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Government Notice No. 142

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

<i>S. I. No.</i>	<i>Short Title</i>	<i>Page</i>
10	Lekki Deep Sea Port Declaration (Amendment) Order, 2013	B 79-80

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1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

**NIGERIAN PORTS AUTHORITY ACT
(CAP. N126 LFN, 2004)**

**LEKKI DEEP SEA PORT DECLARATION
(AMENDMENT) ORDER, 2013**

In exercise of the powers conferred on me by Section 30 of the Nigerian Ports Authority Act, Cap. N126, Laws of the Federation of Nigeria, 2004 and all other powers enabling me in that behalf, I, SENATOR IDRIS UMAR, HONOURABLE MINISTER OF TRANSPORT, hereby make the following Order—

[2nd Day of August, 2013] Commence-
ment.

1. The Lekki Deep Sea Port Declaration Order, 2012 (in this Act referred to as the Principal Order) is amended as set out in this Order. Amendment
of the Lekki
Deep Sea
Port
Declaration
Order, 2012.
2. The Schedule to the Principal Order is amended by substituting same with a new Schedule as set out below titled, "Co-ordinates of Lekki Deep Sea Port"— Amendment
of the
Schedule to
the Principal
Order.

SCHEDULE

CO-ORDINATES OF LEKKI DEEP SEA PORT

<i>POINT</i>	<i>LAT (WGS 84)</i>	<i>LONG (WGS)</i>
PL A	6° 25'35.25"N	3° 59'50.90"E
PL B	6° 25'14.94"N	4° 01'57.73"E
PL C	6° 18'51.10"N	4° 01'57.73"E
PL D	6° 18'51.10"N	3° 56'38.95"E
PL E	6° 20'27.34"N	3° 56'38.95"E
PL F	6° 22'23.17"N	3° 59'50.90"E

3. This Order may be cited as the Lekki Deep Sea Port Declaration (Amendment) Order, 2013. Citation.

MADE at Abuja this 2nd Day of August, 2013.

SENATOR IDRIS UMAR,
Honourable Minister of Transport

EXPLANATORY NOTE

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

This Order amends the Lekki Deep Sea Port Declaration Order, 2012 by substituting the Schedule contained in the Principal Order with a new Schedule.



Federal Republic of Nigeria

Official Gazette

No. 60

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Government Notice No. 156

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

<i>S. I. No.</i>	<i>Short Title</i>	<i>Page</i>
11	Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations, 2013 ..	B 81-108

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TERRORISM (PREVENTION) ACT, 2011 (AS AMENDED)

TERRORISM PREVENTION (FREEZING OF INTERNATIONAL TERRORISTS FUNDS AND OTHER RELATED MEASURES) REGULATIONS, 2013



ARRANGEMENT OF REGULATIONS

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2. Purpose.
3. Scope.

PART II—NIGERIA SANCTIONS COMMITTEE

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5. Procedure for the implementation of UNSCRs 1267, 1988, 1989 and successor resolutions.
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PART III—FREEZING PROCEDURE AND REFERENCE TO LISTS

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S. I. No. 11 of 2013

**TERRORISM PREVENTION (FREEZING OF INTERNATIONAL
TERRORISTS FUNDS AND OTHER RELATED MEASURES)
REGULATIONS, 2013**

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

[29th Day of August, 2013]

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 (as amended) 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) Recognizing that UNSCR 1267 (1999) and all current and future successor resolutions, including 1333 (2000), 1363 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1730 (2006), 1735 (2006), 1822 (2008), 1904 (2009), 1988 (2011), 1989 (2011) and 2083 (2012) require all member States to apply targeted financial sanctions in order 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 by any individual or entity designated by third party or foreign countries or individuals or entities associated with Al-Qa'eda, Osama bin Laden or the Taliban as designated by the United Nations Security Council's Al-Qa'eda and Taliban Sanctions Committee.

(3) Noting that by Resolution 1988 (2011), the United Nations Security Council split the Al-Qaida and Taliban sanctions regime into two groups, thus providing separately for measures to implement an Al-Qaida sanctions to be co-ordinated by the 1267 Sanctions Committee while a country-specific Afghanistan regime relating to the sanctions against Taliban is now co-ordinated by the 1988 Sanctions Committee.

(4) Determines that in order to establish a procedure for the implementation of the requirements of the UNSCR 1267, (including UNSCR 1989 as it affects Al Qa'eda), UNSCR 1988 and 1373 (2001) in Nigeria, it is necessary to establish a Nigeria Sanctions Committee.

(5) Recognizing the binding nature of United Nations Security Council Resolutions (UNSCR) and in conformity with international standards and the Terrorism Prevention Act, this Regulation is aimed to provide for authorities, measures and procedures necessary for the implementation of the UNSCRs described below.

2. These Regulations—

Purpose.

(a) 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 (in these Regulations referred to as "designated person") ;

(b) provide for the authority responsible for proposing and designating persons under the various UNSCRs ;

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

(d) prescribe the conditions and procedure for utilization of frozen funds, or economic resources ;

(e) prohibit the making of funds or economic resources available to designated persons ;

(f) provide for measures to prevent the entry into, exit from or transit through Nigerian 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-Qa'eda, Osama bin Laden, the Taliban or listed in the Nigerian list ;

(g) set up the Nigeria Sanctions Committee for the purpose of proposing and designating persons and entities as terrorists within the framework of the Nigeria legal regime ; and

(h) provide guidelines for the effective implementation of United Nations Security Council Resolutions.

Scope.

3.—(1) These Regulations shall apply to—

(a) designated persons or entities contained in the Consolidated List of the United Nations 1267 and 1988 Sanctions Committees ('the UN Consolidated List') ;

(b) designated persons or entities under UNSCR 1373 forwarded by a third party, international organization or foreign country to Nigeria ;

(c) designated persons or entities approved by the Nigeria Sanctions Committee under the Nigeria list ('the Nigeria List') ; and

(d) all law enforcement agencies to implement measures to prevent the entry into or the transit through the Nigerian borders or the direct or indirect supply, sale and transfer of arms and military equipment by any individual or entity associated with Al-Qa'eda, Osama bin Laden or the Taliban, including other international terrorists based on requests from other countries or other third parties.

(2) These Regulations extend to any person or entity listed under sub-regulation (1) of this regulation, 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.

PART II—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) as member and Secretary, and
- (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 advise the Attorney-General on the effective implementation of the United Nations Security Council Resolutions.

5.—(1) Where 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 direct the dissemination of the list received from the United Nations without delay.

(3) 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 an entity to be a suspected international terrorist or international terrorist group respectively.

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

(5) Under regulation 5 of these Regulations, the Nigeria Sanctions Committee shall consider the evidential criteria as set out in paragraphs 19 and 20 to the Schedule to these Regulations.

(6) The Nigeria Sanctions Committee shall not apply the criminal standard of proof when considering requests under regulation 5 of these Regulations.

(7) The list of designated persons or entities submitted to the United Nations shall be forwarded to all relevant authorities for immediate dissemination and action.

6.—(1) Where a person, group or an 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—

Procedure
for the
implementa-
tion of
UNSCRs
1267, 1988,
1989 and
successor
resolutions.

Procedure
for the
effective
implementa-
tion of
UNSCR

(a) immediately be convened by the Attorney-General to deliberate on the list as proposed for designation ; and

(b) convey its decision to designate or not to designate the persons or entities to the relevant authorities from where the request to designate emanated from.

(2) Where the Nigeria Sanctions Committee decides to designate the persons or entities, it shall immediately add the names of the designated persons to the Nigeria List and disseminate to the relevant authorities for action.

(3) Where the Attorney-General, receives an intelligence report that an entity or a person should be designated as a terrorist, or an international terrorist group or entity, he shall immediately request the Nigeria Sanctions Committee to recommend the person or entity to the President for designation.

(4) When reviewing the requests from other countries, third parties and international organizations, the Nigeria Sanctions Committee shall consider the following evidential criteria, whether—

(i) any person or entity committed or attempted to commit terrorist acts or participated in or facilitated the commission of terrorist acts ; or

(ii) any entity owned or controlled directly or indirectly by any person or entity designated by a foreign country on the basis of the requirements of the UNSCR 1373 ; or

(iii) any person or entity acting on behalf, or at the direction of any person or entity designated by another country on the basis of the requirements of UNSCR 1373.

(5) The Nigeria Sanctions Committee shall not apply the criminal standard of proof when considering requests under regulation 6 of these Regulations.

(6) The President may on the basis of the report of the Nigeria Sanctions Committee designate the persons or entities as international terrorists or terrorist groups.

(7) For the purposes of international dissemination and to request other countries to designate entities and individuals designated by Nigeria, the Attorney-General shall transmit a copy of the designation to the Ministry of Foreign Affairs for immediate dissemination and action.

(8) The Nigeria Sanctions Committee shall establish a website where all related changes and updates to the Nigeria List shall be posted and disseminated.

(9) Subject to regulation 21 of these Regulations, the Attorney-General shall remove or amend the name of a person or group or any other relevant details under the Nigeria List where the President revokes or amends a declaration made under these Regulations.

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

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.

Freezing of funds held by a designated person.

(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) Funds and other economic resources frozen under these Regulations 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 designated person is prohibited from assessing such funds or be provided with financial services except with 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.

(6) The Attorney-General or his representative may, in respect of a person or an entity designated by the Nigerian Government under a domestic designation, apply ex parte to a court of competent jurisdiction to obtain a freezing Order prohibiting any person from disposing of, or dealing with any interest in funds or assets specified in the Order.

(7) The actions taken under the UNSCR 1267 or UNSCR 1373 freezing measures 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.—(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.

Procedure for the Freezing of terrorists' assets.

(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, on the receipt of the list from the Attorney-General request for feedback from all relevant institutions.

(5) The NFIU shall freeze the identified funds or assets belonging to the listed individuals, entities or other related persons and shall report back to the Attorney-General and where no such funds or assets are identified, a nil report shall be rendered to the Attorney-General.

(6) The Attorney-General or his representative may, in respect of a person or an entity designated by the Nigerian Government under a domestic designation, apply ex parte to a court of competent jurisdiction to obtain a freezing Order prohibiting any person from disposing of, or dealing with any interest in funds or assets specified in the Order.

(7) The actions taken under the UNSCR 1267 or UNSCR 1373 freezing measures 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.

Reference to
Lists by
Financial
Institutions,
Designated
Non-
Financial
Institutions
and Law
Enforcement
and Security
Agencies.

9.—(1) Any Financial Institution, 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 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.

Dealing with funds held by a designated person.

(2) A person contravenes the provision of regulation 10 (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 regulations 9 (2) and 11 (2) of these Regulations, 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 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 provisions of regulation 11 (2) of these Regulations 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

Prohibition
of 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.

Circumven-
ting
prohibitions.

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—

Approval for usage of frozen funds by designated persons and entities under the Nigeria List.

(a) to meet the basic needs and expenses of a designated person or a person or an entity under investigation whose funds have been frozen including the amounts required to meet expenditures on food, rental, medical needs and such other general expenses as the Attorney-General may approve, from time to time ;

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

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

(2) 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.

(3) The Attorney-General shall consider the application in consultation with the Nigeria Sanctions Committee and may grant, reduce or refuse the request made in the application as considered reasonable in the circumstance.

(4) Where an approval is obtained in the case of the Nigeria list, 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.

15.—(1) On receipt of an application for the utilization of frozen funds in respect of a designated person on the UN Consolidated List, the Attorney-General shall transmit the application to the United Nations Security Council Sanctions Committee to approve the utilization of the frozen fund or any part thereof.

Procedure for the approval and utilization of frozen funds of designated person on the UN List.

(2) Where an approval is obtained from the UN Sanctions Committee, the approval shall be transmitted to the Attorney-General who shall inform the Institution or any other party in custody of the frozen funds in writing to implement the approval and furnish a report to the Attorney-General of the action taken.

(3) 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.

(4) A person or entity whose funds or assets have been frozen may challenge the measure with a view to having the frozen funds or assets reviewed by a court.

16.—(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 an *escrow* account opened for the purpose and shall constitute part of the frozen funds and the relevant Institution shall file a report of the receipt of such additional funds with the NFIU which shall in turn inform the Attorney-General accordingly.

(2) Monies or funds received or credited into a frozen account shall be subject to the provisions and measures contained in Parts III and V 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 including the creation of an *escrow* account in appropriate cases.

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

(a) affected by the provisions and measures under Parts III and V 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.

17.—(1) Where funds or other economic resources were frozen as a result of similarity in names or wrong entries on 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 de-freeze the funds.

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

(a) the UN Consolidated List, shall submit the request to the United Nations Sanctions Committee and inform the applicant of any decision taken ;

(b) the Nigeria List, shall determine the application not later than 15 working days from the date of receipt of the application after consultation with the Nigeria Sanctions Committee.

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

PART VII—TRAVEL RESTRICTIONS AND ARMS EMBARGO

Travel Ban
on
Designated
Persons.

18.—(1) A designated international terrorist, not being a Nigerian citizen, shall be refused leave to enter or remain in Nigeria.

(2) For the purpose of sub-regulation (1) of this regulation, the Minister of Foreign Affairs, upon receipt of the list from the Nigeria Sanctions Committee pursuant to the provisions of Regulation 6, shall refuse any application by a designated person for visa to enter Nigeria.

(3) A person's leave to enter or remain in Nigeria is cancelled on his becoming a designated international terrorist.

(4) Where there exists an international warrant of arrest issued for the arrest of the designated person who has entered Nigeria, the Inspector-General of Police or the Director-General, State Security Service shall immediately effect the arrest of the person and communicate this to appropriate authorities including the Minister of Foreign Affairs.

(5) The Director-General, State Security Service and the Comptroller-General, Nigeria Immigration Service shall enforce measures including watch list action to prevent a designated person from entering Nigeria or escaping from Nigeria having become designated.

(6) A person being a Nigerian citizen, having become a designated person pursuant to the provisions of Regulation 6, shall be prevented from leaving Nigeria until investigation into the activities that led to his designation has been concluded.

(7) The Director-General, State Security Service and the Comptroller-General, Nigeria Immigration Service shall enforce measures including watch list action to ensure the enforcement of the provisions of sub-regulation 6 of this regulation.

(8) A designated person aggrieved by the implementation of the provisions of this regulation is entitled to seek legal redress.

19. A person is guilty of an offence punishable under the Terrorism Prevention Act as amended if he directly or indirectly infringes any of the following United Nations Security Council prohibitions—

Arms
Embargo.

