



ANTI MONEY LAUNDERING & COUNTER TERRORISM POLICY
VERSION: 1.0

Effective: June 2024

Policy Summary

Background	<p>The Financial Action Task Force (FATF) requires countries to have policies and laws to combat the risk of terrorism financing and money laundering. The United Nations (UN) adopted Security Council Resolution 1373 (UNSCR 1373), placing barriers on the movement, organisation and fund-raising activities of terrorist groups, and requiring member countries to act against terrorist financing. FSD Africa donor countries and Kenya are members of the FATF and the UN Security Council. Consequently, FSD Africa is subjected to and must comply with the ensuing regulatory frameworks.</p> <p>FSD Africa will not provide support or resources to any individual or entity that it knows or has reason to believe advocates, plans, sponsors, engages or has engaged in terrorism, weapons proliferation, human rights violations or narcotics trafficking, any other prohibition instituted by a jurisdiction applicable to its activities, or acts as an agent of any individual or entity involved in any such activities, or that has been so designated by its donor countries, Kenya and the bodies to which they subscribe.</p> <p>This policy sets out the principles for managing risk and compliance associated with money laundering, terrorist financing, and sanctions in FSD Africa. It is designed to help FSD Africa adhere to applicable laws and regulations regarding money laundering (ML) and terrorism financing (TF) and communicate the expected responsibilities for its applicable stakeholders.</p> <p>This is, to all intents and purposes, a new policy. However, it does retain several clauses and excerpts from the earlier Anti-corruption & Integrity Policy, including elements of the stance against counter-terrorism.</p>	
Related Policies	<ul style="list-style-type: none"> ▪ Code of Conduct ▪ Data protection policy ▪ Due diligence policy and procedures ▪ Compliance policy ▪ IT policy and procedures ▪ Whistleblowing policy ▪ Disciplinary policy and procedures ▪ Anti-Corruption policy 	
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Document Control

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Distribution:	All, Internal

Approval History

Version:	1.0
Approved date:	June 2024
Previous version approved:	
Next review date:	May 2026
Approver:	
Approver title:	Board
Description of Changes from previous version	

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1. Introduction

If left to thrive, money laundering will weaken the social fabric, collective ethical standards and ultimately the democratic institutions of society. While the number and type of terrorist groups and related threats have changed over time, the basic need for terrorists to raise, move and use funds has remained the same. However, as the size, scope and structure of terrorist organisations have evolved, so have their methods to raise and manage funds.

The Financial Action Task Force (FATF) requires countries to have policies and laws to combat the risk of terrorism financing and money laundering. The United Nations (UN) adopted Security Council Resolution 1373 (UNSCR 1373), placing barriers on the movement, organisation and fund-raising activities of terrorist groups, and requiring member countries to act against terrorist financing. FSD Africa donor countries and Kenya are members of the FATF and the UN Security Council. Consequently, FSD Africa is subjected to and must comply with the ensuing regulatory frameworks.

2. Regulatory standards

FSD Africa commits to comply with legislation and regulations that combat the risk of terrorism financing and money laundering. These include:

- a) UK Counter-Terrorism Legislations
- b) Kenya Counter-Terrorism legislations
- c) Proceeds of Crime and Anti-Money Laundering Act 2009 (POCAMLA)

3. Policy statement

FSD Africa is committed to the international fight against terrorism and will never knowingly support, tolerate or encourage terrorism or the activities of those who embrace and or finance terrorism. FSD Africa is committed to achieving its objectives in compliance with anti-terrorism laws and sanctions laws applicable to its activities. FSD Africa will not provide support or resources to any individual or entity that it knows, or has reason to believe advocates, plans, sponsors, engages or has engaged in terrorism, weapons proliferation, human rights violations or narcotics trafficking, any other prohibition instituted by a jurisdiction applicable to its activities, or acts as an agent of any individual or entity involved in any such activities, or that has been so designated by its donor countries, Kenya and the bodies to which they subscribe.

FSD Africa commits to instituting appropriate systems and processes to comply with the applicable legislation and combat terrorism financing and money laundering.

4. Purpose of the policy

This policy outlines the principles for managing risk and compliance associated with money laundering, terrorist financing and sanctions in FSD Africa. It is designed to help FSD Africa adhere to applicable laws and regulations in relation to money laundering (ML) and Terrorism Financing (TF), as well as communicating the expected responsibilities for its applicable stakeholders

5. Scope of the policy

This policy applies to all FSD Africa Board, Directors, committee members, employees, consultants and other staff (each such individual being an FSD Africa Person), including but

not limited to the following: partners, grantees, consultants, volunteers and contractors (together, "FSD Africa Personnel").

