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**TERRORISM PREVENTION (FREEZING OF INTERNATIONAL
TERRORISTS FUNDS AND OTHER RELATED MEASURES)
REGULATIONS, 2011**



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S. I. 29 of 2011

TERRORISM PREVENTION (FREEZING OF INTERNATIONAL TERRORISTS FUNDS AND OTHER RELATED MEASURES) REGULATIONS, 2011

In the exercise of powers conferred by sub-section (6) of section 9 and section 39 of the Terrorism (Prevention) Act, 2011 ("the Act"), I, MOHAMMED BELLO ADOKE, SAN, the Attorney-General of the Federation and Minister of Justice, make the following Regulations :

[29th September, 2011]

Commence-
ment.

PART I—PREAMBLE, PURPOSE AND SCOPE

1.—(1) Nigeria being a member of the United Nations and in pursuit of its commitment to international peace and security as enunciated under the Charter of the United Nations has enacted the Terrorism (Prevention) Act, 2011 which authorizes the Attorney-General to make Regulations for the purpose of implementing the provisions of the Act and relevant United Nations Resolutions.

Preamble.

(2) The United Nations Security Council, by Resolutions 1267 (1999), 1333 (2000), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009) require all member States to freeze the assets, prevent the entry into or the transit through their territories and prevent the direct or indirect supply, sale and transfer of arms and military equipment with regard to any individual or entity associated with *Al-Qaida*, Usama bin Laden or the Taliban as designated by the Council's *Al-Qaida* and Taliban Sanctions Committee.

(3) By Resolution 1988 (2011), the United Nations Security Council split the *Al-Qaida* and Taliban sanctions regime into two groups—an *Al-Qaida* regime and a country-specific Afghanistan regime.

2.—(1) These Regulations—

Purpose.

(a) prescribe the procedure for the freezing of funds, financial assets or other economic resources of any suspected international terrorist or an international terrorist group (in these Regulations referred to as "designated person") ;

(b) stipulate the type of financial or other related services which may not be provided to a designated person ;

(c) prohibit the entry into or transit within Nigeria of a designated person ; and

(d) prohibit transactions or dealings for the supply of arms to or the conduct of training for designated persons.

3.—(1) The scope of application of these Regulations shall include :

Scope.

(a) the designated persons contained in the Consolidated List of the United Nations Sanctions Committee ('the UN Consolidated List') ;

(b) the designated persons contained in the List drawn up by Nigeria pursuant to the provisions of subsections (1)(a) and (c) or 4(a) and (c) of section 9 of the Act ('the Nigeria List') ; and

(c) any dealing or transaction concerning the designated person on the UN Consolidated List or on the Nigeria List (together referred to in these Regulations as 'the Lists').

(2) These Regulations extend to any person or entity notwithstanding any rights granted to or obligations imposed under any existing international agreement or contract made prior to the date of coming into force of these Regulations.

Preparation
and
modification
of Nigeria's
List by the
Attorney-
General.

4.—(1) Whenever the President declares that a person is a suspected international terrorist or declares a group to be an international terrorist group for reasons other than those provided for under subsections (1)(b) or (4)(b) of section 9 of the Act, the Attorney-General shall enter the name and other details of such a person or group in the Nigeria List.

(2) The Attorney-General may remove or amend the name of a person or group or any other relevant details under the Nigeria List whenever the President revokes or amends a declaration made under section 9 of the Act.

(3) The Attorney-General shall cause the Nigeria List, including any revision or amendment as may be made thereto from time to time, to be disseminated for the purpose of these Regulations.

PART II—FREEZING PROCEDURE

Freezing of
funds held by
a designated
person.

5.—(1) The funds or other economic resources owned, held or controlled, directly or indirectly by a designated person whose name 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.

Reference to
Lists by
Financial and
Designated
Non-
Financial
Institutions
in
transactions.

6.—(1) Any Financial and Designated Non-Financial Institution (in these Regulations referred to as "the Institution") shall refer to the UN Consolidated List and the Nigeria 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 Lists.

