

**DIRECTIVE 2014/14/EAC  
OF THE COUNCIL OF MINISTERS**

**Of**

*(Date of Approval by Council of Ministers)*

**DIRECTIVE OF THE EAC ON ANTI-MONEY  
LAUNDERING IN THE SECURITIES MARKET**

**PREAMBLE**

## **The Council of Ministers of the East African Community**

Having regard to the Treaty for the establishment of the East African Community and in particular **Articles 85 (d), 14 and 16;**

**WHEREAS Article 31** of the Protocol on the Establishment of the East African Community Common Market provides that for proper functioning of the Common Market, the Partner States undertake to co-ordinate and harmonise their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment system;

**WHEREAS Article 47** of the Protocol on the Establishment of the East African Community Common Market provides that the Partner States shall undertake to approximate their national laws and to harmonise their policies and systems for purposes of implementing this Protocol and that the Council shall issue directives for the purposes of implementing this Article.

**HAS ISSUED THIS DIRECTIVE**

## **ARTICLE 1 INTERPRETATION**

**“beneficial owner”** in relation to a customer of a market intermediary, means the natural person who makes final decisions, ultimately controls a customer or the person on whose behalf a transaction is being conducted. This includes the person who exercises ultimate effective control over a body corporate.

**“Community”** means East African Community established by Article 2 of the Treaty;

**“Competent Authority”** means the national regulatory agency that is the primary supervising entity of securities markets in the Partner State;

**“Council of Ministers”** means the Council of Ministers of the Community established by Article 9 of the Treaty;

**“Financial Intelligence Unit”** is a central, national agency responsible for receiving, analysing and disseminating to the competent authorities, disclosures of financial information:

- (a) concerning suspected proceeds of crime and potential financing of terrorism; or
- (b) required by national legislation or regulation, in order to combat money laundering and terrorism financing;

**“market intermediary”** means an entity licensed or approved by a Competent Authority in the Partner State;

**“money laundering”** means-

- (a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;
- (b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
- (c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;
- (d) the transportation, transmission, transfer or receipt of a monetary instrument or anything of value to another person, with intent to commit an offence; and
- (e) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions referred to in points (a), (b), (c) and (d);

**“Partner States”** means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the United Republic of Tanzania, the Republic of Uganda, , and any other country granted membership to the Community under Article 3 of the Treaty;

**“politically exposed person”** is a person who is or has been entrusted with a prominent function and includes:

- (a) persons who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or government, senior politicians, senior judicial, military or government officials, senior executives of state owned corporations, important political party officials;
- (b) persons who are or have been entrusted domestically with prominent public functions, for example Heads of State or government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials;
- (c) persons who are or have been entrusted with a prominent function by an international organisation, refers to members of senior management or individuals who have been entrusted with equivalent functions, i.e. directors, deputy directors and members of the board or equivalent functions;
- (d) persons who are related to a PEP either directly (consanguinity) or through marriage or similar (civil) forms of partnership; and
- (e) close associates of a Politically Exposed Person, either socially or professionally;

**“property”** means assets of every kind, whether tangible or intangible, corporeal or incorporeal, moveable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to currency, bank credits, deposits and other financial resources, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit, whether situated in the Community or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property;

**“shell bank”** means a bank that has no physical presence in the country in which it is incorporated and licensed and which is unaffiliated with a regulated financial services group that is subject to effective consolidated supervision;

**“terrorism”** means the unlawful use or threatened use of force or violence by a person or an organized group against people or property with the intention of intimidating or coercing societies or governments, often for ideological or political reasons;

**“financing of terrorism”** means:

- (a) the provision of, or making available such financial or other related services to a terrorist group or entity which is concerned with terrorist act; or
- (b) entering into or facilitating, directly or indirectly, any financial transaction related to a dealing in property owned or controlled by or on behalf of any terrorist or any entity owned or controlled by a terrorist;

**“suspicious transaction”** means a transaction in which there are reasonable grounds to suspect that the transaction is related to any criminal offence or criminal activity and includes:

- (a) transactions having unclear economical and business target;
- (b) transactions conducted in relatively large amount cash or conducted repeatedly and unnaturally; and
- (c) transactions conducted differently from the usual and normal transactions conducted by the relevant customer; and

**“Treaty”** means the Treaty for the Establishment of the East African Community and any Annexes and Protocols thereto.

## **ARTICLE 2 PRINCIPLES**

In implementing this Directive Partner states shall ensure that market intermediaries:

- (a) have in place documented internal systems and procedures to prevent money laundering, to report suspicious transactions and to appoint a money laundering reporting officer;
- (b) when establishing a business relationship with an applicant for business, apply appropriate customer due diligence measures including identifying and verifying the identity of the applicant for business;
- (c) maintain effective record keeping systems and implement effective on-going customer due diligence measures and risk-profiling procedures; and
- (d) provide members of their staff with on-going anti-money laundering and countering of the financing of terrorism training.

### **ARTICLE 3 OBJECTIVE**

To harmonize the standards on anti-money laundering measures for market intermediaries in the securities markets of Partner States with a view to;

- (a) preventing, detecting and controlling money laundering activities in the securities market;
- (b) protecting the integrity of the securities market against all forms of abuse, fraudulent and unfair practices; and
- (c) ensuring fair, efficient and transparent securities markets, and reducing systemic risks.

### **ARTICLE 4 SCOPE**

This Directive shall apply to all market intermediaries licensed or approved by a Competent Authority in the Partner States.

### **ARTICLE 5 ANONYMOUS ACCOUNTS AND FICTITIOUS PERSONS**

A market intermediary shall not deal with any person on an anonymous basis or any person using a fictitious name.

### **ARTICLE 6 WHEN CUSTOMER DUE DILIGENCE MEASURES ARE TO BE PERFORMED**

A Market Intermediary shall undertake customer due diligence measures when:

- (a) establishing a business relationship;
- (b) a transaction is carried out in a single operation or several operations that appear to be linked;
- (c) carrying out occasional transactions that are electronic transfers, including those applicable to cross-border and domestic transfers between market

- intermediaries and when credit or debit cards are used as a payment system to effect money transfer;
- (d) there is a suspicion of money laundering or financing of terrorism, notwithstanding that the Market Intermediary would otherwise not be required under this Directive to perform Customer Due Diligence measures;
  - (e) there are doubts about the veracity or adequacy of previously obtained customers identification data;
  - (f) a substantial or significant sum of money relative to the usual activities of the customer is used in the transaction; or
  - (g) the source of money is a jurisdiction that has not enacted any anti-money laundering laws.

## **ARTICLE 7**

### **IDENTIFICATION OF CUSTOMERS AND BENEFICIAL OWNERS**

1. A Market Intermediary shall:
  - (a) carry out the full range of the customer due diligence measures in this Directive ;  
and
  - (b) identify all his or her customers and verify their identities using reliable and independently sourced documents, data or information.
2. The type of customer information to be obtained and identification data to be used to verify the information shall include the following:
  - (a) for a customer who is a legal person, a Market Intermediary shall verify:
    - (i) the identity of any person purporting to have been authorized to act on behalf of such a customer by obtaining evidence of his identity and verifying the identity of such a person; and
    - (ii) the status of the legal person by obtaining proof of incorporation or similar evidence of establishment or existence and any other relevant information.
  - (b) for other customers , a market intermediary shall identify a beneficial-owner and take reasonable measures to verify his identity using relevant information or data obtained from a reliable source to satisfy itself that it knows who the beneficial-owner is .

3. A market intermediary shall in respect of all customers, determine whether a customer is acting on behalf or for the benefit of another person; and where the customer is acting on behalf or for the benefit of another person, a market intermediary shall take reasonable steps to obtain sufficient identification data to verify the identity of that other person.
4. A market intermediary shall take reasonable measures in respect of customers that are legal persons to:
  - (a) understand the ownership and control structure of such a customer ; and
  - (b) determine the natural persons that ultimately own or control the customer.
5. Where the customer or owner of the controlling interest is a pension fund, a government institution or a public company listed on a recognized securities exchange, it is not necessary to identify and verify the identity of the shareholders of such a public company.
6. A market intermediary shall obtain information on the purpose and intended nature of the business relationship of its potential customer.

