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S.I. No.	*Short Title*	*Page*
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CENTRAL BANK OF NIGERIA (ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM IN BANKS AND OTHER FINANCIAL INSTITUTIONS IN NIGERIA) REGULATIONS, 2013

ARRANGEMENT OF REGULATIONS

Regulation :

PART I—OBJECTIVES, SCOPE AND APPLICATIONS

1. Objective
2. Scope
3. Application

PART II—ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM DIRECTIVES

4. AML/CFT Institutional Policy Framework
5. Risk Assessment
6. Risk Mitigation
7. Designation and Duties of AML/CFT Compliance Officer
8. Co-operation with Competent Authorities

PART III—OFFENCES, MEASURES AND SANCTIONS

9. Scope of Offences
10. Terrorism Financing Offences
11. Targeted Financial Sanctions Related to Terrorism Financing and Proliferation
12. Limitation of Secrecy and Confidentiality Laws

PART IV—CUSTOMER DUE DILIGENCE, HIGHER RISK CUSTOMERS AND ACTIVITIES OF POLITICALLY EXPOSED PERSONS

13. Customer Due Diligence ('CDD') Measures
14. Identification and Verification of Customers
15. Verification of Beneficial Ownership
16. Application of Enhanced Due Diligence to Higher Risk Customers and Activities
17. Attention to High Risk Countries

18. Politically Exposed Person (PEP)
19. Cross-Border and Correspondent Banking
20. New Technologies and Non face-to-face Transactions
21. Money or Value Transfer (MVT) Services
22. Foreign Branches and Subsidiaries
23. Wire Transfers
24. Simplified Due Diligence Applicable to Lower Risk Customers, Transactions or Products
25. Timing of Verification
26. Existing Customers
27. Failure to Complete CDD
28. Reliance on Intermediaries and Third Parties on CDD Function

PART V—MAINTENANCE OF RECORDS

29. Maintenance of Records on Transactions
30. Attention on Complex and Unusual Large Transactions
31. Suspicious Transaction Monitoring
32. Procedure for the Monitoring and Reporting of Suspicious Transactions

PART VI—MONITORING, INTERNAL CONTROLS, PROHIBITIONS AND SANCTIONS

33. Internal Controls, Compliance and Audit
34. Sanctions and Penalties for Non-Compliance
35. Prohibition of Numbered or Anonymous Accounts, Accounts in Fictitious Names and Shell Banks
36. Other Forms of Reporting
37. AML/CFT Employee-Education and Training Programme
38. Monitoring of Employee Conduct
39. Protection of Staff who Report Violations
40. Additional Areas of AML/CFT Risks
41. Additional Procedures and Mitigants.
42. Testing for the Adequacy of the AML/CFT Compliance
43. Formal Board Approval of the AML/CFT Compliance
44. Culture of Compliance

PART VII—GUIDANCE ON KNOW YOUR CUSTOMER (KYC)

45. Three Tiered KYC Requirements
46. Duty to Obtain Identification Evidence

47. Nature and Level of the Business
48. Application of Commercial Judgment
49. Identification
50. Factors to Consider in Identification
51. Time for Verification of Identity
52. Verification of Identity
53. Exceptions
54. Additional Verification Requirements
55. Identification of Directors and other Signatories
56. Joint Account Holders
57. Verification of Identity for High Risk Business
58. Duty to Keep Watch of Significant Changes in Nature of Business
59. Verification of Identity of Person Providing Funds for Trust
60. Savings Schemes and Investments in Third Parties' Names
61. Personal Pension Schemes
62. Timing of Identification Requirements
63. Consequence of Failure to Provide Satisfactory Identification Evidence
64. Identification Procedures
65. New Business for Existing Customers
66. Certification of Identification Documents
67. Recording Identification Evidence
68. Concession in Respect of Payment Made by Post
69. Term Deposit Account ('TDA')
70. Investment Funds

PART VIII—GENERAL INFORMATION

71. Establishing Identity
72. Private Individuals — General Information
73. Private Individuals Resident in Nigeria
74. Documenting Evidence of Identity
75. Physical Checks on Private Individuals Resident in Nigeria
76. Electronic Checks

PART IX—FINANCIAL EXCLUSION FOR THE SOCIALLY OR FINANCIALLY DISADVANTAGED APPLICANTS

77. "*Financial Exclusion*" for the Socially or Financially Disadvantaged Applicants Resident in Nigeria

78. Private Individuals not Resident in Nigeria
79. Non face- to-face Identification
80. Refugees or Asylum Seekers
81. Students and Minors
82. Quasi Corporate Customers