(2) Where the name of a person or of an entity is confirmed to be on the Lists, the Institution shall block the funds or any other economic resources identified as belonging to or connected with the person or entity on the Lists and shall ensure that the account is not operated 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.

7.—(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.

Dealing
with funds
held by a
designated
person.

(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 Institution or any person or entity connected with the designated person ;

(b) a customer, staff, associate or affiliate of the 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 sub-regulation (3) of this Regulation.

8.—(1) Where an Institution makes a report to the NFIU under sub-regulations (2) of Regulation 6 and sub-regulation (1) of this Regulation, it shall state :

Report by
an
Institution
to the NFIU.

(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 13 of these Regulations, it shall promptly report the transaction to the NFIU which shall inform the Attorney-General accordingly.

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

(4) 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 exchange or use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the resources.

PART III—PROHIBITION AGAINST MAKING FUNDS OR ECONOMIC RESOURCES AVAILABLE TO DESIGNATED PERSONS

Prohibition of making funds or economic resources available to designated persons.

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

(2) A person who contravenes the provisions of sub-regulation (1) of this Regulation commits an offence if :

(a) in the case of funds, that person knows or ought to have reasonably suspected that the funds 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.

Circumventing prohibitions, etc.

10.—(1) It is an offence for a person to participate knowingly and intentionally 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 9 of these Regulations ; or

(b) enable or facilitate the contravention of the provisions of sub-regulations (1) and (2) of Regulation 9 of these Regulations.

(2) A person upon being aware of a violation of the provisions of the sub regulations (1) and (2) of Regulation 9 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 intimate a designated person or owner or controller of the funds that are subject to the measures in Parts II and III 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 made pursuant to this Regulation.

PART IV—CONDITIONS AND PROCEDURE FOR UTILIZATION OF FROZEN FUNDS

Approval for usage of frozen funds.

11. The Attorney-General may, where necessary, approve the utilization of the frozen funds or any part thereof or of other economic resources for any of the following :

(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, real estate mortgage, medical needs, taxes, insurance premiums and such other general expenses as the Attorney-General may approve ;

(b) for reasonable professional fees and settlement of expenses, including legal services, bank and related charges ; and

(c) for any other exceptional services not provided for in paragraphs (a) and (b) of this Regulation.

12.—(1) An application to utilize monies from frozen funds shall be made to the Attorney-General by a designated person or his authorized representative with supporting documents.

Procedure
for
utilization
of frozen
funds.

(2) The Attorney-General shall consider the application and may grant, reduce or refuse the request made in the application as considered reasonable in the circumstance.

(3) In the case of a designated person on the UN Consolidated List, the Attorney-General shall inform the Sanctions Committee of his intention to approve the utilization of the frozen fund or any part thereof and where the Sanctions Committee fails to communicate its endorsement or rejection within 5 working days, the funds may be utilized as approved by the Attorney-General.

(4) The Institution or any other party in custody of the frozen funds shall be informed in writing to implement the approval and furnish a report to the Attorney-General of the action taken.

(5) A designated person or entity on either of the Lists or his representative is entitled to be informed of the approval or rejection of his application in writing.

13.—(1) Any sum of monies or funds accruing to the frozen account, including :

Receipt of
additional
funds into
frozen
accounts.

(a) interests or other earnings due on the account :

(b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account ; or

(c) funds transferred to the account,

shall be received and credited into the frozen account and shall constitute part of the frozen funds and the Institution shall file a report of the receipt of such additional funds with the NFIU which shall inform the Attorney-General accordingly.

(2) Monies or funds received or credited into a frozen account shall be subject to the prohibition and measures contained in Parts II and III of these Regulations.

(3) Where there is no existing account for the receipt of funds as provided under this Regulation, the Institution shall inform the Attorney-General for appropriate action to be taken in this respect.

