

INTERNAL DIRECTIVE ON ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM

Introduction

1. In executing its mandate, Africa CDC complies with the African Union Anti-Fraud and Corruption Policy adopted by the Executive Council through the decision EX.CL/864(XXVI)I, Annex 5. The Policy confirms (paragraph 1) that the AU is committed to preventing: i) fraud and corruption perpetrated by AU staff members and non-staff employees; ii) fraud perpetrated against AU by cooperating partners, suppliers or other third parties; and iii) any collusive practices among any such parties. The Policy notes (paragraph 6) that it will cover fraudulent, corrupt, collusive, coercive and obstructive practices as well as explicit provisions on other international prohibitive practices such money laundering and terrorist financing in its operation.

Purpose

2. The purpose of this Internal Directive is to support Africa CDC's commitment to the African Union Anti-Fraud and Corruption Policy, specifically with regard to combating money laundering and terrorist financing (AML-CFT), by setting out the applicable safeguards and measures.

Definitions

Money laundering

3. The African Union Convention on Preventing and Combatting Corruption refers (Article 6) to the laundering of proceeds of corruption (ML) as:
 - a) The conversion, transfer, or disposal of property, knowing that such property is the proceeds of corruption or related offences for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the offence to evade the legal consequences of his or her action.
 - b) The concealment or disguise of the true nature, source, location, disposition, movement, or ownership of or rights with respect to property which is the proceeds of corruption or related offences.
 - c) The acquisition, possession or use of property with the knowledge at the time of receipt, that such property is the proceeds of corruption or related offences;

Terrorism

4. The OAU Convention on Combating Terrorism¹ (Article 1) defines terrorism as:
 - a) any act which is a violation of the criminal laws of a State Party, and which may endanger the life, physical integrity, or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:
 - (i) intimidate, put in fear, force, coerce or induce any government, body, institution, the public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or
 - (ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
 - (iii) create general insurrection in a State.
 - b) Any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in paragraph (a) (i) to (iii).
5. For the purpose of this Directive, the Financing of Terrorism or Terrorist Financing (FT) is defined as engaging with, contracting or providing support to individuals or entities that appear on the African Union Peace and Security Council list of persons, groups and entities involved in terrorist acts and the [United Nations Security Council Consolidated Sanctions List](#).

Scope

Applicable counterparties

6. This Directive applies to all Africa CDC activities and to the following situations:
 - a) vendor relationships in a procurement process (individuals and entities, as well as owners/controllers of interests of entities);
 - b) non-governmental recipients of funding from Africa CDC in a programming context (including civil society organizations and private entities including owners/controllers of interests of private entities); and
 - c) non-governmental entities providing funding directly to Africa CDC, except excluded entities as listed in paragraph 7 below.

¹ [OAU Convention on the Prevention and Combating of Terrorism | African Union](#)

Excluded entities.

7. Applying a risk-based approach, this Directive excludes the following funding or funds recipient entities, placing reasonable reliance on their own AML-CFT laws, regulations, policies and processes:
 - a) African and non-African governmental authorities, which apply their own sovereign laws, regulations and processes, and applicable international laws regarding AML-CFT.
 - b) International or Regional Financial Institutions and Financial Intermediary Funds under their trusteeship; African Union or United Nations Funds and Programmes and Specialized Agencies; African Regional Economic Community bodies, and other Inter-Governmental Organizations which apply their own AML-CFT policies.
 - c) Philanthropic Foundations providing funding to Africa CDC and which have an established relationship with Africa CDC at the time of issuance of this Directive and are therefore considered low risk in terms of ML.

Safeguards and Measures

8. Africa CDC applies preventive, detective and response measures to fulfill the requirements of the African Union Anti-Fraud and Corruption Policy from an AML-CFT perspective.

