

Laid on table by Hon. Musasizi Henry
on 14/03/2017
Amc



PARLIAMENT OF UGANDA

**REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND
ECONOMIC DEVELOPMENT ON THE ANTI-MONEY LAUNDERING
(AMENDMENT) BILL, 2016**

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OFFICE OF THE CLERK TO PARLIAMENT
March 2017

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**REPORT OF COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT
ON THE ANTI-MONEY LAUNDERING (AMENDMENT) BILL, 2016**

1.0 Introduction

The Anti-Money Laundering (Amendment) Bill, 2016 was reintroduced in the House on 15th November 2016, and referred to the Committee on Finance, Planning and Economic Development in accordance with Rule 118 of the Rules of Procedure of Parliament.

2.0 Object of the Bill

The object of the Bill is to amend the Anti-Money Laundering Act, 2013, to harmonise the definitions used in the Act; to provide for the carrying out of risk assessments by accountable persons; to provide for procedures relating to suspicious transactions; to harmonise record keeping requirements and exchange of information obligations with international practice; to provide for the establishment of the Uganda Anti-Money Laundering Committee; and for related matters.

3.0 Methodology

The Committee held meetings and received memoranda from the following:

- (i) Ministry of Finance, Planning and Economic Development;
- (ii) Ministry of Internal Affairs;
- (iii) Financial Intelligence Authority;
- (iv) Bank of Uganda; and
- (v) Uganda Bankers Association

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4.0 Observations by members

The Committee observed that:

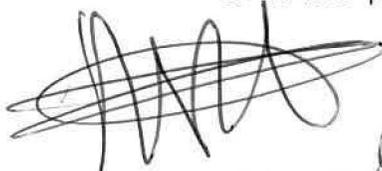
- (i) The Anti-Money Laundering Act was enacted in 2013 following weaknesses highlighted in a report by the World Bank in Uganda's anti-money laundering and combating financing of terrorism laws, systems and structures and made recommendations on the actions that Government should implement to address the weaknesses;

The Anti-Money Laundering Act, 2013 did not capture developments resulting from the revision of the Financial Action Task Force recommendations in 2012, which therefore rendered the Act non-compliant with the international standards on anti-money laundering. The bill therefore seeks to codify these recommendations;

- (ii) The Bill seeks to establish the Uganda Anti-Money Laundering Committee as a national multi-disciplinary committee to comprise twenty members appointed by the Minister; being senior representatives of relevant disciplines from the legal, judicial, financial and law enforcement sectors of Uganda and being persons with knowledge, experience or expertise in matters relating to money laundering and combating financing of terrorism and related matters;

- (iii) One of the action areas in the International Cooperation Review Group (ICRG) process is for Uganda to ensure that the Financial Intelligence Authority has operational autonomy and independence. The Eastern and southern Anti-Money Laundering Group (ESAAMLG) high level mission to Uganda in 2014 in their report expressed concern over the powers given to the Board under the Anti-Money laundering















1. Clause 1 of the bill is amended-

- (i) by inserting immediately after paragraph (b), the following-
""committee" means the Uganda Anti-Money Laundering committee established under Part VIII"
- (ii) "Competent authorities" means all public authorities with designated responsibilities for combating money laundering and or terrorist financing"
- (iii) By inserting immediately after paragraph (c), the following-
"Financial group" means a group that consists of a parent company or of any other type of legal person exercising control and coordinating functions over the rest of the group for the application of group supervision under the Core Principles, together with branches and/or subsidiaries that are subject to Anti Money Laundering or Countering the Financing of Terrorism policies and procedures at the group level;"

""international organization" means an entity established by formal political agreement between a member State that has the status of an international treaty; its existence is recognised by law in its member country; and it is not treated as resident institutional units of the countries in which they are located"
- (iv) In paragraph (f) by deleting the words "family member or close associate" appearing in paragraph (b) and substituting the words "related person"
- (v) By inserting a new paragraph (h) to read as follows-
"(h) by inserting immediately after the definition of "requesting state" the following-
""related person" means an associate or close relative of the person"



Justification

1. To provide for the definition of committee to mean the multi-disciplinary committee of the Authority established under Part VIII;
2. To provide for the definition of international organization;
3. To use the definition of 'related person' used in the Financial Institutions Act, 2004 which includes an associate or a close relative of the person.