(a) prohibiting the grant, sale, supply of military equipments or arms and related materials of all types to any person, entity or body designated a terrorist ;

(b) prohibiting the grant, sale, supply or transfer of technical assistance related to military activities and to provisions, manufacture, maintenance and use of arms and related materials of all types to any person, entity or body designated a terrorist ;

(c) prohibiting the financing or financial assistance related to military activities and to the provision, manufacture, maintenance and use arms and related materials of all types to any person, entity or body designated a terrorist ; or

(d) prohibiting the participation, knowingly or intentionally, in activities the object or effect of which is to promote the transactions referred to under regulations 1, 2, 3 and 4 of these regulations.

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, regulatory and supervisory authorities, who shall cause same to be disseminated to reporting institutions immediately.

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

(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 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.

Information
on measures
taken
pursuant to
these
Regulations.

21.—(1) The Attorney-General shall upon the application of measures under these Regulations, inform in writing or in any other manner considered appropriate, a designated person of his inclusion on 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 to the United Nations Ombudsman or Sanctions Committee in accordance with the provision of regulation 21 of these Regulations.

Information
on the Lists.

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

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

(a) name of the person, family and *pseudo* names and titles ;

(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 names on the Lists ; and
- (h) any other information as may be considered relevant by the Attorney-General or approved by the Nigeria Sanctions Committee.

23.—(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 UN Sanctions Committee, stating reasons for the application.

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

(3) Where the UN Sanctions Committee refers an application for removal from the UN List to the Attorney-General for comments, the Attorney-General shall within the time specified by the UN Sanctions Committee respond to the request stating reasons for the recommendation for retention or removal from 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 UN Sanctions Committee.

(5) Where the name of a designated person has been struck out through a judicial or administrative process or the Attorney-General reasonably believes that a designated person is deceased, 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 UN Sanctions Committee to delete the name and other details of the designated person.

(6) With regards to the Nigeria List, the Nigeria Sanctions Committee shall develop and implement procedures for applications for delisting of persons in the Lists and for unfreezing of funds or other assets of delisted persons or entities in a timely manner.

(7) The Nigeria Sanctions Committee shall before recommending a person or entity to be delisted or application for unfreezing of funds for the President's approval—

- (a) review the justification for a request for delisting or application for unfreezing of funds ;
- (b) seek additional information, where necessary ; or
- (c) hold consultations with relevant agencies or supervisory authorities.

(8) The Attorney-General shall give information on the decision taken on the request or application to the concerned persons, group or entities.

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

Notice of amendment to Lists to be given.

24. 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 UN 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 UN Sanctions Committee.

Channel of Communication with United Nations.

25.—(1) The Nigeria Sanctions Committee shall prepare and submit necessary reports to the Attorney-General who shall forward same to the UN Sanctions Committee or other authorities.

(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) and all current and future successor resolutions, including 1333(2000), 1373(2001), 1390(2002), 1452(2002), 1455(2003), 1526(2004), 1617(2005), 1735(2006), 1822(2008) and 1904(2009).

Power to request for information.

26.—(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, he 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 services provided to, or 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 he may specify.

27.—(1) A person who—

(a) 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 ;

Failure to
comply with
request for
information.

(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) 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.

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

Co-operation
with
domestic or
international
investigations.

29. 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.

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

Unlawful
disclosure of
information.

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

Penalties.

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).

Sanctions.

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 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.

PART X—MISCELLANEOUS

33.—(1) The Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, (S.I. No. 29), 2011 is hereby revoked.

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

34. The provisions of the Schedule to these Regulations (Guidelines for Effective Implementation of the United Nations Security Council Resolutions on Terrorism and Terrorists Financing) shall be complied with by relevant regulatory and reporting institutions.

35. In these Regulations—

“*Account*” means a facility or arrangement by which a Financial Institution—

- (a) accepts deposits of currency ;
- (b) allows withdrawals of currency or transfers into or out of the account ;
- (c) pays cheques or payment orders drawn on a Financial Institution or cash dealer by a person or collect cheques or payment orders on behalf of a person ; or
- (d) supplies a facility or an arrangement for a safe deposit box ;

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

“*Beneficiary*” includes a natural or legal person or any other form of legal arrangement identified by the originator as the receiver of the requested wire transfer ;

“*Beneficial owner*” refers to—

- (a) the natural person who ultimately owns or controls a customer ;
 - (b) the natural person on whose behalf a transaction is being conducted ;
- and
- (c) a person who exercises ultimate effective control over a legal person or arrangement ;

“*Business relationship*” means an arrangement between a person and a Financial Institution or Designated Non-Financial Institution for the purpose of concluding a transaction ;

Revocation of the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2011.

Guidelines for effective implementation of United Nations Security Council Resolutions.

Interpretation.

"Central Bank" means the Central Bank of Nigeria ;

"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 UN Security Council ;

"Consolidated List" means—

(a) the List prepared and adopted by the UN Sanctions Committee with respect to Al-Qa'eda, Osama Bin Ladin, Taliban 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) ;

"Correspondent banking" means the provision of banking services by one bank (the correspondent bank) to another bank (the respondent bank) ;

"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 Industry, Trade and Investment or other appropriate regulatory authority may from time to time designate ;

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

"designee" means a designated person ;

"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 Institutions" 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 ;

"Financial Services" are the economic services provided by the finance industry, which encompasses a broad range of organizations that manage money, including credit unions, banks, credit card companies, insurance companies, accountancy companies, consumer finance companies, stock brokerages, investment funds and some government sponsored enterprises ;

"Financial transactions" are transactions which involves money or payment, such as the act of depositing money into a bank account, borrowing money from a lender, or buying or selling goods or property ;

"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 ;

"Immediately" means spontaneous, instantly, rapid, straightaway, take action in a timely manner, without delay but not later than 24 hours ;

"Institution" means financial institutions and designated non-financial institutions as defined in these Regulations or any other law ;

"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 successor Resolutions ;

"International terrorists group" means any group, body or organization declared by the President under section 9 of the Terrorism (Prevention) Act, 2011 (as amended) to be an International terrorist group or by the UNSC Sanctions Committee ;

"May" includes *"shall"* for the purpose of the implementation of the United Nations Security Council Resolutions 1267 ;

"Money Service Business" includes currency dealers, money transmitters, cheque cashers, and issuers of travelers' cheques, money orders or stored value ;

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

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

"Nigeria Sanctions Committee" means Nigerian Sanctions Committee to be constituted under Part II of these Regulations to provide general policy guidelines for the implementation of the provisions of the Act and these

Regulations and shall advise the Attorney-General on the effective implementation of the United Nations Security Council Resolutions ;

"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 or entities from the Consolidated List ;

"Politically exposed persons ('PEPs')" includes—

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

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

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

"Proceeds" means property derived from or obtained, directly or indirectly through the commission of an offence ;

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

"Public Officers" means individuals who are or have been entrusted with prominent public function, both within and outside Nigeria and those associated with them ;

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

"regulatory or supervisory 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 punish erring institutions or persons engaged in the activity ;

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

“*UN Sanctions Committee*” means the Committee established according to the UN Security Council Resolution No. 1267 (1999) and other successor or future resolutions with respect to Al-Qa’eda, Osama Bin Ladin, Taliban and all persons and entities linked with them ;

“*Shell bank*” means a bank that is not physically located in the country in which it is incorporated and licensed and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision ;

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

“*Suspicious*” means a matter which is beyond mere speculations and is based on some foundation ;

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

“*Terrorism Financing*” shall have the meaning ascribed to it under the Act ;

“*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 CDs, 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) safe-keeping and administration of cash or liquid securities on behalf of clients ;
- (k) life insurance and all other insurance related matters ; and
- (l) money changing.

“*the Act*” means the Terrorism (Prevention) Act, 2011 (as amended) ;

“*third party*” includes regional organizations ;

“UNSC” means United Nations Security Council ; and

“*Wire transfer*” means any transaction carried out on behalf of a natural person or legal originator through a Financial Institution by electronic means with a view to making an amount of money available to a beneficiary person at another financial institution, irrespective of whether the originator and the beneficiary are the same person.

Citation.

36. These Regulations may be cited as the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013.

SCHEDULE

**GUIDELINES FOR EFFECTIVE IMPLEMENTATION OF THE
UNITED NATIONS SECURITY COUNCIL RESOLUTIONS ON
TERRORISM AND TERRORISTS 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-Qa'eda 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 circularize 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 circularize 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 data base 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 Sanctions Committee shall thereafter, update the UN Sanctions Committee on 1267 of actions taken including any application for de-freezing by a listed individual or entity.

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

(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-Qa'eda 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.

With regards to 1988 Sanctions List, the criteria shall be where—

(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.

Effective Implementation of UNSCR 1373

13. Taking into consideration countries obligation 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.

14. 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.

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

16. 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.

17. 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.

18. 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.

19. 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.

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.



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INSURANCE ACT, 2003

NATIONAL INSURANCE COMMISSION (ANTI-MONEY
LAUNDERING AND COUNTERING THE FINANCING OF
TERRORISM) REGULATIONS, 2013



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S. I. No. 12 of 2013

INSURANCE ACT, 2003

NATIONAL INSURANCE COMMISSION (ANTI-MONEY LAUNDERING
AND COUNTERING THE FINANCING OF TERRORISM)
REGULATIONS, 2013

In exercise of the powers conferred on it by section 101 of the Insurance Act, 2003 ("the Act") and all other powers enabling it in that behalf, THE NATIONAL INSURANCE COMMISSION ("the Commission") with the approval of the Honourable Minister of Finance, make the following Regulations—

[29th day of August, 2013]

Commence-
ment.

PART I—OBJECTIVE AND APPLICATION

1. The objective of these Regulations is to promote, enhance and ensure compliance with subsisting legislations on Anti-Money Laundering ("AML") and Countering the Financing of Terrorism ("CFT") by the Insurance Industry in Nigeria.

Objective.

2. These Regulations shall apply to all insurance institutions in Nigeria including their agents and insurance brokers, and to all insurance transactions.

Application.

3.—(1) All insurance businesses shall comply with the requirements of the Insurance Act, 2003, National Insurance Commission Act, 1997, 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 successor laws and Regulations.

General
Require-
ments.

(2) The obligation to establish AML and CFT (AML/CFT) programme shall apply to all insurance institutions and an insurance company shall in addition integrate its agents and insurance brokers into its AML/CFT framework in order to ensure and monitor compliance with the programme.

(3) An insurance institution shall comply with requests made pursuant to AML/CFT subsisting legislations and provide information to the Nigerian Financial Intelligence Unit ("NFIU") and relevant law enforcement agencies.

(4) A procedure for responding to authorized requests for information in respect of money laundering and terrorist financing shall meet the following minimum requirements—

(a) development of an electronic data base for all records retention and preservation ;

(b) prompt search of records to determine whether it has issued any policy or has engaged in any transaction with any individual, entity or organization named in the request ;

(c) prompt report of the outcome of the search under paragraph (a) of this sub-regulation, to the requesting authority ;

- (d) ensure the protection of the security and confidentiality of a request ; and
- (e) send a copy of the report to the National Insurance Commission (Commission).

(5) An insurance institution shall not in any way inhibit the implementation of the requirements in these Regulations.

(6) An insurance institution shall direct its employees in writing to always co-operate fully with these Regulations and with law enforcement agents.

(7) An insurance institution shall—

- (a) make it possible for employees to report any violation of the institution's AML/CFT compliance programme to the AML/CFT Compliance Officer or Money Laundering Reporting Officer ;

- (b) where the violation involves the Compliance Officer or Money Laundering Reporting Officer, ensure that employees report such violation to a designated higher authority, the Commission or the NFIU ; and

- (c) ensure that it informs its employees in writing to make the report of a violation confidential and that they shall be protected from victimization for making such report.

(8) An insurance institution shall—

- (a) render quarterly returns on its level of compliance to the Commission and the NFIU ;

- (b) identify, review and record other areas of potential money laundering and terrorist financing risks which may not have been specifically mentioned in these Regulations and report same to the Commission, monthly ; and

- (c) guide against any act of structuring in order to avoid filing of mandatory reports required by AML/CFT subsisting legislations.

(9) An insurance institution shall not charge or receive premiums in excess of the actual premium on an insurance policy that may result in refunding the excess amount paid or with the intent of returning the excess to the insured or interested party thereafter.

(10) The AML/CFT Chief Compliance Officer shall designate a sanction desk officer to always confirm or ascertain whether the name of a person or entity that wants to undertake business relationship with the insurance institution is on a sanction list issued by the appropriate authority as required by the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Measures) Regulations, 2013 and such list shall be used to monitor an already established business relationship with any person or entity on an ongoing basis.

(11) An insurance institution shall report to the Commission any action taken in compliance with the prohibition requirements of the relevant United Nations Security Council Resolutions (UNSCRs) on terrorism, terrorism financing, proliferation of weapon of mass destruction and the provisions of

the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Measures) Regulations, 2013.

(12) All insurance institutions shall have regard to the requirements of the Terrorism (Prevention Act), 2011 (as amended) in undertaking any transaction with persons or entities and shall not solicit, acquire, provide, collect, receive, possess or make available funds, property or other services by any means to terrorists or terrorists organizations, directly or indirectly with the intention or knowledge or having reasonable grounds to believe that such funds or property will be used in full or in part to carry out terrorist acts by the terrorist or terrorist organization.

PART II—AML/CFT INSTITUTIONAL POLICY AND PROGRAMME

4. An insurance institution shall in the course of its transactions identify and report to NFIU, any suspected proceeds of crime derived from the following— Proceeds of crime.

- (a) participation in an organized criminal group and racketeering ;
- (b) terrorism and terrorist financing ;
- (c) trafficking in persons 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) currency counterfeiting ;
- (k) counterfeiting and piracy of products ;
- (l) environmental crimes ;
- (m) murder and causing grievous bodily injury ;
- (n) kidnapping and hostage taking ;
- (o) robbery or theft ;
- (p) smuggling, including one done in relation to customs and excise duties and taxes ;
- (q) extortion ;
- (r) forgery ;
- (s) piracy ;
- (t) tax crimes, in respect of direct and indirect taxes ;
- (u) insider trading and market manipulation ; and
- (v) any other criminal act specified in any subsisting AML/CFT legislation or any other law in Nigeria.

5. An insurance institution shall have an AML/CFT programme designed and implemented on a risk based approach and such programme shall include—

(a) internal policies, procedures and controls, based on the insurance institution's assessment of the money laundering (ML) and financing of terrorism (FT) risks associated with its business, and designed to reasonably anticipate and prevent money laundering and terrorism financing ;

(b) Customer Due Diligence (CDD) ;

(c) appointment of a Chief Compliance Officer (CO) or Money Laundering Reporting Officer (MLRO) at the management level ;

(d) Suspicious Transactions Report (STR) and Currency Transactions Report (CTR) ;

(e) on-going or regular training for its employees and agents ;

(f) record keeping ; and

(g) independent audit of the AML/CFT Programme.

