

GUIDE TO WHITE-COLLAR CRIMES AND FORENSIC INVESTIGATIONS IN KEY AFRICAN JURISDICTIONS



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OVERVIEW OF WHITE-COLLAR CRIMES IN SOUTH AFRICA

WHAT TYPES OF WHITE-COLLAR CRIMES ARE MOST PREVALENT IN SOUTH AFRICA?

The most prevalent white-collar crimes include fraud, bribery, corruption, forgery, theft, and money laundering. Incidents of white-collar crimes in South Africa increased by 13,2% in the 2023/2024 financial year.¹

While the South African Banking Risk Information Centre Annual Crime Statistics for 2024 reflected a significant decline in financial crime losses, it warned of the increasing threat posed by artificial intelligence in fraud schemes. A recent threat report notes that South Africa is the most targeted African country regarding cybercrimes, with 40% of ransomware attacks on the continent occurring in South Africa.²

WHAT ARE THE PENALTIES ASSOCIATED WITH CONVICTION IN SOUTH AFRICA, IN RESPECT OF BOTH INDIVIDUALS AND COMPANIES?

Penalties are contained under the applicable governing legislation

Under **Section 332 of the Criminal Procedure Act**³, a company can be held criminally liable for the acts of certain individuals, even though it is a separate legal entity from its owners, directors, or employees.

¹ SAPS Annual Crime Reports, 2023/2024 [view here](#)

² SABRI Crime Statistics Report, 2024 [view here](#)

³ Act 51 of 1977

ENTITY	PENALTY	DESCRIPTION / EXAMPLE
Individuals	Criminal	Prison sentences up to 30 years; large fines up to ZAR 50 million; asset forfeiture for property acquired through crime.
	Professional / Administrative	Disqualifications (eg, banned from serving as company director) and / or loss of professional licenses.
	Reputational	Loss of employment, public trust, and professional standing.
Companies	Financial / Criminal	Fines based on a percentage of annual turnover; asset forfeiture via the Asset Forfeiture Unit; fines up to ZAR 50 million for regulatory non-compliance.
	Administrative / Regulatory	Blacklisting preventing access to government contracts; administrative penalties from regulators (eg, The Financial Intelligence Centre (FIC)).
	Reputational / Financial	Damage to public trust, drop in share price, negative media coverage.

LEGAL & REGULATORY FRAMEWORK

WHICH ARE THE KEY PIECES OF LEGISLATION THAT GOVERN WHITE-COLLAR CRIMES IN SOUTH AFRICA?

Prevention and Combating of Corrupt Activities Act⁴ (PRECCA):

Defines and criminalises corruption and related offences such as attempted or accomplice corruption.

Prevention of Organised Crime Act⁵ (POCA): Targets organised criminal activity, including racketeering, money laundering, and provides for recovery and civil forfeiture of proceeds of crime.

Financial Intelligence Centre Act⁶ (FICA): Establishes the Financial Intelligence Centre, which imposes reporting duties on institutions to combat money laundering and terrorist financing; empowers penalties for non-compliance. Accountable Institutions must verify clients, report suspicious/large transactions, and certain report cash transactions.

Cybercrimes Act⁷: Criminalises cyber-related offenses such as unauthorised data access, cyber fraud, cyber extortion, and theft of digital property.

WHICH SECTORS DO THESE COMMON LAW FRAUD AND THEFT LEGISLATIONS APPLY?

PRECCA	Targets corruption in both the public and private sectors.
POCA	Not limited to a specific sector; it applies to any person or company involved in organised crime.
FICA	A broad list of sectors in the financial and professional services industries, including: (i) banks and other financial institutions; (ii) legal practitioners (attorneys); (iii) estate agents and property practitioners; (iv) investment managers and financial service providers; and (v) casinos and gambling operators.
Cybercrimes Act	Applies broadly across all sectors but has heightened relevance for entities that process, transmit, or store data, including: (i) telecommunications and internet service providers (ISPs); (ii) banks and other financial institutions; (iii) public bodies and state departments; (iv) private companies handling personal or confidential information; and (v) individuals who use computer systems or electronic communications.

ARE THERE SPECIFIC PROCEDURES OR GUIDELINES FOR DIFFERENT TYPES OF INVESTIGATIONS (eg, CRIMINAL, CIVIL, ADMINISTRATIVE)?

Yes.

Criminal	Governed by criminal procedure laws, primarily the Criminal Procedure Act, and must respect constitutional rights (including the right to silence, legal representation and presumption of innocence).
Civil	Conducted by bodies like the Special Investigating Unit (SIU) under the SIU & Special Tribunals Act 74 of 1996. Aims to uncover maladministration, corruption, and misuse of public funds. The SIU gathers evidence through subpoenas, sworn witness interrogations, and the seizure of documents via search and seizure warrants. Cases are then brought before Special Tribunals or High Courts to obtain civil remedies such as asset recovery or interdicts.
Administrative	Administrative investigations in South Africa, mandated under statutes such as the SIU Act and FICA, constitute lawful, evidence-driven inquiries into maladministration, corruption, and regulatory non-compliance. They are initiated through formal authorisation and are anchored in principles of legality, procedural fairness, and proportionality. These investigations culminate in remedial, disciplinary, or civil recovery measures, with criminal referrals where warranted.
Workplace	Workplace investigations are guided by the Labour Relations Act 66 of 1995, the Employment Equity Act 55 of 1998, and internal disciplinary codes or HR policies. They aim to determine misconduct, harassment, discrimination, or breaches of company policy. Employers must ensure procedural and substantive fairness, adhering to the Code of Good Practice: Dismissal (Schedule 8 to the LRA). Investigations typically involve fact-finding interviews, documentary evidence review, and written findings that may lead to disciplinary action or dismissal, subject to the employee's right to a fair hearing.

WHAT POWERS DO INVESTIGATORS IN SOUTH AFRICA HAVE?

Investigative powers in South Africa are determined by each investigative bodies' enabling legislation. The Directorate for Priority Crime Investigation (the DPCI, also known as the Hawks), established under the South African Police Service Act⁸, functions as a criminal enforcement agency with authority to arrest and detain suspects, execute search and seizure operations, conduct forensic (including financial and digital) investigations, and compel testimony or document production.

The Special Investigating Unit (SIU), constituted under the Special Investigating Units and Special Tribunals Act, exercises civil investigative powers focused on public-sector corruption and maladministration. It may subpoena witnesses, access records, interrogate under oath, and institute civil proceedings to recover losses before the Special Tribunal or High Court, while referring any evidence of criminal conduct to the National Prosecuting Authority.

Private investigators, operating under the Private Security Industry Regulation Act⁹ and regulated by the Private Security Industry Regulatory Authority (PSIRA), possess limited powers derived from contract and common law rather than statute. They may gather information through lawful surveillance, witness interviews, background checks, and document analysis but cannot compel evidence, conduct searches or seizures, or make arrests except under the same circumstances as any private citizen (eg, a citizen's arrest under section 42 of the Criminal Procedure Act¹⁰). Private investigators must comply with privacy, data protection, and evidentiary rules to ensure that any information obtained is admissible and lawfully acquired.

⁴ Act 12 of 2004

⁵ Act 121 of 1998

⁶ Act 38 of 2011

⁷ Act 19 of 2020

⁸ Act 68 of 1995

⁹ Act 56 of 2001

¹⁰ Act 51 of 1977



WHAT ARE THE RULES REGARDING THE ADMISSIBILITY OF EVIDENCE?

Evidence must be relevant for it to be admissible. Section 35(5) of the Constitution provides that any evidence obtained in violation of a right in the Bill of Rights must be excluded if its admission would render the trial unfair or harm the administration of justice. In criminal matters, irrelevant evidence may not be admitted¹¹. Additionally, confessions and admissions, must be made freely and voluntarily. In civil proceedings, evidence irrelevant to facts in issue is inadmissible¹². For digital material, data messages are recognised as admissible evidence where its integrity and reliability is proven¹³.

ARE THERE SPECIFIC REQUIREMENTS FOR OBTAINING WARRANTS?

Yes - a police officer may obtain a search warrant by presenting a sworn statement to a magistrate or judge demonstrating reasonable grounds to believe that a crime has occurred and that evidence exists at a specified location¹⁴. Execution of the warrant must respect constitutional and statutory safeguards.

The officer must identify themselves, announce purpose, conduct searches in daytime unless justified, and maintain decency and order. Warrants must be specific in scope and location, as emphasised in *Goqwana v Minister for Safety and Security NO*¹⁵, that search warrants must clearly identify the executing officer, specify the premises and items to be searched, state the legal basis, and be intelligible and precise, otherwise they are invalid.

HOW ARE INVESTIGATIONS HANDLED WHEN THEY INVOLVE CROSS-BORDER IMPACT OR INTERNATIONAL CO-OPERATION?

South Africa promulgated the International Co-operation in Criminal Matters Act¹⁶, which provides a mutual legal framework for reciprocal co-operation with other nations in criminal matters, including and not limited to the exchange of evidence, recognition and execution of foreign confiscation and restraint orders, and the transfer of offending assets. It also empowers the President to enter into bilateral or multilateral treaties (such as the MLA Treaty with the United Arab Emirates) to facilitate cross border investigations and asset recovery, although extradition remains subject to separate legislation.

REPORTING OBLIGATIONS

WHAT REPORTING OBLIGATIONS ARE APPLICABLE TO THE DIFFERENT SECTORS IN SOUTH AFRICA WITH RESPECT TO WHITE-COLLAR CRIMES?

FICA requires “accountable institutions” across financial, legal, real estate, gambling, and investment sectors to report suspicious or large cash transactions (above **ZAR 49,999.99**) and large electronic funds transfers (above **ZAR 19,999.99**) to the Financial Intelligence Centre. Section 29 mandates reporting if a transaction:

- involves criminal proceeds or terrorist financing;
- lacks a clear business purpose or is structured to avoid reporting;
- is relevant to tax evasion investigations; and
- relates to money laundering or terrorist financing.

PRECCA, under Section 34, obliges individuals in positions of authority to report knowledge or suspicion of certain white-collar crimes (theft, fraud, forgery, extortion, or uttering forged documents) exceeding ZAR 100,000, and with no monetary threshold for corruption. Failure to report is itself an offence. PRECCA does not provide legal protection for whistleblowers who report.

POCA creates both criminal and civil obligations concerning money laundering and the handling of proceeds of crime. While POCA itself does not impose generalised reporting duties, it complements FICA by criminalising the failure to disclose knowledge or suspicion of money laundering activities. Section 7 of POCA makes it an offence to assist another in concealing or utilising the proceeds of unlawful activities, while Section 6 criminalises the failure to take reasonable steps to prevent such conduct. Institutions and individuals are therefore expected to cooperate with law enforcement and the FIC by furnishing information relevant to organised crime or asset forfeiture proceedings.

The Cybercrimes Act imposes specific reporting duties on electronic communications service providers and financial institutions. Section 54¹⁷ requires these entities to report cybercrimes (such as unlawful access, interception, data interference, or financial cyber fraud) to the South African Police Service (SAPS) within 72 hours of becoming aware of the offence. Failure to report constitutes an offence. The Act also encourages voluntary reporting by members of the public and mandates co-operation with investigations involving data preservation and disclosure.

¹¹ Section 210 of the Criminal Procedure Act 51 of 1977

¹² Section 2 of the Civil Proceedings Evidence Act 25 of 1965

¹³ Section 15 of the Electronic Communications and Transactions Act 25 of 2002

¹⁴ Section 21 of the Criminal Procedure Act 51 of 1977

¹⁵ (2016) (1) SACR 384 (SCA)

¹⁶ Act 75 of 1996

¹⁷ Section 54 is not yet operative and is pending publication in the Government Gazette

WHAT THRESHOLDS EXIST FOR REPORTING OBLIGATIONS?

LEGISLATION	REPORTING ENTITIES / SECTOR	THRESHOLD
FICA (Section 28)	Accountable Institutions	Cash transactions > ZAR 49,999.99
	Accountable Institutions handling cross-border electronic funds transfers	Electronic Funds Transfers > ZAR 19,999.99
PRECCA (Section 34)	Persons in positions of authority (Corruption has no monetary threshold)	White-collar crimes (theft, fraud, forgery, extortion) ≥ R100,000
POCA	All persons and entities involved in financial or business activities	No monetary threshold. Reporting is offence-based and focused on knowledge or suspicion of money laundering or handling proceeds of crime.
Cybercrimes Act (Section 54)	Electronic communications service providers and financial institutions	No monetary threshold. Reporting required within 72 hours of becoming aware of a cybercrime incident.

