OVERVIEW OF RELEVANT ANTI-MONEY LAUNDERING AND COMBATING FINANCING OF TERRORISM (AML/CFT) LAWS AND REGULATIONS FOR SECURITIES SECTOR

JULY 2016

EDITION 1
OVERVIEW OF RELEVANT AML/CFT LAWS AND REGULATIONS FOR SECURITIES SECTOR

Disclaimer: This review aims to bring the attention of the operator to its AML compliance obligations. This is a free contribution for information and enlightenment purposes and should not be taken as the complete law; act, regulations or directives as some sections or parts have been expunged for clarity and relevancy to your sector. While we acknowledge the benefits of highlighting the key points to relevant sections, users are advised to make additional reference to the complete AML/CFT laws before taking decisive steps or actions on behalf of their organization.

Introduction: According to hierarchy, the anti-money laundering law (Act) is superior to the regulations being that an Act is approved by parliament to address national matters while a regulation is approved by a regulator or a minister to address issues related to that particular sector. In other words, all legal instruments of authority like, policies, circulars, guidelines or directives etc, cannot be superior to the Act; they all must draw power or purpose of direction from the Act. The Act and regulations have similarities being that the regulations give a more detailed explanation of the Act, example is, the ML Act and SEC AML regulations.

The laws reviewed here are the Money Laundering Prohibition Act, Terrorism Prevention Act, Terrorism Regulation and Securities & Exchange Commission (SEC) AML/CFT Regulations. Some of the relevant sections of the Terrorism Act were explained before the Terrorism regulations. While for Money laundering, sections of the Act and regulations were explained one after the other. The sections of the Act are highlighted in Yellow while those of the regulations in fluorescent Green.
TERRORISM (PREVENTION) (AMENDMENT) ACT, 2013

This Act amends the Terrorism (Prevention) Act No. 10, 2011, and makes provision for extra-territorial application of the Act and strengthens terrorist financing offences; and for related matters. ENACTED by the National Assembly of the Federal Republic of Nigeria

NATIONAL COORDINATING BODIES— "Refers to law enforcement agencies responsibilities or powers, with the coordinating body being Office of the National Security Adviser (ONSA)".

1A. (1) The Office of the National Security Adviser (in this Act referred to as “ONSA”) shall be coordinating body for all security and enforcement agencies under this Act and shall -

(a) provide support to all relevant security, intelligence, law enforcement agencies and military services to prevent and combat acts of terrorism in Nigeria;
(b) ensure the effective formulation and National Coordinating Bodies implementation of a comprehensive counterterrorism strategy for Nigeria;
(c) build capacity for the effective discharge of the functions of all relevant security, intelligence, law enforcement and military services under this Act or any other law on terrorism in Nigeria; and
(d) do such other acts or things that are necessary for the effective performance of the functions of the relevant security and enforcement agencies under this Act.
(2) The Attorney-General of the Federation shall be the authority for the effective implementation and administration of this Act and shall strengthen and enhance the existing legal framework to ensure -

(a) conformity of Nigeria’s counter-terrorism laws and policies with international standards and United Nations Conventions on Terrorism;
(b) maintain international co-operation required for preventing and combating international acts of terrorism; and
(c) the effective prosecution of terrorism matters.

(5) Subject to the provisions of this Act, the law enforcement agencies shall have powers to -

(a) Investigate whether any person or entity has directly or indirectly committed an act of terrorism, is about to commit an act of terrorism or has been involved in an act of terrorism under this Act or under any other law;
(b) Investigate, arrest and provide evidence for the prosecution of offenders under this Act or any other law on terrorism in Nigeria;
(c) seize, freeze or maintain custody over terrorist property or fund for the purpose of investigation, prosecution or recovery of any property or fund which the law enforcement and security agencies reasonably believe to have been involved in or used in the perpetration of terrorist activities in Nigeria or outside Nigeria;
(d) seal up premises upon reasonable suspicion of such premises being involved with or being used in connection with acts of terrorism;
(e) adopt measures to identify, trace, freeze, seize terrorist properties as required by the law and seek for the confiscation of proceeds
derived from terrorist activities whether situated within or outside Nigeria;

(h) request or demand for, and obtain from any person, agency or organization, information, including any report or data that may be relevant to its functions; and

**FINANCING OF TERRORISM**

13(1) any person or body corporate, who, in or outside Nigeria -

(a) solicits, acquires, provides, collects, receives, possesses or makes available funds, property or other services by any means, whether legitimate or otherwise, to -

(i) terrorist organisation, or

(ii) individual terrorist, directly or indirectly, willingly with the unlawful intention or knowledge or having reasonable grounds to believe that such funds or property will be used in full or in part in order to commit or facilitate an offence under this Act or in breach of the provisions of this Act,

(b) attempts to do any of the acts specified in paragraph (a) of this subsection, and

(c) possesses funds with the unlawful intention that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act by terrorists or terrorist groups, commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than ten years and not more than life imprisonment.

(2) Any person who knowingly enters into or becomes involved, participates as an accomplice, organizes or directs others in an arrangement -
(a) which facilitates the acquisition, retention or control by or on behalf of another person of terrorist fund by concealment, removal out of jurisdiction, transfer to a nominee or in any other way, or (b) as a result of which funds or other property is to be made available for the purpose of terrorism or for the benefit of - (i) terrorist individual, (ii) terrorist organization, or (iii) proscribed organization, commits an offence under this Act is liable on conviction to life imprisonment.

(3) For an act to constitute an offence under this section, it is not necessary that the funds or property were actually used to commit any offence of terrorism.

