

# Enhancing South Sudan's Anti - Money Laundering and Counter - Terrorist Financing Act: Analyzing the 2024 Amendment in Compliance with International Standards

Counsel General Sabri Wani Ladu Worja

Ministry of Justice and Constitutional Affairs, South Sudan

**Abstract:** Background: Money laundering and terrorist financing pose significant challenges to global financial security. South Sudan has undertaken legal reforms through the 2024 Amendment to its Anti - Money Laundering and Counter - Terrorist Financing Act (AML/CFT) to align with the Financial Action Task Force (FATF) recommendations. This study analyzes the effectiveness of the amended Act in addressing financial crimes and evaluates its alignment with FATF's 40 recommendations. The study employs a black - letter positivist approach and comparative legal analysis. Key findings reveal gaps in institutional enforcement, regulatory compliance, and financial intelligence capabilities. The study suggests reforms to enhance legal frameworks and institutional mechanisms to ensure full compliance with international AML/CFT standards. Materials and Methods: The author conducted a systematic review of published research to meet the study objective (Soundararajan et al., 2018). The existing literature reviews on the topic explore various aspects of money laundering. The data sources for past reviews were mostly policy documents and reports related to money laundering, along with their aims, methods, key findings, and main differences between past reviews and our present review. One method to assess the clarity of the 2024 Amendment to the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, is through "black - letter" positivist analysis. Another approach is to utilize comparative legal analysis. Results: To reform the defunct financial system, the South Sudan government should domesticate ratified conventions and implement necessary reforms outlined in the recent amendment. The findings highlight shortcomings, such as a lack of awareness, insufficient cross - border regulation, corruption, tax evasion, and the involvement of Designated Non - Financial Businesses (DNFBs), especially in real estate transactions. Therefore, understanding money laundering could form the basis for a more efficient battle against transnational crime organizations. Research Limitation: There are some issues with the research, though. For example, there are no official statistics or records of money laundering in South Sudan. Additionally, limited empirical research on money laundering crimes hinders the ability to conclude criminal proceedings.

**Keywords:** Money Laundering, Financial Action Task Force (FATF), Anti - Money Laundering (AML), Counter - Terrorist Financing (CFT), South Sudan Legislation.

## 1. Introduction

Money laundering, a trade - based crime that conceals the source of illicitly acquired funds, has been a significant concern for researchers and policymakers due to its impact on economies, legal enforcement, and society. Emerging in the 1930s, it is a trade - based crime that obstructs the legal system's capacity to detect illicit activities and poses risks to global economies (Ferrill & Allan (2024). Global money laundering totals between \$800 billion and \$2 trillion annually, significantly affecting stock markets (UNODC 2024). Legal professionals ensure AML framework implementation, advise institutions on compliance, and enforce regulations (Valvi, 2023). Akartuna, Johnson, and Thornton (2024) emphasize the need for a uniform financial intelligence approach to detect money laundering techniques. They argue that law enforcement must adapt to evolving laundering methods due to political differences and regulatory frameworks. Balaji (2024) suggests that AI could be a crucial tool in enhancing efforts against money laundering by detecting unusual transaction patterns.

Combating money laundering requires a robust regulatory framework and a comprehensive strategy. This framework includes measures to identify and verify customers (KYC), conduct due diligence, prevent money laundering (AML), monitor transactions, report any suspicious activity, and identify the true owner of a business. It involves risk

assessment and targeted monitoring, focusing on high - risk customers and transactions. Technology implementation includes automated KYC systems and data analytics tools, staff training, and internal controls to monitor compliance with AML regulations. Benefits include reduced money laundering risk, enhanced financial system integrity, and regulatory compliance. This strategy helps banks mitigate money laundering activities, contributes to financial system stability, and avoids legal penalties and reputational damage associated with non - compliance with AML regulations.

The Financial Action Task Force (FATF) provides a strong foundation for countries to establish efficient anti - money laundering systems, with international cooperation being crucial for effectively addressing this issue Yousufi and Harikumar's (2024) <sup>1</sup>.

The FATF recommendations are essential for establishing a secure global financial environment and combating money laundering and terrorism financing. These recommendations establish a robust regulatory framework, enhance the credibility of financial institutions, and promote international cooperation in combating financial crimes.

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<sup>1</sup> Yousufi, Z., & Harikumar, P. N. (2024). A Bibliometric Analysis of Money Laundering and Anti-Money Laundering: Mapping, Current Stream, And Future Research Agenda.

Scholars argue that these recommendations improve the credibility of financial institutions and promote compliance with the global anti - money laundering and counter - terrorist financing regime in the legal profession (Costantino, 2024; Goldbarst & Harris, 2024) <sup>2</sup>. This approach emphasizes the importance of prioritizing activities involving money laundering (ML), investigating significant crimes generating profits, ensuring justice for offenders, and imposing effective penalties on convicted persons. A database system with statistics and information on ML and terrorist financing cases should be established, and a special unit should be created to investigate, prosecute, and try ML and TF cases.

The FATF recommendations stipulate that countries must align their operational capabilities and goals with national policies to prevent and combat money laundering at both policy and operational levels (FATF R.2). An effective system is one in which the components (investigation, prosecution, and penalties) work cohesively to mitigate money laundering threats. The flexibility of FATF standards to different national settings highlights their effectiveness in tackling diverse financial systems (Koker, 2022) <sup>3</sup>.

The amendment of the South Sudan Anti Money Laundering and Counter Terrorist Financing Act, 2012 introduced in 2024 additional rules that enable judges to determine, based on objective facts, whether someone knew they were laundering money, which is a crime. According to section 13 of the Anti Money Laundering and Counter Terrorist Financing Act, 2012, Amendment, 2024, penalties for money laundering include fines and incarceration, applying to both individuals and corporate entities. An individual may incur a penalty equivalent to double the market value of the property implicated in the offense, or they could receive a sentence of either 10 or seven years. The section of the Act states that a corporate entity could face a penalty three times the market value of the property. Directors, managers, controllers, and partners involved in the operations of a corporate entity or association could face conviction for money laundering unless they can demonstrate that they unknowingly and diligently committed the offense as per the section.

Terrorism financing refers to providing financial resources to terrorists, which can originate from illicit operations or legitimate sources such as salaries or business income. Countries should criminalize terrorism financing in accordance with the Terrorist Financing Convention. Disrupting and preventing transactions is crucial to effectively combat terrorism. *South Sudan should develop a strategic plan, conduct capacity building for authorities, and comply with UN Security Council Resolutions 1267 and*

1373. Criminalizing money laundering not only combats financial crime but also reduces funding for terrorism and enhances global security. Utilizing a wide range of financial intelligence techniques can assist regulators in monitoring and comprehending financial transactions better, enabling them to identify money laundering and other related crimes Reznik et al., (2023) <sup>4</sup>.

The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024, defines terrorism financing as *providing financial resources for terrorist activities*. The 2024 AML/CFT Amendment criminalizes terrorist acts under various treaties, including the Convention for the Suppression of Unlawful Seizure of Aircraft (1970), the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971), the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973), the International Convention against the Taking of Hostages (1979), the Convention on the Physical Protection of Nuclear Material (1980), the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988), the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005), the Protocol for the Suppression of Terrorist Bombings (1997), and the International Convention for the Suppression of the Financing of Terrorism (1999).

The Act defines 'terrorist financing' as the provision of financial resources for terrorist activities, individuals, and organizations. According to FATF Recommendation 5, countries must criminalize not only the financing of terrorist acts but also the financing of terrorist organizations and individuals, even without a direct connection to a specific terrorist act or acts. These offenses should be classified as predicate offenses for money laundering. FATF Recommendations 6 and 7 Countries must implement targeted financial sanctions related to terrorism, terrorist financing, and proliferation to comply with UN Security Council resolutions on combating and preventing terrorism. These include freezing the funds and assets of individuals or groups designated by the UN Security Council under Chapter VII of the UN Charter or Resolution 1373 (2001) <sup>5</sup>. The 2024 amendment to the Principal Act broadened the definition of a "terrorist group" to encompass any organization that directly or indirectly engages in or attempts to carry out terrorist acts. Penalties for terrorism financing include life imprisonment for an individual convicted, fines determined by the Financial Intelligence Unit, and restrictions on reconstituting or incorporating in any way. The Financial Action Task Force (FATF) methodology emphasizes prioritizing anti - money laundering activities, investigating significant crimes that generate proceeds, prosecuting perpetrators, and imposing effective sanctions on those found guilty. However, the review approach of the FATF Greylist is flawed, leading to inconsistencies in

<sup>2</sup> Costantino, F. (2024). The FATF Recommendations and the Development of International Standards on Terrorist Financing. In *Countering Terrorist and Criminal Financing* (pp. 31-42). CRC Press. Goldbart, D., & Benson, K. (2023). From later to sooner: exploring compliance with the global regime of anti-money laundering and counter-terrorist financing in the legal profession. *Journal of Financial Crime*, 31(4), 795-809.