WHAT IS THE TIME PERIOD IN WHICH REPORTING MUST BE COMPLETED?

In South Africa, reporting deadlines depend on the governing legislation. Under FICA, accountable institutions must report cash transactions above ZAR 49,999.99 to the Financial Intelligence Centre within three business days of the transaction, excluding weekends and public holidays. Under PRECCA, no fixed statutory deadline exists; however, individuals in positions of authority are required to report knowledge or suspicion of relevant crimes within a reasonable time, unless actively verifying the grounds for suspicion.

Under POCA, there is no fixed reporting period; obligations are offence-based and disclosures occur in co-operation with the FIC or law enforcement during investigations. Under the Cybercrimes Act, service providers and financial institutions must report cybercrime incidents to the SAPS within 72 hours of becoming aware of the offence.

WHO MUST WHITE-COLLAR CRIMES BE REPORTED TO?

The primary bodies are the DPCI and the FIC. Cybercrime incidents under the Cybercrimes Act must be reported to the SAPS, specifically the Cybercrime Units within the SAPS. Where public-sector corruption or maladministration is uncovered, the matter may also be referred to the Special Investigating Unit (SIU) or the National Prosecuting Authority (NPA) for further action.

WHAT ARE THE CONSEQUENCES OF FAILING TO REPORT?

Under FICA, failure by accountable institutions to report cash transactions¹⁸, or suspicious/unusual transactions¹⁹ constitutes a criminal offence and may attract administrative sanctions. Even negligent failure to report a transaction that should reasonably have been noticed can lead to prosecution, with penalties of up to 15 years' imprisonment or fines up to R100 000 000, under Section 68.

Under Section 34 of PRECCA, failure to report corruption, theft, fraud, forgery, extortion, or uttering a forged document constitutes a criminal offence. Section 26(b) stipulates penalties of up to 10 years' imprisonment or a fine in a Regional or High Court, or up to 3 years' imprisonment or a fine in a Magistrate's Court.

Under POCA, there is no express reporting offence, but individuals or entities that knowingly fail to disclose or that assist in concealing the proceeds of crime may be charged with money laundering or aiding and abetting under Sections 4 - 6. Convictions may result in imprisonment of up to 30 years or a fine up to ZAR 100 million, depending on the severity and nature of the offence.

Under the Cybercrimes Act (Section 54), electronic communications service providers and financial institutions that fail to report cybercrime incidents to the SAPS within 72 hours commit a statutory offence. Penalties include imprisonment or fines of up to ZAR 50,000 depending on the gravity and impact of the non-compliance.

INVESTIGATIONS

HOW DOES THE INVESTIGATION PROCESS WORK IN SOUTH AFRICA (FROM REPORTING THROUGH TO PROSECUTION)?

Investigations follow a multi-agency process initiated via statutory reports, voluntary disclosures, or third-party complaints. Agencies such as the Hawks (commercial crimes) and the FIC (money laundering) conduct investigations using powers to subpoena witnesses, seize documents, and access financial records. Completed cases are referred to the National Prosecuting Authority (NPA), which decides on prosecution based on evidence strength, public interest, and crime severity. For corporate entities, the Corporate Alternative Dispute Resolution policy allows resolution without trial through admission of guilt, financial penalties, and compliance measures, subject to a public interest assessment.

ARE THERE ANY KEY EVIDENTIARY STANDARDS THAT SHOULD BE TAKEN ACCOUNT OF?

CRIMINAL	BEYOND A REASONABLE DOUBT
Civil	On a balance of probabilities

WHAT PROTECTIONS ARE AFFORDED TO WHISTLEBLOWERS IN SOUTH AFRICA?

Whistleblowers in South Africa are protected under the Protected Disclosures Act 26 of 2000 (PDA), which shields employees in both public and private sectors from retaliation for making disclosures about criminal offenses, legal non-compliance, miscarriages of justice, health or safety risks, or concealment thereof, provided the disclosure is made to a designated person or body. The PDA allows anonymous reporting but does not provide financial incentives. Additional protections exist under legislation like FICA, which immunises individuals or institutions from civil or criminal liability for reporting suspicious transactions in good faith to the Financial Intelligence Centre (FIC).

EXPERTISE REQUIRED TO CONDUCT INVESTIGATIONS

IN SOUTH AFRICA, ARE THERE ANY QUALIFICATIONS AND/OR ACCREDITATIONS AN INVESTIGATOR SHOULD HAVE?

Private-sector white-collar investigators must be registered with the PSIRA and often hold professional certifications such as Certified Fraud Examiner (CFE) or Professional Certified Investigator (PCI)²⁰, typically supported by degrees in forensic investigation, auditing, accounting, or law.

Forensic Practitioner (ICFP) are appointed by specific agencies and generally require backgrounds in law enforcement, auditing, or forensic accounting, with qualifications aligned to their agency's mandate and investigative responsibilities.

IN THE EVENT THAT AN INVESTIGATOR IS GROSSLY NEGLIGENT AND/OR FAILS TO CONDUCT AN INVESTIGATION ACCORDING TO BEST PRACTICES, WHAT ARE THE RAMIFICATIONS?

In South Africa, both private and government investigators may face serious consequences for gross negligence or failure to follow best practices. Affected parties can pursue civil claims for financial loss, reputational damage, or wrongful conviction, which require proving four elements:

- (1) **Duty of care** – the obligation to act without causing harm.
 - (2) **Breach of duty** – failure to meet the standard of a reasonable investigator.
 - (3) **Causation** – a direct link between the breach and the harm (both actual and proximate cause).
 - (4) **Damages** – demonstrable loss or injury resulting from the breach.
- Investigators may also face criminal liability if they act outside the legal or regulatory framework governing their work.

Criminal charges can be attributed to both public and private investigators if they don't operate within the bounds of the legal instrument that governs them.

¹⁸ Section 51(1) of the Financial Intelligence Centre Act (Act 38 of 2011)

¹⁹ Section 52 of the Financial Intelligence Centre Act (Act 38 of 2011)

²⁰ PCI [view here](#)



CONFIDENTIALITY, PRIVILEGE AND FORCED DISCLOSURE

IN SOUTH AFRICA, HOW IS THE DISTINCTION BETWEEN CONFIDENTIALITY AND PRIVILEGE DEALT REGARDING AN INVESTIGATIVE REPORT?

Investigative reports are distinguished between confidentiality and legal privilege. Confidentiality imposes a general duty to keep information private but does not prevent disclosure under a court order or subpoena. Legal privilege, in contrast, allows a party - typically the client - to withhold documents or communications from disclosure and can be waived only by the client. Two main forms exist: legal advice privilege, protecting confidential communications between client and attorney for legal advice, and litigation privilege, protecting communications with third parties, including investigators, created for the dominant purpose of actual or anticipated litigation. For an investigative report to be privileged, it must meet these strict legal requirements and, per case law such as *Tiso Blackstar v Steinhoff*²¹, companies must demonstrate "objective facts" linking the investigation to contemplated litigation. Privilege, once waived, generally applies to the entire document, highlighting the importance of careful management of privileged information.

ARE THERE PARTICULAR INSTANCES WHERE A PARTY, INDIVIDUAL AND/OR BUSINESS MAY BE LAWFULLY REQUIRED TO DISCLOSE THE CONTENTS OF AN INVESTIGATIVE REPORT?

Yes, a party may be lawfully required to disclose an investigative report if it is not legally privileged or is subject to a search warrant. While privilege can be asserted, case law such as *Thint (Pty) Ltd v NDPP*²² and *Zuma v NDPP*²³ confirms that courts may order the report's seizure and ultimately determine the validity of the privilege claim. In labour disputes, the *SASCOC v CCMA*²⁴ judgment clarifies that disclosure to an employee is required only if the report is relevant to determining the fairness of dismissal; if the employer can substantiate the dismissal by other means and does not rely on the report in arbitration, disclosure is not obligatory. Thus, relevance, not mere existence, governs the discoverability of investigative reports.

Accordingly, the test of relevance and privilege, rather than the mere existence of an investigative report, governs its lawful disclosure in South Africa.

RECOVERY MECHANISMS

WHAT RECOVERY MECHANISMS ARE AVAILABLE IN SOUTH AFRICA?

Victims of economic or white-collar crimes have several mechanisms for civil recovery. Under section 300 of the Criminal Procedure Act²⁵, a court may, upon conviction of an offender, award compensation to a victim for loss or damage resulting from the offence. The value of such awards is limited by the civil jurisdiction of the court - currently ZAR 500,000 in Regional Courts and ZAR 100,000 in Magistrates' Courts. Section 37D(1)(b) of the Pension Funds Act²⁶ further permits the deduction or withholding of pension benefits to compensate an employer or fund for losses arising from an employee's fraud, theft, or dishonesty.

Additionally, under the POCA, victims who have suffered loss or injury due to criminal conduct may make representations to the court to protect or recover interests in property subject to forfeiture. Courts may direct that valid civil claims be satisfied from forfeited assets or exclude such assets from forfeiture to safeguard bona fide victims. Collectively, these mechanisms ensure that victims have multiple avenues to recover losses arising from economic crimes.

²¹ 2023 (1) SA 283 (WCC)

²² 2008 (2) SACR 421 (CC)

²³ 2009 (1) SACR 361 (SCA)

²⁴ (JR 2642/2019)

²⁵ Act 51 of 1977

²⁶ Act 24 of 1956





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OVERVIEW OF WHITE-COLLAR CRIMES IN DRC

WHAT TYPES OF WHITE-COLLAR CRIMES ARE MOST PREVALENT IN THE DRC?

The most common types of white-collar crime in the DRC are (i) embezzlement, (ii) money laundering, (iii) misuse of company assets, (iv) corruption, (v) mining fraud, (vi) obstruction of transparency and traceability in the mining industry, and (vii) influence peddling.

WHAT ARE THE PENALTIES ASSOCIATED WITH CONVICTION IN THE DRC, IN RESPECT OF BOTH INDIVIDUALS AND COMPANIES?

The penalties associated with a conviction are generally imprisonment and fines. The law in DRC does not provide for the criminal liability of companies, except for money laundering offences, for which companies may be fined. For other crimes, only individuals (in particular directors or managers of companies) are subject to penalties.

However, victims of crimes may sue companies for civil liability in order to obtain damages for the harm suffered, in parallel with criminal proceedings against individuals.

CRIMES	PENALTY	MAXIMUM FINES
Embezzlement	20 years	No fines applicable.
Money laundering	10 years	Six times the amount of money laundered.
Misuse of company assets	The penalty has not yet been determined	Fines have not yet been set
Corruption	15 years	CDF 500,000,000
Mining fraud	10 years	Equivalent in CDF of USD 500,000
Obstruction of transparency and traceability in the mining industry	No imprisonment	Equivalent to CHF 1,000,000
Influence peddling	3 years	CHF 1,000,000



LEGAL & REGULATORY FRAMEWORK

WHICH ARE THE KEY PIECES OF LEGISLATION THAT GOVERN WHITE-COLLAR CRIMES IN THE DRC?

Most white-collar crimes (eg embezzlement, corruption and influence peddling) are governed by the Decree of 30 January 1940 as supplemented and amended to date, establishing the criminal code (the Criminal Code) and, regarding the criminal procedure, by the Decree of 7 March 1960 as supplemented and amended to date establishing the code of criminal procedure (the Code of Criminal Procedure).

Certain white-collar crimes are governed by specific laws:

- The Act No. 22-068 of 27 December 2022 on the fight against money laundering and the financing of terrorism and the proliferation of weapons of mass destruction (the Money Laundering Act) for money laundering.
- The OHADA Uniform Act on Commercial Companies and Economic Interest Groups for the misuse of company assets.
- The Act No. 007-2002 of 11 July 2002, as amended and supplemented by Act No. 18-001 of 9 March 2018 on the Mining Code for mining-related crimes.

WHICH SECTORS DO THESE LEGISLATIONS APPLY TO?

The above-mentioned laws apply to (i) the business and financial sectors and (ii) public administration.

The business and financial sectors include banks and financial institutions, commercial companies, state-owned enterprises and mining operators.

ARE THERE SPECIFIC PROCEDURES OR GUIDELINES FOR DIFFERENT TYPES OF INVESTIGATIONS (eg, CRIMINAL, CIVIL, ADMINISTRATIVE)?

