



THE EIGHT HUNDRED AND SEVENTY-FOURTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA

ENTITLED

ANTI-MONEY LAUNDERING (AMENDMENT) ACT, 2014

AN ACT to amend the Anti-Money Laundering Act, 2008 (Act 749) to extend the application of the Anti-Money Laundering Act, 2008 (Act 749), to expand the scope of actions that can be taken under the Act and to provide for related matters.

DATE OF ASSENT: *24th April, 2014*

PASSED by Parliament and assented to by the President:

Section 1 of Act 749 amended

1. The Anti-Money Laundering Act, 2008 (Act 749) referred to as the principal enactment is amended by the substitution for section 1 of

“Money laundering

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

- (a) converts, conceals, disguises or transfers the property;
- (b) conceals or disguises the unlawful origin, disposition, movement or ownership of rights with respect to the property; or
- (c) acquires, uses or takes possession of the property.

Anti-Money Laundering (Amendment) Act, 2014 Act 874

ARRANGEMENT OF SECTIONS

Section

1. Section 1 of Act 749 amended
2. Section 5 of Act 749 amended
3. Section 6 of Act 749 amended
4. Section 9 of Act 749 amended
5. Section 18 of Act 749 amended
6. Section 23 of Act 749 amended
7. Section 23A of Act 749 inserted
8. Section 24 of Act 749 amended
9. Section 28 of Act 749 amended
10. Section 29 of Act 749 amended
11. Section 30 of Act 749 amended
12. Section 31A of Act 749 inserted
13. Section 32 of Act 749 amended
14. Section 35 of Act 749 amended
15. Section 36 of Act 749 amended
16. Section 37 of Act 749 amended
17. Section 38 of Act 749 amended
18. Section 39 of Act 749 amended
19. Section 40 of Act 749 amended
20. Section 41 of Act 749 amended
21. Section 48 of Act 749 amended
22. Section 51 of Act 749 amended
23. First Schedule to Act 749 amended

(2) For the purposes of this Act, unlawful activity means conduct which constitutes a serious offence, financing of terrorism, financing of the proliferation of weapons of mass destruction or other transnational organised crime or contravention of a law regarding any of these matters which occurs in this country or elsewhere."

Section 5 of Act 749 amended

2. The principal enactment is amended by the substitution for section 5 of

"Objects of the Centre

5. The objects of the Centre are to
- (a) assist in the identification of proceeds of unlawful activity,
 - (b) assist in the combat of
 - (i) money laundering activities;
 - (ii) financing of terrorism;
 - (iii) financing of the proliferation of weapons of mass destruction; and
 - (iv) any other transnational organised crime;
 - (c) make information available to investigating authorities, intelligence agencies and revenue agencies to facilitate the administration and enforcement of the laws of the Republic; and
 - (d) exchange information with similar bodies in other countries as regards money laundering activities, terrorist financing and financing of the proliferation of weapons of mass destruction or other transnational organised crime."

Section 6 of Act 749 amended

3. The principal enactment is amended by the substitution for section 6 of

"Functions of the Centre

6. (1) To achieve the objects, the Centre shall
- (a) request, receive, analyse, interpret and disseminate information concerning suspected proceeds of crime and terrorist property, as provided for under this Act or any other law;
 - (b) take measures that are necessary for the enforcement of the United Nations Consolidated List;

- (c) monitor and give guidance to accountable institutions, supervisory bodies and other persons in the discharge of their duties and in their compliance with this Act;
- (d) co-ordinate and supervise activities for the investigation and suppression of money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction or other transnational organised crime; and
- (e) co-ordinate with the Ghana Revenue Authority to ensure compliance of this Act by designated non-financial businesses and professions.
- (f) retain the information in the manner and for the period required under this Act; and
- (g) inform, advise and co-operate with investigating authorities, supervisory bodies, the revenue agencies, the intelligence agencies and foreign counterparts.

(2) The Centre may on its own accord or upon request, share information with any foreign counterpart agency that performs similar functions and is subject to reciprocity or mutual agreement and similar secrecy obligations, regardless of the nature of the agency.

(3) The Centre shall require any information that the Centre provides pursuant to this section to be used by the foreign counterpart agency in the same manner that the Centre uses information it collects for domestic purposes and only for the purpose of combating money laundering, terrorism financing, financing of proliferation of weapons of mass destruction or any other serious offence.

(4) Where a foreign counterpart agency seeks to use information provided by the Centre in a manner contrary to that specified in subsection (3), that foreign counterpart agency shall seek the consent of the Centre.