Due Diligence

9. Risks related to ML and/or FT must be identified and considered in the formulation, design and implementation of programming activities and engagements. This may require an assessment to consider how easily acts of ML and/or FT might occur and be replicated in Africa CDC funded activities. Informed decisions can then be made on additional mitigating actions, including strengthened controls.
10. With respect to procurement of goods, works and services, Africa CDC applies the African Union Procurement Manual, which requires that the award of significant value contracts is preceded by a process of matching Africa CDC's requirements with the capacity of entities and individuals to effectively meet these requirements. This includes prequalification and post-qualification checks as set out in Sections 4.3.3 and 5.10. Except in certain controlled situations this matching is done under competitive conditions apply. Section 5.1.4 includes bid exclusion criteria which includes applicants subject to a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the AU's financial interests. The bid evaluation process includes, in the preliminary examination under Section 5.7, checks of identity and juridical status of bidding entities. Background checks are undertaken in-depth, as set out in Section 5.10.1, during the post-qualification phase.

11. With respect to grants to Implementing Partners, Africa CDC applies the provisions of the African Union Grants Management Manual, in particular the eligibility and exclusion criteria (Sections 3.3.1.1 and 3.3.1.2) to be considered in any selection of Partner. Determining eligibility includes confirming the applicant's legal and administrative status. As with procurement, exclusion criteria include applicants subject to a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the AU's financial interests.
12. With respect to engagements with new funding partners subject to this Directive, the Partnership and Grant Management Division undertakes background checks to assess ML risks. In general, new funding partnerships are established with entities which have a track record of philanthropic or development engagement and have not been subject to a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the AU's financial interests.
13. As part of the due diligence checks required for procurement, grants, and new partnerships, checks will be made against the African Union Peace and Security Council list of persons, groups and entities involved in terrorist acts and the United Nations Security Council Consolidated Sanctions List.
14. All material donor, partnership, programming, and contractual arrangements, whether for single or multiple transactions and whether for short- or long-term engagement must be established on the appropriate legal basis and documented in the appropriate written legal instrument between the parties. No payments may be authorized unless such written legal instrument is in place.

(a) Monitoring

15. All Africa CDC arrangements with Counterparties shall be monitored and any newly acquired information relevant the AML/CFT risk assessment of such Counterparty will be reported to the Finance Division for consideration. Suspicions and/or allegations of ML and/or FT will be reported to the Office of Internal Oversight.
16. Where program actions require Implementing Partners to pass Africa CDC-provided funds to third parties, either sub-grantees or beneficiaries, ML and FT risks will be assessed. Arrangements proportionate to the risks will be agreed with the Implementing Partners so as to apply the principles of this Directive in their processes of engagement with these third parties.
17. Contractor and Implementing Partner payments are made in accordance with the African Union Financial Rules and the Accounting Policies and Procedures Manual. For procurement payments, this includes confirmation of the receipt of the requested goods, works and services prior to payment; for grant payments confirmation of the eligibility of the payments

under the grant agreements; and controls to ensure that payments are transferred to the authorized bank accounts of the individual or entity.

18. Africa CDC will also cooperate with the AML-CFT measures applied by its financial institutions, in accordance with the national laws and regulations applying to those institutions.

(b) Investigating and sanctioning

19. All suspicions and/or allegations of ML and/or FT are taken seriously and will be reviewed by the Africa CDC Finance Directorate in consultation with the Legal and Partnerships Offices, and the relevant financial institution as necessary. Africa CDC will assist its financial institutions comply with host country AML-CFT reporting requirements.
20. Africa CDC will terminate the existing Counterparty relationship with Counterparties who do not cooperate with its AML and CFT actions, including cooperating with investigations of allegations or indications of ML or FT, or who have been found as a result of a review of the transactions that they have engaged in ML or FT.

Administration of the Directive

21. Africa CDC management and staff are responsible for implementing AML-CFT safeguards and measures in accordance with their responsibilities under the African Union Procurement Manual, Grants Management Manual and Financial Policies and Procedures Manual.
22. The Finance and Administration Divisions of Africa CDC will provide advice, as needed, to Africa CDC programme and operations units on the implementation of this Directive.
23. From time to time, the Finance and Administrative Divisions will review this Directive, considering implementation experience and any future developments in the African Union Financial Rules and implementing Manuals, and any specific AML-CFT policies and procedures adopted in future by the African Union Commission, and where necessary propose revisions to the Director General.

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