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# TYOLOGIES REPORT

FY 2014



Lesotho

Financial Intelligence Unit  
Kingdom of Lesotho

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## To Our Stakeholders

### HIGHLIGHTS

*This document is intended to raise awareness of trends relating to the commission of money laundering in Lesotho. It is produced by the Financial Intelligence Unit (FIU) after having conducted analysis on the suspicious transactions recorded. Also the purpose is to sensitize relevant authorities of vulnerabilities in their systems which give way to money laundering and terrorist financing thereby undermining the integrity of financial systems.*



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Director

March 31, 2015

## **Money Laundering Typologies Report in Lesotho**

### **1. Background**

The government of the Kingdom of Lesotho has taken an important step in an effort to comply with the International Anti-Money Laundering/Counter Financing of Terrorism (AML/CFT) standards set by the Financial Action Task force (FATF), by putting in place a legislative framework (Money Laundering and Proceeds of Crime Act (MLPCA) of 2008), aimed at protecting the country's financial systems from the pandemic of Money Laundering and Terrorist Financing (ML/TF).

The FATF is an inter-governmental body that was established in 1980. Its mandate is to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system. The FATF in collaboration with other international stakeholders, further works to identify national-level vulnerabilities with the aim of protecting the international financial system from misuse.

The FATF executes its mandate through FATF Style Regional Bodies, whose mandate is to act on behalf of FATF in their regions to implement within their member countries, the FATF standards referred to as "The FATF Recommendations". Lesotho is a member to the FATF Regional Style Body called the "Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)". By being a member of ESAAMLG, Lesotho is bound to comply with the FATF recommendations and hence there are efforts that the country has made to date towards meeting the said recommendations including enacting the MLPCA already referred to above.

One of the major requirements of the MLPCA is the establishment of the Financial Intelligence Unit (the Unit). The Unit was established in 2010 with a mandate of being the centre for the receipt, analysis and dissemination of Suspicious Transaction Reports (STRs) and other information and intelligence related to suspected ML/TF

activities. The full operations of the Unit started in 2013, and this was when it started receiving Suspicious Transaction Reports, analysing them and disseminating the intelligence to relevant Law Enforcement Agencies.

It is the responsibility of the Unit therefore to produce periodic reports on the identified current and emerging trends that are used as ML/TF vehicles, with the aim of raising awareness to accountable institutions, law enforcement agencies, policy makers and the public at large. These reports are referred to as Typologies Reports.

This report is intended to highlight the trends used to launder money within the Country. It is the first Typology Report that the FIU Lesotho issues since it started operations in the Analysis department in August 2013.

## **2. Scope**

The report does not include sensitive reporting or restricted information but gives the general view of observed money laundering trends in Lesotho. It is prepared using information and data received from a variety of sources.

## **3. Definition of Money Laundering**

Under the MLPCA, a Person commits an offence of money-laundering if the person acquires, possesses, uses, converts or transfers property with the aim of concealing or disguising the illicit origin of that property or of aiding any person involved in the commission of an offence to evade the legal consequences thereof or if the person conceals or disguises the true nature, origin, location, disposition, movement or ownership of property knowing or having reason to believe that such property is derived directly or indirectly from acts or omissions; (1) in Lesotho which constitute an offence against the MLPCA or another law of Lesotho punishable by imprisonment for not less than 24 months and (2) outside Lesotho which, had they occurred in Lesotho, would have constituted an offence under Lesotho law, punishable by imprisonment for not less than 24 months.

#### **4. Suspicious Transaction Reports (STR)**

Suspicious Transaction Reports made to the FIU by Accountable Institutions remain the main source of significant analysis that the FIU conducts. Suspicious transactions may be explained as the transactions which are inconsistent with a customers'/clients' known legitimate business or personal activities or with the normal business activity of that type of account.

Where an Accountable Institution has picked up a suspicion from their client's transaction as described above, they are required under the MLPCA to submit to the FIU, a report detailing the same. This report is referred to as a Suspicious Transaction Report.

An effective "Know Your Customer" (KYC) program is critical to identifying suspicious transactions as it helps recognise that a transaction or a series of transactions are unusual for the type of client or type of account.

The Accountable Institutions are mandated to perform an on-going Customer Due Diligence (CDD) with regard to their ordinary clients and the Enhanced Customer Due Diligence to their clients who are Politically Exposed Persons (PEPs) and their relatives which partly entails continuous collection and verification of their Customer's additional KYC information and to have in place programmes and systems that continually monitor transactions. It is through the above process that Accountable Institutions are able to pick and report suspicious transactions.

#### **The common grounds of suspicion relating to majority of reports received by the FIU from Accountable Institutions since August 2013 are:**

- Transactions being inconsistent with Customer's Profile.
- Large currency cash deposits with Ambiguous or Inconsistent explanations as to the source and/or purpose of the funds.
- Immediate withdrawal of funds just deposited from unexplained sources.
- Purchase of foreign currency by Clients without a proper explanation for the transaction and lack of legitimate supporting documents for the transactions.