Criminal proceedings

These are the proceedings organised by the Code of Criminal Procedure, which applies generally to all offences, including white-collar crimes. Investigations are conducted by public prosecutors (Officier du Ministère Public or Procureurs de la République or OMP), who generally work in conjunction with judicial police officers (Officier de Police Judiciaire or OPJ).

Administrative proceedings

The Money Laundering Act establishes specific investigation proceedings for money laundering offences. These investigations involve the OMP and the National Financial Intelligence Unit (Cellule Nationale de Renseignements Financiers or CENAREF), which receives reports of suspicious transactions carried out by any type of company (civil or commercial). Following reports of suspicious activity, the CENAREF conducts a preliminary investigation and reports to the OMP.

WHAT POWERS DO INVESTIGATORS IN THE DRC HAVE?

The OMP may initiate investigations when a complaint is filed or launch investigations on his/her own initiative when he/she has relevant information. During his/her investigation, the OMP has extensive powers and may:

- Conduct searches (perquisitions).
- Issue warrants (appearance warrant (mandat de comparution), bringing warrant (mandat d'amener) or provisional arrest warrant (mandat d'arrêt provisoire).
- Seize property.
- Order police custody measures.
- Decide to close the case (terminate proceedings) if he/she considers that the information gathered is insufficient or that the facts do not constitute an offence, or if the offence is so minor that prosecution would be inappropriate.

The OPJ has no powers of his or her own and is under the hierarchical responsibility of the OMP. To this end, he/she may:

- Conduct interviews without the power to compel testimony.
- With the agreement of OMP, place individuals in police custody.

With regard specifically to the crime of money laundering, the CENAREF and the OMP have the following powers:

- When the CENAREF receives reports of suspicious transactions (suspicion reports), it:
 - examines the said suspicious activity reports.
 - may request any natural or legal person as well as any public authority to provide any information or document in the context of investigations undertaken following a suspicious transaction report.
 - reports to the OMP to initiate proceedings.
- The OMP, which receives the CENAREF report, has the following powers for the purpose of obtaining evidence of money laundering:
 - Monitoring bank accounts and accounts like bank accounts, where there are serious indications that they are being used or are likely to be used for operations related to money laundering.
 - Accessing computer systems, networks and servers used or likely to be used by persons against whom there are serious indications of involvement in money laundering.
 - Monitoring or tapping of telephone lines, fax machines or electronic means of transmission or communication.
 - Disclosing or seizing authentic or private documents, banking, financial and commercial documents.
 - Surveillance or interception of communications.
 - Audio or video recording or photographing of acts, actions or conversations.
 - Interception and seizure of letters.

WHAT ARE THE RULES REGARDING THE ADMISSIBILITY OF EVIDENCE?

The burden of proof lies with the prosecution (OMP).

The various types of evidence commonly used in criminal proceedings are: police reports, questioning of the defendant, confessions (aveux), witness testimony, expert reports and site visits.

The judge plays an active role in criminal proceedings and freely examines the evidence provided by the prosecution. Where there is doubt about the prosecution's evidence, the doubt works in favour of the defendant.

ARE THERE SPECIFIC REQUIREMENTS FOR OBTAINING WARRANTS?

The OMP is responsible for assessing the conditions for issuing warrants:

- **Appearance warrant.** The OMP issues this warrant to summon the accused person to appear at his/her office.
- **Bringing warrant.** When the accused person has failed to appear following a summons to appear, or when there is serious evidence of guilt against them and the offence is punishable by at least two months' imprisonment, the OMP is entitled to issue a bringing warrant against it.
- **Provisional arrest warrant.** When the conditions for preventive detention are met (ie there is serious evidence of guilt against the accused and the facts appear to constitute an offence punishable by law with a sentence of six months' imprisonment; otherwise, there is reason to fear that he may flee, or if his identity is doubtful or unknown), the public prosecutor may place the accused under a provisional arrest warrant, with a view to bringing him/her before the judge for a ruling and authorisation of preventive detention.





HOW ARE INVESTIGATIONS HANDLED WHEN THEY INVOLVE CROSS-BORDER IMPACT OR INTERNATIONAL CO-OPERATION?

With regard to money laundering, Congolese courts have jurisdiction to prosecute any individual or company located in the territory of the DRC, regardless of their nationality.

CENAREF and the judicial authorities co-operate with international agencies, in particular Interpol through its representation in Kinshasa, as well as with foreign services responsible for investigating money laundering.

In addition, the DRC has signed bilateral and international judicial co-operation conventions, notably with Belgium, the Economic Community of Central African States (Communauté Economique des Etats d'Afrique Centrale or CEEAC), the Southern African Development Community (SADC) and the International Conference on the Great Lakes Region (Conférence Internationale sur la Région des Grands Lacs or CIRGL). These conventions cover judicial assistance between different countries, particularly regarding extradition when investigations involve cross-border actions or international cooperation.

REPORTING OBLIGATIONS

WHAT REPORTING OBLIGATIONS ARE APPLICABLE TO THE DIFFERENT SECTORS IN THE DRC WITH RESPECT TO WHITE-COLLAR CRIMES?

Reporting obligations are only considered in the context of money laundering crimes.

All entities (civil or commercial) must immediately report any suspicion of criminal money laundering activity to CENAREF. The suspicious activity report must include, as applicable, a description of the transaction, any useful information about the persons involved, the reasons why the transaction has already been or is to be carried out, and the time frame within which the transaction is to be carried out.

WHAT THRESHOLDS EXIST FOR REPORTING OBLIGATIONS?

The threshold applicable to the obligation to report suspicions is USD 15,000, whether it is a single transaction or several transactions that appear to be linked.

WHAT IS THE TIME PERIOD IN WHICH REPORTING MUST BE COMPLETED?

The suspicious activity report must be made without delay.

WHO MUST WHITE-COLLAR CRIMES BE REPORTED TO?

Suspicious activity in the context of money laundering crimes must be reported to the CENAREF.

WHAT ARE THE CONSEQUENCES OF FAILING TO REPORT?

Failure to report may result in criminal liability for the person subject to this reporting obligation as an accomplice.

INVESTIGATIONS

HOW DOES THE INVESTIGATION PROCESS WORK IN THE DRC (FROM REPORTING THROUGH TO PROSECUTION)?

ARE THERE ANY KEY EVIDENTIARY STANDARDS THAT SHOULD BE TAKEN ACCOUNT OF?

WHAT PROTECTIONS ARE AFFORDED TO WHISTLEBLOWERS IN THE DRC?

There is currently a legal vacuum regarding the protection of whistleblowers. A proposed law is currently being examined by the DRC parliament to establish a solid legal framework for whistleblowers.

EXPERTISE REQUIRED TO CONDUCT INVESTIGATIONS

IN THE DRC, ARE THERE ANY QUALIFICATIONS AND/OR ACCREDITATIONS AN INVESTIGATOR SHOULD HAVE?

No.

IN THE EVENT THAT AN INVESTIGATOR IS GROSSLY NEGLIGENT AND/OR FAILS TO CONDUCT AN INVESTIGATION ACCORDING TO BEST PRACTICES, WHAT ARE THE RAMIFICATIONS?

CENAREF members are liable to civil and criminal prosecution in the event of fraud or gross negligence in the course of an investigation. Negligence and/or any failure committed by the OMP or OPJ during investigations fall under disciplinary offences resulting in several sanctions, including reprimands, withholding of payment, or even dismissal. Furthermore, if these disciplinary offences are likely to constitute criminal offences, the OMP or OPJ may be held criminally liable.

CONFIDENTIALITY, PRIVILEGE AND FORCED DISCLOSURE

IN THE DRC, HOW IS THE DISTINCTION BETWEEN CONFIDENTIALITY AND PRIVILEGE DEALT WITH REGARDING AN INVESTIGATIVE REPORT?

The suspicious report is confidential. The DRC law makes no distinction from privilege.

ARE THERE PARTICULAR INSTANCES WHERE A PARTY, INDIVIDUAL AND/OR BUSINESS MAY BE LAWFULLY REQUIRED TO DISCLOSE THE CONTENTS OF AN INVESTIGATIVE REPORT?

The Money Laundering Act authorises the disclosure of the contents of the investigation report to supervisory authorities, professional bodies and national representative bodies.

RECOVERY MECHANISMS

WHAT RECOVERY MECHANISMS ARE AVAILABLE IN THE DRC?

The recovery mechanisms (remedies) available for white-collar crimes are the compensation practices used by courts to compensate victims for damages resulting from criminal offences. Compensation for damages is in principle full, allowing for the recovery of all damages incurred by the victim. The courts have sole discretion to assess the compensation to be awarded for recovery.





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OVERVIEW OF WHITE-COLLAR CRIMES IN KENYA

WHAT TYPES OF WHITE-COLLAR CRIMES ARE MOST PREVALENT IN KENYA?

- Financial fraud
- Embezzlement
- Corruption
- Insider trading
- Money laundering
- Cyber enabled economic crimes
- Bribery
- Healthcare fraud
- Commodities fraud
- Tax evasion

WHAT ARE THE PENALTIES ASSOCIATED WITH CONVICTION IN KENYA, IN RESPECT OF BOTH INDIVIDUALS AND COMPANIES?

The penalties upon conviction include monetary penalties/fines, a jail term or a combination of both monetary penalties/fines and a jail term. The same applies for corporate entities and the management officers of these corporate bodies.

LEGAL & REGULATORY FRAMEWORK

WHICH ARE THE KEY PIECES OF LEGISLATION THAT GOVERN WHITE-COLLAR CRIMES IN KENYA?

- The Penal Code
- The Anti-Corruption and Economic Crimes Act (ACECA)
- The Proceeds of Crime and Anti-Money Laundering Act (POCAMLA)
- The Anti-Counterfeit Act
- The Ethics and Anti-Corruption Commission Act
- The Capital Markets Act
- The Computer Misuse and Cybercrimes Act
- The Public Procurement and Asset Disposal Act
- The Anti-Bribery Act
- Income Tax Act
- The Constitution of Kenya, 2010
- Mutual Legal Assistance Act
- Criminal Procedure Code

- Consumer Protection Act
- Competition Act

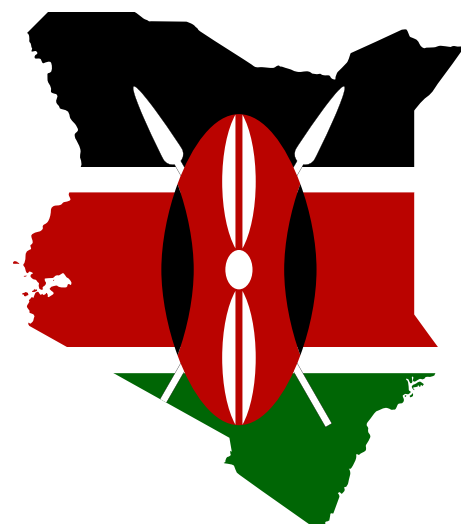
WHICH SECTORS DO THESE LEGISLATIONS APPLY?

- Public sector
- Banking, co-operatives and microfinance sector
- Capital markets and securities sector
- Insurance sector
- Healthcare sector
- Professional services sector
- Agri-Food sector

While some of these legislations are restricted to specific sectors, the Criminal Procedure Code, ACECA and POCAMLA are sector agnostic.

ARE THERE SPECIFIC PROCEDURES OR GUIDELINES FOR DIFFERENT TYPES OF INVESTIGATIONS (eg, CRIMINAL, CIVIL, ADMINISTRATIVE)?

Yes, there are specific guidelines for different types of investigations ie criminal, civil, or administrative. Generally, the investigative process must adhere to constitutional principles such as the right to a fair trial, fair administrative action where administrative bodies such as market regulators are involved, protection against unlawful detention, rules governing the admissibility and collection of evidence, and the right to challenge a conviction and sentence.



WHAT ARE THE POWERS OF INVESTIGATORS IN KENYA?

Investigators and investigative authorities are empowered to:

- conduct investigations;
- gather evidence and preservation;
- conduct forensic analysis of evidence;
- summon witnesses and record statements;
- apprehend offenders;
- trace assets;
- conduct searches and seizures;
- recover proceeds of crime;
- recommend to the Director of Public Prosecutions the prosecution of offenders; and
- enforcement.

WHAT ARE THE RULES REGARDING THE ADMISSIBILITY OF EVIDENCE?

The rules and principles governing the admissibility of evidence in Kenya include:

- relevance;
- admissibility;
- authenticity; and
- reliability.

ARE THERE SPECIFIC REQUIREMENTS FOR OBTAINING WARRANTS?