PART III—CUSTOMER DUE DILIGENCE

6.—(1) An insurance institution shall not establish a business relationship with an anonymous or fictitious policy holder.

(2) An insurance institution shall endeavour to know the customers they transact business with by setting up Customer Due Diligence (“CDD”) measures which shall—

(a) develop clear, written and risk based client acceptance policies and procedures, which among other things concern the types of products offered in combination with different client profiles ; and

(b) ensure that such policies and procedures are built on the strategic policies of the Board of Directors of the insurance institution, including policies on products, markets and clients ;

(3) An insurance institution offering a life insurance product with short term coverage by means of single premium shall establish the appropriate mechanism for checking the background of the client and origin of the premium.

(4) An insurance institution shall, when dealing with requests for multiple policies to be taken out for premiums slightly below any threshold limits, diligently verify the source of wealth.

(5) An insurance institution shall undertake CDD when—

(a) establishing a business relationship ;

(b) carrying out occasional transactions above the applicable designated premium threshold of ₦1,000,000 (One Million Naira) or such other threshold as may be determined by the Commission from time to time subject to the provisions of the Money Laundering (Prohibition) Act, 2011 (as amended) and this includes situations where it is a single transaction or several transactions that appear to be linked ;

(c) carrying out occasional wire transfer transactions ; and

(d) there is doubt on the veracity or adequacy of previously obtained policy holder identification data,

provided that notwithstanding the provision of paragraph (d) of this sub-regulation, an insurance institution shall not be required, upon obtaining all necessary documents and being so satisfied, to repeatedly perform an identification and verification exercise each time a customer conducts a transaction.

(6) An insurance institution shall, in addition to reliance on existing database within and outside Nigeria, develop analytical tools and technical competence for the conduct of additional due diligence before on-boarding the customer.

7.—(1) An insurance institution shall—

(a) identify a temporary or permanent customer, a natural or legal person, or any other form of legal arrangement, using identification documents as may be prescribed in any relevant law or regulation ;

(b) verify the identity of a customer using reliable, independent source, documents, data or information ; and

(c) identify a beneficial owner and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the institution is satisfied that it knows who the beneficial owner is.

Customer
Due
Diligence
Measures.

(2) An insurance institution shall carry out the full range of CDD measures in this regulation using a risk-based approach.

(3) An insurance institution shall obtain adequate customer information or data to verify the identity of each customer or entity and this information shall be confirmed by obtaining appropriate identification documents from the person or entity.

(4) An insurance institution shall with respect of a customer, who is a legal person or a legal arrangement, verify—

(a) a person purporting to have been authorized to act on behalf of such a customer by obtaining evidence of his identity and verifying the identity of such a person ; and

(b) the legal status of a legal person or legal arrangement by obtaining proof of incorporation from the Corporate Affairs Commission or similar evidence of establishment or existence, and obtain information concerning the customer's name, the names of trustees (for trusts), address, directors, (for legal persons) and provisions regulating the power to bind the legal person or arrangement.

(5) An insurance institution shall in respect of a customer, determine whether or not the customer is acting on behalf of another person and where the customer is acting on behalf of another person, the institution shall take reasonable steps to obtain sufficient identification data to verify the identity of such other person.

(6) An insurance institution shall take reasonable measures in respect of a customer who is a legal person or a legal arrangement to—

(a) understand the ownership and control structure of such a customer ; and

(b) determine the natural person who ultimately owns or controls the customer.

(7) For the purpose of these Regulations, a natural person shall include a person who exercises ultimate and effective control over a legal person or a legal arrangement, and—

(a) for a company, a natural person is one who owns the controlling interest and who comprises the mind and management of the company ; and

(b) for a trust, a natural person is a settler, trustee or person exercising effective control over the trust and beneficiaries.

(8) It shall not be necessary to verify the identity of the shareholders where a customer or owner of the controlling interest is a public company subject to regulatory disclosure requirements, (such as a public company listed on a recognized stock exchange).

(9) An insurance institution shall conduct on-going due diligence on every business relationship.

(10) An insurance institution shall scrutinize the transactions undertaken by a customer throughout the course of its relationship with such a customer to ensure that the transaction being conducted is consistent with the institution's knowledge of the customer or beneficial owner, its business and risk profiles, including where necessary, the source of funds.

(11) An insurance institution shall ensure that information; document or data obtained under the CDD process is properly collated, documented and preserved.

(12) The CDD requirements shall also apply to all new customers on the basis of materiality and risk, and to existing customers or beneficial owners.

(13) An insurance institution shall take note of various transactions or 'trigger events' that may occur after the contract date and indicate where due diligence may be applicable.

(14) An insurance institution shall adopt CDD measures on a risk sensitive basis and determine in each case the risk exposure, using risk factors like type of customer, product, transaction or the location of the customer.

(15) Where the determination of risk in sub-regulation (15) of this regulation raises doubt, an insurance institution shall contact the Commission for guidance and this shall be properly documented.

(16) Under this regulation—

“*trigger events*” include claims notification, surrender requests, policy alterations and changes in beneficiaries ; and

“*transactions*” mean inquiries and applications for an insurance policy, premium payments, claims, requests for changes in benefits, beneficiaries and duration.

8.—(1) For life or other investment-related insurance product, an insurance institution shall in addition to the CDD measures required for the customer or the beneficial owner, conduct the following additional CDD measures as soon as the beneficiary is identified or designated—

Customer
Due
Diligence for
Beneficiaries
of Life
Insurance
Policy.

(a) for beneficiaries that are identified as specifically named natural or legal persons, including legal arrangements, verify the name of the person ;

(b) for a beneficiary who is designated by characteristics or by class, obtain sufficient information on such beneficiary in order to be satisfied that it can establish the identity of the beneficiary at the time of pay out ;

(c) ensure that the information obtained in paragraph (b) of this sub-regulation shall be recorded and maintained in accordance with the provisions of record keeping requirements ; and

(d) ensure that the verification of the identity of beneficiary shall occur at the time of pay out for all situations referred to in this sub-regulation.

(2) The beneficiary of a life insurance policy shall be included as a relevant risk factor for consideration, in determining whether enhanced CDD measures are required or applicable.

(3) Where an insurance institution determines that a beneficiary presents a higher risk, then the enhanced CDD measures shall include reasonable measures to identify and verify the identity of the beneficial owner or the beneficiary at the time of pay out.

(4) Where an insurance institution fails to comply with the provisions of sub-regulations (1), (2) and (3) of this regulation, it shall file a suspicious transaction report to NFIU.

9.—(1) An insurance institution shall perform enhanced CDD measures for higher risk categories of customers, business relationships or transactions where higher risks are identified in order to manage and mitigate risks which shall include both high risk business relationships assessed by the institution, based on the customer's individual risk situation and the types of business relationship.

Enhanced
Customer
Due
Diligence
(ECDD).

(2) With regard to enhanced CDD, an insurance institution shall consider the following measures—

(a) certification by appropriate authorities and professionals of documents presented ;

(b) requisition of additional documents to complement those that are otherwise required ;

(c) performance of due diligence on identity and background of the customer or beneficial owner, including the structure in the event of a corporate customer ;

(d) performance of due diligence on source of funds and wealth ;

(e) obtaining senior management approval for establishing business relationship ; and

(f) conduct enhanced on on-going monitoring of the business relationship.

(3) An insurance institution shall in addition to carrying out CDD measures on cross border insurance activities and other similar relationships—

(a) gather sufficient information on a respondent institution ;

(b) assess the respondent institution's anti-money laundering and countering the financing of terrorism controls ;

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

(d) obtain the Commission's approval before establishing new correspondent relationships.

(4) An insurance institution shall in addition to performing enhanced CDD for higher risk business relationships, apply enhanced CDD measures where there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere in these Regulations.

(5) An insurance institution shall use independent and reliable electronic database and analytical software as applicable, in conducting enhanced CDD measures for high risk situation.

(6) In this regulation, high risk categories of customers include—

(a) non-resident customers ;

(b) legal persons or legal arrangements such as trusts that are personal assets-holding vehicles ;

(c) companies that have nominee-shareholders or shares in bearer form ;

(d) Politically Exposed Persons (PEPs).

Politically Exposed Persons

(7) An insurance institution shall in addition to performing enhanced CDD measures, put in place appropriate risk management systems to determine whether a potential policy holder or existing policy holder or the beneficial owner is a Politically Exposed Person ("PEP").

(8) The board of directors of an insurance institution shall establish a client acceptance policy with regard to PEPs, taking account of the reputational and other relevant risks involved.

(9) Approval of senior management of an insurance institution shall be required before establishing business relationship with PEPs.

(10) An insurance institution shall render monthly returns on its transactions with PEPs to the Commission and NFIU.

(11) Where a policy holder has been accepted or has an on-going relationship with an insurance institution and the policy holder or beneficial owner subsequently becomes or is discovered to be a PEP, senior management approval shall be obtained in order to continue the business relationship.

(12) An insurance institution shall take reasonable measures to establish the source of wealth and funds of policy holders or beneficial owners identified as PEPs and immediately report all suspicions to the NFIU.

(13) An insurance institution in a business relationship with a PEP shall conduct an on-going enhanced CDD on the relationship.

10.—(1) The full range of CDD measures shall apply to all business relationships, provided that where lower risks of money laundering or the financing of terrorism is identified, based on the assessment of an insurance institution, and where information on the customer or beneficial owner's identity is publicly available, or where adequate checks and controls exist in the Nigerian financial system in respect of a customer or beneficial owner, it may be reasonable for institution to apply, subject to these Regulations and AML/CFT subsisting legislation, simplified or reduced CDD measures when identifying and verifying the identity of a customer, beneficial owner or other parties to the business relationship.

Simplified
Customer
Due
Diligence
(SCDD).

(2) An insurance institution may in lower risk circumstances, apply reduced or simplified measures in situations where—

(a) information on the identity of the customer and the beneficial owner of a customer is publicly available ; and

(b) the insurance institution rely on checks and controls of another competent authority.

(3) Where an insurance institution has conducted a simplified CDD on a customer and there is suspicion of money laundering or financing of terrorism or specific higher risk scenarios, enhanced CDD shall be conducted and STR filed with NFIU immediately.

11.—(1) An insurance institution shall verify the identity of a customer, beneficial-owner and occasional customers before or during the course of establishing a business relationship or conducting an insurance transactions.

Timing of
Verification.

(2) An insurance institution may complete the verification of the identity of a customer or beneficial owner following the establishment of business relationship, when—

(a) this can take place as soon as reasonably practicable ;

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

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

(3) Identification and verification of the beneficiary may take place after the insurance contract has been concluded with the policyholder, provided the money laundering and financing of terrorism risks are effectively managed.

(4) Notwithstanding the provision of sub-regulation (3) of this regulation, identification and verification shall be done on or before the time of payout or the time when the beneficiary intends to exercise vested rights under the policy.

(5) Where a policyholder or beneficiary is permitted to utilize the business relationship prior to verification, an insurance institution shall adopt risk management procedures concerning the conditions under which this may occur and such procedures shall include a set of measures like a limitation of the number, types or amount of transactions that can be performed and the monitoring of large or complex transactions being carried out outside the expected norms for that type of relationship.

(6) An insurance institution shall not only rely on the documents presented by a customer but shall verify the identity of such a customer, using other independent data or resources and to analyse and understand the ownership structure of a person who is being brought on board as a customer.

Failure to
complete
Customer
Due
Diligence.

12.—(1) Where there is failure or inability to complete verification of a relevant information or data, or failure or inability to obtain information on the purpose and intended nature of the business relationship, an insurance institution shall in the circumstance—

(a) not conclude the insurance contract ;

(b) not perform the transaction ; or

(c) terminate the business relationship and file an STR with NFIU.

(2) An insurance institution

(3) Where the name of a person or an entity is confirmed to be on a sanction list, an insurance institution shall freeze all funds or any other economic resources identified as belonging to or connected with such a person or entity immediately.

(4) Where the provision of sub-regulation (3) of this regulation applies, an insurance institution shall ensure that the account is not operated and shall immediately prepare an suspicious transaction report (STR) including all actions taken to freeze the funds and other economic resources belonging to such person or entity and file STR with NFIU immediately.

14. An insurance institution shall apply CDD measures on an existing customer on the basis of materiality and risks, to conduct due diligence on such existing relationship at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.

Existing
Customers.

15. In view of the peculiar nature of reinsurance business which makes it impracticable for the reinsurer to carry out verification of the policy holder or the beneficial owner, reinsurers may deal with ceding companies that are licensed or otherwise authorized to issue insurance policies, and which have warranted or otherwise confirmed that they comply with AML/CFT standards.

Reinsurance.

16.—(1) An insurance institution shall perform on-going due diligence on a business relationship and monitor all requested change to the policy or exercise of rights under the terms of the contract, and assess if such change or transaction does not fit the profile of the customer or beneficial owner or is for some other unusual or suspicious reason.

On-going
Due
Diligence.

(2) Where an insurance institution is convinced that if it performs additional CDD because of suspicion, it may unintentionally tip off the Policy holder or

(2) Where in the process of establishing a business relationship, an insurance institution is unable to conclude the verification process because the customer or broker refused to provide the required documents or information, such conduct shall be considered suspicious and shall be reported to NFIU immediately.

(3) Where an insurance institution reasonably suspects that the source of funds is the proceeds of a criminal activity, it shall report its suspicion to NFIU immediately and all suspicious transactions including attempted transactions shall be reported regardless of the amount involved, and the institution shall take action taken on the suspicious activity.

(4) Where an insurance institution reasonably suspects that a transaction has a link with terrorism, it shall report its suspicion to NFIU immediately without delay but not later than 24 hours.

(5) It shall amount to reasonable suspicion under sub-regulation (4) of this regulation where the insurance institution has sufficient reasons to suspect the funds in question—

(a) are intended to be used for an act of terrorism, notwithstanding such funds derive from either legal or illegal sources ;

(b) are proceeds of a crime related to terrorism financing ; or

(c) belong to a person, entity or organization considered as a terrorist.

(6) Where an insurance institution makes a report to NFIU under regulation (4) of this regulation, the report shall

(b) there is a clear procedure for reporting suspicion of money laundering and the financing of terrorism without delay to NFIU.

18.—(1) An insurance institution shall immediately but not later than seven days file with NFIU, a Currency Transaction Report (CTR) on all transactions in excess of ₦5,000,000.00 or its equivalent in foreign currency for an individual and ₦10,000,000.00 or its equivalent in foreign currency for a corporate body.

Currency
Transaction
Report
(CTR).

(6) Training covering all aspects of AML/CFT generally including policy and procedures shall be provided to staff of insurance institutions.

