offered; and
 - (e) other parameters that the Agency may deem relevant to the national and global campaign against financing of the proliferation of weapons of mass destruction.
- (2) A directive under subsection (1) may be issued on the advice of -
- (a) the Financial Action Task Force or the Inter-Governmental Action Group against money laundering in West Africa or an international organisation established under an instrument to which Sierra Leone is a signatory;
 - (b) a supervisory authority of a reporting entity;
 - (c) the Nuclear Safety and Radiation Protection Authority established under section 3 of the Nuclear Safety and Radiation Protection Act, 2012 (Act No. 7 of 2012) that the development or production of nuclear, radiological, biological or chemical materials in Sierra Leone or systems for their delivery or the doing of anything that facilitates the development or production of any of the materials,

that proliferation activities being carried out by natural persons ordinarily resident in Sierra Leone or corporate bodies or other entities incorporated or domiciled in Sierra Leone pose a significant risk to the interest of Sierra Leone or section of the population and that certain measures should be taken in response to the risks of proliferation activities being carried in Sierra Leone or elsewhere.

- (3) Where the Agency issues a directive under subsection (1), it shall cause the directive and the names of persons, entities or countries affected by the directives to be published in the Gazette and disseminated to reporting entities, supervisory authorities and competent authorities.

(4) A person or reporting entity who fails to take appropriate measures in response to a directive of the Agency on risks of proliferation activities being carried in Sierra Leone or elsewhere commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person, to a fine of not less than 20,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment;
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

(5) A person who -

- (a) organises or directs another person;
- (b) attempts;
- (c) conspires; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable on conviction, in the case of-

- (i) a natural person to a fine not less than 20,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment; and
- (ii) a corporate body to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

30. (1) The Director-General or a person acting under his authority may, for the purpose of an investigation of the financing of the proliferation of weapons of mass destruction or a process, antecedent, incidental, or ancillary thereto, by request, require a reporting entity, a supervisory authority, a competent authority, government Ministry, department or agency or any other person or entity to provide information or produce a document, in such manner as may be specified in the request.

Power to
request or
obtain
information.

(2) Where a document requested under subsection (1) is in electronic form, the power to require the production of the document includes the power to require the production of a copy of the document in legible form or in such a form as would enable the document to be readily produced in a visible and legible form.

(3) The Director-General or a person acting under his authority may take copies of, or make extracts from, a document obtained under subsection (1).

(4) A reporting entity or a person with information requested under subsection (1) who fails to provide information or produce the document requested commits an offence and is liable on conviction, in the case of -

- (a) a natural person to a fine of not less than 15,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment; and
- (b) a body corporate to a fine of not less than 30,000.00 Leones or the revocation of its licence or to both such fine and revocation.

(5) A person who -

- (a) organises or directs another person;
- (b) attempts;
- (c) conspires; or
- (d) participates as an accomplice to a person committing, or attempting to commit, commits an offence under subsection (1)

commits an offence and is liable, on conviction, in the case of -

- (i) a natural person to a fine of not less than 15,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment; and
- (ii) a corporate body to a fine not less than 30,000.00 Leones or the revocation of its licence or to both such fine and revocation.

31. (1) A law enforcement authority may, where it has reasonable cause to believe that premises is being used by a reporting entity or a person for the financing of the proliferation of weapons of mass destruction or an activity antecedent, incidental or ancillary thereto -

Powers to
enter and
inspect
premises.

- (a) enter, inspect, and search the premises;
- (b) observe the business operations of the reporting entity or individual being carried out in the premises;
- (c) inspect any document found on the premises;
- (d) search and inspect computers or computer systems found in, connected with or linked to the premises; and
- (e) require a person found on the premises to provide an explanation of the whereabouts of any relevant document not found in the premises to state where it may be found.

(2) A law enforcement authority under subsection (1) may take copies of, or make extracts from, any document found in the premises.

(3) A reporting entity or person who obstructs or in any way hinders a law enforcement authority prior to, after or during carrying its responsibilities under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (a) a natural person to a fine of not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

(4) A person who -

- (a) organises or directs another person;
- (b) attempts;
- (c) conspires; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (a) a natural person to a fine of not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment; and
- (b) a corporate body to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

Judicial
control
of law
enforcement
authority.

32. (1) A law enforcement authority shall not enter, inspect, search, or do anything in relation of an investigation or a process, antecedent, incidental or ancillary thereto under section 31 unless on a warrant issued by a Judge.

(2) An application for a warrant under subsection (1), shall be in writing and shall be made ex-parte, and supported by an affidavit.

(3) A judge may issue a warrant under this section if he is satisfied on a balance of probability that-

- (a) there is on the premises specified in the warrant, a document in relation to the investigation, or other processes contemplated thereby;
- (b) the document sought to be produced would be removed, tampered with, or destroyed if the warrant is not issued; and

- (c) the reporting entity or other person to whom a request has been issued under section 28 has failed, wholly or in part, to comply with the notice.

(4) Notwithstanding this section, the Director-General or a person acting under his authority may enter and inspect the premises of a reporting entity without a warrant.

33. (1) A reporting entity or a person shall not conduct, carry out or be involved either directly or indirectly in a transaction with, for or on behalf of-

Dealing with
sanctioned
country,
territory,
group,
and entity
prohibited

- (a) the government of a sanctioned person, country or territory;
- (b) a corporation or a business entity registered or domiciled in a sanctioned country or territory
- (c) corporation or business entity whose -
 - (i) managers, directors' members or shareholders are nationals of a sanctioned country or territory or ordinarily resident therein;
 - (ii) profits or proceeds may be remitted to a sanctioned country or territory;
- (d) a sanctioned person;
- (e) a sanctioned group;
- (f) a sanctioned entity.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including a director, employee or agent of a reporting entity to a fine of not less than Le 30,000.00 or to a term of imprisonment for not less than 5 years or to both such fine and imprisonment;

- (b) a body corporate to a fine of not less than Le100,000.00 or the revocation of its licence or to both such fine and revocation.

(3) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (i) a natural person, to a fine not less than Le30,000.00 or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment;
- (ii) a body corporate to a fine of not less than Le100,000.00 or the revocation of its licence or to both such fine and revocation.

Dealing with
assets of
sanctioned
person or
entity
prohibited.

34. (1) A reporting entity or person shall not deal with or be involved, directly or indirectly, in a transaction linked to an asset or resources, knowing or having reasonable grounds to suspect that the asset or economic resources is owned, controlled, or held, directly or indirectly, wholly, or jointly by-

- (a) a sanctioned person;
- (b) a sanctioned entity;
- (c) a sanctioned group; or
- (d) the government of a sanctioned country or territory.

(2) A person who deals with a sanctioned person or entity in contravention of subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le30,000.00 or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment;
 - (b) a body corporate to a fine of not less than Le100,000.00 or the revocation of its licence or to both such fine and revocation.
- (3) A person who -
- (a) organises or directs another person to commit;
 - (b) attempts to commit;
 - (c) conspires to commit; or
 - (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (i) a natural person, to a fine of not less than Le30,000.00 or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment;
- (ii) a body corporate to a fine of not less than Le100,000.00 or the revocation of its licence or to both such fine and revocation;.

35. (1) A reporting entity or a person shall not make available, funds or economic resources, to sanctioned persons or entities, knowing or having reasonable grounds to know, that the funds or economic resources are being made available to -

Making funds or economic resources available to sanctioned person or entity prohibited.

- (a) a sanctioned person;
- (b) a sanctioned entity;
- (c) a sanctioned group; or
- (d) the government of a sanctioned country or territory.

(2) A person who makes available, funds or economic resources, to sanctioned persons or entities, in contravention of subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (b) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

(3) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (i) a natural person, to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (ii) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

36. (1) A reporting entity or a person shall not establish or maintain a joint business venture or establish a business relationship with-

Joint
venture
with
sanctioned
person or
entity
prohibited.

- (a) a sanctioned person;
- (b) a sanctioned entity;
- (c) a sanctioned group; or
- (d) the government of a sanctioned country or territory.

(2) A person who establishes or maintains a joint business venture or establish a business relationship with a sanctioned person or entity in contravention of subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (b) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

(3) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (i) a natural person, to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;;

- (ii) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

Relationship
with financial
institution
of sanctioned
country or
territory
prohibited.

37. (1) A reporting entity or a person shall not establish or maintain a business relationship with a financial institution or a business concern registered, incorporated, domiciled in or linked to a sanctioned country or territory.

(2) A person who establishes or maintains a business venture or establish a business relationship with a financial institution or a business concern registered, incorporated, domiciled in or linked to a sanctioned country or territory in contravention of subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (b) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

(3) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (i) a natural person, to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (ii) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

38. (1) A reporting entity or a person shall not establish an office or business outlet in a sanctioned country or territory.

Establishing office or business outlet in sanctioned country or territory prohibited.

(2) A person who establishes an office or business outlet in a sanctioned country or territory in contravention of subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (b) Le250,000.00 or the revocation of its licence or to both such fine and revocation.

(3) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (i) a natural person, to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;

- (ii) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

Dealing with
vessel
carrying
flag of
sanctioned
country or
territory
prohibited.

39. (1) A reporting entity or a person shall not insure, deal with or be concerned with a transaction or dealing linked to a vessel carrying the flag of a sanctioned country or territory.

(2) A person who insures, deals with or is concerned with country or transaction or dealing linked to a vessel carrying the flag of a sanctioned territory, in contravention of subsection (1) commits an offence and is liable, on conviction to, in the case of -

- (a) a natural person including, a director, employee or agent of a reporting entity to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (b) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

(3) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or
- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (i) a natural person, to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (ii) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

40. (1) The Director-General, other competent authority or a person acting under their authority may apply to the High Court by way of an ex-parte originating notice of motion for an order- Judicial restraint and seizure of frozen assets.

- (a) prohibiting a reporting entity or a person in possession or control of property suspected of being linked to or connected with the financing of the proliferation of weapons of mass destruction or an act or conduct antecedent, incidental or ancillary thereto, from disposing of or otherwise dealing with the property pending investigation or other processes antecedent, incidental or ancillary thereto; and
- (b) enabling the Director-General or a person acting under his authority or other competent authority to seize property or economic resources frozen or restricted under this section.

(2) A Judge may grant an order under subsection (1) upon satisfaction on a balance of probability that-

- (a) the restraining or seizure order is necessary to prevent the crime of financing the proliferation of weapons of mass destruction;
- (b) there is an investigation, enquiry or proceedings being carried out in connection with the asset sought to be restrained or seized; and

- (c) the property sought to be restrained or seized would be dissipated, transferred, or otherwise disposed of before the end of the investigation, inquiry, or other proceeding if the order is not granted.

(3) A restraining order granted under this Section shall cease to have effect at the end of 18 months if no charges shall have been preferred against a person in connection with which the order was made.

(4) Where a restraining or seizure order is granted under this section, the Director-General or other competent authority may appoint an administrator to manage the asset or economic resources seized or frozen pending the investigation, inquiry or other proceedings contemplated.

(5) An administrator appointed under subsection (4) shall have all powers necessary to diligently and in good faith manage the asset under the supervision of the Director-General or other competent authority.

(6) An administrator appointed under subsection (4) shall continue to manage the assets or economic resources until the freezing order ceases to have effect or otherwise ordered by the Court.

Request for
verification
in event of
suspicion.

41. (1) Where a reporting entity or a person in possession or control of property or economic resources shall have reasons to suspect that the property or economic resources is owned, controlled, or held on behalf of, or at the direction of-

- (a) a sanctioned country;
- (b) a sanctioned territory;
- (c) a sanctioned group;
- (d) a sanctioned entity; or
- (e) a sanctioned person,

the reporting entity or person shall immediately upon forming the suspicion issue a request in writing addressed to the Director-General or other competent authority seeking to resolve the suspicion.

(2) A request issued to the Director-General or other competent authority under subsection (1) shall be accompanied by details of the asset and the owner or controller of the asset as known to the reporting entity or person making the request.

(3) Where a request is issued to the Director-General or other competent authority under subsection (1) the Director-General or other competent authority shall as soon as is reasonably practicable after receiving the request respond in writing stating that it is -

- (a) likely;
- (b) unlikely; or
- (c) unknown,

whether the property is owned or controlled by a sanctioned country, territory, person, group or entity.

42. (1) A reporting entity or a person in control or possession of assets or economic resources of a sanctioned country, territory, person, group or entity shall report the holding of that asset or economic resource to the Director-General or other competent authority as soon as reasonably practicable and in any event within 2 working days from the date -

Assets of sanctioned person or entity to be reported.

- (a) that the reporting entity or person received notification of the sanctions;
- (b) of publication of the sanctions; or
- (c) the asset or economic resource of a sanctioned country, territory, person, group or entity came into the possession or control of the reporting entity or person.

(2) A report filed under subsection (1) shall include-

- (a) details of the asset or economic resources;
- (b) the name and address of the owner or controller of the asset or economic resources;
- (c) details of any transaction or attempted transaction involving the asset or economic resources; and
- (d) any other or further particulars that would aid the Director-General or other competent authority in the analysis and reconstruction of the report.

(3) A report filed under subsection (1) shall be in accordance with the form or procedure that may from time to time be specified by the Director-General.

(4) A reporting entity or a person who fails to file in a report with the Director-General or other competent authority in contravention of subsection (1) commits an offence and is liable on conviction, in the case of -

- (a) a natural person, to a fine of not less than 100,000.00 Leones or imprisonment to a term not less than 7 years or to both such fine and imprisonment;
- (b) a body corporate, to a fine not less than 250,000.00 Leones or the revocation of its licence or to both such fine and revocation.

(5) A person who -

- (a) organises or directs another person to commit;
- (b) attempts to commit;
- (c) conspires to commit; or

- (d) participates as an accomplice to a person committing, or attempting to commit,

an offence under subsection (1) commits an offence and is liable, on conviction, in the case of -

- (i) a natural person, to a fine of not less than Le100,000.00 or to a term of imprisonment of not less than 7 years or to both such fine and imprisonment;
- (ii) a body corporate to a fine of not less than Le250,000.00 or the revocation of its licence or to both such fine and revocation.

43. (1) The Attorney-General may upon application by a person affected by a directive restraining access to funds or economic resources under section 35 direct limited access to the funds so restrained to meet-

Authorisation
for licensed
utilisation of
restrained
funds.

- (a) a basic expense;
- (b) a contractual obligation;
- (c) extraordinary expenses;
- (d) judicial, administrative, or arbitral lien or judgement entered prior to the sanctioning of the asset necessary to satisfy the lien or judgement.

(2) Where the designation or sanction of an asset or economic resources imposed under subsection (1) or administered by the United Nations Security Council or a committee thereof, the Attorney-General may grant an authorisation upon approval by the Security Council or a committee thereof.

(3) Where the designation or sanction of an asset or economic resource under subsection (1) is imposed or administered by the Economic Community of West African States, the Attorney-General may grant an authorisation subject to approval by the Economic Community of West African States.