6. Definitions¹

Terrorist financing (TF) involves the solicitation, collection or provision of funds with the intention that they may be used to support terrorist acts or organisations. A person commits the crime of financing terrorism if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used, or in the knowledge that they are to be used, in full or in part, to carry out acts of terrorism.

Proscribed groups or persons are groups or persons that have been banned by a government or an inter-governmental organisation such as the UN. The purpose of such a ban could be due to the commission of terrorism offences. Designated terrorist groups are those that are set aside as terrorist groups.

Money laundering (ML) is the process by which proceeds from criminal activity are disguised to conceal their illicit origins, such as corruption, illegal drugs or illegal arms; (i) the conversion or transfer, knowing that such property is the proceeds of crime (ii) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to the property, knowing that such property is derived from the proceeds of crime; and (iii) the acquisition, possession or use of property, knowing, at the time of the receipt, that such property is derived from the proceeds of crime.

Beneficial owner means the natural person(s) who ultimately owns or controls a customer or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

Applicable laws and regulations mean the laws of Kenya, the laws of the countries of FSD Africa's donors and regulations imposed by intergovernmental institutions to which the countries of FSD Africa and its donors subscribe, such as the UN and European Union (EU).

Financial reporting centre - an institution established under Section 21 of the Proceeds of Crime and Anti-Money Laundering Act 2009 (POCAMLA) and has the principal mandate of assisting in the identification of the proceeds of crime and the combating of money laundering and the financing of terrorism.

Politically Exposed Persons (PEPs) are natural persons (and their close associates and family members) who have or have previously held a high political profile or a prominent public function.

Sanctions are restrictions or prohibitions imposed by laws and regulations that can target economic, diplomatic, financial, and trade activities with specific countries, governments, entities, organisations, or individuals. Governments and supranational organisations implement sanctions to achieve various foreign policy objectives, such as to promote and maintain international peace and stability, democracy and human rights, to prevent terrorism and the proliferation of arms and weapons of mass destruction.

¹ Majorly adapted from IMF: <https://www.imf.org/external/np/leg/amlcft/eng/aml1.htm#moneylaundering>

7. Approach

FSD Africa embraces the following approach to managing the risk of ML and TF.

- a) Training and Awareness
- b) Screening
- c) Risk assessments
- d) Monitoring
- e) Responding and reporting

8. Money Laundering Reporting Officer

FSD Africa has designated the Risk and Compliance Lead as a money laundering reporting officer (MLRO). The MLRO will monitor the compliance of this policy and inform the Board on an annual basis. The MLRO is also responsible for ensuring that staff have been trained and made aware of the requirements of this policy. The MLRO will be responsible for making external reports to the regulators in line with applicable legislation and donor agreements. The MLRO will develop a risk mitigation plan for Board approval.

9. Training and awareness

All FSD Africa personnel will receive training upon joining. Refresher sessions will also be availed regularly thereafter. The training will enable them to recognise and report ML and TF risks and help protect FSD Africa from the materialisation of such risks.

10. Risk assessment

The risk of ML and TF will be assessed before the adoption and implementation of FSD Africa programmes. These risks will be evaluated and managed as part of FSD Africa's risk management procedures set out in the Risk policy. Mitigation controls will be instituted and monitored every quarter.

11. Screening

FSD Africa will conduct AML and TF checks on all third parties before dealing with them. This will include suppliers, grantees and potential staff. The screening process will be done against sanctioned lists of its donor country government, Kenya Government and the UN and in line with the FSD Africa due diligence procedures.

FSD Africa shall not accept funding from any funder nor proceed with any investment without knowing who the beneficial owners and prospective co-owners of a funder or investee entity (as applicable) would be.

FSD Africa should not engage in a relationship with anyone convicted of, or under investigation for, a serious criminal offence, nor should they undertake any investment where there is credible evidence of existing links to organised crime and criminal activities.

FSD Africa should not engage with any person or with any entity listed on an internationally recognised "blacklist" (whether relating to financial sanctions or otherwise).

12. Reporting concerns

All FSD Africa personnel must report any suspicions of Money Laundering and Terrorism Financing immediately to the MLRO, DCS or CEO. Reports can be made by email to any of those three.

Alternatively, FSD Africa personnel may also report suspicions confidentially through the hotlines available, in accordance with the Whistleblowing Policy.

Confidentiality must be maintained and reporting done using the channels provided. FSD Africa personnel must not tip-off involved parties concerning suspicions. Tipping off is a breach of the Kenya POCAMLA and will also be considered a disciplinary matter by FSD Africa.