- Large sums encashment of Cash Cheques.

## **5. Typologies**

Typologies can be explained as a situation where a series of money laundering schemes are observed to be executed in a particularly similar fashion using the same methods. The FIU has therefore identified a number of typologies associated with fraud, tax evasion and corruption and money flows. These are explained in detail below:

### **5.1 Fraud**

Fraud is one of the common predicate offences to Money laundering that the FIU has identified during its analysis exercise. The Government, Businesses and individuals continue to lose a lot of funds through fraud schemes.

The losses of government arises mostly through tender irregularities where there is a conspiracy amongst the Public Officials to award tenders to their relations or associates with the view of getting some payment at a later date as an appreciation for awarding the tender. This usually defrauds the government of millions of Maloti annually as the amounts of tenders awarded in this manner are usually highly inflated.

Another common act which leads to organisations being defrauded a lot of money is through the misuse of power by certain individuals holding high ranking positions in both government and private sector to influence the decisions in an effort to support fraudsters.

There were five hundred and sixty nine (569) fraud cases reported to the LMPS in 2014. These cases directly relate to money laundering as they involve possible proceeds of crime from which the fraudsters have benefited.

### **5.2 Tax Evasion**

Almost all the reports that the FIU has analysed to date indicate that where there is a direct financial gain as a result of the funds obtained from an illicit source, no taxes are paid on such funds. The Income Tax Act is very clear that all individuals and companies must pay tax on income that they receive during the year of assessment, regardless of the source of such income.

Another trend that has been identified is that tax is being evaded through trade where goods from jurisdictions outside SACU area destined for the Republic of South Africa are first being disguised as being destined for Lesotho, as though Lesotho is the final destination, while they are intended to pick up origin from Lesotho and finally be transferred to their destination in RSA. This act is done in an effort to evade extra SACU duties on the goods bought from overseas countries by South African companies using Lesotho registered companies as vehicles to evade tax.

Tax is also invaded by people who sell illegal diamonds in foreign jurisdiction without the proceeds thereof being subjected to relevant taxes.

### **5.3 Corruption**

Corruption occurs through misuse of power by those occupying positions of influence in both government and other non-governmental organisations. The legitimate business processes are usually used by these perpetrators to perform activities that would otherwise seem normal and legitimate for the organisation in question, while the end result of such a seemingly legitimate transaction is the personal financial gain by the person who has misused their power to influence such a transaction.

It has been identified that some of the government and on-governmental organisation's employees have misused their power of office to request assistance from the international communities on the pretext that the donations are going to be given to the vulnerable communities in Lesotho while in actual fact the same

donations benefit the employees. About two hundred and twenty two (222) corruption related cases were reported with the DCEO during 2014.

#### **5.4 Money Flows**

The FIU has identified a lot of instances where the money is being withdrawn from the bank accounts through the use of "Cash Cheques". Large sums of money in some instances exceeding M1, 000, 000.00 are withdrawn and utilised in various ways as cash. Fake identification documents are always used to conduct transactions of this nature.

The source of the funds that are being withdrawn in this manner has usually been identified to be from government coffers.

### **6. Money Laundering Case Studies in Lesotho**

#### **6.1 Opening a Business to disguise illicit origin of funds**

Person X is the owner of businesses "A" and "B" which he both started at just about the same time using monies in cash as his capital. The money has been identified to come from his off shore business associate paid directly into his personal bank account and later withdrawn by Person X to be spend in cash locally. It has further been determined that the business that Person X engages in, is illicit and that the market for this illicit business is in the foreign Jurisdiction where his associate would then deposit the proceeds of the sale of the products in the foreign Jurisdiction.

In an effort to further disguise the origin of these illicit funds, Person X has always withdrawn large sums of cash from his personal account receiving the funds from



off-shore Associate, to deposit them into the other bank accounts held with other banks locally. The funds remaining after opening the businesses have been identified to buy Person X lavish motor vehicles from off-shore suppliers paying for them in cash. The money received from the off-shore associate by Person X is over M600, 000.00.

## **6.2 Misusing Power of Office for Personal Gain.**

### **Case One (1)**

Mrs. Y is an employee of sales promotion company (Company Z) selling a wide range of products to both companies and individuals. Mrs Y has been identified to occasionally receive large sums of cash being deposited into her personal bank account by different individuals. When analysing the events surrounding Mrs Y and her bank account, it has been determined that large sums of deposits are directly linked to the previous sale of products belonging to the people (People K) paying the money into her bank account. The products sold on behalf of People K are similar to those that Company Z trade in.