Report to
United
Nations
Security
Council or
its
Committees
by Attorney-
General.

44. (1) The Attorney-General shall, before December of each year, submit a report to the United Nations Security Council in writing on the implementation of this Act or any other law in force in compliance with the judicial restraint and seizure of frozen assets of sanctioned persons, entities, groups or the government of sanctioned countries or territories.

(2) A report by the Attorney-General under subsection (1) shall include information regarding -

- (a) the violations or attempted violations of this Act;
- (b) investigations, prosecutions, and adjudication of cases involving violations of this Act;
- (c) restrictions and confiscation of assets and economic resources under this Act; and
- (d) whatever the Attorney-General believes would assist the United Nations Security Council or its Committees to carry out their functions.

Designation
of persons
and entities
to United
Nations
Security
Council

45. (1) The Attorney-General shall, in consultations with law enforcement security agencies identify groups, persons, or entities that he has reasonable grounds to believe meet the criteria for designation by the United Nations Security Council on grounds of counter financing the proliferation of weapons of mass destruction and report identified persons or entities to the United Nations Security Council or its Committees using the procedure specified by the United Nations Security Council from time to time.

(2) The Attorney-General shall in the discharge of his mandate under subsection (1) consult such intelligence agencies, law enforcement agencies, regulatory authorities, or competent authorities or other government Ministries, Departments and Agencies as he deems necessary to determine whether there are reasonable grounds to believe that a person or entity meets the criteria

for designation for financing the proliferation of weapons of mass destruction or other act or conduct antecedent, incidental or ancillary thereto.

46. (1) The Attorney-General shall, upon request, provide legal assistance to challenge the designation of a Sierra Leonean national or a person or entity subject to the jurisdiction of Sierra Leone by the United Nations Security Council or committees thereof in compliance with this Act or any other laws, regulations, directives or guidelines in force.

State-sponsored application for revocation of designation.

(2) Where the Attorney-General provides legal assistance in response to a request under subsection (1), he shall do so using the procedure specified by the United Nations Security Council or committees.

47. The Attorney-General may through the Ministry responsible for foreign affairs, transmit, receive, and respond to communications from foreign governments or the United Nations Security Council or committees about the powers conferred upon him under this Act.

Communications to and from United Nations Security Council foreign governments.

48. (1) There shall be a body to be known as a National Coordinating Committee on Counter-Financing of Proliferation of Weapons of Mass Destruction, comprising -

National Coordination Committee.

- (a) The Attorney-General as Chairman;
- (b) The Inspector-General of Police;
- (c) The Director-General of the Financial Intelligence Agency, who shall serve as secretary to the committee;
- (d) The Head of Central Intelligence and Security Agency;
- (e) The Executive Secretary, Nuclear Safety and Radiation Protection Agency;

(f) The Governor, Bank of Sierra Leone;

(g) The Commissioner General, National Revenue Authority.

(2) The National Coordinating Committee on Counter-Financing of Proliferation of Weapons of Mass Destruction shall be responsible to -

- (a) facilitate information sharing between competent authorities, supervisors, the Office of the Attorney-General and Minister of Justice and other agencies involved in the operation of the counter-financing the proliferation of weapons of mass destruction;
- (b) facilitate the production and dissemination of information on the risks of financing the proliferation of weapons of mass destruction;
- (c) advise and make decisions on counter-financing the proliferation of weapons of mass destruction requirements and the risk-based implementation of those requirements;
- (d) facilitate co-operation amongst competent authorities and supervisors in consultation with other agencies in the development of counter-financing the proliferation of weapons of mass destruction policies and legislation;
- (e) facilitate consistent and coordinated approaches to the development and dissemination of counter-financing the proliferation of weapons of mass destruction guidance materials and training initiatives by supervisors;

- (f) facilitate good practice and consistent approaches to counter-financing the proliferation of weapons of mass destruction;
- (g) provide a forum for examining any operational or policy issues that have implications for the effectiveness or efficiency of the counter-financing the proliferation of weapons of mass destruction systems;
- (h) make recommendations for designation of persons and entities by the Attorney-General and Minister of Justice.

49. Where a body corporate is convicted of violating this Act because of an act or conduct of its directors, employees, servants, or agents acting within the scope of their authority, the directors, employees, servants or agents involved shall be so convicted except where it can be shown that the directors, employees, servants or agents involved, had taken reasonable care and exercised due diligence to prevent the violation from being committed.

Liability of
officers of
body
corporate.

PART IX-PREVENTIVE MEASURES TO COMBAT MONEY LAUNDERING, FINANCING OF TERRORISM AND FINANCING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

50. (1) There shall be an anti-money laundering and combating the financing of terrorism and counter-financing the proliferation of weapons of mass destruction system established and employed to enhance effectiveness and efficient use of resources in fighting money laundering, terrorism financing and financing of the proliferation of weapons of mass destruction, built based on a risk-based approach with minimum standards for anti-money laundering or combating of terrorism financing compliance obligations applicable to reporting entities under this Act.

Effective use
of
resources.

(2) Further sector-specific and supplementary obligations may be provided for in other enactments, or guidelines applicable to specific sectors of reporting entities.

Application
of risk-based
approach.

51. In the application of a risk-based approach, the minimum standard for compliance is obligatory and reporting entities shall where the minimum standard is not specified-

- (a) implement internal controls which correspond to the actual risk represented by the product, service, clients transaction, geographical or other risk factors, as long as they are consistent with prescribed risk levels or guidance issued by the Agency or supervisory authority as the case may be for the respective sector; and
- (b) take measures that go beyond those standards if warranted by identified risks.

National risk
assessment.

52. (1) Competent authorities shall -

- (a) assess, identify, and understand the national risks of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction and predicate offences, design and implement measures to mitigate the risks, adopt and implement policies to prevent, conduct investigations and prosecute money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction and predicate offences;
- (b) identify and assess the money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction risks that may arise in relation to the developments of, new technologies for both new products, pre-existing product new

delivery mechanisms and new business practices and design and implement policies and mechanisms to manage and mitigate the risks identified;

- (c) assess the money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction risks associated with different types of legal persons created in the country, and take appropriate steps to manage and mitigate the risks that they identify; and
- (d) assess the money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction risks associated with different types of foreign-created legal persons to which Sierra Leone is exposed to and take appropriate steps to manage and mitigate the risks that they identify.

(2) Without prejudice to subsections (1) a supervisory authority shall carry out money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction risk assessment on the operatives of the sector under its supervision at the intervals and in the manner to be determined by the supervisory authority guided by the level of risk posed by the sector and the trends of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction as they relate to the sector under its supervision and design and adopt policies and mechanisms to manage and mitigate the risks identified.

53. (1) Without prejudice to section 52, reporting entities shall
- (a) assess, identify, and understand the risks of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction and predicate offences connected with specific set of customers,
- Risk assessment by reporting entities.

product lines, geographic locations and other parameters of vulnerability to money laundering; financing of terrorism and financing of the proliferation of weapons of mass destruction design and implement measures to mitigate the risks, adopt and implement policies to prevent, detect and provide the required set of data to competent authorities to aid the investigation and prosecution of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction and predicate offences and other matters incidental and ancillary thereto;

- (b) in carrying out risk assessment under paragraph (a), incorporate information on the higher risks identified in the national risk assessment under section 52 into their risk assessments;
- (c) conduct risk assessment, subject to central bank or supervisory review on new products and distribution channels approval on new products, services, transactions, clients, channel of distribution, geographical areas and other risk factors before the approval and launching of the product;
- (d) profile customers and accounts into risk categories with special focus on non-resident customers, private banking customers, legal persons, or legal arrangements such as trust, cross-border banking and business relationship, and politically exposed persons among others and customers or set of customers vulnerable to the risks of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction;

-
- (e) undertake an assessment of the money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction risks prior to the launch or use of new technologies, delivery mechanisms, new technologies dealing with pre-existing products and new business practices;
 - (f) take appropriate measures to manage and mitigate the risks;
 - (g) undertake risk assessments, as and when required, as new risks emerge, conditions change, or trigger events occur, including new products and services, changes in ownership, or mergers and acquisition;
 - (h) review the assessment of the money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction risk profile of a reporting entity or group annually and when there are major events or developments in the management and operations of the reporting entity.

(2) A reporting entity shall, where it has classified a set of customers, product lines, geographical areas or other parameters of vulnerability to money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction to be of low risk, medium risk, high risk, carry out the risk assessment under subsection (1) once every 5 years, 3 years and 1 year, respectively.

(3) A reporting entity shall, after conducting a risk assessment under this section, submit a report thereof to the supervisory authority and the Agency (1) calendar month after completion.

(4) A reporting entity shall, where it becomes aware as a result of its ongoing monitoring, that a customer's information, including beneficial ownership information, has materially changed, update the customer's information accordingly, reassess the customer's risk profile rating and follow established bank policies, procedures, and processes for maintaining or changing the customer risk profile rating.

Anonymous
accounts.

54. Reporting entities, shall not maintain an account or conduct business transactions in a fictitious name.

Application
of
customer due
diligence
and know
your
customer
requirement.

55. (1) A reporting entity shall collect sufficient information about the intended use, nature, and purpose of each customer account so that it generally understands the size and kinds of expected transactions, in order to have sufficient basis for identifying suspicious transactions.

(2) The information collected under subsection (1) shall be sufficient to enable the reporting entity to verify -

(a) the identity of the person executing the transaction whether it is on the person's own behalf or on behalf of another person; and

(b) the person who controls the account.

(3) Reporting entities shall conduct customer due diligence on their customers and re-evaluate the risks of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction and predicate offences connected with every customer and design and implement measures to mitigate the risks, adopt and implement policies to prevent, detect and provide the required set of data to competent authorities to aid the investigation and prosecution of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction and predicate offences and other matters incidental and ancillary thereto.

(4) Reporting entities shall conduct customer due diligence as and when required as new risks emerge, risk profile change, or trigger events such as adverse media reporting occur.

(5) Without prejudice to subsections (1) to (4), reporting entities shall -

- (a) verify and identify a person acting on behalf of a customer who is so authorised to execute and operate a transaction;
- (b) verify that natural or legal person working as agent for money value transfer services are also licensed or registered by the Central Bank; and
- (c) immediately file a suspicious transaction report with the Agency if there exists a risk of tipping off without the initial requirement to carry customer due diligence on the customer or the specific transaction.

(6) Where a reporting entity is unable to fulfil the customer due diligence and know your customer requirements under this section the reporting entity shall refrain from proceeding with the transaction or establishing the business relationship and consider filing a suspicious transaction report with the Agency.

56. (1) Without prejudice to the generality of paragraph (a) of subsection (5) of section 55, a reporting entity shall verify the identity of a customer on the basis of reliable and independent source documents, data, or information such as a valid passport, a driver's licence, a national identification document or a certified certificate of incorporation or other evidence as is reasonably capable of verifying the identity of the customer when-

Obligation
to verify
customer
identity.

- (a) opening an account or taking into safe custody stocks, bonds, or other securities, or granting safe-deposit facilities or otherwise establishing a business relationship with a customer;

- (b) the customer, who is neither an account holder nor in an established business relationship, wishes to carry out a transaction in an amount equal to or above 30,000.00 Leones or its equivalent in foreign currency whether conducted as a single transaction or several transactions conducted that appear to be linked within 24 hours;
- (c) the customer, whether an existing customer or not, carries out an international or a domestic wire transfer of an amount equal to or above 3,000.00 Leones or its equivalent in foreign currency;
- (d) there is suspicion of money laundering, financing of terrorism or the financing the proliferation of weapons of mass destruction; or
- (e) a doubt exists about the veracity or adequacy of a statement or documentation of the customer or a previously obtained customer identification information.

(2) In the case of an individual customer, the identity shall be verified by the presentation of a valid international passport, driver's licence, national identification document or such other official document bearing the customer's photograph, a copy of which shall be retained by the reporting entity; and the address shall be verified by the presentation of a document capable of providing proof of the address.

(3) In the case of a customer which is a body corporate, the identification shall be by the production of records establishing that it has been lawfully established and that it is actually in existence at the time of the identification, including the address of the registered office, if it has different principal place of business and a copy each of which shall be retained by the reporting entity.

(4) Where the customer is an individual delegated as a director, employee, or agent of a body corporate to enter into transactions on behalf of third parties, he shall produce the documents referred to in subsection (3) as well as documents authenticating the identity and addresses of the beneficial owner.

57. (1) Where it is uncertain whether a customer is acting on his own behalf, the reporting entity shall seek information by any means as to the identity of the principal or party on whose behalf the customer is acting. Identification of beneficial owner.

(2) Where, following verification, a doubt remains as to the identity of the beneficial owner, the business relationship shall be terminated and a suspicious transaction report shall be filed with the Agency:

Provided that subsections (1) and (2) shall not apply where the transaction is-

- (a) part of an existing and regular business relationship with a person who has already produced satisfactory evidence of identity unless the reporting entity has reason to suspect that the transaction is suspicious or unusual;
- (b) an occasional transaction not exceeding 30,000.00 Leones unless the reporting entity has reason to suspect that the transaction is suspicious or unusual; or
- (c) in such other circumstances as may be determined by the Agency.

(3) A reporting entity shall, in establishing a business relationship under subsection (2), -

- (a) obtain information on the purpose and nature of the business relationship;

- (b) monitor the business relationships and the transactions undertaken throughout the course of the relationship to ensure that the transactions conducted are consistent with the information that the reporting entity has of its customer and the profile of the customer's business;
- (c) adequately identify and verify the person's identity, where the transaction is conducted by an individual, including information relating to -
 - (i) the person's name, address and occupation;
 - (ii) the national identification document, passport, or other official identifying document.
- (d) adequately identify, and verify its legal existence and structure, where the transaction is conducted by a legal entity, including information relating to -
 - (i) the customer's name, legal form, address, and directors;
 - (ii) the principal owners and beneficiaries and control structure;
 - (iii) provisions regulating the power to bind the entity and to verify that any person purporting to act on behalf of the customer is authorised to do so and identify such person.

(4) A customer who is a legal practitioner, a public or private accountant, an individual with public powers of attorney or an authorised agent, acting as a financial intermediary, shall not invoke professional secrecy or confidentiality to refuse to disclose the identity of the transacting party or beneficial owner.

(5) In case of existing customers and beneficial owners with which it established business relationships before the coming into operation of this Act, -

- (a) a reporting entity shall apply the identification and verification requirements; and
- (b) the competent supervisory authority or the Agency shall, where a competent supervisory authority does not exist, set deadlines and further details related to obligations for completing this process.

(6) The identification and verification of the identity of a customer, and obtaining customer due diligence information and documentation shall, subject to subsection (7), take place before the establishment of an account or business relationship or before carrying on of further business.

(7) A reporting entity may, in exceptional circumstances where it would be impossible to complete verification of identity and collect the necessary customer due diligence information prior to commencing business, collect the required documentation as soon as reasonably practical after commencement of the business relationship only where -

- (a) the risk of money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction is effectively managed; and
- (b) a delay in verification is essential in order not to interrupt the normal conduct of business:

Provided that in no circumstance shall collection of customer identity and other documentation be delayed longer than two calendar months following commencement of business relations.