(4) An offence under this section shall apply, regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which -

(a) the terrorist, terrorist group or proscribed organisation is located; or 

(b) the terrorist act occurred or is planned to occur.

(5) Where an offence is committed by a corporate body under this section, it is on conviction liable to a fine of not less than N100,000,000, in addition to -

(a) the prosecution of the principal officers of the corporate body who, on conviction are liable to imprisonment for a term of not less than ten years; or 

(b) the winding-up of the corporate body and prohibition from its reconstitution or incorporation under any form or guise”

14. Obligation to report suspicious transaction relating to terrorism.
(1) A financial institution or designated non-financial institution shall, immediately but not more than 72 hours, forward reports of suspicious transactions relating to terrorism to the Financial Intelligence Unit which shall process such information and forward it to the relevant law enforcement agency where they have sufficient reasons to suspect that the funds—
   (a) are derived from legal or illegal sources but are intended to be used for any act of terrorism;
   (b) are proceeds of a crime related to terrorist financing; or
   (c) belong to a person, entity or organization considered as terrorist.

(2) A financial institution or designated non-financial institution is not liable for violation of the confidentiality rules for every lawful action taken in furtherance of its obligations under subsection (1) of this section.

(3) The details of a report sent by the institution or designated non-financial institution shall not be disclosed by the institution or any of their officers to any other person.

(4) Any person who commits an offence under this Act is liable on conviction to a minimum fine of N10,000,000.00 or a term of imprisonment of not less than 5 years.

(5) Where a breach of sub-section (1) of this section occurs and it is shown that the breach is not deliberate, the Financial Intelligence Unit shall impose such administrative sanctions as it may deem necessary.

(6) Where the institution continues with the breach, it shall, on conviction, be liable to a minimum fine of 20,000,000.00 or imprisonment term of not less than ten years for the principal officers of the institution.
OBSTRUCTION OF ANY OFFICER OF A LAW ENFORCEMENT OR SECURITY AGENCY

(2) Any person who

(a) refuses any officer the relevant law enforcement or security agency access to any premises, or fails to submit to a search by a person authorized to search him under this Act,
(b) assaults, or obstructs any officer of the relevant law enforcement or security agency in the execution of his duty under this Act, or
(c) fails to produce or conceals or attempts to conceal from an officer of the relevant law enforcement or security agency, _any book, document, information storage system or article_ in relation to which such officer has reasonable grounds for suspecting or believing that an offence under this Act or any other law prohibiting terrorism has been or is being committed, or which is liable to seizure under this Act, _commits an offence and is liable on conviction to imprisonment for a term of not less than five years._

OFFENCES BY AN ENTITY

(2) Where an entity is convicted of an offence under this Act, it is liable to the forfeiture of any assets, funds or property used or intended to be used in the commission of the offence and the court may issue an order to windup the entity or withdraw the practice licence of the entity and its principal officers or both.
36. These Regulations may be cited as the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013.

**NIGERIA SANCTIONS COMMITTEE:** “refers to the Committee responsible for providing general policy guidelines for the implementation of the provisions of the Terrorism Prevention Act and Regulations, advising the Attorney-General on the effective implementation of the United Nations Security Council Resolution (UNSCR).”

**CONSTITUTION OF THE NIGERIA SANCTIONS COMMITTEE**

4.—(1) There shall be constituted the Nigeria Sanctions Committee (“Committee”) which shall comprise of—

(a) the Attorney-General as Chairman,

(b) the following members or their representatives not below the rank of a Director or its equivalent—

(i) Minister, Ministry of Foreign Affairs,
(ii) National Security Adviser,
(iii) Director-General, State Security Service,
(iv) Governor Central Bank of Nigeria,
(v) Inspector-General of Police,
(vi) Director-General, National Intelligence Agency,
(c) a representative of the Chief of Defence Staff, and
(d) Director, Nigeria Financial Intelligence Unit (NFIU), who shall be the Secretary to the Committee,
(e) any other relevant person or institution that the President may incorporate into the Committee, from time to time.

(2) The Committee shall formulate and provide general policy guidelines for the implementation of the provisions of the Act and these Regulations and shall advice the Attorney-General on the effective implementation of the United Nations Security Council Resolutions.

5.—(1) Whenever the Ministry of Foreign Affairs receives Notice of United Nations list of designated persons or entities, the list shall be forwarded to the Attorney-General immediately.

(2) The Attorney-General shall without delay direct the dissemination of the list received from the United Nations.

(3) The list shall be added immediately to the Nigeria list and forwarded to all relevant authorities for immediate dissemination and action.

(4) Where Nigeria proposes an individual to be added to the United Nations Consolidated List, the President shall on the recommendation of the Nigeria Sanctions Committee declare a person or entity to be a suspected international terrorist or international terrorist group respectively; and the evidential criteria to be considered by the Nigeria Sanctions Committee under this regulation is as described in paragraphs 19 and 20 of the Schedule to these Regulations.

(5) Upon such a declaration, the Attorney-General through the Ministry of Foreign Affairs shall forward the list of proposed designated persons to the relevant UN Sanctions Committee stating the reasons for the designation.

(6) The list of designated persons shall be added to the Nigeria list and forwarded to all relevant institutions for immediate dissemination and action.

6.—(1) Where a person, group or entity has been designated by a foreign country or third party as an international terrorist or international terrorist group or the person is listed as a person involved in terrorist acts in any of the instruments of the African Union or Economic Community of West African States or any other organizations as the President may approve, the Nigerian Sanctions Committee on the receipt of the Notice shall—
(10) The Attorney-General shall include the names of the Individuals or entities on the United Nations Consolidated List in the Nigeria List.