<sup>3</sup> Koker, L. D. (2022). Regulatory Impact Assessment: Towards a Better Approach for the FATF. *Journal of Money Laundering Control*, 25(2), 265-267.

<sup>4</sup> Reznik, O., Utkina, M., & Bondarenko, O. (2023). Financial intelligence (monitoring) as an effective way in the field of combating money laundering. *Journal of Money Laundering Control*, 26(1), 94-105.

<sup>5</sup> FATF Recommendation 4 and FATF Special Recommendation 2 and 3.

evaluating real - world interventions and potentially impacting developing countries' economies (Khouny and Drissi, 2025) <sup>6</sup>. Assessments often impact financial institutions, leading to risk - averse positions and uneven policy adjustments across regions, especially in emerging markets (Azinge - Gbiri and Egbiri, 2024) <sup>7</sup>. The FATF aims to protect financial systems and the economy from illicit activities while enhancing safety and security. Competent authorities, such as the Financial Intelligence Unit (FIU) and regulatory bodies, must be informed about the stages of the AML/CFT Mutual Evaluation Process. These stages involve training national experts, selecting members of the assessment team (AT), reviewing technical compliance data, conducting a risk and scoping exercise, collecting information, performing a preliminary effectiveness assessment, visiting the site, drafting a report, holding in - person meetings, presenting the draft report to the FATF Plenary, and following up with the Secretariat. The FATF provides training to representatives of the evaluated country, and the assessing team evaluates the nation's performance across 11 FATF Immediate Outcomes. Hence, South Sudan should prepare in advance for its first mutual evaluation in 2029 by initiating a project - based funding request to the committed partner to finance the country's action plan for mutual evaluation. *The author suggests that South Sudan must adhere to Immediate Outcome 10 (IO.10) of the FATF Methodology to effectively combat terrorist financing. This involves implementing specific financial penalties, identifying terrorists and their financiers, and preventing them from obtaining funds.*

The conclusion is that South Sudanese authorities should adopt a collaborative strategy to combat money laundering and terrorist financing by integrating robust legal frameworks, technological innovations, and the commitment of legal practitioners. The government should also promote a monitoring system for the private sector, which includes regular inspections, information dissemination, and public identification, to mitigate risks.

This study aims to assess the effectiveness of the 2024 Amendment to South Sudan's Anti - Money Laundering and Counter - Terrorist Financing Act in compliance with FATF recommendations and international financial crime prevention standards. This research is significant as it evaluates the legislative and institutional reforms required for South Sudan to enhance its compliance with global anti - money laundering and counter - terrorism financing standards, ensuring financial security and regulatory alignment.

### General objective

- 1) To assess the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024, in compliance with FATF recommendations.

<sup>6</sup> Khouny, H., & Drissi, H. (2025). Addressing the challenges of weak AML measures in developing countries: Key concerns of FATF and consequences of greylisting. *Multidisciplinary Science Journal*, 7(3), 2025150-2025150.

<sup>7</sup> Azinge-Egbiri, N. V., & Egbiri, E. Strategic Tools for Amplified AML/CFT Compliance in Developing Countries. In *Global Anti-Money Laundering Regulation* (pp. 281-294). Routledge.

- 2) To evaluate South Sudan's AML institutional framework.

### Specific Objectives

The study will seek to make recommendations on how to strengthen the legal framework, fill the identified gaps to effectively combat money laundering, and achieve optimal results.

## 2. The Problem of the Study

Money laundering is a significant global concern that conceals the origins of illegally obtained funds, weakens financial institutions, and hampers law enforcement efforts, negatively impacting the global economy. Understanding the complex structure of money laundering is crucial for understanding its impact on global economies, legal frameworks, and societal trust. South Sudan's Anti - Money Laundering (AML) and Counter - Terrorism Financing (CTF) initiatives encounter significant challenges due to legal frameworks, institutional capacities, and operational constraints. The lack of unity in regulatory frameworks across jurisdictions hinders financial institutions from assessing the effectiveness of anti - money laundering procedures.

Despite significant shortcomings in South Sudan's anti - money laundering (AML) legislation, the country has effectively incorporated appropriate provisions in the ratified Act 012 during the 2024 amendment. The South Sudanese government should adopt the United Nations Convention against Transnational Organized Crime, the Palermo Protocols, the Vienna Convention, and the International Convention for the Suppression of the Financing of Terrorism in South Sudan. This study proposes that *South Sudan should analyze various aspects of AML laws from other regions and integrate them, while selecting and adhering to specific rules for comparison and adoption.*

## 3. The Questions of the Study

- 1) To what extent do the provisions of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024 comply with the FATF Recommendations?
- 2) Is South Sudan's institutional AML framework in place?
- 3) What gaps have been identified and the reforms required?

### Importance of the Study

This study evaluates the Anti - Money Laundering Act of 2012 and its 2024 amendment in South Sudan, assessing their compliance with the Financial Action Task Force's (FATF) 40 recommendations. The aim is to highlight the new developments in South Sudan's Anti - Money Laundering and Counter - Terrorist Act, 2012, Amendment, 2024, and help the government tackle money laundering offenses. The study also aids in developing policies, guidelines, and circulars for the Financial Intelligence Unit, the Multi - National Committee for Combating Money Laundering, regulatory authorities, and other oversight bodies. The study examines the six main components of anti - money laundering systems (AMLSs) as recommended by the FATF, focusing on significant issues and their relevance



to South Sudan's legal system. It proposes initial recommendations for legal enhancements without offering comprehensive solutions or legislative reforms.

#### 4. Materials and Methods

The Vienna Convention, the Palermo Convention, UNCAC, and other international legal instruments encompass most international anti - money laundering standards (AMLSs). When determining a country's compliance, the "incorporation"<sup>8</sup> or "transformation"<sup>9</sup> doctrine typically assesses its implementation<sup>10</sup>. The FATF examines how well national laws and other legal tools adhere to the FATF's guidance and the presence of an institutional AML framework.<sup>11</sup> This study employs this approach to evaluate the South Sudan Anti Money Laundering and Counter Terrorist Financing Act, 2012, Amendment, 2024, as adherence to the FATF's criteria is crucial for South Sudan. The question of efficiency pertains to the achievement of the standards' goals, which can stand independently from compliance. The FATF defines effectiveness as the extent to which defined outcomes are achieved. The aim of assessing effectiveness is to offer insight into the overall functioning of the country's AML/CFT system. The study does not assess the effectiveness of the South Sudanese legal framework, as it employs a distinct method to ensure compliance with recommendations. Recommendations for law reform in South Sudan depend on comparative law and the theory of "*legal transplants*." Numerous scholars have explored the use of comparative law as a mechanism for legal reforms, particularly in Africa, such as South Sudan. Laws often undergo changes through a process known as legal transplantation. For a successful comparison and adoption of AML laws, South Sudan should meticulously choose and follow specific rules when comparing and adopting different components from various sources. The literature on this topic delves into different facets of money laundering, with primary data sources being policy papers and publications on the subject. The assessment focuses on whether the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024 is compliant, vague, or consistent with its application. Future research should incorporate empirical case studies on financial crime enforcement in South Sudan to provide data - driven validation of the findings.

#### 5. Result and Discussion

Money laundering is a significant issue in developing economies, hindering the growth of legitimate activities and

turning them into partners in crime. South Sudan has been working with the Financial Action Task Force (FATF) and the East and Southern Africa Anti - Money Laundering Group (ESAAMLG) since June 2021 to improve its Anti - Money Laundering and Counter - Terrorist Financing (AML/CFT) framework. The country has implemented measures to improve governance, including sharing the outcomes of its recent National Risk Assessment (NRA) with stakeholders.

The AML/CFT 2024 Amendment designates the Financial Intelligence Unit as an independent Financial Information Unit, fully equipped to fulfill its duties. The amendment mandates that non - profit organizations at risk of financing terrorists will be closely monitored and regulated according to their risk profile. This relates to the enforcement of financial sanctions in line with UN Security Council Resolutions (UNSCRs).

South Sudan has followed the FATF's recommendations to tackle its strategic weaknesses. The amendment to the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, in 2024 may have effectively addressed the issues raised. For example, the Financial Intelligence Units have been upgraded to a national independent center, competent supervisory authorities have been set up, and investigations into reports of suspicious activity have been launched. It is now easier to understand what the rules are for AML/CFT reporting persons, Customer Due Diligence, the International Cooperation Mechanism, the confiscation regime, the duties of legal entities, lawyer privilege, and following through on UN Security Council resolutions. The country's AML/CFT legal framework is largely compliant with the FATF's 40 plus 9 recommendations standards. However, the country is still classified under the list of nations that are greylisted. In this section, the author discusses the results that include legal systems and related institutions, Preventive Measures – Financial Institutions, Preventive Measures – Designated Non - Financial Businesses and Professions, Legal Persons and Arrangements & Non - Profit Organizations, and National and International Co - Operation to prove that South Sudan's Anti Money Laundering and Counter Terrorist Financing is largely compliant with FATF Recommendations.