(7) The Compliance Officer or Money Laundering Reporting Officer shall

receive continuous in-depth training concerning all aspects of relevant legislation and local and international guidance on AML/CFT generally, including policies and procedures, validation and reporting of suspicious customer transactions and freezing of assets.

(8) To ensure maximum compliance with the training requirements on AML/CFT legislation, all staff and agents of insurers shall undergo a minimum of two AML/CFT training per year.

(9) All staff of brokers and loss adjusters shall undergo a training

(4) The obligation to identify and report a suspicious transaction shall apply to all insurance institutions, however, insurance companies shall structure and implement their policies and procedure in such a way as to obtain customer related information necessary to detect a suspicious transaction from all relevant sources including those from their agents and brokers, and to promptly report a suspicious transaction to appropriate authorities based on such information.

22.—(1) An insurance institution shall maintain all records of transactions, both domestic and international, for at least five years following completion of the transaction, and this requirement applies regardless of whether the contract or business relationship is on-going or has been terminated, provided that the Commission and NFIU may in specific cases, require such records for longer periods.

(2) The records of transac...

(3) Measures for managing the risks in sub-regulation (2) of this regulation shall include specific and effective CDD procedures that apply to non-face-to-face

(7) An insurance institution shall consider among others, the various relevant factors that will enable it to adequately create the risk profile for its customers.

(8) Having established the identity of a customer or beneficial owner with respect to an insurance contract, an insurance institution shall assess the risk to its business by conducting a search on the customer or beneficial owner against domestic and international information on known or suspected fraudsters, money launderers or terrorists, publicly available on sanctions lists such as those published on the Nigeria list and the United Nations Security Council consolidated list.

Complex and
Unusual
Large
Transactions.

26.—(1) An insurance institution shall pay special attention to all complex, large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose, examine the background and purpose of such transactions and set forth the findings in writing.

(2) An insurance institutions effecting a transfer, payment or remittance to a foreign insurance company, re-insurance company etc, shall obtain a written permission from the Commission before consummating such a transaction.

Payment
under Life
Insurance.

27.—(1) Payment in respect of life insurance to a third party is prohibited except in cases like superannuation, gratuity accumulations or payment to a legal heir in a case of death benefits; provided that payments shall comply with appropriate CDD.

(2) Policy cancellations need particular attention of an insurer especially in situations where clients or agents indulge in policy surrender on more than one occasion.

PART IX—SANCTIONS

Sanctions.

28.—(1) Subject to the provisions of the Insurance Act, 2003 and subsisting AML/CFT legislations, contravention of any of the provisions of these Regulations by an insurance institution shall attract a fine of not less than One Million Naira (₦1,000,000.00) and an additional fine of Ten Thousand Naira (₦10,000.00) for every day the offence subsists, and in addition, may include suspension or withdrawal of its operating licence.

(2) Where a person being a director, senior management, manager or other employee of an insurance institution, either acting alone or in partnership with others, contravenes the provisions of these Regulations under any circumstance, he shall be subjected to any or all of the following sanctions—

(a) have his appointment terminated on the direction of the Commission and be blacklisted from working in the insurance industry ;

(b) have the name of the officer penalized reflected in the institution's financial statements and published in the newspapers ; and

(c) report the defaulting officer to the Financial Reporting Council (FRC) and the professional body he/she belongs to, for appropriate disciplinary action.

(3) In addition to sanctions in sub-regulations (1) and (2) of this regulation, particulars of a defaulting insurance institution or individual shall be forwarded to the relevant anti-graft authorities such as the Economic and Financial Crimes

Commission (EFCC), Nigeria Police Force (NPF), Independent Corrupt Practices and other Related Crimes Commission (ICPC), among others, for possible criminal investigation and prosecution.

(4) A person who tips off a customer or discloses issues that are the subject matter of an ongoing investigation or regulatory sanction commits an offence and shall on conviction be punished in accordance with the relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended).

PART X—MISCELLANEOUS

29.—(1) The Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) Regulations for Insurance Industry, 2012 is hereby revoked. Revocation.

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

30. In these Regulations, unless the context otherwise indicates—

Interpretation.

“*an applicant for business*” means a person or company seeking to establish a business relationship or an occasional policy holder undertaking a one-off transaction whose identity is verified ;

“*beneficial owner*” means :

- (a) the natural person who ultimately owns or controls a customer ;
- (b) the natural person on whose behalf a transaction is being conducted ;
- and

- (c) a person who exercises ultimate effective control over a legal person or arrangement ;

“*beneficiary*” includes a natural or legal person or any other form of legal arrangement identified by the originator as the receiver of the requested insurance contract benefits ;

“*business relationship*” means an arrangement between a person and an insurance institution for the purpose of concluding a transaction ;

“*client or customer*” includes policyholder ;

“*competent authority*” means any agency or institution concerned with combating money laundering and the financing of terrorism under these Regulation or under any other subsisting legislation ;

“*covered product*” means an insurance contract that is vulnerable as a means of money laundering or terrorism financing and include among others the following—

- (a) a permanent life Insurance policy, other than a group life insurance policy ;
- (b) an annuity contract, other than a group annuity contract ;
- (c) unit linked products which provide for withdrawals and unlimited top up premiums ;

(d) single premium products, where the money is invested in lump sum and surrendered at the earliest opportunity ; and

(e) any other insurance product with cash value or investment features ;

“*financing of terrorism*” has the same meaning as in the Terrorism (Prevention) Act, 2011 (as amended) and in the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013 ;

“*funds*” mean assets 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 assets, including among others, cash, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts or letter of credit ;

“*immediately*” means spontaneous, instantly, rapid, straightaway, take action in a timely manner, without delay but not later than 24 hours ;

“*insurance company, insurance operator or insurer*” means a company that engages in the business of issuing or underwriting insurance products and is registered by the Commission ;

“*insurance institution*” include insurance company, insurance broker, insurance agent, reinsurance company and loss adjuster ;

“*insurer*” includes reinsurer ;

“*Money laundering (ML)*” shall have the same meaning as in the Money Laundering (Prohibition) Act, 2011 (as amended) ;

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

“*offshore operations*” refer to branch offices and subsidiaries of an insurance institution located outside the country or foreign insurance companies ;

“*one-off transaction*” means any transaction carried out other than in the course of an established business relationship ;

“*Politically Exposed Person (PEPs)*” include :

(a) individuals who are or have been entrusted with prominent public functions by a foreign country including among others :

- (i) heads of state or government,
- (ii) senior politicians,
- (iii) senior government officials,
- (iv) senior judicial officers,
- (v) senior military officers,
- (vi) senior executives of state owned corporations, and
- (vii) important political party officials ;

(b) individuals who are or have been entrusted domestically with prominent public functions, including among others :

- (i) heads of state or government,
- (ii) senior politicians,
- (iii) senior government officials,
- (iv) senior judicial officers,
- (v) senior military officers,
- (vi) senior executives of state owned corporations, and
- (vii) important political party officials ;

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

“proceeds” means property derived from or obtained, directly or indirectly through the commission of an offence ;

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

“sanction list” means and includes—

(a) Nigeria List that contains names of persons or entities or groups declared by the President of the Federal Republic of Nigeria as suspected international terrorist ; and

(b) United Nation consolidated list prepared and adopted by the Sanctions Committee of the UN that contains names of persons, entities or groups identified or suspected as international terrorists ;

“structuring” means any act to breakdown a large currency transaction into smaller transactions, in one or more days for the purpose of evading filing requirements required by the AML/CFT Regulations ;

“subsisting AML and CFT legislations” means and includes :

- (a) Money Laundering (Prohibition) Act 2011 ;
- (b) Money Laundering (Prohibition) (Amendment) Act 2012 ;
- (c) Terrorism (Prevention) Act 2011 ;
- (d) Terrorism (Prevention) (Amendment) Act, 2013 ; and
- (e) Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations 2013 ;

“suspicious” means a matter which is beyond mere speculations but based on reasonable foundation ;

“transaction” means and includes :

- (a) life insurance ;

- (b) non-life insurance ;
- (c) lending ;
- (d) financial leasing ;
- (e) financial guarantees and commitment ; and
- (f) all other insurance related matters ;

“*wire transfer*” means any transaction carried out on behalf of a natural person or legal originate through a financial institution by electronic means with a view to making an amount of money available to a beneficiary person at another financial institution, irrespective of whether the originator and the beneficiary are the same person.

Citation.

31. These Regulations may be cited as National Insurance Commission (Anti-Money Laundering and Countering the Financing of Terrorism) Regulations, 2013.

MAD: at Abuja this 29th day of August, 2013.

FOLA DANIEL
Commissioner for Insurance
National Insurance Commission

EXPLANATORY NOTE

*(This note does not form part of the above Regulations
but is intended to explain its purports)*

These regulations seek to regulate and ensure that the insurance industry complies with subsisting Anti-Money Laundry and Countering the Financing of Terrorism Legislations.



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NIGERIAN COMMUNICATIONS ACT
(No. 19 of 2003)

QUALITY OF SERVICE REGULATIONS, 2013



ARRANGEMENT OF REGULATIONS

Regulation :

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2. Objectives
3. Scope

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S. I. No. 157 of 2003

NIGERIAN COMMUNICATIONS ACT
(No. 19 of 2003)

QUALITY OF SERVICE REGULATIONS, 2013

In exercise of the powers conferred upon it by section 70 of the Nigerian Communications Act, 2003 ("the Act") and all other powers enabling it in that behalf, the NIGERIAN COMMUNICATIONS COMMISSION ("the Commission") make the following Regulations—

[22nd Day of March, 2013]

Commence-
ment.

PART I – INTERPRETATION, OBJECTIVES AND SCOPE

1.—(1) In these Regulations and the Schedules thereto, terms used shall have the same meanings as in the Act, and ;

Interpreta-
tions.

"*Access Service*" means a service that is provided for communications to or from Network Termination Points that serves end users without making the communications pass through more than one public network ;

"*Act*" means the Nigerian Communications Act, 2003 ;

"*Average*" or "*Mean*" means the result of dividing the sum of the numerical values in a set by the number of values in the set ;

"*Broadband Internet Access Service*" means an Internet Access Service that is not a Voiceband Internet Access Service ;

"*BSC*" means Base Station Controller as defined in Schedule 2 ;

"*BTS*" means Base Transceiver Station as defined in Schedule 2 ;

"*Busy Time*" means the set of the same six hours in each of the same four

“Fixed Telephony Service” means a Telephony service that is not a Mobile Telephony service ;

“Fixed Wireless Telephony Service” means a Fixed Telephony service that requires the use of radio frequencies assigned under individual Licences to achieve communications at the Network Termination Points of the End Users ;

“Fixed Wireline Telephony Service” means a Fixed Telephony service that is not a Fixed Wireless Telephony service ;

“Interconnecting Licensee” means a Licensee that has an Interconnection with another Licensee at a Network Termination Point ;

“Internet Access Service” means an Access service that is an Internet service .

(b) the methods of taking measurements that measure service performance against prescribed parameters described as "Measurement Methods" in sub-regulation (2) of regulation 5 of these Regulations ; and

(c) any applicable targets for the prescribed parameters identified in Schedule 1 of these Regulations ;

"*Reporting Area*" means a geographic area for which Measurements are taken and recorded, determined in accordance with regulation 6 of these Regulations ;

"*Reporting Period*" means the period of time over which Measurements are taken and recorded and against which a fine can be calculated when a Licensee or the Commission performs quality of service measurement, reporting, enforcement and record keeping tasks once for each Reporting Area, parameter and service, determined in accordance with sub-regulation (1) of regulation 5 or as may be specified in other parts of these Regulations or as determined and communicated by the Commission from time to time ;

"*Service*" means application, content, network or facilities service or any combination of these services, that is provided substantially for communications between Network Termination Points ;

"*Target*" means a value that is reached by a given parameter where the relevant service identified in these Regulations or its Schedules is satisfactory ;

"*Telephony Service*" means a Service that is provided substantially for voice communications to or from Network Termination Points that has telephone numbers that are allocated according to the Numbering and electronic addressing plan ; and

"*Voiceband Internet Service*" means any Internet Access service that provides communications from Network Termination Points and that requires the use of a Telephony Access Service to achieve communications.

(2) In these Regulations, particularly, for the purpose of measuring standards indicated or specified herein, whenever there is a difference between the definitions expressed in words and those alternative definitions expressed in mathematical terms, the meanings attributed to the latter definitions shall prevail and Mathematical definitions shall supersede the definitions in words.

(3) The Licensee shall ensure that, where exact counters are not provided in its network or systems, formulas with similar effect are used for each parameter computations.

2. The objectives of these Regulations are to—

Objectives.

(a) ensure the protection and promotion of the interests of consumers against unfair practices including matters relating to tariffs and charges, the availability and quality of communications services, equipment and facilities ;

(b) improve service quality by identifying service deficiencies and by encouraging, enforcing, effecting or requiring appropriate changes and solutions ;

(c) maintain service quality, while recognizing environmental and operating conditions ;

(d) make available information that will help customers make an informed choice of services and service provider ;

(e) improve the operation and performance of interconnected networks ; and

(f) assist the development of related telecommunications markets.

Scope.

3. These Regulations stipulates the minimum quality and standards of service, associated measurements, reporting and record keeping tasks.

PART II—MEASUREMENT, REPORTING AND RECORD KEEPING

Use of parameters.

4.—(1) The quality of service standards under these Regulations have been developed in accordance with—

(a) measurements required for features of services that are significant, with an emphasis on services that are subject to limited competition ;

(b) measurement methods and related reporting of information to enable the Commission compare the service quality of Licensees fairly which should not unnecessarily restrict the measurement or other quality of service monitoring practices of Licensees ; and

(c) any applicable targets or Key Performance Indicators ('KPIs') and other characteristics of the identified quality of service standards appropriate to the Federal Republic of Nigeria.

(2) A Parameter shall be used to report for a service and measurements and related reporting of the parameters shall be required where it is one of those stated in these Regulations or listed in the Schedule to these Regulations.

Reporting periods.

5.—(1) Unless otherwise stated in these Regulations, the Reporting Periods, which are the periods of time over which measurements are taken and recorded, shall be one month starting from the 1st day of every applicable calendar month to the last day of the month or as the Commission may, from time to time, determine and communicate to the relevant Licensees.

(2) The Commission shall in carrying out Measurement and Data Acquisition functions use any of the following methods :

(i) Drive test ;

(ii) Mobile Station Probes tests ;

(iii) Consumer survey ; and

(iv) Data collection from Operators, the Commission's Network Operating Centers ('NOCs') or Network Management Centers ('NMCs').