Yes.

Warrant of arrest

- A warrant of arrest must be issued by a judge or magistrate and must bear the seal of the court and is applied for by a prosecutor to the court in the event a suspect does not attend court at the date and time scheduled.
- The warrant must indicate the offence being investigated and description of the person it is issued against.

Search warrant

- It is issued by a judge or magistrate after it is proved on oath that a search is necessary during an investigation.
- It must contain the name and describe the place or person to be searched.

HOW ARE INVESTIGATIONS HANDLED WHEN THEY INVOLVE CROSS-BORDER IMPACT OR INTERNATIONAL CO-OPERATION?

Kenya is a member of Interpol and regularly co-ordinates with Interpol on cross-border investigations through the Directorate of Criminal Investigation (DCI). Through Interpol, DCI officers can participate in intelligence sharing, tracking suspects across borders, and issuing or responding to notices such as Red Notices for fugitive apprehension. The Mutual Legal Assistance Act enables Kenya to receive, process, and execute requests for assistance from foreign jurisdictions. The scope of assistance includes collection and production of evidence such as documents, bank records, financial information, corporate data as well as executing searches, seizures, and freezing or tracing of assets connected to alleged criminal activity.

Lastly, Financial regulators such as the CMA and CBK actively engage with their foreign counterparts through memoranda of understanding and joint task forces.

REPORTING OBLIGATIONS

WHAT REPORTING OBLIGATIONS ARE APPLICABLE TO THE DIFFERENT SECTORS IN KENYA WITH RESPECT TO WHITE-COLLAR CRIMES?

Sector-specific laws mandate prompt reporting of white-collar crimes. There are sanctions where persons with the obligation to report fail to do so. For instance, the Capital Markets Authority requires any person providing services to a licensed entity or a company listed on the securities exchange to report any prohibited conduct under the Capital Markets Act upon becoming aware of such information. Failure to do so constitutes an offence under the Act. In the insurance industry, insurers must report fraud and money laundering without delay. Similarly, financial institutions must submit suspicious transaction reports to the Financial Reporting Centre under POCAMLA. Under the Anti-Briber Act, every public officer, state officer, or any other person in a public or private entity is obligated to report any instances or suspicion of bribery to the EACC within 24 hours, failure to which constitutes an offence. These frameworks emphasise timely reporting, confidentiality, and whistleblower protection to ensure early detection, transparency, and enforcement.

WHAT THRESHOLDS EXIST FOR REPORTING OBLIGATIONS?

Generally, most statutes do not set out minimum reporting thresholds, except for POCAMLA which has a threshold for reporting cash transactions exceeding USD 15,000 or its equivalent in any other currency whether they appear as suspicious or not.

WHAT IS THE TIME PERIOD IN WHICH REPORTING MUST BE COMPLETED?

Reporting obligations in Kenya vary by sector and legislation, aiming to ensure timely detection and enforcement. Generally, individuals and entities are required to report white-collar crimes without undue delay, and in certain cases, such as under the Anti-Bribery Act, a public officer, state officer, or any other person in a public or private entity is required to report instances or suspicion of bribery within twenty-four (24) hours. Failure to comply may result in fines and penalties.

WHO MUST WHITE-COLLAR CRIMES BE REPORTED TO?

In Kenya white-collar crimes must be reported to specific statutory authorities depending on the nature of the offense. The following are some of the reporting bodies:

- Ethics and Anti-Corruption Commission
- Directorate of Criminal Investigations
- Capital Markets Authority
- Kenya Revenue Authority
- Competition Authority of Kenya
- Insurance Regulatory Authority
- Financial Reporting Centre
- Central Bank of Kenya

WHAT ARE THE CONSEQUENCES OF FAILING TO REPORT?

Failure to report white-collar crimes in Kenya may result in penalties and in some cases in the revocation of a licence for corporate bodies that are licenced by regulators such as the Capital Markets authority.



INVESTIGATIONS

HOW DOES THE INVESTIGATION PROCESS WORK IN KENYA (FROM REPORTING THROUGH TO PROSECUTION)?

The investigative process is as follows:

- The police/other statutory investigators will receive a complaint either in writing or verbally which will be recorded in an Occurrence Book for investigation.
- Preliminary inquiry or assessment of the complaint.
- Recording witness statements from witnesses of fact.
- Processing evidence or data collected for forensic or expert analysis such as handwriting experts or cybercrime experts.
- Preparation of a report and recommendation to the DPP to charge
- If approved, the suspects are apprehended, a charge sheet is drawn up and the suspects are presented to court for plea taking.

ARE THERE ANY KEY EVIDENTIARY STANDARDS THAT SHOULD BE TAKEN ACCOUNT OF?

Yes, there are key evidentiary standards that must be adhered to in respect of white collar crimes. These include:

- **Burden of proof and standard of proof**

For criminal cases, the prosecution must prove guilt beyond reasonable doubt.

- **Chain of custody and authenticity of evidence**

The chain of custody must be maintained to ensure the integrity of evidence.

- **Expert evidence**

Experts like forensic accountants and ICT specialists help courts understand technical evidence. Expert evidence must be relevant, qualified, and impartial.

- **Electronic evidence**

Electronic evidence subject to certification under the Evidence Act which requires authentication certificates signed by responsible persons to certify authenticity.

WHAT PROTECTIONS ARE AFFORDED TO WHISTLEBLOWERS IN KENYA?

There is no specific legislation regarding whistleblower protection. However, some of the key legislations governing white collar crimes such as the Anti-Bribery Act accord whistleblowers the same level of protection as witnesses under the Witness Protection Act. The protections include:

- physical and armed protection;
- relocation within or outside Kenya;
- change of identity; or
- any other measure necessary to ensure the safety of the whistleblower.

To address this legislative gap, there are ongoing discussion to pass the Whistleblower Protection Bill of 2025 into legislation, to bolster the protection of whistleblowers. This Bill, if enacted, will promote:

- immunity from civil and criminal liability for whistleblowers making disclosures in good faith;
- protection from retaliatory actions such as dismissal, harassment, discrimination, or any form of workplace reprisal;
- the right to report anonymously, with safeguards to maintain confidentiality;
- obligations on public and private entities to establish internal whistleblower reporting mechanisms and policies that facilitate safe disclosure;
- the establishment of an independent Whistleblower Protection Commission tasked with overseeing enforcement and providing redress mechanisms including compensation and reinstatement; and
- provision for a Whistleblower Protection Fund to support whistleblowers and compensate for losses suffered due to disclosure.

EXPERTISE REQUIRED TO CONDUCT INVESTIGATIONS

IN KENYA, ARE THERE ANY QUALIFICATIONS AND/OR ACCREDITATIONS AN INVESTIGATOR SHOULD HAVE?

Yes. There are training, professional, certifications, education qualifications, and ethical requirements that investigators must acquire and or have since they occupy public bodies. Investigators in specialised units like the DCI and EACC are trained law enforcement officers who receive extensive and continuous training both locally and internationally.

IN THE EVENT THAT AN INVESTIGATOR IS GROSSLY NEGLIGENT AND/OR FAILS TO CONDUCT AN INVESTIGATION ACCORDING TO BEST PRACTICES, WHAT ARE THE RAMIFICATIONS?

The ramifications include:

- inadmissibility of evidence collected by them;
- facing internal disciplinary actions; and
- criminal proceedings maybe instituted against them depending on the nature of the conduct.

CONFIDENTIALITY, PRIVILEGE AND FORCED

DISCLOSURE

IN KENYA, HOW IS THE DISTINCTION BETWEEN CONFIDENTIALITY AND PRIVILEGE DEALT WITH REGARDING AN INVESTIGATIVE REPORT?

In the context of investigative reports, privilege applies only where the dominant purpose of the report is legal advice towards anticipated litigation. This is, however, not a point that has been litigated in the Kenyan courts. Otherwise, the report may be considered confidential and subject to disclosure only under statutory or constitutional exceptions.

ARE THERE PARTICULAR INSTANCES WHERE A PARTY, INDIVIDUAL AND/OR BUSINESS MAY BE LAWFULLY REQUIRED TO DISCLOSE THE CONTENTS OF AN INVESTIGATIVE REPORT?

Yes, through:

- court-ordered disclosure in criminal proceedings or through searches and seizures; and
- statutory mandatory reporting and regulatory compliance.

RECOVERY MECHANISMS

WHAT RECOVERY MECHANISMS ARE AVAILABLE IN KENYA?

The available recovery mechanisms include preservation through freezing orders, seizure of assets, forfeiture, litigation for damages and restitution, and fines commensurate to the loss suffered or material benefit gained.





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OVERVIEW OF WHITE-COLLAR CRIMES IN MAURITIUS

WHAT TYPES OF WHITE-COLLAR CRIMES ARE MOST PREVALENT IN MAURITIUS?

The most prevalent white-collar crimes are:

- (i) Larceny
- (ii) Embezzlement
- (iii) Swindling
- (iv) Money-laundering
- (v) Corruption and bribery
- (vi) Forgery or counterfeiting

WHAT ARE THE PENALTIES ASSOCIATED WITH CONVICTION IN MAURITIUS, IN RESPECT OF BOTH INDIVIDUALS AND COMPANIES?

The offences carry fines, imprisonment or in some cases, a term of penal servitude.

By way of example, under the Financial Crimes Commission Act 2023 (the FCC Act) (which was enacted to provide for the establishment of the Financial Crimes Commission – the apex agency in Mauritius to detect, investigate and prosecute financial crimes and other ancillary offences connected thereto), any individual convicted of any money laundering, fraud and corruption offences may be sentenced to a fine not exceeding MUR 20 million and penal servitude for a term not exceeding 10 years. Similarly, any public official who is found guilty of soliciting and accepting bribes or using his office for gratification may be sentenced to a fine not exceeding MUR 20 million and penal servitude for a term not exceeding 10 years.

Furthermore, under the FCC Act, there is an obligation on legal persons (including companies) to implement adequate procedures, which are reasonably necessary to prevent it or any individual acting on its behalf such as its directors, senior managers or any authorised officers from committing any financial crimes including money laundering, fraud and corruption offences. Should the legal person breach this obligation, the legal person commits an offence and on conviction is liable to pay a fine not exceeding MUR 20 million.

LEGAL & REGULATORY FRAMEWORK

WHICH ARE THE KEY PIECES OF LEGISLATION THAT GOVERN WHITE-COLLAR CRIMES IN MAURITIUS?

The key pieces of legislation are:

- (i) Financial Crimes Commission Act 2023,
- (ii) Financial Intelligence and Anti-Money Laundering Act 2002 (the FIAMLA),
- (iii) Criminal Code Act of 1838 (the Criminal Code), and
- (iv) Companies Act 2001 (the Companies Act).

WHICH SECTORS DO THE ABOVEMENTIONED LEGISLATIONS APPLY?

The FCC Act and the Criminal Code do not apply to specific sectors: these laws deal with the investigation and prosecution of offences (whether financial or otherwise) in both the public and private sectors, whether in respect of individuals or legal persons, such as companies.

The FIAMLA applies mainly to reporting persons (banks, financial institutions, cash dealers or members of specific profession or occupation listed out in the First Schedule to the Act. A reporting person includes a bank, a financial institution, a cash dealer or member of a relevant profession or occupation such as professional accountants, law practitioners, law firms, real estate agents and company service providers amongst others.

The offences provisions under the Companies Act apply to companies, but also to directors or agents.

ARE THERE SPECIFIC PROCEDURES OR GUIDELINES FOR DIFFERENT TYPES OF INVESTIGATIONS (E.G., CRIMINAL, CIVIL, ADMINISTRATIVE)?

The FCC and the Police carry out criminal investigations and follow specific procedures depending on the nature and gravity of the investigation being carried out. For instance, under the FCC Act, the FCC officers can employ special investigative techniques such as controlled remittance and surveillance techniques when it may be necessary to gather intelligence or evidence.

In addition, the Police follow their Standing Orders which provide instructions and administrative directions for police officers to follow. The Police must also follow the Judges' Rules which operate as guide to police officers conducting investigation.

Moreover, the Financial Intelligence Unit (the FIU), the regulatory body responsible for the analysis of intelligence and information regarding alleged money laundering offences and suspicious transactions, issues guidelines to auditors as well as to members of relevant profession (such as barristers, accountants amongst others) on measures to investigate and combat money laundering, financing of terrorism and proliferation.

WHAT POWERS DO INVESTIGATORS IN MAURITIUS HAVE?

