



Tax Alert

An overview of the sanctions regime issued by the Commissioner General for Tax Advisors, Tax Agents and Clearing Agents under the supervision of the Rwanda Revenue Authority.

February 2023

Tax advisors under the Rwanda Revenue Authority to be subject to sanctions for non-compliance with AML/CFT Laws

On 30 January 2023, the Commissioner General issued a sanctions regulation applicable to reporting persons under the supervision of the Rwanda Revenue Authority (RRA) when they represent or assist their clients in matters related to taxes or duties. This sanctions regulation is in line with Law n° 75/2019 of 29/01/2020 on Prevention and Punishment of Money Laundering, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction, which gives supervisory authorities powers to determine administrative sanctions against any reporting person who does not fulfill his or her responsibilities as provided by this Law.

In 2017, Rwanda was admitted as a member of the Global Forum on transparency and exchange of information for tax purposes. Transparency and exchange of information for tax purposes is about putting an end to bank secrecy and tax evasion through global tax co-operation. The Global Forum provides a multilateral response to tackle offshore tax evasion. It brings together over 160 jurisdictions dedicated to improving transparency and the exchange of information for tax purposes. It does this through promoting and ensuring the effective implementation of two complementary international standards, both of which provide for closer cooperation between tax authorities worldwide so that they can obtain information necessary to ensure tax compliance, such as on cross-border investments. Rwanda has

been taking notable steps to comply with international standards on Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) and as adopted by the Global Forum on transparency and the exchange of information for tax purposes.

The sanctions regime has been introduced to help the tax advisors comply with the requirements to conduct customer due diligence, to identify their clients and



eventually their beneficial owners. If well implemented, the regime will help Rwanda to combat tax crimes such as tax evasion, terrorist financing and money laundering which if not dealt with, may result in the country losing revenue, posing a serious threat to the country's economic stability and national security. By working in an environment where they can identify, report and share information on suspected tax crimes. The sanctions regime has been introduced to help the RRA comply with the OECD requirements.

The regime will also enable the RRA to combat tax crimes such as tax evasion, terrorist financing and money laundering which, if not dealt with, may result in the country losing revenue, posing a serious threat to the country's economic stability and national security.

In addition, Rwanda Finance Limited (RFL) — through the Kigali International Financial Center (KIFC) — has a target of ensuring that Rwanda remains a compliant jurisdiction with regards to tax transparency and the movement of capital from one jurisdiction to another. To avoid being considered a tax haven, Rwanda joined the Global Forum and ESAAMLG (Eastern and Southern Africa Anti-money Laundering Group) to ensure accountability and transparency. This will enable investors to conduct their transactions easily across borders with confidence. Further, as Rwanda aims at having mutual exchange of tax information, the country signed and ratified the Convention on Mutual Administrative Assistance in Tax Matters (MAAC) in August 2021. This means that Rwanda will be able to exchange tax information with 141 countries that are currently signatory to MAAC, thus the need for the CG having a sanctions regime for AML/CFT reporting persons under his supervision.

Laws on money laundering and financing terrorism

Over the years, the Government of Rwanda has been on the frontline to prevent and punish money laundering and financing of terrorism activities. The first attempt to curb these activities was in 2008 when the Government published the Law n° 47/2008 of 09/09/2008 on Prevention and Penalising the Crime of Money Laundering and Financing Terrorism. Continuous updates have been made to anti-money laundering laws with an aim of safeguarding the financial system from abuses of financial crimes including financing of terrorism, money laundering and other illicit activities. The sanctions regime for reporting persons has been introduced to supplement the existing laws on provision of money laundering and financing terrorism with the main aim of fighting against tax crimes.

Revenue authorities across the world have witnessed sophisticated shadow economy activities around the tax system via complex and opaque arrangements which are facilitated by a subset of professionals such as lawyers, accountants, financial advisers and others who help to engineer the legal and financial structures under tax evasion and financial tax crimes. It is also

in this respect that the CG has introduced this regime to prevent or eliminate shadow economy activities by imposing sanctions on reporting persons under his supervision who fail to report inappropriate practices of avoiding legal obligations related to taxes or duties by taxpayers they represent or assist.