(8) A reporting entity shall, where after 2 calendar months it has not obtained the necessary customer identification and other necessary documentation, consider reporting the transaction as suspicious to the Agency or closing the account and severing the business relationship.

(9) A reporting entity shall, where an individual conducts a transaction through the reporting entity and the reporting entity has reasonable grounds to believe that the individual is undertaking the transaction on behalf of another individual, identify and verify the identity of the other individual for whom, or for whose ultimate benefit, the transaction is being conducted.

(10) A reporting entity shall take reasonable measures to ascertain the purpose of a transaction if the amount is equal to or above 30,000.00 Leones or its equivalent in foreign currency and the origin and ultimate destination of the funds.

(11) The Agency may determine -

- (a) the official or identifying documents, or the reliable and independent source documents, data or information or other evidence that is required for identification or verification of a customer or class of customers; and
- (b) the threshold for or the circumstances in which this section shall apply in relation to a customer or class of customers.

(12) A reporting entity shall identify and verify the identity of natural persons who hold senior management positions or persons who take relevant decisions in legal arrangements.

(13) Without prejudice to the foregoing subsections, a trustee of an express trust shall, obtain and hold adequate, accurate, and current information, for at least 5 years after his involvement with the trust ceases on -

- (a) the identity of the settlor, other trustees, the protector, the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust; and
- (b) other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors.

58. (1) A reporting entity shall conduct customer due diligence on the beneficial ownership of an insurance policy and other investment-related insurance policies as soon as the beneficiary is -

Customer due diligence on beneficial owner of life insurance policy.

- (a) identified as a specifically named natural or legal person or legal arrangements for the person;
- (b) designated by characteristics or by class or by other means thereby obtaining enough information concerning the beneficiary to satisfy the reporting entity that it will be able to establish the identity of the beneficiary at the time of payout:

Provided that for both cases the verification of the identity of the beneficiary shall occur at the time of the payout.

(2) A reporting entity shall, in determining whether enhanced customer due diligence measures are applicable, include the beneficiary of a life insurance policy as a relevant risk factor.

Provided that where a reporting entity shall determine that a beneficiary who is a legal person or a legal arrangement presents a higher risk, then the enhanced customer due diligence measures should include reasonable measures to identify and verify the identity of the ultimate beneficial owner at the time of payout.

(3) Where a reporting entity is unable to comply with the requirements of subsection (1), it shall file a suspicious transaction report to the Agency.

Currency
exchange or
transmission
business.

59. (1) A reporting entity shall, where a person intends to engage in the business of currency exchange or transmission, before executing the transaction, -

(a) require the person to submit -

- (i) the required currency exchange or transmission licence from the Central Bank;
- (ii) a copy of the person's original valid international passport, driver's licence national identification documents or other such official document bearing the person's photo; and
- (iii) a completed standard data form prescribed by the Agency; and

(b) verify the identity of the person for a transaction if the amount is equal to or greater than 3,000.00 Leones or its equivalent in foreign currency.

(2) A person shall not provide money value transfer services unless he is licensed or registered by the Central Bank.

(3) A person who contravenes subsection (2) commits an offence and is liable upon conviction, in the case of -

- (a) a natural person to a term of imprisonment of not less than 7 years or fine not less than 100,000.00 Leones or to both such fine and imprisonment; and
- (b) a legal person to a fine of not less than 250,000.00 Leones or revocation of licence or to both such fine and revocation.

(4) Where a money value transfer services provider uses an agent he shall-

- (a) include such agent in its anti-money laundering, combating financing of terrorism and financing the proliferation of weapons of mass destruction programs and monitor them for compliance; and
- (b) maintain an updated or current list of its agents accessible by a competent authority.

60. (1) A reporting entity shall, where there is doubt or suspicion of money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction, be required to verify a person's identity regardless of the amount of the transaction.

Special
identification
requirements.

(2) A reporting entity shall, where there is doubt or suspicion, be required to verify a person's identity regardless of whether the person has an existing business relationship with the reporting entity, for the following financial transactions, where, -

- (a) a customer opens an account or executes a financial transaction in a casino, in an amount equal to or above the equivalent of 5,000.00 Leones or its equivalent in foreign currency;

- (b) a dealer of precious metals or precious stones receives payment from a customer in an amount of 20,000.00 Leones or more or its equivalent in foreign currency; and
- (c) the purchase or sale of real estate is in an amount equal to or greater than 30,000.00 Leones or its equivalent in foreign currency.

(3) Where multiple transactions over a period of time yield the threshold amount under subsection (2), the requirement under that subsection shall apply.

Reliance on
identity
verification
by
third
parties or
intermediaries.

61. (1) A reporting entity may rely on an intermediary or third party identification to provide the required customer information where-

- (a) there is no suspicion of money laundering, terrorist financing or financing of the proliferation of weapons of mass destruction;
- (b) the intermediary or third party provides information or other required customer due diligence identification documentation of the customer or beneficial owner is provided immediately on opening of the account or commencement of the business relationship; and
- (c) the reporting entity is satisfied that the intermediary or third party-
 - (i) is able to provide, without delay, copies of identification information of the customer or beneficial owner upon request; and

- (ii) is established in or is subject to the jurisdiction of a State where money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction or obligations equivalent to those specified in this Act and is supervised for compliance with those obligations in a manner equivalent to those applicable in Sierra Leone.

(2) The Agency or supervisory authority may, for the purposes of customer or beneficial owner identity verification, determine which jurisdictions do not adhere to and apply anti-money laundering, combating of the financing of terrorism and financing of the proliferation of weapons of mass destruction requirements.

(3) The intermediary or third party who is a legal practitioner, a public or private accountant, an individual with public powers of attorney or an authorised agent, acting as a financial intermediary, may not claim professional privilege or a similar principle to withhold the provision of customer due diligence, identity or beneficial ownership information or documentation when requested by the reporting entity.

(4) A reporting entity may rely on third parties within the same group to perform elements of customer due diligence measures to introduce natural persons or legal arrangements provided that the requirements of reliance on third parties and intermediaries are complied with and shall immediately obtain the necessary information concerning elements of customer due diligence measures in compliance with this Act and any other law, regulations, directives, and guidelines in force.

(5) A reporting entity that relies on an intermediary or third party -

- (a) has the ultimate responsibility for compliance with this Act, including the customer due diligence, identity and reporting requirements.
- (b) shall-
 - (i) immediately obtain the necessary information on customer due diligence and know your customer as required under section 60.
 - (ii) take steps to satisfy itself that copies of identification data and other relevant documentation relating to customer due diligence requirements are made available from the third party upon request and without delay; and
 - (iii) satisfy itself that the third party is regulated and supervised or monitored for anti-money laundering, combating of the financing of terrorism or financing of the proliferation of weapons of mass destruction compliance and has measures in place for compliance with customer due diligence and record-keeping requirements in line with international standards.
- (6) Without prejudice to subsection (5), where a financial institution relies on a third party that is part of the same financial group-
 - (a) the group shall -
 - (i) comply with the general customer due diligence and record-keeping requirements and those applicable to high-risk customers and politically exposed persons;

- (ii) design and adopt programmes against anti-money laundering, combating of the financing of terrorism or financing of the proliferation of weapons of mass destruction in accordance with this Act, any applicable laws and regulations in force;
 - (iii) have in place, policies and mechanisms to address, manage, and mitigate any higher risk linked to identification by third parties and intermediaries.
- (b) The Agency or the supervisory authority shall supervise, at group level, the implementation of those customer due diligence and record-keeping requirements and anti-money laundering, combating of the financing of terrorism or financing of the proliferation of weapons of mass destruction programmes.

62. (1) A reporting entity shall take adequate measures to address the specific risks of money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction when it has business relationships or executes transactions with a customer that is not physically present for purposes of conducting customer due diligence or verification of identity.

Customers
not
physically
present.

(2) Measures taken by a reporting entity under subsection (1), shall be to ensure that the customer due diligence and identification documentation are not less effective than where the customer appears in person.

(3) Notwithstanding subsection (1) a reporting entity may implement additional measures, including obtaining additional documentary evidence or conducting additional independent verification or certification measures for foreign customers.

High Risk
customers
and
politically
exposed
persons

63. (1) A reporting entity shall implement appropriate risk customers management systems to -

- (a) identify customers whose activities may pose a high risk of money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction and shall exercise enhanced identification, verification, customer due diligence, as well as ongoing due diligence procedures with respect to these customers; and
- (b) determine whether a customer or a beneficial owner is a politically-exposed person and if so shall-
 - (i) obtain approval from senior management before establishing or continuing a business relationship with the customer or later as soon as an existing customer is identified as a politically exposed person;
 - (ii) take all reasonable measures to identify the source of wealth and funds and other assets of the customer; and
 - (iii) provide increased and on-going monitoring of the customer and the business relationship to prevent money laundering or the commission of other offences and to permit the financial institution, designated businesses, and professions to fulfill their obligations under this Act, including all the due diligence and reporting requirements.

(2) This section shall apply to international politically exposed persons, their family members and close associates including persons who are or have been entrusted with a prominent function by an international organisation.

(3) A reporting entity shall take reasonable measures to determine whether the beneficiaries and or, where required, the beneficial owners of a legal person or legal arrangements are politically exposed persons, and this shall apply to transactions relating to life insurance policy.

(4) A reporting entity shall, beyond the application of the enhanced due diligence measures, have proportionate countermeasures to identify, assess, and mitigate the risk posed by politically exposed persons.

(5) A reporting entity shall, in relation to life insurance policies, take reasonable measures to determine whether the beneficiaries or, where required, the beneficial owner of the beneficiary, are politically exposed persons at the latest, at the time of the pay-out.

(6) A reporting entity shall, where higher risks are identified, inform senior management before the pay-out of the policy proceeds, to conduct enhanced scrutiny on the whole business relationship with the policyholder, and to consider making a suspicious transaction report.

64. (1) A reporting entity shall, when entering into a
correspondent banking relationship, -

Identification and account opening for correspondent banking relationship.

- (a) identify and verify the identity of a respondent institution with which it conducts correspondent banking relationship;
- (b) collect information on the nature of the respondent institution's activities;
- (c) based on publicly available information, evaluate the respondent institution's reputation and the nature of supervision to which it is subject;
- (d) obtain approval from senior management before establishing a correspondent banking relationship;
- (e) evaluate the controls implemented by the respondent institution with respect to anti-money laundering, combating the financing of terrorism and the financing of proliferation of weapons of mass destruction;
- (f) agree in writing with the respondent institution the respective responsibilities of each party in the relationship;
- (g) not enter into or continue business relations with a -
 - (i) shell bank; and
 - (ii) a respondent financial institution in a foreign country if the respondent institution permits its accounts to be used by a shell bank.

(2) A reporting entity shall, where a correspondent banking relationship is a payable-through account, ensure that the person with whom it has established the relationship-

- (a) has verified the identity of and performed ongoing due diligence on such persons or customers that have direct access to the accounts of the reporting entity; and
- (b) is able to provide the relevant customer identification data upon request to correspondent bank.

(3) The Agency shall stipulate the deadline date by which a bank shall collect and implement the requirements under this section with respect to a correspondent banking relationship established prior to the coming into operation of this Act.

(4) A reporting entity shall, whether continuing or effecting a transaction in a correspondent banking relationship, establish whether the respondent bank has been subject to money laundering, terrorist financing or financing of the proliferation of weapons of mass destruction investigation or regulatory action.

(5) A reporting entity shall, where there shall be evidence to show that a respondent bank has been subject to money laundering, terrorist financing or financing of the proliferation of weapons of mass destruction investigation or regulatory action, discontinue the relationship or the transaction and file a suspicious transaction report with the Agency.

(6) A relationship or transaction suspended by a reporting entity on the basis of a report filed under subsection (5), shall remain suspended until otherwise directed by the Agency.

65. A reporting entity that cannot fulfill a customer due-diligence identification requirements shall not establish an account for or maintain the business relationship with that customer and where appropriate, it shall file a suspicious transaction report with the Agency.

Inability to
fulfill
customer
due diligence
and customer
identification

Record
keeping.

66. (1) A reporting entity shall establish and maintain books and records with respect to its customers and transactions in accordance with subsection (2) and shall ensure that the books and records are available on timely basis to the Agency, other competent authorities and supervisory authorities.

(2) The books and records required to be established and maintained under subsection (1), shall, at a minimum, include-

- (a) account files, business correspondence and copies of documents evidencing the identities of customers and beneficial owners obtained in accordance with this Act, all of which shall be maintained for not less than 5 years from the date on which the transaction is completed or the business relationship ends;
- (b) records on transactions sufficient to reconstruct each individual transaction for both account holders and non-account holders which shall be maintained for not less than five years from the date on which the transaction is completed or the business relationship ends;
- (c) the findings, set out in writing pursuant to requirements concerning transactions which involve unusual transaction patterns or transactions which are unusually large or complex, and related transaction information which shall be maintained for at least 5 years from the date on which the transaction is completed or the business relationship ends; and

- (d) copies of all suspicious transaction reports, including accompanying documentation, which shall be maintained for at least 5 years from the date on which the report is made.

(3) The records established and maintained under subsection (1) shall be -

- (a) sufficient to enable the transaction to be readily reconstructed at any time by the Agency or competent authority to provide, if necessary, evidence for prosecution of an offence;
- (b) maintained in a manner and form that will enable the reporting entity to comply immediately with requests for information from the competent authority, appropriate law enforcement body or the Agency.

(4) A reporting entity required to maintain an internal list of cash transactions on currency exchange and money transmission in the amount of 3,000.00 Leones or more or its equivalent in foreign currency, shall maintain the list for at least 5 years after the last transaction recorded.

(5) Where a record is required to be kept under this Act, a copy of the record, with the appropriate back-up and recovery procedures, shall be kept-

- (a) in machine-readable form if a paper copy can be readily produced from it; or
- (b) in an electronic form, if a paper copy cannot be readily produced from it and in a manner that enables appropriate authentication, for example, by the electronic signature of the person who keeps the record.

Financial institution and money transmission service provider to include originator information.

67. (1) A reporting entity or person licensed to do business in Sierra Leone as a financial institution or a money transmission service provider shall include accurate originator information on wire transfers and the information shall remain with the transfer.

(2) Subsection (1) shall not apply to-

- (a) electronic funds transfer other than a money transfer effected from the use of a credit or debit card, if that credit or debit card number is included in the information accompanying the transfer; and
- (b) electronic funds transfer and settlement between financial institutions where the originator and beneficiary of the funds transfer are acting on their own behalf.

Ongoing due diligence and special monitoring of certain transactions.

68. (1) A reporting entity shall conduct ongoing due diligence with respect to a business relationship which includes -

- (a) maintaining current information and records relating to a customer and beneficial owner;
- (b) closely examining transactions carried out in order to ensure that transactions are consistent with their knowledge of the customer, the customer's commercial or personal activities and risk profile; and
- (c) ensuring that the obligations under sections 63 and 64 are fulfilled.