(5) The Centre may obtain information based on a request received from a foreign counterpart agency and may take any other action in support of that request that is consistent with its authority in a domestic matter.”

Section 9 of Act 749 amended

4. The principal enactment is amended in section 9 by the substitution for subsection (1) of

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

Section 18 of Act 749 amended

5. The principal enactment is amended by the substitution for section 18 of

“Funds of the Centre

18. The funds of the Centre include

- (a) moneys approved by Parliament, and
- (b) any other moneys that are approved by the Minister responsible for Finance.”

Section 23 of Act 749 amended

6. The principal enactment is amended by the substitution for section 23 of

“Customer due diligence

23. (1) An accountable institution shall not establish or maintain anonymous accounts or accounts in fictitious names.

(2) An accountable institution shall apply customer due diligence measures as prescribed by Regulations.

(3) Accounts and customers existing prior to the implementation of the Regulations shall be subject to customer due diligence measures within the timeframe and to the extent provided for by the Regulations.

(4) An accountable institution shall conduct ongoing customer due diligence on business relationships with the customers of the accountable institution as prescribed by Regulations.

(5) An accountable institution shall put in place measures to identify politically exposed persons and other persons whose activities may pose a high risk of money laundering or terrorism financing, and to manage the risk associated with persons prescribed by Regulations, by, among others, exercising enhanced identification, verification and ongoing due diligence procedures with respect to those persons.

- (6) An accountable institution shall take note of
- (a) a complex, unusual large transaction or an unusual pattern of transactions, which do not have an apparent or visible economic or lawful purpose, and
 - (b) business relationships, transactions and legal arrangements with persons and other financial businesses, from or in countries which do not sufficiently apply the Financial Action Task Force Recommendations

and shall, within twenty-four hours, provide a report to the Centre.

(7) An accountable institution shall require the full personal details of a person who makes a deposit into or withdrawal from an account on behalf of another person.

(8) An accountable institution shall maintain identity information on a settlor, a trustee and a beneficiary of a relevant trust.

(9) A nominee in relation to shares and debentures shall maintain relevant ownership information where the nominee acts as the legal owner on behalf of any other person.

(10) The Centre shall advise an accountable institution about weaknesses in the Anti-Money Laundering, Counter Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction systems of other countries.

(11) The Centre shall examine the background and purpose of the transactions referred to in subsection (6) and record and keep the findings according to this Act.

(12) Subject to the requirements prescribed by Regulations, an accountable institution may appoint an intermediary or third party to perform some of the elements of the customer due diligence measures referred to in subsection (2) or to introduce business.

(13) Despite subsection (9), the ultimate responsibility for customer identification and verification shall remain with the accountable institution appointing the third party or the intermediary.

(14) In the case of cross border correspondent banking and other similar relationships, an accountable institution shall

- (a) gather information about
 - (i) the business of the respondent bank,
 - (ii) the reputation of the respondent bank, and
 - (iii) the nature and quality of the supervision to which the respondent bank is subject,
- (b) obtain approval from senior management before establishing new correspondent relationship, and
- (c) conduct an assessment of the quality controls in combating anti-money laundering, financing of terrorism and financing of proliferation of weapons of mass destruction or any other serious offence applicable to the foreign respondent financial business.

(15) An accountable institution shall document the responsibilities of the accountable institution with regard to anti-money laundering, financing of terrorism and financing of proliferation of weapons of mass destruction or any other serious offence.

(16) An accountable institution shall have in place measures

- (a) to prevent the misuse of information technology in the commission of money laundering, terrorism financing, financing of proliferation of weapons of mass destruction or any other serious offence, and
- (b) to address any specific risks associated with business relationships or transactions with a customer that is not physically present for the purpose of identification.

(17) A bank shall not be established in this country if the bank does not maintain a physical presence within this country and the bank is not affiliated to a regulated financial group subject to effective consolidated supervision.

(18) An accountable institution listed under paragraphs (a), (h) or (j) of the First Schedule shall not enter into or continue business relations with a bank in a jurisdiction where the bank is not physically present and is not affiliated with a regulated financial group subject to effective consolidated supervision.

(19) An accountable institution listed under paragraphs (a), (h) or (j) of the First Schedule shall not enter into or continue business relations with a respondent accountable institution in a foreign country that permits its accounts to be used by a bank that is registered in a jurisdiction where the bank is not physically present and not affiliated with a regulated financial group subject to effective consolidated supervision.