Mrs Y acts in the background as an agent of People K to promote and sell their products using the name of Company Z while receiving payments for such products directly into her personal account. The prices for the products are usually inflated to facilitate for Mrs Y to get her commission (Personal Gain)

The funds are then withdrawn from the bank account by Mrs Y and delivers the agreed price to People K while enjoying her personal gain funds. It has been determined that Mrs Y does not pay taxes due on these income. The amount involved is in excess of M300, 000.00.

### **Case two (2)**

Mr. B is a former employee of Non-Government Organisation X (NGO X), and has been dismissed due to misconduct related to money laundering. Mr. B duties while employed at NGO X included writing proposals to the international aid

organisations requesting assistance in any form for the identified vulnerable communities within the country.

Large sums of cash were seen being deposited into Mr. B's personal account following his dismissal from NGO X, followed by the purchase by Mr. B of foreign currency which is then transferred through swift facility at the bank to an organisation (Organisation W) in a foreign jurisdiction. Analysis of the events revealed that organisation W is providing assistance to vulnerable communities worldwide, however assistance is only provided through formally registered NGO approved by each country to assist the government in relieving disadvantaged communities by requesting financial aid or otherwise from the international communities.

Mr. B has fraudulently produced documents relating to a non-existent NGO which he forwarded to Organisation W indicating that he is now working with that organization and requesting assistance on behalf of vulnerable communities being overseen by this shell NGO. The aid was forward on several occasions for which Mr. B personally received and used all of them for his personal gain and not even one time has he forwarded any to the vulnerable communities, as this was never the intention of Mr B.

The monies that were deposited into Mr B's bank account were the proceeds of the aid provided and the foreign exchange currency being transferred to Organisation W related to the shipping costs of the aid being provided, which is the standard practice that the registered NGO will bear the shipping costs.

Mr. B has not paid any taxes on the income that he received as a result of the aid provided to him by Organisation W. Mr. B has opened a formal business out of the aid he receives frequently from Organisation W. Funds involved are in excess of M180, 000.00.

### **Case three (3)**

One Mr 'L' sold illegal diamonds to Mr 'M' in a foreign country whereby the proceeds thereof were not subjected to relevant taxes. The same proceeds were used to establish legitimate businesses. Profits from those businesses were deposited into the personal account of Mr 'L' thereby making it difficult for the Lesotho Revenue Authority (LRA) to determine the amount of tax to be paid. The proceeds were also used to purchase vehicles by the suspect.

### **Case four (4)**

Ms. Q is employed by a Secondary School as an "Assistant Accountant" and is also a signatory to the school's bank account. A series of large cash deposits inconsistent with her known source of income were identified being made into her personal bank account. The deposits which were made twice within a period of six months were in excess of M100, 000.00 each. Part of the money was used to buy foreign currency which was transferred through swift facility to buy goods overseas for which an invoice from the overseas supplier was provided to the bank to support the transaction. Further enquiries indicated that the invoiced goods by a foreign supplier could not be traced being ever received in the country.

An analysis of the facts and circumstances relating to Ms. Q indicated that the School receives funds from a foreign charity organization as aid provided for vulnerable students to be paid towards their school fees, books and uniforms. These funds are paid directly into the School's bank account held with a different bank from Ms. Q's bank. The Money is then withdrawn as cash from the School's bank account, with Ms Q and the other authorized signatory, Ms R, signing the cash cheques withdrawing funds. Large sums of money would then be deposited into Ms. Q's personal bank account as well as in the second Signatory's bank account. Funds are then spend by Ms Q and her Counterpart once in their bank accounts.

It is suspected that the invoice submitted to the bank by Ms Q from a foreign supplier could be fraudulent and that the funds could in actual fact be the share of the funds send back to the facilitator from a foreign country, as it has been established that the charity organisation had officially communicated to the school that there will be no fund for that particular year.

## **Conclusion**

It is evident from this report that like all other countries in the world, Lesotho is not spared from the Money Laundering vulnerabilities through different sectors. Poor Money Laundering controls, ignorance in Money Laundering issues backed by insufficient resources for capacity building purposes, as well as difficulties in knowing sources of funds and finally drawbacks in international and domestic cooperation make Money Laundering risks a challenge in our country and in our region.

Prioritising capacity building regarding Money Laundering risk assessment and awareness is crucial to our Country. The challenge is that until our country has enough expertise on Money Laundering issues, and the problems Money Laundering poses this crime will remain a pandemic crippling the country's economy. Countries in the region need to come together and come up with strategies and best practices which are better suited to the Region in curbing and combating Money Laundering.

Finally the report highlights the need to improve both domestic and international cooperation between Law Enforcement Agencies and Intelligence Agencies as it came out that the nature of some of the STRs and investigations relating to Money Laundering are usually extra-territorial. The legal frameworks and international cooperation relating to Anti Money Laundering need to be further enhanced in order

to facilitate and ensure timeous and satisfactory provision of mutual legal assistance.