(2) A reporting entity shall-

- (a) pay special attention to all complex, unusual, and large transactions and all unusual patterns of transactions which have no apparent economic or visible lawful purpose;

- (b) pay special attention to business relations and transactions with persons, including legal persons and arrangements, from or in countries that do not or insufficiently apply the relevant international standards to combat money laundering, financing of terrorism and the financing of the proliferation of weapons of mass destruction;
- (c) pay special attention to electronic funds transfer that do not contain complete originator information;
- (d) examine as far as possible the background and purpose of unusual transactions as described in paragraphs (a) and (b) and set out in writing their findings;
- (e) take such specific measures as may be determined by the competent and supervisory authorities to counter the risks with respect to business relations and transactions specified in this section.

(3) The findings in paragraph (d) of subsection (2) shall be maintained on file as specified in section 66 on record keeping and shall be made available promptly if requested by the Agency, a supervisory authority or any other competent authority that should have access.

(4) Where the reporting entity has reasonable grounds for believing that the business transactions referred to in this section could constitute or be related to money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction or an unlawful activity, the financial institution shall promptly report the matter to the Agency.

Wire
transfer
and money
value
transfer
services.

69. (1) A reporting entity shall, for the purposes of a wire transfer transaction -

- (a) identify and verify the identity of the originator;
- (b) obtain and maintain -
 - (i) the account number or unique reference number of the originator;
 - (ii) the address, national identity number or date and place of birth and the name of the beneficiary;
 - (iii) the account number or, the unique reference number of the beneficiary
- (c) include the information in paragraphs (a) and (b) in the message or payment form accompanying the transfer.

(2) A reporting entity is not required to verify the identity of a customer with which it has an existing business relationship, if it is satisfied that it already knows and has verified the identity of the customer.

(3) Subsections (1) and (2) shall not apply to -

- (a) transfers executed as a result of credit card or debit card transactions, if the credit card or debit card number accompanies the transfer resulting from the transaction;
- (b) transfers between financial institutions acting for their own account.

(4) Where a reporting entity receives a wire transfer that does not contain the complete originator information required under subsection (2) and (3) it shall -

- (a) take measures to obtain and verify the missing information from the ordering institution or the beneficiary; or
- (b) refuse acceptance of the transfer and report the matter to the Agency.

(5) When a reporting entity acts as an intermediary in a chain of payments, it shall re-transmit all the information it received with the wire transfer.

(6) A reporting entity shall, for the purposes of a cross-border wire transfer, obtain and maintain -

- (a) the name of the beneficiary;
- (b) the account number or, the unique reference number of the beneficiary; and
- (c) the purpose of the transaction.

(7) A reporting entity shall, where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, obtain and retain -

- (a) the name of the beneficiary;
- (b) the account number or the unique reference number of the beneficiary;
- (c) the purpose of the transaction;
- (d) the name of the originator;
- (e) the account number or unique reference number of the originator.

(8) A reporting entity shall -

- (a) have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer that does not contain the required originator or beneficiary information and the appropriate follow-up actions;
- (b) collect supporting documents relating to a commercial wire transfer, including the bill of lading, pre-shipment certificate and tax clearance, for a period of 3 months from the date on which the transaction is completed.

(9) An intermediary financial institution shall -

- (a) retain originator and beneficiary information from a cross border or domestic wire transfer;
- (b) keep a record of information received under paragraph (a), from an ordering or intermediary financial institution, where technical limitation prevents its retention, for at least 5 years;
- (c) take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack required originator or beneficiary information.

(10) A beneficiary financial institution shall -

- (a) verify the identity of the beneficiary of a cross-border wire transfer if the identity has not been previously verified;

- (b) take reasonable measures, including, post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required originator information or required beneficiary information.

(11) An ordering financial institution -

- (a) shall, in the conduct of its activities including, the provision of money value transfer services -
 - (i) maintain records on transactions for at least 5 years following completion of a transaction;
 - (ii) keep all records obtained through customer due diligence measures including, account files business correspondence and results of analysis undertaken, for at least 5 years following the termination of a business relationship or after the date of an occasional transaction;
 - (iii) ensure that transaction records are sufficient to enable reconstruction of individual transactions so as to provide evidence for prosecution of criminal activity;
 - (iv) ensure that due diligence information and transaction records are available swiftly to competent authorities on request;

- (b) shall not execute a wire transfer if it does not comply with the requirements under this part.

(12) A money value transfer service provider that deals in ordering and beneficiary wire transfer shall-

- (a) analyse ordering and beneficiary account information and determine whether a suspicious transaction report is to be filed; and
- (b) file a suspicious transaction report in a country affected by the suspicious wire transfer and make relevant transaction information available to the Agency.

(13) A money value transfer service provider shall comply with the requirements under this part whether they operate directly or through an agent.

Compliance
Officer.

70. (1) A reporting entity shall appoint a compliance officer who shall be responsible for ensuring the reporting entity's compliance with the requirements of this Act.

(2) The compliance officer shall-

- (a) be a senior management staff with relevant qualifications and experience to enable him respond sufficiently well to enquiries relating to the reporting entity and the conduct of its business;
- (b) be responsible for establishing and maintaining such manual of compliance procedures in relation to its business as the supervisory authority or the Agency may from time to time require;

- (c) be responsible for ensuring compliance by staff of the reporting entity with this Act and any other enactment relating to money laundering or financing of terrorism and financing of proliferation of weapons of mass destruction the provisions of any manual of compliance procedures established under this Act;
- (d) act as the liaison between the reporting entity, the supervisory authority and the Agency in matters relating to compliance with this Act and any other enactment or directive with respect to money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction;
- (e) establish and maintain procedures and systems to-
 - (i) implement the customer identification requirements under this Part;
 - (ii) implement record keeping and retention requirements under this Part;
 - (iii) implement the reporting requirements under this Part;
 - (iv) make its officers and employees aware of the enactments relating to money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction;
 - (v) make its officers and employees aware of the procedures, policies and audit systems adopted by it to deter money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction;

- (vi) screen persons before hiring them as employees; and
 - (f) train its officers, employees and agents to recognize suspicious transactions, trends in money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction activities risks within the reporting entity's products, services and operations; and
 - (g) establish an audit function to test its anti-money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction procedures and systems.
- (3) The compliance officer shall have ready access to all books, records and employees of the reporting entity necessary to fulfill his responsibilities.
- (4) Subsection (1) does not apply to an individual who, in the course of carrying on his business, does not employ or act in association with any other person.

71. (1) A reporting entity shall develop and implement risk-based programs for the prevention of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction including -

- (a) internal policies, procedures, and controls to fulfill obligations under this Act;
- (b) adequate screening procedures to ensure high standards when hiring employees;
- (c) ensuring that the checks carried out as part of the recruitment process are proportionate to the risks posed by each type of role, and

Internal programs to combat money laundering financing of terrorism and financing the proliferation of weapons of mass destruction.

ensure that the persons involved in implementing measures to meet anti-money laundering, counter-financing of terrorism and counter-financing of the proliferation of weapons of mass destruction obligations have the appropriate qualifications;

- (d) on-going training for officers and employees to make them aware of laws relating to money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction, to assist them in recognising transactions and actions that may be linked to money laundering or financing of terrorism or financing of the proliferation of weapons of mass destruction and instruct them in the procedures to be followed;

- (e) policies and procedures to prevent the misuse of technological developments including those related to electronic means of storing and transferring funds or value and new products and services; and

- (f) independent audit arrangements to review and verify compliance with and effectiveness of the measures taken in accordance with this Act.

(2) A reporting entity shall

- (a) maintain an annual anti-money laundering, counter-financing of terrorism and counter-financing of the proliferation of weapons of mass destruction training program approved by the Board of Directors with compulsory attendance of all categories of employees inclusive of the Board and Management;

(b) review training programs under paragraph (a) in response to risk dynamics of the reporting entity in relation to its customers, product, geographical location and operational environment;

(3) Compliance requirements applicable to a financial institution under this section shall also apply to groups and subsidiaries of designated non-financial businesses and professions.

Compliance obligations of foreign subsidiaries and branches out of Sierra Leone.

72. (1) A reporting entity shall require their foreign branches and majority-owned subsidiaries to implement the requirements of sections 50, 56, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71 to the extent that applicable laws of the host country permit.

(2) A financial group shall design and implement group-wide programmes against money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction applicable and appropriate to all branches and subsidiaries of the financial group and shall incorporate the requirements of subsection (1) and the following additional requirements -

- (a) policies and procedures for sharing information required for the purposes of customer due diligence and money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction risk management;
- (b) the provision for audit of group-level compliance with anti-money laundering, counter-financing of terrorism and counter-financing of the proliferation of weapons of mass destruction functions, customer accounts and transaction information from branches and subsidiaries for anti-money laundering, counter-financing of terrorism

and counter- financing of the proliferation of weapons of mass destruction purposes, information and analysis of transactions or activities which appear unusual;

- (c) adequate safeguards for the confidentiality and use of information exchanged, including data protection and safeguards to prevent tipping-off.

(3) Without prejudice to subsection (1) a financial group shall apply appropriate additional measures to manage weaknesses of the anti-money laundering, counter-financing of terrorism and counter- financing of the proliferation of weapons of mass destruction systems of its group and subsidiaries in other countries.

(4) A reporting entity shall, in ensuring that its foreign branches and majority-owned subsidiaries apply measures in compliance with this Act, where -

- (a) the minimum anti-money laundering, counter-financing of terrorism and counter- financing of the proliferation of weapons of mass destruction requirements of the host country are less strict than those contained by this Act, comply to the extent that the host country's laws and regulations permit; and
- (b) the host country does not permit the proper implementation of anti-money laundering, counter-financing of terrorism and counter- financing of the proliferation of weapons of mass destruction measures consistent in compliance with the requirements of this Act, apply appropriate additional measures to manage the money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction risks, and inform its supervisory authority.

Over the
counter
exchange
transactions.

73. (1) Subject to subsection (3), a person whose usual business is to undertake over-the-counter exchange transactions shall-

- (a) before the commencement of business, submit a declaration of activity to the Agency for the purpose of obtaining the requisite operating licence in which he shall furnish proof of the lawful origin of the capital required to set up the business;
- (b) prior to a transaction involving a sum exceeding 10,000.00 Leones, identify the customer by requiring him to -
 - (i) fill a standard data form;
 - (ii) present his unexpired international passport, driver licence, national identity document or such other official document bearing his photograph as may be prescribed; and
 - (iii) permit a copy of document to be taken;
- (c) record, in chronological order, all transactions under this section, indicating the customer's surname, forename, and address and the number of the official document submitted, in a register numbered and initiated by an officer authorised by the person who undertakes the over-the-counter foreign currency exchange transaction.

(2) A register kept under paragraph (b) of subsection (1) shall be preserved for at least 5 years after the last transaction recorded in it.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years or a fine of not less than 30,000.00 Leones, or to both such fine and imprisonment.

74. (1) Subsection (1) of Section 73 shall apply to casinos and other gambling establishments, with the necessary modifications, in relation to -

Casinos
and other
gambling
establishments.

(a) the proof of the lawful origin of the initial capital of the casino or gambling establishment;

(b) the identification of gamblers; and

(c) the maintenance of other business transaction records.

(2) Notwithstanding subsection (1), the requirement for the identification of customers shall not apply to gamblers who buy, bring or exchange chips or tokens for a sum not less than 5,000.00 Leones.

75. A shell bank shall not be established or permitted to operate throughout the territory of Sierra Leone.

Shell
banks
prohibited.

76. (1) A director, principal, officer or employee of a reporting entity shall, where he has reasonable grounds to suspect that a transaction, attempted transaction, or other information or fact may be related to the commission of a money laundering offence, an offence of financing of terrorism or financing of the proliferation of weapons of mass destruction, as soon as practicable after forming that suspicion or receiving the information, but no later than 2 days, report the transaction or attempted transaction or the information to the Agency.

Reporting
entity
to report
suspicious
transactions
and other
reports.

(2) Notwithstanding subsection (1), a legal practitioner, notary or accountant shall submit reports to the Agency when he engages, on behalf of or for a client, in the following financial transactions -

- (a) purchase or sale of real estate;
- (b) management of client money, securities, or other assets;
- (c) organisation of contributions for the creation, operation or management of a company;
- (d) buying and selling of business entities.

(3) Where a reporting entity makes a report to the Agency under subsection (2), the Agency may request further information that it has about the transaction or attempted transaction or the parties to the transactions and an account linked to or connected therewith.

(4) Where the Agency may, after consulting a reporting entity required to make a report under subsection (1), has reasonable grounds to suspect that a transaction or a proposed transaction -

- (a) may involve an offence of financing of terrorism, money laundering or financing of the proliferation of weapons of mass destruction;
- (b) poses a serious risk that the money trail will be interrupted if the transaction is carried out, request for further information in relation to the account or transaction upon which a report was submitted.

(5) The Agency may, subject to subsection (4), -

- (a) direct a reporting entity, in writing, not to proceed with a transaction or proposed transaction or any other transaction in respect of the funds affected by that transaction or proposed transaction for a period of not more than 10 working days, in order to allow the Agency to make necessary inquiries concerning the transaction;

- (b) restrain a transaction including every account connected with or linked to the transaction that shall have triggered a suspicious transaction report and or processes connected therewith.
- (c) may inform and advise the competent authorities where the circumstances warrants.

(6) Without prejudice to subsections (1), (2), (3), (4) and (5) reporting entities shall file currency transaction reports and foreign transaction reports with the Agency following thresholds to be determined from time to time by the Agency in compliance with section 78(1)(a-e).

77. A supervisory authority or an auditor of a reporting entity shall, where he has reasonable grounds to suspect that information that it has concerning a transaction or attempted transaction may be-

Supervisory
authority
and external
auditor to
report
suspicious
transactions.

- (a) related to the commission of an offence of money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction;
- (b) of assistance in the enforcement of this Act;
- (c) relevant to an act preparatory to the commission of an offence of money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction;

report the transaction or attempted transaction to the Agency.

78. (1) A report referred to in sections 76 and 77 shall-

- (a) be in writing and may be given by way of mail or telephone to be followed up in writing, fax or electronic mail or other manner as may be prescribed by the Agency;

Format of
reporting.

- (b) be in a paper or electronic form and contain such details as may be prescribed by the Agency;
- (c) contain a statement of the grounds on which the reporting entity holds the suspicion; and
- (d) be signed or otherwise authenticated by the reporting entity;
- (e) cash transaction reports and foreign transaction reports shall be excel format and online or in any other form as may be specified by the Agency.

Structuring
transactions
prohibited.

79. (1) A person shall not, acting alone or in conjunction with, or on behalf of, another person, conduct or attempt to conduct a transaction in currency, at one or more financial institutions, for the purpose of evading the reporting requirements under this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine of not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment.

