

LEGAL NOTICE NO. 199 OF 2000

Financial Institutions (Anti-Money Laundering) Guidelines, 2000.

In exercise of the powers conferred upon the commissioner of Financial Institutions by section 71 of the Financial Institutions Act 1999¹. The Commissioner prescribes the following guidelines.

**PART I
PRELIMINARY**

Citation and Commencement

1. These Guidelines may be cited as the Financial Institutions (Anti-Money Laundering) Guidelines 2000 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Guidelines unless the context otherwise requires-
 - (a) “money laundering” means any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources;
“suspicious transaction” refers to a transaction which is inconsistent with a customer’s known legitimate business or personal activities or with the normal business for that type of account;
“the Bank” means the Central Bank of Lesotho.
 - (b) other words used shall have the same meaning assigned to them in the Financial Institutions Act 1999.

Objectives

3. These Guidelines are meant-
 - (a) to require financial institutions to establish and maintain specific policies and procedures to guard against the use of the financial system for the purpose of money laundering;
 - (b) to enable financial institutions to recognise suspicious transactions and to provide an audit trail of transactions with customers who come under investigation; and
 - (c) to require financial institutions to submit reports and to disclose information on large cash transactions and suspicious transactions.

SCHEDULE

(regulation (13)(1))

REPORT ON FRAUDS AND LOSSES

(Name of Financial Institution)

For quarter ending

(Amounts to the nearest thousand)

Date	Persons involved	Amount	Brief Description of Fraud/Loss
I. Actual			
II. Attempted			

Certified Correct:

 Name Signature Position Date

in the country where the registered offices of those bodies or persons are located, shall ensure that they comply with these Guidelines.

Records on Customer Identification

8. Financial institutions shall keep records on customer identification such as copies or records of official identification documents like passports, identity cards, driving licences or similar documents, account files and business correspondence for at least 10 years after an account is closed, and these documents shall be made available to law enforcement authorities in the context of relevant criminal prosecutions and investigations;

Maintenance of records

9. (1) Financial institutions shall maintain, for a minimum period of 10 years, all necessary records to enable them to comply with information requests from competent authorities.

(2) Such records shall be kept in sufficient form to permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide evidence for prosecution in criminal proceedings.

Review of unusual transactions

10. Financial institutions shall review and properly document the background and purpose of all complex, unusually large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

Report on suspicious transactions

11. If a financial institution suspects that any transaction by a customer may form part of a criminal activity or otherwise constitutes a suspicious transaction, it shall report such suspicions to the law enforcement authorities and the Bank forthwith.

Secrecy

12. Financial institutions and their directors and employees shall not warn their customers when information on suspicious transactions relating to them is being reported to the law enforcement authorities and the Bank.

Co-operation with law enforcement authorities

13. Financial institutions which report their suspicions in accordance with guideline 11, shall follow the instructions from, and otherwise co-operate with, the law enforcement authorities and Bank.

Dealings with foreign persons

14. Financial institutions shall exercise reasonable caution in their business and transactions with persons, including companies and financial institutions from other countries.

Application

4. These Guidelines shall apply to all financial institutions in Lesotho.

PART II

ANTI-MONEY LAUNDERING MEASURES

Programmes against money-laundering

5. (1) Financial institutions shall develop programmes against money laundering.
- (2) The programmes shall include, but shall not be limited to-
- (a) internal controls, policies, and procedures including the designation of compliance officers at management level;
 - (b) customer identification procedures;
 - (c) record keeping;
 - (d) recognition and reporting of suspicious transactions; and
 - (e) education and training of relevant employees.

Anonymous accounts

6. (1) Financial institutions shall not keep anonymous accounts or accounts in fictitious names.

(2) Financial institutions are required to identify, on the basis of an official or other reliable identifying document and record, the identity of their customers, either occasional or usual, when establishing business relations or conducting transactions.

(3) Without derogating from the generality of sub-guideline (2), that sub-guideline shall apply, in particular-

- (a) to the opening of accounts or passbooks;
- (b) to fiduciary transactions;
- (c) to the renting of safe-deposit boxes;
- (d) to the use of safe custody facilities; and
- (e) to large cash transactions.

Disclosure of identity

7. (1) In cases where a customer or client of a financial institution opens an account or conducts a transaction on behalf of another person, the financial institution shall require that customer or client to disclose the true identity of the person on whose behalf the account is opened or the transaction is conducted.

(2) Without derogating from the generality of sub-guideline(1), registered companies, corporations, associations, partnerships, foundations, trust, attorney trusts or funds or other bodies or persons which or who do not conduct any commercial or manufacturing business or any other form of commercial operation

manner, the Bank may pursue any remedial measures at its disposal, including the imposition of penalty on the financial institution or any of its directors, officers or staff, under section 29 of the Financial Institutions Act 1999.

Repeal

20. The Financial Institutions (Anti-Money Laundering) Guidelines, 2000ⁱⁱ are repealed.

S. M. Swaray
Governor, Central Bank of Lesotho

- i Act No. 6 of 1999
- ii L.N. 144 of 2000