

Extraordinary



Federal Republic of Nigeria Official Gazette

No. 00 **Lagos—00th September, 2013** **Vol. 00**

Government Notice No. 000

The following is published as Supplement to this *Gazette* :

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Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 61/62012/650 (OL 30)

Annual Subscription from 1st January, 2012 is Local : ₦25,500.00 Overseas : ₦37,500.00 [Surface Mail]
₦49,500.00 [Second Class Air Mail]. Present issue ₦1,000.00 per copy. Subscribers who wish to obtain *Gazette*
after 1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

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INVESTMENTS AND SECURITIES ACT, 2007
**SECURITIES AND EXCHANGE COMMISSION (CAPITAL MARKET
OPERATORS ANTI-MONEY LAUNDERING AND COMBATING THE
FINANCING OF TERRORISM) REGULATIONS, 2013**



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INVESTMENTS AND SECURITIES ACT, 2007

SECURITIES AND EXCHANGE COMMISSION (CAPITAL MARKET OPERATORS ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM) REGULATIONS, 2013

In exercise of the powers conferred on it by section 13 (n), (aa) and (dd), and section 313 of the Investments And Securities Act, 2007 (“the Act”) and all other powers enabling it in that behalf, the Securities and Exchange Commission (“SEC”), make the following Regulations—

[29th day of August, 2013] Commence-
ment.

PART I—OBJECTIVES, APPLICATION AND SCOPE

1. These Regulations are made to—

Objectives.

(a) provide protection against fraud, reputational and other financial market risks ;

(b) minimize the risks faced by the capital market from the proceeds of crime ;

(c) guide capital market operators in the implementation of Know Your Customer (KYC) and Customer Due Diligence (CDD) requirements for the capital market; and

(d) protect the integrity of the securities market against all forms of abuse, fraudulent and unfair trade practices.

2. These Regulations apply to the activities of money laundering and financing of terrorism in the Nigeria capital market operations and related matters. Application.

PART II—AML AND CFT INSTITUTIONAL POLICY FRAMEWORK

3. A Capital Market Operator shall—

General
Guidelines
on
Institutional
Policy.

(a) adopt policies stating its commitment to comply with Anti -Money Laundering and Countering the Financing of Terrorism (AML/CFT) obligations under the law and regulatory directives to actively prevent any transaction that facilitates criminal activities;

(b) formulate and implement internal controls and other procedures that will deter criminals from using its facilities for money laundering and terrorist financing and to ensure that its obligations under subsisting laws and Regulations are met;

(c) designate AML/CFT Chief Compliance Officer at the management level, with the relevant competence, authority and independence to implement the institution’s AML/CFT compliance programme ; and

(d) comply with the requirements of the Money Laundering (Prohibition) Act, 2011 (as amended), Terrorism (Prevention) Act, 2011 (as amended)

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and Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations 2013, including related laws and Regulations.

Duties of an AML/CFT Compliance Officer.

4. The duties of a Compliance Officer include—

- (a) developing an AML/CFT Compliance Programme ;
- (b) rendering returns on mandatory disclosure and suspicious transactions reports to the Nigerian Financial Intelligence Unit (NFIU) ;
- (c) rendering returns on Foreign Exchange Transactions to the Securities and Exchange Commission (SEC) and the NFIU ;
- (d) receiving and vetting suspicious transaction reports from staff ;
- (e) rendering “nil” reports to the NFIU and the SEC, where necessary to ensure compliance ;
- (f) ensuring that the Capital Market Operator’s compliance programme is duly implemented ;
- (g) coordinating the training of staff in AML/CFT awareness, detection methods and reporting requirements ;
- (h) serving as liaison officer to both the SEC and NFIU ; and
- (i) serving as a point of contact for all employees on issues relating to money laundering and terrorist financing.

Co-operation with relevant authorities.

5.—(1) A Capital Market Operator shall comply promptly with all the requests made pursuant to subsisting laws and Regulations and shall provide relevant information to the SEC, NFIU and other relevant law enforcement agencies on AML/CFT matters.

(2) Where there is a request for information on money laundering and terrorist financing, a Capital Market Operator shall—

- (a) search immediately and without delay but not later than 24 hours the institution’s records and electronic data-base to determine whether it maintains or has maintained any account for or has engaged in any transaction with any individual, entity or organization named in the request ;
- (b) report promptly to the NFIU the outcome of the search ; and
- (c) protect the security and confidentiality of such requests.

Identification of proceeds of crime.

6. A Capital Market Operator shall in the course of its business identify and report to the NFIU, any suspicious transactions derived from the following criminal activities—

- (a) participation in an organized crime groups and racketeering ;
- (b) terrorism and terrorist financing ;
- (c) trafficking in human beings and migrant smuggling ;
- (d) sexual exploitation, including sexual exploitation of children ;

- (e) illicit trafficking in narcotic drugs and psychotropic substances ;
- (f) illicit arms trafficking ;
- (g) illicit trafficking in stolen and other goods ;
- (h) corruption and bribery ;
- (i) fraud ;
- (j) counterfeiting currency ;
- (k) counterfeiting and piracy of products ;
- (l) environmental crime ;
- (m) murder, grievous bodily injury ;
- (n) kidnapping, illegal restraint and hostage taking ;
- (o) robbery or theft ;
- (p) smuggling ;
- (q) extortion ;
- (r) forgery ;
- (s) piracy ;
- (t) insider trading and market manipulation ; and
- (u) any other criminal act specified in the Money Laundering (Prohibition) Act, 2011 (as amended), Terrorism (Prevention) Act, 2011 (as amended) or any other law.

7. A Capital Market Operator's secrecy and confidentiality laws shall not inhibit the implementation of the requirements of these Regulations in view of the provisions in the Economic and Financial Crimes Commission Act; Money Laundering (Prohibition) Act, 2011 (as amended), Terrorism (Prevention) Act, 2011(as amended) and other relevant subsisting laws and Regulations and in giving the relevant authorities, either domestically or internationally, power to access information to properly perform their functions in combating money laundering and financing of terrorism.

Secrecy and confidentiality laws.

8. A Capital Market Operator shall not keep anonymous accounts in fictitious names; and where nominee accounts are maintained, details of the beneficial owners shall be provided on request.

Anonymous and numbered accounts.

PART III—CUSTOMER DUE DILIGENCE MEASURES

9.—(1) Capital Market Operator shall undertake Customer Due Diligence (CDD) measures when—

- (a) business relationship is established ;
- (b) carrying out occasional transactions above the sum of \$1,000 or its equivalent or such other thresholds as may be determined by SEC from time to time, subject to the Money Laundering (Prohibition) Act, 2011 (as amended) ;

Customer Due Diligence measures.

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(c) the transaction is carried out in a single operation or several operations that appear to be linked ;

(d) carrying out occasional transactions that are wire transfers, including those applicable to cross-border and domestic transfers between Capital Market Operators and when credit or debit cards are used as a payment system to effect money transfer ;

(e) there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or any other sum referred to in these Regulations ; or

(f) there are doubts about the veracity or adequacy of previously obtained clients identification data ;

provided that, a Capital Market Operator shall not be required to repeatedly perform identification and verification exercise every time a client conducts a transaction, unless the Capital Market Operator suspects that there is a change in the documents earlier provided.

(2) A Capital Market Operator shall—

(a) carry out the full range of the CDD measures in these Regulations ;
and

(b) identify all their clients and verify their identities using reliable, independently sourced documents, data or information.

(3) The type of clients' information to be obtained and identification data to be used to verify the information shall include the following—

(a) for a client who is a legal persons, a Capital Market Operator shall —

(i) verify the identity of any person purporting to have been authorized to act on behalf of such a client by obtaining evidence of his identity and verifying the identity of such a person, and

(ii) verify the status of the legal person by obtaining proof of incorporation from the Corporate Affairs Commission (CAC) or similar evidence of establishment or existence and any other relevant information ; and

(b) for other clients ;

(i) a Capital Market Operator shall identify a beneficial-owner and take reasonable measures to verify his identity using relevant information or data obtained from a reliable source to satisfy itself that it knows who the beneficial-owner is ; and

(ii) a Capital Market Operator shall in respect of all clients, determine whether a client is acting on behalf of another person; and where the client is acting on behalf of another person, a Capital Market Operator is required to take reasonable steps to obtain sufficient identification-data and to verify the identity of that other person.

(4) A Capital Market Operator shall take reasonable measures in respect of clients that are legal persons to—

- (a) understand the ownership and control structure of such a client ; and
- (b) determine the natural persons that ultimately own or control the client.

(5) Where the client or owner of the controlling interest is a public company listed on a recognized securities exchange, it is not necessary to identify and verify the identity of the shareholders of such a public company.

(6) A Capital Market Operator shall obtain information on the purpose and intended nature of the business relationship of its potential client.

(7) A Capital Market Operator shall adopt CDD measures on a risk sensitive-basis as provided for in these Regulations.

(8) A Capital Market Operator shall determine in each case if the risks are lower or not, depending on the type of client product, transaction or location of the client.

10.—(1) Shell banks are prohibited from operating in Nigeria and Capital Market Operators are not allowed to establish correspondent relationships with high risk foreign banks (such as shell banks) or with correspondent banks that permit their accounts to be used by such banks.

Correspondent relationships with high risk foreign banks.

(2) The type of payment referred to in regulation 9(1)(d) of these Regulations shall not apply to—

- (a) any transfer flowing from a transaction carried out using a credit or debit card so long as the credit or debit card number accompanying such transfers does not flow from the transactions such as withdrawals from a bank account through an Automated Teller Machine (ATM), cash advances from a credit card or payment for goods ; and
- (b) any transfer and settlements between Capital Market Operators where both the originator and the beneficiary are Capital Market Operators, and are acting for themselves.

(3) A Capital Market Operator shall take all necessary measures to satisfy itself that a correspondent Capital Market Operator in a foreign country does not permit its accounts to be used by shell banks.

11.—(1) A Capital Market Operator shall conduct ongoing due diligence on a business relationship as stated by the client.

On-going Due Diligence.

(2) The ongoing due diligence measures shall include scrutinizing the transactions undertaken by the client throughout the course of the Capital Market Operator and client relationship to ensure that the transactions conducted are consistent with the Capital Market Operator's knowledge of the client, its business and risk profiles and the source of funds.

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(3) A Capital Market Operator shall ensure that documents, data or information collected under the CDD process are kept up-to-date by reviewing existing records, particularly the records in respect of higher-risk business-relationships or clients' categories.

(4) For clients that may require additional caution to be exercised when transacting with them, activities in such client's accounts shall be monitored on a regular basis for suspicious transactions.

(5) A Capital Market Operator shall refuse to do business with the client referred to in sub-regulation (4) of this regulation or automatically classify them as high risk and subject them to an enhanced customer due diligence and shall weigh all the circumstances of a particular situation and assess if there is a higher than normal risk of money laundering or financial terrorism.

(6) A Capital Market Operator shall consider reclassifying a client as higher risk and file a suspicious transaction report to the NFIU if following its initial acceptance of the clients the pattern of account activity of the client does not fit in with the Capital Market Operator's knowledge of the client.

(7) A Capital Market Operator shall not commence business relation or perform any transaction where the client fails to comply with the due diligence requirements; and shall terminate an existing business relationship and report to the NFIU, where the client fails to comply with due diligence requirements.

Application
of Enhanced
Customer
Due
Diligence
(ECDD) for
Higher Risk
Clients.

12.—(1) A Capital Market Operator shall adopt an enhanced CDD process for higher risk categories of clients, business relationships or transactions.

(2) A Capital Market Operator shall exercise greater caution when approving the opening of account or conducting transactions for the following categories of high risk clients—

(a) non-resident clients ;

(b) clients from locations known for its high crime rate such as drug production, trafficking or smuggling ;

(c) clients from a jurisdiction designated by the FATF as high-risk jurisdictions or those known to the Capital Market Operator to have inadequate AML/CFT laws and Regulations ;

(d) Politically Exposed Persons (PEPs) and persons or companies related to them ;

(e) complex legal arrangements such as unregulated investment vehicles or special purpose vehicles (SPV) ;

(f) companies that have nominee shareholders ;

(g) cross-border business relationships ;

(h) wire transfers or non face-to-face transactions.

(3) Upon classifying a client as “high-risk”, the Capital Market Operator shall undertake enhanced CDD process on the client which shall include enquiries on the—

- (a) purpose for opening an account ;
- (b) level and nature of trading activities intended ;
- (c) ultimate beneficial owners ;
- (d) source of funds ; and
- (e) senior management’s approval for opening the account.

13.—(1) Simplified CDD process shall be adopted for lower risk categories of clients, business relationships or transactions.