##### 1) Legal System and Related Institutional Measures:

This section discusses the crime of money laundering, preventive measures, and confiscation. It also examines the necessary institutions to combat money laundering and terrorist financing, along with the authorities involved, their powers, and their resources. It also covers the transparency of legal entities. The goal is to see if the South Sudan Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024 meets FATF standards.

- a) **A National Risk Assessment (NRA);** is a crucial process for countries to identify, assess, and understand the risks of money laundering, terrorist financing, and the financing of weapons of mass destruction. It helps direct resources effectively and develop a national regime to counter these risks. South Sudan's National Risk Assessment (RSSNA) assessed the threat of

<sup>8</sup> The doctrine of "incorporation," a treaty ratified by the state, will become part of the municipal law automatically without being expressly adopted by the legislature or the courts of that state.

<sup>9</sup> The doctrine of "transformation" postulates that any provision of international treaties does not come into effect in a state until it has been specifically enacted into domestic law, for example, by the passage of a law.

<sup>10</sup> See Malcolm N. Shaw, International Law (6th ed, Cambridge University Press, 2008) at 139-141.

<sup>11</sup> Harold K Jacobson and Edith Brown Weiss, "Strengthening Compliance with International Environmental Accords: Preliminary Observations from Collaborative Project" (1995) 1 Global Governance 119 at 123.

money laundering (ML), major predicate offenses generating criminal proceeds, terrorist financing threats, weaknesses in the financial sector, and other businesses. Internal threats include corruption, fraud, tax crimes, and counterfeiting, while external threats include illegal exploitation of natural resources, drug trafficking, and human trafficking.

South Sudan has a high money laundering vulnerability assessment score due to the transition since the war with Sudan, civil unrest, weak identification systems, cash transactions, a large informal economy, open borders, and problems with public finances. The government has implemented a money laundering risk assessment framework, focusing on various sectors such as environmental crimes, the oil industry, legal companies, gold mining, timber, commercial banks, financial services, and non-profit organizations. The methodology involved identifying information sources, planning work steps, estimating project timelines, and consulting organizational structures. Threats include terrorist attacks, regional activities, neighboring groups, terrorism-related organizations, backing terrorist organizations, financial hubs, and essential goods and services.

The 2023 Mutual Evaluation Process reviews governments every six years to ensure they follow through on their promises to effectively detect, prevent, and punish money laundering, terrorist financing, and the spread of weapons of mass destruction. The process includes several steps, including training national experts and representatives from the country being evaluated, selecting assessment team members (AT) from a group of trained assessors, checking for technical compliance, conducting a risk and scoping exercise, collecting information, conducting a preliminary effectiveness review, visiting the site, writing a report, and meeting in person. Competent authorities and self-regulating bodies should ensure consistency with national AML/CFT policies and identified ML/TF risks. South Sudan has been working with the Financial Action Task Force (FATF) and the East and Southern Africa Anti-Money Laundering Group (ESAAMLG) since June 2021 to improve its Anti-Money Laundering and Counter-Terrorist Financing (AML/CFT) framework. The country has implemented governance measures, including sharing the outcomes of its National Risk Assessment with stakeholders. As a result of the AML/CFT 2024 Amendment, there is now a separate Financial Intelligence Unit. Non-profits that could be used to fund terrorism must be closely watched and supervised, and financial sanctions are enforced in line with UN Security Council Resolutions. The Money Laundering Threat Analysis (ML Threat) conducted in South Sudan utilized information from the National Treasury (NTF) and publicly available data. The FATF has issued Recommendations 26 (Regulation and Supervision of Financial Institutions), 27 (Powers of Supervisors), and 28 (Regulation and Supervision of DNFBPs) to help countries combat money laundering and terrorist financing. South Sudan amended its

AML/CFT Act, 2012, in 2024 and the Anti-Corruption Commission Act, 2008, in 2023.

- b) *In a nutshell, the features of the Anti Money Laundering and Counter Terrorist Financing Act, 2012, Amendment 2024.* The Anti Money Laundering and Counter Terrorist Financing Act, 2012 (Amendment, 2024) introduced new terminologies and expanded existing definitions to align with the Financial Action Task Force (FATF) recommendations. The Act defines terms such as 'beneficial owner,' 'central authority,' 'competent authorities,' 'corporate body,' 'customer due diligence,' 'high-risk customer,' 'money service business,' and 'foreign exchange dealers.' It also delineates the responsibilities of various financial institutions, including banks, microfinance institutions, savings and credit institutions, pension funds, investment funds, securities underwriters, brokers, insurance companies, and financial leasing companies. The amendment redefined the term Politically Exposed Person (PEP) to include domestic PEPs not covered by the Principal Act. It expanded the definition of predicate offenses to include any crime carrying a minimum sentence of over six months in prison, regardless of whether it occurred inside or outside the country. The list of reporting persons has been expanded to include real estate dealers, brokers, agents, trusts, insurance service providers, gold bullion dealers, casinos, and foreign exchange bureau operators.

The Act establishes competent authorities in line with FATF Recommendations No.26, 27, and 29. The Minister of Finance can designate institutions not covered by the Act as supervisors, enabling them to conduct inspections, oversee reporting entities, and carry out supervisory functions to adhere to FATF recommendations.

- c) *Criminalizing money laundering in accordance with FATF (R.1, 2, 3 and 4);* The Financial Action Task Force (FATF) Recommendations 1 and 2 emphasize the importance of identifying and assessing risks related to money laundering and terrorist financing to ensure effective mitigation. They recommend using risk-based measures to optimize resource allocation, prevent money laundering, and terrorist financing. FATF Recommendations 3 and 4 require countries to criminalize money laundering and implement appropriate measures to confiscate the proceeds of crime. Financial institutions, non-financial businesses, and professions should implement measures to prevent money laundering and terrorist financing. Additionally, banking secrecy laws should not conflict with or hinder the effectiveness of the money laundering strategy. The Anti-Money Laundering and Counter-Terrorist Financing Act, 2012, Amendment, 2024 expanded the definition of a "predicate offense" to include crimes punishable by a minimum of six months' imprisonment under any law in South Sudan, whether committed within or outside the country. Section 14, updated to include new parts (f) and (g), criminalized money laundering. These new provisions allow courts to infer the intention and knowledge required to prove the

crime. Section 22 of the principal law regarding secrecy states that the regulations in the Anti - Money Laundering and Counter - Terrorist Financing Act apply regardless of any rules on confidentiality or information sharing. The section was amended in 2024, adding the phrase "except in cases where legal professional privilege applies. "" Chapter VII of the Act deals with confiscation and includes different types of confiscation in sections 43–48. These sections cover restraining orders, recovering assets after a conviction, confiscating money as a penalty, civil recovery of property, managing seized assets, and sharing assets. The author argues that South Sudan authorities must align with the FATF's methodology, emphasizing the need to prioritize anti - money laundering efforts, investigate major offenses, prosecute offenders, and enforce sanctions on those convicted. *To combat this widespread financial crime, South Sudan must adopt a coordinated approach that includes strong legal frameworks, new technology, and the hard work of lawyers.*

- d) ***The criminalization of terrorist financing. FATF (SR. II) and financing of proliferation (FATF R.5, 6, 7, and 8;*** The Financial Action Task Force (FATF) has created Special Recommendation II to address terrorist financing and money laundering. They also have Recommendation 5 to help stop funding terrorism and related activities. In addition, Recommendation 6 focuses on targeted financial sanctions related to terrorism and terrorist financing, Recommendation 7 addresses targeted financial sanctions related to proliferation, and Recommendation 8 pertains to nonprofit organizations. These recommendations emphasize the connection between international terrorism and money laundering, requiring countries to include terrorist financing offenses as precursors to money laundering. They also recommend freezing and seizing terrorist assets in line with UN resolutions aiming to stop and eradicate funding for terrorist activities.

Countries use the Vienna and Palermo Conventions to criminalize money laundering, choosing between a threshold or combined approach based on their national law. Similar to money laundering, criminalizing terrorist financing requires individuals implicated to face punishment and charges. Nonprofit organizations should review their rules and regulations to safeguard themselves from abuses related to terrorist financing. Financial Intelligence Units (FIUs) must receive, analyze, and share information on money laundering and terrorist financing. Dedicated law enforcement officials conduct investigations and provide essential information and documents. Supervisors oversee compliance with standards and apply administrative sanctions as necessary. Furthermore, FATF Recommendation 9 is a set of guidelines that aim to prevent and detect terrorist financing in countries. These measures include detecting currency movements, halting suspected currency, criminalizing terrorism, freezing terrorist assets, reporting suspicious activity, and ratifying UN conventions. Countries should establish systems to detect currency and bearer

negotiable instruments across borders, have legal authority to stop or restrain currency linked to terrorism or money laundering, make financing terrorism illegal, freeze terrorist assets, and report suspicious activity to relevant authorities. FATF Recommendation 9 is crucial as it ensures that countries have the necessary measures to combat money laundering and terrorist financing.