## **ARTICLE 8**

### **RECORDS AND INFORMATION NEEDED FROM CUSTOMERS**

1. For the purpose of Article 7, a market intermediary shall obtain and record the information of the customer including:
  - (a) full name and any aliases;
  - (b) unique authorised identification number including identity card number, birth certificate number, voter registration card number or passport number, or where the customer is not a natural person, the incorporation number or business registration number;
  - (c) current residential address, registered or business address, as may be appropriate, and contact telephone number(s);
  - (d) date of birth, incorporation or registration (as may be appropriate);
  - (e) nationality or place of incorporation or registration (as appropriate); or
  - (f) occupation/business.
2. Where the customer is a company, the Market Intermediary shall also identify the directors of the company.
3. Where the customer is a partnership or a limited liability partnership, the Market Intermediary shall also identify the partners.

## **ARTICLE 9**

### **RISK BASED APPROACH**

1. A market intermediary shall subject all customers to a full range of customer due diligence measures:

Provided that a market intermediary may, determine the risk attached to a particular type of a customer, business relationship, transaction or products, depending on the type of customer product, transaction or location of the customer and may apply reduced or simplified customer due diligence measures.

2. A market intermediary shall adopt:
  - (a) an enhanced customer due diligence process for higher risk categories of customers, business relations or transactions; and
  - (b) a simplified customer due diligence process for lower risk categories of customers, business relation or transactions.
3. An enhanced customer due diligence process shall include enquiries on the following:
  - (a) the purpose for opening an account;
  - (b) the level and nature of trading activities intended ;
  - (c) the ultimate beneficial owners ;
  - (d) the source of funds ; and
  - (e) senior management's approval for opening the account.
4. For the purpose of this Article:
  - (a) high risk customers shall include non-resident customers from locations known for high crime rate, customers from jurisdictions designated by financial action task force as high-risk jurisdiction or jurisdictions which do not or insufficiently apply the Financial Action Task Force recommendations, Politically Exposed Persons as well as person or company clearly related to them, companies which have nominee shareholders;
  - (b) high risk transaction shall include complex legal arrangements such as unregulated investment vehicles or special purpose vehicles, electronic transfers or non-face-to-face transactions; and
  - (c) "Financial Action Task Force" means an intergovernmental policy making body established to set standards and promote effective implementation of statutory, regulatory and operational measures for combating money-laundering, terrorist financing and other related threats to the integrity of the international financial system.

**ARTICLE 10**  
**APPLICATION OF CUSTOMER DUE DILIGENCE MEASURES TO EXISTING CUSTOMERS**

1. A Market Intermediary shall apply customer due diligence measures to existing customers on the basis of materiality and risk, and shall continue to conduct due diligence on such existing relationships at appropriate times.
2. The appropriate time to conduct customer due diligence by a market intermediary includes where:
  - (a) a transaction of significant value takes place;
  - (b) a client's documentation standards change substantially ;
  - (c) there is a material change in the way that an account is operated ; and
  - (d) the market intermediary becomes aware that it lacks sufficient information about an existing client.
3. A market intermediary shall keep clients' identification records available for inspection by a Competent Authority.

**ARTICLE 11**  
**RELIANCE ON IDENTIFICATION AND VERIFICATION ALREADY PERFORMED**

When a Market Intermediary acquires, either in whole or in part, the business of another financial institution, the acquiring market intermediary shall perform customer due diligence measures on customers acquired with the business at the time of the acquisition except where the acquiring market intermediary has:

- (a) also acquired all corresponding customer records, including customer identification information and has no reason to doubt the veracity or adequacy of the information so acquired; and
- (b) conducted due diligence enquiries that have not raised any doubt on the part of the acquiring market intermediary as to the adequacy of anti-money laundering and combating the financing of terrorism measures previously adopted in

relation to the business or part thereof now acquired by the acquiring market intermediary.