Under the FCC Act, the FCC has, amongst others, the following powers:

- (i) Power of examination – order any person to attend the FCC for the purpose of being examined, produce any book, document, record or article, order that information stored on a mechanical or electrical device be communicated in a form which may be taken away and which is visible and legible, order a person to furnish a statement in writing under oath or affirmation.
- (ii) Power of entry and search – the Director-General of the FCC may issue a warrant to an officer authorising him to enter and search any premises at all reasonable times. This power may only be exercised where the Director-General has reasonable grounds to suspect that the premises have evidence which may assist in an investigation.
- (iii) Seizure of property – the Director-General may seize property where during an investigation he is satisfied that the property is the subject-matter relates to an offence under the FCC Act or the Declaration of Assets Act.
- (iv) Power of arrest – in circumstances where a person has interfered with a potential witness, has destroyed or intends to destroy evidence in his possession or has otherwise interfered with an investigation.
- (v) Disclosure of financial information and any other information – Ex-parte application by the FCC to direct a financial institution to provide such customer information or account information as it may have.
- (vi) Telecommunication order – application to a judge for a telecommunication order.

WHAT ARE THE RULES REGARDING THE ADMISSIBILITY OF EVIDENCE?

As in all criminal cases, the burden is on the prosecuting authority to prove beyond reasonable doubt the guilt of an accused party.

The FCC Act, however, creates a presumption for corruption offences. As such, it is presumed that at the time a gratification was received, the recipient knew that such gratification was made for a corrupt purpose.

Furthermore, evidence that an accused has been maintaining a standard of living which is not commensurate with his income, has property which is disproportionate to his emoluments and has held property for which he, his relative or associate cannot account for is admissible to corroborate other evidence relating to the commission of the offence.

Moreover, any evidence collected during the investigation by any Divisions of the FCC is admissible in any Court proceedings. Information, documentation or any other form of evidence remitted to the FCC by the National Coordination Committee or by the Public-Private Partnership Task Force (two entities set up under the FCC Act to combat financial crimes) will also be admissible evidence.

Notwithstanding any confidentiality provision under the FCC Act and under any other enactment, an investigatory authority or any other relevant authority that has provided information, through its relevant officer, to the FCC during the course of an investigation, is required to provide the information as evidence in Court, through the relevant officer or any other relevant officer, when summoned to do so.

ARE THERE SPECIFIC REQUIREMENTS FOR OBTAINING WARRANTS?

Under the FCC Act, the Director-General of the FCC is vested with the power to issue warrants in very specific situations, namely where there are reasonable grounds to suspect that premises or any place of business contains evidence which may assist the FCC in an investigation.

As far as is practicable, the officer carrying out the search is required to do so in the presence of the owner or occupier of the premises or his duly authorised agent.

Furthermore, the officer is required to deliver a photocopy of the warrant to the owner or occupier of the premises or his duly authorised agent against receipt acknowledged by a signature on the original of the warrant.

HOW ARE INVESTIGATIONS HANDLED WHEN THEY INVOLVE CROSS-BORDER IMPACT OR INTERNATIONAL CO-OPERATION?

Under the FCC Act, there are specific provisions setting out how investigations involving international co-operation should be carried out. If a foreign State requests the collaboration of the FCC to obtain an order against a property located in Mauritius and believed to be derived from proceeds and instrumentalities of unlawful activities or terrorist activities, the FCC may assist by applying to the Mauritian Courts for a civil attachment order to be issued.

Similarly, foreign states may request the FCC to apply to the Mauritian Courts to enforce any foreign civil attachment order or civil confiscation order.

The FCC can also assist foreign states to locate any property believed to be derived from proceeds and instrumentalities of unlawful activities or terrorist activities by making an application to Mauritian Courts to issue an order for any relevant information to be disclosed to the FCC.

The FCC Act also sets out the procedure for Mauritian authorities to start proceedings in a foreign state. The Attorney-General may initiate legal proceedings in a foreign court to establish the title to or ownership of property through the commission of an offence (which is also an offence under Part III of the UN Convention Against Corruption 2003) and to seek recovery of that property.



REPORTING OBLIGATIONS

WHAT REPORTING OBLIGATIONS ARE APPLICABLE TO THE DIFFERENT SECTORS IN MAURITIUS WITH RESPECT TO WHITE-COLLAR CRIMES?

Under section 55 of the FCC Act and under the Declaration of Assets Act, there is a statutory duty on public officials to report white-collar crimes where they have reasonable grounds to suspect that these offences have either been or are likely to be committed.

Moreover, under section 14 of the FIAMLA, there is a statutory obligation on certain reporting persons and auditors to report to the FIU any suspicious transactions. A reporting person includes a bank, a financial institution, a cash dealer or member of a relevant profession or occupation such as professional accountants, law practitioners, law firms, real estate agents and company service providers amongst others.

WHAT THRESHOLDS EXIST FOR REPORTING OBLIGATIONS?

There are no thresholds for reporting obligations.

WHAT IS THE TIME PERIOD IN WHICH REPORTING MUST BE COMPLETED?

Under the FCC Act, when the Commissioner of Police or the Director-General of the Mauritius Revenue Authority (the MRA) suspect that an offence under the FCC Act or the Declaration of Assets Act is being or is likely to be committed, he must refer the matter to the FCC within 72 hours.

Under the FIAMLA, every reporting person or the auditor is required to report any suspicious transactions arising under the FIAMLA as soon as he becomes aware of same but not later than five (5) working days after the suspicion arose to the FIU.

WHO MUST WHITE-COLLAR CRIMES BE REPORTED TO?

The FCC is the central reporting authority regarding white collar and financial crimes but crimes can also be reported to the Police or the FIU.

WHAT ARE THE CONSEQUENCES OF FAILING TO REPORT?

Under the FIAMLA, a reporting person or an auditor who becomes aware of a suspicious transaction or ought reasonably to have become aware of the suspicious transaction and fails to report the matter to the FIU within the statutory time-frame of not later than 5 working days, will commit an offence. Upon conviction, the reporting person may be liable to a fine not exceeding MUR 1,000,000 and to imprisonment for a term not exceeding five years.

INVESTIGATIONS

HOW DOES THE INVESTIGATION PROCESS WORK IN MAURITIUS (FROM REPORTING THROUGH TO PROSECUTION)?

Generally, a declaration is made by a party to an investigating authority (usually the Police). The Police then investigate the matter which will include an evidence gathering exercise, recording statements from witnesses and the suspect, and arresting the suspect if necessary.

Where a suspect is arrested, a provisional charge is lodged. This process is unique to Mauritius and allows the Police to detain a suspect while the investigation continues. The suspect is brought before a Magistrate who will decide whether to grant bail to the suspect or keep the suspect in custody.

Once the Police has completed its inquiry, the file is sent to the Director of Public Prosecutions (the DPP) who will decide whether to institute criminal proceedings against the accused person.

Under the FCC Act, where the FCC becomes aware of an offence under the FCC Act or the Declaration of Assets Act, the first step is to decide whether a preliminary investigation should be conducted. The Director of the Investigation Division must within thirty (30) working days of the referral make a report to the FCC which will then decide based on the findings of the report whether to proceed with a further investigation or to discontinue with the investigation. If the FCC is of the view that the investigation must be discontinued, a report is sent to the DPP outlining its reasons for the discontinuation. If the DPP is dissatisfied with the reasons provided for the discontinuation of the investigation, he may request the FCC to proceed with a further investigation.

If the FCC determines that a further investigation must be carried out, the Director-General will assign the investigation either to the Director of the Investigation Division of the Asset Recovery or of the Asset Recovery and Management Division.

The FCC and the Police can also collaborate and conduct joint investigations.

When the further investigation or the joint investigation has been concluded, the Director-General will submit the matter to the FCC for its opinion. After having obtained the opinion, the Director-General will submit a report to the DPP.

The DPP will then decide whether to prosecute the matter or not. He may require the FCC to carry out further inquiries.

ARE THERE ANY KEY EVIDENTIARY STANDARDS THAT SHOULD BE TAKEN ACCOUNT OF?

The FCC must gather sufficient admissible evidence which would enable its officers and the prosecutors to discharge the criminal standard of proof; that is that the offence has been committed beyond reasonable doubt.

WHAT PROTECTIONS ARE AFFORDED TO WHISTLEBLOWERS IN MAURITIUS?

The FCC Act ensures that whistleblowers or informers are provided with robust protections and support to encourage their cooperation and maintain the integrity of financial crime investigations and prosecutions. The identity of the informer is kept a secret and any information about the informer is privileged and will not be disclosed in any court proceedings or to any authority. Moreover, if there is any entry relating to the identity of the informer or to any of the information given by him or her on record, the Director-General of the FCC will arrange for all of the relevant sections to be concealed from view to protect the identity of the informer.





EXPERTISE REQUIRED TO CONDUCT INVESTIGATIONS

IN MAURITIUS, ARE THERE ANY QUALIFICATIONS AND/OR ACCREDITATIONS AN INVESTIGATOR SHOULD HAVE?

No.

IN THE EVENT THAT AN INVESTIGATOR IS GROSSLY NEGLIGENT AND/OR FAILS TO CONDUCT AN INVESTIGATION ACCORDING TO BEST PRACTICES, WHAT ARE THE RAMIFICATIONS?

Under the FCC Act, the Director-General, the Commissioners and every officer of the Financial Crimes Commission would not be held liable for any action done or omission made by them in good faith while performing their functions or exercising their powers. Moreover, the Director-General, the Commissioners and their officers are deemed to be public officers and they may only be held liable and accountable for their gross negligence in the exercise of their duties if they act in bad faith. If a party manages to establish these elements, the investigator may be liable for damages.

There is also the possibility of making a complaint to the Independent Police Complaints Commission which has been set up under the Independent Police Complaints Commission Act 2016 to investigate into complaints made against police officers in the discharge of their functions (other than complaints of acts of corruption or money laundering offences).

CONFIDENTIALITY, PRIVILEGE AND FORCED DISCLOSURE

IN MAURITIUS, HOW IS THE DISTINCTION BETWEEN CONFIDENTIALITY AND PRIVILEGE DEALT WITH REGARDING AN INVESTIGATIVE REPORT?

Legal professional privilege is protected. Under the FCC Act, a Judge cannot issue an order for disclosure of financial information or any other information unless the Judge is satisfied that, having regard to the need to protect legal professional privilege, it is in the public interest that the order is issued.

Under the FCC Act, the Director-General as well as other officers of the FCC have a duty of confidentiality when it comes to the findings of their investigative report, and they can only share the information with other State entities such as the DPP or the Police. The law further imposes on the Director-General as well as other officers of the FCC the duty to maintain the confidentiality and secrecy of any matter, document or report relating to the administration of the FCC Act that becomes known to him or comes in his possession.

ARE THERE PARTICULAR INSTANCES WHERE A PARTY, INDIVIDUAL AND/OR BUSINESS MAY BE LAWFULLY REQUIRED TO DISCLOSE THE CONTENTS OF AN INVESTIGATIVE REPORT?

RECOVERY MECHANISMS

WHAT RECOVERY MECHANISMS ARE AVAILABLE IN MAURITIUS?

The FCC Act divides the recovery mechanisms available in Mauritius into two categories. There are criminal-based asset recovery mechanisms and civil-based asset recovery mechanisms.

The criminal-based asset recovery mechanisms are:

- (i) Criminal Attachment Order: This is a court order sought by the FCC, when a person has either been charged with or convicted of an offence or is in the course of a criminal enquiry in order to preserve or protect his or her property reasonably believed to be derived from proceeds and instrumentalities of the offence or from terrorist activities.
- (ii) Criminal Confiscation Order: This is a court order sought by the FCC, after a person has been convicted of an offence. The order is in respect of property in which the convicted person or any other person has an interest and is reasonably believed to be derived from criminal proceeds or is intended to be used as terrorist property.

The civil-based asset recovery mechanisms are:

- (i) Civil Attachment Order; This is an order issued by the Court where the FCC reasonably believes that a property may be recoverable and is reasonably believed to be derived from proceeds and instrumentalities of unlawful activities or from terrorist activities.
- (ii) Civil Confiscation Order: This is a court order sought by the FCC in cases where property is reasonably believed to be proceeds, an instrumentality or a terrorist property.



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**ALUKO &
OYEBODE**



OVERVIEW OF WHITE-COLLAR CRIMES IN NIGERIA

WHAT TYPES OF WHITE-COLLAR CRIMES ARE MOST PREVALENT IN NIGERIA ?