Lower Risk
Categories of
Clients

(2) A Capital Market Operator shall consider the following as categories of low risk clients—

- (a) Capital Market Operators, provided they are subject to requirements for the combat of money laundering and terrorist financing which are consistent with the provisions of these Regulations and are supervised for compliance ;
- (b) public companies listed on securities exchange or similar situations that are subject to regulatory disclosure requirements ;
- (c) Government ministries, departments, parastatals and agencies ;
- (d) insurance policies for pension schemes where there is no surrender-value clause and the policy cannot be used as collateral ;
- (e) a pension, super annuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member’s interest under the scheme ; and
- (f) beneficial-owners of pooled-accounts held by Designated Non-Financial Businesses and Professions (DNFBPs) provided that they are subject to requirements to combat money laundering and terrorist financing consistent with the provisions of Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism (Prevention) Act, 2011 (as amended) and have been so certified by their respective regulators or self-regulatory organizations.

(2) The lower risks categories shall be considered in the circumstances where—

- (a) the risk of money laundering or terrorist financing is lower ;
- (b) information on the identity of the clients and the beneficial owner of a client is publicly available ; or
- (c) adequate checks and control exist elsewhere in the national system.

(3) Where there are low risks, a Capital Market Operator shall apply reduced or simplified CDD measures when identifying or verifying the identity of the client and the beneficial-owners.

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(4) A Capital Market Operator that applies simplified or reduced CDD measures to clients' resident abroad are required to limit such to clients in countries that have been certified as having effectively implemented the FATF AML/CFT recommendations.

Timing of
Verification.

14.—(1) A Capital Market Operator shall verify the identity of the client beneficial-owner and occasional clients before or during the course of establishing a business relationship or conducting transactions for them.

(2) A Capital Market Operator shall complete the verification of the identity of the client and beneficial owner following the establishment of the business relationship where—

(a) it shall take place as soon as reasonably practicable ;

(b) it is essential not to interrupt the normal business conduct of the client ; and

(c) the money laundering and terrorism financing risks can be effectively managed.

(3) Normal conduct of business may not be interrupted in cases such as—

(i) securities transactions where the securities industry, companies and intermediaries may be required to perform transactions very rapidly, according to the market conditions at the time the client is contacting them and the performance of the transaction may be required before verification of identity is completed,

(ii) non face-to-face business, and

(iii) life insurance business in relation to identification and verification of the beneficiary under the policy which may take place after the business relationship with the policy holder is established.

(4) In all such cases listed under sub-regulation (3) of this regulation, identification and verification shall occur at or before the time of payout or the time when the beneficiary intends to exercise vested rights under the policy.

(5) Where a client is permitted to utilize the business relationship before verification, a Capital Market Operator shall adopt risk management procedures concerning the conditions under which this may occur and these procedures shall include a set of measures such as—

(a) a limitation of the number,

(b) types and amount of transactions that can be performed, and

(c) the monitoring of large or complex transactions being carried out outside the expected norms for that type of relationship.

15.—(1) A Capital Market Operator shall apply CDD measures to existing clients on the basis of materiality and risk, and shall continue to conduct due diligence on such existing relationships at appropriate times.

Application of CDD to existing clients.

(2) The appropriate time to conduct CDD by a Capital Market Operator includes where—

- (a) a transaction of significant value takes place ;
- (b) clients documentation standards change substantially ;
- (c) there is a material change in the way that the account is operated ; and
- (d) the institution becomes aware that it lacks sufficient information about an existing client.

(3) A Capital Market Operator shall properly identify the clients in accordance with the provision of these Regulations; and the clients' identification records shall be made available to the AML/CFT compliance officer, other appropriate staff and relevant authorities.

16.—(1) A Capital Market Operator shall in addition to performing CDD measures, put in place appropriate risk management systems to determine whether a potential client or existing clients or the beneficial-owner is a Politically Exposed Person (PEP).

Determination of a Politically Exposed Person.

(2) A Capital Market Operator shall obtain senior management approval before it establishes business relationships with PEPs and render monthly returns on its transactions with PEPs to the NFIU.

(3) Where a client has been accepted or has an ongoing relationship with the Capital Market Operator and the client or beneficial-owner is subsequently found to be or becomes a PEP, the Capital Market Operator shall obtain senior management approval in order to continue the business relationship.

(4) A Capital Market Operator shall take reasonable measures to establish the source of wealth and the sources of funds of clients and beneficial-owners identified as PEPs and report all suspicious transactions immediately to the NFIU.

(5) A Capital Market Operator in a business relationship with PEPs shall conduct enhanced ongoing monitoring of that relationship and in the event of any transaction that is abnormal; a Capital Market Operators shall flag the account and report immediately to the NFIU.

17.—(1) A Capital Market Operator shall put in place—

- (a) policies or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes such as internationally accepted Credit or Debit Cards ; and
- (b) policies and procedures to address any specific risks associated with non-face to face business relationships or transactions.

Measures to prevent the misuse of new technologies and non-face-to-face transactions.

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(2) These policies and procedures shall be applied automatically when establishing clients relationships and conducting ongoing due diligence.

Reliance on intermediaries and third parties on CDD measures.

18.—(1) A Capital Market Operator that relies upon a third party shall immediately obtain the necessary information concerning property which has been laundered or which constitutes proceeds from, instrumentalities used in and intended for use in the commission of money laundering and financing of terrorism or other predicate offences; and such a Capital Market Operator shall satisfy itself that copies of identification data and other relevant documentation relating to the CDD requirements are made available by the third party request without delay.

(2) A Capital Market Operator shall be satisfied that the third party is a regulated institution with measures in place to comply with requirements of CDD.

(3) Capital Market Operators relying on intermediaries or other third parties which have no outsourcing or agency relationships, business relationships, accounts or transactions between the Capital Market Operators and their clients shall perform some of the elements of the CDD process on the introduced business and the following criteria shall be met—

(a) immediately obtain from the third party the necessary information concerning certain elements of the CDD process ;

(b) take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available by the third party upon request without delay ;

(c) satisfy themselves that the third party is regulated in accordance with Core Principles of AML/CFT and has measures in place to comply with the CDD requirements set out in these Regulations ; and

(d) make sure that adequate KYC provisions are applied to the third party in order to get account information for competent authorities.

(4) The ultimate responsibility for clients' identification and verification remains with a Capital Market Operator relying on the third party.

Keeping and maintenance of records of transactions.

19.—(1) A Capital Market Operator shall—

(a) maintain all necessary records of transactions, both domestic and international, for at least five years following completion of the transaction or longer if requested by the SEC or NFIU in specific cases; and this requirement shall apply regardless of whether the account or business relationship is ongoing or has been terminated ;

(b) maintain records of the identification data, account files and business correspondence for at least five years following the termination of an account or business relationship or longer if requested by the SEC or NFIU in specific cases ;

(c) ensure that all clients-transaction records and information are available on a timely basis to the SEC and NFIU ; and

(d) keep the necessary components of transaction-records which shall include clients' and beneficiaries names, addresses or other identifying information normally recorded by the intermediary, the nature and date of the transaction, the type and amount of currency involved, the type and identifying number of any account involved in the transaction.

(2) Any information obtained during any meeting, discussion or other communication with the clients shall be recorded and kept in the clients' file to ensure that current clients' information is readily accessible to the Compliance Officers or relevant regulatory bodies.

20.—(1) A Capital Market Operator shall pay special attention to all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.

Complex and unusual large transactions.

(2) Transactions or patterns of transactions under sub-regulation (1) of this regulation shall include—

- (a) significant transactions relative to a relationship ;
- (b) transactions that exceed certain limits ;
- (c) very high account turnover inconsistent with the size of the account balance ; or
- (d) transactions which fall out of the regular pattern of the account's activity.

(3) Capital Market Operators shall examine as far as possible the background and purpose for such transactions and set forth their findings in writing which findings shall be made available to the SEC and NFIU, and kept for at least five years from the end of the business relationship.

PART IV—INTERNAL CONTROLS, COMPLIANCE AND AUDIT

21.—(1) A Capital Market Operator shall establish and maintain internal procedures, policies and controls to prevent money laundering and financing of terrorism and to communicate these to their employees.

Internal Procedures, Policies and Controls.

(2) The procedures, policies and controls instituted under sub-regulation (1) of this regulation shall cover the CDD, record retention, the detection of unusual and suspicious transactions, the reporting obligation, among other things.

(3) A Capital Market Operator shall develop programs against money laundering and terrorist financing which shall include—

- (a) the development of internal policies, procedures and controls, including appropriate compliance management arrangement and adequate screening procedures to ensure high standards when hiring employees ;
- (b) an ongoing employee training program to ensure that employees are kept informed of new developments, including information on current AML/ CFT techniques, methods and trends; and that there is a clear explanation of all aspects of AML/ CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting ; and

(c) adequately resourced and independent audit function to test compliance with the procedures, policies and controls ;

(d) have a written policy framework that would guide and enable its staff to monitor, recognize and respond appropriately to suspicious transactions ;

(e) designate a management staff appropriately as the AML CFT Chief Compliance Officer to supervise the Compliance Department and the monitoring and reporting of suspicious transactions.

(4) The AML/CFT Chief Compliance Officer and appropriate staff shall have timely access to clients' identification data, CDD information, transaction records and other relevant information.

(5) A Capital Market Operator shall render quarterly returns on their level of compliance to the SEC and NFIU.

PART V—MONITORING AND REPORTING OF SUSPICIOUS TRANSACTION REPORTS

Suspicious Transactions
“Red Flags”.

22.—(1) A Capital Market Operator shall—

(a) be alert to the various patterns of conduct that have been known to be suggestive of money laundering and maintain a checklist of such transactions which shall be disseminated to the relevant staff ;

(b) when any staff of a Capital Market Operator detects any “redflag” or suspicious money laundering activity, the operator is required to promptly institute a “Review Panel” under the supervision of the AML/CFT Chief Compliance Officer, who shall immediately file a suspicious transaction report to the NFIU immediately and without delay but not later than 24 hours ; and

(c) maintain confidentiality in respect of any investigation and suspicious transaction report that may be filed with the relevant authority in compliance with the provisions of the Money Laundering (Prohibition) Act, 2011 (as amended) and Terrorism (Prevention) Act, 2011 (as amended).

(2) A Capital Market Operator, its directors, officers and employees (permanent and temporary) are prohibited from disclosing the fact that a report will be filled or has been filed with the NFIU.

(3) A Capital Market Operator shall put in place a structure that ensures the operational independence of the Chief Compliance Officer (CCO).

(4) A Capital Market Operator who suspects or has reason to suspect that funds are the proceeds of a criminal activity or are related to terrorist financing shall promptly report its suspicions to the NFIU, provided that all suspicious transactions, including attempted transactions are to be reported regardless of the amount involved and whether the transactions involve tax matters or other things.

(5) A Capital Market Operator shall report all securities transactions in any currency above the sum of ₦5,000,000 for individuals and ₦10,000,000 for corporate persons to the NFIU.

(6) Potential Transactions perceived or to be identified as suspicious includes—

- (a) transactions involving high-risk countries vulnerable to money laundering, subject to this being confirmed ;
- (b) transactions involving shell companies ;
- (c) transactions with correspondents that have been identified as higher risk ;
- (d) large transaction activity involving monetary instruments such as traveler's cheques, bank drafts, money order, particularly those that are serially numbered ;
- (e) transaction activity involving amounts that are just below the stipulated reporting sum or enquiries that appear to test an institution's own internal monitoring or controls ; and
- (f) other money laundering indicators approved by the NFIU and published on the NFIU website.

(7) Terrorist Financing "Red flags" include—

- (a) where persons involved in a transaction share an address or phone number; particularly when the address is also a business location or does not seem to correspond to the stated occupation, such as student, unemployed, or self-employed ;
- (b) securities transaction by a nonprofit or charitable organization, for which there appears to be no logical economic purpose or for which there appears to be no link between the stated activity of the organization and other parties in the transaction ;
- (c) large volume of securities transactions through a business account, where there appears to be no logical business or other economic purpose for the transfers, particularly when this activity involves designated high- risk locations ;
- (d) where the stated occupation of the client is inconsistent with the type and level of account activity ;
- (e) multiple personal and business accounts or the accounts of non-profit organizations or charities that are used to collect and channel securities to a small number of foreign beneficiaries ;
- (f) reference to the persons or entities listed in the UN lists or Nigerian lists of terrorists or terrorist organizations under the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013 ; or
- (g) other money laundering and financing of terrorism indicators approved by the NFIU and published in the NFIU website.

(8) Other unusual or suspicious activities include when an employee—

- (a) exhibits a lavish lifestyle that cannot be justified by his salary ;

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- (b) fails to comply with approved operating guidelines ; or
- (c) is reluctant to take a vacation.

Business relationships with persons from countries which do not apply the FATF recommendations.

23.—(1) A Capital Market Operator shall give special attention to business relationships and transactions with a person, including a legal person and other Capital Market Operators from or in countries which do not or insufficiently apply the FATF recommendations.

(2) A Capital Market Operator shall report, as stated below, transactions that have no apparent economic or visible lawful purpose.