Confidentiality
provisions
not
applicable.

80. A secrecy or confidentiality provision in an enactment shall not prevent a reporting entity from fulfilling its obligations under this Act.

Prohibition
against
tipping-off.

81. (1) A reporting entity, its officers, employees or agents or any other person shall not disclose to any person -

- (a) that a report to the Agency under section 76 or 77 has been or may be made, or further information has been given under subsection (3) of section 76;
- (b) that the reporting entity has formed a suspicion in relation to a transaction for the purposes of subsection (1) of section 76;
- (c) that an investigation concerning money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction or an unlawful activity is being or has been carried out; or
- (d) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that a suspicion has been formed or that a report has been or may be made.

(2) Subsection (1) shall not apply to disclosures made

to-

- (a) an officer or employee or agent of the reporting entity, for any purpose connected with the performance of that person's duties; or
- (b) the supervisory authority of the reporting entity, for the purpose of carrying out the supervisory authority's functions.

(3) No person referred to in paragraph (b) of subsection (2) to whom disclosure of any information to which that subsection applies has been made, shall disclose that information except to

another person of the kind referred to in that subsection, for the purpose of- (a) the performance of the first-mentioned person's duties; or (b) obtaining legal advice or representation in relation to the matter.

(4) No person referred to in paragraph (b) of subsection (2) to whom disclosure of any information to which that subsection applies has been made, shall disclose that information except to a person referred to in that subsection for the purpose of giving legal advice or making representations in relation to the matter.

(5) Subject to this Act, nothing in subsections (1) to (4) shall prevent a court, on the application of the competent authority and on proof to the satisfaction of the court that the information is bona fide required for the purposes of any inquiry or trial into or relating to an unlawful activity or money laundering, financing of terrorism or financing of the proliferation of weapons of mass destruction from ordering the disclosure of the information referred to in subsection (1).

(6) It shall be an offence for the reporting entity or for any person required by it to make the report under sections 76 and 77 or having knowledge of the report to disclose to any person other than a court, competent authority or other person authorised by law that information has been furnished under those sections.

Immunity for
reporting in
good faith.

82. A reporting entity and its employees, staff, directors, owners or other representatives that reports a transaction, or other related information to the Agency of a money laundering offence, an offence of financing of terrorism or financing of the proliferation of weapons of mass destruction under section 76 or 77 in good faith shall be exempt from criminal, civil or other liability for breach of a restriction on disclosure of information imposed by contract or by a regulatory or administrative provision, regardless of the result of the report.

83. (1) Except as provided under this Act, a person shall not disclose information that will identify or is likely to identify a person who prepared or made a suspicious transaction report.

Protection of identity of persons and information relating to suspicious transaction reports.

(2) A person shall not disclose a suspicious transaction information contained in the report or provided in connection with the report transaction or the identity of the person preparing, making or handling the underlying transaction in a judicial proceedings unless the judge or other presiding officer is satisfied that the disclosure of the information is necessary in the interest of justice.

(3) Nothing in this section prohibits the disclosure of information for the purposes of the prosecution of an offence under this Act.

84. Where under any provision of this Act, the question arises as to the reasonableness of the grounds upon which a decision or an action was taken, that question shall be determined objectively having regard to all the facts and surrounding circumstances.

Test of reasonableness

85. (1) The following bodies shall have responsibility for supervision, monitoring compliance, with this Act-

Authorities responsible for supervision.

- (a) the Bank of Sierra Leone shall supervise financial institutions and currency exchange and transmission businesses;
- (b) the Sierra Leone Insurance Commission shall supervise the insurance industry;
- (c) the General Legal Council shall supervise legal practitioners;
- (d) the Institute of Chartered Accountants of Sierra Leone shall supervise chartered accountants;

(e) the National Minerals Agency shall supervise the mining sector;

(f) the National Tourist Board shall supervise casinos including internet casinos/ gaming.

(2) The Agency shall, act temporarily as supervisory authority for a reporting entity which does not have a designated supervisory authority until a supervisory authority is designated by law.

(3) The Agency may, for the purposes of applying sections 87 and 88, act as supervisory authority in case the designated supervisory authority does not undertake the required action.

Disclosing
information
regarding
compliance.

86. Whenever it appears to a supervisory authority or to the Agency, or an independent auditor, that a reporting entity or any of their respective directors, officers, or employees, is not complying or has not complied with the obligations prescribed in this Act, it shall inform the Agency or the relevant authority.

Powers to
examine
records.

87. (1) A supervisory authority referred to in section 85 or a person authorised by the Agency, may during or after business hours, enter any premises of a reporting entity in which there are reasonable grounds to believe that there are records relevant to ensuring compliance with Part IX for the purpose of -

(a) examining the records and inquiring into the business and affairs of a reporting entity;

(b) examining a computer system or data processing system in the premises to examine data contained in or available to the system;

(c) reproducing a record or causing it to be reproduced from the data, in the form of a printout or other intelligible output and remove the printout or other output for further examination or copying; and

- (d) examining a copying equipment in the premises to make copies of a record.

(2) The owner or person responsible for the premises referred to in subsection (1) and any person found there shall give the supervisory authority, the Agency, or an authorised person all reasonable assistance to enable them to carry out their responsibilities and shall furnish them with information they may reasonably require with respect to the administration of Part IX or regulations made under this Act.

(3) A supervisory authority, the Agency or an authorised person may transmit information derived from an examination to the appropriate domestic or foreign law enforcement authorities, if there are reasonable grounds to suspect that the information is suspicious or is relevant to an investigation for non-compliance with this Act, an unlawful activity, a money laundering offence, or an offence of financing of terrorism or financing the proliferation of weapons of mass destruction.

88. (1) A Supervisory authority, the Agency or an authorised person may direct, a reporting entity that has without reasonable excuse failed to comply in whole or in part with an obligation in Part IX to implement an action plan to ensure compliance with its obligations under this Part.

Power to
enforce
compliance.

(2) Where a reporting entity fails to fully comply with a directive from a supervisory authority or the Agency, the supervisory authority or the Agency shall -

- (a) issue a written warning;
- (b) issue an order to comply with instructions;
- (c) issue an order to provide regular reports on corrective measures taken; or
- (d) impose fines on the reporting entity;

- (e) impose fines on the owner, manager, or employee of a reporting entity;
- (f) replace a manager;
- (g) bar a person from employment;
- (h) suspend a reporting entity's licence; or
- (i) order the relevant licensing authority to refuse to renew reporting entity's licence;

(3) Where a person, employee, officer, or director of a reporting entity is responsible for a serious compliance failure, the Agency or supervisory authority may temporarily or permanently remove the person from his position or function with the reporting entity.

(4) A supervisory authority, the Agency or an authorised person may apply to the court for purposes of enforcing sections 90 to 97.

(5) A supervisory authority or the Agency shall publish cases of serious compliance failure and other facts relevant to the enforcement of subsections (3) in the Gazette and in at least 2 daily newspapers published in Sierra Leone or broadcast such facts on a radio station in the locality of the last known place of residence of such person, employee, officer or director.

Maintaining
beneficial
ownership
information.

89. (1) The Agency shall, in consultation with the supervisory authority and other competent authority determine a mechanism by which adequate, accurate and current information on the beneficial ownership and control structure of legal persons and arrangements are maintained in Sierra Leone.

(2) A mechanism under subsection (1), shall provide for access to the information on a timely basis by competent authorities, including law enforcement, the Agency, supervisory and judicial authorities.

90. (1) A reporting entity or person shall not intentionally or by gross negligence and without reasonable excuse-

Failure to
comply with
identification
requirements.

- (a) fail to undertake the identification of a customer or otherwise to fulfill the customer due-diligence, customer identification and risk management requirements in accordance with this Act;
- (b) open, operate, or authorise the opening or the operation of an account with a reporting entity in a fictitious, false, or incorrect name in violation of this Act; or
- (c) fail to fulfill the obligations relating to obtaining information for and processing of a wire transfer as required by this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine of not less than 20,000.00 Leones or a term of imprisonment of not less than 2 years or to both such fine and imprisonment.

91. (1) A reporting entity or person shall not intentionally or by gross negligence and without reasonable excuse -

Failure to
maintain or
provide
access to
books and
records.

- (a) fail to maintain books and records required by this Act;
- (b) destroy or remove a document required to be maintained under this Act; or
- (c) fail to make information available in a timely manner in response to a lawful request.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine of not less than 20,000.00 Leones or a term of imprisonment of not less than 2 years or to both such fine and imprisonment.

Failure to
fulfil due
diligence
obligations.

92. (1) A reporting entity or person shall not intentionally or by gross negligence, fail to -

- (a) conduct due diligence or identity requirements with respect to customers' accounts, and transactions in compliance with this Act;
- (b) comply with the obligations for special monitoring or enhanced due diligence procedures in compliance with this Act; or
- (c) maintain internal control programs in compliance with this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine of not less than 20,000.00 Leones or a term of imprisonment of not less than 2 years or to both such fine and imprisonment.

Failure to
submit report
to Agency.

93. (1) A reporting entity or person shall not intentionally or by gross negligence fail to submit a report to the Agency as required by sections 76 and 77.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine of not less than 20,000.00 Leones or a term of imprisonment of not less than 2 years or to both such fine and imprisonment.

Failure to
comply with
regulations or
directives.

94. (1) A person or reporting entity shall not intentionally or by gross negligence fail to comply with Regulations or directives made by a supervisory authority or the Agency.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine of not less than 20,000.00 Leones or a term of imprisonment of not less than 2 years or to both such fine and imprisonment.

95. (1) A person shall not intentionally make a false or misleading statement, provide false or misleading information, or otherwise fail to state material fact in connection with his obligations under this Act, including the obligation to make a suspicious transaction or other required report to the Agency. False or misleading statement.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine of not less than 30,000.00 Leones or a term of imprisonment of not less than 5 years or to both such fine and imprisonment.

96. (1) A person shall not intentionally or by gross negligence disclose to a customer or a third-party information in violation of this Act. Violation of confidentiality.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine of not less than 30,000.00 Leones or a term of imprisonment of not less than 5 years or to both such fine and imprisonment.

97. (1) A person shall not intentionally or negligently-

Shell bank offence.

(a) set up a shell bank in Sierra Leone; or

(b) enter or continue business relations with a shell bank or a respondent financial institution in a foreign country that permits its accounts to be used by a shell bank,

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine not less than 100,000.00 Leones or a term of imprisonment of not less than 7 years or to both such fine and imprisonment.

98. (1) A person convicted of an offence in the Second Schedule, in Sierra Leone or elsewhere, shall not be licensed to carry on the business of a reporting entity. Other sanctions.

(2) A person convicted of an offence prescribed in sections 72 to 83 -

- (a) is subject to sanctions and other measures available to the Agency or supervisory authority for administrative violations; and
- (b) may be banned permanently to carry on in the business or profession which provided the opportunity for the offence to be committed.

Supervisory
authority to
issue
guidelines.

99. A supervisory authority referred to in section 85 may issue directives or guidelines for giving effect to this Act.

Confidential
information.

100. Nothing in this Act shall prevent a court, on the application of a competent authority and on proof to the satisfaction of the court that confidential information is bona fide required for the purposes of any inquiry or trial into or relating to an unlawful activity or money laundering or financing of terrorism or financing of proliferation of weapons of mass destruction, from ordering the disclosure of such information.

Liability of
employer and
principal.

101. An act done or omitted to be done by an employee or agent shall, for the purposes of this Act, be treated as done or omitted to be done by that person's employer or principal, if it was done with the knowledge or approval of the employer or as a result of lack of supervision, and in the case of an agent, that he acted within the terms of his agency or contract.

Liabilities of
directors,
controllers,
or officers
of bodies
corporate

102. Where a body corporate is convicted of an offence under this Act every director, controller or officer concerned in the management of the body corporate shall be guilty of the offence where it is proved that the act or omission that constituted the offence was carried out with that person's knowledge, authority, permission, or consent.

103. (1) A reporting entity shall identify and assess the money laundering or financing of terrorism and financing of proliferation of weapons of mass destruction risks emerging from virtual assets including virtual asset activities and the operations of virtual assets service providers. Virtual assets.

(2) A reporting entity shall, based on its understanding of the risks, apply a risk-based approach to ensure that measures to prevent or mitigate money laundering and financing of terrorism or financing of proliferation of weapons of mass destruction by virtual assets including virtual asset service providers are initiated.

(3) A virtual assets provider including virtual asset service provider shall -

- (a) take appropriate steps to identify, assess, manage and mitigate their money laundering or financing of terrorism or financing of proliferation of weapons of mass destruction risks;
- (b) register and obtain licence from the relevant supervisory authority before commencement of operations;
- (c) submit an originator beneficiary information on virtual assets or virtual asset transfers and submit same to the beneficiary virtual asset service provider or reporting entity immediately and securely and make same available on request to the Agency or supervisory authority.

(4) A person who contravenes subsection (3), commits an offence and is liable on conviction to a fine of not less than 50,000.00 Leones or a term of imprisonment of not less than 5 years or to both such fine and imprisonment.

(5) Competent authorities and the Agency shall take necessary legal or regulatory measures to prevent criminals or their

associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function as virtual assets or virtual asset providers.

(6) Virtual assets and virtual assets service providers shall be subject to adequate regulation and risk-based supervision or monitoring by the relevant supervisory authority and the Agency including systems for ensuring their compliance with national anti-money laundering and counter-financing of terrorism and financing of proliferation of weapons of mass destruction requirements.

(7) A supervisory authority or the Agency shall design and implement adequate measures of monitoring the availability of information, take freezing action and prohibit transactions with designated persons and entities who engage themselves and other persons as new technology or virtual asset service providers.

(8) Statutory reporting and monitoring obligation imposed on reporting entities under this Act shall apply to virtual assets and virtual asset service providers.

(9) The Agency and the relevant supervisory authorities may exchange information with foreign financial intelligence units, supervisory authorities and competent authorities on, virtual asset and virtual asset providers as part of their campaign against money laundering and financing of terrorism or financing of proliferation of weapons of mass destruction.

PART X-CURRENCY REPORTING AT POINTS OF ENTRY AND EXIT

Currency
reporting
point of
entry and
exit.

104. (1) A person shall not leave or arrive in Sierra Leone with more than 10,000.00 United States Dollars, or its equivalent in Leones or other foreign currency in cash or negotiable bearer instruments on his person, in his luggage or through mail and cargo -

- (a) without declaring; or
- (b) falsely declaring,

the fact to the relevant authority, being a police officer, a customs officer or an officer of the Agency.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to forfeiture of the entire amount or a term of imprisonment of not less than 5 years or to both such forfeiture and imprisonment.

(3) The relevant authority may, where a person is about to leave Sierra Leone or has arrived in Sierra Leone, is about to board or has boarded a ship or aircraft, or other vessel and there are reasonable grounds to suspect that the person has committed, is committing or about to commit an offence under this Act or other unlawful activity, with such assistance and use of force as is reasonable and necessary-

- (a) examine an article which a person has with him in his luggage; and
- (b) search the person, for the purpose of determining whether the person has in his possession, cash or negotiable bearer instruments in respect of which a declaration under subsection (1) is required.