White-collar crimes that are prevalent in Nigeria typically occur due to the structure of the economy, governance gaps and weak institutional oversight in some sectors. These include theft, fraud, embezzlement, bribery, forgery, Ponzi schemes and money laundering. Advance-fee fraud (popularly known as 419 scams), cyber fraud and corporate fraud occur frequently. With increased digitisation of Nigeria's economy, cyber-enabled financial fraud has become a major concern for regulators, law enforcement agencies, businesses and the public. Nigeria has also recently passed new tax laws that expand the scope of punishable tax offences with the aim of enhancing compliance. It is expected that enforcement of tax crimes will increase in 2026.

Embezzlement and bribery cases typically involve public office holders and corporate actors and constitute a large proportion of white-collar crimes that occur in Nigeria and that are reported or prosecuted. These often involve diversion of public funds, kickbacks, contract inflation or padding, illicit payments, bribery of public officials, and forgery or the falsification of contract information and documents to secure unlawful benefits. Money laundering typically follows predicate crimes. Although strong regulatory reforms have followed Nigeria's listing on the Financial Action Task Force (FATF) greylist, there remain major and evolving risks, often facilitated through financial institutions, real estate and cross-border transactions to conceal illicit proceeds from theft, corruption, drug trafficking, cybercrime or terrorism financing. The globalisation of financial flows and the rise of cryptocurrencies have also created new channels for laundering illicit wealth.

WHAT ARE THE PENALTIES ASSOCIATED WITH CONVICTION IN NIGERIA, IN RESPECT OF BOTH INDIVIDUALS AND COMPANIES?

Penalties are stringent. Individuals may face imprisonment ranging from two years to life, depending on the offence, alongside heavy fines often calculated as multiples of the proceeds of crime. Sanctions may also include forfeiture of assets, particularly in corruption, fraud, cybercrime and money laundering cases. Companies found liable are subject to substantial fines under certain statutes, sometimes up to

five times the value of funds involved, as well as potential forfeiture of assets, winding-up orders, revocation of licences and, in some cases, prosecution and conviction of principal officers.

LEGAL & REGULATORY FRAMEWORK

WHICH ARE THE KEY PIECES OF LEGISLATION THAT GOVERN WHITE-COLLAR CRIMES IN NIGERIA?

Key legislation includes:

- i. Economic and Financial Crimes Commission (Establishment) Act, 2004 (EFCC Act)
- ii. Corrupt Practices and Other Related Offences Act, 2000 (ICPC Act)
- iii. Money Laundering (Prevention and Prohibition) Act, 2022
- iv. Criminal Code Act (applicable in the Southern States) and the Penal Code Act (applicable in the Northern States)
- v. Companies and Allied Matters Act, 2020 (CAMA)
- vi. Banks and Other Financial Institutions Act, 2020 (BOFIA)
- vii. Cybercrimes (Prohibition, Prevention, etc.) Act, 2015 (Cybercrimes Act)
- viii. Cybercrimes (Prohibition, Prevention, etc.) (Amendment) Act, 2024
- ix. Investment and Securities Act, 2025
- x. Nigeria Tax Act, 2025
- xi. Federal Competition and Consumer Protection Act, 2018 (FCCPA)
- xii. Department of State Services Act, 1986

WHICH SECTORS DO THESE LEGISLATIONS APPLY?

Key pieces of white-collar crime legislation in Nigeria apply across multiple sectors. General statutes such as the EFCC Act, ICPC Act, Money Laundering (Prevention and Prohibition) Act, the Criminal Code Act/Penal Code Act, CAMA 2020, the Nigeria Tax Act and the FCCPA have broad application to the public and private sectors, government institutions, corporate organisations and SMEs. Certain statutes are sector-specific. For example, BOFIA applies primarily to the financial services industry. In the petroleum industry, offences under the Petroleum Industry Act (PIA) and related regulations attract penalties ranging from fines and short terms of imprisonment to life sentences, depending on the gravity of the offence.

ARE THERE SPECIFIC PROCEDURES OR GUIDELINES FOR DIFFERENT TYPES OF INVESTIGATIONS (eg, CRIMINAL, CIVIL, ADMINISTRATIVE)?

Yes. Nigeria has a range of agencies and governmental bodies with mandates to investigate different forms of misconduct, malfeasance or crime, and the process followed depends on the nature of the investigation and the body involved. Criminal investigations are typically led by the Nigerian Police, the Economic and Financial Crimes Commission (EFCC) or the Independent Corrupt Practices and Other Related Offences Commission (ICPC). They follow procedures laid down in their enabling statutes and the Administration of Criminal Justice Act (ACJA), 2015. These agencies have powers of arrest, search and seizure, interrogation and collection of evidence, subject to constitutional safeguards requiring that suspects be informed of the reason for arrest; be granted access to counsel; and be treated humanely and in accordance with their fundamental rights.

Civil investigations are generally handled by regulatory bodies or, in some cases, private actors such as law firms, licensed forensic accountants, corporate intelligence firms or compliance consultants. Procedures are governed by the relevant enabling statutes and may focus on asset recovery or enforcement of compliance obligations rather than criminal liability.

Administrative investigations typically arise in the context of regulatory oversight and organisational compliance. They are conducted by regulators, government agencies or internal compliance bodies to examine potential breaches of laws, regulations or internal policies. Unlike criminal investigations, which may result in prosecution, administrative investigations generally aimed to determine liability for regulatory infractions and may lead to administrative fines, sanctions or other corrective measures.

WHAT POWERS DO INVESTIGATORS IN NIGERIA HAVE?

Investigators are empowered to gather and inspect information by receiving and assessing complaints; examining records; and compelling the production of documents or data relevant to an inquiry. They may conduct searches of premises, including dawn raids in some instances, and may subject targets to appropriate warrants where required. Investigators are often authorised to seize documents, materials or equipment (including mobile phones, computers, hard drives, digital storage devices and servers), freeze bank accounts and restrain transactions involving assets suspected to be linked to unlawful activity. Investigators may also rely on forensic analysis and digital tools to review evidence and may engage in surveillance and other legally sanctioned investigative techniques.

Their authority extends to the arrest and detention of suspects, provided this is done in line with constitutional and statutory safeguards, as well as the tracing, freezing and recovery of assets derived from criminal conduct. Court orders may be sought to secure interim forfeiture or permanent confiscations where appropriate. Investigators also play a supportive role in the prosecutorial process by compiling case files and collaborating with prosecutors to ensure matters are effectively brought before the courts.

WHAT ARE THE RULES REGARDING THE ADMISSIBILITY OF EVIDENCE?

The most important rule regarding the admissibility of evidence is relevance. For evidence to be admissible, it must be relevant to a fact in issue.¹ However, a court can exclude relevant evidence if it is considered too remote, or if its admission is prohibited by another law. Nigerian law permits the admission of improperly obtained evidence if the “desirability of admitting the evidence is outweighed by the undesirability of admitting evidence that has been obtained in the manner in which the evidence was obtained.”² The factors the court considers include:

- the probative value of the evidence;
- its importance to the case;
- the gravity of the impropriety;
- whether the impropriety was deliberate; and
- the difficulty of obtaining the evidence lawfully.³

For documentary evidence, there is an additional requirement that it be in proper or acceptable form:

- Where a party seeks to tender a private document but does not have the original, the law requires the party first to explain the whereabouts of the original before secondary evidence may be admitted (known as laying a foundation).
- In the case of public documents, the only permissible secondary evidence is a certified copy.⁴

For computer-generated evidence, the law⁵ mandates a certificate of compliance confirming:

- regular computer use;
- proper operation; and
- authenticity of input,

signed by a responsible officer. Compliance with these provisions is a condition precedent to admissibility.

Section 84(B) of the Evidence (Amendment) Act, 2023 makes information in electronic form admissible, such as information stored on optical or magnetic media or in cloud databases, provided the prerequisite conditions are met.

Regarding confessions, the Evidence Act requires voluntariness as a basis for admissibility. Where the defendant challenges the voluntariness of a confession or the court so directs, the prosecution must prove beyond reasonable doubt that no oppression, such as torture, inhuman treatment or threats, was used.⁶ If multiple people are charged together, a confession made by one person in the presence of others is admissible against those others if they adopted the statement through their words or conduct.⁷

ARE THERE SPECIFIC REQUIREMENTS FOR OBTAINING WARRANTS?

Yes. The ACJA, 2015 outlines the process for applying for and obtaining warrants. A warrant may be issued for an arrest or a search.

An arrest warrant requires a complaint or statement on oath by a complainant or material witness.⁸ An arrest warrant must:

- include the date of issue;
- contain all necessary particulars;
- bear the signature of the issuing judge or magistrate;
- concisely state the offense; and
- name or describe the suspect, directing that a police officer arrest the person and bring them before a court.⁹

A search warrant application is typically initiated by a police officer during an investigation to a court or Justice of the Peace within the relevant jurisdiction.¹⁰ A court or Justice of the Peace may issue a search warrant if satisfied, on the basis of a written, sworn statement, that there are reasonable grounds to believe that a building, vehicle or location contains:

- anything related to an offence;
- evidence of an offence; or
- something intended for use in the commission of an offence.¹¹

¹ Ifaramoye v State (2017) 8 NWLR (Pt. 1568) 457.

² Section 14 Evidence Act, 2011 (as amended).

³ Section 15 Evidence Act, 2011 (as amended).

⁴ Section 90(1)(c) of the Evidence Act, 2011 (as amended).

⁵ Section 84 of the Evidence Act, 2011 (as amended).

⁶ Section 29(2)(3) of the Evidence Act.

⁷ Section 29(4) of the Evidence Act.

⁸ Section 37 ACJA

⁹ Section 36 ACJA

¹⁰ Section 143 ACJA

¹¹ Section 144 ACJA

HOW ARE INVESTIGATIONS HANDLED WHEN THEY INVOLVE CROSS-BORDER IMPACT OR INTERNATIONAL COOPERATION?

Cross-border investigations are handled through international co-operation governed by mutual legal assistance treaties and bilateral agreements. Nigerian agencies, particularly the EFCC, co-operate with international bodies such as INTERPOL and foreign anti-corruption agencies. The Nigerian Financial Intelligence Unit Act, 2018¹² allows for the exchange of information with foreign financial intelligence units. These partnerships facilitate information sharing, asset tracking and recovery, and repatriation of suspects for trial. The Mutual Assistance in Criminal Matters Act, 2018 further supports international cooperation by providing mechanisms for Nigeria to request and receive assistance from foreign countries and to help them.

Nigeria is also a member of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), a specialised ECOWAS institution that promotes regional cooperation in anti-money laundering (AML). At the global level, Nigeria aligns with FATF standards, which guide domestic AML frameworks and cross-border collaboration.

REPORTING OBLIGATIONS

WHAT REPORTING OBLIGATIONS ARE APPLICABLE TO THE DIFFERENT SECTORS IN NIGERIA WITH RESPECT TO WHITE-COLLAR CRIMES?

Financial Institutions (FIs) must file Suspicious Transaction Reports (STRs) in writing with the Nigerian Financial Intelligence Unit (NFIU) and the Special Control Unit against Money Laundering (SCUML) where a single transaction, lodgement or transfer of funds by an individual or body corporate is above a specific threshold.¹³ This obligation also applies to designated non-financial businesses and professions (DNFBPs).

Beyond monetary thresholds, transactions must be reported where they:

- display unjustifiable frequency or unusual complexity;
- are inconsistent with a client's known pattern or transactions; or
- in the opinion of the institution, involve the proceeds of unlawful activity, money laundering or terrorist financing.

Such reports must be made immediately or within 24 hours.¹⁴

For the public sector, the ICPC Act, 2000¹⁵ requires any public officer who is offered or receives a bribe to report this to the ICPC or the police. It also mandates any person from whom a bribe is solicited to make such a report.

The Code of Conduct Bureau and Tribunal Act¹⁶ requires public officers to declare their assets: at the commencement of service; at the end of every four years; and upon leaving office.

In the extractive sector, the Nigeria Extractive Industries Transparency Initiative Act, 2007 mandates oil, gas and mining companies to disclose payments, revenues and related transactions to promote accountability. Similarly, under the Cybercrimes Act, 2015, service providers must preserve and disclose traffic data and report cybercrime threats to relevant authorities.¹⁷

WHAT THRESHOLDS EXIST FOR REPORTING OBLIGATIONS?