PART X—TRUST, POLICY, RECEIPT AND PAYMENT OF FUNDS

83. Trust, Nominees and Fiduciaries
84. Off-shore Trusts
85. Conventional Family and Absolute Nigerian Trusts
86. Receipt and Payment of Funds
87. Identification of new Trustees
88. Life Policies Placed in Trust
89. Powers of Attorney and Third Party Mandates

PART XI—EXECUTORSHIP, CLIENT ACCOUNTS, UN-INCORPORATED AND CORPORATED ORGANIZATIONS

90. Executorship Accounts
91. "*Client Accounts*" Opened By Professional Intermediaries
92. Un-incorporated Business or Partnership
93. Limited Liability Partnership
94. Pure Corporate Customers
95. The Identity of a Corporate Company
96. Non face-to-face Business
97. Public Registered Companies
98. Private Companies
99. Higher Risk Business Applicant
100. Higher Risk Business Relating to Private Companies
101. Foreign Financial Institutions
102. Bureau De Change
103. Designated Non-Financial Businesses and Professions (DNFBPs)
104. Occupational Pension Schemes
105. Registered Charity Organizations
106. Religious Organizations (ROs)
107. Three - Tiers of Government and Parastatals
108. Foreign Consulates

109. Intermediaries or other Third Parties to Verify Identity or to Introduce Business

PART XII—INTRODUCTIONS, APPLICATIONS AND FOREIGN INTERMEDIARIES

110. Introductions from Authorized Financial Intermediaries
111. Written Applications
112. Non-Written Application
113. Foreign Intermediaries
114. Corporate Group Introductions
115. Business Conducted by Agents
116. Syndicated Lending
117. Correspondent Relationship
118. Acquisition of One Financial Institution and Business by Another
119. Vulnerability of Receiving Bankers and Agents
120. Categories of Persons to be Identified
121. Applications Received through Brokers
122. Applications Received from Foreign Brokers
123. Multiple Family Applications

PART XIII—LINKED TRANSACTIONS, FOREIGN ACCOUNTS AND INVESTMENT

124. Linked Transactions
125. Foreign Domiciliary Account (FDA)
126. Safe Custody and Safety Deposit Boxes
127. Customer's Identity Not Properly Obtained
128. Exemption from Identification Procedures
129. One-off Cash Transaction, Remittances and Wire Transfers
130. Re-investment of Income
131. Amendment or Revocation of these Regulations
132. Interpretation
133. Citation

SCHEDULES

S. I. No. 16 of 2013

CENTRAL BANK OF NIGERIA (ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM IN BANKS AND OTHER FINANCIAL INSTITUTIONS IN NIGERIA) REGULATIONS, 2013

In exercise of the powers conferred upon me by the provisions of section 51(1) of the Banks and Other Financial Institutions Act, 2004 and all other powers enabling me in that behalf, I, SANUSI LAMIDO SANUSI, Governor of the Central Bank of Nigeria, make the following Regulations—

[29*th August*, 2013] Commencement.

PART I—OBJECTIVES, SCOPE AND APPLICATIONS

Objective.

1. The objectives of these Regulations are to—

(*a*) provide Anti-Money Laundering and Combating the Financing of Terrorism ("AML/CFT") compliance guidelines for financial institutions under the regulatory purview of the Central Bank of Nigeria ("CBN") as required by relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended), the Terrorism Prevention Act, 2011 (as amended) and other relevant laws and Regulations ;

(*b*) enable the CBN to diligently enforce AML/CFT measures and ensure effective compliance by financial institutions ; and

(*c*) provide guidance on Know Your Customer ("KYC") measures to assist financial institutions in the implementation of these Regulations.

Scope.

2.—(1) These Regulations cover the relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended), the Terrorism Prevention Act, 2011 (as amended) and any other relevant laws or Regulations.

(2) These Regulations cover—

(*a*) the key areas of Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Policy ;

(*b*) development of Compliance Unit and function ;

(*c*) Compliance Officer designation and duties ;

(*d*) the requirement to co-operate with the competent or supervisory authorities ;

(*e*) conduct of Customer Due Diligence ;

(*f*) monitoring and filing of suspicious transactions to the Nigerian Financial Intelligence Unit ("NFIU") and other reporting requirements ;

(*g*) reporting requirements ;

(*h*) record keeping ; and

(*i*) AML/CFT employee training.

Application.

3. These Regulations shall apply to banks and other financial institutions in Nigeria within the regulatory purview of the Central Bank of Nigeria.

AML/CFT Institutional Policy Framework.

