



# REGIONAL SENSITIZATION FORUM – WESTERN BRANCH

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*Milimani Resort, Kakamega*

## CUSTOMER DUE DILIGENCE

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Government of Kenya  
**FRC**



**Anti-Money  
Laundering Guide  
for Accountants in  
Kenya**

# OUTLINE



## Why CDD?

Why is CDD important?  
When should CDD be performed?



## Types of CDD

Why and when to perform Standard versus Enhanced CDD



## How

How CDD should be applied and how to managed PEPs



# Customer Due Diligence (CDD)

# WHY IS CDD IMPORTANT



- To know more about its customers and be able to prevent money laundering abuses
- Criminals seek to hide their true identity by using complex and opaque ownership structures.
- To know and understand a client's identity and business activities so that any ML/TF risks can be properly managed. *See POCAMLA Regulation 12*
- To verify the natural person (a human being as opposed to a legal person) behind the entity who is the beneficial owner

# WHEN SHOULD CDD BE PERFORMED



- POCAMLA Reg.12
- When establishing initial business relations;
- When undertaking occasional or one-off transactions;
- When there is cause to be suspicious; and
- When there is doubt about veracity or adequacy of previously obtained customer information

# MAIN ELEMENTS OF A SOUND CDD



## Customer identification

- Full identification of the customer ranging from the source of funds and nature of business.

## Customer profiles

- Anticipated Vs actual account activity.

## Customer acceptance / continuance

- Consent to use Companys products and services

## Risk rating

- Assessing and grading customers depending on the risks they pose after accepting the business relationship.

## Monitoring

- Involves continuous account, transaction and advanced media monitoring for any risks

## Investigation

- Arises when the institution detects unusual account patterns from what is expected

## Documentation

- This is proof that investigation did happen and findings were maintained

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## Standard Due Diligence (SDD)

- Documentary verification
- Non- Documentary verification
- Eligible introducer

## Enhanced Due Diligence

# ENHANCED DUE DILIGENCE (EDD)



Obtaining further information that may assist in establishing the customer identity.

Apply extra measure to verify the documents supplied.

Obtain senior management approval for the new business relationship or transaction

Establish the person source of funds

Carry out on-going monitoring of the business relationship.

# ENHANCED DUE DILIGENCE (EDD)



## Customer Risk

- Foreign customers.
- Companies with nominee shareholders or in bearer shares.
- Complex company ownership structures.
- Cash intensive business as supermarkets and car wash and restaurants.
- Customers represented gatekeepers such as lawyers and secretaries.
- Sudden change of the client transacting pattern such as large transfers to and from tax havens or high-risk jurisdictions with no apparent reason.

## Geographical risks

- Countries subject to the United Nations, OFAC, UKHMT and other major sanctions and trade embargoes.
- Countries known or suspected to finance Terrorist activities per the UN and US Government lists.
- Countries known to have weak MLTF laws as per FATF mutual evaluation reports, EU, UN, USA and other major entities.
- Countries noted to be tax havens.
- FATF list of high-risk jurisdictions subject to a call for action (black list) and jurisdictions under increased monitoring (grey list).

## Product/Service risks

- Non-face to face business transactions.
- Private banking transactions
- Payments received from unidentifiable third parties.

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# POLITICALLY EXPOSED PERSONS (PEPs)



Examples of high risk persons are Politically Exposed Persons (PEP's);

- A PEP is a person who has been entrusted with a prominent public function in a country/jurisdiction including:
- Members of the Cabinet; Senior executives of state owned corporations; Important political party officials;
- Senior military officials and other members of the disciplined forces; Members of the Judiciary; Senior State Officers; Senior Official of an International Organization; and any of their immediate family member or close business associate;

Other high risk clients are: money and value transfer services e.g forex bureaus, gold/jewellery businesses;

# WHAT MUST YOU KNOW?

## IDENTIFY & VERIFY (s.45)

YOUR OBLIGATIONS



- **YOU MAY NOT** accept client money without identifying and verifying:
  - ✓ The client
  - ✓ The person(s) representing the client
  - ✓ The person for whom the client may be acting
- **The KYC process differs depending on the type of client:**
  - ✓ Natural person.
  - ✓ Legal person.
  - ✓ Trusts
  - ✓ Chama
  - ✓ Source of income: Employed, Self-employed, Investor, Business Owner.
  - ✓ You should not allow any trading before potential clients have been identified & verified

The "Know  
Your Client"  
process

# EXAMPLES



An investment bank is asked to participate in an equity finance offering to XYZ company which is traded on NSE and US exchanges. Facts identified during due diligence:

- Character” of owner in question
- Company does business in an OFAC sanctioned country
- Accusations of human rights abuses
- Previously paid multi-million dollar penalty to US government

## **Questions:**

- Do you do business with them? If so, why? If not, why not?
- What are the roles of Compliance/Audit? The business?
- Would your answer change if the Bank were acting in an “advisory” capacity?

# Do **not** do business with known terrorists

YOUR OBLIGATIONS



- It is a criminal offence to finance terrorist activities or terrorists:
  - S.42 (2) report any property or account that is owned or controlled by or on behalf of a terrorist group.
  - S. 42 (3) Report any transaction you believe is meant to facilitate commission of a terrorist act.
- You must be vigilant especially in respect of dealing with international organizations
- Scan your client databases regularly against terror lists
- No civil or criminal proceedings shall lie against any person in respect of a disclosure or report made in good faith

# Thank You!





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