## **ARTICLE 12 TIMING OF VERIFICATION**

1. A market intermediary shall verify the identity of the client, beneficial owner and occasional clients before or during the course of establishing a business relationship or conducting transactions for them.
2. A market intermediary shall complete the verification of the identity of the client, beneficial owner and occasional client following the establishment of the business relationship where:
  - (a) it shall take place as soon as reasonably practicable;
  - (b) it is essential not to interrupt the normal business conduct of the client ; and
  - (c) the money laundering and financing of terrorism risks can be effectively managed.
3. Where a client is permitted to utilize the business relationship before verification, a Market Intermediary shall adopt risk management procedures concerning the conditions under which this utilisation may occur and these procedures shall include:
  - (a) a limit on the number of transactions;
  - (b) a limitation of the types and amounts of transactions that can be performed; and
  - (c) the monitoring of large or complex transactions being carried out outside the expected norms for that type of relationship.

## **ARTICLE 13 NON-COMPLETION OF CUSTOMER DUE DILIGENCE MEASURES**

1. Where the market intermediary is unable to complete customer due diligence measures, the market intermediary shall terminate the business relationship.
2. Where the market intermediary has terminated a business relationship and it considers the circumstances as suspicious, it shall file a suspicious transaction report.

## **ARTICLE 14 ENHANCED DUE DILIGENCE TO POLITICALLY EXPOSED PERSONS**

A Market Intermediary shall, in relation to politically exposed persons perform enhanced Customer Due Diligence measures in addition to normal customer due diligence measures, including but not limited to:

- (a) implementing appropriate internal policies, procedures and risk management systems;
- (b) making a determination to establish or continue business relations where the customer or beneficial owner is a politically exposed person or subsequently found to be or subsequently becomes a politically exposed person;
- (c) taking reasonable measures to establish the source of wealth and source of funds of the customer or beneficial owner, and
- (d) conducting enhanced monitoring of business relations with the customer during the course of business relations.

**ARTICLE 15**  
**RELATIONSHIP WITH A SHELL BANK**

1. A market intermediary shall not establish a correspondent relationship with a shell bank.
2. A market intermediary shall take all necessary measures to satisfy itself that a correspondent market intermediary in a foreign country does not permit its accounts to be used by shell banks.

**ARTICLE 16**  
**MEASURES TO PREVENT THE MISUSE OF NEW TECHNOLOGIES AND NON-FACE-TO-FACE TRANSACTIONS**

1. A market intermediary shall put in place:
  - (a) policies or take such measures necessary to prevent the misuse of technological developments such as credit or debit cards, to facilitate money laundering or financing of terrorism schemes; and
  - (b) policies and procedures to address any specific risks associated with non-face to face business relationships or transactions.
2. The market intermediary shall implement policies and procedures referred to in this Article when establishing customer relationships and when conducting due diligence.

**ARTICLE 17**  
**RECORD KEEPING**

1. A market intermediary shall:
  - (a) maintain all necessary records of transactions, for at least ten (10) years following completion of the transaction if requested by the Competent Authority or any financial intelligence unit within the Community in specific cases;
  - (b) maintain records of the identification data, account files and business correspondence for at least ten (10) years following the termination of an account or business relationship or longer if requested by the Competent Authority or any financial intelligence unit within the Community in specific cases;
  - (c) ensure that all clients transaction records and information are available on a timely basis to the Competent Authority or any financial intelligence unit within the Community; and
  - (d) keep the necessary components of transaction records which shall include customers' and beneficiaries' names, addresses or other identifying information recorded by the Market Intermediary, the nature and date of the transaction, the type and amount of currency involved, and the type and identifying number of any account involved in the transaction.

## **ARTICLE 18**

### **ENSURING CUSTOMER INFORMATION IS KEPT UP-TO-DATE**

A market intermediary shall periodically review the adequacy of customer identification information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date, particularly for higher risk categories of customers.