(3) The background and purpose of such transactions shall, as far as possible, be examined and written findings made available to the SEC, NFIU, and auditors to carry out their duties.

(4) A Capital Market Operator who conducts business with foreign institutions which do not apply or insufficiently apply the provisions of FATF recommendations shall take—

(a) apply enhanced due diligence and other stringent measures for identifying clients and beneficial owners before business relationships are established with individuals or companies from that jurisdiction ; and

(b) enhanced relevant reporting mechanisms or systematic reporting of cross border securities transactions on the basis that financial transactions with such countries are more likely to be suspicious.

PART VI—EMPLOYEE EDUCATION AND TRAINING PROGRAMME

Comprehensive employee education and training programmes.

24.—(1) A Capital Market Operator shall design a comprehensive employee education and training programmes not only to make employees fully aware of their obligations but also to equip them with relevant skills required for the effective discharge of their AML/CFT tasks ; provided that the timing, coverage and content of the employee training programme shall be tailored to meet the perceived needs of the Capital Market Operator.

(2) The employee training programmes shall be developed under the guidance of the AML/CFT Chief Compliance Officer in collaboration with the top Management ; and the basic elements of the employee training programmes shall include—

- (a) AML regulations and offences ;
- (b) the nature of money laundering ;
- (c) Money laundering ‘redflags’ and suspicious transactions, including trade-based money laundering typologies ;
- (d) reporting requirements ;
- (e) Clients Due Diligence ;
- (f) risk-based approach to AML/CFT ; and
- (g) record keeping and retention policy.

(3) A Capital Market Operator shall submit its Annual AML/CFT employee training programme to SEC and NFIU not later than the 31st of December of every financial year against the next year.

25.—(1) Capital Market Operators shall monitor their employees' accounts for potential signs of money laundering and terrorism financing and shall subject employees' accounts to the same AML/CFT procedures as applicable to other clients' accounts under the supervision of the AML/CFT Compliance Officer, provided that the AML/CFT Compliance Officer's account is to be reviewed by the Internal Auditor or a person of adequate seniority.

Monitoring of employee conduct.

(2) Compliance reports including findings are to be rendered to the SEC and NFIU.

26.—(1) Capital Market Operators shall direct their employees in writing to always co-operate fully with the Regulators and law enforcement agents and promptly report suspicious transactions to them.

Protection of staff who report violations.

(2) A Capital Market Operator shall create an enabling working environment that can make it possible for employees to report any violations of the institution's AML/CFT compliance program to the AML/CFT Compliance Officer or to the regulator.

(3) Where the violations involve the Compliance Officer, employees are required to report such to a designated higher authority such as the Internal Auditor or to the regulator.

(4) Capital Market Operators shall inform their employees in writing to make such reports confidential and that they will be protected from victimization for making them.

27.—(1) A Capital Market Operator shall review, identify and record other areas of potential AML/CFT risks not covered by these Regulations and report same quarterly to the NFIU.

Additional Areas of AML/CFT Risks.

(2) Capital Market Operators shall review their AML/CFT frameworks from time to time with a view to determining their adequacy and identifying other areas of potential risks not covered by these Regulations.

28. Capital Market Operators shall design additional procedures and mitigants as contingency plan in their AML/CFT Operational Regulations *which shall* provide how such potential risks would be appropriately managed if they crystallize and details of the contingency plan are to be rendered to the SEC as at 31st December of every financial year.

Additional Procedures and Mitigants.

29.—(1) A Capital Market Operator shall have a comprehensive AML/CFT compliance programme to guide its compliance efforts and to ensure the diligent implementation of its programme.

Testing for the Adequacy of the AML/CFT Compliance.

(2) A Capital Market Operator shall make a policy commitment and subject its AML/CFT Compliance Programme to independent-testing or require its internal audit function to determine its adequacy, completeness and effectiveness.

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(3) Report of compliance shall be rendered to the SEC and NFIU as at 31st December every financial year.

(4) Any identified weaknesses or inadequacies shall be promptly addressed by a Capital Market Operator.

Board approval of the AML/CFT Compliance Manual.

30.—(1) The Board of a Capital Market Operator shall ensure that a comprehensive operational AML/CFT Compliance Manual is formulated by Management and presented to the Board for consideration and formal approval.

(2) The Compliance Manual shall be forwarded to the SEC within six months of its release and quarterly reports on the AML/CFT compliance status of the Capital Market Operator shall be presented to the Board for its information and necessary action.

PART VII—KNOW YOUR CUSTOMER AND IDENTIFICATION PROCEDURE

Guidance on Know Your Customer.

31.—(1) A Capital Market Operator shall not establish a business relationship until all relevant parties to the relationship have been identified and the nature of the business they intend to conduct ascertained; and once an on-going business relationship is established, any inconsistent activity can then be examined to determine whether or not there is an element of money laundering or terrorism financing.

(2) A Capital Market Operator shall take a risk-based approach to the ‘Know Your Customer’ requirement and decide the number of times to verify the clients’ records during the relationship, the identification evidence required and when additional checks are necessary.

Duty to obtain identification evidence.

32.—(1) A Capital Market Operator shall be satisfied that a prospective client is not different from who he claims to be, and where the client is acting on behalf of another, the funds are supplied by someone else or the investment is to be held in the name of someone else, then a Capital Market Operator shall verify the identity of both the client and the agent and trustee except where the client is itself a Capital Market Operator regulated by the SEC.

(2) For personal account relationships, all joint-account holders need to be verified.

(3) In respect of private company or partnership, focus shall be on the principal owners or controllers and their identities shall also be verified.

(4) The identification evidence collected at the outset shall be viewed against the inherent risks in the business or service and shall include a set of attributes such as names used, date of birth and the residential address at which the client can be located.

(5) Where an international passport or national identity card is taken as evidence of identity, the number, date and place or country of issue as well as expiry date in the case of international passport are required to be recorded.

Identification Procedure.

33.—(1) A Capital Market Operator shall obtain sufficient information on the nature of the business that its client intends to undertake, including the expected or predictable pattern of transactions.

(2) The information referred to in sub-regulation (1) of this regulation shall include the—

- (a) purpose and reason for opening the account or establishing the relationship ;
- (b) nature of the activity that is to be undertaken ;
- (c) expected origin of the funds to be used during the relationship ; and
- (d) details of occupation, employment, business activities and sources of wealth or income.

(3) A Capital Market Operator shall take steps to keep the information up-to-date as the opportunities arise, such as when an existing client opens a new account.

(4) A Capital Market Operator shall ensure that it is dealing with a real person or organization, natural, corporate or legal, by obtaining sufficient identification evidence and when reliance is being placed on a third party to identify or confirm the identity of an applicant, the overall responsibility for obtaining satisfactory identification evidence rests with the account holding Capital Market Operator.

(5) The requirement in all cases is to obtain satisfactory evidence that a person of that name lives at the address given and that the applicant is that person or that the company has identifiable owners and that its representatives can be located at the address provided.

(6) A Capital Market Operator shall ensure that the identification processes is cumulative considering that no single form of identification can be fully guaranteed as genuine or representing correct identity, and the procedures adopted to verify the identity of private individuals, whether identification was done face-to-face or remotely, shall be fully stated in the client's file.

(7) The reasonable steps taken to avoid single or multiple fictitious applications, substitution, or fraudulent impersonation shall be stated by the Capital Market Operator in the client's file and an introduction from a respected client or a person personally known to a Director, Manager or a member of staff which often provides comfort, must not replace compliance with identification evidence requirements set out under these Regulations.

(8) Details of the person who initiated and authorized the introduction shall be kept in the client's mandate file along with other records.

34.—(1) Identity shall be verified where a business relationship is to be established, on account opening or during one-off transaction or when series of linked transactions take place.

Verification
of identity.

(2) The persons whose identity are required to be verified include clients and persons acting on behalf of another provided that there is no obligation to look beyond the client where—

- (a) he is acting on his own account rather than for a specific client or group of clients ;

(b) a client is a bank, broker, fund manager or other regulated Capital Market Operator, financial institution ; and

(c) the business is to be undertaken in the name of a regulated Capital Market Operator or financial institution.

(3) In other circumstances, except the client is a regulated Capital Market Operator or financial institution acting as agent on behalf of one or more underlying clients within Nigeria and has given written assurance that it has obtained the recorded-evidence of identity to the required standards, identification evidence shall be verified on—

(a) the named account holder and person in whose name an investment is registered ;

(b) any principal beneficial owner of funds being invested who is not the account holder or named investor ;

(c) the principal controller(s) of an account or business relationship (such as those who regularly provide instructions) ; and

(d) any intermediate parties (such as where an account is managed or owned by an intermediary).

(4) A Capital Market Operator shall take appropriate steps to identify directors and all the signatories to an account.

(5) Identification evidence shall be obtained for all the joint account holders and for higher risk business undertaken for private companies such as those not listed on the stock exchange, sufficient evidence of identity and address shall be verified in respect of—

(a) the principal underlying beneficial owners of the company with 5 percent interest and above ; and

(b) those with principal control over the company's assets including the principal controllers or directors.

(6) In the case of Trusts, a Capital Market Operator shall obtain and verify the identity of those providing funds for the Trust including the settler and those who are authorized to invest, transfer funds or make decisions on behalf of the Trust such as the principal trustees and controllers who have power to remove the Trustees.

(7) Savings Schemes and Investments in Third Parties' names such as when an investor sets up a savings accounts or a regular savings scheme whereby the funds are supplied by one person for investment in the name of another (such as a spouse or a child), the person who funds the subscription or makes deposits into the savings scheme shall be regarded as the applicant for business for whom identification evidence must be obtained in addition to the legal owner.

(8) In the case of *Personal Pension Schemes* identification evidence shall be obtained at the outset for all investors, except personal pensions connected to a policy of insurance taken out by virtue of a contract of employment or pension

scheme; and personal pension advisers are charged with the responsibility of obtaining the identification evidence on behalf of the pension fund provider.

(9) Once identification procedures have been satisfactorily completed and the business relationship established, as long as contact or activity is maintained and records concerning that client are complete and kept, no further evidence of identity is needed when another transaction or activity is subsequently undertaken.

(10) Under this regulation, “*transaction*” includes the giving of advice.

Timing of
Identification
Requirements.

35.—(1) An acceptable time-span for obtaining satisfactory evidence of identity shall be determined by the nature of the business, the geographical location of the parties and whether it is possible to obtain the evidence before commitments are entered into or money changes hands but any occasion when business is conducted before satisfactory evidence of identity has been obtained shall be exceptional and shall only be those circumstances justified with regard to the risk.

(2) A Capital Market Operator shall—

(a) obtain identification evidence after it has contact with a client with a view to agreeing with the client to carry out an initial transaction; or reaching an understanding, whether binding or not, with the client that it may carry out future transactions ; and

(b) where the client does not supply the required information as stipulated in sub-regulation (1) (a) of this regulation, a Capital Market Operator shall discontinue any activity it is conducting for the client ; and bring to an end any understanding reached with the client.

(3) A Capital Market Operator shall observe the provisions on the timing of verification under the subsisting AML/CFT laws and Regulations.

(4) A Capital Market Operator may however start processing the transaction or application immediately, provided that it—

(a) promptly takes appropriate steps to obtain identification evidence ;

(b) does not transfer or pay any money out to a third party until the identification requirements have been satisfied.

(5) The failure or refusal by an applicant to provide satisfactory identification evidence within a reasonable time-frame without adequate explanation may lead to a suspicion that the depositor or investor is engaged in money laundering.

(6) A Capital Market Operator shall make Suspicious Transactions Reports to the NFIU based on the information in its possession before the funds involved are returned to the potential client or where they came from.

(7) A Capital Market Operator shall put in place written and consistent policies of closing an account or unwinding a transaction where satisfactory evidence of identity cannot be obtained.

(8) A Capital Market Operator shall respond promptly to inquiries made by third parties relating to the identity of its clients.

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Cancellation and Cooling-Off Rights, Redemptions and Surrenders.

36.—(1) Where an investor exercises cancellation rights or cooling-off rights—

(a) the sum invested shall be repaid subject to some deductions, and

(b) any abnormal exercise of cancellation or cooling-off rights by an investor shall be treated as suspicious and reported to the NFIU.

(2) When an investor finally realizes his investment (wholly or partially), where the amount payable is US\$1,000 or above or its equivalent or ₦250,000 for an individual or ₦500,000 for a body corporate, or such other monetary amounts as may, from time to time, be stipulated by any applicable money laundering legislation or regulation, the identity of the investor shall be verified and recorded where it had not been done previously.

(3) In the case of redemption or surrender of an investment, wholly or partially, a Capital Market Operator shall take reasonable measures to establish the identity of the investor where payment is made to—

(a) the legal owner of the investment by means of a cheque crossed “account payee” ; or

(b) a bank account held, solely or jointly, in the name of the legal owner of the investment by any electronic means effective for transfer of funds.