(20) An accountable institution which carries on activities that include wire transfers shall obtain and verify the information specified in the Regulations and maintain, manage and transmit the information that is prescribed by the Regulations.

(21) Where an accountable institution receives a wire transfer that does not contain the complete originator information, the accountable institution shall take measures to obtain and verify the missing information from the ordering institution or the beneficiary.

(22) Where the missing information cannot be obtained, the accountable institution shall refuse the transfer and within twenty-four hours file a suspicious transaction report.

Section 23A of Act 749 inserted

7. The principal enactment is amended by the insertion after section 23 of a new section 23A

“Preservation of funds, other assets and instrumentalities of crime

23A. An accountable institution shall preserve the funds, other assets and instrumentalities of crime for a period of one year to facilitate investigations.”

Section 24 of Act 749 amended

8. The principal enactment is amended by the substitution for section 24 of

“Record-keeping

24. (1) An accountable institution shall keep books and records with respect to their customers and transactions as set out in subsection (2) and shall ensure that the records and the underlying information are available on a timely basis to the Centre and other competent authorities.

(2) The books and records referred to in subsection (1) include

- (a) account files, business correspondence, and copies of documents evidencing the identities of customers and beneficial owners obtained in accordance with this Act;
- (b) records of transactions sufficient to reconstruct each individual domestic or international transaction for both account holders and non-account holders,
- (c) copies of suspicious transaction reports, cash transaction reports and other relevant reports including any accompanying documentation,
- (d) a written record of findings with respect to the transactions referenced in section 23 (6).

(3) The books and records shall be kept for a period of not less than five years, in the case of

- (a) paragraph (a) of subsection (2) after the business relationship has ended;
- (b) paragraphs (b) and (d) of subsection (2), from the date of the transaction; and
- (c) paragraph (c) of subsection (2), from the date the report was made to the Centre.

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

(5) Despite subsection (4), ultimate responsibility to comply with the requirements of this section shall not be delegated and remains at all times with the accountable institution that relied on the appointed person.

(6) An accountable institution that appoints a person to keep records on behalf of the accountable institution shall, within seven days, inform the Centre of the appointment in writing.”

Section 28 of Act 749 amended

9. The principal enactment is amended by the substitution for section 28 of

“Request for information

28. (1) The Centre shall obtain from an entity or person subject to the reporting obligation set forth in section 30 any information that the Centre considers necessary to carry out the functions of the Centre in relation to any information that the Centre has received in accordance with the functions of the Centre as set out in section 6.

(2) An entity or person shall provide the information requested by the Centre within the time limits set and in the form specified by the Centre.”

Section 29 of Act 749 amended

10. The principal enactment is amended by the substitution for section 29 of

“Information held by supervisory bodies and revenue agencies

29. (1) Where a supervisory body or revenue agency or any official of a supervisory body or, revenue agency discovers, in the course of its responsibilities, facts that may be related to money laundering, terrorism financing, financing of proliferation of weapons of mass destruction or any other serious offence, the supervisory body, revenue agency or the official of the supervisory body or revenue agency shall, within twenty-four hours, submit a report to the Centre.

(2) The report shall

- (a) state the suspicion of the supervisory body or revenue agency or of any official of the supervisory body or revenue agency, and
- (b) provide reasonable information and records in respect of the suspicion.

- (3) The Centre may, in relation to any report or information that the Centre receives, obtain except as otherwise provided by law, any information that the Centre considers necessary to carry out the functions of the Centre from
- (a) a law enforcement authority,
 - (b) an authority responsible for the supervision of an accountable institution or business entity,
 - (c) a revenue agency, and
 - (d) any other public agency.
- (4) A person to whom a request is made by the Centre under subsection (3) shall within seven days after receipt of the request comply with the request.

Section 30 of Act 749 amended

11. The principal enactment is amended by the substitution for section 30 of

“Suspicious transaction report

30. (1) A person or an accountable institution that knows or reasonably suspects that a property is

- (a) terrorist property,
- (b) the proceeds of money laundering,
- (c) for financing of proliferation of weapons of mass destruction,
- (d) intended for any other serious offence

shall submit a suspicious transaction report to the centre within twenty-four hours after the knowledge or suspicions was formed.

(2) The obligation under subsection (1) applies to attempted transactions.