The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012 (Amendment, 2024) defines and criminalizes terrorist financing, which includes providing funds for terrorist acts, funding travel to a state other than one's home or nationality for terrorist activities, planning or inciting others to commit or attempt terrorist acts, and participating in or planning terrorist acts. Penalties for terrorism financing include life imprisonment for individuals convicted of terrorism financing or a fine determined by the Financial Intelligence Unit (FIU). In 2024, amendments to the Principal Act added a new section after section 29. Section 52 regulates the implementation of financial provisions of the United Nations Security Council Resolutions, stating that the Republic of South Sudan shall implement targeted financial sanctions to comply with the United Nations Security Council Resolutions (UNSCRs) relating to the prevention, suppression, and disruption of the proliferation of weapons of mass destruction (WMD) and their financing. *To effectively combat terrorist financing, South Sudan must adhere to Immediate Outcome 10 (IO.10) of the FATF Methodology.* This involves imposing timely, specific financial penalties, identifying terrorists, terrorist groups, and financiers, and preventing them from obtaining, transferring, or using funds. *Non - financial firms or professions (NPOs) should implement targeted, proportionate, risk - based mitigation strategies.*

- e) ***Confiscation, freezing, and seizure of proceeds of crime as per FATF (R.3, 4, 5, 6, 7, & 8).*** The Financial Action Task Force (FATF) has issued numerous recommendations to tackle issues like money laundering, terrorism financing, proliferation of weapons of mass destruction, and UN Targeted Financial Sanctions. These rules highlight the significance of locating, tracking, and assessing stolen property; commencing the necessary investigations; expediting interim measures; seizing or confiscating stolen property irrespective of conviction; adhering to confiscation orders; and ensuring proper management of assets that have been frozen, seized, or confiscated. Countries should prioritize asset recovery, regularly review their systems, allocate sufficient resources, and ensure domestic cooperation and coordination. In addition, FATF requires countries to enact laws that allow for the confiscation of criminal property after a conviction and streamline the process of seizing property in cases of money laundering or related crimes. Furthermore, FATF Recommendation 8 focuses on the risks of terrorist financing linked to non - profit organizations (NPOs). To prevent terrorist financing from exploiting these groups, nations must identify and assess them, and implement customized, appropriate, and risk - based measures. These restrictions should not



overly impede or deter legitimate NPO activities but instead protect them from the misuse of terrorist financing. Orders are issued based on the presented evidence and the potential that individuals suspected of involvement may utilize accounts, phone lines, computers, networks, documents, or other resources. FATF Sepecial Recommendations II, III, VI, VII, and VIII also pertain to criminalizing the financing of terrorism and associated money laundering. Freezing and confiscating terrorist assets, alternative remittance, wire transfers, and non - profit organizations. Chapter VII of the South Sudan Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024, covers rules about taking away assets, freezing assets, recovering property after a conviction, and recovering property through civil actions. The Act authorizes courts to issue orders restraining property transactions while considering the rights and interests of third parties. Post - conviction asset recovery involves forfeiting property to the government if it is proven to have been acquired through or used in criminal activities. The court may impose a monetary penalty based on the defendant's illegal profits and collect it as a criminal fine from the defendant. The court can seize any property likely associated with the defendant's unlawful actions. However, it will consider the legitimate rights of other people interested in that property. The Directorate of Public Prosecution can initiate recovery proceedings against individuals suspected of possessing assets subject to recovery even in the absence of a conviction. If the court considers the property recoverable, the recovery order will be allocated to the agency. Moreover, the minister is empowered to engage in agreements with foreign governments regarding the sharing or repatriation of any property seized in South Sudan or in a foreign country linked to criminal activities in South Sudan or involving South Sudanese citizens. The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012 (Amendment, 2024), Chapter IX, specifies that confiscated funds should be disposed of following the conclusion of legal proceedings and asset management protocols. Section 29 of the Principal Act was modified to tackle the disposal of confiscated funds. This amendment introduces a new section instructing South Sudan to comply with UNSCRs and enforce targeted financial sanctions to prevent, combat, and deter the financing and spread of weapons of mass destruction. Consequently, an asset recovery and UN Security Council Resolutions on Financial Sanction Traget Agencies be established, and the necessary rules and regulations developed.

- f) ***The Financial Intelligence Unit and its functions are outlined by FATF (R.26, 30, and 32).*** The Financial Action Task Force (FATF) has issued recommendations for the regulation and oversight of financial institutions in various countries, including the establishment of financial intelligence units (FIUs). The FATF recommendations also state that law enforcement and investigative authorities must have access to all necessary documents and information for investigations, prosecutions, and related activities. Countries must also

develop effective ways to determine the ownership or management of accounts, whether owned by individuals or businesses, and establish methods to locate assets without prior notification to the owner.

Moreover, the recommendations emphasize the importance of cash couriers in monitoring the physical movement of cash and other negotiable items across borders. Appropriate, proportionate, and deterrent penalties are in place to deal with individuals who make false statements or disclosures. When countries discover that money - bearing negotiable instruments are being used to support terrorism, money laundering, or other illegal activities, they should take measures to seize and eliminate the involved funds or instruments.

South Sudan established the Financial Intelligence Unit (FIU) as an autonomous national center in accordance with Chapter II, Sections 4 and 5, of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024. The FIU operates independently of politics, the government, or business. It can perform important functions such as initiating lawsuits, buying, selling, or transferring property, negotiating contracts, and more. To assist the FIU and other appropriate authorities in performing their duties, the FATF methodology emphasizes quick access to a wide range of reports, data, and other relevant information. The FIU should possess adequate resources and expertise to analyze and generate financial intelligence that meets the operational requirements of competent authorities. The FIU and other competent authorities collaborate and securely exchange financial intelligence and information, ensuring the confidentiality of the shared or utilized data. Moreover, the FIU can disseminate information to LEAs and prosecutors, with parallel financial investigations targeting both individuals and legal entities, along with their assets. The author recommends that the South Sudan Financial Intelligence Unit establish and implement a system for reporting and maintaining databases, recruit qualified personnel, ensure sufficient funding for operational requirements, and support the FIU and other relevant authorities in enhancing their skills.

- g) ***The supervisory and oversight system—competent authorities;*** The Financial Action Task Force (FATF) has issued Recommendations 26 (Regulation and Supervision of Financial Institutions), 27 (Powers of Supervisors), and 28 (Regulation and Supervision of DNFBPs) to assist countries in combating money laundering and terrorist financing. These recommendations are global guidelines that mandate countries to supervise and regulate financial institutions and specific businesses to prevent money laundering and terrorist financing. According to these recommendations, countries must enact laws to prevent criminals from owning or operating financial institutions. Supervisors should be authorized to check and monitor these institutions to ensure they comply with the rules against money laundering and financing terrorism. Recommendations are international standards

that countries implement through measures customized to their particular circumstances. These standards apply to all designated non - financial businesses and professions, with specific requirements that must be fulfilled. Moreover, supervisors must possess adequate authority to supervise financial institutions, request relevant information, and enforce penalties for non - compliance. They should also be able to revoke, restrict, or suspend the license of a financial institution. The FATF recommendations relate to the regulation and supervision of designated non - financial businesses and professions (DNFBPs). Casinos must adhere to strict rules and regulations to comply with anti - money laundering and counter - terrorist financing (AML/CFT) regulations. Countries must establish strict rules to ensure all DNFBPs comply with AML/CFT regulations. Additionally, Recommendations 17 and 29 allow countries to use third parties for specific CDD measures or business introductions. These risks must be included in the institutions' overall supervision plans, with appropriate action taken when violations occur. Countries must comply with FATF Recommendations 26, 27, 28, 29, 30, 31, and 32 by receiving, examining, and sharing information on money laundering and terrorist financing. Furthermore, countries should establish a Financial Intelligence Unit (FIU) with access to administrative, financial, and law enforcement information. Chapter V of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024, lists the roles and responsibilities of the entities tasked with ensuring compliance with AML/CFT regulations. *The author concludes that practical European directives can aid other regions and South Sudan in enhancing compliance processes. Moreover, sharing international information and methodologies can bolster a unified approach to combating financial crime, taking into account regional circumstances.*