New business transaction by an existing Client.

37.—(1) Where an existing client closes one account and opens another or enters into a new agreement to purchase products or services, there is no need to verify the identity or address of such a client except where the name or the address provided does not tally with the information in the Capital Market Operator’s file.

(2) Procedures shall be put in place by the Capital Market Operator to guard against impersonation and fraud and the opportunity of opening the new account shall also be taken to ask the client to confirm the relevant details and to provide any missing KYC information especially where—

(a) there was an existing business relationship with the client and identification evidence had not previously been obtained ; or

(b) there had been no recent contact or correspondence with the client within the past three months ; or

(c) a previously dormant account is re-activated.

(3) Notwithstanding the provisions of sub-regulation (1) of this regulation, the previous account and any identification evidence previously obtained or any introduction records shall be linked to the new account records and retained for the prescribed period in accordance with the provisions of these Regulations.

Certification of Identification Documents.

38.—(1) In order to guard against the dangers of postal-interception and fraud, prospective clients shall not be asked to send by post originals of their valuable personal identity documents such as international passport, identity card or driver’s license.

(2) Where there is no face-to-face contact with the client and documentary evidence is required, copies certified by a notary public or court of competent jurisdiction, senior public servant or their equivalent in the private sector shall be obtained and a person undertaking the certification must be known and capable of being contacted.

(3) In the case of foreign nationals, the copy of international passport, national identity card or documentary evidence of his address shall be certified by—

- (i) the embassy, consulate or high commission of the country of issue,
- (ii) a senior official within the account opening institution;
- (iii) notary Public or Court of competent jurisdiction, or
- (iv) copies of identification evidence stamped, dated and signed “original sighted by me” by a senior officer of the Capital Market Operator.

(4) Capital Market Operators shall always ensure that a good production of the photographic evidence of identity is obtained and where this is not possible, a copy of evidence certified as providing a good likeness of the applicant could only be acceptable in the interim.

39.—(1) Records of the supporting evidence and methods used to verify identity are required to be retained for a minimum period of five years after the account is closed or the business relationship ended.

Recording
identification
evidence.

(2) Where the supporting evidence could not be copied at the time it was presented, the reference numbers and other relevant details of the identification evidence are required to be recorded to enable the documents to be obtained later.

(3) Confirmation shall be provided and the original documents shall be seen by certifying either on the photocopies or on the record that the details were taken down as evidence.

(4) Where checks are made electronically, a record of the actual information obtained or of where it can be re-obtained shall be retained as part of the identification evidence and such records will make the reproduction of the actual information that would have been obtained before, less cumbersome.

40.—(1) Where the money laundering risk is considered to be low, concession may be granted for product or services in respect of long-term life insurance business or purchase of personal investment products and where payment is to be made from an account held in the clients’ name, or jointly with one or more other persons, at a regulated Capital Market Operator, no further evidence of identity is necessary.

Concession
in respect of
payment
made by
post.

(2) Waiver of additional verification requirements for postal or electronic transactions shall not apply to—

- (a) products or accounts where funds can be transferred to other types of products or accounts which provide cheque or money transfer facilities ;

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(b) situations where funds can be repaid or transferred to a person other than the original clients ; and

(c) investments where the characteristics of the product or account may change subsequently to enable payments to be made to third parties.

(3) Postal concession is not an exemption from the requirement to obtain satisfactory evidence of a client identity.

(4) Payment debited from an account in the client's name shall be capable of constituting the required identification evidence in its own right.

(5) A Capital Market Operator shall maintain records indicating how a transaction arose, including the details of its branch and account number from which the cheque or payment is drawn.

(6) The concession shall apply to where an application is made directly to the Capital Market Operator and where a payment is passed through a regulated intermediary.

Investment funds.

41. In circumstances where the balance in an investment fund account is transferred from one Fund Manager to another and the value at that time is above US\$1,000 or ₦250,000 for an individual ; and ₦1,000,000 for a body corporate and identification evidence has not been taken or confirmation obtained from the original Fund Manager, then such evidence shall be obtained at the time of the transfer.

PART VIII—ESTABLISHING IDENTITY

Establishment of identity under these Regulations.

42. The establishment of identity under these Regulations shall be in the following broad categories—

- (a) Private individual clients ;
- (b) Quasi corporate clients ; and
- (c) Pure corporate clients.

A. Private Individual Clients

General Information.

43.—(1) The following information are to be established and independently validated for all private individuals whose identities need to be verified which are the—

- (a) true full name used ; and
- (b) permanent home address, including landmarks and postcode.

(2) The information obtained shall provide satisfaction that a person of that name exists at the address given and that the applicant is that person and where an applicant has recently moved from a house, the previous address shall be validated.

(3) The date of birth shall be obtained as it is required by the law enforcement agencies.

(4) The information need not be verified for the residence and nationality of a client but shall be ascertained to assist risk assessment procedures.

(5) A risk-based approach shall be adopted when obtaining satisfactory evidence of identity.

(6) The extent and number of checks can vary depending on the perceived risk of the service or business sought and whether the application is made in person or through a remote medium such as telephone, post or the internet.

(7) The source of funds, how the payment was made, from where, and by whom shall be recorded, to provide an audit trail, and for higher risk products, accounts or clients, additional steps shall be taken to ascertain the source of wealth and funds.

(8) For lower-risk transactions or simple investment products, there is an overriding requirement for the Capital Market Operator to satisfy itself as to the identity and address of the client.

44.—(1) For private individuals resident in Nigeria, the confirmation of the name and address shall be established by reference to a number of sources undertaken by cross-validation that the applicant exists at the stated address either through the sighting of actual documentary evidence or by undertaking electronic checks of suitable databases, or by a combination of the two.

Private
Individuals
resident in
Nigeria.

(2) The overriding requirement to ensure that the identification evidence is satisfactory rests with the Capital Market Operator.

(3) In order to guard against forged or counterfeit documents, care shall be taken to ensure that documents offered are originals and that copies that are dated and signed 'original seen' by a senior public servant or equivalent in a reputable private organization could be accepted in the *interim*, pending presentation of the original documents.

(4) Suitable documentary evidence for Nigerian resident private individuals are—

(a) personal Identity Documents—

(i) current International Passport,

(ii) Residence Permit issued by the Immigration authorities,

(iii) current Driver's Licence issued by the Federal Road Safety Commission (FRSC),

(iv) Inland Revenue Tax Clearance Certificate,

(v) birth Certificate or Sworn Declaration of Age, and

(vi) National Identity Card ;

(b) Documentary Evidence of Address—

(i) record of home visit in respect of non-Nigerians,

(ii) confirmation from the electoral register that a person of that name lives at that address,

(iii) recent utility bill such as PHCN and Water Board,

- (iv) current driver's licence issued by FRSC,
- (v) bank statement or passbook containing current address,
- (vi) solicitor's letter confirming recent house purchase or search report from the Land Registry ;
- (vii) tenancy agreement, and
- (viii) search reports on prospective client's place of employment and residence signed by a senior officer of the Capital Market Operator.

Physical
Checks on
Private
Individuals
resident in
Nigeria.

45.—(1) Checking of a local or national telephone directory shall be used as additional corroborative evidence but not as a primary check.

(2) It shall be mandatory for a Capital Market Operator to establish the true identities and addresses of its clients and for effective checks to be carried out to guard against substitution of identities by clients.

(3) Additional confirmation of the client's identity that the application was made by the person identified shall be obtained through one or more of the following procedures—

(a) a direct mailing of account opening documentation to a named individual at an independently verified address ;

(b) an initial deposit cheque drawn on a personal account in the client's name by another Capital Market Operator in Nigeria ;

(c) telephone contact with the client prior to opening the account on an independently verified home or business number or a "welcome call" to the clients before transactions are permitted, utilizing a minimum of two pieces of personal identity information that had been previously provided during the setting up of the account ;

(d) internet sign-on following verification procedures where the client uses security codes, tokens and other passwords which had been set up during account opening and provided by mail (or secure delivery) to the named individual at an independently verified address ; and

(e) card or account activation procedures.

(4) A Capital Market Operator shall ensure that additional information concerning the nature and level of the business to be conducted and the origin of the funds to be used within the relationship are also obtained from the client.

Electronic
checks.

46.—(1) As an alternative or supplementary to documentary evidence of identity and address, the client's identity, address and other available information may be checked electronically by accessing other data-bases or sources; and each source may be used separately as an alternative to one or more documentary checks.

(2) A Capital Market Operator shall use a combination of electronic and documentary checks to confirm different sources of the same information provided by the clients.

(3) In respect of electronic checks, confidence as to the reliability of information supplied shall be established by the cumulative nature of checking

across a range of sources, preferably covering a period of time or through qualitative checks that assess the validity of the information supplied.

(4) The number or quality of checks to be undertaken may vary depending on the diversity as well as the breadth and depth of information available from each source, and verification that the client is the data-subject shall be conducted within the checking process.

(5) Suitable electronic sources of information shall include—

- (i) an electronic search of the Electoral Register is not to be used as a sole identity and address check ;
- (ii) access to internal or external account database ; and
- (iii) an electronic search of public records, where available.

(6) A Capital Market Operator shall put in place internal procedures for the identification of socially or financially disadvantaged persons.

(7) Where a Capital Market Operator has reasonable grounds to conclude that an individual client is notable to produce the detailed evidence of his identity and cannot reasonably do so, the Operator may accept as identification evidence a letter or statement from a person in a position of responsibility such as solicitors, doctors, ministers of religion and teachers who know the client, confirming that the client is who he says he is, and his permanent address.

(8) Where a Capital Market Operator has decided to treat a client as “financially excluded”, it shall record the reasons for doing so along with the account opening documents and render returns to the SEC quarterly.

(9) Where a letter and statement is accepted from a professional person, it shall include a telephone number where the person can be contacted for verification and a Capital Market Operator shall verify from an independent source the information provided by the professional person.

(10) In order to guard against “financial exclusion” and to minimize the use of the exception procedure, Capital Market Operators shall include in their internal procedures the “alternative documentary evidence of personal identity and address” that can be accepted.

(11) A Capital Market Operator shall put in place additional monitoring for accounts opened under the financial exclusion exception procedures to ensure that such accounts are not misused.

47.—(1) For the prospective client not resident in Nigeria but who makes face-to-face contact, international passports or national identity cards shall generally be available as evidence of the name of the clients and reference numbers, date and country of issue shall be obtained and the information recorded in the client’s file as part of the identification evidence.

Private
Individuals
not resident
in Nigeria.

(2) A Capital Market Operator shall obtain separate evidence of the applicant’s permanent residential address from the best available evidence,

preferably from an official source; provided that a "P. O. Box number" alone is not acceptable as evidence of address and that the applicant's residential address shall be such that it can be physically located.

(3) Relevant evidence shall be obtained by the Capital Market Operator directly from the client or through a reputable creditor Capital Market Operator in the applicant's home country or country of residence but particular care shall be taken when relying on identification evidence provided from other countries.

(4) A Capital Market Operator shall ensure that the client's true identity and current permanent address are actually confirmed and copies of relevant identity documents shall be sought and retained.

(5) Where a foreign national has recently arrived in Nigeria, reference might be made to his employer, university or evidence of traveling documents, to verify the applicant's identity and residential address.

(6) Where necessary, an additional comfort shall be obtained by confirming the clients' true name, address and date of birth from a reputable institution in the client's home country.

(8) For a private individual not resident in Nigeria, who wishes to supply documentary information by post, telephone or electronic means, a risk-based approach shall be taken.

(9) The Capital Market Operator shall obtain one separate item of evidence of identity in respect of the name of the client and one separate item for the address.

(10) Documentary evidence of name and address may be obtained through—

(a) the original documentary evidence supplied by the client ;

(b) a certified copy of the client's passport or national identity card and a separate certified document verifying address such as a driver's licence, utility bill ; or

(c) a branch, subsidiary or head office of a correspondent bank.

(10) Where the client does not already have a business relationship with the foreign Capital Market Operator that is supplying the information, certified copies of relevant underlying documentary evidence shall be sought, obtained and retained by the institution.

Information to establish identity.

48.—(1) For natural persons the following information shall be obtained where applicable—

(a) legal name and any other names used such as maiden name ;

(b) correct permanent full address and a Post Office box number shall not be sufficient ;

(c) telephone number, fax number and e-mail address ;

(d) date and place of birth ;

- (e) nationality ;
- (f) occupation, public position held and name of employer ;
- (g) an official personal identification number or other unique identifier contained in an unexpired official document such as passport, identification card, residence permit, social security records or driver's licence that bears a photograph of the client ; and
- (h) signature.