2. Clause 2 is amended-

- (i) In sub clause (2) (b) by deleting the words "two thousand" and substituting the words "five thousand"
- (ii) In sub clause (3)(a) by deleting the words "identify and"
- (iii) In sub clause (4)(a) by deleting the words "voters cards" appearing in the fourth line and substituting the words "national identification card"
- (iv) In sub clause (7) (c) by deleting the word "higher" appearing in the last line of the clause and substituting the word "high"
- (v) By inserting a new sub clause (e) immediately after sub clause (8) (d) to read as follows-

"(e) obtain written approval from the Central Bank before establishing a new correspondent financial institution relationship;

- (vi) In sub clause (29)-
 - (a) by deleting the words "three thousand four hundred" in the second line and substituting the words "five thousand"; and
 - (b) by deleting the words "two thousand two hundred" in the third line and substituting the words "five thousand"

Justification

1. The word verify is more comprehensive and appropriate to use. This therefore makes the word identify redundant. Verification entails obtaining details for identification.

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2. The national identification card is more legitimate than a voter's card and as such should be used for identification purposes.
 3. To require the approval of the Central Bank before establishing new correspondences with financial institutions in regard to cross border correspondent banking.
 4. To increase the amount on which the accountable persons are required to take reasonable measures aware that Uganda runs a cash economy.
3. Clause 4 is amended in sub clause (3) by deleting the word "five" and substituting the word "ten"

Justification

Cognisant of the seriousness of the offences for which the Anti-Money Laundering Act, 2013 was enacted, there is need to have these records in custody for a period of ten years and to be consistent with the Financial Institutions Act, 2004.

4. Clause 7 is amended in sub clause (4) by deleting the word "financial" appearing in the fourth line of the clause.

Justification

The word that is defined in the bill is "bearer negotiable instruments" and not "bearer negotiable financial instruments"

5. Amendment of section 21 of the principal Act.
Section 21 of the principal Act is amended by adding immediately after paragraph (q), the following new paragraph-

"(r) to supervise, monitor and ensure compliance of this Act by all accountable persons in consultation with respective regulatory authorities."

Justification

To bestow the authority the mandate to supervise, monitor and ensure compliance of the Act by all accountable persons.

The bottom of the page contains several handwritten signatures and initials in black ink. On the left, there is a signature that appears to be 'M. O. O'. In the center, there is a large, stylized signature that looks like 'L. M. O.'. To the right of this, there are several other signatures, including one that looks like 'S. M. O.', another that looks like 'B. M. O.', and a signature that looks like 'B. M. O.'. There are also some initials and marks, including 'oh' at the bottom right.

6. Repeal of section 23 of the principal Act

Section 23 of the principal Act is repealed and all references to the word "board" in the principal Act are deleted and substituted with the word "committee".

Justification

As a consequence of the establishment of the Uganda anti-money laundering committee, the board is repealed. The existence of both the board and the committee within the Authority results in duplication of roles and undermines the independence of the Authority.

7. Repeal of section 24 of the principal Act

Section 24 of the principal Act is repealed.

Justification

Consequential to the repeal of the establishment of the board under section 24 of the principal Act.

8. Repeal of section 25 of the principal Act

Section 25 of the principal Act is repealed.

Justification

Consequential to the repeal of the establishment of the board under section 24 of the principal Act.

9. Repeal of section 26 of the principal Act

Section 26 of the principal Act is repealed.

Justification

Consequential to the repeal of the establishment of the board under section 24 of the principal Act.

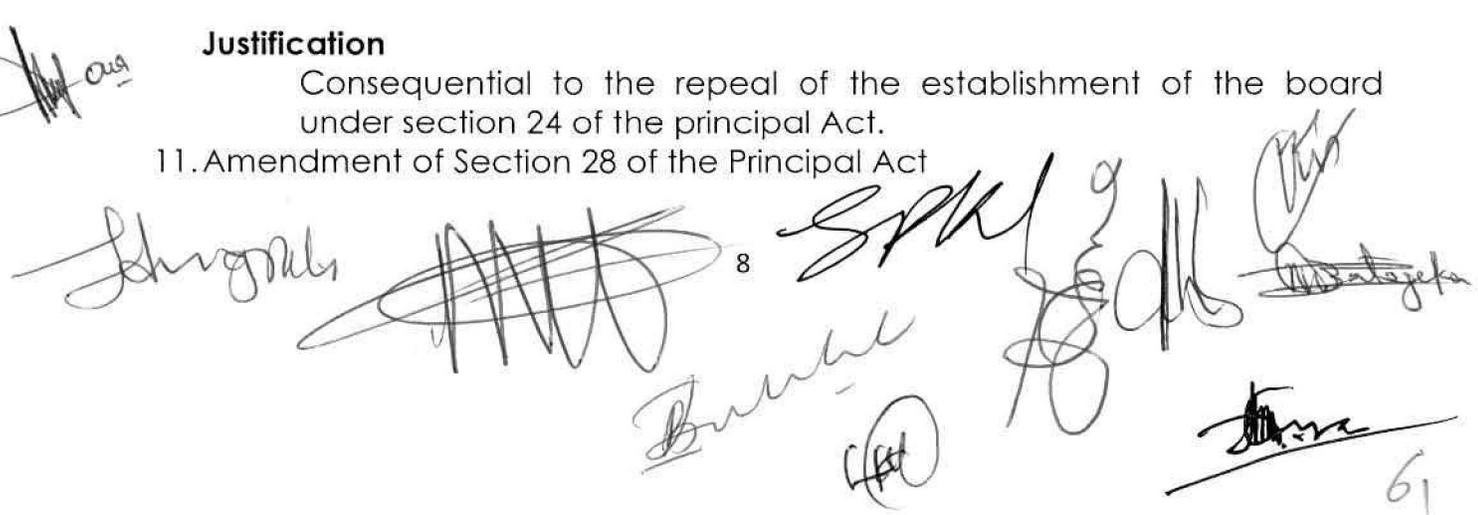
10. Repeal of section 27 of the principal Act