- h) ***Law enforcement, prosecution, and other competent authorities – FATF R.30 Responsibilities of law enforcement and investigative authorities, 31 Powers of law enforcement and investigative authorities, and 32 Cash couriers;*** The Financial Action Task Force (FATF) has developed Recommendations 30, 31, and 32 to enhance the capabilities of law enforcement and investigative authorities in investigating money laundering, terrorism financing, and asset tracing. These recommendations include identifying, tracing, freezing, and seizing property; conducting financial investigations; using multidisciplinary groups; cooperating with other countries; and postponing or waiving arrests. Recommendation 31 empowers law enforcement and investigative authorities to access information, use compulsory measures, search people and premises, take statements, seize evidence, use various investigative techniques, and identify assets without notifying the owner. It also outlines guidelines to prevent criminals from transporting currency and bearer negotiable instruments (BNIs) across borders to finance their activities or launder money. The aim of these recommendations is to identify transportation methods and prevent or restrict the movement of

currency and BNIs that could be associated with money laundering or terrorist financing. Additionally, they seek to impose penalties on individuals providing false information and to confiscate these assets. Countries must ensure that their competent authorities have the legal power to halt or restrict currency and BNIs, implement effective sanctions against those making false declarations, and prioritize asset recovery. During investigations of money laundering, related predicate offenses, and terrorist financing, competent authorities should have access to all essential documents and information required for these investigations and legal proceedings. This encompasses the authority to employ compulsory measures to obtain records from financial institutions, DNFBPs, and other individuals or entities; conduct person and premises searches; gather witness statements; and seize and obtain evidence. according to FATF standards, countries need to ensure that the appropriate authorities can utilize various methods to investigate these crimes. These methods include undercover operations, spying on communications, getting into computer systems, and monitoring deliveries. Effective mechanisms must be established to determine whether natural or legal persons possess or oversee accounts and to identify assets without prior notification to the owner beforehand. Chapter VI of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024, provides the investigatory powers of law enforcement authorities. Section 42 states that for the purpose of obtaining evidence of money laundering, terrorism financing, or any other predicate offense, the relevant competent authority may apply to the courts for orders to monitor bank accounts, ascertain whether a suspect has accounts, contracts, or records with such banks or reporting institutions, seize access to computer systems, networks, servers, seizure or taking copies of authentic banking, financial, and commercial documents, summoning witnesses, collecting oral or written testimony, surveillance or interception of communications, making audio or video recordings or photographs of acts and actions or conversations, interception and seizure of mail, gaining access to and searching premises, searching persons or premises and seizing any property suspected of being related to money laundering, predicate offenses, or terrorism financing, and controlled delivery and undercover operations. The orders mentioned in subsection (1) do not limit any other powers or rules that authorities have for conducting investigations. Nothing contained in this Part shall derogate from or prejudice a person's right to legal professional privilege. Section 24 of the main law was changed by removing subsections (1) and (2) and adding a rule that says you must report any physical cash or negotiable instruments being moved across borders. A person who transports or intends to transport cash or negotiable instruments must make a declaration to the Customs Division of the National Revenue Authority if the amount exceeds the amount prescribed by the Minister in the regulations and is entering or leaving the territory of South Sudan with such amount, including by mail or cargo. Any competent authority (including the Customs Division of the National



Revenue Authority) has the power to seize the entire amount of unreported cash or bearer negotiable instruments in case of failure to declare or the making of a false declaration. The Directorate of Public Prosecution was created by the Ministry of Legal Affairs and Constitutional Development Organization Act of 2008. Its job is to supervise and direct the progress of criminal cases, provide legal advice to government and state agencies, oversee public prosecutors at both the government and state levels, and perform any other tasks that are given to it. *The author concludes that the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024, allows the police to investigate cases of money laundering, terrorist financing, or related crimes. This involves monitoring bank accounts, identifying suspicious assets, restricting computer access, confiscating documents, summoning witnesses, eavesdropping, documenting activities, intercepting mail, searching individuals, seizing items related to money laundering, and conducting covert operations. In conclusion, the Financial Action Task Force's recommendations are aimed at enhancing law enforcement's ability to investigate money laundering, terrorism financing, and asset tracing, which South Sudan fully complies with.*

- i) **Cross - Border Declaration or Disclosure FATF (SR. IX). FATF Special Recommendation IX requires countries to monitor the cross - border movement of cash and bearer negotiable instruments, necessitating disclosure mechanisms and legal authority to stop or restrict instruments suspected of aiding terrorist funding or money laundering.** Countries should implement effective sanctions to address fraudulent declarations and facilitate the confiscation of currency or instruments associated with terrorist financing or money laundering. In 2024, Section 24 of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012 was amended to mandate reporting of cash or bearer negotiable instruments across borders. Individuals entering or leaving South Sudan with an amount exceeding the specified limit must declare it to the Customs Division of the National Revenue Authority, including through mail or cargo. Authorities may seize unreported instruments if individuals fail to declare or provide false declarations. Authorities can request carriers to provide additional information about their transportation activities. *The author suggests that the South Sudan Financial Intelligence Unit should request the Custom Authorities to align with the AML/CFT requirements and act accordingly.*

## 6. Preventive Measures – Financial Institutions

**6.1 Risk of money laundering or terrorist financing. FATF Recommendation 1 emphasizes the importance of a risk - based approach to mitigate the risks of money laundering and terrorist financing.**

Countries should recognize and understand these risks and take effective measures to prevent or mitigate them. This

involves appointing an authority or mechanism to coordinate actions and allocate resources. Countries should adopt a risk - based approach (RBA) to effectively utilize resources in combating money laundering and terrorist financing regimes.

Countries should also be aware of the risks associated with financing proliferation, including violating, neglecting, or bypassing targeted financial sanctions obligations. Financial institutions and designated non - financial businesses and professions (DNFBPs) must be aware of the risks related to money laundering, terrorist financing, and proliferation financing, assess them, and implement measures to mitigate them.

The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024 mandates institutions obligated to report to identify, assess, and comprehend their risks associated with money laundering and terrorist financing. This involves maintaining records of risk assessments, analyzing key risk factors, keeping information current, and communicating risk assessment data to relevant parties.

According to Section 30 of the AML/CFT Act, 2024, companies that deal with money must learn more about their customers before doing business with people, businesses, and financial institutions from places that the FATF says need higher security. Reporting entities must follow the directives of competent authorities when implementing suitable countermeasures.

The primary objective of the Financial Intelligence Unit (FIU) is to facilitate collaboration among government agencies to combat money laundering, associated crimes, terrorism financing, and the proliferation of weapons of mass destruction. Section 11 of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, was amended in 2024 to add additional powers to the National Committee's powers and functions. These powers involve promoting interagency coordination, cooperation, and information exchange to prevent and combat money laundering, predicate offenses, terrorism financing, and the financing of weapons of mass destruction. The committee provides advice to the government on legislative, regulatory, and policy reforms concerning anti - money laundering, countering terrorism financing, and the financing of weapons of mass destruction. The Committee collects and analyzes data and statistics on AML/CFT from all relevant authorities. This information is utilized in the National Risk Assessment and the National Anti - Money Laundering and Countering the Financing of Terrorism Strategy. Additionally, the committee submits an annual report to Parliament detailing its activities, progress in implementing the National Strategy, and recommendations for further reforms and measures. Therefore, the FIU, with the National Committee, coordinates, finalizes, and disseminates the national risk assessment for money laundering and terrorism financing, promoting timely adjustments as necessary. *The author emphasizes the importance of reporting entities following competent authorities' directives when implementing countermeasures against money laundering, associated crimes, terrorism financing, and weapons of*

mass destruction. The FIU and the national committee should facilitate collaboration among government agencies, coordinate national risk assessments, and promote timely adjustments for these issues.

### **6.2 Customer due diligence, including enhanced or reduced measures as per FATF (R.5 to 8)**

Customer Due Diligence (CDD) is a crucial process in the financial sector, which includes identifying and verifying a customer's identity, understanding their business relationship, and monitoring transactions. High - risk customers, particularly those linked to terrorist financing and the misuse of non - profit organizations, can benefit from enhanced CDD measures.

The Financial Action Task Force (FATF) has issued Recommendations 10 and 11 to financial institutions. Recommendation 10 emphasizes "Customer Due Diligence," requiring institutions to conduct thorough checks on customers to verify their identities, understand business relationships, and assess potential money laundering or terrorist financing risks. Recommendation 11 mandates "record - keeping," requiring institutions to maintain detailed records of customer information, including identification documents, transaction details, and suspicious activity reports, for at least five years. This is to enable authorities to investigate if needed. Recommendation 10 states that institutions should verify customers' identities using documents like passports or ID cards. They should also understand customers' activities by examining the reasons for and sources of their funds. Institutions need to apply different levels of checks based on their assessment of the customer's risk level and monitor customer activities for any warnings of suspicious behavior. Recommendation 11 requires keeping records of all customer information collected during checks. This encompasses copies of IDs, account details, transaction history, and any evaluations of suspicious activity.

Chapter IV of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024, outlines the actions businesses must take to prevent money laundering and terrorist financing. This amendment introduces new subsections to Section 16 of the primary Act. These subsections discuss customer due diligence processes, verifying individuals reporting crimes, evaluating client risks, and other significant issues. Additionally, the amendments were made to enhance customer due diligence measures and streamline operations. Section 17 mandates that reporting entities conduct due diligence when engaging with individuals, processing transactions above the threshold, suspecting money laundering or terrorist financing, or questioning customer identification data. Section 18 requires verifying a customer's identity using reliable documentation, while Section 19 elaborates on factors such as identifying beneficial owners and implementing appropriate identity verification methods. The author concludes that Key Accountability and Control (KCA) standards are crucial in the financial sector, mitigating systemic risks, and enhancing client trust.