4.—(1) A financial institution shall adopt policies stating its commitment to comply with Anti-Money Laundering ('AML') and Combating Financing of Terrorism ('CFT') obligations under subsisting laws, regulations and regulatory directives and to actively prevent any transaction that otherwise facilitates criminal activities, money laundering or terrorism.

(2) A financial institution shall formulate and implement internal controls and other procedures to deter criminals from using its facilities for money laundering and terrorist financing.

(3) Financial Institutions shall adopt a risk–based approach in the identification and management of their AML/CFT risks in line with the requirements of these Regulations.

(4) Financial Institutions shall comply promptly with requests made pursuant to current AML/CFT legislations and provide information to the Central Bank of Nigeria ("CBN"), Nigeria Financial Intelligence Unit ("NFIU") and other competent authorities.

(5) Financial Institutions shall not in any way inhibit the implementation of the provisions of these Regulations and shall co-operate with the regulators and law enforcement agencies in the implementation of a robust AML/CFT regime in Nigeria.

(6) Financial institutions shall render statutory reports to appropriate authorities as required by law and shall guard against any act that will cause a customer or client to avoid compliance with AML/CFT Legislations.

(7) Financial institutions shall identify, review and record other areas of potential money laundering and terrorist financing risks not covered by these Regulations and report same to the appropriate authorities.

(8) Financial institutions shall reflect AML/CFT policies and procedures in their strategic policies.

(9) Financial institutions shall conduct on-going Due Diligence and where appropriate, enhanced Due Diligence on all business relationships and shall obtain information on the purpose and intended nature of the business relationship of their potential customers.

(10) Financial institutions shall ensure that their employees, agents and others doing business with them, clearly understand the AML/CFT programme.

Risk Assessment.

5. A financial institution shall—

(*a*) take appropriate steps to identify, assess and understand its Money Laundering ('ML') and the Financing of Terrorism ('FT') risks for customers, countries or geographic areas of its operations, products, services and delivery channels ;

(*b*) document its risk assessments profile ;

(*c*) consider all relevant risk factors before determining the overall level of risk and the appropriate level and type of mitigation to be applied;

(*d*) keep the assessments in this regulatioin up to date ; and

(*e*) have the appropriate mechanisms to provide risk assessments reports to regulatory, supervisory and competent authorities, and Self-Regulatory Organizations ('SROs').

Risk Mitigation.

6. A financial institution shall—

(*a*) have policies, controls and procedures which are approved by its board of directors to enable it manage and mitigate the risks that have been identified (either by the country or by the financial institution) ;

(*b*) monitor the implementation of the controls in this regulation and enhance them, where necessary ; and

(*c*) take enhanced measures to manage and mitigate the risks where higher risks are identified.

Designation and Duties of AML/CFT Compliance Officer.

7.—(1) A financial institution shall designate its AML/CFT Chief Compliance Officer with the relevant competence, authority and independence to implement the institution's AML/CFT compliance programme.

(2) The AML/CFT Compliance Officer shall be appointed at management level and shall report directly to the Board on all matters under these Regulations.

(3) The duties of the AML/CFT Compliance Officer referred to in sub-regulation (1) of this regulation shall include—

(*a*) developing an AML/CFT Compliance Programme ;

(*b*) receiving and vetting suspicious transaction reports from staff ;

(*c*) filing Suspicious Transaction Reports ("STRs") with the NFIU ;

(*d*) filing other regulatory returns with the CBN and other relevant regulatory and supervisory authorities ;

(*e*) rendering "nil" reports to the CBN and NFIU, where necessary to ensure compliance ;

(*f*) ensuring that the financial institution's compliance programme is implemented ;

(*g*) co-ordinating the training of staff in AML/CFT awareness, detection methods and reporting requirements ; and

(*h*) serving both as a liaison officer between his institution, the CBN and NFIU and a point-of-contact for all employees on issues relating to money laundering and terrorist financing.

Co-operation with Competent Authorities.

8.—(1) A financial institution shall give an undertaking that it shall comply promptly with all the requests made pursuant to the provisions of relevant AML/CFT laws and Regulations and provide all requested information to the CBN, NFIU and other competent authorities.

(2) A financial institution's procedures for responding to authorized requests for information on ML and FT shall meet the following—

(*a*) searching immediately the financial institution's records 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*) reporting promptly to the requesting authority the outcome of the search ; and

(*c*) protecting the security and confidentiality of such requests.

PART III—OFFENCES, MEASURES AND SANCTIONS

Scope of Offences.