(2) A Capital Market Operator shall verify the information by either of the following methods—

- (a) confirming the date of birth from an official document such as birth certificate, passport, identity card, social security records ;
- (b) confirming the permanent address such as from utility bill, tax assessment, bank statement or a letter from a public authority ;
- (c) contacting the client by telephone, letter or e-mail to confirm the information supplied after an account has been opened such as disconnected phone, returned mail, or incorrect e-mail address ;
- (d) confirming the validity of the official documentation provided through certification by an authorized person such as embassy official or notary public ;
- (e) other documents of an equivalent nature may be produced as satisfactory evidence of clients' identity ; or
- (f) a Capital Market Operator shall apply effective client identification procedures for non-face-to-face clients as for those available physically.

(3) From the information provided, a Capital Market Operator shall make an initial assessment of a client's risk profile especially those clients identified as having a higher risk profile and additional or information obtained in respect of those clients shall include—

- (a) evidence of an individual's permanent address sought through a credit reference agency search, or through independent verification by home visits ;
- (b) personal reference by an existing client of the same institution ;
- (c) prior client bank reference and contact with the bank regarding the client ;
- (d) source of wealth ; and
- (e) verification of employment or public position held.

(4) The client acceptance policy shall not be so restrictive to amount to a denial of access by the general public to securities transactions, especially for people who are financially or socially disadvantaged.

49.—(1) Under these Regulations, the term 'institution' shall include any entity that is not a natural person and in considering the client's identification guidance for the different types of institutions, particular attention shall be given to the different levels of risk involved.

Identification
guidance for
Institutions.

(2) For corporate entities such as corporations and partnerships, the following information shall be obtained—

- (i) name of institution,
- (ii) principal place of institution's business operations,
- (iii) mailing address of institution,
- (iv) contact telephone and fax numbers,
- (v) some form of official identification number, where available such as Tax Identification Number,
- (vi) the original or certified copy of the Certificate of Incorporation and Memorandum and Articles of Association,
- (vii) the resolution of the Board of Directors to open an account and identification of those who have authority to operate the account, and
- (viii) nature and purpose of business and its legitimacy.

(3) A Capital Market Operator shall verify the information supplied by either of the following methods—

- (i) for established corporate entities, reviewing a copy of the latest report and accounts (audited, where available),
- (ii) conducting an enquiry by a business information service or an undertaking from a reputable and known firm of lawyers or accountants confirming the documents submitted,
- (iii) undertaking a company search or other commercial enquiries to see that the institution has not been, or is not in the process of being dissolved, struck off, wound up or terminated,
- (iv) utilizing an independent information verification process, such as accessing public and private databases,
- (v) obtaining prior bank references,
- (vi) visiting the corporate entity, or
- (vii) contacting the corporate entity by telephone, mail or e-mail.

(4) A Capital Market Operator shall take reasonable steps to verify the identity and reputation of any agent who opens an account on behalf of a corporate client, where that agent is not an officer of the corporate client.

(5) For corporations or partnerships, the principal guidance is to look behind the Operator to identify those who have control over the business and the company or partnership's assets, including those who have ultimate control.

(6) For corporations, particular attention shall be paid to shareholders, signatories, or others who invest a significant proportion of capital or financial support or exercise control and where the owner is another Capital Market Operator or trust, the objective is to undertake reasonable measures to look behind that company or entity and to verify the identity of the principals.

(7) For the purpose of sub-regulation (6) of this regulation, what constitutes control for this purpose depends on the nature of the company, and may rest in those who manage the funds, accounts or investments without requiring further authorisation, and who would be in a position to override internal procedures and control mechanisms.

(8) For a partnership, each partner shall be identified including the immediate family members that have ownership control.

(9) Where a company is listed on a recognized securities exchange or is a subsidiary of a publicly listed company, the company may be considered to be the principal to be identified.

(10) Where a listed company is effectively controlled by an individual, group of individuals, another corporate entity or trust, those in control of the company shall be considered to be principals, partners or controllers and shall be identified accordingly.

50.—(1) In addition to the requirement to verify the identity of the principals in respect of Retirement Benefit Programmes, Mutual or Friendly Societies, Cooperatives and Provident Societies, Charities, Clubs and Associations, Trusts and Foundations and Professional Intermediaries the following information shall be obtained—

- (a) name of account ;
- (b) mailing address ;
- (c) contact telephone and fax numbers ;
- (d) some form of official identification number, such as tax identification number ;
- (e) description of the purpose or activities of the account holder as stated in a formal constitution ; and
- (f) copy of documentation confirming the legal existence of the account holder such as register of charities.

(2) A Capital Market Operator shall verify the information supplied by—

- (a) obtaining an independent undertaking from a legal practitioner or chartered Accountant confirming the documents submitted ;
- (b) obtaining prior bank references ; or
- (c) accessing public and private databases or official sources.

51. Where an occupational pension programme, employee benefit trust or share option plan is an applicant for an account, the trustee and any other person who has control over the relationship such as the administrator, programme manager, and account signatories shall be considered as principals and the Capital Market Operator shall take steps to verify their identities.

Other Types
of
Operators.

Retirement
benefit
programmes.

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Mutual or friendly, cooperative and provident societies.

52. Where any of these entities are clients, the principals to be identified are those persons exercising control or significant influence over the organisation's assets which include members of the Board, executives and account signatories.

Charities, clubs and associations.

53. Where accounts are to be opened for charities, clubs, and societies, a Capital Market Operator shall take reasonable steps to identify, verify at least two signatories along with the operator itself and the principals to be identified shall include members of Board or Executive Committee, the Treasurer, and all signatories.

Trusts and foundations.

54.—(a) When opening an account for a Trust, a Capital Market Operator shall take reasonable steps to verify the trustees, the settler, including any persons settling assets into the trust, any protector, beneficiary and signatories and the beneficiaries shall be identified when they are defined ; and

(b) in the case of a foundation, steps shall be taken to verify the founder, the managers, directors and beneficiaries.

Professional intermediaries.

55.—(1) When a professional intermediary opens a client account on behalf of a single client, that client shall be identified.

(2) Professional intermediaries will often open “pooled” accounts on behalf of a number of entities.

(3) Where funds held by the intermediary are not co-mingled but are “sub-accounts” which can be attributable to each beneficial owner, all beneficial owners of the account held by the intermediary shall be identified.

(4) Where the funds are co-mingled, the Capital Market Operator shall look through to the beneficial- owners.

(5) Notwithstanding the provisions of this sub-regulation, there may be circumstances that Capital Market Operator may not look beyond the intermediary where the intermediary is subject to the same due diligence standards in respect of its client base as the Capital Market Operator.

(6) Where such circumstances envisaged under sub-regulation (5) of this regulation apply and an account is opened for an open or closed ended investment company (unit trust or limited partnership) also subject to the same due diligence standards in respect of its client base as the Capital Market Operator, the following shall be considered as principals and shall be identified—

(a) the fund itself ;

(b) its directors or any controlling board (where it is a company) ;

(c) its Trustee (where it is a Unit Trust) ;

(d) its managing (general) partner (where it is a limited partnership) ;

(e) account signatories ; and

(f) any other person who has control over the relationship such as fund administrator or manager.

(7) Where other investment vehicles are involved, the same steps under sub-regulation (6) of this regulation shall be taken where it is appropriate to do so and all reasonable steps shall be taken to verify the identity of the beneficial owners of the funds and of those who have control over the funds.

(8) Intermediaries shall be treated as individual clients of the Capital Market Operator and the standing of the intermediary shall be separately verified by obtaining the appropriate information itemized under sub-regulation (6) of this regulation; provided that in all cases, independent verification shall be obtained that the persons involved are true representatives of the operators.

56.—(1) In view of possible false identities and impersonations that may arise with non face-to-face clients, additional measures and checks shall be undertaken to supplement the documentary or electronic evidence.

False identities and impersonations.

(2) The additional measures and checks referred to in sub-regulation (1) of this regulation shall apply whether the applicant is resident in Nigeria or elsewhere and shall be particularly robust where the applicant is requiring a margin facility, other product or service that offers money transmission or third party payment.

(3) The procedures to identify and authenticate the client shall be put in place to ensure that there is sufficient evidence either documentary or electronic to confirm his address and personal identity and to undertake at least one additional check to guard against impersonation and fraud.

(4) The extent of the identification evidence required will depend on the nature and characteristics of the product or service and the assessed risk.

(5) Where reliance is being placed on intermediaries to undertake the processing of applications on the client's behalf, checks shall be undertaken to ensure that the intermediaries are regulated for money laundering prevention and that the relevant identification procedures are applied.

(6) A Capital Market Operator shall conduct regular monitoring of internet-based business or clients and where a significant proportion of the business is operated electronically, computerized monitoring systems or solutions that are designed to recognize unusual transactions and related patterns of transactions shall be put in place to recognize suspicious transactions.

(7) AML/CFT compliance officers are required to review the solutions stipulated in sub-regulation (6) of this regulation, record exemptions and report same quarterly to the NFIU.

(8) In all cases, evidence as to how identity has been verified shall be obtained and retained with the account opening records.

57.—(1) A refugee and asylum seeker may require a basic account without being able to provide evidence of identity and in such circumstances, authentic references from the Nigeria Immigration Service (NIS) and endorsement by the State Security Service shall be used in conjunction with other readily available evidence.

Refugee and asylum seeker.

(2) Additional monitoring procedures shall however be undertaken to ensure that the use of the account is consistent with the client circumstances and returns rendered quarterly to NFIU.

Identification procedures for opening accounts for students or young persons.

58.—(1) When opening accounts for students or other young persons, the normal identification procedures set out in these Regulations shall be followed as far as possible and where such procedures may not be relevant or do not provide satisfactory identification evidence, verification may be obtained in either of the following ways—

- (a) through the home address of the parent(s) ;
- (b) obtaining confirmation of the applicant’s address from his or her institution of learning ; or
- (c) seeking evidence of a tenancy agreement or student accommodation contract.

(2) An account for a minor shall be opened by a family member or guardian and where the adult opening the account does not have an account with the Capital Market Operator, the identification evidence for that adult or of any other person who may operate the account shall be obtained in addition to the birth certificate and passport of the child.

(3) An account for a minor may be open to abuse hence strict monitoring shall be undertaken.

(4) For an account opened through a school-related scheme, the school shall be asked to provide the date of birth, permanent address of the pupil and to complete the standard account opening documentation on behalf of the pupil.

B. Quasi-Corporate Clients

59.—(1) Identification and “Know Your Business” procedures shall be set and managed according to the perceived risk, in trust, nominees and fiduciaries accounts.

(2) The principal objective for money laundering prevention through trusts, nominees and fiduciaries is to verify the identity of the provider of funds such as the settlor, those who have control over the funds including the trustees and any controllers who have the power to remove the trustees.

(3) For discretionary or offshore Trust, the nature and purpose of the Trust and the original source of funding must be ascertained.

(4) Whilst reliance may also be placed on other Capital Market Operators to undertake checks or confirm identity, the responsibility to ensure that this is undertaken rests with the Capital Market Operator.

(5) The underlying evidence of identity shall be made available to law enforcement agencies in the event of an investigation.

(6) Identification requirements shall be obtained from a trustee who does not have authority to operate an account and cannot give relevant instructions concerning the use or transfer of funds.

60.—(1) Where Trusts are set up in offshore locations with strict bank secrecy or confidentiality rule, additional measures shall be required for Special Purpose Vehicles (SPVs) or International Business Companies connected to Trusts.

Off-shore Trusts.

(2) Where Trusts are created in jurisdictions without equivalent money laundering procedures in place, it shall warrant additional enquiries.

(3) Except the client for business is itself a regulated Capital Market Operator, measures shall be taken to identify the Trust company or the corporate service provider in line with the requirements for professional intermediaries or companies generally.

(4) Certified copies of the documentary evidence of identity for the underlying principals such as settlors, controllers, on whose behalf the client for business is acting, shall be obtained.

(5) For overseas Trusts, nominee and fiduciary accounts, where the client is itself a Capital Market Operator that is regulated for money laundering purposes—

(a) reliance can be placed on an introduction or intermediary certificate or letter stating that evidence of identity exists for all underlying principals and confirming that there are no anonymous principals ;

(b) the trustees and nominees shall be asked to state from the beginning the capacity in which they are operating or making the application ;and

(c) documentary evidence of the appointment of the current Trustees shall also be obtained.

(6) Where the underlying evidence is not retained within Nigeria, enquiries shall be made to determine, as far as practicable, that there are no overriding bank secrecy or confidentiality constraints that will restrict access to the documentary evidence of identity, should it be needed in Nigeria.

(7) Any application to open an account or undertake a transaction on behalf of another without the client identifying their Trust or Nominee capacity shall be regarded as suspicious and shall lead to further enquiries and rendition of reports to the SEC.

(8) Where a Capital Market Operator in Nigeria is itself the client to an offshore Trust on behalf of its clients, if the corporate Trustees are not regulated, then the Nigerian Capital Market Operator shall undertake the due diligence on the Trust itself.

(9) Where the funds have been drawn upon an account that is not under the control of the Trustees, the identity of two of the authorized signatories and their authority to operate the account shall also be verified.