(3) A person or an accountable institution shall not, except as required by law, disclose to its customers or to a third party that

- (a) a report under subsection (1) or (2) or any other information concerning suspected money laundering, terrorism financing or financing of proliferation of weapons of mass destruction or any other serious offence will be, is being or has been submitted to the Centre, or

- (c) an investigation concerning money laundering, terrorism financing, financing of proliferation of weapons of mass destruction or other serious offences is being or has been carried out.
- (4) Despite subsection (3), a person or an accountable institution may make a disclosure
 - (a) to carry out a function that that person has relating to the enforcement of this Act or of any other enactment, or
 - (b) to dissuade a client from engaging in unlawful activity, where the accountable institution is a lawyer, notary or accountant.
- (5) Except for purposes of due administration of this Act, a person or an accountable institution shall not disclose any information that will identify or is likely to identify the person who
 - (a) prepared or made a report under subsection (1) or (2);
 - (b) provided any information in connection with the report to the Centre; or
 - (c) handled the underlying transaction.
- (6) A person shall not disclose
 - (a) a report under subsection (1) or (2),
 - (b) any information contained in the report or provided in connection with the report, or
 - (c) the identity of the person who
 - (i) prepared or made a report under subsection (1) or (2), or
 - (ii) handled the underlying transaction in any judicial proceeding unless the disclosure is necessary in the interest of justice and is made to a judge for that purpose."

Section 31A of Act 749 inserted

12. The principal enactment is amended by the insertion after section 31 of a new section 31A

“Submission of report on currency transaction to the Centre

31A. (1) The Centre shall determine the thresholds of currency transactions for each accountable institution.

(2) An accountable institution shall, within twenty-four hours after carrying out a currency transaction, submit a report to the Centre on any currency transaction which exceeds the threshold determined by the Centre.

(3) The requirement in subsection (1) applies whether the currency transaction is conducted as a single transaction or as several transactions that appear to be linked.”

Section 32 of Act 749 amended

13. The principal enactment is amended by the substitution for section 32 of

“Protection against civil or criminal liability

32. (1) An accountable institution or its directors, officials or employees who in good faith submit a report under section 30 or section 31A to the Centre or provide information in accordance with the provisions of this Act shall not be held liable in criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract.

(2) Criminal action for money laundering, terrorism financing, financing of proliferation of weapons of mass destruction or any other serious offence shall not be brought against an accountable institution or its directors, officials or employees in connection with the execution of a transaction that has been reported to the Centre in good faith under section 30.”

Section 35 of Act 749 amended

14. The principal enactment is amended by the substitution for section 35 of

“Reporting procedures

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

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

(3) The Centre shall issue

(a) guidelines on the procedure for and form in which a report under sections 30 and 31A is to be submitted, and

(b) guidance periodically to assist accountable institutions to fulfill their obligations under sections 30 and 31A.”

Section 36 of Act 749 amended

15. The principal enactment is amended by the substitution for section 36 of

“Continuation of transactions

36. (1) An accountable institution shall not proceed with a transaction which the accountable institution knows or suspects to be related to money laundering, terrorism financing, financing of proliferation of weapons of mass destruction or other serious offences until the accountable institution reports its suspicion to the Centre under section 30.

(2) If the Centre considers it necessary based on the seriousness or urgency of the case, the Centre may order the suspension of a transaction for a period not exceeding seven working days.

(3) The person affected by the suspension shall be informed within forty-eight hours of the suspension and may seek redress from the Court.

(4) Where failure to discontinue with a transaction under subsection (1) is not possible or is likely to frustrate the efforts to investigate the transaction, an accountable institution may execute the transaction and shall make a report under section 30 immediately after the transaction.

(5) The Chief Executive Officer of the Centre may apply to the Court within seven working days after a transaction has been suspended under subsection (2) for issuance of a freezing order.”

Section 37 of Act 749 amended

16. The principal enactment is amended by the substitution for section 37 of

“Intervention by the Centre

37. Where the Centre has reasonable grounds to suspect that property is terrorist property, the proceeds of money laundering, the proceeds of financing of proliferation of weapons of mass destruction or of any other serious offence, the Centre shall forward the relevant information to the competent authority who shall decide upon further action.”

Section 38 of Act 749 amended

17. The principal enactment is amended in section 38

(a) by the insertion in subsection (2) of a new paragraph (c)

“(c) the account or transaction is relevant in identifying, locating or quantifying terrorist property.”;

(b) by the insertion after subsection (4) of new subsections (5) and (6)

“(5) An accountable institution that is or has been subject to a monitoring order under this section shall not disclose the existence of the order to any person except to

(a) an officer of the accountable institution in order to ensure compliance with the order;

(b) a legal adviser in order to obtain legal advice or representation in respect of the order; or

(c) an authorised officer referred to in the order.