## **ARTICLE 19**

### **COMPLEX AND UNUSUAL LARGE TRANSACTIONS**

1. A Market Intermediary shall pay special attention to complex, unusually large transactions or unusual patterns of transactions that do not have apparent or visible economic or lawful purpose.
2. Transactions or patterns of transactions under sub-article 1 shall include:
  - (a) significant transactions relative to the relationship;
  - (b) transactions that exceed certain limits;
  - (c) very high account turnovers that are inconsistent with the size of the account balance; or

(d) transactions which fall out of the regular pattern of the account's activities.

3. A Market Intermediary shall examine as far as possible the background and purpose for such transactions and set forth their findings in writing which findings shall be made available to the Competent Authority or any financial intelligence unit within the Community, and kept for at least ten (10) years from the end of the business relationship.

## **ARTICLE 20**

### **INTERNAL PROCEDURES, POLICIES AND CONTROLS**

1. A market intermediary shall establish and maintain internal procedures, policies and controls to prevent money laundering and financing of terrorism and to communicate these procedures, policies and controls to their employees and agents.
2. The procedures, policies and controls instituted under sub-article 1 shall cover Customer Due Diligence, record retention, detection of unusual and suspicious transactions, staff screening and training, and reporting obligations.
3. In formulating its policies, procedures and controls, a market intermediary shall take into consideration money laundering and financing of terrorism threats that may arise from the use of new technologies, especially those that promote anonymity.
4. A market intermediary shall develop appropriate compliance management arrangements, including at least, the appointment of a management -level officer as the anti-money laundering and combating the financing of terrorism officer to oversee its anti-money laundering and control of terrorist financing programme.
5. The market intermediary shall ensure that the anti-money laundering and combating of financing of terrorism officer, as well as any other persons appointed to assist him, have timely access to all customer records and other relevant information required to discharge their functions.
6. A market intermediary shall maintain an audit function that is adequately resourced and independent, and which shall be able to regularly assess the effectiveness of the market intermediary's internal policies, procedures and controls, and its compliance with statutory and regulatory requirements.

7. A market intermediary shall have in place screening procedures to ensure high standards when hiring employees and agents.
8. A market intermediary shall take all appropriate steps to ensure that its staff and agents are regularly trained on anti-money laundering and combating the financing of terrorism laws and methods and identification of suspicious transactions.

## **ARTICLE 21**

### **SUSPICIOUS TRANSACTION REPORTING**

1. A market intermediary shall:
  - (a) be alert to the various patterns of conduct set out in the Schedule to this Directive that have been known to be suggestive of money laundering and maintain a checklist of such transactions which shall be disseminated to the relevant staff;
  - (b) immediately file a suspicious transaction report with the financial intelligence unit in the primary jurisdiction; and
  - (c) maintain confidentiality in respect of any investigation and suspicious transaction report that may be filed with the relevant authority.
2. A market intermediary, its directors, officers and employees whether permanent or temporary shall not disclose that a report shall be filed or has been filed with the Financial Intelligence Unit.
3. A market intermediary shall put in place a structure that ensures the operational independence of the anti-money laundering and combating of financing of terrorism officer.
4. A market intermediary who suspects or has reason to suspect that funds are the proceeds of a criminal activity or are related to financing of terrorism shall promptly report its suspicions to the Financial Intelligence Unit, provided that all suspicious transactions, including attempted transactions are reported regardless of the amount involved and whether the transactions involve tax matters or other things.

## **ARTICLE 22**

### **PROHIBITION OF DISCLOSURE**

1. A Market Intermediary shall not disclose to the customer concerned or to any other third persons the fact that information has been transmitted in accordance with Article 21 of this Directive or that a Money Laundering or Financing of terrorism investigation is being or may be carried out.
2. The prohibition laid down in sub-article 1 shall not include disclosure:
  - (a) to the Competent Authorities;
  - (b) to the Financial Intelligence Units;
  - (c) by leave of court; or
  - (d) between organisations in which Partner States are members and impose requirements equivalent to those laid down in this Directive.