(3) The Commission's NOC or NMC may rely on real-time data acquired from feeds from Operators NOCs or NMCs.

(4) KPI Measurements may be carried out at all network segments including BTS, Cell, BSC or MSc levels.

6.—(1) The Reporting Areas which are the geographic areas for which measurements are taken and recorded, shall be—

Combined
Reporting
Areas.

- (a) a specific geographical area or driving routes ;
- (b) the States of the Federal Republic of Nigeria ; or
- (c) the Federal Capital Territory ;

taken separately unless the prior written approval of the Commission has been obtained that two or more Reporting Areas be combined into one Reporting Area for particular Licensees, parameters, services and Reporting Periods.

(2) The reporting areas must be such that performance of different clusters representing different geographic areas in the states as specified by the Commission is easily obtainable.

(3) In considering whether to grant approval that two or more Reporting Areas be combined into one Reporting Area under regulation 6, the Commission shall take the following factors into account—

- (a) the value of information about variations in quality of service between separate Reporting Areas ;
- (b) the relationship between the network structure and corporate organisation of the relevant Licensees and the physical boundaries of the Reporting Areas ;
- (c) the numbers of consumers using the relevant services in the Reporting Areas ; and
- (d) the difference in costs between taking measurements for separate Reporting Areas and taking measurements for combined Reporting Areas.

7. For each parameter that is Reportable for a Service, Reporting Area and for each Reporting Period, a Licensee shall perform the following measurement, reporting and record keeping tasks—

Measurement,
reporting
and record
keeping
tasks.

- (a) take the measurements according to the Measurement Method defined ;
- (b) submit the measurements to the Commission within one week after the end of the Reporting Period and ensure availability of real-time performance data from the performance measurement or management systems of the Licensee to the Commission via a mode specified by the Commission ;
- (c) submit any additional information requested by the Commission, including details of the times, places, Network segments and other particulars of the measurements, within one month after the end of the Reporting Period or as may be directed by the Commission ; and
- (d) retain quality of service data, including all measurements and related records, for a minimum of twelve months after the end of the Reporting Period or as may be directed by the Commission.

8.—(1) The Licensee shall resolve any consumer complaint within the resolution-time stated in these Regulations or as may be approved by the Commission from time to time.

Consumer
complaint
resolution.

PART IV—INVESTIGATION

11.—(1) The Commission may audit some or all of the quality of service data acquired from the Licensee under sub-regulation (2) of Regulation 5 or data retained by Licensees.

Auditing of
Quality of
service data.

(2) In carrying out its obligations under sub-regulation (1) of this regulation, the Commission may vary the frequency of the audits, data collection, the Licensees services, parameters, Reporting Areas, network segments and Reporting Periods that require audits.

(3) The Commission may also utilize data acquired under regulations 5(2) and 7(b) in its auditing processes.

12.—(1) The Commission may investigate the quality of service measurement, reporting and record keeping procedures of a Licensee pursuant to the provisions of sections 61 and 89 of the Act.

Investigation
of
measurement,
reporting
and record
keeping
procedures.

(2) In carrying out its duties under sub-regulation (1) of this regulation, the Commission may exercise its powers of information gathering pursuant to sections 64-68 and section 141 of the Act.

PART V—CONTRAVENTIONS AND ENFORCEMENT

13. For each parameter for a service, Reporting Area, prescribed Network Segment and for each Reporting Period, a Licensee providing the service shall have contravened the provisions of these Regulations ; if the Licensee—

Contra-
ventions.

(a) fails to perform the measurement, reporting and record keeping tasks set out in regulation 7 of these Regulations ;

(b) fails to achieve the set target for the parameter and the service :

(i) after the commencement date of these Regulations ; or

(ii) the date when the target was most recently specified ; or

(iii) the date when the target was changed to require a higher standard of quality than was earlier required ;

(c) fails to submit, during a time-frame specified by the Commission, information requested by the Commission pursuant to regulation 7 or regulation 10 of these Regulations ;

(d) submits or publishes false or misleading information about its quality of service ; or

(e) obstructs or prevents an investigation or real-time collection of performance data by the Commission in respect of quality of service measurement, reporting and record keeping procedures.

14. Where a Licensee contravenes any of the parameters set out in these Regulations, the Commission may take one or more of the following enforcement measures :

Enforcement
Measures.

(a) require the Licensee to submit or publish additional information about the quality of the relevant service including but not limited to its implementation of a remedial plan within a time-frame agreed with the Commission.

(b) any information submitted may be cross-checked against the performance data collected by the Commission under regulations 5(2) and 7(b) of these Regulations ;

(c) issue directions pursuant to section 53 of the Act including but not limited to directing Licensees to compensate subscribers or consumers for poor quality of service ; and

(d) impose a fine on the contravening Licensee as determined under Schedule 3 to these Regulations.

Factors in
applying
Enforcement
Measures.

15. In considering the application of enforcement measures under regulation 14 of these Regulations, the Commission may take into account factors including the—

(a) factors and considerations set out in regulation 15 of the Enforcement Processes Regulations, 2005 or any applicable section of an amendment of the said Regulations ;

(b) time interval between a failure to perform the measurement, reporting and record keeping tasks and due compliance ;

(c) time interval between identification and the resolution of faults or problems inhibiting real-time data acquisition under paragraph (b) of regulation 7 of these Regulations ;

(d) time taken to achieve targets specified by the Commission in these Regulations ;

(e) numbers and nature of the services, Parameters, Reporting Areas, relevant Network Segment, Reporting Periods and Targets which the Licensee has contravened ;

(f) service credits or rebates, as well as public information that have been provided by the Licensee to subscribers who may have been inconvenienced or otherwise affected by the contraventions ; and

(g) factors set out in Table 2 of Schedule 1 to these Regulations where the rate of occurrence of a particular complaint exceeds the maximum number specified.

PART VI – MISCELLANEOUS

Review of
these
Regulations.

16.—(1) The Commission may from time to time review or modify these Regulations, including the Schedules, pursuant to section 72 of the Act.

(2) In carrying out a review or modification of these Regulations the Commission may request and receive advice or comments from external advisory groups which advice shall not be binding on the Commission.

Further
Directives.

17. The Commission may time issue additional rules, directives or guidelines on any aspect of these Regulations which shall be of general application or specific to a Licensee.

18.—(1) The Quality of Service Regulations, S. I. No. 3, 2012, is hereby revoked.

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

19. These Regulations may be cited as the Quality of Service Regulations, 2013.

Revocation
of the
Quality of
Service
Regulations,
S. I. No. 3,
2012.

Citation.

SCHEDULE 1

THRESHOLD TARGETS AND KPIS

1.0. WIRELINE SERVICES KPIS.

TABLE 1 : Fixed Wireline Telephony Services for End Users

<i>Parameter Name</i>	<i>KPI</i>
Disconnection complaint rate	<0.002% of customers in the Reporting Period
Disconnection complaint resolution time	<1 working day for the mean
Fault report rate	<0.002% of customers in the Reporting Period
Fault repair time	<2 working days for the mean in the Reporting Period
Service supply time	<5 working days for the mean in the Reporting Period
Other Related KPIS which are not stated in this Table	Same as that stated in section 2.0 of this Schedule

2.0 WIRELESS SERVICES KPIS

TABLE 2 : Account Complaints KPIS

<i>Ten complaints to every one million bills/accounts</i>		
<i>2.1. Account Complaint</i>		<i>KPI</i> <i>Target Resolution time</i>
1.	Charging for line rental at incorrect rate.	≤ 5 days
2.	Charging for calls/SMS/MMS messages at incorrect. Rates or more than once for the same call/SMS.	≤ 1 Hour ≤ 24 Hours for Roaming
3.	Charging for services not rendered.	≤ 24 Hours
4.	Charging for uncompleted/unsuccessful calls/SMS, or charging for access not rendered	≤ 1 Hour
5.	Charging for calls beyond their durations.	≤ 24 Hours

6.	Failed attempts to load recharge payments.	<p>(a) ≤ 3 Hours for network related faults (NB. Except for exceptional circumstances that have been made public, each time within 2 hours of occurrence of the failure in the affected area. Each failure in this category that has taken longer than 48 hours to resolve must formally and specifically be communicated to the Commission)</p> <p>(b) ≤ 1 Hour for software related faults</p>
7.	System failure at Contact Centers inhibiting bill payments.	≤ 30 Minutes
8.	Failed attempts to check/determine the account balance.	≤ 2 Hours
9.	Losing credited amounts from the account.	≤ 1 Hour
10.	Miscellaneous complaint resolution time	≤ 48 Hours
11.	Inability to change tariff plan for qualified subscriber	≤ 24 Hours
12.	Credit deducted but not reflected in the receiving account in case of virtual top-up	≤ 1 Hour
13.	Invalid system response for genuine service request	≤ 2 Hours
14.	Unjustified call-barring/restriction (local, national or international)	≤ 2 Hours
15.	Inability to activate offered service	≤ 2 Hours
16.	Inability to access offered service by a qualified customer on an enabled device	≤ 1 Hour
17.	Inability to load credit from an over-scratched card	≤ 1 Hour
18.	Request for blocking of reported lost/stolen SIM card for which subscriber ownership has been confirmed	<p>≤ 30 minutes</p> <p>Blocking allowed, and further usage should not be chargeable to the consumer from the moment of filing the report.</p>

19.	Request for PUK code	Should be met within 3 Hours
20.	Inability to send or receive SMS (local or international)	≤ 1 Hour
21.	Inability to send or receive blackberry messages	≤ 2 Hours
22.	Inability to retrieve or send voice SMS	≤ 1 Hour
2.2. Miscellaneous Complaints		KPI Target Resolution Time
23.	Unsolicited messages	<p>(i) The service provider must provide an option for the subscriber to "opt out" of receiving such messages in case of messages originating from the service provider or its third party business partners.</p> <p>(ii) The service provider should make reasonable effort to identify and block or filter bulk, unsolicited and offensive messages from other sources.</p>
24.	Time for recharge/bill payments to reflect on the account.	≤ 10 Seconds recharge from Mobile ≤ 5 minutes recharge from Bank Automated Teller Machine (ATM) ≤ 1 Hour over the counter ≤ 10 Minutes after receipt of payment confirmation, for internet-based transaction
25.	Number of complaints upheld per day related to : (i) wrongly cleared balance (ii) wrong IVR/System response message (iii) failed attempts to determine the account balance (iv) failure to provide agreed content	≤ 10

26.	Number of complaints per month related to incorrect settings by a licensee leading to inhibition of two-way communication while roaming internationally.	≤ 10
27.	Meeting advertisement commitment	There shall be no disparity between advertised rates and that eventually received by the Consumer.
28.	Complaints call ID	Each complaint call must be given a unique reference number that identifies its nature/category, for follow-up and statistical analysis.
29.	Number of complaints per day related to any of the following : (a) One-way/two-way loss of audio (b) Cross-talk (c) Call misdirection to un-intended number (d) Voice quality	≤ 50 per day
30.	Number of complaints per day in respect of Network-related blocking of incoming calls	≤ 5
31.	Number of complaints per day related to inability to meet SMS/MMS end-to-end delivery time threshold	≤ 10
32.	Voice-mail related complaints per day	≤ 2
33.	Acknowledgement of delivery of all SMS/MMS/IMS messages sent	= 100% unless deactivated by subscriber
34.	Cost information for all completed calls or RGE via text to the consumer	= 100% within 5 minutes of hang-up unless deactivated by subscriber or deactivated at his/her behest.
35.	Promotions and games	Rules of participation must be clear and widely published, and promotions shall not lead to breach of any part of these regulations

2.3	Disconnection of Subscribers	
36.	<p>Disconnection resolution time</p> <p>I. POST-PAID</p>	<p>(a) There should be :</p> <p>(i) a text notice after reaching 75% of credit limit,</p> <p>(ii) On reaching 100% of credit limit a constant IVR notice of credit expiry remains ON for the next 1 week, during which the Operator is at liberty to allow/disallow outgoing calls until debt is settled.</p> <p>(b) If there is dispute, resolution time \leq 24 Hours</p> <ul style="list-style-type: none"> • 1/30th of average monthly spending should be allowed for out-going calls to be used by the customer within the dispute resolution time.
	II. PRE-PAID	<ul style="list-style-type: none"> • A Subscriber line may be deactivated if it has not been used, within six (6) months, for a Revenue Generating Event (RGE). If the situation persists for another 6 months the subscriber may lose his/her number, except for Network related fault inhibiting an RGE. • Monies left in accounts on deactivation can be claimed by subscribers once proof of ownership can be established at any given time within 1 year (less any fee paid by the operator for the number within the 1-year of non-RGE). • Deduction of Line rental-charge (if any) is regarded as an RGE. • A Subscriber with a proof of good reason for absence is at liberty to request for line-Parking.

	III. INTERNET SERVICE	To be restored within 2 hours except for service lawfully disconnected.
	IV. Number of complaints received per day by the Operator/NCC's Consumer Affairs Bureau with respect to the Operator's inability to meet I, II, and III	$\leq 10/1$ million subscribers ≤ 10 for operators with ≤ 1 million subscribers
37.	Credit run-out alert whilst on a call	<p>A single short-beep to the Call initiator at :</p> <p>(i) 2 Minutes, and at</p> <p>(iii) 30 Seconds to termination of the ongoing call.</p> <p>Low credit announcement to be played while the call is being originated in a situation where the call cannot last up to 30 secs.</p>
38.	Credit loading and balance checks	Free of Charge ; operators must provide options such as by text and/or voice or other means that will support physically challenged persons.
39.	Handset/Recipient Rejected Calls	IVR must be in place to state that the Called Number does not accept calls from the calling Number.
TABLE 3 : Customer Care Services KPIs		
3.1. Call Centre		
1.	Call Handling	<p>* Maximum number of call-attempts before connecting to Customer Care Lines should not be more than three (3) times ;</p> <p>* Maximum number of rings before a call is answered by either an IVR machine or a live agent should not be more than five (5) ; and</p>

		<p>* Where a customer decides to speak to a live agent, the maximum duration allowable on the queue/IVR should be 5 minutes before answer.</p> <p>* In exceptional cases where live agent may be unavailable within 5 minutes to answer the call, a customer should be given an option of hanging up to be called back within a maximum time of 30 minutes.</p>
2.	Customer care lines that can be accessible through other networks .	≥ 1 free access number and if 1 number then it should accommodate multiple calls at the same time.
3.2. Customer Care Centre		
	Waiting time to be physically attended to by relevant staff at customer care centers	≤ 30 minutes. The Licensee shall provide means of measuring the waiting time, starting from time of arrival at the premises.