(6) Nothing in this Section prevents the disclosure of information concerning a monitoring order for the purpose of or in connection with legal proceedings or in the course of proceedings before the Court.”

Section 39 of Act 749 amended

18. The principal enactment is amended by the substitution for section 39 of

“Offences in relation to records and information

39. (1) A person who

(a) opens an anonymous account or an account in a fictitious name for a customer in violation of section 23 (1);

- (b) violates or does not comply with or fails to act in accordance with the requirements under section 23 (2) to (8) or (14);
- (c) fails to maintain or provide access to records as required under section 24, or destroys or removes records or fails to make records available in a timely manner;
- (d) fails to provide any information requested by the Centre under section 28, or to provide the requested information within the time limits set or the form specified;
- (e) discloses to a customer or a third party information in violation of section 30 (3);
- (f) discloses information in violation of section 30 (5);
- (g) fails to comply with the declaration obligations under section 33;
- (h) fails to provide the Centre with additional information contrary to section 35;
- (i) discloses the existence of a monitoring order in violation of section 38 (5);
- (j) fails to maintain internal control programs in compliance with section 40 (1); or
- (k) fails to provide training to its employees or to set up a compliance function as required under section 41

commits an offence and is liable on summary conviction to a fine of not more than two thousand penalty units or to a term of imprisonment of not more than five years or to both.

(2) A person who

- (a) sets up a bank in violation of section 23 (14) or enters into or continues a business relationship in violation of section 23 (15) or (16);
- (b) accesses a computer system, application data held in a computer system or causes a computer system that belongs to or is under the control of the Centre or an accountable institution to fail to perform, contrary to section 25, or modifies a computer system contrary to section 26;

- (c) fails to submit a report to the Centre under section 30 (1) or (2), or section 31A, or provides a misleading, false or incomplete statement of facts, or conceals or otherwise fails to state a material fact that is required to be disclosed to the Centre under section 30 or section 31A;
- (d) fails to inform the Centre of the electronic transfer of currency contrary to section 34;
- (e) fails to discontinue with a transaction when so required pursuant to section 31 and section 36(1) or fails to comply with an order by the Centre under section 36 (2);
- (f) fails to comply with a monitoring order contrary to section 38; or
- (g) discloses information in violation of the confidentiality obligation set out under section 48 (2)

commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both.

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

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

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

(5) A person subject to an obligation under this Act who intentionally or by gross negligence fails to comply with the obligation commits an administrative violation and is subject to administrative sanctions by the competent supervisory body.

(6) Where applicable, administrative proceedings may be carried out in parallel to criminal proceedings under subsections (1) to (3).”

Section 40 of Act 749 amended

19. The principal enactment is amended by the substitution for section 40 of

“Formulation and implementation of internal rules

40. (1) An accountable institution shall develop and implement policies, procedures and programmes to prevent money laundering, terrorism financing and financing of proliferation of weapons of mass destruction or any other serious offence in accordance with the requirements set out in this Act.

(2) The policies, procedures and programmes shall include

(a) internal policies, procedures and controls that fully comply with the obligations and any Regulations under this Act, including those in relation to

- (i) customer due diligence,
- (ii) politically exposed persons,
- (iii) record keeping,
- (iv) correspondent relationships,
- (v) special monitoring of transactions,
- (vi) reporting of transactions,
- (vii) wire transfers,
- (viii) risk management procedures concerning anti-money laundering, counter financing of terrorism and counter financing of proliferation of weapons of mass destruction or any other serious offence, and
- (ix) appropriate compliance management arrangements;

- (b) adequate screening procedures to ensure a high level of standards when hiring employees and during their employment;
 - (c) ongoing training for officials and employees to make them aware of the laws and regulations regarding money laundering, terrorism financing and financing of proliferation of weapons of mass destruction or any other serious offence to assist them in recognizing transactions and actions that may be linked to money laundering, terrorism financing, financing of proliferation of weapons of mass destruction or any other serious offence and instruct them in the procedures to be followed in such cases;
 - (d) policies and procedures to prevent the misuse of technological developments, including those related to electronic means of storing and transferring funds or value; and
 - (e) adequately resourced and independent audit arrangements to review, verify and test the level of compliance with and effectiveness of the measures taken in accordance with this Act.
- (3) An accountable institution shall communicate its internal policies, procedures and programmes to its employees.
- (4) An accountable institution shall, on request, make a copy of its internal rules available to
- (a) the Centre, and
 - (b) a supervisory body which performs regulatory or supervisory functions over that accountable institution.
- (5) An accountable institution shall require its foreign branches and majority-owned subsidiaries to implement the requirements of sections 23, 24 and 40 to the extent that domestic applicable laws and regulations of the host country permit.