**PART III—FREEZING PROCEDURE AND REFERENCE TO LISTS**

7.—(1) The funds or other economic resources owned, held or controlled, directly or indirectly by a designated person whose names and other details are on the Lists shall be frozen.

(2) Freezing of funds shall be without prejudice to the rights of third parties acting in good faith.

(3) For the purpose of sub-regulation (1) of this regulation, in determining whether funds are controlled by a designated person, the fact that such funds are held in the name of an associate or relation is immaterial.

(4) All funds and other economic resources frozen under this regulation shall be recorded against the names of the owners and beneficial owners for proper management.

(5) Subject to the provisions of these Regulations—

(a) frozen funds under Resolution 1267 shall be held indefinitely and the designee is prohibited from assessing such funds or be provided with financial services without the approval of the United Nations Security Council Sanctions Committee; and

(b) frozen funds under Resolution 1373 shall not be released without authorization from the Nigeria Sanctions Committee and the designated persons shall be prohibited from assessing funds or financial services as long as they remain designated under the Nigeria List.

8.—(1) With regards to the UN Consolidated Lists, the freezing of all assets of persons or entities designated by the UN Sanctions Committee shall take place immediately the Attorney-General disseminates the list.

(2) The freezing of funds of all persons or entities designated by the President with regards to the UNSCR 1373 shall take place immediately.

(3) The Attorney-General shall, circulate list of designated persons to the NFIU, financial sector regulators and relevant law enforcement agencies vide electronic and surface mail, directing them to identify funds and other assets of the listed individuals or entities in institutions under their supervision.

(4) The NFIU, financial sector regulators and relevant law enforcement agencies shall immediately or without delay, on the receipt of the list from the Attorney-General request for feedback from all relevant institutions and shall report back to the Attorney-General on the identified funds or assets belonging to the listed individuals, entities or other related persons and where no such funds or assets are identified, a nil report shall be rendered to the Attorney-General.

(5) Where terrorist assets have been identified, the Attorney-General or his representative shall thereafter apply ex-parte to a court of competent jurisdiction.
to obtain a freezing Order and an order prohibiting any person from disposing of, or otherwise deal with any interest in funds or assets specified in the order otherwise than in the manner specified in the order.

(6) Actions taken under the freezing order shall be communicated by the Attorney-General or his representative to the NFIU, the financial sector regulators and law enforcement agencies.

(7) The actions taken under the freezing order shall also be communicated by the Attorney-General through the Ministry of Foreign Affairs to the relevant United Nations Sanctions Committee or to the foreign country or any other third party from where the request to designate emanated from.

(8) The Nigeria Sanctions Committee shall monitor the enforcement of the freezing order to ensure compliance by law enforcement agencies, regulators and reporting institutions and shall provide quarterly report to the President.

9.—(1) Any Financial Institution and Designated Non-Financial Institution, Law Enforcement and Security Agencies (in these Regulations referred to as “the relevant Institutions”) shall review the UN Consolidated List and the Nigeria List prior to conducting any transaction, undertaking any financial services or entering into any relationship with any person or entity to ascertain whether or not the name of such a person or entity is on the Lists.

(2) Where the name of a person or an entity is confirmed to be on the Lists, the relevant institution shall block the funds or any other economic resources, or financial services, identified as belonging to or connected with the person or entity on the Lists and shall ensure that the accounts, properties or assets is not operated and that no financial services are provided to the designated persons or entities and thereafter forward to the Nigeria Financial Intelligence Unit (“NFIU”) a “Suspicious Transaction Report” including reports or information on all actions taken to freeze the funds and other economic resources and the NFIU shall in turn make a report to the Attorney-General.

PART IV—FUNDS HELD BY DESIGNATED PERSONS

10.—(1) A person shall not deal with funds or other economic resources; owned, held or controlled directly or indirectly by a designated person save as provided for under these Regulations.

(2) A person contravenes the provision of sub-regulation (1) of this regulation where he deals with the funds or other economic resources—

(i) knowingly ; or

(ii) having reasonable cause to suspect, that the funds or economic resources were owned, held or controlled by a designated person.

(3) In this regulation, a “person” includes—
(a) a customer, staff, associate or affiliate of the relevant Institution or any person or entity connected with the designated person;

(b) a customer, staff, associate or affiliate of the relevant Institution at any time in the period of 5 years immediately preceding the relevant designation being made; or

(c) any person with whom the Institution has had dealings in the course of its business during the period referred to in paragraph (b) of this sub-regulation.

11.—(1) Where an Institution makes a report to the NFIU under sub-regulations (2) of Regulation 9 and sub-regulation (2) of this Regulation, it shall state—

(a) the information or other matter on which the knowledge or suspicion is based;

(b) any information it holds about the person by which the person can be identified; and

(c) the nature and amount or quantity of any funds or economic resources held by the Institution for the person at any time up to 5 years prior to the designation being made.

(2) Where an Institution credits a frozen account in accordance with Regulation 16 of these Regulations, it shall promptly report the transaction or financial services provided to the NFIU which shall inform the Attorney-General immediately.

(3) An Institution that fails to comply with the requirements of this regulation commits an offence.

(4) Where a breach of this regulation occurs and it is shown that the breach is not deliberate, the Nigerian Financial Intelligence Unit shall impose such administrative sanctions as it may deem necessary.

(5) In this Part, “deal with” means—

(a) In relation to funds—

(i) use, alter, move, allow access to or transfer;

(ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

(iii) make any other change that would enable use, including portfolio management; and

(b) in relation to other economic resources exchanged or used to obtain funds, goods, properties or services in any way, including by selling, hiring or mortgaging the resources.
PART V—MAKING FUNDS, FINANCIAL SERVICES OR ECONOMIC RESOURCES AVAILABLE TO DESIGNATED PERSONS

12.—(1) A person shall not make available, directly or indirectly, funds, financial services or other economic resources to or for the benefit of a designated person or entity.