TABLE 4 : Network Performance KPIs

TABLE 4 : Network Performance KPIs		
4.1. Network Node Performance		
1.	BH Call setup success rate	$\geq 98\%$ of attempted calls
2.	BH Call Completion rate	$\geq 97\%$ of attempted calls
3.	BH Call setup time	≤ 6 Seconds for local/ national calls
4.	Location update success rate	$\geq 99\%$ of attempts
5.	Paging success rate	$\geq 98\%$ of attempts
6.	BH Dropped Calls Rate	$\leq 1\%$
7.	BH Traffic Channel (TCH) Congestion (to be measured at BSC level)	$\leq 2\%$
8.	BH TCH Assignment Success Rate	$\geq 99\%$
9.	BH SDCCH Congestion (to be measured at BSC and cell levels)	$\leq 0.2\%$
10.	BH SDCCH drop rate	$\leq 0.5\%$
11.	BH Hand Over Success Rate at all levels	$\geq 98\%$
12.	BH Interconnect Circuit (PoI) Congestion	$\leq 0.5\%$
13.	HLR and BH VLR, capacity utilization	$\leq 70\%$
14.	BH BSC, MSC capacity utilization	$\leq 60\%$
15.	BH Processor Loading BH Erlang Utilization/BSc	$\leq 60\%$
16.	No. of Interconnect points per 3 contiguous covered States (Standalone or Shared)	≥ 1
17.	Interference protection ratio	(a) Co-channel C/I $\geq 12\text{dB}$ (b) Adjacent channel C/I $\geq -12\text{dB}$ (c) A Licensee must operate within its permitted Frequency band without causing harmful interference to parts of its network or network of other Licensees

18.	Upgrade/Integration/Cut-over Related Errors	<p>Life-time of any :</p> <p>(a) CIC mismatch,</p> <p>(b) Global Cell Identity-error,</p> <p>(c) improper Neighboring-Cell definition</p> <p>Life-time of Error in :</p> <p>(a) Neighboring MSC definition</p> <p>(b) Roaming Number of New MSC</p> <p>(c) Exchange Parameter Settings, including SS-Tone sending</p> <p>(d) IN trigger Table Definition</p>	Life-time of error in ≤ 1 Hour or 12 hrs if it is justified to the satisfaction of the Commission
19.	Resolution time of BTS faults impacting on traffic	≤ 2.5 hrs Rural ≤ 1.5 hrs Urban Exceptional circumstances such as late night failures in difficult locations must be announced via electronic media covering such location, within 2hrs	
20.	Resolution time of BSC faults impacting on traffic	≤ 45 minutes	
21.	HLR/STP-in-pool Implementation	=100%	
22.	Geographical Location of HLRs/STPs/SDPs/SCPs	≥ 2 Locations	
23.	Resolution time of MSC faults impacting on traffic	≤ 10 Min and/or $\geq 99.99\%$ availability	
	MSC/VLR (MSS) System Availability (monthly)	$\geq 99.99\%$ of (720Hrs)	
	MSC/VLR (MSS) System Down time (monthly)	$\geq 0.01\%$ of (720Hrs)	
24.	Time to repair other failures that affect traffic	≤ 1.5 hours	
25.	Service coverage received signal level	Out-door ≥ -65 dBm In-door ≥ -70 dBm In-vehicle ≥ -70 dBm	

26.	ASR IN/OUT(for On-net and Off-net)	Should be Equal, and $\geq 50\%$. Any variation which in the opinion of the Commission is significant may lead to fines. Licensees engaged in call-gapping will be individually or collectively fined in accordance with Schedule 3 to these Regulations. Misleading ringback-tone is regarded as breach.
27.	Signaling (SS7) Utilisation	$\leq 40\%$ HSL ; $\leq 30\%$ NBL
	Signaling (SS7) Link Availability	$\geq 99.99\%$
	LinkSet Unavailability	$\leq 0.01\%$
28.	Conversational voice quality on ON-NET Calls	MOS ≥ 3.6 on the MOS scale
		SQI ≥ 26
29.	Speech encoding	Use Full-Rate (FR), Enhanced FR, but, specific authorization must be obtained from the Commission to use of half-rate whether manually set or automatic through Adaptive MultiRate (AMR), for the specific period of use.
30.	BH SMS delivery success rate for enabled-handsets that are in working order, fit for purpose, ON, and in the service area, assuming sufficient account balance.	$\geq 99\%$ of attempts
31.	SMS end-to-end delivery time for enabled-handsets that are in working order, fit for purpose, ON, and in the service area, assuming sufficient account balance	≤ 8 seconds for MO and MT switched ON and within the service area (ON-NET) ≤ 10 seconds for OFF-NET
32.	Minimum time for storage of SMS/MMS before deletion by the operator i.e. for SMS/MMS that are sent to mobile stations that cannot be reached.	30 Days

33.	Maximum time allowed for B-Number/Routing Table to be out-of-date, or Problem-Resolution and inclusion of omitted numbers	≤ 24 hrs
4.2.	<i>Transmission Path</i>	
1.	Maximum time for transmission/physical link outage	≤ 2 Hours
2.	Percentage of Microwave links with space as well as Frequency diversity	$\geq 60\%$
3.	BH Congestion on trunks	$\leq 0.2\%$
4.	Redundancy on transmission links	Must conveniently handle 100% of the primary link BH traffic. There should not be redundancy on all critical links.
5.	Compression ratio on transmission system	$\leq 1:1$, but for any other compression ratio a specific authorization must be obtained from the Commission for the specific transmission route and for a particular period of use.
6.	Error Second Ratio (ESR)	≤ 0.01 ($\leq 1 \times 10^{-4}$ for IP Traffic)
7.	Background Block Error Ratio (BBER)	≤ 0.00005 ($\leq 1 \times 10^{-6}$ for IP Traffic)
8.	Severely Error Seconds (SESR)	≤ 0.02 ($\leq 1 \times 10^{-5}$ for IP Traffic)
9.	Availability	$\geq 99.99\%$
10.	Delay	$\leq 50\text{ms}$
11.	Average delay	$\geq 20\text{ms}$
12.	Delay Variation	$\leq 5\text{ms}$
13.	Packet Loss	$\leq 2\%$
14.	Slip	$\leq 5\%$
4.3.	<i>Synchronisation Network (Node Output)</i>	
1.	Primary Reference Clock (PRC)	MTIE = $25 + 0.275T$ ns {T = 900s} TDEV ≤ 3 ns

2.	Synchronization Supply Unit (SSU)	MTIE = 2000 ns TDEV \leq 3 ns
3.	SDH Equipment Clock (SEC)	MTIE = 250 ns TDEV \leq 12 ns
4.	PDH Synchronization Interface	MTIE = 2000 ns TDEV \leq 34 ns

TABLE 5 : Data Services KPIs

1.	Circuit Switched Data Services (CDS)		Upstream data rate \geq 95% of the data rate agreed with consumer, at BH Downstream data rate \geq 95% of the data rate agreed with consumer, at BH
2.	Packet Switched Data Services (PDS)		Upstream data rate \geq 95% of the data rate agreed with consumer, at BH Downstream data rate \geq 95% of the data rate agreed with consumer, at BH
3.	GPRS Attach Success Rate		$> 98\%$
	PDP Context Activation Success Rate		$\geq 98\%$
	Data Service Login success/Availability		$\geq 98\%$
	Latency		GPRS $< 500\text{ms}$, EDGE $< 100\text{ms}$
	Uplink/Downlink Throughput for Various evolution of Mobile Technology Standards		Must meet the Minimum speed specified in the 3GPP International Mobile Telecommunication (IMT) Standards
4.	Meeting Advertisement Commitments		There shall be no disparity between advertised rates and that eventually received by the Consumer
5.	Compensation for hours of data services not rendered		At least 100% of loss in supply time
6.	Contention Ratio	Committed Rate	Must be specified in the contract
		Maximum Data Rate	Must be specified in the contract

7.	End-to-End Throughput	Must be specified in the contract
8.	Data Rate of each link from end-to-end	Must be specified in the contract, and should make provision to enable measurement.
9.	Data rate of slowest link (bottleneck)	Must be specified in the contract
10.	Permissible Download data-size per billing period without additional charge on the plan	Must be specified in the contract
11.	Response time in case of Major Faults	Must be specified in the contract
12.	Customer details including address and log files	Must be available for NCC verification if required
<i>Additional Thresholds for 3G Network</i>		
13.	RRC_CSSR	$\geq 98\%$
14.	RAB_SR	$\geq 98\%$
15.	RTWP	$\leq -100\text{dBm}$
16.	RSCP	$\geq -85\text{dBm}$
17.	E_c/I_o	$\geq -9\text{dBm}$
18.	Iub Congestion	$\leq 2\%$
19.	CS_IRAT HHO Failure	$\leq 2\%$
20.	PS_IRAT HHO Failure	$\leq 2\%$

Definitions of these parameters can be found in Schedule 2 to these Regulations.

SCHEDULE 2

DEFINITION OF TERMS AND PARAMETERS

The following terms shall convey the meanings ascribed to them hereunder in the context of these Regulations. Formula-based definitions can be implemented using the formula specified hereunder or formula *with similar effect* (should the counters specified not be directly available). All KPIs must be achieved by pre- and post-paid services.

1. *Call* : A generic term related to the establishment, utilization and release of connection.

2. *Call Attempt* : An attempt to achieve a connection to one or more devices attached to a telecommunication network.

3. *Successful Call* : A call that has reached the desired number and allows conversation to proceed.

4. *Busy Hour (BH)* : The continuous 1-hour period lying wholly in the time interval concerned (usually 24hrs) for which the traffic or number of call attempts is greatest.

5. *Call Setup Success Rate (CSSR)* = $((1 - (\text{SDCCH Congestion})) * (1 - (\text{SDCCH Drop Rate}) * (\text{TCH Assignment Success Rate})))$

OR

$100 * ((1 - ((\text{CCONGS} + \text{CCONGSSUB}) / (\text{CCALLS} + \text{CCALLSSUB}))) * (1 - ((\text{CNDROP} - (\text{CNRELCONG} + \text{CNRELCONGSUB})) / \text{CMSESTAB}))) * ((\text{TFCASSALL} + \text{TFCASSALLSUB} + \text{THCASSALL} + \text{THCASSALLSUB}) / \text{TASSALL}))$ [%]

6. *Call Completion Rate* = $\text{CSSR} * (1 - \text{TCH Drop Rate})$

Where TCH Drop Rate = $(\text{TFNDROP} + \text{TTFNDROP} + \text{THNDROP} + \text{THNDROPSUB}) / (\text{TFCASSALL} + \text{TFCASSALLSUB} + \text{THCASSALL} + \text{THCASSALLSUB} + (\text{SUMIHOSUCC} - \text{SUMIAWSUCC} - \text{SUMIABSUCC}) - (\text{SUMOHOSUCC} - \text{SUMOAWSUCC} - \text{SUMOABSUCC})) * 100$ [%]

7. *Handover Success Rate* = Successful internal and External Outgoing Handovers of Total Number of Internal and External Handover Attempts

OR

$(\text{SUMOHOSUCC} + \text{SUMEOHOSUCC}) / (\text{SUMOHOATT} + \text{SUMEOHATT}) * 100$ [%]

8. *Location Update Success Rate (Registered and non-registered subscribers)* = $(\text{NLOCNRGSUCC} + \text{NLOCOLDSUCC} + \text{NLOCNRG2SUCC} + \text{NLOCOLD2SUCC}) / (\text{NLOCNRGTOT} + \text{NLOCOLDTOT} + \text{NLOCNRG2TOT} + \text{NLOCOLD2TOT}) * 100$ [%]

9. *Paging Success Rate* = $(\text{NPAG1RESUC} + \text{NPAG2RESUC}) / (\text{NPAG1LATOT} + \text{NPAG1GLTOT}) * 100$ [%]

10. *SDCCH Drop Rate* = Dropped SDCCH Connections of the Total Number of SDCCH Connections without TCH Congestion

OR

$$\frac{(\text{CNDRP} - (\text{CNRELCONG} + \text{CNRELCONGSUB}) / \text{CMSESTAB})}{\text{CMSESTAB}} \times 100$$

11. *SDCCH Congestion* = SDCCH Congestion of Total Number of SDCCH Seizure Attempts OR $(\text{CCONGS} + \text{CCONGSSUB}) / (\text{CCALLS} + \text{CCALLSSUB}) \times 100$ [%]

12. *TCH Assignment Success Rate* = Successful TCH Assignments of Total Number of Assignment Attempts

OR

$$\frac{((\text{TFCASSALL} + \text{TFCASSALLSUB} + \text{THCASSALL} + \text{THCASSALLSUB}) / \text{TASSALL}) \times 100}{\text{[\%]}}$$

13. *Call Setup Time (Post Dialing Delay)* : Time interval between the end of dialing by the user and the reception by him of the appropriate ring-back tone or recorded announcement, or the abandonment of the call without a tone.

14. *Call Drop Rate* : The Call Drop Rate is the number of dropped calls divided by the total number of call attempts at busy hour expressed as a %.

Note : A dropped call is a call that is prematurely terminated before being released normally by either the caller or called party.

$$\frac{\text{Number of dropped calls}}{\text{Number of Successfully Completed Call Setups}} \times 100$$

$$\text{OR } \frac{((\text{TFNDROP} + \text{TFNDROPSUB} + \text{THNDROP} + \text{THNDROPSUB}) / (\text{TFCASSALL} + \text{TFCASSALLSUB} + \text{THCASSALL} + \text{THCASSALLSUB})) \times 100}{\text{[\%]}}$$

15. *Traffic Channel Congestion (TCH Cong)* : This is the percentage congestion of the traffic channel measured at busy hour.

$$\frac{\text{Number of unavailable (blocked) TCH requests at all stages}}{\text{Total Number of TCH Requests}} \times 100$$

16. *Handover* : In a mobile systems, a system-driven change of the current association between an established connection and a channel (mobile to base station and/or base station to mobile channel) in the radio segment spanned by one cell. The change may result in an association between the connection and a new channel either in the same cell or in a different cell. The handover request may be issued due to deteriorated transmission quality of the channel as determined on the basis of a quality criterion (signal strength, carrier to interference ratio, etc.).

17. *Interconnect Circuit (PoI) Congestion* : This is the percentage congestion of the Interconnect Circuits measured at busy hour.

$$\frac{\text{Total Number of unavailable PoI circuit requests}}{\text{Total Number of available PoI circuits}} \times 100$$

18. *Processor Load* : This is the percentage of MSC Processor Workload measured at busy hour.

I. *BH HLR, VLR, MSC Utilization* : % Capacity Utilization of HLR, VLR and MSC at busy hour.

II. *Transceiver Unit (TRX) Utilization* : % Capacity Utilization of TRX at busy hour.

19. *No. of Interconnect points per zone* : Is the existence of at least one interconnection point per zone.