(6) Where the laws of the country in which the branch or majority-owned subsidiary is situated prevent compliance with these obligations, the accountable institution shall advise its competent supervisory authority which may take appropriate steps to accomplish the purpose of this Act.

Section 41 of Act 749 amended

20. The principal enactment is amended by the substitution for section 41 of

“Training and monitoring for compliance

41. (1) An accountable institution shall

- (a) train its employees on an ongoing basis on the requirements of this Act and its internal policies, procedures and controls, as required under section 40, as well as on new developments on current techniques, methods and trends concerning money laundering, terrorism financing and financing of proliferation of weapons of mass destruction or any other serious offence; and
- (b) designate a compliance officer at management level to be responsible for the implementation of, and ongoing compliance with, this Act and any internal policies, procedures and programmes by the accountable institution and its employees.

(2) The compliance officer shall have ready access to books, records and employees of the accountable institution necessary to fulfill the responsibilities of the compliance officer.”

Section 48 of Act 749 amended

21. The principal enactment is amended by the substitution for section 48 of

“Oath of secrecy

48. (1) A person

- (a) appointed to an office,
- (b) appointed to act in an office, or
- (c) authorised to perform a function,

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

(2) A person specified under subsection (1) has a duty in respect of the Centre and is required to keep confidential any information obtained within the scope of this duty, during the pendency of the duty and after the cessation of the duty, except that the person may disclose the information

- (a) to enable the Centre to carry out its functions;
- (b) for the prevention or detection of an unlawful activity;
- (c) in connection with the discharge of an obligation under an international agreement;
- (d) to comply with a court order; or
- (e) as otherwise provided in this Act and any Regulations under this Act.”

Section 51 of Act 749 amended

22. The principal enactment is amended in section 51 by

- (a) the substitution for the definition for “account” of
“ “account” means any arrangement by which an accountable institution
 - (a) accepts deposits of funds or other property;
 - (b) allows withdrawals or transfers of funds or other property, or
 - (c) pays negotiable or transferable instruments or orders drawn on, or collects negotiable or transferable instruments or payment orders on behalf of another person, or
 - (d) supplies a facility for a safety deposit box or any other form of safe deposit”;
- (b) the insertion after “bank” of
“ “beneficial owner” means
 - (a) a natural person who ultimately owns or controls the right to or benefits from property, including the person on whose behalf a transaction is conducted; or
 - (b) a person who exercises ultimate effective control over a legal person or legal arrangement”;

- (c) the substitution for the definition for “business relationship” of
 - “ “business relationship” means a business, professional or commercial relationship which is connected with the professional activities of an accountable institution and which is expected, at the time when the contact is established, to have an element of duration”;
- (d) the insertion after “Chief Executive” of
 - “ “competent authority” includes
 - (a) the Bank of Ghana;
 - (b) the National Insurance Commission;
 - (c) the Securities and Exchange Commission;
 - (d) the Ghana Revenue Authority;
 - (e) the Ghana Immigration Service;
 - (f) the Ghana Real Estate Developers’ Association;
 - (g) the General Legal Council;
 - (h) the Institute of Chartered Accountants;
 - (i) the Gaming Commission;
 - (j) the Precious Minerals and Marketing Company;
 - (k) the Financial Intelligence Centre;
 - (l) the Narcotics Control Board;
 - (m) the Economic and Organised Crime Office;
 - (n) the Ghana Police Service;
 - (o) the National Security Council Secretariat;
 - (p) the Lands Commission; and
 - (q) any other institution that the Minister may determine.”
- (e) the insertion after “computer system” of
 - “ “correspondent relationship” means the provision of banking, payment and other services by one bank to another bank to enable that other bank to provide services and products to its customers”;
- (f) the substitution for the definition for “currency” of
 - “ “currency” means
 - (a) coins, notes or other money of the Republic or of another country that is designated as legal tender or circulated as or is customarily used and accepted as a medium of exchange,