Sanction regimes for other professionals

Currently, there are a number of other regulations with the objective of determining administrative sanctions applicable to certain professionals who do not fulfil Global Forum minimum standards on exchange of information being introduced by different regulatory bodies in Rwanda including:

- The Institute of Certified Public Accountants of Rwanda (iCPAR) — for certified accountants;
- The Rwanda Bar Association (RBA) — for advocates and law firms;
- The Ministry of Trade and Industry (MINICOM) — for the gaming industry;
- The National Bank of Rwanda (BNR) — for financial institutions;
- The Capital Market Authority (CMA) — for CMA licensees; and
- The Financial Intelligence Centre (FIC) - for supervisory authorities and reporting persons.

Reporting persons covered by the CG's sanctions regimes

The CG's regulation covers individuals or a group of individuals licensed by the Tax Administration as tax advisors, tax agents or clearing agents to advise, assist or represent taxpayers in their accounting, declaration and payment of taxes and duties.

We understand from our discussions with the CG's offices that he recognises there are two types of tax advisors:

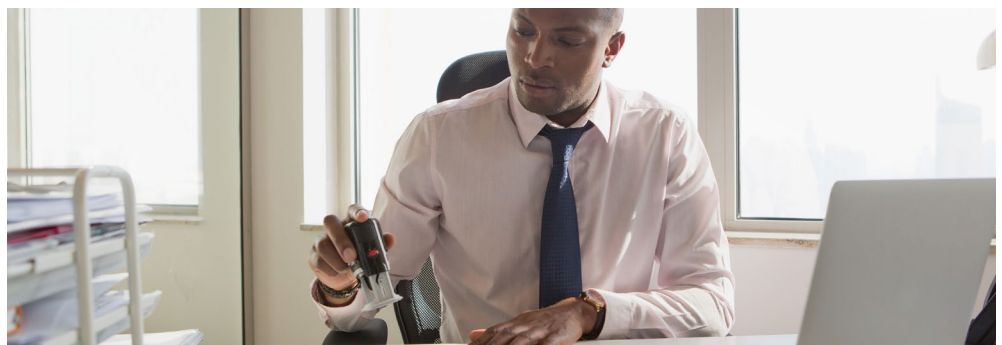
- Category 1: tax advisors licensed by the Institute of Certified Public Accountants of Rwanda (iCPAR) as certified public accountants — not licensed by the RRA, but recognised by RRA; and
- Category 2: the Association of Tax Advisors (ATA) and clearing agents — who are licensed by the RRA.

This CG regulation covers the second category of tax advisors as the first category will fulfil similar compliance obligations under iCPAR. We are also of the understanding that lawyers or any other professionals that comply with these laws under their respective bodies/regulators (e.g. the RBA for lawyers) are also out of scope.

Scope of CG's regulation

Any reporting person under the supervision of the RRA must comply with the provisions of this regulation which require the person to:

- assess the risk of money laundering and the financing of terrorism on their clients;
- not keep anonymous accounts;
- keep certain records;
- conduct due diligence in business relationships with a politically exposed person (PEP);
- conduct due diligence in business relationships with a client in a high-risk country;
- keep pace with the new ways in which money laundering and terrorist financing are practised;
- establish and maintain internal controls;
- implement employee capacity building and awareness programmes;
- report the list of customers and the list of beneficial owners;
- verify the client identification;
- put in place a written policy and to report suspicious transactions;
- put in place and observe confidentiality;
- report large, complex and unusual transactions.