(2) A person who contravenes the provisions of sub-regulation (1) of this regulation commits an offence where—

(a) in the case of funds or financial services, that person knows or ought to have reasonably suspected that the funds or financial services were being made available directly or indirectly, to or for the benefit of a designated person; or

(b) in the case of other economic resources, that person knows or ought to have reasonably suspected that the—

(i) economic resources were being made available, directly or indirectly, to or for the benefit of a designated person; and

(ii) designated person would be likely to exchange the economic resources or use them in exchange for funds, goods or services.

13.—(1) It is an offence for a person to knowingly participate in activities the object or effect of which is, directly or indirectly to—

(a) circumvent the prohibition in sub-regulations (1) and (2) of regulation 12 of these Regulations; or

(b) enable or facilitate the contravention of the provisions of sub-regulations (1) and (2) of regulation 12 of these Regulations.

(2) A person upon being aware of a violation of the provisions of the sub-regulations (1) and (2) of regulation 12 of these Regulations shall immediately report the violation to the appropriate law enforcement agency which shall in turn transmit the report to the Attorney-General.

(3) It is an offence under these Regulations to warn or in any other way disclose to a designated person or owner or controller of the funds that are subject to the measures in Parts III and V of these Regulations about—

(a) the report that a person is required to make under sub-regulation (2) of this Regulation; or

(b) any action taken on the report or any other action taken by relevant government institutions pursuant to these Regulations and the Act.

PART VI—CONDITIONS AND PROCEDURE FOR UTILIZATION OF FROZEN FUNDS

14.—(1) The Attorney-General may, where necessary, approve the utilization of the frozen funds or any part thereof or of other economic resources—

(a) to meet the basic needs and expenses of a designated person or a person or entity under investigation whose funds have been frozen including the amounts required to meet expenditures on food, rental, medical needs and
PART VIII—INFORMATION AND REPORTING OBLIGATIONS

20.—(1) The Attorney-General or his representative shall circulate the updated Lists immediately upon receipt through electronic and surface mails to the relevant law enforcement agencies, regulatory and supervisory authorities, who shall cause same to be disseminated to reporting institutions immediately.

(2) Relevant Authorities shall disseminate and circulate the Nigeria List to all points of entry and exit from Nigeria to ensure that travel bans are effected on the listed individuals, groups or entities.

(3) The National Security Adviser shall institute measures to prevent the direct and indirect supply, sale and transfer from Nigeria of arms and related materials of all types, spare parts and technical advice, assistance or training related to military activities to designated individuals and entities named in the Lists.

(4) The Attorney-General shall issue guidelines for the purpose of effective implementation of the—

(a) freezing measures in respect of the funds or economic resources of designated person:

(b) prohibition and restriction on travel, visas and purchase of arms as required in the relevant United Nations Security Council Resolutions and in any subsequent Resolutions in respect of a designated person; and

(c) prohibition of transactions, provision of financial services or the supply of arms or the conduct of training for designated persons.

(5) The Attorney-General may, on request by any interested person, provide information as may be required on the procedure adopted by the Nigeria Sanctions Committee (including any review or deletion on the entries made in the UN Consolidated List or the Nigeria List.

(6) The Nigeria Sanctions Committee shall access information on UN designations and third parties designations on the relevant websites on a weekly basis and disseminate available information to relevant authorities.

27.—(1) A person who—

(a) without reasonable cause refuses or fails within the time and in the manner specified (or if no time has been specified, within a reasonable time) to comply with any request made under this Part;

(b) knowingly or recklessly gives any information or produces any document which is false in a material particular in response to such a request;

(c) with intent to evade the provisions of this Part, destroys, mutilates, defaces, conceals or removes any document; or

(d) otherwise willfully obstructs the Attorney-General in the exercise of his powers under this Part, commits an offence.

(2) Under this regulation, the phrase, “reasonable time” means 24 hours but not more than 72 hours” provided that the Attorney-General may in appropriate cases extend the period of time within which to comply with the provisions of this regulation.
30.—(1) A person who in the course of his duties, knows or is in possession of any information submitted or exchanged pursuant to the provisions of these Regulations, shall not disclose such information in any form whatsoever, including the disclosure of the source of the information except for the purpose of implementing these Regulations.
(2) The prohibition on disclosure in sub-regulation (1) of this regulation shall continue even after the termination of the duties of the person.

PART IX—Penalties and Sanctions

31.—(1) An offence may be committed under these Regulations by any person or entity—

(a) in Nigeria; or

(b) who is a Nigerian citizen or an entity registered in Nigeria but resident, visiting or located in another country.

(2) A person or entity who contravenes any of the provisions of these Regulations shall on conviction be liable to imprisonment for a maximum term of 5 years.

(3) Where an offence under these Regulations is committed by a designated terrorist group, every member of the group shall on conviction, be liable to imprisonment for a term of 5 years.

(4) In the case of a violation of the provisions of these Regulations by an Institution, entity or body corporate, the principal officers of the Institution, entity or body corporate shall on conviction, be liable to imprisonment for a term of not more than 5 years.

(5) Notwithstanding the provisions of sub-regulation (4) of this regulation, the violation of the provisions of these Regulations by an institution, person, entity or body corporate may result in administrative penalties to be imposed by the regulators in the sum provided in the Money Laundering (Prohibition) Act, 2011, (as amended), Terrorism (Prevention Act), 2011 (as amended) and any other applicable Regulations issued by the competent authorities.