(4) The relevant authority and a person assisting him, may stop, board, and search a ship, aircraft, vessel or other means of transportation for the purposes of exercising the powers conferred under subsection (3).

(5) The relevant authority may, where there is reasonable grounds to believe that cash or negotiable bearer instruments found during an examination or search conducted under subsection (3) or

(4) may afford evidence as to the commission of an offence under this section, an unlawful activity, a money laundering offence, an offence of financing of terrorism, or financing of proliferation of weapons of mass destruction, seize the cash or negotiable bearer instruments and report the seizure to the Agency within 48 hours of seizure.

(6) A person shall not carry out a physical cross border transportation of currency or negotiable bearer instruments related to money laundering offence, an offence of financing of terrorism, and financing of proliferation of weapons of mass destruction or predicate offences.

(7) A person who contravenes subsection (6), commits an offence and is liable on conviction to forfeiture of the entire amount or a term of imprisonment of not less than 5 years or to both such forfeiture and imprisonment.

(8) The relevant authority shall, upon discovery of a false declaration of currency or negotiable bearer instruments or a failure to declare them, request and obtain further information from the carrier regarding the origin of the currency or negotiable bearer instruments, and their intended use and make the information about suspicious cross-border transportation incident obtained through the declaration process available directly to the Agency through email or other forms of communication as may from time-to-time be specified by the Agency.

Seizure of
cash or
negotiable
bearer
instruments
by relevant
Authority.

105. (1). A relevant law enforcement authority shall, where there is reasonable grounds for suspecting that cash or negotiable bearer instrument which is being imported into or exported from, Sierra Leone, is -

- (a) derived from an unlawful activity or a money laundering offence, an offence of financing of terrorism or financing of proliferation of weapons of mass destruction;

- (b) intended for use in the commission of an unlawful activity or a money laundering offence, an offence of financing of terrorism, financing of proliferation of weapons of mass destruction,

take reasonable steps to safeguard the property subject to a restraining order.

(2) The relevant authority shall, where cash or negotiable bearer instrument is seized and detained under subsection (1), keep records of the seizure and retention of cash or negotiable bearer instruments and shall make such records available to competent authorities.

106. (1) A court shall, where cash or negotiable bearer instruments are seized and detained under section 105, grant an order for continued detention for a period not exceeding 18 months from the date of seizure, upon being satisfied that -

Seizure of cash or negotiable instruments by court.

- (a) there are reasonable grounds to suspect that the cash or negotiable bearer instrument was derived from an unlawful activity, a money laundering offence, an offence of financing of terrorism, or financing proliferation of weapons of mass destruction or is intended for use in the commission of an offence under this Act or any other enactment; and
- (b) the continued detention of the cash or negotiable bearer instrument is justified while its origin or derivation is further investigated.

(2) A court shall, where it deems it necessary, with notice to all parties concerned, subsequently order the continued detention of the cash and or negotiable bearer instruments for a period of detention not exceeding 2 years from the date of the order.

(3) Cash or negotiable bearer instruments detained under this Act shall be released in whole or in part to the person from whom it was seized or to other persons claiming an interest in the cash or negotiable bearer instruments, in the case of -

- (a) the relevant authority under section 104, where the Authority is satisfied that its continued detention is no longer justified;
- (b) a court under subsection 1 upon application by or on behalf of that person and after considering the views of the relevant authority to the contrary.

(4) Where cash or negotiable bearer instrument has not been claimed within one year of it being seized or detained, the relevant authority shall make an application to the Court that such cash or negotiable instrument be forfeited to the State.

(5) Currencies and negotiable bearer instruments seized under sections 104 and 105 shall be lodged at the Bank of Sierra Leone pending investigation.

PART XI-LAW ENFORCEMENT MEASURES

Power of
competent
authorities
to conduct
investigation.

107. (1) Where a body has the power to investigate or prosecute activities either unlawful under this Act or any other enactment this power also extends to the investigation or prosecution of related money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction offences.

(2) A body that has prosecution powers may seek the assistance of other law enforcement agencies for the purpose of conducting the required investigations.

108. (1) A competent authority may, upon application to the Court that there are reasonable grounds for believing that a reporting entity, or an officer or employee of a reporting entity, is committing, has committed or is about to commit an unlawful activity, an offence of money laundering, financing of terrorism or financing the proliferation of weapons of mass destruction or any other offence under this Act, obtain a warrant to enter premises belonging to, in the possession or control of a reporting entity or an officer or employee of the entity, and search the premises and remove document, material or other thing in it for the purposes of the discharge of its obligations under this Act.

Power to
obtain
warrant.

109. (1) A court may, on an application by a competent authority that there are reasonable grounds for believing that a person is committing, has committed or is about to commit an offence of money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction or any other offence under this Act order that -

Law
enforcement
property
monitoring
tracking.

(a) a document -

- (i) identifying, locating, or quantifying a property; or
- (ii) necessary for the transfer of a property belonging to or in the possession or under the control of that person be delivered to the competent authority or the Agency;

(b) a reporting entity to produce to that competent authority information obtained by the entity about a business transaction conducted by or for that person with the entity during the period before or after the date of the order as the court directs.

Enforcement
of
compliance.

110. (1) Officers and employees of a reporting entity shall take reasonable steps to ensure the compliance by the entity with its obligations under this Act.

(2) A competent authority may, upon application to a court that a reporting entity has failed without reasonable excuse to comply in whole or in part with an obligation under this Act, obtain an order against an officer or employee of the reporting entity on such terms as the court thinks necessary to enforce compliance.

(3) The court may, grant an order under subsection (2), that, should the reporting entity or any officer or employee of that entity fail without reasonable excuse to comply with the order, the reporting entity, officer, or employee shall pay a financial penalty in the sum and in the manner directed by the court.

Automatic
jurisdiction
of High
Court.

111. The High Court of Sierra Leone shall have automatic jurisdiction to try an accused person on an indictment containing offences under this Act without the need for a preliminary investigation or a prior application for the preferment of an indictment.

**PART XII-RESTRAINT, SEIZURE AND FORFEITURE OF
ASSETS IN RELATION TO MONEY LAUNDERING, FINANCING
OF TERRORISM AND FINANCING THE PROLIFERATION
OF WEAPONS OF MASS DESTRUCTION**

Restraint of
property
pending
investigation.

112. (1) A competent authority investigating an unlawful activity, a money laundering offence, a financing of terrorism offence or financing of proliferation of weapons of mass destruction offence, has reasonable grounds to believe that money or property relating to the offence is held or is under the control of a person, may apply to a court for a restraining order prohibiting the person from disposing of or otherwise dealing with that property except in the manner specified in the order.

(2) An application under subsection (1) shall be made ex-parte in writing and supported by an affidavit.

(3) A court may, in making an order under subsection (1), give directions as to -

- (a) the effective period of the order;
- (b) the proper administration of the money or property during the effective period of the order;
- (c) the disposal of the money or property for the purpose of determining a dispute as to the ownership of or other interest in the property, payment of debts incurred in good faith to creditors prior to the order, or payment of the costs of that person to defend criminal proceedings against him.

(4) The proper administration under paragraph (b) of subsection (3) includes the power to -

- (a) sell perishable or rapidly depreciating property, including stocks and bonds; and
- (b) dispose of property relating to an offence under this section, on a disposal order issued by the court.

(5) The court may, in making an order under this section in respect of money or property held or under the control of a person, make provision for the payment out of that money or property of the

- (a) reasonable living expenses of the person in respect of whom the investigation is being made, including the dependants of that person;
- (b) reasonable expenses of that person in defending a criminal charge or any other proceedings under this Act.

(6) Compliance with an order under this section shall not be treated as a breach, by the person complying with the order, of a restriction or obligation, imposed by an enactment.

(7) An order under subsection (3) shall cease to have effect at the expiration of a period of 18 months after it was made, if the person against whom the order was made has not been charged with an unlawful activity or a money laundering, financing of terrorism offence or financing the proliferation of weapons of mass destruction offence within the period.

(8) A competent authority shall not be liable for damages or costs arising from the making of an order under subsection (3) unless it can be proved that the application for the order was not made in good faith.

Service of
restraining
order.

113. A copy of a restraining order shall be served on a person affected by the order in such manner as the court may direct or as may be prescribed by the Rules of Court Committee.

Registration
of restraining
order.

114. (1) A restraining order which affects land in Sierra Leone shall be registered as a charge with the Registrar-General under the Registration of Instruments Act.

(2) A restraining order is of no effect with respect to registered land unless it is registered.

(3) Where particulars of a restraining order are registered under subsection (1), a person who subsequently deals with the property shall, for the purposes of section 115 be deemed to have notice of the order at the time of the dealing.

Contravention
of restraining
order.

115. (1) A person shall not knowingly or negligently contravene a restraining order by disposing of or otherwise dealing with property that is subject to a restraining order.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction-

- (a) a natural person to a fine of not less than 20,000.00 Leones or to a term of imprisonment of not less than 3 years or to both such fine and imprisonment;
- (b) a body corporate to a fine not less than 30,000.00 Leones or to both such fine and revocation.

(3) A competent authority may, where a restraining order is made against a property and the property is disposed of, or otherwise dealt with, in contravention of the restraining order, and the disposition or dealing was not for sufficient consideration or not in favor of a person who acted in good faith and without notice, apply to the court for an order that the disposition or dealing be set aside.

(4) The Court may, where a competent authority makes an application under subsection (3) set aside the disposition or dealing as from, -

- (a) the day on which the disposition or dealing took place; or
- (b) the day of the order,

and declare the respective rights of a person who acquired interests in the property on, or after the day on which the disposition or dealing took place, and before the day of the order.

116. (1) A competent authority may apply to the court for an extension of the period of the operation of the order.

Extension
of restraining
order.

(2) Where the competent authority makes an application under subsection (1), the Court may extend the operation of a restraining order for a specified period, if it is satisfied that a confiscation order may be made in respect of the property or part of it or that a pecuniary penalty order may be made against the person.

Seizure of property subject to restraining order.

117. (1) A competent law enforcement authority may, in order to prevent the property subject to a restraining order from being disposed of or removed contrary to that order, take reasonable steps to prevent the disposal, removal or dissipation of the property that is the subject matter of the restraining order if he has reasonable grounds to believe or suspect that the property will be so disposed of or removed.

(2) Property seized under subsection (1) shall be dealt with in accordance with and in the manner determined by the court which made the restraining order.

Restraining order pending preferment of charge.

118. (1) A competent authority may, upon application to a court that the Attorney-General and Minister of Justice has charged or is about to charge a person with money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction, apply for an order freezing the property of, or in the possession or under the control of that person.

(2) The court may, in making an order freezing the property of a person under subsection (1), give directions as to -

- (a) the duration of the freezing order;
- (b) the disposal of that property for the purpose of -
 - (i) determining a dispute as to the ownership of or other interest in the property or any part of it;
 - (ii) proper administration of property during the period of freezing;
 - (iii) the payment of debts incurred in good faith due to creditors prior to the order;
 - (iv) the payment of moneys to that person for the reasonable subsistence of that person and his family;

- (c) the payment of the costs and other expenses of that person to defend criminal proceedings against him.

(3) An order made under subsection (1) shall cease to have effect at the end of the period of 30 working days if the person against whom the order was made has not been charged with the offence charge with the offence of money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction and any other offence under this Act.

(4) A competent authority shall not be liable for damages or cost arising from the making of a "freezing order" unless it can be proved that the application for the freezing of the property was not made in good faith.

(5) Where the court makes an order for the administration of frozen property, a person charged with the administration of the property shall not be liable for loss or damage to the property, for the cost of proceedings taken to establish a claim to the property or to interest in the property unless the court is of the opinion that the person has been guilty of negligence in respect of the taking of custody and control of the property.

119. (1) The court may, where a person is convicted of an unlawful activity, an offence of money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction and the court is satisfied that the person has derived, obtained or realized property from the commission of the offence, make an order of forfeiture in respect of that property: Forfeiture of property upon conviction.

Provided that where stolen or otherwise illegally acquired asset, or an instrumentality of crime shall have been transferred or otherwise dissipated the forfeiture order shall apply to any other property of corresponding value.

(2) Property subject to a forfeiture order under subsection (1) include the assets laundered or terrorist property, the proceeds, income, and gains from such assets, the assets intended to be

laundered, assets used to facilitate or commit the unlawful activity or instrumentalities used or intended to be used in the commission of the offence of money laundering, financing of terrorism, financing the proliferation of weapons of mass destruction.

(3) The Court may, where it is satisfied that a forfeiture order should be made in respect of the property of a person convicted of an unlawful activity or instrumentalities used or intended to be used in the commission of the offence of money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction or unlawful activity, but that the specified property or any part of it or interest in it -

- (a) cannot, be made subject to the order;
- (b) cannot, on the exercise of due diligence, be located;
- (c) has been transferred to a third party in circumstances which do not give rise to a reasonable inference that the title or interest was transferred for the purpose of avoiding the confiscation of the property;
- (d) is located outside Sierra Leone;
- (e) has been substantially diminished in value or rendered worthless; or
- (f) has been co-mingled with other property that cannot be divided without difficulty,

instead of ordering the property, part of it or interest in it to be confiscated, order the person to pay to the Government an amount equal to the value of the property, part, or interest.

(4) The court shall, where property subject to forfeiture has been comingled with property acquired legitimately or acquired using funds from legitimate sources, in the forfeiture order, declare

the nature, extent and value of the property which is to be forfeited only in regard to property subject to the unlawful activity or money laundering, financing of terrorism, financing the proliferation of weapons of mass destruction.

(5) A court shall not make an order of forfeiture under this section in respect of a property where the court is satisfied that the person, not being the person who was convicted, who is in possession of the property or purports to have acquired the property -

- (a) in good faith and for sufficient consideration; and
- (b) without knowing that the property was, at the time of its acquisition, unlawfully derived, obtained or realized from the commission of the unlawful activity or a money laundering offence, financing of terrorism offence and financing the proliferation of weapons of mass destruction.

(6) A person who claims an interest in a property in respect of which an application for forfeiture has been made may, within 30 days after the order was made, apply to the court -

- (a) against the granting of the order;
- (b) for an order declaring the nature, extent and value of the claimant's interest, directing the Government to transfer the property to the claimant; or
- (c) for an order declaring that there is payable to the claimant by the Government an amount equal in value to the value of the claimant's interest declared under this section.

(7) The court shall make the specific orders protecting the interest of a person under subsection (6), if it is satisfied that the person -

- (a) has an interest in the property which is the subject of the application;
- (b) has exercised reasonable care to ensure that the property is not the proceeds of a crime, terrorist property, would not be used to commit or facilitate the commission of a terrorist act or would not be used by a terrorist group; and
- (c) is not a member of a terrorist group.

(8) The court shall order that the interest shall not be affected by the order and the order shall declare the nature and extent of the interest in question.