20. *Interference Protection Ratio* : Is the interference protection due to Co-Channel and Adjacent Channels.

21. *Resolution Time of CIC mismatch* : Is the time taken to resolve a CIC mismatch.

22. *Resolution time of BTS faults impacting on traffic* : This is the time taken to resolve faults that hinder traffic flow in the BTS.

23. *Resolution time of BSC faults impacting on traffic* : This is the time taken to resolve faults that hinder traffic flow in the BSC.

24. *Resolution time of MSC faults impacting on traffic* : This is the time taken to resolve faults that hinder traffic flow in the MSC.

25. *Time to repair other failures that affect traffic* : Time taken to repair other failures (not specifically captured in other parts of this document) that affect traffic.

26. *Maximum time for Transmission/Physical link outages* : Is the Maximum time allowed for transmission/Physical link to remain in a failed state or state of operation that negatively affects services to consumers.

27. *Service Coverage in cities/towns* : Is the measured Radio Signal Level in urban and sub-urban areas, in-door and out-door and in moving vehicles in (dBm).

28. *Percentage of Radio Links with Space and Frequency Diversity* : Is the percentage of Microwave Transmission Links employing Space and Frequency diversity in the entire transmission network.

29. *Conversational Voice Quality* : Is the Mean Opinion Score (MOS) of the speech quality perceived by Caller or Called party in accordance with ITU-T P.862.

30. *Compression Ratio* : Is the compression ratio on the transmission network.

31. *Voice Encoding* : Is the type of voice encoding that is used on the radio network.

32. *SMS Delivery Success Rate* : Is the ratio of the failed SMS to the total number of delivered SMS at busy hour if the recipient is active and in coverage area.

$$\frac{\text{Number of SMS received by recipient}}{\text{Total Number of SMS sent to the recipient}} \times 100$$

33. *SMS End-to-End Delivery time* : Is the maximum End-to-End delivery time of SMS if the recipient is active and in the coverage area.

34. Number of Complaints per day related to :

(i) *One way or both way loss of audio* : A situation whereby either caller or called party cannot hear the audio message or both could not hear each other.

(ii) *Cross-Talk* : A situation whereby unintended conversation interferes with that of caller or called party or both.

(iii) *Call Misdirection to unintended number* : A situation whereby a call is terminated at unintended destination.

(iv) *Voice Quantity* : Conversation with bad speech quality.

35. *Number of complaints per day in respect of Network blocking of incoming calls* : Number of complaints received per day in respect of blocking of incoming calls in the network.

36. *Number of complaints per day related to inability to meet SMS/MMS End-to-End Delivery Time Threshold* : Complaints per day received on the network related to inability to meet SMS/MMS delivery time.

37. *SMS Delivery Failure Rate* : This is the ratio of SMS undelivered to recipient to the total number of SMS received at the Service Center for the recipient.

$$\frac{\text{Number of SMS to recipient undelivered}}{\text{Total Number of SMS received at Service Center}} \times 100$$

38. *Voice Mail related complaints per day* : The complaints related to voice-mail received per day.

39. *Acknowledgement of delivery of SMS/MMS/IMS messages sent* : Successful delivery acknowledgement of SMS/MMS/IMS messages sent must be received by the sender for all messages delivered.

40. *Cost information for all completed calls or Revenue Generative Events (RGE) via text to consumer* : Charging information must be communicated to the consumer for all calls and RGEs on the network.

41. *Circuit Switched Data Services (CDS)* : Upstream/Downstream throughput of Circuit Switched Data Services. Greater or equal to 95% of the agreed data rate must be delivered to customer at busy hour.

42. *Packet Switched Data Services (PDS)* : Upstream/Downstream throughput of Packet Switched Data Services. Greater or equal to 95% of the agreed data rate must be delivered to customer at busy hour.

43. *CIC* : Circuit Identification Code.

44. *RGE* : Revenue Generating Event (RGE) is any action by one or more subscribers that leads to Revenue being derived directly or indirectly by one or more operators. Examples include but not limited to Sending or Receiving Calls / SMS/ MMS/ data Down-load/ Line rental Payment, etc.

45. *MSC/VLR, MSS System Availability/Down Time* : Amount of time the MSC and MSC-S were in/out of service during a given period excluding planned outage. Obtainable from system logs.

46. *Signaling (SS7) Link Availability* : Availability for ETSI SS7 signaling network, evaluated as :

$$(ASLDUR / (ASLDUR + UNAVAILDUR)) * 100$$

47. *Signaling (SS7) LinkSet Unavailability* : Duration of unavailability of signaling link set in seconds, evaluated from : STUNADURAT

48. *Answer Seizure Ratio (ASR)* : Answer/Seizure ratio (ASR) is the number of successfully answered calls divided by the total number of calls attempted (seizures) multiplied by 100. It is evaluated as follows :

Number of B answers in the Incoming route

$$ASR_IN = (NANSWERSI / NCALLSI) * 100$$

Number of B answers in the Outgoing route

$$ASR_OUT = (NANSWERSO / NCALLSO) * 100$$

Number of calls answered (B-answer) for both outgoing and Incoming calls

$$ASR_TOT = ((NANSWERSI + NANSWERSO) / (NCALLSI + NCALLSO)) * 100$$

49. *Background Block Error Ratio (BBER)* : The ratio of Background Block Errors (BBE) to total blocks in available time during a fixed measurement interval. The count of total blocks excludes all blocks during Severely Error Seconds (SESS). It is expressed as :

$$BBER = BBE / (TT - UAS - SES)$$

TT = Total Measurement Time

UAS = Unavailable Second

50. *Error Second Ratio (ESR)* : The ratio of Error Second (ES) to total seconds in available time during a fixed measurement interval. It is expressed as :

$$ESR = [ES / (TT - UAS)]$$

51. *Severely Error Seconds (SESR)* : SESR is a one-second period that contains over 30 percent error blocks or at least one defect. SES is a subset of ES. It is expressed as :

$$SESR = [SES / (TT - UAS)]$$

WHERE :

CCONGS — Congestion counter for underlaid subcell. Stepped per congested allocation attempt. The counter for overlaid subcell is CCONGSSUB

CCALLS — Channel allocation attempt counter (on SDCCH). The Counter for overlaid subcell is CCALLSSUB

CNDROP — The total number of dropped SDCCH channels in a cell

CNRELCONG — Number of released connection on SDCCH due to TCH- and transcoder congestion in underlaid and overlaid subcell. The subset for overlaid subcells is CNRELCONGSUB. Note That CNDROP is stepped at the same time.

CMSESTAB — Successful MS channel establishments on SDCCH. This counter is a sum of both overlaid and underlaid subcells.

TFNDROP — The total number of dropped full-rate TCH in underlaid subcell. The identical counter for overlaid subcells, TFNDROPSUB. The corresponding counters for half-rate, THNDROP and THNDROPSUB, respectively.

TFCASSALL — Number of assignment complete messages for all MS power classes in underlaid subcell, full-rate. The identical counter for overlaid subcells, TFCASSALLSUB. The corresponding counters for half-rate, THCASSALL and THCASSALLSUB, respectively.

TCASSALL — Successful assignment attempts

TASSALL — Assignment attempts for all MS power classes.

SUMOHOSUCC — Sum of Successful Internal Handovers (Outgoing Handover)

SUMOABSUCC — Sum of Successful Internal Assignment Handovers to Better Cell (Outgoing Handover)

SUMOAWSUCC — Sum of Successful Internal Assignment Handovers to Worse Cell (Outgoing Handover)

SUMIHOSUCC — Sum of Successful Internal Handovers (Incoming Handover)

SUMIABSUCC — Sum of Successful Internal Assignment Handovers to Better Cell (Incoming Handover)

SUMIAWSUCC — Sum of Successful Internal Assignment Handovers to Worse Cell (Incoming Handover)

SUMOHOATT — Sum of Internal Handover Attempts (Outgoing Handover)

SUMEOHOATT — Sum of External handover Attempts (Outgoing Handover)

NPAG1LOTOT — No. of first global page attempts over A-Interface

NPAG2LOTOT — No. of repeated page attempts to a location area over A-Interface

NPAG2GLTOT — No. of repeated global page attempts over A-Interface

NPAG1RESUCC — No. of page responses to first page over A- interface

NPAG2RESUCC — No. of page responses to repeated page over A- interface

NLOCOLDTOT — Total no. of location updating attempts for already registered subscribers over A-interface and lu-interface

NLOCNRGTOT — Total no. of location updating attempts from non-registered subscribers (IMSI attach, normal LU or periodic LU) over A-interface and Iu-interface

NLOCOLDSUCC — No. of successful location updating for already registered subscribers over A-interface and Iu-interface

NLOCNRGSUCC — No. of successful location updating for non-registered subscribers over A-interface and Iu-interface

NLOCNRG2TOT — Number of location updating attempts from non-registered subscribers (IMSI attach, normal location updating, or periodic updating) over Gs-Interface

NLOCNRG2SUCC — Number of successful location updates for non-registered subscribers over Gs-Interface

NLOCOLD2TOT — Number of location updating attempts for already registered subscribers over Gs-Interface

NLOCOLD2SUCC — Number of successful location updates for already registered subscribers over Gs-Interface.

ASLDUR — Accumulated duration in seconds the link is in in-service state incremented by the duration in seconds the link is in in-service state.

UNAVAILDUR — Accumulated duration in seconds a link is unavailable because of any reason incremented by the duration in seconds a link is unavailable because of any reason.

STUNADURAT — Duration of unavailability of signaling link set, in seconds.

NANSWERSI — Number of B-answers in the incoming route.

NANSWERSO — Number of B-answers in the outgoing route.

NCALLSI — Number of detected seizures, (incoming route). The counter is stepped up when an accepted seizure is received.

NCALLSO — Number of seizure attempts (bids), outgoing route.

GPRS_ATTACH_SUC — The number of successfully performed GPRS Attach procedures within this SGSN of total number of attempts of attach procedures.

SUCC_PDP_CONTEXT_ACT — Successful GPRS attaches is considered to be successful when 'PDP activation accept' is send from SGSN to MS.

TDEV — Time Deviation.

MTIE — Maximum Time Interval Error.

RRC_CSSR — Radio Resource Call Setup Success Rate which depends on CE(Channel Element) or Transmission Resources

RAB_SR — Radio Access Bearer Success Rate which depends on CE (Channel Element) or Transmission Resources

RTWP — Received Total Wideband Power.

RSCP — Received Signal Code Power

Iub — Transmission Interface

Ec/Io — Chip Energy per Interference Spectral Density

CS_IRAT HHO Failure — Circuit Switch Inter Radio Access Technology Hard Handover Failure

PS_IRAT HHO Failure — Packet Switch Inter Radio Access Technology Hard Handover Failure

Cell — Emission coverage area of a cell site

A CELL SITE is a term used to describe a site where antennas and electronic communications equipment are placed, usually on a radio mast, tower or other high place, to create a cell in a cellular network

BASE TRANSCIVER STATION (BTS) also referred to as the radio base station (RBS), node B (in 3G Networks), eNB (in LTE Standard) or, simply, the base station (BS) is a piece of equipment that facilitates wireless communication between user equipment (UE) and a network.

BASE STATION CONTROLLER (BSC) is equipment that provides the intelligence behind the BTSs. It has tens or even hundreds of BTSs under its control. The BSC handles allocation of radio channels, receives measurements from the mobile phones, and controls handovers from BTS to BTS.

The Mobile Switching Center (MSC) is the primary service delivery node for GSM/CDMA, responsible for routing voice calls and SMS as well as other services. It has a number of BSCs under its control. The MSC sets up and releases the end-to-end connection, handles mobility and hand-over requirements during the call and takes care of charging and real time pre-paid account monitoring.

3G refers to Third Generation

LTE refers to Long Term Evolution

PoI : Point of Interconnect

General packet radio service (GPRS) : is a packet oriented mobile data service on the 2G and 3G cellular communication systems.

Enhanced Data rates for GSM Evolution (EDGE) (also known as Enhanced GPRS (EGPRS)) : is a digital mobile phone technology that allows improved data transmission rates as a backward-compatible extension of (Global System for Mobile Communications (GSM)).

Network Segment : is an identifiable part of a Telecommunications Network such as BTS, BSC, MSC, Interfaces, etc.

High Speed Packet Access (HSPA) is an amalgamation of two mobile telephony protocols, High Speed Downlink Packet Access (HSDPA) and High Speed Uplink Packet Access (HSUPA) that extends and improves the performance of existing Wideband CDMA (WCDMA) protocols.

SCHEDULE 3

FINES FOR CONTRAVENTION

Fines will be calculated on the basis of the provisions of regulation 13 hereof for each Parameter and Key performance indicator for a service, for each Reporting Area, for each identified network segment or node and for each Reporting Period a Licensee shall have contravened these Regulations as follows :

<i>Offence</i>	<i>Maximum fine per Contravention</i>
(1) Failure by a Licensee to perform measurement, reporting and record keeping tasks set out in regulation 10.	→ ₦15,000,000 for each act of contravention and ₦2,500,000 for each day that the contravention continues to occur.
(2) Failure by a Licensee to meet and maintain a Target for the Parameter and the Service.	→ ₦15,000,000 for each act of contravention and ₦2,500,000 for each day that the contravention continues to occur.
(3) Failure by a Licensee to submit, during a time period specified by the Commission, information requested by the Commission pursuant to regulation 10 (c) or regulation 15.	→ ₦15,000,000 for each act of contravention and ₦2,500,000 for each day that the contravention continues to occur.
(4) Submission or publication of false or misleading information about quality of service by Licensee.	→ ₦15,000,000 for each act of contravention and ₦2,500,000 for each day that the contravention persists.
(5) Obstructing or preventing an investigation by the Commission in respect of the quality of service measurement, reporting, data collection, and record keeping procedures by a Licensee, its officers, agents, servants, privies etc.	→ ₦15,000,000 for each act of contravention and ₦2,500,000 for each day that the contravention persists.

In imposing a fine for each Contravention, pursuant to the applicable provisions of the Nigerian Communications Commission (Enforcement Processes, etc.) Regulations, 2005 or any amendment thereof, or in accordance with the provisions of these Regulations, where there is any difference or conflict between the fines specified in the Nigerian Communications (Enforcement Processes etc) Regulations 2005 or any other Regulation and those specified in these Regulations, the fines specified in the most recent of the Regulations shall prevail.

MADE at Abuja this 22nd day of March, 2013.