## **ARTICLE 23**

### **ENFORCEMENT AND SANCTIONS**

1. The Competent Authority shall report any non-compliance by a market intermediary to the Financial Intelligence Unit.
2. The Competent Authority may, upon being satisfied that a market intermediary has failed to comply with the provisions of this Directive, impose the following administrative sanctions:
  - (a) a requirement that the market intermediary shall comply with this Directive within a specified period;
  - (b) a reprimand;
  - (c) a restriction or suspension of certain business activities;
  - (d) a revocation or suspension of a business licence; or
  - (e) issue an order to the market intermediary to suspend or remove from office any member of the staff who fails to comply.
3. Before imposing an administrative sanction, the Competent Authority shall give the market intermediary a notice in writing indicating:
  - (a) nature of non-compliance;
  - (b) intention to impose administrative sanction; and
  - (c) amount or particulars of the intended administrative sanction.
4. The market intermediary may, in writing, within a period specified in the notice, make representations as to why the administrative sanctions should not be imposed.

5. The Competent Authority shall ensure that when determining the type and amount of administrative sanctions, it shall take into account all relevant circumstances, including:
  - (a) the gravity and the duration of the non-compliance;
  - (b) the degree of responsibility;
  - (c) profits gained or losses avoided;
  - (d) losses for third parties caused by the non-compliance;
  - (e) the level of cooperation by the responsible natural or legal person with the Competent Authority; and
  - (f) previous non-compliance by the responsible natural or legal person.

## **ARTICLE 24 AMENDMENTS**

1. This Directive may be amended by the Council of Ministers.
2. Any proposals for amendment may be submitted in writing by the Partner States to the Secretary General of the East African Community.

## **ARTICLE 25 IMPLEMENTATION**

1. Partner States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one year from the date of the Council of Ministers' issuance of the directive.
2. The Partner States shall inform the Council of Ministers of the implementation of sub article (1).
3. When Partner States adopt those measures they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods for making such reference shall be laid down by Partner States.

## **ARTICLE 26 ENTRY INTO FORCE**

This Directive shall enter into force upon issuance by the Council of Ministers.

## **ARTICLE 27 ADDRESSEES**

***This Directive is addressed to the Partner States.  
Done in Arusha, Tanzania .....***

**SCHEDULE  
(Article 21)**

**SUSPICIOUS INDICATORS FOR MONEY LAUNDERING/ FINANCING OF  
TERRORISM**

**1. Customer Due Diligence**

- (a) The customer provides the market intermediary with unusual or suspicious identification documents that cannot be readily verified or are inconsistent with other statements or documents that the customer has provided. This indicator may apply to account openings and to interaction subsequent to account opening, such as electronic transfers.
- (b) During the account opening process, the customer refuses to provide information to complete customer due diligence, such as occupation or prior financial relationships.
- (c) The customer, is reluctant to provide the market intermediary with complete information about the nature and purpose of the customer's business, prior financial relationships, anticipated account activity, the entity's officers and directors or business location.
- (d) The customer, , is located in a jurisdiction that is known as a bank secrecy haven, a tax shelter, or high-risk geographic locations such as narcotics producing jurisdiction.
- (e) The customer is reluctant to meet personnel from the market intermediary in person, is very secretive or evasive or becomes defensive when asked to provide more information.
- (f) The customer refuses to identify a legitimate source for funds or provides the Market Intermediary with information that is false, misleading, or substantially inaccurate
- (g) The customer engages in frequent transactions through money services businesses.
- (h) The customer's background, is questionable or does not meet expectations based on the customer's business activities.
- (i) The customer has no discernable reason for using the market intermediary's service or the market intermediary's disadvantageous location does not discourage the customer fFor instance a customer lacks roots to the local community or has come out of his or her way to use the market intermediary.

