

# ICPAK FORENSIC AUDIT SEMINAR

*November 2017*



# ***Fraud proceeds investigation, money laundering and corruption***

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- 1. Introduction***
- 2. Understanding the regulatory frame work***
- 3. The entities mandated with the investigations***
- 4. The investigation***
- 5. Case Study***
- 6. As entities what must we do***

## ***Understanding Money Laundering - Introduction***

Money Laundering: *Money laundering* is the process of making illegally-gained proceeds (*dirty money*) appear legal (*clean*).



What are the  
new money  
laundering  
tactics

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## *Understanding Money Laundering – the tactics*

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### Money laundering tactics:

- Investing in a legitimate business locally and abroad
- Smurfing- breaking down large amounts of money to small undetectable amounts
- Increased use of internet banking, -online banking institutions, anonymous payment services, peer to peer transfers using mobile phones services
- Investing in valuable metals like Gold
- The use of virtual currencies- Bitcoins
- the use of proxy servers and anonymizing software
- Crypto currencies- While not totally anonymous, these forms of currencies are increasingly being used in currency blackmailing schemes, drug trade and other criminal activities due to their anonymity compared to other forms of currency

## *Understanding Money Laundering – the tactics*

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Areas which attract Money Launderers;

- Private sector including banks;
- Businesses requiring huge cash transactions e.g. motor vehicles;
- International banking- offshore accounts
- Forex bureaus-low commissions;
- Nairobi stock exchange
- Government bonds/Treasury Bills
- Land and real estate
- Horticulture and floriculture

## ***What are the regulations in Kenya??***

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Some of the regulations include;

- Prevention of Terrorism Act and regulations 2013;
- Penal Code Cap 63;
- The Proceeds of Crime and Anti-Laundering Act 2009 (POCAMLA 2009);
- The Central Bank Circular no. 12 of 2015;
  - Pushed for compliance with the regulations by both banks and other finance institutions
  - Report all transactions above USD 10,000 or face penalties
  - Individuals and corporates found guilty can be fined to the tune of KSH 5 million and KSH 25 million respectively.
  - Non financial institutions including individuals, local and foreign companies and NGOs must declare and comply to the act

As such, businesses in turn will be faced with the administrative burden of greater compliance scrutiny regarding their own operations and customers.

## *What are the regulations in Kenya??*

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Some of the key regulations Contd;

- POCAMLA 2009 aligned Kenya's compliance to UK's Anti bribery act and US Foreign corrupt practises Act
- There were eminent compliance gaps in the act which led to the signing of the POCAMLA 2017. Some key changes were
  - that “designated non-financial businesses or professions” extends to casinos, real estate agencies, those dealing in precious metals and stones, accountants, non-governmental organisations and any business or profession that the Minister of Finance, on the advice of the FRC, deems vulnerable to money laundering;
  - The act also restated its application to not only money laundering violations but also corruption, fraud, sanction violations and tax evasion; and
  - Financial Reporting Centre was empowered to impose civil penalties against both legal personalities/entities and juridical persons who defy the legislation, as well as to request the suspension or revocation of a licence of an institution or its employees for violations;

## *How are investigations carried out*

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The entities entrusted with the investigations include;

- The business or entity by itself;
- The sector regulators e.g The Kenya Bankers, Insurance Revenue Authority;
- Central Bank of Kenya;
- Permanent Secretary- National Treasury;
- The office of the Attorney General;
- National Police Service;
- National Intelligence Service;
- Asset Recovery Services;
- And other persons as appointed by the minister representing the private sector

These together form the Anti Money Laundering advisory Board



## *How are investigations carried out*

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The entities continued;

- ❑ The Anti Money Laundering Advisory Board – formed to advise the Financial Reporting Centre;
- ❑ The Financial Reporting Centre (FRC) – identifies the proceeds of crime and the combating of money laundering;
- ❑ Asset Recovery Agency- received reports from FRC and executes, they are semi autonomous but report to the office of the Attorney General

## *The case study*

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Questions to answer.

1. What happened?
2. What tactics were used?
3. How would we flag the acts if we were in charge?

## *So what next*

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- Carry out proper independent audits
- Have policies and procedures that safeguard the entity from ML practises
- Carry out class room training if need be for staff and stake holders
- Carry out frequent risk assessments on all the business processes
- Carry out due dilligence on Politically Exposed Persons
- Listen out and follow up with regulatory authority updates
- Develop and institutionalise Know your Customer procedures

*The End*

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