(6) Compliance with these Regulations shall be monitored by the Nigeria Financial Intelligence Unit in collaboration with the relevant regulatory and supervisory authorities pursuant to the Money Laundering (Prohibition) Act, 2011 (as amended) and Terrorism (Prevention) Act, 2011 (as amended).

32.—(1) In the case of repeated violations of any of the provisions of these Regulations by an Institution, entity or body corporate, the Attorney-General shall apply administrative sanctions as may be deemed appropriate in furtherance of the Terrorism (Prevention) Act, 2011 (as amended) and the Money Laundering (Prohibition) Act, 2011 (as amended).

(2) Where any reporting institution is in breach of any of the provisions of these Regulations and it is shown that the breach is not deliberate, the Attorney-General or the Nigerian Financial Intelligence Unit shall impose such administrative sanctions as may be deemed necessary and the sanction shall be enforced in collaboration with the relevant regulatory or supervisory authority of the reporting institution.
GUIDELINES FOR THE IMPLEMENTATION OF THE UNSCR ON TERRORISM AND TERRORISM FINANCING

Preamble

1. These Guidelines provide practical guidance on the steps to be taken by the Nigerian authorities for the effective implementation of the United Nations Security Resolutions on terrorism and terrorists financing in line with relevant Financial Action Task Force (“FATF”) Recommendations.

2. The FATF requires countries to implement measures to freeze and where appropriate, seize without delay, assets of terrorists, those who finance terrorism and terrorist organizations in accordance to relevant UNSC Resolutions.

3. Taking cognizance that both UNSCRs 1267 and 1373 were adopted on the basis of Chapter VII of the United Nations Charter since the subject matter the resolutions cover are deemed a threat to international peace and security, the Nigerian authorities have drawn up these Guidelines to aid both government institutions and reporting entities in the effective implementation of UNSCRs 1267, 1373 and successor resolutions.

Effective Implementation of UNSCR 1267

4. On receipt of the UN Consolidated Sanction List against Al-Qaida and the Taliban, the Ministry of Foreign affairs shall cause an immediate dispatch of the said list to the Attorney-General of the Federation for immediate action.

5. On receipt of the UN Consolidated Sanction List, the Attorney-General of the Federation shall immediately circulate the List to relevant regulators and supervisory institutions.

6. On receipt of the UN Consolidated Sanction List, the relevant regulators and supervisory institutions shall immediately circulate the List to reporting entities; and

(a) requesting the reporting entities to make reference to the UN Sanction List prior to conducting any transaction or entering into any relationship with any person or entity to ascertain whether or not the name of such a person or entity is on the list; and

(b) impose administrative sanctions against a reporting entity who is in breach of immediate freezing obligation or in breach of the rules against tipping off.

7. On receipt of the UN Consolidated Sanction List, the reporting entities shall—

(a) run the list on their data base and confirm the existence or otherwise of any listed individual, groups or entities;
(b) check for associated persons and entities where there are any of the listed names or entities in their database of customers;

(c) immediately freeze all funds and other assets associated to such listed individuals and entities, if any, without prior notice to targets; and

(d) immediately file an STR to the NFIU for further analysis on the financial activities of such an individual or entity.

8. The NFIU shall, on receipt of any STR arising from the UN Sanctions List, cause prompt analysis into all financial activities of such individual or entities and furnish relevant security, intelligence and law enforcement Agencies with the resultant financial intelligence report on the persons or entities concerned.

9. Relevant security and intelligence Agencies shall take urgent and effective actions to investigate and where appropriate, confiscate all assets or economic resources of persons or entities concerned in Nigeria.

10. Tracing of assets shall not be limited to listed individuals and entities, but shall include corporate entities where such listed individuals or entities have interests.

11. The Nigeria authorities shall thereafter, update the UN Sanctions Committee on 1267 of actions taken including any application for de-freezing by a listed individual or entity.

Effective Implementation of UNSCR 1373

12. Taking into consideration countries’ obligations under the United Nations Resolutions and the FATF Requirements, Nigeria as a country has criminalized financing of terrorism and has put measures in place to freeze without delay the funds and other financial assets or economic resources of persons who commit, attempted to commit terrorist acts or participate in or facilitate the commission of terrorist acts.

13. The Nigeria Sanctions Committee shall provide advice on the process of listing and de-listing of names of persons, groups or and entities in the Nigeria Sanction List.

14. The Attorney-General shall circulate the List to Regulatory Authorities for onward dissemination to reporting entities.

15. Regulatory Authorities shall on receipt of the Nigeria List—

(a) disseminate the List to reporting entities;

(b) request a freezing without delay of funds held by such individuals, entities and associated persons; and

(c) impose administrative sanctions against a reporting entity who is in breach of immediate freezing obligation and rules against tipping off.

16. The reporting entities shall, on receipt of the Nigeria Sanction List,
(a) cause an immediate denial of banking and other financial services to such listed individuals and entities;

(b) immediately file an STR to the NFIU for further analysis on the financial activities of such an individual or entity; and

(c) report all cases of name matching in financial transactions prior to or after receipt of the List as an STR to the NFIU.

17. The NFIU shall on receipt of any STR arising from the Nigeria Sanction List, cause prompt analysis into all financial activities of such individuals or entities and furnish relevant security and intelligence services with resultant financial intelligence report.

18. The Attorney-General shall under the advice of the Nigeria Sanctions Committee:

(a) take steps to facilitate the listing and de-listing of individuals and entities under the Nigeria List;

(b) examine and give effect to the actions initiated under the freezing mechanisms of other countries by adopting such designated individuals and entities of other countries in the Nigerian list; and

(c) escalate the Nigeria List to both the UN and other countries through the Ministry of Foreign Affairs.