(10) Where identities of the beneficiaries have not been verified, verification shall be undertaken when payments are made to them.

61.—(1) In the case of conventional Nigerian Trusts, identification evidence shall be obtained for—

Conventional family and absolute Nigerian trusts.

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(a) those who have control over the funds, the principal trustees who may include the settlor ;

(b) providers of the funds which include the settlors, except where they are deceased ; and

(c) where a settler is deceased, written confirmation shall be obtained for the source of funds, grant of probate or copy of the Will or other document creating the Trust.

(2) Where a corporate Trustee such as a bank acts jointly with a co-Trustee, any non-regulated co-Trustee shall be verified even if the corporate Trustee is covered by an exemption and the relevant guidance contained in these Regulations for verifying the identity of persons, institutions or companies shall be followed.

(3) A Capital Market Operator may not review any existing Trust, confirmation of the settler and the appointment of any additional Trustees shall be obtained.

(4) Copies of any underlying documentary evidence shall be certified as true copies and a check shall be carried out to ensure that any bank account on which the Trustees have drawn funds is in their names and taking a risk based approach, consideration shall be given as to whether the identity of any additional authorized signatories to the account shall also be verified.

(5) Where some life assurance companies are to make payments directly to beneficiaries on receiving a request from the Trustees, the payment shall be made to the named beneficiaries by way of a crossed cheque marked “account payee only” or a bank transfer direct to an account in the name of the beneficiary.

Receipt and Payment of Funds on behalf of a Trust.

62.—(1) Where money is received on behalf of a Trust, reasonable steps shall be taken to ensure that the source of the funds is properly identified, nature of the transaction or instruction is understood and payments properly authorized in writing by the Trustees.

(2) Where a Trustee who has been verified is replaced, the identity of the new Trustee shall be verified before he is allowed to exercise control over the funds.

(3) Where a life policy is placed in Trust, the client for the policy is also a Trustee and where the Trustees have no beneficial interest in the funds, the identity of the person applying for the policy shall be verified.

(4) The remainder of the Trustees would however need to be identified in a situation where policy proceeds were being paid to a third party not identified in the trust deed.

Powers of Attorney and Third Party Mandates.

63.—(1) The authority to deal with assets under a Power of Attorney and Third Party Mandates constitutes a business relationship.

(2) Consequently, at the start of the relationship, identification evidence shall be obtained from the holders of powers of attorney and third party mandates

in addition to the clients or subsequently on a later appointment of a new attorney, if advised, particularly within one year of the start of the business relationship. New attorney for corporate or Trust business shall always be verified.

(3) A Capital Market Operator shall ascertain the reason for the grant of the power of attorney.

(4) Records of all transactions undertaken in accordance with the Power of Attorney shall be maintained as part of the client's record.

64.—(1) When an account is opened for the purpose of winding up the estate of a deceased person, the identity of the executor or administrator of the estate shall be verified. Executorship accounts.

(2) Identification evidence may not be required for the executors and administrators when payment is being made from an established bank or mortgage institution's account in the deceased's name, solely for the purpose of winding up the estate in accordance with the grant of Probate or Letters of Administration.

(3) Where a life policy pays out on death, there shall be no need to obtain identification evidence for the legal representatives.

(4) Payments to the underlying named beneficiaries on the instructions of the executor or administrator may also be made without additional verification requirements.

(5) Where a beneficiary wishes to transact business in his name, identification evidence shall be required.

(6) A Capital Market Operator shall report to the NFIU where suspicion is aroused concerning the nature or origin of assets comprising an estate that is being wound up.

65.—(1) Where the client is an incorporated business or a partnership whose principal partners or controllers do not already have a business relationship with a Capital Market Operator, identification evidence shall be obtained for the principal beneficial owners or controllers and one or more signatories in whom significant control has been vested by the principal beneficial owners or controllers. Business and Partnerships.

(2) Evidence of the trading address of the business or partnership shall be obtained and the nature of the business or partnership shall be ascertained to ensure that it has a legitimate purpose but not necessarily from a partnership deed.

(3) Where a formal partnership arrangement exists, a mandate from the partnership authorizing the opening of an account or undertaking the transaction and conferring authority on those who will undertake transactions shall be obtained.

C. Corporate Clients

66.—(1) A Capital Market Operator shall take care to verify the legal existence of the client company from official documents or sources and to ensure that persons purporting to act on its behalf are fully authorized. Verification of legal existence of a corporate client.

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(2) A Capital Market Operator shall make enquiries to confirm that a legal person is not merely a “brass-plate company” where the controlling principals cannot be identified.

(3) The identity of a corporate company shall comprises :

- (a) registration number ;
- (b) registered corporate name and any trading names used ;
- (c) registered address and any separate principal trading addresses ;
- (d) particulars of directors ;
- (e) owners and shareholders ; and
- (f) the nature of the company’s business.

(4) The extent of identification measures required to validate the information under sub-regulation (3) of this regulation or the documentary evidence to be obtained depends on the nature of the business or service that the company requires from a Capital Market Operator.

(5) A risk-based approach shall be taken and a Capital Market Operator shall, before a business relationship is established, conduct a search at the Corporate Affairs Commission (CAC) and other commercial enquiries undertaken to check that the client-company’s legal existence has not been or is not in the process of being dissolved, struck off, wound up or terminated.

(6) In all cases, information as to the nature of the normal business activities that the company expects to undertake with the Capital Market Operator shall be obtained.

Non Face-to-Face Business.

67.—(1) For individuals, because of the additional risks with non-face-to-face business, additional procedures shall be undertaken to ensure that the client business, company or society exists at the address provided and it is for a legitimate purpose.

(2) Where the characteristics of the product or service permit, a Capital Market Operator shall ensure that relevant evidence is obtained to confirm that any individual representing the company has the necessary authority to do so.

(3) Where the principal owners, controllers or signatories need to be identified within the relationship, the relevant requirements for the identification of personal clients shall be followed.

(4) Where the principal owners, controllers or signatories need to be identified within the relationship, the relevant requirements for the identification of personal clients shall be followed.

Low Risk Corporate Business.

68.—(1) In the case of Public Quoted Companies, a Capital Market Operator may not verify the identity of individual shareholders of corporate clients that are listed on the securities exchange and it shall not be necessary to identify the directors of a quoted company.

(2) A Capital Market Operator shall ensure that the individual officer or employee (past or present) is not using the name of the company or its relationship with the Capital Market Operator for a criminal purpose.

(3) The Board Resolution or other authority for persons to represent the company in its dealings with a Capital Market Operator shall be obtained to confirm that the individual has the authority to act.

(4) Phone calls can be made to the Chief Executive Officer of such a company to intimate him of the application to open the account with the Capital Market Operator.

(5) Further steps shall not be taken to verify identity over and above the usual commercial checks where the applicant company is—

(i) listed on a securities exchange ; or

(ii) there is independent evidence to show that it is a wholly owned subsidiary or a subsidiary under the control of such a company.

(12) Due diligence shall be conducted where the account or service required falls within the category of higher risk business.

69.—(1) Where the client is a private or public unquoted company and none of the principal directors or shareholders already have an account with the Capital Market Operator, the following documents shall be obtained from an official or recognized independent source to verify the business itself—

Private and
Public
unquoted
Companies.

(i) a copy of the certificate of incorporation and registration, evidence of the company's registered address and the list of shareholders and directors,

(ii) a search at the Corporate Affairs Commission (CAC) or an enquiry and confirmation a business information service to obtain the information, and

(iii) an undertaking from a firm of lawyers or accountants confirming the documents submitted to the Capital Market Operator.

(2) Attention shall be paid to the place of origin of the documents and the background against which they were produced and where comparable documents cannot be obtained, verification of principal beneficial owners and controllers shall be undertaken.

70.—(1) For private and public unquoted Companies undertaking higher risk business (in addition to verifying the legal existence of the business) the Capital Market Operator's principal requirement shall be to look behind the corporate entity to identify those who have ultimate control over the business and the company's assets.

Higher Risk
Business
Relating to
Private or
Public
unquoted
Companies.

(2) What constitutes significant shareholding or control for this purpose will depend on the nature of the company and identification evidence shall be obtained from shareholders with interests of 5 *percent* or more.

(3) The principal control vests with those who are mandated to manage the funds, accounts or investments without requiring authorization and who would be in a position to override internal procedures and control mechanisms.

(4) The principal control rests with those who are mandated to manage the funds, accounts or investments without requiring authorization and who would be in a position to override internal procedures and control mechanisms.

(5) Identification evidence shall be obtained for the principal-beneficial owner of the company and any other person with principal control over the company's assets.

(6) Where the principal owner is another corporate entity or Trust, the Capital market Operator's objective is to undertake measures that look behind that company or vehicle and verify the identity of the beneficial-owner or settlors.

(7) Where a Capital Market Operator becomes aware that the principal-beneficial owners and controllers have changed, they shall ensure that the identities of the new ones are verified.

(8) A Capital Market Operator shall identify directors who are not principal controllers and signatories to an account for risk based approach purpose.

(9) Where there is suspicion as a result of change in the nature of the business transacted or investment account, further checks shall be made to ascertain the reason for the changes.

(10) A Capital Market Operator shall ensure that full identification and "Know Your Clients" requirements are met where the company is an International Business Company (IBC) registered in an offshore jurisdiction.

Foreign
Capital
Market
Operator.

71.—(1) For foreign Capital Market Operators, the confirmation of existence and regulated status shall be checked by either of the following methods—

(a) checking with the home country's Securities Market Regulator and relevant supervisory body ;

(b) checking with another office, subsidiary or branch in the same country;

(c) checking with the Nigerian regulated correspondent Capital Market Operator of the overseas Operator ; and

(d) obtaining evidence of its license or authorization to conduct Securities business from the Operator itself.

(2) In addition to the identity of the principal employer, the source of funding shall be verified and recorded to ensure that a complete audit trail exists where the employer is dissolved or wound up.

(3) For the Trustees of Occupational Pension Schemes, satisfactory identification evidence can be based on the inspection of formal documents concerning the Trust which confirm the names of the current Trustees and their addresses for correspondence.

(4) In addition to the documents, confirming the trust identification can be based on extracts from Public Registrars or references from Professional Advisers or Investment Managers.

(5) Any payment of benefits by or on behalf of the Trustees of an Occupational Pension Scheme shall require verification of identity of the recipient.

(6) Where individual members of an Occupation Pension Scheme are to be given personal investment advice, their identities shall be verified.

(7) Where the Trustees and principal employer have been satisfactorily identified (and the information is still current), the employer may provide confirmation of the identity of individual employees.

D. Other Institutions

72.—(1) Confirmation of the authority to act in the name of the charity is mandatory. Charities in Nigeria.

(2) The practice of opening unauthorized accounts of charitable organizations under sole control is abolished.

(3) Accounts for charities in Nigeria are required to be operated by a minimum of two signatories duly verified and documentation evidence obtained.

73.—(1) When dealing with an application from a registered charity, a Capital Market Operator shall obtain and confirm the name and address of the charity concerned and evidence of registration for AML/CFT compliance shall be confirmed through SCUML or a self-regulatory organization. Registered Charities.

(2) To guard against the laundering of fraudulently obtained funds (where the person making the application or undertaking the transaction is not the official correspondent or the recorded alternate) a Capital Market Operator shall send a letter within 24 hours to the official correspondence, informing him of the schemes application before it.

(3) The official correspondence shall be requested to respond within 24 hours especially where there is any reason to suspect that the application has been made without authority.

(4) Applications on behalf of unregistered charities shall be dealt with in accordance with procedures for clubs and societies set out in these Regulations.

74.—(1) In the case of applications made on behalf of clubs or societies, a Capital Market Operator shall take reasonable steps to satisfy itself as to the legitimate purpose of the organization by sighting its constitution. Clubs and Societies.

(2) The identity of at least two of the principal contact persons or signatories shall be verified initially in line with the requirements for private individuals.

(3) The signing authorities shall be structured to ensure that at least two of the signatories that authorize any transaction have been verified and where signatories change, a Capital Market Operator shall ensure that the identities of at least two of the current signatories are verified.

(4) Where the purpose of the club or society is to purchase the shares of regulated investment company or where all the members would be regarded as individual clients, all the members in such cases are required to be identified in line with the requirements for personal clients.

(5) A Capital Market Operator shall look at each situation on a case-by-case basis.

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Occupational Pension Schemes.

75. In transactions undertaken on behalf of an Occupational Pension Scheme where the transaction is not in relation to a long term policy of insurance, the identities of both the principal employer and the Trust shall be verified.

Religious Organizations (ROs).

76.—(1) A religious organisation shall be registered with the Corporate Affairs Commission (CAC) and shall have a registration number.

(2) The identity of a religious organization shall be verified by reference to the CAC, appropriate headquarters or regional area office of the denomination.