(4) In this Regulation "frozen account" means funds or other economic resources :

(a) affected by the prohibitions and measures under Parts II and III of these Regulations ; and

(b) held in an account with an Institution by or under the control of a designated person.

Application
to defreeze
where funds
were frozen
in error.

14.—(1) Where funds or other economic resources were frozen as a result of similarity in names or wrong entries in the Lists or in the account of a person or entity being investigated, or as a result of any other error, the person affected may apply to the Attorney-General to defreeze the funds.

(2) Upon the receipt of the application referred to in sub-regulation (1) of this Regulation, the Attorney - General shall, where the application relates to :

(a) the UN Consolidated List, take a decision not later than 15 working days from the date of receipt after consultation with the Sanctions Committee ; or

(b) the Nigeria List, determine the application not later than 15 working days from the date of receipt of the application.

(3) The Attorney-General shall inform the applicant and the relevant authorities of any decision in writing.

PART V—INFORMATION AND REPORTING OBLIGATIONS

Dissemination
of Lists and
issuance of
guidelines
by the
Attorney-
General.

15.—(1) The Attorney-General shall periodically disseminate the updated Lists to the relevant authorities.

(2) The Attorney-General may 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 in the relevant Security Council Resolutions and in any subsequent Resolutions in respect of a designated person ;

(c) prohibition of transactions or dealings for the supply of arms to or the conduct of training for designated persons.

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

Information
on measures
taken
pursuant to
these
Regulations.

16.—(1) The Attorney-General shall upon the application of the freezing measures under these Regulations, inform in writing or in any other manner considered appropriate, a designated person of his inclusion in the Lists providing explanations and reasons for the inclusion.

(2) The Attorney-General shall inform a designated person about the possibility of—

(a) utilizing part of the frozen funds or other resources in accordance with the provisions of these Regulations ; and

(b) submitting complaints to the Attorney - General or the United Nations Ombudsman in accordance with the provision of Regulation 18 of these Regulations.

17.—(1) The Lists to which these Regulations apply shall comprise information relating to the designated person for the purpose of determining his identity.

Information
on the Lists.

(2) Information pertaining to a designated person shall include the—

- (a) name of the person, family and *pseudo* names and titles, if any ;
- (b) place and date of birth or if a company, the date of registration including the registration number ;
- (c) nationality or address of the registered office ;
- (d) sex ;
- (e) addresses ;
- (f) occupation or job ;
- (g) date of inclusion of name in the Lists ; and
- (h) any other information as may be considered relevant by the Attorney-General or approved by the Sanctions Committee.

18.—(1) A designated person who wishes to have his name deleted from the Lists may, in respect of the—

Application
for deletion
from Lists.

- (a) Nigeria List, submit an application to the Attorney-General ; or
- (b) UN Consolidated List, submit an application through the Attorney-General to the Ombudsman,

stating reasons for the application.

(2) Where the Attorney-General has proposed the inclusion of a name in the UN Consolidated List and the person bearing that name has applied to the Ombudsman for the deletion of his name from the UN Consolidated List, the Attorney-General may submit to the Ombudsman any additional information pertinent to the consideration of the application.

(3) Where the Ombudsman refers an application to the Attorney-General for comments, the Attorney-General shall within the time specified by the Ombudsman respond to the request stating reasons for the recommendation for inclusion in the UN Consolidated List.

(4) The Attorney-General may ask questions or request for any clarification from the applicant in addition to responding to other queries raised by the Ombudsman.

(5) Where the Attorney-General reasonably believes that a designated person is deceased or is no longer in existence, the Attorney-General shall in relation to the—

(a) Nigeria List, delete the name and other details of the designated person ;
or

(b) UN Consolidated List, request the Sanctions Committee to delete the name and other details of the designated person.

(6) The Attorney-General shall take necessary measures to ensure that names of heirs and beneficiaries of frozen funds are not on the Lists to the extent that such heirs and beneficiaries are not themselves involved in the kind of terrorist activities covered by these Regulations.