- (b) travellers' cheques or other financial instruments denominated in the currency of Ghana or in foreign currency, and
- (c) any right to receive coins, notes or other money in respect of a credit or balance with a financial institution or a non-resident";
- (g) the insertion after "Court" of
 - " "customer" means
 - (a) the person for whom a transaction or account is arranged, opened or undertaken;
 - (b) a signatory to a transaction or account;
 - (c) a person to whom an account or rights or obligations under a transaction have been assigned or transferred;
 - (d) a person who is authorised to conduct a transaction or control an account;
 - (e) a person who attempts to take any of the actions referred to above; or
 - (f) any other person prescribed by Regulations under this Act";
- (h) the insertion after "data" of
 - " "designated non-financial businesses and professions mean
 - (a) casinos;
 - (b) real estate agents;
 - (c) dealers in precious metals;
 - (d) dealers in precious stones;
 - (e) lawyers, notaries, other independent legal professionals and accountants who are sole practitioners, partners or employed professionals within professional firms but who are not internal professionals that are employees of other types of businesses, or professionals working for government agencies, who may already be subject to anti-money laundering and counter financing of terrorism measures; or

- (f) trust and company service providers which refers to all persons or businesses that are not covered elsewhere under the Financial Action Task Force Recommendations and which as a business, provide any of the following services to third parties:
- (i) acting as a formation agent of legal persons;
 - (ii) 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;
 - (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - (iv) acting as or arranging for another person to act as a trustee of an express trust or performing the equivalent function for another form of legal arrangement; or
 - (v) acting as or arranging for another person to act as a nominee shareholder for another person;"
- (i) the insertion after "notary" of
- " "nominee" in relation to a nominee trust, means
- (a) a person who, whether paid or unpaid, holds property for a beneficiary whose identity may or may not be known at the time of the trust even though that beneficiary retains the power to direct the actions of the nominee with respect to the management of the trust property; or
 - (b) a person or a group of persons who holds title to real property under a written declaration of trust, where the person or group declares that the person or group will hold property acquired by that person or group as trustees for the

benefit of one undisclosed beneficiary or more undisclosed beneficiaries, even though the beneficiary or beneficiaries retain the power to direct the actions of the nominee with respect to the management of the trust property.”

- (j) the insertion of a new definition after “order” of
“politically exposed person” includes
 - (a) a person who is or has been entrusted with a prominent public function in this country or a foreign country, including
 - (i) a Head of State or of government,
 - (ii) a senior political, government, judicial or military official;
 - (iii) a person who is or has been an executive in a foreign country of a state owned company; and
 - (b) a person who is or has been a senior political party official in a foreign country and includes any immediate family members or close associates of such persons”;
- (k) the substitution for the definition for “proceeds” of
“proceeds” means any property or economic advantage derived from or obtained directly or indirectly through unlawful activity, and includes economic gains from the property and property converted or transformed, in full or in part, into other property”;
- (l) the substitution for the definition for “property” of
“property” includes assets of any kind situated in this country or elsewhere, regardless of its value, whether corporeal or incorporeal, movable or immovable, tangible or intangible, legal documents and instruments evidencing title to or interest in such 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 such assets”;
- (m) the repeal of the definition of “suspicious”;
- (n) the insertion after “supervisory body” of

“suspicious transaction” means a transaction that appears to involve or to be connected to unlawful activity;

“terrorism financing” means the collection or provision or attempted collection or provision, by any means, directly or indirectly, of funds with the intention that they should be used or in the knowledge that they are to be used in whole or in part to carry out a terrorist act;

“terrorist” means any natural person who

- (a) commits or attempts to commit a terrorist act by any means, directly or indirectly;
- (b) participates as an accomplice in a terrorist act;
- (c) organises or directs others to commit a terrorist act; or
- (d) contributes to the commission of a terrorist act by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;

“terrorist act” means

- (a) any act which constitutes an offence within the scope of, and as defined in one of the treaties listed in the annex to the 1999 International Convention for the Suppression of the Financing of Terrorism, successor Resolutions and other relevant Resolutions, or
- (b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act;

“terrorist organisation” means any group of terrorists that

- (a) commits or attempts to commit a terrorist act by any means, directly or indirectly;
- (b) participates as an accomplice in a terrorist act;
- (c) organises or directs others to commit a terrorist act; or
- (d) contributes to the commission of a terrorist act by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;

“terrorist property” means proceeds from the commission of a terrorist act; property which has been, is being or is intended to be provided or used to commit a terrorist act; property which has been, is being, or is intended to be provided to or used by a terrorist or a terrorist organisation; property owned or controlled by or on behalf of, or otherwise related or linked to a terrorist, a terrorist organisation or those who finance terrorism; or property which has been collected for the purpose of providing support to a terrorist or a terrorist organisation or funding a terrorist act.”