Section 27 of the principal Act is repealed.

Justification

Consequential to the repeal of the establishment of the board under section 24 of the principal Act.

11. Amendment of Section 28 of the Principal Act



Section 28 of the Principal Act is amended by repealing sub-section (1) and substituting the following:

"(1) the Authority shall have an Executive Director who shall be appointed by the Minister with the approval of Parliament."

12. Replacement of section 29 of the principal Act

The principal Act is amended by substituting for section 29 the following-

"29. Functions of the Executive Director

(1) The Executive Director-

(a) shall be the Chief Executive Officer of the Authority and the accounting officer of the Authority;

(b) is responsible for the performance by the Authority of its functions;

(c) takes all decisions of the Authority in the exercise of his or her powers and the performance of its functions;

(d) shall appoint, suspend and remove staff of the Authority in accordance with the Human Resource Policy Manual of the Authority.

(2) As the chief executive officer, the Executive Director is responsible for-

(a) the formation and development of an efficient and performance driven administration;

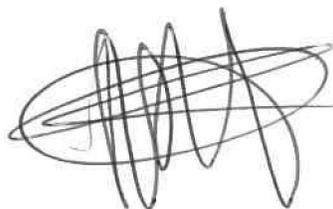
(d) the management of the administration; and

(c) the control and maintenance of discipline of staff.

(3) The Executive Director shall perform the functions of his or her office subject to the policy framework which may be prescribed by the committee.

13. Replacement of section 30 of the principal Act.

The principal Act is amended by substituting for section 30 the following-



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"30. Removal or suspension of Executive Director from Office

The Minister may suspend or remove the Executive Director from Office for misconduct, incapacity or incompetence."

14. Amendment of section 32 of the principal Act

Section 32 of the principal Act is amended by substituting for sub section (1) the following-

"(1) The staff of the Authority shall consist of the Executive Director, the Deputy Executive Director and persons appointed by the Executive Director as staff of the Authority."

15. Amendment of section 38 of the principal Act.

Section 38 of the principal Act is amended by inserting immediately after section 38, the following new section-

"38A. Exchange of information by competent authorities

Competent authorities may exchange information and provide international cooperation both upon request from and spontaneously to foreign counterparts in relation to possible or confirmed money laundering or terrorist financing and any related activity"

Justification

To give the competent authorities the mandate to exchange information and provide international cooperation both upon request from and spontaneously to foreign counterparts

16. Clause 16 is amended-

- (i) by adding a new paragraph (t) immediately after paragraph (s) in sub clause (2) of the proposed section 138A as follows-

"(t) a representative of the National Identification and Registration Authority"

- (ii) by inserting new sub clauses immediately after sub clause (3) to read as follows and the sub clauses be renumbered-

"The Minister shall appoint a chairperson from among members of the committee.

The chairperson of the committee shall serve as such until he or she resigns or until a new chairperson is appointed by the Minister."

(iii) In sub clause (6) by inserting the following new paragraphs after paragraph (h) and the sub clause be renumbered-

(a) being the policy making organ of the Authority;

(b) review and approve the strategic plan and budget of the Authority;

(c) consider the annual report of the Authority and report to the Minister on any matter appearing in or arising out of such a report;

Justification

(i) The National Identification and Registration Authority has a pivotal and overarching role in maintaining the national identification registry/database that can help in the inquiries related to money laundering control.