13. Responding to concerns

Once a report has been made, the person making the report will receive an acknowledgement of the suspicion and may be contacted should more information be needed. FSD Africa will respond to the report swiftly and robustly in line with the provisions set out in the Anti-corruption & Integrity Policy.

Reports of this nature may trigger further reports to authorities and regulators.

14. External reporting and legal compliance

FSD Africa is subject to the laws and regulations of the countries in which it operates and is committed to complying with them fully. The MLRO will ensure that suspicious transaction reports or suspicions of breaches of the ML and TF legislation are reported to the Kenya Government. The MLRO will also ensure that the Board is informed of these reports.

External reporting to regulators or other bodies will align with laws and regulations and any agreements signed by FSD Africa.

The Director Corporate Services will provide oversight and ensure that all reports made to external stakeholders align with the relevant laws, regulations and agreements signed by FSD Africa.

15. Monitoring

Regular monitoring will be conducted to ensure compliance with this policy. The MLRO will be responsible for instituting a monitoring framework to help FSD Africa consistently apply preventative measures such as awareness, screening, risk assessments and management of reported suspicions.

Reports on the monitoring will be presented to the Board annually.

16. Grantees

All FSD Africa Persons and all other persons or entities which receive funding (either directly or indirectly) from FSD Africa should be aware of this Policy and will have adopted similar or identical procedures to prevent terrorist financing and money laundering that may occur in connection with their activities.

Grantees must ensure their staff are trained and are aware of their responsibility to protect funds from the risk of diversion. They must also conduct due diligence and screening processes like those instituted by FSD Africa to mitigate the risk of dealing with proscribed persons, financing terrorism or money laundering.

Grantees must report suspicions of money laundering, terrorism financing and sanctions breaches within 48 hours to FSD Africa.

Terrorism financing and money laundering mitigation obligations will form part of the contract with all grantees and partners. FSD Africa reserves the right to terminate agreements with grantees deliberately breaching the policy.

17. Data protection

FSD Africa respects confidentiality and is responsible for protecting sensitive personal data. Information will only be shared on a need-to-know basis, which means access must be necessary to perform one's official duties. Only individuals who have legitimate reasons to access the information are allowed to receive it.

18. Independent assurance

All operations of FSD Africa are subjected to an independent external audit. FSD Africa commits to having an annual independent assurance over the effectiveness of the anti-corruption processes.

19. Responsibilities

a) Personnel

All people working with FSD Africa are responsible for compliance. In particular, they must read, understand and adhere to this Policy, the FSD Africa Code of Conduct and any initiatives developed by FSD Africa to mitigate TF and ML risks.

b) Managers

Managers are accountable for compliance within the units for which they are responsible. Managers at all levels within FSD Africa are responsible for:

1. Ensuring employees, volunteers, and third parties they relate with are inducted into this policy and supported in implementing and working in accordance with it.
2. Ensuring screening of third parties has been conducted and satisfactory resolution of any outcomes attained before engaging with them.
3. Conduct risk assessments, vigilantly monitor and, where necessary, update controls and procedures to mitigate the risk of money laundering and terrorism financing to FSD Africa.
4. Chief Executive Officer

The Chief Executive Officer is responsible for ensuring the overall effective implementation of this policy and associated procedures and ensuring everyone associated with FSD Africa is equipped and supported to meet their responsibilities.

c) Board of Directors

The Board retains the ultimate accountability for implementing this policy. The Board has delegated the overall oversight responsibility of ML and TF risk management across FSD Africa's operations to the Finance Audit and Risk Committee.

d) The Finance Audit and Risk Committee (FARC)

The Finance Audit and Risk Committee (FARC) is a board committee that will:

1. Determine the appropriate level of acceptable risks the Board is willing to accept in FSD Africa's operations.
2. Approve this policy and provide oversight over the effectiveness of the procedures and systems instituted to curb corruption.

e) MLRO

The MLRO will:

1. Be responsible for monitoring compliance with this policy and preparing reports to the FARC.
2. Centrally maintain a repository of suspicions received and relevant audit trails for ongoing learning in accordance with the applicable data protection regulations.

20. Related Policies

This policy should be read in conjunction with:

1. Code of Conduct
2. Data protection policy
3. Due diligence policy and procedures
4. Compliance policy
5. IT policy and procedures
6. Whistleblowing policy
7. Disciplinary policy and procedures
8. Anti-corruption policy

21. Review of this policy

The Director Corporate Services or designate is responsible for overseeing and updating this policy and associated procedures, considering any legal obligations and other external requirements. Without external changes, this policy will be reviewed every two years.