(9) Where -

- (a) the court has made an order of forfeiture, under this section; and
- (b) the conviction of a person in relation to whom the order was made is quashed,

the order of forfeiture shall cease to have effect and a person who claims to have an interest in a property in respect of which the order was made may apply to the court for an order-

- (i) declaring the nature, extent and value of a claimant's interest;
- (ii) directing the Government to transfer the property to the claimant; or

- (iii) declaring that there is payable to the claimant by the Government an amount equal in value to the value of the claimant's declared interest.

(10) A competent authority shall, where-

- (a) the court has made an order of forfeiture under this section; and
- (b) the conviction of the person in relation to whom the order was made is quashed,

as soon as is practicable after the quashing of the conviction, give notice to-

- (i) a person whom the competent authority has reason to believe may have an interest in money or property in respect of which the order of forfeiture was made; or
- (ii) any other person or class of persons whom the court considers appropriate.

(11) A person who makes an application under this section shall give notice to the competent authority and the competent authority shall be a party to a proceeding on the application.

(12) The court may, where an application is made under subsection (1), for the purpose of tracing of the property or preventing the circumvention of an order of forfeiture, make an order or give such direction as it thinks necessary including -

- (a) a prohibition order or a restraining order;
- (b) a production order; or
- (c) an order that property be transferred to a named person to be held by that person pending the determination of the application.

(13) For the purpose of an order of forfeiture under this section, it shall be presumed that money or property which appears to have been -

- (a) under the control of the person convicted or held by that person after the person committed the offence and before the court makes the order;
- (b) transferred to or by, or deposited with or by, the person convicted at any time after that person committed an offence and before the court makes the order,

shall be deemed to be proceeds of crime or used in or intended to be used in the commission of an unlawful activity, the offence of money laundering, the offence of financing of terrorism or financing the proliferation of weapons of mass destruction.

(14) In determining whether or not property is derived from an unlawful activity or money laundering, financing of terrorism or financing the proliferation of weapons of mass destruction, the court shall apply the standard of proof required in civil proceedings.

(15) The powers contained in this section are exercisable in relation to property including cash, whether or not proceedings have been brought for an offence committed in connection with the property.

Application
for civil
forfeiture or
non-
conviction
confiscation.

120. (1) A competent authority may apply to the Court for an order that property derived from an unlawful activity or, a money laundering offence, financing of terrorism offence, financing the proliferation of weapons of mass destruction offence or any activity or conduct linked to or connected with, used or intended to be used in the commission of such offence is to be forfeited to the state without the requirement of a prosecution or a conviction.

(2) The standard of proof in an application under subsection (1), shall be on a balance of probability.

(3) An application under subsection (1), shall not be a bar to a competent authority proceeding with a criminal investigation or prosecution in respect of the proceeds or instrumentalities of a crime sought to be confiscated.

(4) Where stolen or otherwise illegally acquired asset or an instrumentality of crime is transferred or otherwise dissipated, any other property of corresponding value shall, in accordance with subsection (1), be forfeited to the state.

121. (1) Subject to subsection (2), where the court makes a forfeiture order against property, the property vests absolutely, by virtue of the order in the Government.

Effect of
forfeiture or
confiscation
order.

(2) Where property ordered to be forfeited is registrable property-

- (a) the property vests in the Government in equity but does not vest at law until the applicable registration requirements have been complied with;
- (b) the Government is entitled to be registered as owner of the property;
- (c) the competent authority has power on behalf of the Government to do or authorise anything necessary or convenient to obtain the registration of the Government as owner, including the execution of an instrument to be executed by a person transferring an interest in the property.

(3) Where the court makes a confiscation order against a property-

- (a) the property shall not, except with the leave of the court, be disposed of or otherwise dealt with, by or on behalf of the Government before an appeal; and

- (b) if, after the appeal, the order has not been discharged, the property may be disposed of and the proceeds applied or otherwise dealt with in accordance with the direction of the competent authority.

(4) Where a competent authority applies for a forfeiture order or against a property under subsection (1), the Court shall, before hearing the application-

- (a) require notice of the application to be given to a person who, in the opinion of the court, appears to have an interest in the property; and
- (b) direct notice of the application to be published in the Gazette and in a newspaper of wide circulation containing such particulars and for as long as the court may require.

(5) In this section-

"registrable property" means property the title to which is passed by registration in accordance with the Registration of Instruments Act;

"relevant appeal date" used in relation to a forfeiture order made in consequence of a person's conviction of an unlawful activity means-

- (a) the date on which the period allowed by rules for the lodging of an appeal against a person's conviction or for the lodging of an appeal against the making of a forfeiture order expires without an appeal having been lodged, whichever is the latter; or

(b) where an appeal against a person's conviction or against the making of a forfeiture order is lodged, the date on which the appeal lapses in accordance with the rules or is finally determined, whichever is the latter.

122. The Court may, where an application under subsection (1) of section 120 is made to the court by a competent authority for forfeiture or confiscation order against property in consequence of a person having died or absconded and the Court is satisfied that-

Forfeiture of property where person dies or absconds.

- (a) a property is property to which an offence under this Act relates;
- (b) an information has been laid alleging the commission of the offence by a person and a warrant has been issued in relation to that information for the apprehension of the person who has absconded; and
- (c) the accused charged with the offence referred to in paragraph (b) has died or absconded,

order that the property or property specified by the court in the order be forfeited or confiscated to the state.

123. The Court may, before making a forfeiture order, set aside a conveyance or transfer that occurred during or after the commission of an unlawful activity or offence, unless the conveyance or transfer was made for sufficient consideration to a person acting in good faith and without notice.

Voidable transfer of property subject of forfeiture order.

124. (1) The court may, for the purpose of determining whether a property belongs to or is in the possession or under the control of a person, upon application by a competent authority, order that -

Competent authority to obtain property tracking or monitoring order.

claim or monitoring order

- (a) a document relevant to identifying or locating,
 - (i) property of that person;
 - (ii) a document necessary for the transfer of property of that person, be delivered to the competent authority;
- (b) a reporting entity produce to a competent authority information obtained about any business transaction conducted by or for that person with the reporting entity during a period before or after the date of the order as the court may direct;
- (c) on proof that a person is failing to comply with, is delaying or is otherwise obstructing an order made under paragraph (a) or (b), that the competent authority enter, search the premises of that person and remove a document, material or other thing in the premises for the purposes of executing the order.

(2) Where a person produces or delivers a document pursuant to an order under this section, the production or delivery of the document, information or thing in consequence, is not admissible against the person in a proceeding except proceedings for an offence of failing to comply with an order of the court.

Offences in
relation to
property
tracking, etc.

125. (1) A person shall not -

- (a) falsify, conceal, destroy, otherwise dispose of, or cause or permit the falsification, concealment, destruction, disposal of a document or material which is or is likely to be relevant to the execution of an order made in accordance with paragraph (a) or (b) of subsection (1) of section 124;

- (b) disclose the existence or operation of an order, relevant to the execution of an order made in accordance with paragraph (a) or (b) of subsection (1) of section 124, to a person except to an officer of a law enforcement authority named in the order or an officer or agent of a reporting entity, for the purposes of ensuring that the order is complied with or a legal practitioner, for the purpose of obtaining legal advice or representation in relation to the order.

126. Nothing in this Part shall prevent the operation of an appeal normally available against orders made by the court.

Appeals
against
restraining
or
confiscation
orders.

PART XIII-PECUNIARY PENALTY ORDERS AND RELATED MATTERS

127. (1) The court shall, where a competent authority applies for a pecuniary penalty order, against a person in respect of that person's conviction for an unlawful activity or offence, if it is satisfied that the person has benefited from that unlawful activity or offence, order him to pay to the Government an amount equal to the value of his benefit from the unlawful activity or offence or such lesser amount as the court certifies to be the amount that might be realised at the time the pecuniary penalty order was made.

Pecuniary
penalty
order.

(2) The Court shall assess the value of the benefits derived by a person from the commission of an unlawful activity or offence in accordance with sections 130 to 134.

(3) A pecuniary penalty order made under this section shall remain in force until -

- (a) the period for the lodging of an appeal against a conviction expires without an appeal being lodged; or

Rules for
determining
benefit and
assessing
value.

(b) the appeal lapses in accordance or is finally determined, where an appeal against the conviction has been lodged, whichever is the latter.

128. (1) Where a person, as a result of, or in connection with the commission of an unlawful activity or offence -

- (a) obtains property, his benefit is the value of the property so obtained;
- (b) derives a reward or advantage, his reward or advantage shall be deemed to be a sum of money equal to the value of the reward or advantage so derived.

(2) The Court shall, in determining whether a person has benefited from the commission of an unlawful activity or offence, deem, -

- (a) property held by the person -
 - (i) on the day on which the application is made; and
 - (ii) at any time, within the period of the day the unlawful activity or offence, or the earliest unlawful activity or offence was committed and the day on which the application is made; or 6 years before the day on which the application is made,

whichever is longer, to be property that came into the possession or under the control of the person by reason of the commission of that unlawful activity or offence;

- (b) expenditure by the person since the beginning of the period to be expenditure made out of payments received by him as a result of or in connection with the

commission of that unlawful activity or offence or those unlawful activities or offences; and

- (c) property received or deemed to have been received by the person at any time as a result of or in connection with the commission of that unlawful activity or offence.

(3) The Court shall, in assessing the value of benefit derived by him from the commission of the unlawful activity or offence, take into account a pecuniary penalty order previously been made against a person and leave out of account benefits that have been taken into account in determining the amount to be recovered under that order.

(4) The Court shall, where evidence is given at a hearing of an application that the value of a person's property at any time after the commission of the unlawful activity or offence exceeds the value before the commission of the unlawful activity or offence, then subject to subsection (3), treat the value of the benefit as being equal to the amount of the excess:

Provided that the court shall, where evidence is given that the excess was due to causes unrelated to the commission of the unlawful activity or offence, not treat the excess as the value of the benefit.

129. (1) Where a person has been convicted of an unlawful activity or offence and the competent authority tenders to the court a statement relating to-

Statements relating to benefits from unlawful activity.

- (a) determining whether the person has benefited from the unlawful activity or offence or from any other unlawful activity or offence of which he is convicted in the same proceedings or which is taken into account in determining his sentence; or

- (b) an assessment of the value of a person's benefit from the unlawful activity or offence of which he is convicted in the same proceedings or which is taken account, and the person accepts an allegation in the statement, the court may, for the purposes of determining or making an assessment under paragraph (a) or (b), treat his acceptance as conclusive of the matters to which it relates.

(2) An acceptance by a person under this section that he received benefits from the commission of an unlawful activity or offence is admissible in a proceeding for the offence.

Amount recoverable under pecuniary penalty order.

130. (1) Subject to subsection (2), the amount recoverable under a pecuniary penalty order shall be the amount which the court assesses to be the value of the benefit from the unlawful activity or offence, or if more than one, all the unlawful activities or offences in respect of which the order may be made.

(2) The court may, where it is satisfied that the amount that is recoverable at the time a pecuniary penalty order is made, is less than the amount that the court assesses to be the value of the person's benefit from the offence issue a certificate giving the court's opinion on the matter.

Variation of pecuniary penalty order.

131. The competent authority may, where -

- (a) the court makes a pecuniary penalty order against a person in relation to an unlawful activity or offence;
- (b) in calculating the amount of the pecuniary penalty order, the court took into account a forfeiture order of the property or a proposed forfeiture order in respect of property; and

- (c) an appeal against forfeiture or a forfeiture order is allowed or the proceedings from the proposed forfeiture order terminate without the proposed forfeiture order being made,

apply to the court for a variation of a pecuniary penalty order to increase the amount of the order by the value of the property not forfeited and the court may, if it considers it appropriate, vary the order accordingly.

132. Where the court orders a person to pay an amount under a pecuniary penalty order, section 117 shall apply with such modifications as the court may determine, for the purpose of empowering the court to impose a term of imprisonment on a person in default of compliance with the pecuniary penalty order.

Enforcement
of pecuniary
penalty
order.

133. A pecuniary penalty order is discharged, if -

- (a) the conviction of the unlawful activity or offence on which the order was made is quashed and no conviction is submitted;
- (b) if the order is quashed; or
- (c) the amount due under the order is paid.

Discharge
of pecuniary
penalty
order.

134. A reporting entity shall comply with the requirement of this Act notwithstanding any obligation as to confidentiality or other restriction on the disclosure of information imposed by any other enactment.

Overriding
confidentiality.

135. An act done or omitted by a person as an employee or agent shall, for the purpose of this Act, be treated as done or omitted by that person's employer or principal, if it was done with the knowledge or approval of the employer or principal or without such knowledge or approval if it was the result of lack of supervision and in the case of an agent, that he acted within the terms of his agency or contract.

Liability of
employees
and
principals.

Liability of
directors,
controllers
or officers
of bodies
corporate.

136. Where a body corporate is convicted of an offence under this Act, every director, controller or officer concerned in the management of the body corporate shall be guilty of the offence, if it is proved that the act or omission that constituted the offence took place with that persons knowledge, authority, permission or consent.

Sharing of
confiscated
property.

137. (1) Property confiscated as a result of an investigation or conviction of an unlawful activity, a money laundering, financing of terrorism or financing the proliferation of weapons of mass destruction offence shall be vested in the state.

(2) The state may allocate not less than one-third of property confiscated under subsection (1) to the Agency and not less than one third to any other agency engaged in the fight against money laundering, financing of terrorism or financing the proliferation of weapons of mass destruction.

(3) Property confiscated under subsection (1) as a result of joint investigation with a foreign investigation agency, shall be shared on mutually agreed basis between the state and the foreign investigating agency and the share of the state shall be distributed in accordance with subsection (2).

PART XIV-MUTUAL ASSISTANCE IN RELATION TO MONEY LAUNDERING, FINANCING OF TERRORISM AND FINANCING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

International
cooperation.

138. (1) Subject to section 143, where a foreign state requests for assistance in the investigation or prosecution of an unlawful activity, a money laundering offence, a financing of terrorism offence, financing the proliferation of weapons of mass destruction offence, the Agency shall -

(a) execute the request; or

(b) inform the foreign state making the request of a reason for -

(i) not executing the request; or

(ii) delaying the execution of the request.

(2) Without prejudice to subsection (1) the Agency shall share information and cooperate with other financial intelligence agencies in relation to intelligence gathering, investigation, and prosecution of money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction and matters incidental and ancillary thereto.

139. (1) Where for the investigation or prosecution of an unlawful activity or money laundering offence, financing of terrorism offence, financing the proliferation of weapons of mass destruction or for the making or execution of an order or direction under this Act in respect of these offences, assistance is required from a foreign country, the Agency may request mutual assistance from that foreign country as if the investigation, prosecution, making, or execution is a criminal matter under this Act. Mutual
legal
assistance.

(2) Where a request is made by a foreign country in the investigation or prosecution of an offence under this Act in that country or for the making or execution of an order or direction in that country in respect of the offence, the Agency may provide assistance as if the investigation, prosecution, making or execution is a criminal matter under this Act.