19. The criteria to be considered in reviewing and designating persons to be included on the UN Consolidated Lists (1267 and 1989) are if—

(i) "any person or entity is participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, or in support of; supplying, selling or transferring arms and related materials to; recruiting for; or otherwise supporting acts or activities of those designated and other individuals, groups, undertakings and entities associated with the Al-Qaida or any cell, affiliate, splinter group or derivative thereof, or

(ii) any undertaking owned or controlled, directly or indirectly, by any person or entity designated under 1267 and 1989, or by persons acting on their behalf or at their direction.

20. With regards to 1988 Sanctions List, the criteria shall be if—

(i) any person or entity is participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, or in support of; supplying, selling or transferring arms and related materials to; recruiting for; or otherwise supporting acts or activities of those designated and other individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan; or
(ii) any undertaking owned or controlled, directly or indirectly, by any person or entity designated under 1267 and 1988, or by persons acting on their behalf or at their direction.

Made at Abuja this 29th day of August, 2013.

Mohammed Bello Adoke, SAN, CFR
Honourable Attorney-General of the Federation
and Minister of Justice

Explanatory Note
(This Note does not form part of the above Regulations but is intended to explain its purport)

These Regulations prescribe the procedure for the freezing of funds, financial assets or other economic resources of any suspected terrorist, international terrorist or an international terrorist group, the conditions and procedure for utilization of frozen funds, or economic resources and constituted the Nigeria Sanctions Committee for the purpose of proposing and designating persons and entities as terrorists within the framework of the Nigeria legal regime.
MONEY LAUNDERING (PROHIBITION) ACT, 2011
(AS AMENDED)
(Act No. 11, 2011 and Act No. 1, 2012)

AN ACT TO REPEAL THE MONEY LAUNDERING (PROHIBITION) ACT 2004 AND ENACT THE MONEY LAUNDERING (PROHIBITION ACT, 2011 TO ENHANCE THE SCOPE OF MONEY LAUNDERING OFFENCES AND CUSTOMER DUE DILIGENCE MEASURES, AND FOR RELATED MATTERS

[3rd Day of June, 2011]

ENACTED by the National Assembly of the Federal Republic of Nigeria as

AND

INVESTMENTS AND SECURITIES ACT, 2007
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
PROHIBITION OF MONEY LAUNDERING

LIMITATION TO MAKE OR ACCEPT CASH PAYMENT:

1. No person or body corporate shall, except in a transaction through a Financial Institution, make or accept cash payment of a sum exceeding—
   (a) ₦5,000,000.00 or its equivalent, in the case of an individual; or
   (b) ₦10,000,000.00 or its equivalent, in the case of a body corporate.

DUTY TO REPORT INTERNATIONAL TRANSFER OF FUNDS OR SECURITIES

2.—(1) A transfer to or from a foreign country of funds or securities by a person or body corporate including a Money Service Business of a sum exceeding US$10,000 or its equivalent shall be reported to the Central Bank of Nigeria, Securities and Exchange Commission or the Commission in writing within 7 days from the date of the transaction.

   (2) A report made under subsection (1) of this section shall indicate the nature and amount of the transfer, the names and addresses of the sender and the receiver of the funds or securities.

IDENTIFICATION OF CUSTOMERS

3.—(1) A Financial Institution and a Designated Non-Financial Institution shall—
   (a) identify a customer, whether permanent or occasional, natural or legal person or any other form of legal arrangements, using identification documents as may be prescribed in any relevant regulation;
   (b) verify the identity of that customer using reliable, independent source documents, data or information; and
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) ; Secrecy and confidentiality laws.

(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.
WHEN TO CONDUCT CDD MEASURES

(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

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.

APPLICATION OF CDD TO EXISTING CLIENTS

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.

(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.

ONGOING CDD

(3) Financial Institutions or Designated Non-Financial Institutions shall—

(a) conduct ongoing due diligence on a business relationship ;
(b) scrutinise transactions undertaken during the course of the relationship to ensure that the transactions are consistent with the institution’s knowledge of the customer, their business and risk profile and where necessary, the source of funds ; and
(c) ensure that documents, data or information collected under the customer due diligence process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.
ON-GOING DUE DILIGENCE

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

(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.

(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.

**RISK, CROSS-BORDER**

(4) Financial Institutions and Designated Non-Financial Institutions shall take enhanced measures to manage and mitigate the risks and—

(a) where higher risks are identified, take enhanced measures to manage and mitigate the risks;

(b) where lower risks are identified, take simplified measures to manage and mitigate the risks, provided that simplified customer due diligent measures are not permitted whenever there is suspicion of money laundering or terrorist financing;

(c) in the case of cross-border correspondent banking and other similar relationships and in addition to carrying out customer due diligence measures—

(i) gather sufficient information about a respondent institution;

(ii) assess the respondent institution’s anti-money laundering and combating the financing of terrorism controls;

(iii) document respective responsibilities of each institution in this regard; and

(iv) obtain management approval before establishing new correspondent relationships.

**CORRESPONDENT RELATIONSHIPS WITH HIGH RISK FOREIGN BANKS**

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.
(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.

PEP TRANSACTIONS

(7) Where the customer is a politically exposed person, the Financial Institution or Designated Non-Financial Institution shall in addition to the requirements of subsection (1) and (2) of this section—

(a) put in place appropriate risk management systems; and

(b) obtain senior management approval before establishing and during any business relationship with the politically exposed person.

DETERMINATION OF A POLITICALLY EXPOSED PERSON

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).
(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.