(o) the substitution for the definition for “transaction” of

“ “transaction” means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, or their arrangement and includes

- (a) the opening of an account;
- (b) any deposit, withdrawal, exchange or transfer of funds in any currency whether in cash or by cheque, payment order or other instrument or by electronic or other non-physical means;
- (c) the use of a safety deposit box or any other form of safe deposit;
- (d) entering into any fiduciary relationship;

- (d) any payment made or received in satisfaction, in whole or in part, of any contractual or other legal obligation;
 - (f) any payment made in respect of a lottery, bet or other game of chance;
 - (g) establishing or creating a legal person or legal arrangement; and
 - (h) any other transaction prescribed by Regulations made under this Act.
- (p) the substitution for the definition for “trust and company service providers” of
- “ “ trust and company service providers” means professional companies or unpaid persons who hold assets in a trust fund separate from their own assets and any person in a professional capacity who administers a trust or acts as a trustee but does not include a person who provides trust service as a nominee”;
- (q) the insertion after “trust and company service providers” of
- “United Nations Consolidated list” means the list of persons and entities designated under United Nations sanctions regimes relating to terrorism and the financing of the proliferation of weapons of mass destruction;
- “ “weapon of mass destruction” means a weapon that can cause death or significant harm to members of the public, to property or to the environment; and
- “wire transfer” means any transaction carried out on behalf of an account holder or any other person that orders that transaction, through an accountable institution by electronic means with a view to make a sum of money available to a beneficiary person at another accountable institution.

First Schedule to Act 749 amended

23. The principal enactment is amended by the substitution for the First Schedule of the following new Schedule:

“First Schedule

(section 21)

Accountable institution includes:

- (a) an entity or person that conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - (i) accepting deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft, orders or by any other means;
 - (ii) financing, whether in whole or in part or by way of short, medium or long term loans or advances of trade, industry, commerce or agriculture;
 - (iii) issuing and administration of means of payment including credit cards, travellers’ cheques, bank drafts and other financial instruments;
 - (iv) providing services in respect of financial guarantees and commitments;
 - (v) trading in foreign exchange, currency market instruments, transferable securities, or commodity futures;
 - (vi) providing services in respect of securities portfolio management and advice concerned with the portfolio management;
 - (vii) dealing in shares, stocks, bonds or other securities;
 - (viii) safekeeping and administration of currency or liquid securities on behalf of other persons;
 - (ix) investing, administering or managing funds or money on behalf of other persons;
 - (x) leasing, letting or delivering goods to a hirer under a hire- purchase agreement;
 - (xi) the collection of money or acceptance of employer contributions and payment from these funds of legitimate claims for retirement benefits;

- (xii) changing of money and currency;
- (xiii) any other business activities that the Bank of Ghana may prescribe or recognise as being part of banking business;
- (b) auctioneers;
- (c) lawyers, notaries or accountants when they prepare for, engage in, or carry out a transaction for a client concerning any of the following activities:
 - (i) buying and selling of real estate;
 - (ii) managing of client money, securities or other assets;
 - (iii) managing a bank, savings or securities account;
 - (iv) organising contributions for the creation, operation or management of a legal person;
 - (v) creating, operating or managing a legal person or arrangement, or buying and selling of a business entity;
- (d) religious bodies;
- (e) non-governmental organisations;
- (f) a person whose business or a principal part of whose business consists of providing financial services that involve the remittance or exchange of funds;
- (g) operators of games of chance;
- (h) a company carrying on insurance business within the meaning of the Insurance Act, 2006 (Act 724);
- (i) a real estate company or agent, only to the extent that the real estate company or agent is involved in transactions for a client concerning the buying and selling of real estate;
- (j) dealers in precious metals and precious stones;
- (k) dealers in motor vehicles;
- (l) trust and company service providers which, as a business, prepare for or carry out transactions on behalf of a customer in relation to any of the following services to a third party:
 - (i) acting as a formation, registration or management agent of a legal person;
 - (ii) acting as or arranging for another person to act as a director or secretary of a company or a partner of a partnership, or to hold a similar position in relation to a legal person;

- (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - (iv) acting as, or arranging for another person to act as a trustee of an express trust or a similar arrangement; and
 - (v) acting as or arranging for another person to act as a nominee shareholder for another person; and
- (m) nominees.

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