(ii) Having repealed the establishment of the board, there is need to give the committee the mandate to carry out some the roles that were hitherto being performed by the board.

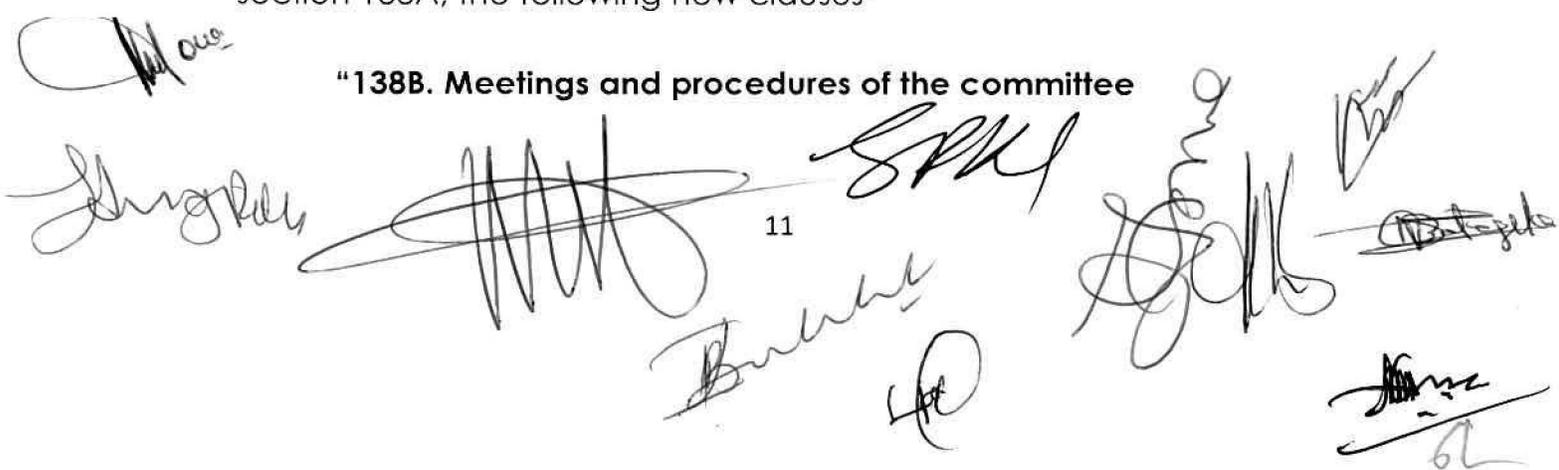
(iii) To provide for the appointment of the chairperson of the committee

17. Insertion of new clauses 17 and 18 immediately after clause 16 to read as follows-

"16. Insertion of new sections 138B and 138C

The principal Act is amended by inserting immediately after the proposed section 138A, the following new clauses-

"138B. Meetings and procedures of the committee



- (1) The committee shall meet for the discharge of its functions as often as business requires and in any case the committee shall meet not less than once in every quarter of the financial year of the Authority.
- (2) The committee-
 - (i) may determine its own procedures at meetings;
 - (ii) may request advice and assistance from such persons as it considers necessary to assist it to perform its functions; or
 - (iii) may appoint committees from its members to assist it in the performance of its functions.
- (3) A committee appointed under sub section (2)(iii) may co-opt any person who is not a member of the committee as a member of the committee, whether for a particular period or in relation to a particular matter dealt with by that committee.
- (4) A quorum constituting a majority of the members shall be present at a meeting and a decision or action shall be approved by a majority of those present after a quorum is established.
- (5) When a decision or action is to be taken by the committee and it is not feasible to call a meeting, the decision or action shall become effective and binding if-
 - (i) the proposed decision or action is circulated in writing among the members of the committee;
 - (ii) an opportunity is given to each member of the committee to comment in writing on the proposed action or decision within a reasonable time; and
 - (iii) less than a majority of the members object in writing within the prescribed time.