### **6.3 Third parties and introduced business for FATF (R.9)**

FATF Recommendation 17 allows financial institutions to use third parties for customer due diligence (CDD) measures, while remaining responsible for these measures. The third party must comply with rules and undergo monitoring. They should identify their customers, maintain records, have programs to stop money laundering and terrorist financing programs, present identification documents, not be located in high - risk countries, and allow the financial institution to review their customer verification processes. The financial institution prohibits depending on third parties for outsourcing, agency relationships, and ongoing business monitoring. The criteria for relying on a third party include obtaining necessary information about CDD measures as outlined in Recommendation 10.

Section 29 of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024, reporting entities to engage middlemen or third parties for customer research, subject to specific conditions being met. This involves providing identification information and relevant documentation upon request, and ensuring that the third party is regulated, supervised, or monitored to adhere to regulations. Reporters must also evaluate the intermediary's country risk level to ascertain their adherence to these criteria. The writer mentions that the Multinational Committee for Combating Money Laundering and the South Sudan Financial Intelligence Unit collaborate to create an action plan emphasizing flexibility and collaboration. South Sudan should implement the customized FATF recommendations according to its specific circumstances, while also ensuring compliance with its confidentiality laws. In 2024, Section 22 of the Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, was revised to include the phrase "save and except" in situations where legal professional privilege is applicable. " This additional language ensures that information is kept safe.

### **6.4 Record - keeping and wire transfer regulations according to FATF (R.10 & SR. VII). The Financial Action Task Force (FATF) recommends that financial institutions retain records of transactions, including wire transfers, for a minimum of five years to combat financial crime. These records should contain precise details about the sender and recipient of the transfer, which should be accessible along the payment chain.**

Financial institutions should also monitor wire transfers for any suspicious activity and respond accordingly. They should also keep records of customer due diligence (CDD) measures, such as official identification documents, account files, and business correspondence. Moreover, financial institutions should share this information with law enforcement, financial intelligence units, and recipient financial institutions.

Additionally, financial institutions must enhance scrutiny and monitor suspicious fund transfers that lack complete sender information. The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, was amended in 2024 to include a new section requiring reporting persons to maintain and establish customer records. This involves

retaining all crucial records of domestic and international transactions for at least five years after the transaction is completed. Additionally, reporting persons must keep records obtained through Customer Due Diligence measures for a minimum of five years after the termination of the business relationship or the last transaction date. Section 28 of the Act regulates wire transfers, requiring banks and financial institutions to provide accurate and detailed information (such as name, address, and account number) on money transfers and related messages. They must also diligently monitor and scrutinize any unusual money transfers that lack comprehensive sender details. Financial institutions are also required to enforce freezing measures and prohibit transactions with designated individuals and entities involved in preventing and suppressing terrorism and terrorist financing. For transfers exceeding the predetermined threshold for the beneficiary, the reporting person must provide the originator's name, account number, address, national identity number, customer identity number, or date and place of birth. For transfers surpassing the originator's specified threshold, the reporting person must provide the name, account number, address, national identity number, customer identity number, or date and place of birth. For transfers below the threshold, the reporting person should provide the names of the originator and beneficiary, an account number for each, or a unique reference number, without verification unless there are suspicions of money laundering or terrorist financing. In domestic transfers, if the sender's information can be shared with the recipient's bank, only the account number or a unique reference number should be included with the transfer, provided that it can be traced back to the sender or the recipient. The reporting person must provide information within three business days of receiving a request from the beneficiary's institution. *The author concludes that proficient record - keeping is crucial for financial institutions to prevent and mitigate illicit activities, and technological advancements enable thorough data analysis. Enforcing strict record retention requirements can enhance anti - money laundering efforts at both local and national levels.*

### **6.5 Monitoring transactions and relationships under FATF (R.11 & 21)**

The Financial Action Task Force (FATF) has issued Recommendations 11 and 21 to financial institutions to prevent money laundering. These recommendations require financial institutions to monitor transactions and relationships.

It is crucial to promptly report any suspicious activity to the financial intelligence unit (FIU). The approach involves transaction monitoring, which examines customer transaction patterns, sanctions and screening, risk management, enhanced due diligence, and reporting suspicious activity promptly. The FIU also requires financial institutions to not disclose that they are filing a suspicious transaction report. Moreover, the recommendation mandates that financial institutions retain transaction records for a minimum of five years to adhere to information requests from competent authorities. These records should be enough to reconstruct individual transactions and provide evidence for prosecuting criminal activities. Financial institutions

must retain records obtained through CDD measures, such as official identification documents, account files, and business correspondence, for at least five years after the business relationship ends or an occasional transaction occurs.

In addition, financial institutions cannot face charges for breaching confidentiality rules established by law, regulation, contract, or administration. The Financial Institutions Unit (FIU) prohibits them from disclosing that they have submitted a suspicious transaction report or related information. Recommendation 18 aims to facilitate information sharing without being impeded by these provisions.

The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024, establishes regulations for correspondent banking. Financial institutions must familiarize themselves with the respondent institution, assess its AML/CFT procedures, obtain approval from upper management, and understand their respective roles. They are forbidden from initiating or continuing correspondent banking relationships with shell banks, and they must verify that respondent institutions do not allow their accounts to be utilized by shell banks.

Extra checks should be done on high - risk accounts and transactions, people who are politically exposed (PEPs), transactions coming from NCCT - listed countries, shell banks, customers who are far away, correspondent banking, customers who are brought in by middlemen, the insurance and securities industries, and transactions that don't seem right. Competent authorities should assist reporting individuals in implementing suitable countermeasures at the FATF's request.

High - risk accounts and transactions in financial institutions have substantial consequences, such as regulatory challenges, risk management tactics, and client relationships. Cutting - edge technologies like predictive analytics and data mining have revolutionized risk assessment methods, improving fraud detection and reducing potential risks.

### **6.6 Suspicious transactions and other reports in accordance with FATF (R.13 - 14, 19, 25 & SR. IV)**

Countries should assess the possible misuse of legal structures for money laundering or terrorist financing and implement preventive measures. This involves ensuring access to vital information about express trusts and similar legal arrangements. Financial institutions and DNFBPs must follow guidelines to obtain beneficial ownership and control information. The Financial Action Task Force (FATF) Recommendations 13, 14, 19, and 25, in addition to SR. IV, address suspicious transaction reporting and other reports to combat money laundering and terrorist financing. Financial institutions should collect adequate information about a respondent institution to comprehend its operations, oversight, and regulatory measures concerning money laundering or terrorist financing. They should assess the AML/CFT controls of the respondent institution, obtain approval from senior management before forming new correspondent relationships, and verify that the respondent



bank has performed CDD on customers with direct access to the accounts of the correspondent bank. Countries should refrain from initiating or maintaining correspondent banking relationships with shell banks and ensure that respondent institutions do not permit their accounts to be utilized by shell banks. Vigilantly monitoring transactions that appear suspicious, like abrupt account activations, rapid asset withdrawals, inaccurate customer information, or illicit actions, can aid in gathering information and uncovering fraudulent payments, potentially preventing criminal activity. The Anti Money Laundering and Counter Terrorist Financing Act, 2012, Amendment, 2024, has been revised to include a new sentence after "suspicious transaction" and before "such reporting person" and after "is carried out." Reporting persons are required to report all suspicious transactions, including attempted transactions, regardless of the amount. They must use the forms and provide necessary information as required by the law, regulations, and guidance from the Financial Intelligence Unit.

The reporting person must take reasonable measures to ascertain the purpose of the transaction or proposed transaction, the origin and ultimate destination of the funds or property involved, and the identity and address of any ultimate beneficiary. They must prepare a report of the transaction or proposed transaction and communicate the information to the Financial Intelligence Unit securely. Individual offenders may face fines or imprisonment for up to two years or both, while corporate entities may face penalties or imprisonment for up to five years or both. Non-compliance with section 23 will lead to penalties as outlined in the schedule attached to this Act. Section 24 of the Act addresses correspondent banking. This section mandates financial institutions to gather sufficient information about the respondent institution, assess its anti-money laundering and counter-terrorism financing controls, obtain approval from senior management, comprehend their roles, and verify that accounts with direct customer access have undergone proper scrutiny. Financial institutions are forbidden from initiating or maintaining correspondent banking relationships with shell banks, and they must ensure that respondent institutions do not allow their accounts to be accessed by shell banks. Similar relationships should adhere to criteria for securities transactions or funds transfers.

Furthermore, the Act specifies correspondent banking. These measures encompass gathering adequate information about a respondent institution, evaluating its AML/CFT controls, obtaining approval from senior management prior to initiating new correspondent relationships, comprehending the respective responsibilities of each institution, and confirming that the respondent bank has conducted Customer Due Diligence on customers with direct account access to the correspondent. Financial institutions are barred from starting or maintaining correspondent banking relationships with shell banks and must ensure that respondent institutions do not permit their accounts to be used by shell banks. Similar relationships should comply with criteria for securities transactions or funds transfers, whether for the cross-border financial institution as the principal or on behalf of its customers. Failure to comply with these provisions will result in penalties as specified in the schedule attached to this act.

