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## **DIRECTIVE No. 003/SAMIFIN/ DG/ 23 RELATING TO THE PREVENTION AND DETECTION OF MONEY LAUNDERING AND/OR TERRORIST FINANCING AND THE REPORTING OF SUSPICIOUS TRANSACTIONS**

The Financial Intelligence Unit, abbreviated "SAMIFIN",

Considering the Constitution;

Considering Law No. 2014-005 of May 28, 2014 against terrorism and transnational organized crime;

Considering Law No. 2016-020 of August 22, 2016 on the fight against corruption;

Considering Law No. 2016-021 of August 22, 2016 on Anti-Corruption Poles;

Considering Law No. 2018-043 of February 13, 2019 on the fight against money laundering and the financing of terrorism;

Considering law No. 2021-015 of August 5, 2021, modifying, supplementing, and repealing certain provisions of law No. 2016-021 of August 22, 2016 on Anti-Corruption Poles;

Considering Ordinance No. 2019-015 of July 15, 2019 relating to the recovery of illicit assets;

Having regard to decree n° 2015-036 of June 30, 2015 relating to the creation, organization and operation of the Financial Intelligence Unit called " Sampandraharaha Malagasy Iadiana amin'ny Famotsiam -bola sy ny famatsiambola ny asa fampihorohoroana "SAMIFIN ";

Considering Directive No. 001/SAMIFIN/DG/CAB/22 of June 14, 2022 relating to the prevention and detection of money laundering and/or terrorist financing and the reporting of suspicious transactions.

Considering the following:

- (i)- Illicit financial flows, economic and financial offenses, acts of corruption and/or similar offenses constitute a permanent and growing threat to the economic stability of Madagascar, calling into question the credibility of formal sectors of activity and professions. Faced with the increased evolution of phenomena linked to money laundering and/or the financing of terrorism, transnational organized crime, corruption both on a national and international scale, it is essential to find an appropriate and effective response. In addition to toughening criminal policy in matters of money laundering and/or the financing of terrorism, it is also essential to focus the fight against these scourges on prevention and the involvement of all actors in the public sector. and private in order to create a synergy of common action which in the long term will produce convincing results.
- (ii)-The accounting and financial profession may be exposed to money laundering and terrorist financing. This is why it is necessary to strengthen measures aimed at identifying customers, beneficial owners, and monitoring transactions in order to protect the profession from any form of proliferation linked to the phenomenon.

**ADOPTS THIS DIRECTIVE:**

# TITLE I: GENERAL PROVISIONS

## CHAPTER I: PURPOSE, SCOPE OF APPLICATION, DEFINITION

**Article 1** : This Directive is adopted in accordance with the provisions of Article 62 of Directive No. 001/SAMIFIN/DG/CAB/22 of June 14, 2022 relating to the prevention and detection of money laundering and / or financing of terrorism and the reporting of suspicious transactions.

**Article 02.** This Directive applies to chartered accountants and financial experts as well as chartered accounting companies, registered in tables A and B of the Order of Accounting and financial experts of Madagascar, authorized to practice in Madagascar.

Its purpose is to clarify and supplement certain provisions of Directive No. 001/SAMIFIN/DG/CAB/22 of June 14, 2022 relating to the prevention and detection of acts of money laundering and/or terrorist financing and to the reporting of suspicious transactions.

**Article 03** : The term “firm” designates: a chartered accountant and financial expert acting on an individual basis or within the framework of a one-person commercial company or a chartered accountancy company within the meaning of Ordinance No. 92- 047 of November 5, 1992 relating to the organization of the profession of chartered accountant and financial experts and the restructuring of the order, bringing together the members of these professions.

## CHAPTER II: OBLIGATIONS OF CHARTERED ACCOUNTANTS AND FINANCIAL EXPERTS, EMPLOYEES AUTHORIZED TO PRACTICE THE PROFESSION

### SECTION I: DESIGNATION OF ANTI-MONEY LAUNDERING AND TERRORIST FINANCING CORRESPONDENTS

**Article 04** . Each accounting and financial firm or expert is required to communicate to the Financial Intelligence Unit and their respective control and supervisory authorities:

-the identity of its managers and/or employees authorized to transmit Suspicious Transaction Reports (STRs) in accordance with the provisions of Articles 27 and 28 of Law No. 2018-043 of February 13, 2019 on the fight against money laundering capital and the financing of terrorism;

-the identity of its managers and/or employees in charge of responding to any request from the Financial Intelligence Unit , of receiving acknowledgments of receipt of Suspicious Transaction Reports, of ensuring dissemination to the concerned members of the personnel of the information, opinions or recommendations emanating from the Financial Intelligence Unit .

