



COULD YOU AS A PENSION SCHEME STAKEHOLDER BE COMPLICIT IN MONEY LAUNDERING?

You may have heard of money laundering before and more so how the financial markets play a major role in it. However, have you ever wondered how susceptible pension schemes are to money laundering? Could you as a stakeholder be complicit in money laundering? This article aims to address some of these concerns.

Among the items covered are:

1. Definition of money laundering
2. Stages of money laundering
3. Indicators of money laundering in pension schemes
4. Loopholes existing in pension schemes that may foster money laundering
5. Trustees' Responsibilities
6. Anti-Money Laundering regulations in Kenya



Definition

Money Laundering is the processing of criminal returns to disguise their illegal origin. It enables criminals to enjoy profits without jeopardizing their source.

Stages of money laundering

Money Laundering is a 3-stage process that involves:

Placement- moving illegally earned money into a legitimate financial system.

Layering - continuously transferring the money through multiple transactions, investments, or enterprises to make it hard to trace back to its illegal source.

Integration - making the laundered money available to the criminals through a legitimate account to be used freely without the need to conceal it any further.

Indicators of money laundering in pension schemes

Every pension scheme, being a repository of large pools of money, is vulnerable to this crime. Activities that would indicate that a scheme is already susceptible to the crime include:

- 1) Unusual or regular large additional voluntary contributions by a member, without proper disclosure of the source.
- 2) Large lump sum contributions by a member, soon before the member retires or soon before the member leaves the scheme.
- 3) Unrelated third-party paying contributions cash on behalf of a member of a pension scheme.
- 4) Asset transfers from an unrelated third party into a capitalization scheme.
- 5) An unemployed person paying contributions into an employee pension scheme.
- 6) Suspicious changes in details on the beneficiary list of a member.

Hence, trustees must understand their role in the fight against money laundering.



Loopholes existing in pension schemes that may foster money laundering

Pension schemes are vulnerable to Money Laundering in the following situations:

- Where a scheme is self-administered with no professional trustee.
- Where administrators have inadequate knowledge of regulator's requirements.
- Where there is an absence of procedures for obtaining, maintaining, and monitoring identification information of the sponsor, members, and beneficiaries.
- Where a scheme has many high-risk persons as members.
- Where the nature of business that the sponsor conducts is cash-intensive.
- Where contributions are made via non-face-to-face transactions.
- Where trustees invest in private equity or venture capital without carrying out proper due diligence.
- Where there are loose regulations that allow repatriation of proceeds of crime into a country.



Anti-Money Laundering regulations in Kenya

In 2009, Kenya enacted the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA). The POCAMLA makes Money Laundering a civil offense.

The POCAMLA provides for the establishment of the Financial Report Centre (FRC) which is in charge of receiving suspicious transaction reports. The FRC works with the regulator, the Retirement Benefits Authority (RBA), to ensure the regulated institutions in the pension industry implement their Anti-Money Laundering obligations.

Failure to comply, pension providers run the risk of being fined a maximum of Ksh 25 million as well as the FRC taking administrative actions like revoking their licenses.

The Retirement Benefits Authority (RBA) further emphasizes the requirements of the POCAMLA and has drafted the proposed Anti-Money Laundering Guidelines.



What are your (Trustees') Responsibilities?

What then is the role of Trustees in curbing money laundering within pension schemes?

Registration

Registration of pension schemes with the Financial Reporting Centre (FRC) and a notification thereof to the Regulator (RBA).

Internal Procedures and Policies

Formulate, implement and review internal procedures and policies for detection and prevention of money laundering activities.

Risk Assessment

Undertake rating of the money laundering risk of individual members, the scheme as a whole, and new products, services, and technologies of the scheme.

Customer Due Diligence

Ensure policies and procedures in place to verify customer identity, establish and maintain customer records and undertake periodic reviews of existing customer records and transactions.

Non-face to face transactions

Implement specific measures to mitigate the risk posed by non-face-to-face transactions.

Suspicious Transactions

Develop a relevant mechanism for the detection of suspicious transactions and report such transactions to the FRC.

Staff Training

Designate and train money laundering officers, as well as sensitize staff on current money laundering techniques.

Reporting

Submit annual compliance reports to the RBA and FRC, as well as maintain a register of suspicious activities.





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