(3) As a Registered organisation, the identity of at least two signatories to its account shall be verified and evidence of registration for AML/CFT compliance shall be confirmed through the Special Control Unit against Money Laundering (“SCUML”) of the Federal Ministry of Industry, Trade and Investment or a self-regulatory organization.

Three-Tiers of Government and Parastatals.

77.—(1) Where the client for business is a Government Parastatal, any of a Capital Market Operator shall verify the legal standing of the applicant, including its principal ownership and the address.

(2) A certified copy of the Resolution or other documents authorizing the opening of the account or to undertake the transaction shall be obtained in addition to evidence that the official representing the body has the relevant authority to act.

(3) Physical contacts shall also be made with the Chief Executive Officer of the organization or parastatal concerned to confirm the application to open the account with the Capital Market Operator.

Foreign Consulates.

78. The authenticity of clients that request to undertake transactions with a Capital Market Operator in the name of Nigerian-resident foreign consulates and any documents of authorization presented in support of the application shall be checked with the Ministry of Foreign Affairs or the relevant authorities in the Consulate’s home country or the high commission of the country in Nigeria

PART IX—INTERMEDIARIES OR OTHER THIRD PARTIES TO VERIFY IDENTITY OR TO INTRODUCE BUSINESS

Introductions from authorized financial intermediaries.

79.—(1) Whilst the responsibility to obtain satisfactory identification evidence vests with a Capital Market Operator who is entering into a relationship with a client, it is reasonable, in a number of circumstances, for reliance to be placed on another Capital Market Operator to—

(a) undertake the identification procedure when introducing a client and to obtain any additional KYC information from the client ; or

(b) confirm the identification details where the clients is not resident in Nigeria ; or

(c) confirm that the verification of identity has been carried out where an agent is acting for underlying principals.

(2) Where an intermediary introduces a client and then withdraws from the ensuing relationship, the underlying clients has become the applicant for the

business and shall be identified in line with the requirements for personal, corporate or business clients as appropriate.

(3) An introduction letter shall be issued by the introducing Capital Market Operator or person in respect of each applicant for business.

(4) To ensure that product-providers meet their obligations, that satisfactory identification evidence has been obtained and will be retained for the necessary statutory period, each introduction letter shall either be accompanied by certified copies of the identification evidence that has been obtained in line with the usual practice of certification of identification documents or by sufficient details and reference numbers, that will permit the actual evidence obtained to be re-obtained at a later stage.

80. For a written application (except other arrangements have been agreed that the service provider will verify the identity itself), an intermediary shall provide along with each application, the client's introduction letter together with certified copies of the evidence of identity which shall be placed in the client's file.

Written applications.

81.—(1) Unit Trust Managers and other product providers receiving non-written applications from financial intermediaries (where a deal is placed over the telephone or by other electronic means) have an obligation to verify the identity of clients and ensure that the intermediary provides specific confirmation that identity has been verified.

Non-written application.

(2) A record shall be made of the answers given by the intermediary and retained for a minimum period of five years.

82. Where an introduced business is received from a regulated financial intermediary who is outside Nigeria, the reliance that can be placed on that intermediary to undertake the verification of identity-check shall be assessed by the Compliance officer or some other competent persons within the Capital Market Operator on a case by case basis based on the knowledge of the intermediary.

Introductions from foreign intermediaries.

83.—(1) Where a client is introduced by one part of a financial sector group to another, it is not necessary for identity to be re-verified or for the records to be duplicated except where—

Corporate group introductions.

(a) the identity of the clients has been verified by the introducing parent company, branch, subsidiary or associate in line with the money laundering requirements to equivalent standards and taking account of any specific requirements such as separate address verification;

(b) no exemptions or concessions have been applied in the original verification procedures that would not be available to the new relationship ;

(c) a group introduction letter is obtained and placed with the clients' account opening records ; and

(d) in respect of group introducers from outside Nigeria, arrangements shall be put in place to ensure that identity is verified in accordance with requirements and that the underlying records of identity in respect of introduced clients are retained for the necessary period.

(2) Where a Capital Market Operator has day-to-day access to all the Group's "Know Your Client" information and records, there shall be no need to identify an introduced client or obtain a group introduction letter where the identity of that client has been verified previously; provided that where the identity of the client has not previously been verified, then any missing identification evidence shall be obtained and a risk-based approach taken on the extent of KYC information that is available on whether or not additional information shall be obtained.

(3) A Capital Market Operator shall ensure that there is no secrecy or data protection legislation that would restrict free access to the records on request or by law enforcement agencies under court order or relevant mutual assistance procedures and where it is found that such restrictions apply, copies of the underlying records of identity shall be sought and retained.

(4) Where identification records are held outside Nigeria, it shall be the responsibility of a Capital Market Operator to ensure that the records available meet the requirements in these Regulations.

Business
conducted
by agents.

84.—(1) Where an applicant is dealing in its own name as agent for its own client, a Capital Market Operator shall, in addition to verifying the agent, establish the identity of the underlying client.

(2) A Capital Market Operator may regard evidence as sufficient where it has established that the client—

(a) is bound by and has observed these Regulations and the provisions of the Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism (Prevention) Act, 2011 (as amended) ; and

(b) is acting on behalf of another person and has given a written assurance that he has obtained and recorded evidence of the identity of the person on whose behalf he is acting.

(3) Where another Capital Market Operator deals with its own client (regardless of whether or not the underlying client is disclosed to the Capital Market Operator) then—

(a) where the agent is a Capital Market Operator, there is no requirement to establish the identity of the underlying clients or to obtain any form of written confirmation from the agent concerning the due diligence undertaken on its underlying clients ; or

(b) where a regulated agent from outside Nigeria deals through a client's omnibus account or for a named clients through a designated account, the agent shall provide a written assurance that the identity of all the underlying clients has been verified in accordance with their local requirements ;

(c) where such an assurance cannot be obtained, then the business shall not be undertaken ; and

(d) where an agent is either unregulated or is not covered by the relevant subsisting Anti-Money Laundering and Combating the Financing of Terrorism

laws and Regulations, then each case shall be treated on its own merits and the knowledge of the agent will inform the type of the due diligence standards to apply.

85.—(1) Transactions conducted through correspondent relationships shall be managed, taking a risk-based approach.

Correspondent relationship.

(2) “Know Your Correspondent” procedures shall be established to ascertain whether or not the correspondent Capital Market Operator or the counter-party is itself regulated for money laundering and terrorism financing, and where—

(a) regulated, the correspondent Capital Market Operator shall verify the identity of its clients in accordance with FATF standards ; and

(b) it is not, additional due diligence will be required to ascertain and assess the correspondent Capital Market Operator internal policy on money laundering prevention and know your clients procedures.

(3) The volume and nature of transactions flowing through correspondent accounts with a Capital Market Operator from high risk jurisdictions or those within adequacies or material deficiencies shall be monitored against expected levels, destinations and any material variances shall be checked.

(4) A Capital Market Operator shall maintain records of having ensured that sufficient due diligence has been undertaken by the remitting bank on the underlying client and the origin of the funds in respect of the funds passed through their accounts.

(5) A Capital Market Operator shall guard against establishing correspondent relationships with high risk foreign banks (such as shell banks with no physical presence in any country) or with correspondent banks that permit their accounts to be used by such banks.

86.—(1) When one Capital Market Operator acquires the business and accounts of another Capital Market Operator, it is not necessary for the identity of all the existing clients to be re-identified, provided that all the underlying client’s records are acquired with the business, however it shall carry out due diligence enquiries to confirm that the acquired operator had conformed with the requirements in these Regulations.

Acquisition of a capital market business by another.

(2) Verification of identity shall be undertaken as soon as it is practicable for all the transferred clients who were not verified by the transferor in line with the requirements for existing clients that open new accounts, where—

(a) the money laundering procedures previously undertaken have not been in accordance with the requirements of these Regulations;

(b) the procedures cannot be checked; or

(c) the client’s records are not available to the acquiring Capital Market Operator.

PART X—RECEIVING CAPITAL MARKET OPERATORS AND AGENTS

Vulnerability of receiving bankers and agents to money laundering.

87.—(1) A receiving Capital Market Operator may be used by money launderers in respect of offers for sale where new issues are over-subscribed and their allocation is scaled down.

(2) In addition to the provisions of sub-regulation (1) of this regulation, the money launderer is not concerned if there is a cost involved in laundering criminal money and new issues that trade at a discount will prove acceptable to the money launderer.

(3) Criminal funds may be laundered by way of the true beneficial- owner of the funds providing the payment for an application in another person's name, specifically to avoid the verification process and to break the audit trail with the underlying crime from which the funds are derived.

Who to identify.

88.—(1) A receiving Capital Market Operator shall obtain satisfactory identification evidence of new applicants, including such applicants in rights issue where the value of a single transaction or a series of linked transactions is US\$1,000 or its equivalent for foreign transfers or ₦250,000 for individuals and ₦500,000 for corporate body or more.

(2) Where funds to be invested are being supplied by or on behalf of a third party, it is important that the identification evidence for both the applicant and the provider of the funds are obtained to ensure that the audit trail for the funds is preserved.

Applications received via brokers.

89.—(1) Where the application is submitted (payment made) by a broker or an intermediary acting as agent, no steps shall be taken to verify the identity of the underlying applicants.

(2) The following standard procedures shall apply—

(a) the lodging agent's stamp shall be affixed on the application form or allotment letter; and

(b) application and acceptance forms and cover letters submitted by lodging agents shall be identified and recorded in the Capital Market Operator's records.

(3) The terms and conditions of the issue shall state that the requirements to obtain identification evidence are the responsibility of the broker lodging the application and not the receiving Capital Market Operator.

(4) Where the original application has been submitted by a regulated broker, no additional identification evidence will be necessary for subsequent calls in respect of shares issued and partly paid.

(5) Where the broker or other introducer is a regulated person or institution (including an overseas branch or subsidiary) from a country with equivalent legislation and financial sector procedures, and the broker or introducer is subject to anti-money laundering and financing of terrorism Regulations, then a written assurance shall be taken from the broker that he has obtained and recorded evidence of identity of any principal and underlying beneficial owner that is introduced.

90.—(1) Where multiple family applications are received supported by one cheque and the aggregate subscription price is US\$1,000 or its equivalent for foreign transfers; and ₦250,000 or more for an individual person, then identification evidence shall not be required for—

Multiple family applications.

(a) a spouse or any other person whose surname and address are the same as those of the applicant who has signed the cheque ;

(b) a joint account holder ; or

(c) an application in the name of a child where the relevant company's Articles of Association prohibit the registration in the names of minors and the shares are to be registered with the name of the family member of full age on whose account the cheque is drawn and who has signed the application form.

(2) Identification evidence of the signatory of the financial instrument shall be required for any multiple family application for more than US\$1,000 or its equivalent for foreign transfers ; or more than ₦250,000 for an individual; or more than ₦500,000 for a body corporate where such is supported by a cheque signed by someone whose name differs from that of the applicant. Other monetary amounts or more may, from time to time, be stipulated by any applicable money laundering legislation and guidelines.

(3) Where an application is supported by a financial institution's branch cheque or brokers' draft, the applicant shall state the name and account number from which the funds were drawn—

(a) on the front of the cheque ;

(b) on the back of the cheque together with a branch stamp ; or

(c) providing other supporting documents.

91.—(1) Where it appears to a person handling applications that a number of single applications under US\$1,000 and ₦500, 000 in different names are linked such as payments from the same Capital Market Operator account apart from the multiple family applications identification, evidence shall be obtained in respect of parties involved in each single transaction.

Linked transactions.

(2) Installment payment issues shall be treated as linked transactions where it is known that total payments will amount to US\$1,000 or its equivalent for foreign transfers or ₦250,000 for an individual; or ₦500,000 for body corporate or such other monetary amounts as may, from time to time, be stipulated by any applicable money laundering and terrorism legislation or guidelines.

(3) Identification evidence shall be obtained either at the outset or when a particular point has been reached,

(4) Applications that are believed to be linked and money laundering is suspected shall be processed on a separate batch for investigation after allotment and registration has been completed, and returns with the documentary evidence are to be rendered to the NFIU accordingly.

(5) Copies of the supporting cheques, application forms and any repayment-cheques shall be retained to provide an audit trail until the receiving Capital Market Operator is informed by NFIU or the investigating officer that the records are of no further interest.

Exemption from Identification Procedures.

92.—(1) Where a client’s identity was not properly obtained under these Regulations and requirements for Account Opening Procedure, a Capital Market Operator shall re-establish the client’s identity in line with the contents of these Regulations.

(2) Notwithstanding the provisions of sub-regulation (1) of this regulation, identification evidence shall not be required where the client for business is a Nigerian Capital Market Operator or a person covered and regulated by the requirements of these Regulations.

(3) Notwithstanding the provisions of sub-regulation (1) of this regulation, identification evidence shall not be required in the case of cash remittances and wire transfers, either inward or outward, or other monetary instruments that are undertaken against payment in cash for clients who do not have an account or other established relationship with the Capital Market Operator such as walk-in clients without a high risk for money laundering purposes.