**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.
LOW RISK CATEGORIES OF CLIENTS

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

(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, superannuation 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. Lower Risk Categories of Clients

(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.
SUSPICIOUS TRANSACTION REPORTING (STR)

6.—(1) Where a transaction—
   (a) involves a frequency which is unjustifiable or unreasonable;
   (b) is surrounded by conditions of unusual or unjustified complexity;
   (c) appears to have no economic justification or lawful objective; or
   (d) in the opinion of the Financial Institution or Designated Non-Financial
       Institution involves terrorist financing or is inconsistent with the known
       transaction pattern of the account or business relationship;

   that transaction shall be deemed to be suspicious and the Financial Institution
   involved in such transaction shall seek information from the customer as to
   the origin and destination of the fund, the aim of the transaction and the identity
   of the beneficiary.

COMPLEX AND UNUSUAL LARGE TRANSACTIONS

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.

   (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;
   (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.
(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.

(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;

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

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.
SUSPICIOUS TRANSACTION REPORTING (STR)

HOW AND WHEN TO FILE STR

(2) A Financial Institution or Designated Non-Financial Institution shall immediately after the transaction referred to in sub-section (1) of this section—

(a) draw up a written report containing all relevant information on the matters mentioned in subsection (1) of this section together with the identity of the principal and where applicable, of the beneficiary or beneficiaries;

(b) take appropriate action to prevent the laundering of the proceeds of a crime or an illegal act; and

(c) report any suspicious transaction and actions taken to the Economic and Financial Crimes Commission.

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 “red flag” 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.

PRESERVATION OF RECORDS

7. A Financial Institution and Designated Non-Financial Institution shall preserve and keep at the disposal of the authorities specified in section 8 of this Act—

(a) the record of a customer’s identification for a period of at least 5 years after the closure of the account or the severance of relations with the customer; and

(b) the record and other related information of a transaction carried out by a customer and the report provided for in section 6 of this Act shall be preserved, for a period of at least 5 years after carrying out the transaction or making of the report as the case may be.

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 Reliance on intermediaries and third
parties on CDD measures. (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.

INTERNAL PROCEDURES, POLICIES AND CONTROLS

9.—(1) Every Financial Institution and Designated Non-Financial Institution shall develop programmes to combat the laundering of the proceeds of a crime or other illegal acts, and these shall include—

(a) the designation of compliance officers at management level at its headquarters and at every branch and local office;
(b) regular training programmes for its employees;
(c) the centralization of the information collected; and
(d) the establishment of an internal audit unit to ensure compliance with and effectiveness of the measures taken to enforce the provisions of this Act.

INTERNAL PROCEDURES, POLICIES AND CONTROLS

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.
(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 Complex and unusual large transactions.
(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.

GENERAL GUIDELINES ON INSTITUTIONAL POLICY
3. A Capital Market Operator shall—
   (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) and Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations 2013, including related laws and Regulations.

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 offence; (b) the nature of money laundering; (c) Money laundering ‘red flags’ 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.

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.

**FAILURE TO TAKE MEASURES UNDER SECTION 9 - INTERNAL PROCEDURES, POLICIES AND CONTROLS**

(2) Notwithstanding the provision of this Act or any other Law, the Central Bank of Nigeria, Securities and Exchange Commission, National Insurance Commission or any other relevant regulatory authority may—

(a) impose a penalty of not less than ₦1,000,000 for capital brokerage and other financial institutions and ₦5,000,000 in the case of a Bank; and

(b) in addition, suspend any licence issued to the Financial Institution or Designated Non-Financial Institution, for failure to comply with the provisions of subsection (1) of this section.

**MANDATORY DISCLOSURE BY FINANCIAL INSTITUTIONS**

10.—(1) Notwithstanding anything to the contrary in any other law or regulation, a Financial Institution or Designated Non-Financial Institution shall report to the Economic and Financial Crimes Commission in writing within 7 days, any single transaction, lodgement or transfer of funds in excess of—

(a) ₦5,000,000 or its equivalent, in the case of an individual; or

(b) ₦10,000,000 or its equivalent, in the case of a body corporate.
TRANSACTIONS TO BE REPORTED

22 (5) A Capital Market Operator shall report all securities transactions in any currency above the sum of N5,000,000 for individuals and N10,000,000 for corporate persons to the NFIU.

PROHIBITION OF NUMBERED OR ANONYMOUS ACCOUNTS, ACCOUNTS IN FICTITIOUS NAMES AND SHELL BANKS

11.—(1) The opening or maintaining of numbered or anonymous accounts by any person, Financial Institution or body corporate is prohibited.

(2) A person shall not establish or operate a shell bank in Nigeria.

(3) A financial institution shall—

(a) not enter into or continue correspondent banking relationships with shell banks; and

(b) satisfy itself that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

SECRECY AND CONFIDENTIALITY LAWS

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.
ANONYMOUS AND NUMBERED ACCOUNT

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.

LIABILITY OF DIRECTORS, EMPLOYEES OF FINANCIAL INSTITUTIONS

12. Where funds are blocked under subsection (7) of section 6 of this Act and there is evidence of conspiracy with the owner of the funds, the Financial Institution or the Designated Non-Financial Institution involved shall not be relieved of liability under this Act and criminal proceedings for all offences arising there from, may be brought against its director and employees involved in the conspiracy.

