

BANK OF GHANA  
AND  
FINANCIAL INTELLIGENCE CENTRE

ANTI-MONEY LAUNDERING / COMBATING THE  
FINANCING OF TERRORISM & THE PROLIFERATION  
OF WEAPONS OF MASS DESTRUCTION  
(AML/CFT&P)

**ADMINISTRATIVE SANCTIONS / PENALTIES**

FOR

BANKS AND NON-BANK FINANCIAL INSTITUTIONS

IN GHANA

**JULY, 2018**

## OBJECTIVE

The objective of this document is to provide guidance to sanctions that may be imposed on a bank or Specialized Deposit-Taking Institution (SDI) regulated by the Bank of Ghana for contraventions of the Anti-Money Laundering Act 2008, (Act 749) as amended, AML Regulations, 2011 (LI 1987) and other relevant regulations and directives/guideline issued by the Bank of Ghana or/and the Financial Intelligence Centre (FIC).

The penalties outlined in this document are administrative in nature and may be imposed on banks and SDIs in the event of a breach of the relevant laws, directives and guidelines or contraventions reported by the Financial Intelligence Centre or other relevant law enforcement agencies.

This document has been formulated in accordance with the provisions of the Anti-Money Laundering Act, 2008 (Act 749) as amended, Anti-Terrorism Act, 2008 (Act 762) as amended, Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) Guideline for Banks and Non-Bank Financial Institutions (AML/CFT Guideline) and Banks and Specialized Deposit -Taking Institutions (SDI) Act, 2016 (Act 930) as well as the FATF Revised Recommendations.

## LEGAL PROVISIONS

This document is issued pursuant to:

- a) **Sections 39 (5) & (6) of the Anti-Money Laundering Act, 2008 (Act 749) as amended.**

Section 39 (5) provides that "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."

Section 39 (6) provides that “Where applicable, administrative proceedings may be carried out in parallel to criminal proceedings under subsections (1) to (3).”

**b) Section 92 (8) and (9) of the Banks and Specialized Deposit-Taking Institutions Act, 2016 (Act 930).**

Section 92 (8) provides that “In addition to any penalty provided under the Anti-Money Laundering Act, 2008(Act 749) a person who contravenes a directive issued under this section is liable to pay to the Bank of Ghana an administrative penalty of not less than two thousand penalty units and not more than ten thousand penalty units.

Section 92 (9) states that “The Bank of Ghana may in addition to the penalty under sub-section (8) impose any other penalty or take any remedial action that the Bank of Ghana considers appropriate”.

## **APPLICABILITY**

**This document** shall apply for contraventions of provisions in the Anti-Money Laundering Act, 2008 (Act 749) as amended and any other AML/CFT directives issued by Bank of Ghana and Financial Intelligence Centre.

## **EFFECTIVE DATE**

This document comes into effect on **01/08/2018**

## RELATIONSHIP WITH EXISTING POLICIES

This document shall be read together with other documents issued by the Bank of Ghana and the Financial Intelligence Centre relating to compliance with AML/CFT requirements.

## DEFINITIONS

<b>AIs</b>	<b>ACCOUNTING INSTITUTIONS</b>
<b>AML</b>	ANTI-MONEY LAUNDERING
<b>CFT</b>	COMBATTING FINANCING OF TERRORISM
<b>BOG</b>	BANK OF GHANA
<b>FIC</b>	FINANCIAL INTELLIGENCE CENTRE
<b>ML</b>	MONEY LAUNDERING
<b>TF</b>	TERRORISM FINANCING
<b>AMLRO</b>	ANTI-MONEY LAUNDERING REPORTING OFFICER
<b>CDD</b>	CUSTOMER DUE DILIGENCE
<b>KYC</b>	KNOW YOUR CUSTOMER
<b>EDD</b>	ENHANCED DUE DILIGENCE

## INTRODUCTION

1.1 Money Laundering, Terrorist Financing and the Proliferation of weapons of mass destruction (ML/TF&P) are an ongoing threats which have the potential to adversely affect Ghana’s reputation and financial sector.

Ghana in recent years has taken tremendous strides to combat ML/TF&P through the passage of numerous laws and directives. The Bank of Ghana and the Financial Intelligence Centre, are the two competent authorities mandated to ensure that accountable institutions (Institutions Licensed by BOG) are in compliance with AML/CFT requirements.

As part of its supervisory role in enforcing these AML/CFT requirements, BOG and FIC introduce these penalties and sanctions in the foregoing paragraphs.

1.2 Accountable institutions must conduct their business with high ethical standards and avoid undertaking business relationships that may facilitate ML/TF&P.