Notice of
amendment
to Lists to be
given.

19. Where any amendment is made to the Lists, the Attorney-General shall :

(a) inform the relevant authorities of the amendment and the effect of such amendment ;

(b) provide the Sanctions Committee with any additional information available to him, including any new information with supporting documents ; and

(c) take appropriate measures to notify the Competent Authority in countries concerned of measures taken by him under these Regulations including any decision to freeze funds or economic resources or the inclusion or deletion of names from the Lists in addition to any steps or actions taken to respond to any direction or request made by the Sanctions Committee.

Channel of
communication
with
United
Nations.

20.—(1) Any communication required to be transmitted to the Sanctions Committee under these Regulations shall be effected by the Attorney-General through the Ministry of Foreign Affairs.

(2) The Attorney-General shall prepare and submit necessary reports at such intervals as may be agreed between Nigeria, the United Nations and other countries or relevant institutions on the measures taken in Nigeria in the course of application of the United Nations Security Council Resolutions No. 1267 (1999), 1333 (2000), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008), 1904 (2009) and other relevant Resolutions of the United Nations.

Power to
request for
information.

21.—(1) The Attorney-General may request a designated person to provide information concerning :

(a) funds and economic resources owned, held or controlled by the designated person ; or

(b) any disposal of such funds or economic resources, whether the disposal occurred before or after the person became a designated person.

(2) Where the Attorney-General believes that it is necessary for the purpose of monitoring compliance with or detecting circumvention of these Regulations, the Attorney-General may request a designated person to provide information about expenditure :

(a) by or on behalf of the designated person ; and

(b) for the benefit of the designated person.

(3) The Attorney-General may request any person in or resident in Nigeria to provide such information as he may reasonably require for the purpose of :

(a) monitoring compliance with or detecting evasion of these Regulations ;

(b) obtaining evidence of the commission of an offence under these Regulations ;

(c) establishing :

(i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by a designated person ;

(ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to or for the benefit of a designated person ; or

(iii) the nature of any financial transactions entered into by a designated person.

(4) A request may include a continuing obligation to keep the Attorney-General informed as circumstances change or on such regular basis as the Attorney-General may specify.

22. 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.

Failure to
comply with
request for
information.

23. The Attorney-General may take such steps as he considers appropriate to cooperate with any investigation in Nigeria or elsewhere, relating to the funds, economic resources or financial transactions of a designated person.

Cooperation
with
domestic or
international
investigations.

24. The Attorney-General may disclose any information obtained in the exercise of his powers under these Regulations (including any document so obtained and any copy or extract made of any document so obtained) to the—

General
power to
disclose
information.

(a) relevant authorities in Nigeria ; and

(b) Competent Authority in any foreign State concerned with measures taken under these Regulations ;

Unlawful
disclosure of
Information.

25.—(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 VI—PENALTIES AND SANCTIONS

Penalties.

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

- (a) in Nigeria ; or
- (b) elsewhere who is a Nigerian citizen.

(2) A person who contravenes any of the provisions of these Regulations shall on conviction be liable to imprisonment for a term of 5 years or to a fine of not less than ₦1,000,000.00 or to both such fine and imprisonment.

(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 other 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.

Sanctions.

27. In the case of repeated violations of any of the provisions of these Regulations by an Institution, entity or other body corporate, the Attorney-General shall make a report to the appropriate regulatory authority of the Institution, entity, or body corporate for sanctions as may be deemed appropriate.

PART VII—MISCELLANEOUS

Interpreta-
tion.