### **6.7 Internal controls, compliance, audit, and foreign branches (R.15 & 22) Shell banks (R.18)**

The Financial Action Task Force (FATF) has issued recommendations to countries and financial institutions to identify and evaluate potential money laundering or terrorist financing risks associated with new products, business practices, and emerging technologies. To mitigate risks linked to virtual assets, nations must ensure that service providers are licensed or registered, compliant with AML/CFT rules, and supervised by robust monitoring systems.

The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024, Section 31, regulates internal controls for anti-money laundering and countering the financing of terrorism. It mandates reporting persons to implement programs addressing money laundering and terrorism financing risks, considering factors such as business size, products offered, delivery channels, and geographical locations. These programs should include compliance management arrangements, screening procedures for high standards in hiring employees, ongoing employee training programs, and independent audit functions.

Financial groups are also required to implement group-wide programs against money laundering and the financing of terrorism, applicable to all branches and majority-owned subsidiaries. Reporting persons must make employees aware of domestic laws related to money laundering and terrorism financing and provide them with appropriate training on transaction recognition and handling. The Act in Section 32 also requires reporting institutions to have policies for identifying, assessing, and understanding their ML/TF risks, which includes documenting risk assessments, considering all relevant risk factors, keeping these assessments up-to-date, and providing risk assessment information to competent authorities. Reporting institutions need to have approved rules and processes to manage and reduce identified risks. They should also monitor how these rules are followed and take extra steps to manage higher risks when they are found.

Breaching the provisions of Section 31 and Section 32 will result in penalties as prescribed in the Schedule attached to this Act. Additionally, reporting persons must ensure that no person opens or operates an account with a reporting person in a false, disguised, or anonymous name.

### **6.8 The supervisory and oversight system - competent authorities and SROs;**

The Financial Action Task Force (FATF) has issued Recommendations 17, 23, 25, and 29 to assist countries in this endeavor. According to Recommendation 23, legal structures should be transparent and owned by their true owners. Countries should also facilitate business operations for financial institutions and DNFBPs that adhere to Recommendations 10 and 22.

The Anti - Money Laundering and Counter - Terrorist Financing Act of 2012, amended in 2024, aims to combat

money laundering and terrorist financing in South Sudan. The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024 states that the "Supervisory Authority" refers to the Bank of South Sudan and any other government agency appointed by the Minister of Finance to monitor reporting entities and exercise supervisory functions under this Act. The supervisory authority is responsible for overseeing reporting entities and fulfilling supervisory obligations. Individuals required to report must pay penalties that do not exceed 50% of the maximum criminal punishment. Section 39 of the act outlines the guidelines for supervisory risk assessments. These rules stipulate that supervisory authorities must assess the risks associated with the products, services, clients, activities, and operations of the reporting institutions under their supervision. In 2024, an amendment to Section 24 of the Principal Act mandated the reporting of physical cross - border transfers of cash or bearer negotiable instruments. Authorized entities, such as the National Revenue Authority Customs Division, have the authority to confiscate unreported or falsely declared items.

*The author recommends that collaboration among South Sudanese law enforcement agencies, regulatory entities, and financial institutions is crucial for effective countermeasures. Legal professionals and compliance officers at financial institutions are crucial for identifying and mitigating money laundering issues. However, technology in South Sudan poses challenges, including resource disparities. Continuous evaluation and adjustment are essential to address the strengths and weaknesses of AML/CFT compliance strategies.*

### 6.9 Money or value transfer services as per FATF (SR. VI)

Money or value transfer services (MVTs) are financial services that facilitate the transfer of money or other forms of value to recipients. Individuals or legal entities can offer these services through formal or informal mechanisms.

The Financial Action Task Force (FATF) has issued recommendations to regulate money or value transfer services (MVTs), virtual asset service providers (VASPs), and wire transfers. Recommendation 14 mandates countries to license and monitor MVTs providers to ensure compliance with AML/CFT rules. Recommendation 15 highlights the need for countries to create rules for new technologies such as cryptocurrencies and virtual assets. This includes setting up guidelines for Virtual Asset Service Providers (VASPs) to verify customer identities and report suspicious activities. Recommendation 16 mandates financial institutions to include complete originator and beneficiary information on cross - border wire transfers to enhance transaction traceability. The aim is to prevent the misuse of MVTs for money laundering and terrorist financing. The recommendations aim to enhance transparency in wire transfers and identify and trace suspicious activity.

The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment, 2024, Section 25, outlines the regulations for money services businesses, new technologies, virtual assets, and wire transfers. Section 25

requires natural or legal persons providing money services businesses to be licensed by their supervisory authority on terms and conditions prescribed by the supervisory authority. Section 27 of the Act states that financial institutions, like money services businesses, must include clear and accurate information (such as the name, address, and account number) on wire transfers and related messages. This information should remain with the transfer throughout the payment process. Financial institutions must also implement measures to conduct enhanced scrutiny and monitor suspicious fund transfers without complete originator information. For domestic transfers, if the sender's information can be shared with the receiving bank in a way other than with the transfer itself, only the account number or a unique reference number needs to be included with the transfer, as long as it enables the transfer to be linked back to the sender or the receiver. The originator's institution must provide information within three business days of receiving a request from the beneficiary's institution.

1) **Preventive Measures – Designated Non - Financial Businesses and Professions.** The Financial Action Task Force (FATF) has several recommendations for Designated Non - Financial Businesses and Professions (DNFBPs). These recommendations are intended to help prevent money laundering and terrorist financing. Recommendation 28: We should regulate, supervise, and have effective systems to ensure compliance with AML/CFT requirements for DNFBPs. Recommendations 12, 16, 17, 20, and 24 DNFBPs should conduct due diligence on clients, maintain records, and report suspicious transactions. Recommendation 23: DNFBPs should detect, assess, and mitigate risks associated with financial crimes. Recommendation 24 Casinos should be licensed and establish effective audit regimes. DNFBPs include a wide range of professions and businesses, such as: Lawyers, notaries, and other legal professionals; Accountants, auditors, and tax advisors; Real estate agents, developers, and brokers; Dealers in precious metals, jewels, and stones; Dealers in vehicles; Trusts and company service providers;

2) **Legal Persons and Arrangements & Non - Profit Organizations.** The FATF (Financial Action Task Force) recommendations for legal persons, arrangements, and non - profit organizations (NPOs) include measures to prevent money laundering, terrorist financing, and the proliferation of weapons of mass destruction. Recommendation 24 applies to legal persons, which are entities that can own property or establish a customer relationship with a financial institution. This includes companies, foundations, partnerships, and NPOs. Recommendation 25 requires countries to assess and mitigate the money laundering and terrorist financing risks associated with legal arrangements. Guidance on beneficial ownership includes mechanisms to prevent and mitigate the risk of misuse of nominee arrangements. Recommendation 8 requires countries to review the laws and regulations that apply to NPOs that may be vulnerable to terrorist financing abuse. NPO Risk Assessment requires countries to assess the risk of terrorist financing abuse in the NPO sector. The FATF Recommendations also include measures to identify risks, develop policies and

domestic coordination, apply preventive measures, establish powers and responsibilities for competent authorities, and enhance the transparency and availability of beneficial ownership information.

#### **6.10 Legal Persons – Access to beneficial ownership and control information (R.33)**

FATF Recommendation 33, ON Statistics requires countries to maintain comprehensive statistics on issues relevant to the effectiveness and efficiency of their AML/CFT systems. These statistics should encompass STRs received and disseminated, money laundering and terrorist financing investigations, prosecutions, and convictions, property frozen, seized, and confiscated, as well as mutual legal assistance or other international requests for cooperation.

**6.11 Legal Arrangements – Access to beneficial ownership and control information (R.34).** *The Financial Action Task Force (FATF) has established standards to prevent the misuse of corporate entities and enhance transparency in their beneficial ownership. As per FATF Recommendations, countries must provide accurate and current information on the true owners of a business to the relevant parties. This allows financial institutions (FIs) and designated non - financial businesses and professions (DNFBPs) to investigate these companies*

Countries should consider granting access to a company's shareholder or member register for FIs and DNFBPs. International organizations are working towards improving transparency in corporate entities, with the G8 countries endorsing fundamental principles on beneficial ownership and revealing action plans to enhance transparency. The G20 leaders have publicly cautioned all nations about the dangers of insufficient transparency in corporate entities and committed to leading by example by following FATF standards on beneficial ownership. The OECD Working Group on Bribery is examining whether access to information about the true owners of a legal entity impedes the prosecution of the offense of bribing a foreign public official. Countries should guarantee that accurate and up - to - date information on the beneficial ownership and control of legal entities is available through a beneficial owners register or other means. Regarding South Sudan, the author proposes that the country should assess the risks linked to the use of legal entities for money laundering or terrorist financing and devise strategies to mitigate those risks. *The South Sudanese government should facilitate access to beneficial ownership and control information for financial institutions and DNFBPs, aligning with FATF guidance on beneficial ownership information.*

#### **6.12 Nonprofit organizations (SR. VIII)**

The FATF Special Recommendation VIII, also known as "Recommendation 8, " aims to prevent the misuse of non - profit organizations (NPOs). It instructs countries to identify high - risk non - profits and take targeted, proportionate measures to prevent abuse, ensuring that regular non - profit activities can proceed as usual. Compliance requirements include internal controls, record - keeping procedures, reporting obligations, and collaboration with authorities.