The main thresholds are:

- For FIs and DNFBPs: reporting is required for any single transaction in excess of NGN 5 million by an individual and NGN 10 million by body corporate (or the equivalent in any other currency).
- For persons other than financial institutions (where reporting is voluntary): the relevant thresholds are cash transactions above NGN 1 million for individuals and NGN 5 million for corporate entities (or their equivalents).

WHAT IS THE TIME PERIOD IN WHICH REPORTING MUST BE COMPLETED?

Timeframes depend on the type of report and, in some cases, the applicable statute or regulatory guidance.

STRs must be submitted within 24 hours from the point at which a reporting entity forms a suspicion. Currency Transaction Reports (CTRs) are normally filed within seven days from the date of the transaction, in accordance with statutory and regulatory rules.

For other white-collar offences, the reporting timeframe is often determined by sector-specific rules and internal reporting channels. For example, petitions or complaints to the EFCC or ICPC may be made as soon as there are reasonable grounds to suspect an offence.



WHO MUST WHITE-COLLAR CRIMES BE REPORTED TO?

The appropriate reporting body depends on the nature of the offence. Key bodies include:

- **Nigerian Police Force** - the primary law-enforcement agency with general jurisdiction over criminal offences, including white-collar crimes.
- **Economic and Financial Crimes Commission (EFCC)** - responsible for financial crimes such as fraud, embezzlement, insider dealing, money laundering, advance-fee fraud and other economic offences.
- **Independent Corrupt Practices and Other Related Offences Commission (ICPC)** - focuses on corruption, abuse of office, bribery and related misconduct by public officers.
- **Securities and Exchange Commission (SEC)** - oversees capital-market offences, including insider trading and market manipulation.
- **Central Bank of Nigeria (CBN)** - receives reports on banking-related misconduct, foreign-exchange malpractice and regulatory breaches by financial institutions.
- **Nigerian Financial Intelligence Unit (NFIU)** - receives STRs and other reports from banks and reporting entities as part of AML/CFT compliance.

Other regulators may be relevant depending on the industry.

WHAT ARE THE CONSEQUENCES OF FAILING TO REPORT?

A financial institution or DNFBP that fails to file an STR within 24 hours is liable, on conviction, to a fine of NGN 1 million for each day during which the offence continues.¹⁸ Where any financial institution or DNFBP fails to report a transaction above the acceptable threshold to the NFIU or SCUML within seven days, the entity is liable, on conviction, to a fine of between NGN250,000 and NGN 1 million for each day it fails to report the transaction.¹⁹

Any person who fails, without reasonable excuse, to report an offer or request of a bribe to the ICPC or the police is, on conviction, liable to: a fine not exceeding NGN100,000; or imprisonment for a term not exceeding two years; or both.²⁰

¹² Section 4(1)(b) NFIU Act.

¹³ Section 11(1)(a) Money Laundering (Prevention and Prohibition) Act, 2022 (MLPPA).

¹⁴ Section 7(2) MLPPA.

¹⁵ Section 23.

¹⁶ Section 15.

¹⁷ Section 21

¹⁸ Section 7(10) MLPPA

¹⁹ Section 11(3) MLPPA

²⁰ Section 23(3) Corrupted Practices and Other Related Offences Act, 2000

INVESTIGATIONS

HOW DOES THE INVESTIGATION PROCESS WORK IN NIGERIA (FROM REPORTING THROUGH TO PROSECUTION)?

The investigation process runs from reporting through to prosecution and involves several stages. Suspected offences are first reported to law-enforcement agencies such as the EFCC, ICPC or NFIU. Reports may originate from whistleblowers, regulators, internal audits or the public. Upon receipt, the agency conducts a preliminary assessment to evaluate the credibility of the allegations and determine whether full investigation is warranted. This stage may involve reviewing complaint documents; conducting basic background checks; and consulting legal or forensic experts.

If a case is established, law-enforcement agencies initiate a full investigation, which may include financial investigations; interviews, questioning or interrogation of witnesses and suspects; surveillance; and forensic inquiries to trace illicit funds and unravel shell companies or complex structures and transactions. Agencies may obtain court orders to freeze accounts, seize documents or secure suspects. Where sufficient evidence is gathered, formal charges are filed in court.

Prosecution is then led by the relevant agency or the appropriate Ministry of Justice, depending on jurisdiction. The standard of proof is beyond reasonable doubt. If convicted, accused persons may face penalties such as imprisonment, fines, asset forfeiture or, in the cases of companies, winding-up orders. In appropriate cases, there is provision for plea bargaining, which may allow for reduced sentences or alternative resolutions where the accused admits liability and cooperates with the authorities.

ARE THERE ANY KEY EVIDENTIARY STANDARDS THAT SHOULD BE TAKEN ACCOUNT OF?

Standard of proof

For criminal prosecutions, the prosecution must prove the defendant's guilt beyond reasonable doubt. This standard requires compelling evidence and reflects the presumption of innocence.²¹ Section 135(1) of the Evidence Act explicitly states that, where a crime is in issue, it must be proved to this standard. The burden of proof lies with the prosecution.²² Although this does not require absolute certainty, it does require a high degree of certainty that eliminates all reasonable doubt.

Forensic accounting evidence

Forensic accounting plays a key role in investigating white-collar crimes. Expert opinions on matters of science, art or specialised knowledge are considered relevant.²³ Forensic accountants analyse complex financial data to trace hidden transactions or fraudulent financial reporting. Their evidence must clearly link transactions to the alleged criminal activity and be supported by reliable documentation, financial trails and expert reports.

Documentation and admissibility

Proper documentation and audit trails are critical given the complex methods often used to conceal illicit funds. Courts require that all evidence, including forensic accounting reports, be reliable and corroborated by other forms of evidence, such as witness testimony or electronic records. All documentary and electronic evidence must be authenticated and relevant to be admissible in court.

WHAT PROTECTIONS ARE AFFORDED TO WHISTLEBLOWERS IN NIGERIA?

Whistleblowers are generally afforded protections under various statutes and policies, most notably the Federal Government's Whistleblowing Policy (2016), which provides safeguards against retaliation and seeks to ensure that disclosures in good faith do not result in dismissal, harassment, intimidation or other detrimental treatment. Some legislation reinforces these protections. For example:

- The identity of informants is protected from disclosure in legal proceedings, except in limited circumstances before a trial judge or defence counsel.²⁴
- Where any document, audio or similar material may disclose the identity of a whistleblower, courts are obliged to conceal or redact such information to prevent exposure.²⁵
- Public officers are protected from civil and criminal proceedings for disclosures made in good faith.²⁶

EFCC officers cannot be compelled to disclose the source of information or the identity of their informants except by court order.²⁷ Sector-specific regimes also exist. For example, a whistleblower in the capital markets sector is protected from detrimental treatment for disclosing information about a proposed or actual breach of the Investment and Securities Act or any SEC-issued rules, regulations or regulatory instruments, or for testifying or cooperating in an investigation by the SEC.²⁸

²¹ Section 36(5) Constitution of the Federal Republic of Nigeria, 1999 (as amended).

²² Section 135(2) Evidence Act.

²³ Section 68 Evidence Act, 2011 (as amended).

²⁴ Section 64(1) Corrupt Practices and Other Related Offences Act, 2000.

²⁵ Section 64(2) Corrupt Practices and Other Related Offences Act, 2000.

²⁶ Section 27 Freedom of Information Act, 2011.

²⁷ Section 39(1) EFCC Act.

²⁸ Section 139(6) Investments and Securities Act, 2025.

EXPERTISE REQUIRED TO CONDUCT INVESTIGATIONS

IN NIGERIA, ARE THERE ANY QUALIFICATIONS AND/OR ACCREDITATIONS AN INVESTIGATOR SHOULD HAVE?

Conducting investigations in Nigeria requires a blend of legal, technical and professional expertise. A solid grounding in Nigerian law, including the Criminal Code Act, Penal Code Act, ACJA and the Evidence Act, is essential to ensure compliance with due process and evidentiary rules. Depending on the subject matter, expertise in forensic accounting; auditing; digital forensics; and document examination may be required to uncover financial misconduct or cyber-related offences. Investigators should also understand compliance frameworks covering: anti-money laundering; counter-terrorism financing; anti-bribery and corruption; and corporate governance codes. Sector-specific knowledge (for example, in banking, oil and gas, or data protection) further strengthens investigations. Professional certifications such as: Certified Fraud Examiner (CFE); Certified Anti-Money Laundering Specialist (CAMS); and Certified Information Systems Auditor (CISA) are valuable and often expected in complex investigations. In practice, investigations in Nigeria are multidisciplinary, relying on teams that combine legal, forensic and industry expertise to achieve credible outcomes.

IN THE EVENT THAT AN INVESTIGATOR IS GROSSLY NEGLIGENT AND/OR FAILS TO CONDUCT AN INVESTIGATION ACCORDING TO BEST PRACTICES, WHAT ARE THE RAMIFICATIONS?

Where an investigator is grossly negligent or fails to conduct an investigation in line with best practices, several consequences may follow:

- **Evidentiary impact** - the credibility and admissibility of evidence may be compromised, potentially impairing or collapsing criminal, civil or regulatory proceedings.
- **Professional sanctions** - the investigator may face disciplinary measures from professional bodies, including suspension or revocation of certifications.
- **Civil liability** - negligence may expose the investigator or their employer to civil claims for damages suffered by affected parties, particularly where rights to a fair hearing or due process are breached.
- **Criminal liability** - in serious cases, gross negligence may attract criminal liability, for example where it results in obstruction of justice, suppression of material evidence or wrongful implication of individuals.

More broadly, such lapses undermine institutional trust in investigative processes and may cause reputational damage to the investigator, their institution and the justice system.

CONFIDENTIALITY, PRIVILEGE AND FORCED DISCLOSURE

IN NIGERIA, HOW IS THE DISTINCTION BETWEEN CONFIDENTIALITY AND PRIVILEGE DEALT WITH REGARDING AN INVESTIGATIVE REPORT?

Confidentiality refers to the obligation to keep information private, typically arising from contractual, fiduciary or professional relationships. However, confidentiality is not absolute and may be overridden by statutory powers, public interest considerations or court orders. For example, investigative and prosecutorial agencies such as the EFCC or ICPC may compel disclosure of otherwise confidential documents during investigations.

Legal privilege, by contrast, offers a higher level of protection. It safeguards communications between a lawyer and client for the purpose of obtaining legal advice; and communications made in anticipation of litigation. Such communications are protected from disclosure, even under subpoena, unless privilege is waived. This protection is expressly recognised under sections 192–196 of the Evidence Act, 2011, which codify legal advice and litigation privilege, and under the Rules of Professional Conduct for Legal Practitioners, 2023, which reinforce the attorney's duties to preserve client confidentiality and privilege. Additionally, under the Evidence Act, law-enforcement officers or public officials authorised to investigate or prosecute crimes may not be compelled to disclose the source of information relating to an offence. Similarly, officials responsible for collecting or administering public revenue cannot be forced to reveal the source of information regarding offences against public revenue.²⁹

ARE THERE PARTICULAR INSTANCES WHERE A PARTY, INDIVIDUAL AND/OR BUSINESS MAY BE LAWFULLY REQUIRED TO DISCLOSE THE CONTENTS OF AN INVESTIGATIVE REPORT?

Yes There are several circumstances in which investigative reports may be lawfully compelled or required to be disclosed.

- **Court orders and subpoenas:** A court may order disclosure of an investigative report during litigation or discovery proceedings. For example, under section 64(1) of the Corrupt Practices and Other Related Offences Act, 2000, information obtained from an informant by an ICPC officer (including the source, place and circumstances of receipt) may be disclosed only to the trial judge and defence counsel, thereby limiting the scope of compelled disclosure to judicial proceedings.
- **Search warrants:** Investigative reports may be lawfully seized by law-enforcement agencies where a valid search warrant has been obtained, particularly if the report constitutes potential evidence of a crime or contains relevant information for ongoing investigations.³⁰

- **Statutory obligations:** Certain statutes impose mandatory reporting or disclosure duties that may limit or override confidentiality and privilege. Under the Money Laundering (Prevention and Prohibition) Act (MLPPA), the scope of legal privilege and client confidentiality is limited and do not apply to: (a) the purchase or sale of property; (b) the purchase or sale of any business; (c) the management of client money, securities or assets; (d) the opening or management of bank, savings or securities accounts; (e) the creation, operation or management of trusts, companies or similar structures; or (f) any communication or material produced in furtherance of an unlawful act.³¹ Regulatory bodies (including financial regulators and professional oversight bodies) may also compel disclosure under their governing statutes.