28. In these Regulations—

“*appropriate regulatory authority*” means the regulatory body in relation to any institution or sphere of activity regulated by law and where there are more than one such bodies, it means the regulatory body with the mandate to sanction or punishing institutions or persons engaged in the activity ;

“*Attorney-General*” means the Attorney-General of the Federation and Minister of Justice ;

“*Competent Authority*” means the body or person designated by a member State of the United Nations for the purpose of enforcing Resolution 1373 (2001) and related Resolutions of the Security Council of the United Nations ;

“*Consolidated List*” means :

- (a) the List prepared and adopted by the Sanctions Committee of the

United Nations with respect to *Al-Qa'eda* Organization, Osama Bin Ladin, Taliban Movement and all persons and entities linked with them ; and

(b) the List compiled by the United Nations based on actions taken by countries and international or regional organizations to implement other Security Council Resolutions, including Resolution 1373 (2001) ;

"Designated Non-Financial Institution" means dealers in "jewellery, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets or such other business undertakings as the Federal Ministry of Trade and Investment or other appropriate regulatory authority may from time to time designate ;

"designated person" means a person referred to in Regulation 2 of these Regulations ;

"economic resources" means assets of whatever type, whether tangible or intangible, movable or immovable, real or personal, including assets which are not considered as money but can be used to obtain any monies, commodities or services ;

"Financial Institution" means banks, body, association or group of persons whether corporate or incorporate which carries the business of investments and securities, a discount house, insurance institutions, debt factorization and conversion firms, bureau de Change, finance Company, Money brokerage firms whose principal business includes factoring, project financing, equipment leasing, debt administration, fund management, private ledger services, investment services, local purchase order financing, export finance, project consultancy, pension funds management and other business as the Central Bank or other appropriate regulatory authorities may from time to time designate;

"Freeze" means to prohibit the transfer, conversion, disposition, alteration, use of or dealing with funds in any way that would result in change of volume, amount or location, ownership or possession, character, destination or movement of funds or other assets on the basis of, and for the duration of or the validity of an action initiated by a competent authority or a court under a freezing mechanism. The frozen funds or other assets remain the property of the person or entity that held an interest in the specified funds or other assets at the time of the freezing and may continue to be administered by the financial institution or other arrangements designated by such person or entity prior to the initiation of an action under a freezing mechanism; and "frozen" shall be similarly construed ;

"Funds" or "other assets" means financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to bank credits, travelers' cheques, bank cheques, money orders, shares, securities, bonds, drafts or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets ;

"*Nigerian Financial Intelligence Unit*" or "*NFIU*" means the Unit established under the Economic and Financial Crimes Commission Act, No. 50, 2004 ;

"*International Resolutions*" means the United Nations Security Council Resolutions No. 1267 (1999), 1333 (2000), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008), 1904 (2009) and other relevant Resolutions ;

"*International terrorist group*" means a group declared by the President under section 9 of the Act to be an International terrorist group or by the UN Sanctions Committee ;

"*Nigeria List*" means the List referred to in Regulation 3(1)(b) of these Regulations ;

"*Ombudsman*" means the person appointed by the Secretary General of the United Nations to provide assistance to the Sanctions Committee upon reviewing the applications for deleting the names of persons and named entities from the Consolidated List ;

"*relevant authorities*" includes appropriate regulatory authorities, law enforcement agencies, the Federal Ministries of Interior, Defence, the Nigerian Immigration Service and any person or entity that has the responsibility under the Act, any law, rule, regulations or directions for carrying out counter terrorism activities ;

"*Sanctions Committee*" means the Committee established according to the Security Council Resolution No. 1267 (1999) with respect to *Al-Qa'eda* Organization, Osama Bin Ladin, Taliban Movement and all persons and entities linked with them ;

"*suspected international terrorist*" means a person declared by the President under section 9 of the Act to be a suspected international terrorist ;

"*terrorism*", "*terrorists*" and "*terrorist organization*" shall have the respective meanings ascribed to them under the Act ;

"*the Act*" means the Terrorism (Prevention) Act, 2011.

Citation.

29. These Regulations may be cited as the Terrorism Prevention (Freezing of International Terrorists Funds) Regulations, 2011

MADE at Abuja this 29th day of September, 2011.

MOHAMMED BELLO ADOKE, SAN

Honourable Attorney-General of the Federation
and Minister of Justice.