(4) In respect of transactions under sub-regulations (2) and (3) of this Regulation, adequate procedures shall be established to record the transaction and relevant identification evidence taken, where necessary and where such transactions form a regular part of the Capital Market Operator’s business, the limits for requiring identification evidence of US\$1,000 or its equivalent for foreign transfers; ₦250,000 for individual and ₦500,000 for a corporate body shall be observed.

(5) Notwithstanding the provisions of sub-regulation (1) of this regulation, identification evidence shall not be required, where the proceeds of a one-off transaction can be paid to a client or be further re-invested where records of his identification requirements were obtained and kept; otherwise, his identification requirements shall be obtained before the proceeds are paid to him or be re-invested on his behalf in accordance with the relevant provision of these Regulations.

PART X—MISCELLANEOUS

Sanctions for Non-Compliance with the provisions of these Regulations.

93.—(1) Failure to comply with the provisions of these Regulations shall attract appropriate sanctions in accordance with the provisions of the Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism (Prevention) Act, 2011 (as amended).

(2) A Capital Market Operator who fails to comply with the provisions of these Regulations or contravenes the provisions of these Regulations may be subjected to administrative sanctions by the SEC, NFIU and any other relevant authority.

(3) A Capital Market Operator or its officer that contravenes the provisions of these Regulations shall be subject to applicable sanctions by the SEC as follows—

(a) imposition of a penalty not exceeding ₦500,000 from the first to the fifth instances on each offence ; and

(b) in addition, suspension of the license issued to the Capital Market Operator for failure to comply with these Regulations.

(4) Any individual, being an official of a Capital Market Operator, who fails to take steps to ensure compliance with the provisions of these Regulations, shall be sanctioned accordingly.

(5) Any person being a director, senior management, manager or employee of a Capital Market Operator, either acting alone or in partnership with others, who contravenes the provisions of these Regulations under any circumstances shall be subject to any or all of the following sanctions—

(a) on the first two infractions, be warned in writing by the Capital Market Operator and reported to SEC ;

(b) on the third infraction, the operator may consider terminating the employee's appointment ; and

(c) in each instance, the names of the officers penalized, the nature of the offence and the sanction imposed shall be reported to the SEC.

(6) For purpose of emphasis, incidence of false declaration or false disclosure by the Capital Market Operator or its officers shall be subject to administrative review and appropriate sanctions meted out subject to the provisions of these Regulations.

94.—(1) The Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) Regulations for Capital Market Operators, 2010 is hereby revoked. Revocation.

(2) The revocation of the Regulations specified in sub-regulation (1) of this regulation shall not affect anything done or purported to be done under or pursuant to that regulation.

95. In these Regulations— Interpretation.

“*Accounts*” means a facility or an arrangement by which a financial institution—

(a) accepts deposits of currency ;

(b) allows withdrawals of currency or transfers into or out of the account;

(c) pays cheques or payment orders drawn on a financial institution or cash dealer by a person or collect cheques or payment orders on behalf of a person ; supplies a facility or an arrangement for a safe deposits box ;

“*AML/CFT*” means Anti-Money Laundering and Combating or Countering the Financing of Terrorism ;

“*Applicant for Business*” means the person or company seeking to establish a ‘business relationship’ or an occasional client undertaking a ‘one-off’ transaction whose identity must be verified ;

“*Beneficiary*” means a natural or legal person or any other form of legal arrangement identified by the originator as a receiver of the requested transfer. In trust, a beneficiary is the person or persons who are entitled to the benefit of any trust arrangement. A beneficiary can be a natural or legal person or arrangement. All trusts (other than charitable or statutory permitted non – charitable trusts) are required to have ascertainable beneficiaries. While trusts must always have some ultimately ascertainable beneficiaries, trusts may have no defined existing beneficiaries but only objects of a power until some person becomes entitled as beneficiary to income or capital on the expiry of a defined period, known as the accumulation period. This period is normally co-extensive with the trust perpetuity period which is usually referred to in trust deed as the trust period. In the context of life insurance or another investment linked insurance policy, a beneficiary is the natural or legal person, or a legal arrangement, or category of persons, who will be paid the policy proceeds where an insured event occurs, which is covered by the policy ;

“*Beneficial owner*” means a natural person who ultimately owns or controls a clients or a person on whose behalf a transaction is being conducted and it also incorporates those persons who exercise ultimate effective control over a legal person or arrangement ;

“*Banks and other Financial Institutions Act*” means the Banks and other Financial Institutions Act (as amended) ;

“*Business relationship*” means any arrangement between a Capital Market Operator and the applicant for business which purpose is to facilitate the carrying out of transactions between the parties on a frequent, habitual or regular basis ;

“*Capital Market Operator*” means any person (individual or corporate) duly registered by the Commission to perform specific functions in the Capital Market ;

“*Cooling off rights*” means the rights of an investor to return products purchased and get a refund if the individual changes his mind ;

“*Cross-border transaction*” means any transaction where the originator and beneficiary Operators are located in different jurisdictions. This term also refers to any chain of transaction that has at least one cross-border element ;

“*Designated categories of predicate offences*” includes :

- (a) participation in an organized crime group and racketeering ;
- (b) terrorism, including terrorist financing ;
- (c) trafficking in human beings and migrant smuggling ;
- (d) sexual exploitation, including sexual exploitation of children ;
- (e) illicit trafficking in narcotic drugs and psychotropic substances ;
- (f) illicit arms trafficking ;
- (g) illicit trafficking in stolen and other goods ;

- (h) corruption and bribery ;
- (i) fraud ;
- (j) counterfeiting currency ;
- (k) counterfeiting and piracy of products ;
- (l) environmental crime ;
- (m) murder, grievous bodily injury ;
- (n) kidnapping, illegal restraint and hostage-taking ;
- (o) robbery or theft ;
- (p) smuggling ;
- (q) extortion ;
- (r) forgery ;
- (s) piracy ;
- (t) insider trading and market manipulation ; and
- (u) any other offence as the Attorney General or appropriate regulatory authorities may from time to time designate ;

“*Designated Non-Financial Businesses and Professions*” means dealers in jewelry, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets, or such other businesses as the Federal Ministry of Trade and Investment or appropriate regulatory authorities may from time to time designate ;

“*Domestic transfer*” means any wire transfer where the originator and beneficiary institutions are both located in Nigeria. This term therefore refers to any chain of wire transfers that takes place entirely within Nigeria’s borders, even though the system used to effect the wire transfer may be located in another jurisdiction ;

“*False disclosure*” means a misrepresentation of the value of currency or bearer negotiable instruments being transported, or a misrepresentation of other relevant data which is asked for in the disclosure or otherwise requested by the authorities ;

“*Funds Transfer*” means any transaction carried out on behalf of an originator (both natural and legal) through a Capital Market Operator by electronic means with a view to making an amount of money available to a beneficiary through another Capital Market Operator. The originator and the beneficiary may be the same person ;

“*ISA*” means Investment and Securities Act, 2007 ;

“*Legal persons*” means bodies corporate foundations, partnerships, or associations, or any similar bodies that can establish a permanent clients relationship with a Capital Market Operator or otherwise own property ;

“*Legal practitioners, notary public and accountants*” means sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to “internal” professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering ;

“*MLPA*”—refers to the Money Laundering Prohibition (Amendment) Act (as amended) ;

“*Nigerian Financial Intelligence Unit (NFIU)*” refers to the central unit responsible for receiving, requesting, analyzing and disseminating to the competent authorities disclosures of financial information concerning the suspected proceeds of crime and potential financing of terrorism ;

“*Non-Profit Organization/ Non-Governmental Organization*” means a legal entity or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of good works ;

“*One-off Transaction*” means any transaction carried out other than in the course of an established business relationship.(It is important to determine whether an applicant for business is undertaking a one-off transaction or whether the transaction is or will be a part of a business relationship as this can affect the identification requirements) ;

“*Originator*” means the account holder, or where there is no account, the person (natural or legal) that places the order with the Capital Market Operator to perform the Capital Market Transaction ;

“*Payable through account*” means correspondent accounts that are used directly by third parties to transact business on their own behalf ;

“*Physical presence*” means meaningful mind and management located within a country. The existence simply of a local agent or low level staff does not constitute physical presence ;

“*Politically exposed persons*” (PEPs) includes—

(a) individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or Government, senior politicians, senior government, judicial or military officials, senior executives of State owned corporations and important political party officials ;

(b) individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of Government, senior politicians, senior government, judicial or military officials, senior executives of State owned corporations and important political party officials ; and

(c) persons who are or have been entrusted with a prominent function by an international organization and includes members of senior management such as directors, deputy directors and members of the board or equivalent functions other than middle ranking or more junior individuals ;

“*Proceeds*” means property derived from or obtained, directly or indirectly ;

“*Property*” means assets of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in such assets ;

“*Regulators*” mean competent regulatory authorities responsible for ensuring compliance of Financial Institutions and Designated Non-Financial Institutions with requirements to combat money laundering and terrorist financing ;

“*Relevant authority*” means any persons or organization which has mandate over the activity as an individual ;

“*Risk*” All references to risk in these Regulations refer to the risk of money laundering or terrorist financing ;

“*Settlers*” are persons or companies who transfer ownership of their assets to trustees by means of a trust deed. Where the trustees have some discretion as to the investment and distribution of the trusts assets, the deed may be accompanied by a non-legally binding letter setting out what the settler wishes to be done with the assets ;

“*Shell bank*” means a bank that has no physical presence in the country in which it is incorporated and licensed and which is unaffiliated with a regulated financial services group that is subject to effective consolidated supervision ;

“*physical presence*” in relation to shell banks, means having structure and management located within a country and not merely the existence of a local agent or low level staff ;

“*Suspicious Transaction*” For the purpose of these Regulations, a suspicious transaction may be defined as one which is unusual because of its size, volume, type or pattern or otherwise suggestive of known money laundering or terrorist financing methods. It includes such a transaction that is inconsistent with a client’s known, legitimate business or personal activities or normal business for that type of account or that lacks an obvious economic rationale ;

“*Terrorist*” has the same meaning as in the Terrorism (Prevention) Act, 2011 (as amended) ;

“*Terrorist act*” has the same meaning as in the Terrorism (Prevention) Act, 2011 (as amended) ;

“*Terrorist financing*” has the same meaning as in the Terrorism (Prevention) Act, 2011 (as amended) ;

“*Terrorist financing offence*” has the same meaning as in the Terrorism (Prevention) Act, 2011 (as amended) ;

“*Terrorist organization*” has the same meaning as in the Terrorism (Prevention) Act, 2011 (as amended) ;

“*TPA*” – refers to the Terrorism (Prevention) Act ;

“*Trustees*” include paid professionals or companies or unpaid persons who hold the assets in a trust fund separate from their own assets. They invest and dispose of them in accordance with the settlor’s trust deed, taking account of any letter of wishes. There may also be a protector who may have power to veto the trustees’ proposals or remove them, a custodian trustee, who holds the assets to the order of the managing trustees;

“*Trust and Company Service providers*” refers to all persons or businesses that are not covered elsewhere under these Regulations and which as a business ; provide any of the following services to third parties ;

(a) acting as a formation agent of legal persons;

(b) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;

(c) providing a registered office;

(d) business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;

(e) acting as (or arranging for another person to act as) a trustee of an express trust; or

(f) acting as (or arranging for another person to act as) a nominee shareholder for another person ;

“*The FATF Recommendations*” means the Forty Recommendations on Anti-Money Laundering/Combating the Financing of Terrorism;

“*Those who finance terrorism*” means any person, group, undertaking or other entity that provides or collects, by any means, directly or indirectly, funds or other assets that may be used, in full or in part, to facilitate the commission of terrorist acts, or to any persons or entities acting on behalf of, or at the direction of such persons, groups, undertakings or other entities. This includes those who provide or collect funds or other assets with the intention that they shall be used or in the knowledge that they are to be used, in full or in part, in order to carry out terrorist acts;

“*Unique identifier*” means any unique combination of letters, numbers or symbols that refer to a specific originator;

Citation.

96. These Regulations may be cited as Securities and Exchange Commission (Capital Market Operators Anti-Money Laundering and Combating the Financing of Terrorism) Regulations, 2013.

MADE at Abuja on the 29th day of August, 2013.

ARUNMA OTEH
Director-General
Securities and Exchange Commission

EXPLANATORY NOTES

*(This note does not form part of these Regulations,
but is intended to explain its purports.)*

These Regulations provide protection to the capital market against fraud, reputational and other financial market risks faced by the Capital Market ; protects the integrity of the securities market against all forms of abuse, fraudulent and unfair trade practices, money laundering, proceeds of crime and financing of terrorism ; and guide the capital market operators in the implementation of Know Your Customer (KYC) and Customer Due Diligence (CDD) requirements for the capital market.