**Article 05.** A list of managers and/or main partners of firms or accounting and financial experts is established by the Order of Accounting and Financial Experts of Madagascar, and transmitted to the Financial Intelligence Unit.

In the absence of an official appointment within sixty (60) days from receipt of the list by the Financial Intelligence Unit, the persons appearing on the said list are automatically designated as anti-money laundering correspondents. of capital and the financing of terrorism, in accordance with the provisions of Article 04 of this Directive.

### SECTION II: PREVENTIVE MEASURES

**Article 06.** The internal procedure manual developed and distributed by the Order of Accounting and Financial Experts of Madagascar on October 19, 2019 to all of its members is the internal system for combating money laundering and financing of terrorism of the entire profession.

Without prejudice to the application of the legal and regulatory provisions in force, each member implements all the obligations defined in the procedure manual set out in the paragraph above.

**Article 07.** The Order of accounting and financial experts of Madagascar informs by any means in writing all members of the profession, the Financial Intelligence Unit of any modification or update which affects the procedural manual dedicated to the the entire profession.

**Article 08.** In addition to the internal procedure manual set out in Article 05 of this directive, the internal system to combat money laundering and the financing of terrorism put in place by each accounting and financial firm or expert must also comply with the provisions of article 08 of Directive no. 001/SAMIFIN/DG/CAB/22 of June 14, 2022.

**Article 09.** Depending on the risks detected, each accounting and financial firm or expert is required to carry out an evaluation campaign of the internal system put in place to identify the risks linked to money laundering and the financing of terrorism.

**Article 10.** The results of the evaluation of the internal system for combating money laundering and the financing of terrorism carried out by each firm or accounting and financial expert must be communicated in the form of an official report, respectively: to the Service of Financial Intelligence and the Order of Accounting and Financial Experts of Madagascar, and be accompanied by a detailed action plan aimed at remedying the shortcomings identified and/or the improvements made in order to strengthen and make effective the internal system for combating money laundering and terrorist financing.

The deadline for transmitting the official report mentioned in the first paragraph of this article is thirty (30) days from the end of the evaluation campaign.

**Article 11.** Based on the results of the evaluation of the internal system for combating money laundering and the financing of terrorism communicated by each member of the profession, the Order of accounting and financial experts of Madagascar evaluates in a manner generalizes the risks of money laundering and the financing of terrorism, and draws up a global action plan in order to mitigate the risks at the level of the profession.

It ensures that all members of the profession implement the overall action plan thus defined.

### **SECTION III: IMPLEMENTATION OF PREVENTIVE MEASURES AND OPERATIONAL OBLIGATIONS**

**Article 12.** Without prejudice to the application of the provisions of Article 27 of Law No. 2018-043 of February 13, 2019 on the fight against money laundering and the financing of terrorism and Article 14 of the Directive No. 001/SAMIFIN/DG/CAB/22 of June 14, 2022, each accounting and financial firm or expert is required to transmit a Suspicious Transaction Report to the Financial Intelligence Unit, as long as there is reasonable cause to suspect and can relate to:

-the audit of accounts subject to a certification reservation following the detection of fraudulent maneuvers;

- Suspicion of fraud or forgery knowingly perpetrated, with the complicity, acceptance or decision of the directors of a Company ;

-the discovery of an offense committed in the exercise of a professional activity, relating to money laundering or the financing of terrorism;

-the suspicion of money laundering or the financing of terrorism when the firm or accounting and financial expert prepares or carries out operations in the name or on behalf of its client:

( i ) - a purchase and sale of real estate;

( ii ) - management of the customer's capital, securities or other assets;

( iii ) - management of bank, savings or securities accounts;

( iv ) - contributions for the creation, operation or management of companies;

( v ) - the creation, operation or administration of legal persons or legal arrangements, and purchase and sale of commercial entities.

(vi) - the illegal exercise of the profession of accounting and financial expert committed by individuals or companies of which each member or the Order of accounting and financial experts of Madagascar is aware.

**Article 13** . Any Suspicious Transaction Report addressed to the Financial Intelligence Unit is made in the forms prescribed in Article 28 of Law No. 2018-043 of February 13, 2019, through the dedicated digital exchange system made available to accounting and financial firms or experts by the Financial Intelligence Unit .