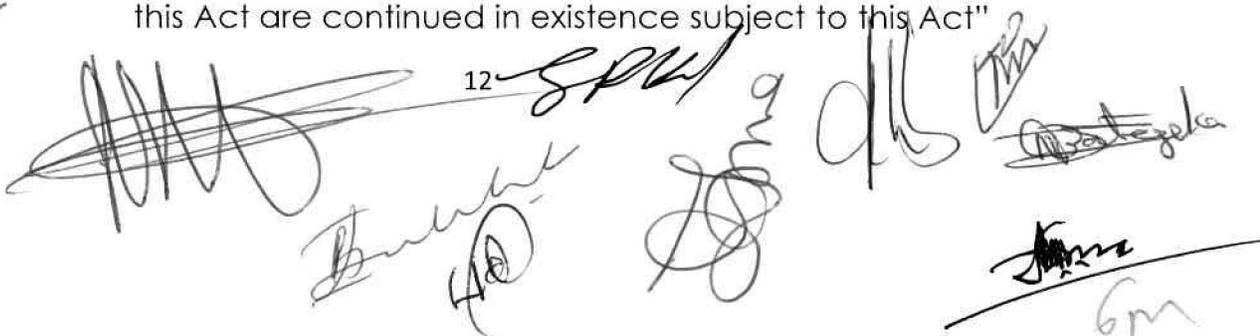


"138C. Saving

All acts done by the board before the commencement of this Act are continued in existence subject to this Act"

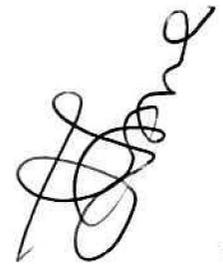
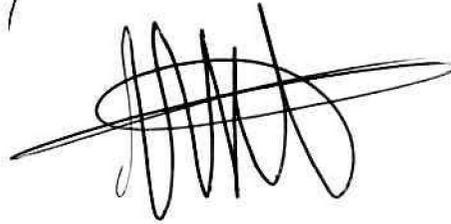


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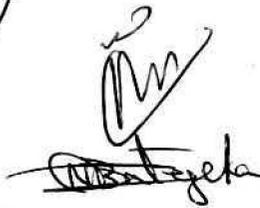
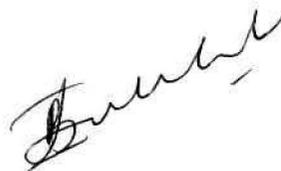


Justification

1. To provide for the meetings of the committee
2. To provide for a saving clause for the acts that have been and are being done by the board.

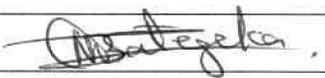
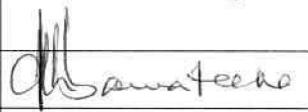
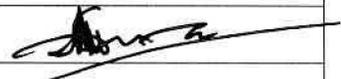
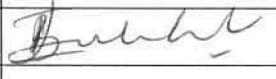
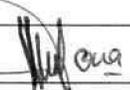
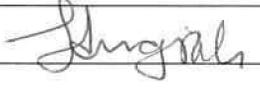
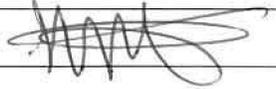


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REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE ANTI-MONEY LAUNDERING (AMENDMENT) BILL, 2016

No	NAME	CONSTITUENCY	SIGNATURE
1	Hon. Musasizi Henry, CP	Rubanda East	
2	Hon. Katali Loy, V/CP	DWR Jinja	
3	Hon. Acidri James	Maracha East	
4	Hon. Lugolobi Amos	Ntenjeru North	
5	Hon. Asiku Elly Elias	Koboko North	
6	Hon. Bategeka Lawrence N	Hoima Municipality	
7	Hon. Kalule Sengo Emmanuel	Gomba East	
8	Hon. Kamateeka Jovah	DWR Mitooma	
9	Hon. Katoto Hatwib	Katerera County	
10	Hon. Lokii John Baptist	Matheniko County	
11	Hon. Nagwomu Moses Musamba	Bunyole East	
12	Hon. Niringiyimana James .K.	Kinkizi West	
13	Hon. Opolot Isiagi Patrick	Kachumbala County	
14	Hon. Tumuramy Genensio	Kashongi County	
15	Hon. Naigaga Mariam	DWR Namutumba	
16	Hon. Ilukor Charles	Kumi county	
17	Hon. Okello Anthony	Kioga County	
18	Hon. Ayepa Michael	Labwor County	
19	Hon. Walyomu Muwanika Moses	Kagoma County	
20	Hon. Mulindwa Isaac Ssozi	Lugazi Municipality	
21	Hon. Kutesa Pecos (Maj,Gen)	UPDF	
22	Hon. Adong Lilly	Nwoya District	
23	Hon. Anita Among	Bukedea District	
24	Hon. Mukula Francis	Agule Pallisa	
25	Hon. Kakooza James	Kabula County	
26	Hon. Bagoole John Ngobi	Luuka County	

27	Hon. Nathan Nandala-Mafabi	Budadiri West	
28	Hon. Akol Anthony	Kilak North	
39	Hon. Odonga Otto	Aruu County	
30	Hon. Luttamaguzi Semakula	Nakaseke South	
31	Hon. Akello Judith Franca	Agago District	