

**THE PROHIBITION AND PREVENTION OF MONEY
LAUNDERING (AMENDMENT) BILL, 2010**

MEMORANDUM

The object of this Bill is to amend the Prohibition and Prevention of Money Laundering Act, 2001, so as to—

- (a) repeal the provisions relating to the disclosure of information of suspicion of money laundering by supervisory authorities and reporting entities;
- (b) re-define the functions of the AntiMoney Laundering Investigations Unit; and
- (c) provide for matters connected with, or incidental to, the foregoing.

A. J. SHONGA,
Attorney-General

N.A.B. 38, 2010
17th September, 2010

A BILL

ENTITLED

An Act to amend the Prohibition and Prevention of Money Laundering Act, 2001.

ENACTED by the Parliament of Zambia.

1. This Act may be cited as the Prohibition and Prevention of Money Laundering (Amendment) Act, 2010, and shall be read as one with the Prohibition and Prevention of Money Laundering Act, 2001, in this Act referred to as the principal Act.

Enactment
Short title

Act No. 14 of
2001

5 2. The principal Act is amended in the long title by the deletion of the words “to provide for the disclosure of information on suspicion of money laundering activities by supervisory authorities and reporting entities;”

Amendment
of long title

3. Section *two* of the principal Act is amended —

10 (a) by the deletion of the definitions “regulated institution” and “supervisory authority”;

Amendment
of section 2

(b) by the deletion of the definition “money laundering” and the substitution therefor of the following new definition:

15 “money laundering” means, where a reasonable inference may be drawn, having regard to the objective factual circumstances, any activity by a person

(a) who knows or has reason to believe that the property is the proceeds of a crime; or

20

- (b) without reasonable excuse, fails to take reasonable steps to ascertain whether or realised directly or indirectly, by any person from the commission of a crime; where the person—
- (i) engages, directly or indirectly, in a transaction that involves proceeds of a crime; 5
 - (ii) acquires, receives, possesses, disguises, transfers, converts, exchanges, carries, disposes, uses, removes from or brings into Zambia proceeds of a crime; or 10
 - (iii) conceals, disguises or impedes the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any illegal activity;
- (c) by the deletion of the definition “proceeds of crime” and the substitution therefor of the following new definition: 15
- “proceeds of crime” means property or benefit that is—
- (b) wholly or partly derived or realised from a disposal or other dealing with proceeds of a crime; 20
 - (c) wholly or partly acquired proceeds of a crime;
- and includes, on a proportional basis, property into which any property derived or realised directly from the illegal activity is later converted, transformed or intermingled, and any income, capital or other economic gains derived or realised from the property at any time after the crime; or 25
- (d) any property that is derived or realised, directly or indirectly, by any person from any act or omission that occurred outside Zambia and would, if the act or omission had occurred in Zambia, have constituted a crime; 30 35
- (d) by the deletion of the definition “property” and the substitution therefor of the following new definition:

- 5 “property” includes any real or personal property, money, things in action or other intangible or incorporeal property, whether located in Zambia or elsewhere and includes property of corresponding value in the absence of the original illegally acquired property whose value, has been determined; and
- (e) by the insertion, in the appropriate places, of the following new definitions:
- 10 “Centre” means the Financial Intelligence Centre established under the Financial Intelligence Centre Act, 2010; Act No. of 2010
- 15 “crime” means an act or omission which constitutes an offence under any written law in Zambia or any other country; and
- “reporting entity” has the meaning assigned to it in the Financial Intelligence Centre Act, 2010;.
4. Section six of the principal Act is amended in subsection (1) — Amendment of section 6
- 20 (a) by the deletion of paragraph (a) and the substitution therefor of the following new paragraph:
- (a) to investigate financial and other business transactions suspected to be part of money laundering offences;
- 25 (b) by the insertion of the word “and” at the end of paragraph (c); Cap. 281
- (c) by the deletion of paragraphs (d) and (e); and
- (d) by the re-numbering of paragraph (f) as paragraph (d).
- 30 5. The principal Act is amended by the repeal of Part V and the substitution therefor of the following new Part: Repeal and replacement of Part V
- PART V
PREVENTION OF MONEY LAUNDERING
12. (1) A person who knows or has reason to suspect that
- 35 (a) an authorised officer has commenced, or is about to commence, an investigation under this Act and unlawfully or recklessly discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation; Prohibition of tipping off
- 40 or

(b) a disclosure has been made to an authorised officer under this Act and unlawfully discloses to any other person information or any other matter which is likely to prejudice an investigation or proposed investigation following the disclosure; 5

commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both. 10

(2) Notwithstanding subsection (1), a legal practitioner may make a disclosure in the course of the legal practitioner's professional duty—

(a) to the legal practitioner's client or the client's representative in connection with the giving of advice to the client; or 15

(b) to any person in contemplation of, or connection with and for the purpose of, any legal proceedings.

(3) Subsection (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any illegal purpose. 20

Investigation
of suspicious
transaction
reports from
Centre
Act No. of
2010

13. The unit shall, where it receives a suspicious transaction report from the Centre in accordance with the Financial Intelligence Centre Act, 2010, cause an investigation to be conducted where it has reason to suspect that a person has committed or is about to commit an offence under Part IV. 25

Protected
disclosures
Act No. 4 of
2010

14. A disclosure made by a person in compliance with this Act shall be a protected disclosure for the purposes of the Public Interest Disclosure (Protection of Whistleblowers) Act, 2010. 30