DR. EUGENE JUWAH
Executive Vice-Chairman
Nigerian Communications Commission

EXPLANATORY NOTE

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

These Regulations revokes the Quality of Service Regulations, 2012 and seeks to ensure the protection and promotion of the interests of consumers against unfair practices including matters relating to tariffs and charges, the availability and quality of communications services, equipment and facilities. It also stipulates the minimum quality and standards of service, associated measurements, reporting and record keeping tasks.

Extraordinary



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<i>S. I. No.</i>	<i>Short Title</i>	<i>Page</i>
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INVESTMENTS AND SECURITIES ACT, 2007

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

ARRANGEMENT OF REGULATIONS

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S. I. No. 14 of 2013

INVESTMENTS AND SECURITIES ACT, 2007

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

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

[29th day of August, 2013]

Commence-
ment.

PART I—OBJECTIVES, APPLICATION AND SCOPE

1. These Regulations are made to—

Objectives.

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

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

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

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

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

Application.

PART II—AML AND CFT INSTITUTIONAL POLICY FRAMEWORK

3. A Capital Market Operator shall—

General
Guidelines
on
Institutional
Policy.

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

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

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

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

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

Duties of an
AML/CFT
Compliance
Officer.

4. The duties of a Compliance Officer include—

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

Co-
operation
with
relevant
authorities.

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

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

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

Identification
of proceeds
of crime.

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

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

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

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

Secrecy and
confidentiality
laws.

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

Anonymous
and
numbered
accounts.

PART III—CUSTOMER DUE DILIGENCE

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

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

Customer
Due
Diligence
measures.

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

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

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

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

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

(2) A Capital Market Operator shall—

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

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

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

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

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

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

(b) for other clients ;

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

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

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

(a) understand the ownership and control structure of such a client ;
and

(b) determine the natural persons that ultimately own or control the client.

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

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

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

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

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

Correspondent
relationships
with high
risk foreign
banks.

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

(a) any transfer flowing from a transaction carried out using a credit or debit card so long as the credit or debit card number accompanying such transfers does not flow from the transactions such as withdrawals from a bank account through an Automated Teller Machine (ATM), cash advances from a credit card or payment for goods ; and

(b) any transfer and settlements between Capital Market Operators where both the originator and the beneficiary are Capital Market Operators, and are acting for themselves.

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

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

On-going
Due
Diligence.

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

(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 client the pattern of account activity of the client does not fit in with the Capital Market Operator's knowledge of the client.

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

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

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

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

- (a) non-resident clients ;
- (b) clients from locations known for its high crime rate such as drug production, trafficking or smuggling ;
- (c) clients from a jurisdiction designated by the FATF as high-risk jurisdictions or those known to the Capital Market Operator to have inadequate AML/CFT laws and Regulations ;
- (d) Politically Exposed Persons (PEPs) and persons or companies related to them ;
- (e) complex legal arrangements such as unregulated investment vehicles or special purpose vehicles (SPV) ;
- (f) companies that have nominee shareholders ;
- (g) cross-border business relationships ;
- (h) wire transfers or non face-to-face transactions.

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

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

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

Lower Risk
Categories of
Clients

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

(a) Capital Market Operators, provided they are subject to requirements for the combat of money laundering and terrorist financing which are consistent with the provisions of these Regulations and are supervised for compliance ;

(b) public companies listed on securities exchange or similar situations that are subject to regulatory disclosure requirements ;

(c) Government ministries, departments, parastatals and agencies ;

(d) insurance policies for pension schemes where there is no surrender-value clause and the policy cannot be used as collateral ;

(e) a pension, super annuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme ; and

(f) beneficial-owners of pooled-accounts held by Designated Non-Financial Businesses and Professions (DNFBPs) provided that they are subject to requirements to combat money laundering and terrorist financing consistent with the provisions of Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism (Prevention) Act, 2011 (as amended) and have been so certified by their respective regulators or self-regulatory organizations.

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

(a) the risk of money laundering or terrorist financing is lower ;

(b) information on the identity of the clients and the beneficial owner of a client is publicly available ; or

(c) adequate checks and control exist elsewhere in the national system.

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

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

Timing of
Verification.

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

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

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

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

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

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

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

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

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

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

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

(a) a limitation of the number,

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

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

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

Application of CDD to existing clients.

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

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

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

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

Determination of a Politically Exposed Person.

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

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

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

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

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

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

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

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

Reliance on intermediaries and third parties on CDD measures.

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

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

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

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

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

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

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

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

Keeping and maintenance of records of transactions.

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

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

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

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

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

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

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

Complex and unusual large transactions.

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

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

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

PART IV—INTERNAL CONTROLS, COMPLIANCE AND AUDIT

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

Internal Procedures, Policies and Controls.

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

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

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

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

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

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

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

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

PART V—MONITORING AND REPORTING OF SUSPICIOUS TRANSACTION

Suspicious
Transactions
“Red Flags”.

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

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

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

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

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

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

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

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

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

(a) transactions involving high-risk countries vulnerable to money laundering, subject to this being confirmed ;

(b) transactions involving shell companies ;

(c) transactions with correspondents that have been identified as higher risk ;

(d) large transaction activity involving monetary instruments such as traveler's cheques, bank drafts, money order, particularly those that are serially numbered ;

(e) transaction activity involving amounts that are just below the stipulated reporting sum or enquiries that appear to test an institution's own internal monitoring or controls ; and

(f) other money laundering indicators approved by the NFIU and published on the NFIU website.

(7) Terrorist Financing "Red flags" include—

(a) where persons involved in a transaction share an address or phone number; particularly when the address is also a business location or does not seem to correspond to the stated occupation, such as student, unemployed, or self-employed ;

(b) securities transaction by a nonprofit or charitable organization, for which there appears to be no logical economic purpose or for which there appears to be no link between the stated activity of the organization and other parties in the transaction ;

(c) large volume of securities transactions through a business account, where there appears to be no logical business or other economic purpose for the transfers, particularly when this activity involves designated high-risk locations ;

(d) where the stated occupation of the client is inconsistent with the type and level of account activity ;

(e) multiple personal and business accounts or the accounts of non-profit organizations or charities that are used to collect and channel securities to a small number of foreign beneficiaries ;

(f) reference to the persons or entities listed in the UN lists or Nigerian lists of terrorists or terrorist organizations under the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013 ; or

(g) other money laundering and financing of terrorism indicators approved by the NFIU and published in the NFIU website.

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

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

(b) fails to comply with approved operating guidelines ; or

(c) is reluctant to take a vacation.

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

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

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

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

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

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

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

PART VI—EMPLOYEE EDUCATION AND TRAINING PROGRAMME

Comprehensive employee education and training programmes.

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

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

(a) AML regulations and offences ;

(b) the nature of money laundering ;

(c) Money laundering 'redflags' and suspicious transactions, including trade-based money laundering typologies ;

(d) reporting requirements ;

(e) Clients Due Diligence ;

(f) risk-based approach to AML/CFT ; and

(g) record keeping and retention policy.

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

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

Monitoring of employee conduct.

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

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

Protection of staff who report violations.

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

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

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

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

Additional Areas of AML/CFT Risks.

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

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

Additional Procedures and Mitigants.

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

Testing for the Adequacy of the AML/CFT Compliance.

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

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

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

Board
approval of
the AML/
CFT
Compliance
Manual.

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

(2) The Compliance Manual shall be forwarded to the
AML/CFT compliance status of
the Capital Market Operator shall be presented to the Board for its information and necessary action.

PART VII—K Y CUSTOMER AND IDENTIFICATION PROCEDURE

Guidance on
Know Your
Customer.

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

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

Duty to
obtain
identification
evidence.

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

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

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

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

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

Identification
Procedure.

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

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

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

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

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

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

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

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

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

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

The persons whose identity are required to be verified include clients acting on behalf of another provided that there is no obligation to verify the client where—

the person is acting on his own account rather than for a specific client or group of clients ;

Verification
of identity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A Capital Market Operator shall—

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

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

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

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

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

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

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

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

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

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

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

- (a) the sum invested shall be repaid subject to some deductions, and
- (b) any abnormal exercise of cancellation or cooling-off rights by an investor shall be treated as suspicious and reported to the NFIU.

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

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

- (a) the legal owner of the investment by means of a cheque crossed “account payee” ; or
- (b) a bank account held, solely or jointly, in the name of the legal owner of the investment by any electronic means effective for transfer of funds.

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

(3) In the case of foreign nationals, t⁸⁶

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

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

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

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

39. A Central Market Operator shall maintain records indicating how a client's identity was verified, details of its branch and account number from which the client's payment is drawn.

40. The procedure shall apply to payments supplied as indirectly to the Central Market Operator and where a payment is passed through a regulated intermediary.

41. In circumstances where the balance in an investment fund account is transferred from one Fund Manager to another and the value at that time is above £85,000 or \$125,000 for an individual and \$1,000,000 for a body, corporate and identifiable, the client has not been taken or confirmation obtained from the original Fund Manager, then such evidence shall be obtained at the time of the transfer.

Part VII—Investment Limits

42. The establishment of identity under 39, 40 and 41 shall be a condition

- (iv) current driver's licence issued by FRSC,
- (v) bank statement or passbook containing current address,
- (vi) solicitor's letter confirming recent house purchase or search report from the Land Registry ;
- (vii) tenancy agreement, and
- (viii) search reports on previous property.

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

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

(5) Suitable electronic sources of information shall include—

(i) an electronic search of the Electoral Register is not to be used as a sole identity and address check ;

(ii) access to internal or external account database ; and

(iii) an electronic search of public records, where available.

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

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

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

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

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

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

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

Private
Individuals
not resident
in Nigeria.

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

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

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

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

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

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

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

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

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

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

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

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

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

Information
to establish
identity.

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

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

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

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

(d) date and place of birth ;

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

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

(a) confirming the date of birth from an official document such as birth certificate, passport, identity card, social security records ;

(b) confirming the permanent address such as from utility bill, tax assessment, bank statement or a letter from a public authority ;

(c) contacting the client by telephone, letter or e-mail to confirm the information supplied after an account has been opened such as disconnected phone, returned mail, or incorrect e-mail address ;

(d) confirming the validity of the official documentation provided through certification by an authorized person such as embassy official or notary public ;

(e) other documents of an equivalent nature may be produced as satisfactory evidence of clients' identity ; or

(f) a Capital Market Operator shall apply effective client identification procedures for non-face-to-face clients as for those available physically.

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

(a) evidence of an individual's permanent address sought through a credit reference agency search, or through independent verification by home visits ;

(b) personal reference by an existing client of the same institution ;

(c) prior client bank reference and contact with the bank regarding the client ;

(d) source of wealth ; and

(e) verification of employment or public position held.

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

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

Identification
guidance for
Institutions.

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

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

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

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

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

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

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

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

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

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

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

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

Other Types
of
Operators.

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

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

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

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

Retirement
benefit
programmes.

Mutual or friendly, co-operative and provident societies.

Charities, clubs and associations.

Trusts and foundations.

Professional intermediaries.

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

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

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

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

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

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

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

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

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

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

(a) the fund itself ;

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

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

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

(e) account signatories ; and

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

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

(8) Intermediaries shall be treated as individual clients of the Capital Market Operator and the standing of the intermediary shall be separately verified by obtaining the appropriate information itemized under sub-regulation (6) of this regulation.

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

Identification
procedures
for opening
accounts for
students or
young
persons.

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

- (a) through the home address of the parent(s) ;
- (b) obtaining confirmation of the applicant's address from his or her institution of learning ; or
- (c) seeking evidence from a person who is known to the applicant and who is

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

Off-shore
Trusts.

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

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

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

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

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

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

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

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

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

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

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

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

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

Conventional
family and
absolute
Nigerian
trusts.

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

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

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

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

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

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

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

Receipt and
Payment of
Funds on
behalf of a
Trust.

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

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

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

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

Powers of
Attorney
and Third
Party
Mandates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. *Corporate Clients*

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

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

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

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

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

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

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

Non Face-
to-Face
Business.

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

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

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

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

Low Risk
Corporate
Business.

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

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

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

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

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

(i) listed on a securities exchange ; or

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

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

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

Private and
Public
unquoted
Companies.

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

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

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

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

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

Higher Risk
Business
Relating to
Private or
Public
unquoted
Companies.

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

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

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

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

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

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

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

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

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

Foreign
Capital
Market
Operator.

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

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

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

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

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

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

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

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

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

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

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

D. Other Institutions

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

Charities in
Nigeria.

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

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

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

Registered
Charities.

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

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

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

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

Clubs and
Societies.

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

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

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

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

Occupational
Pension
Schemes.

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

Religious
Organizations
(ROs).

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

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

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

Three-Tiers
of
Government
and
Parastatals.

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

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

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

Foreign
Consulates.

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

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

Introductions
from
authorized
financial
intermediaries.

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

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

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

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

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

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

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

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

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

Written applications.

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

Non-written application.

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

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

Introductions from foreign intermediaries.

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

Corporate group introductions.

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

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

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

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

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

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

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

Business
conducted
by agents.

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

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

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

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

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

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

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

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

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

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

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

Correspondent
relationship.

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

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

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

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

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

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

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

Acquisition
of a capital
market
business by
another.

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

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

(b) the procedures cannot be checked ; or

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

PART X—RECEIVING CAPITAL MARKET OPERATORS AND AGENTS

Vulnerability
of receiving
bankers and
agents to
money
laundering.

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

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

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

Who to
identify.

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

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

Applications
received via
brokers.

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

(2) The following standard procedures shall apply—

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

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

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

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

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

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

Multiple family applications.

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

(b) a joint account holder ; or

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

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

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

(a) on the front of the cheque ;

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

(c) providing other supporting documents.

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

Linked transactions.

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

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

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

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

Exemption
from
Identification
Procedures.

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

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

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

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

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

PART X—MISCELLANEOUS

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

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

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

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

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

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

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

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

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

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

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

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

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

Revocation.

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

95. In these Regulations—

Interpretation.

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

(a) accepts deposits of currency ;

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

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

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

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

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

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

"Banks and other Financial Institutions Act" means the Banks and other Financial Institutions Act (as amended) ;

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

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

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

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

"Designated categories of predicate offences" includes :

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

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

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

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

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

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

“ISA” means Investment and Securities Act, 2007 ;

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

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

"MLPA"—refers to the Money Laundering Prohibition (Amendment) Act (as amended) ;

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

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

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

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

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

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

"Politically exposed persons" (PEPs) includes—

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

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

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

"Proceeds" means property derived from or obtained, directly or indirectly ;

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

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

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

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

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

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

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

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

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

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

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

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

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

"TPA" – refers to the Terrorism (Prevention) Act ;

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

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

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

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

(c) providing a registered office ;

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

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

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

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

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

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

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

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

- ARUNMA OTEH
Director-General
Securities and Exchange Commission

EXPLANATORY NOTES

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

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