SURVEILLANCE OF BANK ACCOUNTS

13.—(1) The Commission, Agency, Central Bank of Nigeria or other regulatory authorities pursuant to an order of the Federal High Court obtained upon an ex-parte application supported by a sworn declaration made by the Chairman of the Commission or an authorized officer of the Central Bank of Nigeria or other regulatory authorities justifying the request, may in order to identify and locate proceeds, properties, objects or other things related to the commission of an offence under this Act, the Economic and Financial Crimes Commission (Establishment) Act or any other law—

(a) place any bank account or any other account comparable to a bank account under surveillance;

(b) obtain access to any suspected computer system;

(c) obtain communication of any authentic instrument or private contract, together with all bank, financial and commercial records, when the account, the telephone line or computer system is used by any person suspected of taking part in a transaction involving the proceeds of a financial or other crime.
Part II – OFFENCES

MONEY LAUNDERING OFFENCES

15.—(1) Money laundering is prohibited in Nigeria.

(2) Any person or body corporate, in or outside Nigeria, who directly or indirectly—

(a) conceals or disguises the origin of;
(b) converts or transfers;
(c) removes from the jurisdiction; or
(d) acquires, uses, retains or takes possession or control of;

any fund or property, knowingly or reasonably ought to have known that such fund or property is, or forms part of the proceeds of an unlawful act;

commits an offence of money laundering under this Act.

OTHER OFFENCES

16.—(1) Without prejudice to the penalties provided under section 15 of this Act, any person who—

(a) being a director or employee of a Financial Institution warns or in any other way intimates the owner of the funds involved in the transaction referred to in section 6 of this Act about the report he is required to make or the action taken on it or who refrains from making the report as required;

(b) destroys or removes a register or record required to be kept under this Act;

(c) carries out or attempts under a false identity to carry out any of the transactions specified in sections 1 to 5 of this Act;

(d) makes or accepts cash payments exceeding the amount authorized under this Act;

(e) fails to report an international transfer of funds or securities required to be reported under this Act; or

(f) being a director or an employee of a Financial Institution or Designated Non-Financial Institution contravenes the provisions of sections 2, 3, 4, 5, 6, 7, 9, 10, 12, 13 or 14 of this Act,

commits an offence under this Act.
(2) A person who commits an offence under subsection (1) of this section—
(a) paragraph (a), is liable on conviction to imprisonment for a term of not less than 2 years or a fine of not less than ₦10,000,000; and
(b) paragraphs (b) — (f), is liable to imprisonment for a term of not less than 3 years or a fine of ₦10,000,000 or to both, in the case of individual and ₦25,000,000, in the case of a body corporate.

(3) A person found guilty of an offence under this section may also be banned indefinitely or for a period of 5 years from practicing the profession, which provided the opportunity for the offence to be committed.

RETENTION OF PROCEEDS OF A CRIMINAL CONDUCT

17. Any person who—
(a) conceals, removes from jurisdiction, transfers to nominees or otherwise retains the proceeds of a crime or an illegal act on behalf of another person knowing or suspecting that other person to be engaged in a criminal conduct or has benefited from a criminal conduct or conspiracy, aiding, etc.; or
(b) knowing that any property either in whole or in part directly or indirectly represents another person’s proceeds of a criminal conduct, acquires or uses that property or possession of it,

committed an offence under this Act and is liable on conviction to imprisonment for a term not less than 5 years or to a fine equivalent to 5 times the value of the proceeds of the criminal conduct or both such imprisonment and fine.

CONSPIRACY, AIDING AND ABETTING

18. A person who—
(a) conspires with, aids, abets or counsels any other person to commit an offence;
(b) attempts to commit or is an accessory to an act or offence; or
(c) incites, procures or induces any other person by any means whatsoever to commit an offence under this Act,

commits an offence and is liable on conviction to the same punishment as is prescribed for that offence under this Act.
OFFENCES BY A BODY CORPORATE

19. — (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed on the instigation or with the connivance of or attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate where applicable, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where a body corporate is convicted of an offence under this Act, the court may order that the body corporate shall thereupon and without any further

POWER TO DEMAND AND OBTAIN RECORDS

21. For the purpose of this Act, the Director of Investigation or an officer of the Ministry, Commission, or Agency duly authorized in that behalf may demand, obtain and inspect the books and records of the Financial Institution or Designated Non-Financial Institution to confirm compliance with the provisions of this Act.

OBSTRUCTION OF THE COMMISSION OR AUTHORIZED OFFICERS

22. A person who wilfully obstructs officers of the Ministry, the Commission, the Agency or any authorized officer in the exercise of the powers conferred on the Ministry, the Commission or the Agency by this Act commits an offence and is liable on conviction—

(a) in the case of an individual, to imprisonment for a term of not less than 2 years and not exceeding 3 years; and

(b) in the case of a financial institution or other body corporate, to a fine of N1,000,000.
MEANING OF TRANSACTION

“Transaction” means—

(a) acceptance of deposit and other repayable funds from the public;
(b) lending;

(c) financial leasing;
(d) money transmission service;
(e) issuing and managing means of payment (for example, credit and debit cards, cheques, travellers’ cheque and bankers’ drafts etc.);
(f) financial guarantees and commitment;
(g) trading for account of costumer (spot-forward, swaps, future options, etc.) in—
(i) money market instruments (cheques, bills of exchange, etc.);
(ii) foreign exchange;
(iii) exchange interest rate and index instruments;
(iv) transferable securities; and
(v) commodity futures trading;
(h) participation in capital markets activities and the provision of financial services related to such issues;
(i) individual and collective portfolio management;
(j) safekeeping and administration of cash or liquid securities on behalf of clients;
(k) life insurance and all other insurance related matters; and
(l) money changing.

FOR THE COMPLETE ANTI-MONEY LAUNDERING AND TERRORISM PREVENTION LAWS AND MORE, PLEASE GO TO www.glogconsult.com/resources

THANK YOU.