(3) Where dual criminality is required for the purpose of international cooperation, that requirement shall be deemed to be satisfied regardless of whether both countries place the offence within the same category of offences, or denominate the offence by the same terminology if both countries criminalise the conduct underlying the offence.

(4) The Agency shall maintain the confidentiality and integrity of a mutual legal assistance request received and the information contained in the request.

Request for
search
warrant.

140. A law enforcement authority may, upon application to the court, request a search warrant to -

- (a) enter premises belonging to or in the possession or control of a person named in the warrant and to search the premises; and
- (b) search the person named in the warrant, document, material, or other thing, for the purpose of executing the request as directed in the warrant.

Freezing,
forfeiture,
and
management
of property
in
international
cooperation.

141. (1) The Agency shall, upon application to the court, request for the freezing or forfeiture of property in the possession or under the control of a person named in the application.

(2) The court may on receipt of an application under subsection (1), issue an order -

- (a) freezing the property of or in the possession or under the control of the person named in the application for such period as is indicated in the order.
- (b) giving directions as to the disposal of the property for the purpose of-
 - (i) determining a dispute as to ownership of or other interest in the property or a part of the property.
 - (ii) the proper administration of the property during the period of freezing;

- (iii) the payment of debts, incurred in good faith, due to creditors prior to the request;
- (iv) the payment of moneys to that person and his family;
- (v) the payment of costs and other expense to defend a criminal proceeding referred to in the application;
- (c) forfeiting the property of or in the possession or under the control of a person named in the application.

(3) The Agency shall take expeditious action in response to a request by a foreign country to identify, freeze, seize or confiscate

- (a) laundered property or proceeds from crime, proceeds from money laundering, financing of terrorism, financing the proliferation of weapons of mass destruction or a predicate offence;
- (b) instrumentalities used or intended to be used for money laundering, financing of terrorism, financing the proliferation of weapons of mass destruction or predicate offences; or
- (c) property of corresponding value.

(4) The Agency shall provide assistance to requests for international co-operation made on the basis of non-conviction-based confiscation proceedings and related measures in compliance with this Act and any other in law in force.

(5) A competent authority shall designate a body mandated to manage frozen or confiscated asset in international cooperation in compliance with this Act and another law in force.

Application
to be
accompanied
by evidence
order.

142. (1) The Agency may, upon application to the court, accompanied by order issued by a court of a requesting state directed to a person within the jurisdiction of the court to deliver himself or a document or material in his possession or under his control to the jurisdiction of the court for the purpose of giving evidence in the proceedings and obtaining an order directed to that person on the same terms as in the order accompanying the application.

(2) Upon being served with an order under subsection (1), the person shall, deliver himself to the jurisdiction of -

- (a) the court; or
- (b) the court of the requesting state, in accordance with the directions in the order.

(3) Where a person served with an order under subsection (1) elects to deliver himself to the jurisdiction of the court of the requesting state and fails to comply with a direction in the order, he shall be deemed to have delivered himself to the jurisdiction of the court as provided in paragraph (a) of subsection (2).

(4) The court shall conduct such proceedings as are necessary to take the evidence of a person delivering himself to the jurisdiction of the court under paragraph (a) of subsection (2) and the evidence shall subsequently be transmitted to the competent authority of the requesting state.

Grounds for
refusing to
execute
request from
requesting
state.

143. The Attorney-General and Minister of Justice may refuse to comply with a request from a requesting state if-

- (a) the action sought by the request is contrary to a provision of the Constitution of Sierra Leone, 1991 (Act No.6 of 1991);
- (b) the execution of the request is likely to prejudice the national interest; or

- (c) under the law of the requesting state, the grounds for refusing to comply with a request from another state is not based on constitutionality or national interest in accordance with paragraph (a) or (b) respectively.

144. The Attorney General and Minister of Justice may issue to a foreign state a request accompanied, by an order directed to a person resident in the foreign state to deliver himself or a document or material in his possession or under his control to the jurisdiction of the court or to the jurisdiction of the court of the foreign state for the purpose of giving evidence in the proceedings or obtaining an order directed to that person on the same terms as in the order accompanying the request.

Requests to
foreign
state.

145. Evidence taken pursuant to a request from a court of a foreign state shall be received as prima facie evidence in a proceeding to which such evidence relates.

Evidence
pursuant
to request.

146. A request shall be in writing, dated and signed by or on behalf of the person making the request and shall -

Form of
request.

- (a) confirm that an investigation or prosecution is being conducted into, or a person has been convicted of, an unlawful activity, money laundering offence, financing of terrorism or financing the proliferation of weapons of mass destruction;
- (b) state the grounds on which a person is being investigated or prosecuted for the unlawful activity, money laundering, financing of terrorism offence or financing the proliferation of weapons of mass destruction, referred to in paragraph (a) or give details of the conviction of the person referred to in paragraph (a);

- (c) give particulars sufficient to identify a person referred to in paragraph (b);
- (d) give particulars sufficient to identify a reporting entity or other person believed to have information, documents, or material of assistance to the investigation or prosecution referred to in paragraph (a);
- (e) request the competent authority to whom the request is addressed to obtain from a reporting entity or other person referred to in paragraph (d) information, documents, or material of assistance to the investigation or prosecution referred to in paragraph (a);
- (f) specify the manner in which and to whom information, documents, or materials obtained, pursuant to the request is to be produced;
- (g) state whether or not a freezing or forfeiture order is required and identify the property to be the subject of the order; and
- (h) contain such other information as may assist the execution of the request.

Offence of
interference
with mutual
assistance.

147. (1) A person shall not -

- (a) falsify, conceal, destroy, or otherwise dispose of or cause or permit the falsification, concealment, destruction or disposal of a document or material which he knows or has reasonable grounds for believing that it is or is likely to be relevant to the execution of an order under this Part

- (b) knowingly or having reasonable grounds for believing that an investigation into money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction, or any unlawful activity, has been, is being or is about to be made, or that an order has been made or may be made requiring the delivery or production of a document under this Part, divulge that fact or other information to another person whereby the investigation is likely to be prejudiced.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of not less than 30,000 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment.

148. (1) Information shared by a competent authority shall be used exclusively by the requesting authority for the purposes for which the information requested is provided. Use of information.

(2) Any other use of information requested under subsection 1 shall not be permitted without the written consent of the Agency.

PART XV - OFFENCES AND PENALTIES

149. (1) A person shall not, where he knows or ought to have known that an investigation into an unlawful activity, money laundering, financing of terrorism or financing the proliferation of weapons of mass destruction is being or is about to be made, or that an order has been made or may be made requiring the delivery or production of a document- Interference with investigation prohibited.

- (a) divulge that fact or other information, whereby the investigation is likely to be prejudiced; or
- (b) falsify, conceal, destroy, or otherwise dispose of, or cause or permit the falsification, concealment, destruction, or disposal of, material which is or is likely to be relevant to the investigation.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction, to a fine of not less than 30,000 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment.

Further measures to avoid commission of unlawful activity.

150. A person who has been convicted of an unlawful activity, money laundering, financing of terrorism, financing the proliferation of weapons of mass destruction or any other offence under this Act may not be licensed to carry on the business of a reporting entity.

Obstruction of official in performance of functions.

151. (1) A person shall not willfully obstruct, hinder, or threaten an official or representative of the Agency or of a competent authority in the performance of his functions or exercise of his powers under this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine of not less than 30,000 Leones or to imprisonment for a term of not less than 5 years or both such fine and imprisonment; and
- (b) a body corporate to a fine of not less than 100,000 Leones or the revocation of its licence or to both such fine and revocation.

152. (1) A reporting entity shall comply with a restraining order under section 112 and a monitoring order under section 124.

Reporting entity to comply with restraining or monitoring order.

(2) A reporting entity who contravenes subsection(1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine of not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or both fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

153. (1) A reporting entity shall not, perform an act to give effect to a business relationship or transaction if it fails to verify the identity of a person under section 56.

Failure to verify the identity of persons.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or both such fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

154. (1) A reporting entity shall not perform an act to give effect to a business relationship or transaction if it fails to keep record of the information relating to the transaction or persons involved in a transaction.

Failure to keep record of transactions.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) a natural person, to a fine of not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

Failure to
maintain
account
in actual
name.

155. (1) A reporting entity shall not maintain an account or transaction records on behalf of a customer in a fictitious name.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or to both such fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

Failure to
report
suspicious
transaction.

156. (1) A reporting entity shall, within the prescribed period, report a suspicious transaction to the Agency in accordance with section 76.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or both such fine and imprisonment; and

- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

157. (1) A person shall not, in making a report under this Act, make a statement that he knows is false or misleading in a material particular or omits from a statement a matter or thing without which the person knows the statement would be false or misleading in a material particular. False or misleading statement prohibited.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or both such fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

158. (1) A person shall not disclose a suspicious transaction report or other information relevant to an investigation or prosecution of money laundering, financing of terrorism, financing the proliferation of weapons of mass destruction or any other offence under this Act, otherwise than in the circumstances or for purposes authorised by the Director General or a Court. Unauthorised disclosure of suspicious transaction report and other information.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or both such fine and imprisonment; and

- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

Failure to
formulate and
implement
internal
processes and
procedures.

159. (1) A reporting entity shall formulate and implement internal processes and procedures for the prevention of money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or both such fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

Failure to
appoint
compliance
officer.

160. (1) A reporting entity shall -

- (a) appoint a compliance officer in accordance with subsection (1) of section 70; and
- (b) provide training to its employees in accordance with paragraph (d) of subsection (1) of section 71.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or both such fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

161. (1) A person shall not open, operate, or authorise the opening or operation of an account with a reporting entity in a fictitious, false or incorrect name.

Opening
account in
fictitious,
false, or
incorrect
name
prohibited.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction, in the case of -

- (a) an individual, to a fine not less than 30,000.00 Leones or to a term of imprisonment of not less than 5 years or both such fine and imprisonment; and
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

162. (1) The Director-General may, without prejudice to penalties imposed under this Act or criminal, civil and administrative remedies available to the supervisory and competent authorities, impose administrative sanctions against a reporting entity for failure to discharge its anti-money laundering, counter-financing of terrorism and counter-financing the proliferation of weapons of mass destruction obligations under this Act.

Administrative
sanction.

(2) The Director-General may, in consultation with supervisory bodies set out rules, procedures and processes, for the imposition or administration of sanctions on reporting entities for failure to discharge their anti-money laundering counter-financing of terrorism and counter-financing the proliferation of weapons of mass destruction obligations under this Act.

(3) A rule, procedure or process set out under subsection (2) shall have the force of law.

PART XVI- MISCELLANEOUS PROVISIONS

Inchoate
offences.

163. An attempt or conspiracy to commit, abet, counsel, command, or procure the commission of money laundering, financing of terrorism, financing the proliferation of weapons of mass destruction or any other offence under this Act, shall be punishable as if the offence had been completed.

Offences
committed
by body of
persons.

164. Where an offence under this Act is committed by a body of where the body of person is -

- (a) a body corporate, every director or officer of that body; and
- (b) a firm, or an unincorporated association every partner of that firm or unincorporated association,

shall be deemed to have committed the offence, unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence.

General
offence and
penalty.

165. A person who contravenes a provision of this Act for which an offence is not specifically created is liable on conviction-

- (a) an individual to a fine not less than 30,000.00 Leones or to imprisonment for a term not less than 5 years or to both such fine and imprisonment.
- (b) a body corporate, to a fine of not less than 100,000.00 Leones or the revocation of its licence or to both such fine and revocation.

Court
banning
orders.

166. A court may, in addition to any other penalty, ban a person convicted of an offence of money laundering, terrorism financing or financing the proliferation of weapons of mass destruction from

pursuing a trade or occupation which provided the opportunity for the commission of the offence, for a period of not more than 5 years.

167. (1) The Director-General may issue guidelines and directives to give effect to this Act. Guidelines and directives.

(2) Guidelines and directives issued under subsection (1) shall have the force of law.

168. The Minister may in consultation with the Director-General make regulations to give effect to this Act. Regulations.

169. (1) An extradition order may be granted for money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction. Extradition order may be granted for money laundering, etc.

(2) A request for extradition of an offender shall be subject to the Extradition Act, 1974 (Act No. 11 of 1974) and shall apply to a jurisdiction that is a member of the United Nations irrespective of whether there is an extradition treaty or not and irrespective of whether a state is a member of the Commonwealth of nations.

(3) An extradition request under subsection (2) shall not be applicable in the case of an ineligible or sanctioned country or territory.

(4) Where dual criminality shall be required for extradition, that requirement shall be deemed to be satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, provided that both countries criminalize the conduct underlying the offence.

170. (1) The Anti-money Laundering and Combating of Financing of Terrorism Act, 2012 (Act No. 2 of 2012) (as amended) is hereby repealed. Repeal and saving.

(2) Notwithstanding subsection (1), an action, proceeding, decision, legal or administrative instrument, order or directive taken, instituted, made, granted or issued under the repealed Act and before the commencement of this Act shall remain in force until expressly repealed.

FIRST SCHEDULE

PART I- ACTIVITIES OF FINANCIAL INSTITUTIONS

1. Deposit-taking business as defined in the Banking Act, 2019 (Act No.6 of 2019)
2. Financial activity as defined in the Other Financial Services Act, 2001(Act No. 7 of 2001) (as amended)
3. Finance leasing
4. Providing venture risk capital
5. Money transmission services
6. Issuing and administering such means of payment e.g., credit cards, travelers' cheques, drafts or other similar means
7. Providing financial guarantees and commitments
8. Underwriting share issues and participation in such issues
9. Money brokering
10. Money and currency changing
11. Investment business
12. Bullion dealing
13. Insurance business
14. Credit services or credit unions
15. Merchant or investment banking
16. Safe custody services
17. Stock brokerage and dealing in securities and commodities
18. Trading in virtual asset

PART II-RELATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

1. Casinos (which also include internet casinos)
2. Real estate agents

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3. Dealers in precious metals
 4. Dealers in precious stones
 5. Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for or on behalf of their clients concerning the following activities:
 - (a) buying and selling of real estate;
 - (b) managing of client's money, securities or other assets;
 - (c) management of bank savings or securities accounts;
 - (d) organisation of contributions for the creation, operation or management of companies;
 - (e) creation, operation or management of legal persons or arrangements; or
 - (f) buying and selling of business entities.
 6. Trust and company service providers which refers to all persons or businesses that provide any of the following services to third parties-
 - (a) acting as a formation agent of legal persons,
 - (b) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons,
 - (c) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal persons or arrangement,
 - (d) acting as (or arranging for another person to act as) a trustee of an express trust,

Passed in Parliament this *16th day of April*, in the year of
our Lord two thousand and Twenty Four.

MOHAMED LEBBIE,
Acting Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill
which has passed Parliament and found by me to be a true and correct printed
copy of the said Bill.

MOHAMED LEBBIE,
Acting Clerk of Parliament.