**Article 14.** Each accounting and financial firm or expert transmits to the Order of Accounting and Financial Experts of Madagascar at each end of the month a summary of the declarations, even none, for the month made to the Financial Intelligence Unit.

The summary of suspicious transaction declarations sent to the Order of Accountants and Financial Experts of Madagascar must neither mention the details relating to the declaration itself, nor the identity of the natural and/or legal persons suspected.

**Article 15.** In application of resolutions 1267, 1373, 1989 of the United Nations Security Council on the fight against terrorism as well as other subsequent resolutions, accounting and financial firms or experts are required to report without delay to the Service of Financial Intelligence and to the Order of accounting and financial experts of Madagascar of the existence of persons, entities listed and/or sanctioned, in their databases.

The denunciation is accompanied by all information relating to natural persons, legal entities, in particular their managers, shareholders and other structures affiliated with them.

## CHAPTER III: VIGILANCE MEASURES

### SECTION I: CUSTOMER DUE DILIGENCE MEASURES

**Article 16.** The due diligence measures set out in Directive No. 001/SAMIFIN/DG/CAB/22 of June 14, 2022 as well as the internal procedure manual distributed by the Order of Accounting and Financial Experts of Madagascar to all its members also apply when the firm or accounting and financial expert prepares or carries out operations in the name or on behalf of its client:

- a purchase and sale of real estate;
- management of capital, securities or other assets of its client;
- management of bank, savings or securities accounts;
- contributions for the creation, operation or management of companies;
- creation, operation or administration of legal entities or legal arrangements, and purchase and sale of commercial entities.

**Article 17.** Having regard to the classification and risk rating set out in Articles 43 to 47 of Directive No. 001/SAMIFIN/DG/CAB/22 of June 14, 2022, the threshold of 25% for the identification of a beneficiary workforce provided for in Article 39 of the said Directive may be revised downwards on the proposal of accounting and financial firms or experts for customers rated as medium or high risk.

The threshold thus retained is validated by the Order of accounting and financial experts of Madagascar and included in the procedural manual dedicated to accounting and financial experts.

### SECTION II : DUE DILIGENCE ON TRANSACTIONS

**Article 18.** Pursuant to the provisions of Article 54 of Directive No. 001/SAMIFIN/DG/CAB/22 of June 14, 2022 and the internal procedure manual for combating money laundering and terrorist financing dedicated

to chartered accountants and financial experts, to employees authorized to practice the profession of accountant, the Order of accounting and financial experts of Madagascar may establish a threshold for the following operations carried out in the name or on behalf of their customer:

- purchase and sale of real estate;
- management of capital, securities or other assets of its client;
- management of bank, savings or securities accounts;
- contribution for the creation, operation or management of companies;
- creation, operation or administration of legal entities or legal arrangements, and purchase and sale of commercial entities.

The defined threshold is subject to approval by the control and supervisory authority and is transcribed in the procedure manual dedicated to chartered accountants and financial experts.

Any modification affecting the threshold follows the same procedure set out above.

## **TITLE II: SANCTIONS**

**Article 19.** Without prejudice to the imposition of sanctions by the judicial authorities, the Order of accounting and financial experts of Madagascar, any breach noted, lack of vigilance or a deficiency in the organization of internal procedures for the prevention of money laundering and the financing of terrorism are liable to the strict application of the provisions of Law No. 2018-043 of February 13, 2019 on the fight against money laundering and terrorist financing.

## **TITLE III: FINAL PROVISIONS**

**Article 20 .** This Directive comes into force upon notification by any means leaving a written record to the Order of Chartered Accountants and Financers of Madagascar, which is responsible for wide dissemination to all members of the profession.

**Article 21.** Depending on the risks identified, the evolution of the legislation governing the accounting and financial profession in Madagascar, the phenomenon of combating money laundering and the financing of terrorism, additional directives may be taken as necessary after consultation with the Order of Accounting and Financial Experts of Madagascar, in particular on the modalities relating to the declaration of suspicious transactions, vigilance measures.

**Article 22.** The provisions of Directive No. 001/SAMIFIN/DG/CAB/22 of June 14, 2022 remain applicable to accounting and financial experts in Madagascar as well as accounting companies registered in tables A and B of the Order of accounting and financial experts of Madagascar, authorized to practice in Madagascar.

Antananarivo,  
The Director General