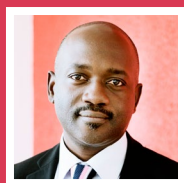
Violation	Sanction
<ul style="list-style-type: none"> • Failure to undertake an assessment of the risk of money laundering and the financing of terrorism. • Failure to keep records. • Failure to establish and maintain internal controls. • Failure to implement employee capacity building and awareness programmes. • Failure to report the list of customers and the list of beneficial owners. • Failure to verify the client identification. 	<p>If the reporting person is found liable for the violation listed, the RRA may impose the following sanction(s) depending on the gravity of the violation:</p> <ol style="list-style-type: none"> Written warning; Written notice of breach; Suspension for a period which cannot exceed two years; Administrative fine of FRW 500,000; Revocation of licence to operate.
<ul style="list-style-type: none"> • Keeping anonymous accounts. • Failure to conduct due diligence in business relationships with a politically exposed person. • Failure to keep pace with the new ways in which money laundering and terrorist financing are practised. • Failure to put in place a written policy and to report suspicious transactions. 	<p>If the reporting person is found liable for the violation listed, the RRA may impose the following sanction(s) depending on the gravity of the violation:</p> <ol style="list-style-type: none"> Written warning; Written notice of breach; Suspension for a period which cannot exceed two years; Administrative fine of FRW 1,000,000; Revocation of licence to operate.
<ul style="list-style-type: none"> • Failure to conduct due diligence in business relationships with a client in a high-risk country. 	<p>If the reporting person is found liable for the violation listed, the RRA may impose the following sanction(s) depending on the gravity of the violation:</p> <ol style="list-style-type: none"> Written warning; Written notice of breach; Suspension for a period which cannot exceed two years; Administrative fine of FRW 2,000,000; Revocation of licence to operate.
<ul style="list-style-type: none"> • Breach of confidentiality 	<p>If the reporting person is found liable for the violation listed, the RRA may impose the following sanction(s) depending on the gravity of the violation:</p> <ol style="list-style-type: none"> Administrative fine of FRW 3,000,000; Revocation of licence to operate.
<ul style="list-style-type: none"> • Repetition of failure to report large, complex and unusual transactions. 	<p>If the reporting person is found liable for the violation listed, the RRA may impose the following sanction(s) depending on the gravity of the violation:</p> <ol style="list-style-type: none"> Written warning; Written notice of breach; Suspension for a period which cannot exceed two years; Administrative fine of FRW 500,000; Revocation of licence to operate.
<p>If within a period of three years, the reporting person commits the same violation provided for in the regulation for a second time then he will be liable to an administrative fine of FRW 5,000,000. If he commits this violation for the third time within the period of three years, he will be liable to an administrative fine of FRW 5,000,000 and the revocation of the licence to exercise the profession.</p>	

Table of definitions

Term	Interpretation
Keeping anonymous account	<ol style="list-style-type: none"> 1. Keeping accounts with no traceable identity. 2. Keeping accounts in fictitious names. 3. Entering into a relationship with shell companies.
Due diligence	<ol style="list-style-type: none"> 1. Identifying the client and verifying the client's identity on the basis of documents, data or information obtained from a reliable source. 2. Identifying the beneficial owner, taking reasonable measures, on the basis of risk, to verify the identity of the beneficial owner so that the reporting person is satisfied that he or she or it knows who the beneficial owner is. 3. Obtaining information on the nature and intended purpose of the business relationship between a reporting person and a client.
Beneficial owners	<ul style="list-style-type: none"> • A natural person who ultimately owns or controls a client or the natural person on whose behalf a transaction is conducted. It also includes those persons who exercise ultimate effective control over a legal person or legal arrangement.
Suspicious transactions report	<ul style="list-style-type: none"> • A report containing information relating to funds that the reporting person has reasonable grounds to suspect are proceeds of a crime or a terrorism.
Reporting person	<ul style="list-style-type: none"> • An individual or a group of individuals licensed by the Tax Administration as tax advisors, tax agents or clearing agents to advise, assist or represent taxpayers in their accounting, declaration and payment of taxes and duties.
Shell company	<ul style="list-style-type: none"> • An inactive company used as a vehicle for various financial manoeuvres.

You can access the Law N° 002/2023 of 27/01/2023, Commissioner General Regulations determining administrative sanctions applicable to reporting person who does not fulfill his, her or its obligations [here](#)

For further information please contact any of the people below or your usual PwC contact



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