RECOVERY MECHANISMS

WHAT RECOVERY MECHANISMS ARE AVAILABLE IN NIGERIA?

Asset recovery in Nigeria is governed by a combination of civil, criminal and administrative mechanisms designed to trace, freeze, confiscate and repatriate proceeds of crime. The Proceeds of Crime (Recovery and Management) Act, 2022 (POCA) provides the central framework, allowing for: conviction-based forfeiture (following a criminal conviction) and non-conviction-based forfeiture, where assets may be recovered on the civil standard of proof even without securing a conviction. Law enforcement agencies such as the EFCC, ICPC and the Police can obtain interim freezing or preservation orders to prevent dissipation of suspected illicit assets during investigations.

Confiscation and permanent forfeiture may be ordered by courts after final determination, while restitution and compensation mechanisms exist to restore victims of crime. Additionally, plea bargains and negotiated settlements under the ACJA, 2015 may facilitate the return of stolen assets in exchange for reduced sentences or dropped charges. Nigeria also collaborates internationally through treaties such as the United Nations Convention against Corruption (UNCAC), which supports the tracing, freezing and repatriation of assets abroad. Nigeria further leverages Mutual Legal Assistance Treaties (MLATs) with jurisdictions such as the UK, Switzerland and the UAE, and works through initiatives like the Stolen Asset Recovery (StAR) Initiative to trace, freeze and repatriate stolen assets held overseas.

²⁹ Section 189, Evidence Act, 2011 (as amended).

³⁰ Section 144, ACJA.

³¹ Sections 11 MLPPA.



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OVERVIEW OF WHITE-COLLAR CRIMES IN ZAMBIA

WHAT TYPES OF WHITE-COLLAR CRIMES ARE MOST PREVALENT IN ZAMBIA ?

Corruption, abuse of office, embezzlement, bribery, fraud, money-laundering, tax evasion and cyber-fraud.

WHAT ARE THE PENALTIES ASSOCIATED WITH CONVICTION IN ZAMBIA, IN RESPECT OF BOTH INDIVIDUALS AND COMPANIES?

- Individuals – imprisonment (sentences may vary depending on the crime), fines and forfeiture.
- Companies – fines, forfeiture and cancellation of licences where applicable.

LEGAL & REGULATORY FRAMEWORK

WHICH ARE THE KEY PIECES OF LEGISLATION THAT GOVERN WHITE-COLLAR CRIMES IN ZAMBIA?

- Penal Code Act Chapter 87 of the Laws of Zambia
- Prohibition and Prevention of Money Laundering Act No 14 of 2001
- Forfeiture of Proceeds of Crime Act No 19 of 2010
- Financial Intelligence Centre Act No 46 of 2010
- The Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2010
- Mutual Legal Assistance in Criminal Matters Act Chapter 98 of the Laws of Zambia
- The Criminal Procedure Code Chapter 88 of the Laws of Zambia
- The Plea Negotiations and Agreements Act, No. 20 of 2010
- The Anti-Corruption Act, No. 3 of 2012
- Anti-terrorism and Non-proliferation Act NO. 6 of 2018
- Cyber Security Act No. 3 of 2025
- Cyber crimes Act No. 4 of 2025.¹

WHICH SECTORS DO THESE LEGISLATIONS APPLY?

Public service, financial institutions, corporate entities, state-owned enterprises, professional services, and ICT operators.

ARE THERE SPECIFIC PROCEDURES OR GUIDELINES FOR DIFFERENT TYPES OF INVESTIGATIONS (eg, CRIMINAL, CIVIL, ADMINISTRATIVE)?

- Yes. Criminal investigations are primarily governed by the Criminal Procedure Code, together with the substantive statute creating the offence (eg, the Anti-Corruption Act, the Financial Intelligence Centre Act, the Cyber Security and Cyber Crimes Act, among others).
- Civil and administrative investigations are guided by sector-specific legislation and are conducted in accordance with the principles of natural justice, particularly the rights to be heard and to a fair process.

WHAT POWERS DO INVESTIGATORS IN ZAMBIA HAVE?

The powers given to investigators differ depending on the law empowering the investigator. However, generally, investigators may search, seize, freeze assets, compel attendance or production of documents with or without warrants.

WHAT ARE THE RULES REGARDING THE ADMISSIBILITY OF EVIDENCE?

In Zambia, evidence is admissible if it is relevant and not excluded by law. Certain categories, such as hearsay evidence, are generally inadmissible unless they fall within established exceptions. Notably, illegally obtained evidence may still be admitted where it is relevant to the matter before the court.

¹ Please note that there may be other legislation that may also broadly regulate white collar crimes such as the Income Tax Act chapter 323 of the Laws of Zambia (and other tax legislation), the Banking and Financial Services Act No. 7 of 2017 among others.

ARE THERE SPECIFIC REQUIREMENTS FOR OBTAINING WARRANTS?

Yes. In Zambia, warrants are issued under the Criminal Procedure Code Chapter 88 of the Laws of Zambia and relevant statutes. An applicant must demonstrate reasonable grounds to believe an offence has been or is being committed and that evidence or a suspect is located at a specified place. Applications are made under oath to a magistrate. Warrants must state with particularity the person, premises, or property to be searched or seized.

HOW ARE INVESTIGATIONS HANDLED WHEN THEY INVOLVE CROSS-BORDER IMPACT OR INTERNATIONAL CO-OPERATION?

- Where investigations involve cross-border implications or require international co-operation, they are primarily governed by the Mutual Legal Assistance in Criminal Matters Act, Chapter 98 of the Laws of Zambia (the MLACM Act). Assistance may also be sought under bilateral or multilateral treaties to which Zambia is a party. The Act applies to countries listed in its Schedule, but Zambia may enter into separate treaties with other states not so listed.
- In practice, an investigator or competent authority must channel requests for mutual assistance through the Attorney-General, who is empowered under section 9 of the MLACM Act to make or receive such requests on behalf of Zambia. A request must set out, among other things: the authority concerned with the criminal matter, the nature of the offence and a summary of facts and applicable law, the purpose and type of assistance sought, preferred procedures and formats for supplying evidence or documents, confidentiality requirements, timelines for compliance, and where applicable, details regarding the travel, allowances and accommodation of witnesses or other persons required to appear abroad.
- Zambia also co-operates through international frameworks such as the United Nations Convention against Corruption and the Eastern and Southern Africa Anti-Money Laundering Group.

REPORTING OBLIGATIONS

WHAT REPORTING OBLIGATIONS ARE APPLICABLE TO THE DIFFERENT SECTORS IN ZAMBIA WITH RESPECT TO WHITE-COLLAR CRIMES?

Under section 29 of the Financial Intelligence Centre Act No. 46 of 2010, reporting entities, including banks, insurers, securities dealers, accountants, lawyers, casinos, and real estate agents, are required to file a Suspicious Transaction Report (STR) when they know, suspect, or have reasonable grounds to suspect that property is derived from criminal activity or linked to money laundering or terrorist financing.

WHAT THRESHOLDS EXIST FOR REPORTING OBLIGATIONS?

In addition to STRs, reporting entities must also file Currency Transaction Reports (CTRs) for all cash or electronic transactions equal to or exceeding USD 10,000.

WHAT IS THE TIME PERIOD IN WHICH REPORTING MUST BE COMPLETED?

Suspicious or threshold-based transactions must be reported to the FIC immediately, or within three working days of forming the suspicion or processing the transaction.

WHO MUST WHITE-COLLAR CRIMES BE REPORTED TO?

Reports must be filed with the Financial Intelligence Centre (FIC), which acts as Zambia's central agency for receiving and analyzing financial intelligence. Depending on the nature of the offence, reports may also be submitted to other competent Law Enforcement Agencies (LEAs) such as the Anti-Corruption Commission (ACC), Drug Enforcement Commission (DEC), Zambia Police Service, or Zambia Revenue Authority (ZRA).

WHAT ARE THE CONSEQUENCES OF FAILING TO REPORT?

Pursuant to Section 45 of the FIC Act, a person who intentionally or negligently fails to submit a report to the FIC as required under Section 29 commits an offence and is, upon conviction, liable to a fine not exceeding seven hundred thousand penalty units.



INVESTIGATIONS

HOW DOES THE INVESTIGATION PROCESS WORK IN ZAMBIA (FROM REPORTING THROUGH TO PROSECUTION)?

- The investigative process in Zambia begins when a crime is reported to a Law Enforcement Agency (LEA) such as the Zambia Police, Anti-Corruption Commission, Drug Enforcement Commission, or Financial Intelligence Centre. A docket is opened, and a preliminary inquiry is conducted to establish probable cause. If a basis exists, formal investigations are launched, including recording witness statements, collecting evidence, and where necessary issuing warn-and-caution statements to suspects.
- Once investigations yield sufficient evidence, the suspect may be formally arrested. Depending on the nature of the offence, the suspect may be released on police bond. Throughout the process, LEAs are required to safeguard the rights of suspects, victims, and witnesses.
- Most LEAs lack independent prosecutorial powers and therefore submit the docket to the National Prosecution Authority (NPA). The Director of Public Prosecutions (DPP) then reviews the case, applying a two-stage test:
 - Evidential stage – whether the available evidence meets the threshold for a conviction.
 - Public interest stage – whether prosecution serves the broader public interest, considering factors such as seriousness of the offence, harm caused, and the offender's circumstances.
- If prosecution is approved, the NPA frames the appropriate charge. Where cases fall within the jurisdiction of the High Court, the DPP prepares an indictment and committal certificate. The matter is then scheduled on the court's cause list, and the accused is required to appear for trial.

ARE THERE ANY KEY EVIDENTIARY STANDARDS THAT SHOULD BE TAKEN ACCOUNT OF?

- In criminal cases, for prosecution to be successful, it must be proved beyond reasonable doubt that the accused committed the offence.
- In civil cases, the standard is a balance of probabilities.

WHAT PROTECTIONS ARE AFFORDED TO WHISTLEBLOWERS IN ZAMBIA?

- The Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2010 affords the following protections:
 - Protection against reprisals or detrimental action, including injury, loss, damages, intimidation, harassment, discrimination, dismissal, or disciplinary proceedings.
 - Protection against civil or criminal liability arising from a disclosure made in good faith.
 - Protection of the whistleblower's identity, which may only be disclosed with consent, or where required by the principles of natural justice, or where disclosure is necessary for effective investigation.
 - Protection against unlawful reprisals by employers or any other person on account of the disclosure.
- Additionally, under the Anti-Corruption Act No. 3 of 2012, where a person is subject to threats, intimidation or harassment as a result of assisting the ACC or the Court, the Director of the ACC is mandated to make such arrangements as are necessary to protect the person.

EXPERTISE REQUIRED TO CONDUCT INVESTIGATIONS

IN ZAMBIA, ARE THERE ANY QUALIFICATIONS AND/OR ACCREDITATIONS AN INVESTIGATOR SHOULD HAVE?

There are no prescribed qualifications or accreditations that investigators should have.

IN THE EVENT THAT AN INVESTIGATOR IS GROSSLY NEGLIGENT AND/OR FAILS TO CONDUCT AN INVESTIGATION ACCORDING TO BEST PRACTICES, WHAT ARE THE RAMIFICATIONS?

Such conduct may result in disciplinary action within the relevant law enforcement agency, potential civil liability for damages arising from the negligence, or, in serious cases, criminal liability where the failure amounts to an offence under the law.

CONFIDENTIALITY, PRIVILEGE AND FORCED DISCLOSURE

IN ZAMBIA, HOW IS THE DISTINCTION BETWEEN CONFIDENTIALITY AND PRIVILEGE DEALT WITH AS CONCERNS AN INVESTIGATIVE REPORT?

In Zambia, the distinction is that legal professional privilege protects confidential communications between a lawyer and client made for the purpose of obtaining legal advice or in contemplation of litigation. This protection is absolute and cannot be overridden. By contrast, ordinary confidentiality, does not enjoy the same absolute protection.

ARE THERE PARTICULAR INSTANCES WHERE A PARTY, INDIVIDUAL AND/OR BUSINESS MAY BE LAWFULLY REQUIRED TO DISCLOSE THE CONTENTS OF AN INVESTIGATIVE REPORT?

Disclosure may be compelled by court order.

RECOVERY MECHANISMS

WHAT RECOVERY MECHANISMS ARE AVAILABLE IN ZAMBIA?

Zambia provides for confiscation, forfeiture of proceeds of crime, restitution, compensation orders, and civil recovery.



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