- (j) The customer refuses to provide information regarding the beneficial owners of an account opened for an entity, or provides information that is false, misleading or substantially inaccurate.
- (k) The customer's address is associated with multiple other accounts that do not appear to be related.
- (l) The customer has a history of changing financial advisors or using multiple firms or banks. This indicator is heightened when the customer uses firms located in numerous jurisdictions.
- (m) The customer is known to be experiencing extreme financial difficulties.
- (n) The customer is, or is associated with, a Politically Exposed Person or senior political figure.
- (o) The customer refuses to invest in more appropriate securities when those securities would require a more enhanced customer due diligence procedure.
- (p) The customer with a significant history with the market intermediary abruptly liquidates all of his or her assets in order to remove wealth from the jurisdiction.
- (q) The customer appears to be acting as a fiduciary for someone else but is reluctant to provide more information regarding whom he or she may be acting for.
- (r) The customer is publicly known to have criminal, civil or regulatory proceedings against him or her for crime, corruption or misuse of public funds or is known to associate with such criminal activities. Sources for this information include news items or Internet searches.
- (s) The customer inquires as to how quickly he or she can liquidate his or her accounts or earnings without explaining why or provides suspicious reasons for doing so.
- (t) The customer opens an account or purchases a product without any regard to loss, commissions or other costs associated with that account or product.
- (u) The customer has commercial or other types of relationships with risky persons or institutions.
- (v) The customer acts through intermediaries, such as money managers or advisers, in order not to have his or her identity registered.

- (w) The customer exhibits unusual concern with the market intermediary's compliance with the reporting requirements or the market intermediary's anti-money laundering and combating of financing of terrorism policies.
- (x) The customer is reluctant to provide the market intermediary with information required to file reports or fails to proceed with a transaction once asked for documentation or learns of any recordkeeping requirements.
- (y) The customer is interested in paying higher charges to the market intermediary in order to keep some of his or her information secret.
- (z) The customer tries to persuade an employee of the market intermediary not to file a required report or not to maintain required records.
- (aa) The customer funds, deposits, withdraws or purchases financial or monetary instruments below a threshold amount in order to avoid any reporting or recordkeeping requirements imposed by the jurisdiction.
- (bb) The customer requests that account openings and closings in his or her name or in the name of family members be done without producing a paper trail.
- (cc) A law enforcement organisation or agency has issued subpoenas or summonses regarding a customer or account at the market intermediary.

## **2. Fund Transfers or Deposits**

- (a) Electronic transfers are sent to, or originate from, financial secrecy havens, tax shelters or high-risk geographic locations, such as jurisdictions known to produce narcotics, psychotropic drugs or to be related to terrorism, without an apparent business reason or connection to a securities transaction.
- (b) Electronic transfers or payments to or from unrelated third parties or where the name or account number of the beneficiary or remitter has not been supplied.
- (c) Many small incoming electronic transfers or deposits are made, either by the customer or third parties, using cheques, money orders or cash that are almost immediately withdrawn or electronically transferred in a manner inconsistent with the customer's business or history.
- (d) Incoming payments made by third-party cheques or cheques with multiple endorsements.

- (e) Deposits of large amounts in small-denomination currencies to a fund account or exchanges of small denomination currency for larger denomination currency
- (f) An electronic transfer activity that is unexplained, repetitive, unusually large or shows an unusual pattern or which has no apparent business purpose.
- (g) The securities account is used for payments or outgoing electronic transfers with little or no securities activities such as where the account appears to be used as a depository account or a conduit for transfers.
- (h) The controlling owner or officer of a public company transfers funds into his personal account or into the account of a private company that he or she owns or that is listed as an authorised signatory.
- (i) The quick withdrawal of funds after a very short period in the account.
- (j) The transfer of funds to financial or banking institutions other than those from where the funds were initially directed, specifically when different countries are involved.
- (k) Transfers or journals between different accounts owned by the customer with no apparent business purpose.
- (l) Customer requests that certain payments be routed through nostro<sup>1</sup> or correspondent accounts held by the financial intermediary or sundry accounts instead of its own account.