## PENALTIES/SANCTIONS

S/NO.	SECTION	OFFENCE	ADMINISTRATIVE PENALTY
1.	<b>Section 41 (1)(b)and (2) of Act 749, as amended</b>  <b>Part 1.0 AML/CFT Guideline.</b>	Failure to appoint an AMLRO at management level	<ul style="list-style-type: none"><li>• <b>A minimum of 4,000</b> penalty units on the bank</li><li>• <b>A minimum of 2,000</b> penalty units on the SDI</li></ul>

S/NO.	SECTION	OFFENCE	ADMINISTRATIVE PENALTY
2.	<b>Section 40(2)(a) (viii) of Act 749,as amended Part 1.0 AML/CFT Guideline</b>	Failure to develop and implement Internal Risk Assessment Framework	<ul style="list-style-type: none"> <li>• <b>A minimum of 4,000</b> penalty units on the bank</li> <li>• <b>A minimum of 2,000</b> penalty units on the SDI</li> </ul>
3.	<b>Section 28 and 29 of Act 749, as amended Part 1.2 of AML/CFT Guideline</b>	Failure to give access to information to BOG and FIC or any Competent Authority.	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units.</li> </ul>
4.	<b>Section 23 of Act 749, as amended, Regulation 16 of L.I. 1987 Parts 1.5, 1.9 of AML/CFT Guideline</b>	Failure to conduct effective Customer Due Diligence(CDD)	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units.</li> </ul>

<b>S/NO.</b>	<b>SECTION</b>	<b>OFFENCE</b>	<b>ADMINISTRATIVE PENALTY</b>
5.	<b>Section 23(14) of Act 749, as amended</b>  <b>Part 1.12 of AML/CFT Guideline</b>	Failure to conduct CDD on Cross- Border Correspondent Banking	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units.</li> </ul>
6.	<b>Section 40 (viii) of Act 749, as amended</b>  <b>Section 18 (5) of the Banks &amp; SDI Act, 2016, (Act 930)</b>  <b>Part 1.13 AML/CFT Guideline</b>	Failure to develop and implement risk assessment for New Technologies and Non Face to Face products and distribution channels.	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units.</li> </ul>
7.	<b>Section 23 &amp; 24 of Act 749, as amended</b>  <b>Part 1.15 AML/CFT Guideline</b>	<b>Failure to Maintain Records</b> Financial Institutions shall maintain records of both domestic and international transactions for a <b>minimum</b> of five (5) years	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units.</li> </ul>
8.	<b>Section 30 of Act 749, as amended</b>  <b>Parts 1.16 &amp;1.17 of</b>	Failure to report Unusual and Complex Large / Suspicious Transactions.	<ul style="list-style-type: none"> <li>• <b>A minimum of 5,000</b> penalty units.</li> </ul>

<b>S/NO.</b>	<b>SECTION</b>	<b>OFFENCE</b>	<b>ADMINISTRATIVE PENALTY</b>
	<b>AML/CFT Guideline</b>		
<b>9.</b>	<b>Section 40 of Act 749, as amended</b>  <b>Parts 1.18 AML/CFT Guideline.</b>	Failure to develop and implement Internal Rules and Policies	<ul style="list-style-type: none"> <li>• <b>A minimum of 4,000</b> penalty units on the Bank.</li> <li>• <b>A minimum of 2,000</b> on the SDI</li> </ul>
<b>10.</b>	<b>Part 1.21 of AML/CFT Guideline</b>	Conducting Business with Shell Banks.	<ul style="list-style-type: none"> <li>• <b>A minimum 5,000</b> penalty units.</li> </ul>
<b>11.</b>	<b>Section 40 (5-6) of Act 749, as amended</b>  <b>Part 1.24 AML/CFT Guideline</b>	Failure to ensure Foreign Branches and Subsidiaries comply with AML/CFT provisions.	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units.</li> </ul>
<b>12.</b>	<b>Section 40 (2)( b and c) of Act 749, as amended</b>  <b>Part 1.25 AML/CFT Guideline</b>	<p>Failure to submit and implement Employee Education and Training Programme</p> <p>Failure to screen when hiring new employees and not making AML/CFT performance part of</p>	<ul style="list-style-type: none"> <li>• <b>A minimum of 5,000</b> penalty units.</li> <li>• <b>A minimum of 2,000</b> penalty units</li> </ul>

S/NO.	SECTION	OFFENCE	ADMINISTRATIVE PENALTY
		employee annual appraisals.	
13.	<b>Section 40 (c) of AML Act, Act 749 as Amended</b>  <b>Part 1.26AML/CFT Guideline</b>	Failure to Monitor Employee Conduct	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units.</li> </ul>
14.	<b>Section 40 (2) (e) of Act 749, as amended</b>  <b>Part 1.30 AML/CFT Guideline</b>	<b>Failure to undertake an Independent Audit</b> of the AML/CFT Compliance Programme. FIs shall make it a policy commitment to subject its AML/CFT compliance program to independent testing or require its internal auditor to determine its efficiency.	<ul style="list-style-type: none"> <li>• <b>A minimum of 3,000</b> penalty units on the bank</li> <li>• <b>A minimum of 2,000</b> penalty units on the SDI</li> </ul>
15.	<b>Part 1.31AML/CFT Guideline</b>	<b>Formal Board Approval</b> of Key AML/CFT documents. (AML/CFT compliance	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units</li> </ul>