Additionally, the recommendation urges countries to reassess their laws and regulations pertaining to entities that could act as conduits for terrorist financing. Nonprofit organizations are particularly vulnerable, and terrorist groups should avoid exploiting them by using legitimate businesses to fund terrorist activities or disguising the diversion of funds intended for charitable causes to terrorist groups.

#### **6.13 National and International Co – Operation**

The Financial Action Task Force (FATF) recommendations underscore the importance of national and international collaboration in addressing money laundering, terrorist financing, and proliferation finance. They advocate for establishing robust systems for information exchange, coordination among authorities, and proactive collaboration with foreign nations. Establishing a unified authority to formulate and implement anti - money laundering and counter - financing of terrorism (AML/CFT) policies is a crucial aspect of national coordination. This will facilitate collaboration among law enforcement, financial intelligence units (FIUs), and financial regulators. Consistent risk assessments are crucial for identifying high - risk jurisdictions and prioritizing collaborative initiatives. Adhering to data protection rules and regulations is crucial. Clarity in legal frameworks and identifying beneficial owners is essential for efficient international collaboration.

In accordance with the FATF Recommendation, the South Sudan Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, amended in 2024, mandates customs authorities to monitor the movement of money and other valuables across borders. The Act grants customs authorities the legal power to confiscate or halt currency or bearer negotiable instruments suspected of financing terrorism, money laundering, or other criminal activities. Additionally, the Act empowers the government to penalize individuals who violate AML/CFT rules in a manner that is fair, effective, and deterrent. South Sudan has also stated its commitment to adhering to the International Convention for the Suppression of the Financing of Terrorism (1999) and any other relevant UN resolutions aimed at preventing and penalizing funding of terrorist activities. The Anti - Money Laundering and Counter - Terrorist Financing Act Amendment 2024, added sections regarding extradition requests, mutual legal assistance, and asset recovery. The Act addressed the confidentiality of mutual requests and their contents, ensuring they comply with essential domestic legal standards. The author argues that money laundering and terrorism financing pose significant risks to governance, economic stability, and national security. Therefore, international cooperation is crucial for South Sudan to combat illicit financial flows that threaten both national and global financial stability. Prominent global initiatives, like the Financial Action Task Force (FATF), set standards and encourage cooperation among nations to tackle money laundering. Regional initiatives to enhance regulatory frameworks and promote coordination among member states are vital for improving global financial integrity. Therefore, the government must fully comply with and implement these international and regional measures.



## 7. Conclusion and Recommendations

South Sudan's 2024 Amendment to its Anti - Money Laundering and Counter - Terrorist Financing Act represents a step toward compliance with FATF standards. However, challenges remain in institutional enforcement, financial intelligence, and regulatory implementation. The study highlights the need for further reforms to enhance South Sudan's AML/CFT framework, ensuring financial security and compliance with global standards. Strengthening enforcement mechanisms and cross - border collaboration will be essential in achieving long - term effectiveness

### Recommendations

- 1) The Anti - Money Laundering and Counter - Terrorist Financing Act, 2012, Amendment 2024, provides a comprehensive framework for combating money laundering (ML) and terrorist financing (TF) in South Sudan. *The author suggests establishing a permanent national body or system to assess these risks, develop a national risk - based AML/CFT strategy, and coordinate policy - making groups.*
- 2) South Sudanese authorities should adopt a collaborative approach that incorporates strong legal frameworks, technological innovations, and the dedication of legal practitioners. To effectively prevent terrorists from accessing funds, South Sudan must adhere to Immediate Outcome 10 (IO.10) of the FATF Methodology. This includes promptly enforcing specific financial penalties, identifying terrorists, and preventing them from obtaining, transferring, or using funds.
- 3) The risk of proliferation finance (PF) stems from the potential violation, disregard, or circumvention of the financial sanctions obligations outlined in FATF Recommendation 7. For the successful implementation of targeted financial sanctions for UNSCRs, *South Sudan needs a strong framework for execution, a national strategy to combat proliferation financing (PF), prompt enforcement of UN sanctions, and a mechanism to inform the private sector about penalties.*
- 4) International collaboration, intelligence, and innovative monitoring tools like machine analysis and learning algorithms are essential to address this issue. The South Sudanese government should collaborate with financial institutions to enhance transparency and traceability. The South Sudan Financial Intelligence Unit (FIU) should also develop a comprehensive plan that involves collaborating with other nations, utilizing research methodologies, and implementing effective policing.
- 5) To enhance measures against money laundering, South Sudanese authorities must exhibit the characteristics outlined in Immediate Outcome Six (IO.6) of the FATF Methodology. These traits involve the ability to promptly access accurate and current information; possessing the necessary tools and expertise to collect and analyze financial intelligence; collaborating with other authorities to securely and consistently exchange information; and utilizing financial intelligence along with other pertinent data to gather evidence, monitor assets, criminal proceeds, or instruments, and investigate money laundering, associated crimes, and terrorist financing.
- 6) The South Sudanese government should prioritize asset recovery as a policy objective, conduct regular system evaluations, and establish efficient agency structures with adequate resources and collaborative frameworks.
- 7) The anti - money laundering framework should aim to make crimes unprofitable, reduce predicate offenses, and money laundering activities to establish an effective system in line with the immediate outcome of IO 8, as outlined in the FATF methodology. The effectiveness of anti - money laundering (AML) measures depends on the interaction between local governance frameworks and global collaborative initiatives. The FATF's risk - based strategy urges states to allocate resources to address critical issues, requiring strong governance structures and the capabilities of both national and local governments.
- 8) A consistent approach to evaluating AML compliance is crucial for aligning regulatory adherence nationwide and bolstering compliance efforts. South Sudanese financial institutions can significantly improve their AML compliance assessments by addressing resource constraints, promoting stakeholder collaboration, and embracing technological advancements.
- 9) All FATF members and FATF - Style Regional Bodies (FSRB) undergo evaluation and rating based on FATF standards and methodology. The Financial Sector Evaluation Program (FSAP) is a vital framework for assessing the stability and integrity of the global financial system, identifying weaknesses, and suggesting enhancements to improve regulatory frameworks. The United Nations plays a crucial role in global efforts to combat AML and counter - terrorism financing through treaties like the UN Convention against Transnational Organized Crime and the International Convention for the Suppression of the Financing of Terrorism. The author recommends that South Sudan expedite the implementation of all ratified AML/CFT - related conventions.
- 10) The Basel Committee on Banking Supervision (BCBS) sets a global standard for prudential banking regulation, fostering collaboration among prudential and AML/CFT agencies. The author suggests that regulatory bodies in South Sudan adopt the Basel Core Principles for effective banking supervision.
- 11) The Egmont Group of Financial Intelligence Units offers training programs, best practices, and technological support to enhance the international capabilities of financial intelligence units. Therefore, the South Sudan Financial Intelligence Unit should join the Egmont Group.
- 12) The Eastern and Southern Africa Anti - Money Laundering Group (ESAAMLG) aims to combat money laundering, terrorism financing, and proliferation. It comprises 21 member states and foreign observers, including the Commonwealth Secretariat, East African Community, FATF, IMF, SADC, United Kingdom, United States of America, UNODC, World Bank, and World Customs Organization. *Authorities in South Sudan responsible for oversight and control should seek assistance from ESAAMLG in drafting regulations to prevent money laundering, terrorism financing, and the proliferation of weapons of mass destruction.*

- 13) The International Monetary Fund (IMF) and the World Bank work together to enhance global economic stability and growth. Despite facing challenges in combating money laundering, such as varying levels of compliance and commitment among member states, non-uniform AML laws across countries, and rapid technological advancements, efforts persist in advocating for effective AML measures and assisting countries in strengthening their institutions. Technological advancements such as blockchain and digital currencies are transforming financial institutions and regulatory practices, necessitating modifications in regulatory procedures.
- 14) The Financial Action Task Force (FATF) has designated South Sudan as a grey-listed country, emphasizing the necessity for improved measures to address financial crime. Hence, the nation's proposed national strategy to combat money laundering should encompass actions like adhering to the Financial Action Task Force guidelines, implementing training programs, and enhancing capacity-building efforts. Nevertheless, the efficacy of these endeavors remains uncertain due to persistent disputes, weakened regulatory bodies, and inadequate accountability mechanisms. Financial institutions should embrace a more coherent strategy, using technologies like artificial intelligence and machine learning to identify money laundering activities.
- 15) FATF Special recommendations comprise creating rules, regulations, and guidelines to combat money laundering and terrorist financing, enacting a policy on Know Your Client (KYC), client due diligence (CDD), and suspicious transaction reports. The author proposes that the Financial Intelligence Unit seek dedicated partners and donors to aid in financing the development or procurement of anti-money laundering compliance software. *They also recommend facilitating information sharing among compliance departments and obtaining technical assistance through additional education on financial analysis and the use of ICT tools.*

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