### **3. Bearer Securities**

- (a) The customer requests cashing bearer securities without first depositing them into an account or frequently deposits bearer securities into an account.
- (b) The customer's explanation regarding the method of acquiring the bearer securities is suspicious. The customer deposits bearer securities together with a request to journal the shares into multiple accounts that do not appear to be related, or to sell or otherwise transfer ownership of the shares.

### **Unusual Securities Transactions and Account Activity**

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<sup>1</sup> Nostro and vostro are accounting terms used to distinguish an account held for another entity from an account another entity holds. The entities in question are almost always, but need not be, banks.

- (a) Transaction where one party purchases securities at a high price and then sells them at a considerable loss to another party. This is indicative of transferring value from one party to another.
- (b) A customer's transactions include a pattern of sustained losses. This is indicative of transferring value from one party to another.
- (c) The purchase and sale of non-listed securities with a large price differential within a short period of time. This is indicative of transferring value from one party to another.
- (d) Payments effected by administrators and asset managers in cash, bearer cheques or other transferable instruments without identifying who they are for or providing very little information regarding the underlying account holder or beneficiary.
- (e) A company uses cash to pay dividends to investors.
- (f) The use of shell companies to purchase public company shares, in particular if the public company is involved in a cash intensive business.
- (g) The transfer of assets without a corresponding movement of funds, such as through journaling or effecting a change in beneficial ownership.
- (h) A dormant account that becomes active without a plausible explanation (e.g. large cash deposits that are electronically transferred from a dormant account)
- (i) A customer's transactions that have no apparent economic purpose.
- (j) A customer who is unfamiliar with a financial product's performance and specifications but wants to invest in it nonetheless.
- (k) Transactions that indicate the customer is acting on behalf of third parties.
- (l) The purchase of long term investments followed by a liquidation of the accounts shortly thereafter, regardless of fees or penalties.
- (m) Transactions involving an unknown counterparty.
- (n) Large sum cash purchases of financial instruments and mutual funds holdings followed by instant redemption.

#### **4. Activity that is Inconsistent with the Customer's Business Objective or Profile**

- (a) The customer's transaction patterns suddenly change in a manner that is inconsistent with the customer's normal activities or inconsistent with the customer's profile.
- (b) There are unusual transfers of funds among accounts without any apparent business purpose or among apparently unrelated accounts.
- (c) The customer maintains multiple accounts or maintains accounts in the names of family members or corporate entities with no apparent business or other purpose.
- (d) The customer enters into a financial commitment that appears beyond his or her means.
- (e) The customer begins to use cash extensively.
- (f) The customer engages in extremely complex transactions where his or her profile would indicate otherwise.
- (g) A customer's credit usage is in extreme amounts that do not correspond to his or her financial status or collateral where the collateral is provided by an unrelated third-party.
- (h) The time zone in the customer's location is inconsistent with the time periods that the trades were executed, with no apparent business or other purpose, or there is a sudden change that is inconsistent with the customer's typical business activity.
- (i) A foreign based customer that uses domestic accounts to trade on foreign exchanges.
- (j) The customer exhibits a lack of concern about higher than normal transaction costs.

#### **5. Rogue Employees**

- (a) The employee appears to be enjoying a lavish lifestyle that is inconsistent with his or her salary or position.
- (b) The employee is reluctant to take annual leave.
- (c) The employee inputs a high level of activity into one customer account where the customer's account is relatively unimportant to the organisation.
- (d) The employee has no authority to arrange and process customer affairs without supervision or involvement of colleagues but does so.

- (e) The management or reporting structure of the financial institution does not allow an employee to have a large amount of autonomy without direct control over his activities.
- (f) The employee is located in a different country to his direct line of management, and supervision is only carried out remotely. What is meant by these?
- (g) A management culture within the financial institution that focuses on financial reward over compliance with regulatory requirements.
- (h) The employee's supporting documentation for customers' accounts or orders is incomplete or missing.
- (i) Business is experiencing a period of high staff turnover or is going through significant structural changes.