S/NO.	SECTION	OFFENCE	ADMINISTRATIVE PENALTY
		<p>programme, policy ,manual, and Risk Assessment Framework)</p> <p>Board shall ensure that all AML documents are approved by the Board.</p>	
16.	<p><b>Part 1.34 AML/CFT Guideline</b></p>	<p><b>Money or Value Transfer Services(MVT)</b></p> <p>MVT Service operators shall maintain a current list of agents and send quarterly returns to Bank of Ghana.</p> <p>MVT operators shall assess their agents and correspondents AML/CFT controls to ascertain its effectiveness</p>	<ul style="list-style-type: none"> <li>• <b>A minimum of 3,000</b> penalty units on the bank</li> <li>• <b>A minimum of 2,000</b> penalty units on the SDI</li> </ul>
17.	<p><b>Part 1.35 AML/CFT Guideline</b></p> <p><b>Section 23(21-22), Act 749, as amended.</b></p>	<p><b>Wire Transfers</b></p> <p>For all wire transfers, the ordering financial institutions shall obtain and maintain information relating to the originator of the wire transfer.</p>	<ul style="list-style-type: none"> <li>• <b>A minimum of 2,000</b> penalty units</li> </ul>

<b>S/NO.</b>	<b>SECTION</b>	<b>OFFENCE</b>	<b>ADMINISTRATIVE PENALTY</b>
<b>18.</b>	<b>Part 1.25 AML/CFT Guideline</b>	<b>Failure to attend training</b> or workshop organized by BOG/FIC	<ul style="list-style-type: none"> <li>• <b>A minimum of 3,000</b> penalty units on the bank</li> <li>• <b>A minimum of 2,000</b> penalty units on the SDI</li> </ul>
<b>19.</b>	Section 31A, Act 749, as amended.  Part 1.22 AML/CFT Guideline	<b>Submission of other Statutory Reports including mandatory Returns</b> Failure for; a. non-submission, b. incomplete submission, c. delayed submission, d. inaccurate submission and other reports	<ul style="list-style-type: none"> <li>• <b>A minimum of 3,000</b> penalty units on the bank</li> <li>• <b>A minimum of 2,000</b> penalty units on the SDI</li> </ul>

**NOTE: Where the contravention persists the BOG may impose one or more of the administrative sanctions in addition to the penalties.**

## **TYPES OF ADMINISTRATIVE SANCTIONS THAT MAY BE IMPOSED BY BANK OF GHANA**

The Bank of Ghana, in the light of its enforcement and supervisory objectives and policies, may, either under a Settlement Agreement or following an Inquiry, impose one or more of the following sanctions:

- caution or reprimand;

- b. a direction disqualifying a person from being concerned in the management of a regulated financial service provider;
- c. suspension of the authorisation of a regulated entity, in respect of one or more of its activities, for a period not exceeding 12 months;
- d. revocation of a regulated entity's operating license;
- e. Directive to cease a contravention, if the contravention is found to persist.
  
- f. In addition BOG may publish the name of any accountable institution that persistently breaches the requirements in the AML/CFT acts, regulations and guideline in the local and international media.

### **Sanctioning Factors**

All the circumstances of the case will be taken into account in determining sanctions and, in doing so, regard may be given to the following factors:

### **The Nature, Seriousness and Impact of the Contravention**

- (a) Whether the contravention was deliberate, dishonest or reckless;
- (b) Duration and frequency of the contravention;
- (c) The amount of any benefit gained or loss avoided due to the contravention;
- (d) Whether the contravention reveals serious or systemic weaknesses of the management systems or internal controls relating to all or part of the business;
- (e) The extent to which the contravention departs from the required standard. In line with this BOG shall make distinction between a **breach, deficiency and a recommendation.**
  - Breaches of the AML/CFT acts – The reporting entity has failed to meet the requirements of the AML/CFT acts. The BOG considers the breach to be a material issue and / or a systemic issue that requires immediate steps to be taken to achieve on-going compliance. This will attract immediate penalties or sanctions from BOG.

- Deficiency - The reporting entity has failed to meet the standard requirements of the AML/CFT acts. BOG considers supervisory action is required to achieve on-going compliance within a specified time line stated by BOG. Failure to comply within the specified time frame shall attract administrative penalties and sanctions.
  - Recommendations – BOG considers it best practice for reporting entity to consider and implement the appropriate changes in line with BOG recommendations. These recommendations do not constitute regulatory action.
- (f) the impact or potential impact of the contravention on the orderliness of the financial markets, including whether public confidence in those markets has been damaged or put at risk;
- (g) The loss or detriment or the risk of loss or detriment caused to consumers or other market users;
- (h) The effect, if any, of the contravention on vulnerable consumers;
- (i) The nature and extent of any financial crime facilitated, occasioned or otherwise attributable to the contravention;
- (j) Whether there are a number of smaller issues which individually may not justify administrative sanction, but would be justified when taken collectively;
- (k) Any potential or pending criminal proceedings in respect of the contravention which will be prejudiced or barred if a monetary penalty is imposed pursuant to the Administrative Sanctions Procedure.

**GOVERNOR**  
**BANK OF GHANA**

**THE CHIEF EXECUTIVE OFFICER**  
**FINANCIAL INTELLIGENCE CENTRE**