9.—(1) A financial institution shall identify and file suspicious transaction reports to the NFIU, where funds, assets or property are suspected to have been derived from any of the following criminal activities—

(*a*) participation in an organized criminal group and racketeering ;

(*b*) terrorism, including terrorist financing ;

(*c*) trafficking in persons and migrant smugglings ;

(*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 ;

(*i*) bribery ;

(*j*) fraud ;

(*k*) currency counterfeiting ;

(*l*) counterfeiting and piracy of products ;

(*m*) environmental crime ;

(*n*) murder ;

(*o*) grievous bodily injury ;

(*p*) kidnapping, illegal restraint and hostage-taking ;

(*q*) robbery or theft ;

(*r*) smuggling, including smuggling done in relation to customs and excise duties and taxes) ;

(*s*) tax crimes, related to direct taxes and indirect taxes ;

(*t*) extortion ;

(*u*) forgery ;

(*v*) piracy ;

(*w*) insider trading and market manipulation, or

(*x*) any other predicate offence under the Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism Prevention Act, 2011 (as amended).

Terrorism Financing Offences.

10.—(1) Terrorism financing offences extend to any person or entity who solicits, acquires, provides, collects, receives, possesses or makes available funds, property or other services by any means to terrorists or terrorist organizations, directly or indirectly with the intention or knowledge or having reasonable grounds to believe that such funds or property shall be used in full or in part to carry out a terrorist act by a terrorist or terrorist organization in line with section 1 of the Terrorism (Prevention) Act, 2011 (as amended).

(2) Under these Regulations, terrorism financing offences are predicate offences for money laundering and shall apply regardless of whether the person or entity alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organization is located or the terrorist act occurred or will occur.

Targeted Financial Sanctions related to Terrorism Financing and Proliferation.

11—(1) A financial institution shall report to the NFIU any assets frozen or actions taken in compliance with the prohibition requirements of the relevant United Nations Security Council Resolutions ('UNSCRs') on terrorism, financing of proliferation of weapons of mass destruction, any future successor resolutions and the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Issues) Regulation, 2013, and any amendments that may be reflected by the competent authorities.

(2) The reports in sub-regulation (1) of this regulation shall include all transactions involving attempted and concluded transactions in compliance with the Money Laundering (Prohibition) Act, 2011 (as amended), Terrorism (Prohibition) Act, 2011 (as amended) and the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Issues) Regulation, 2013, and any amendments that may be reflected by the competent authorities.

(3) The administrative sanctions contained in Schedule I to these Regulations or in the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Measures) Regulations, 2013 shall be imposed by the CBN on institutions under its regulatory purview.

Limitation of Secrecy and Confidentiality Laws.

12.—(1) Financial institutions' secrecy and confidentiality laws shall not in any way, be used to inhibit the implementation of the requirements of these Regulations having regard to the provisions of section 38 of Economic and Financial Crimes Commission Act, 2004; section 13 of Money Laundering (Prohibition) Act, 2011 (as Amended) and section 33 of the CBN Act, 2007.

(2) The relevant laws cited in sub–regulation (1) of this regulation have given the relevant authorities the powers required to access information to properly perform their functions in combating money laundering and financing of terrorism, the sharing of information between competent authorities, either domestically or internationally, and the sharing of information between financial institutions necessary or as may be required.

(3) Banking secrecy or preservation of customer confidentiality shall not be invoked as a ground for objecting to the measures set out in these Regulations or for refusing to be a witness to facts likely to constitute an offence under these Regulations, the relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended), the Terrorism Prevention Act, 2011 (as amended) and any other relevant subsisting laws or Regulations.

PART IV—CUSTOMER DUE DILIGENCE, HIGHER RISK CUSTOMERS AND ACTIVITIES OF POLITICALLY EXPOSED PERSONS

Customer Due Diligence ("CDD") measures.

13.—(1) A financial institution shall undertake Customer Due Diligence ('CDD') measures when—

(*a*) business relationships are established ;

(*b*) carrying out occasional transactions above the applicable and designated threshold of US$1,000 or its equivalent in other currencies or as may be determined by the CBN from time to time, including where the transaction is carried out in a single operation or several operations that appear to be linked ;

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

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

(*e*) there are doubts on the veracity or adequacy of previously obtained customer identification data.

(2) The measures in paragraphs (*a*), (*b*) and (*c*) of sub-regulation (1) of this regulation, shall not apply to payments in respect of—

(*i*) 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 flow from the transactions such as withdrawals from a bank account through an ATM machine, cash advances from a credit card or payment for goods.

(*ii*) Inter-financial institution transfers and settlements where both the originator-person and the beneficial-person are financial institutions acting on their own behalf.

(3) Financial institutions, must not after obtaining all the necessary documents and being so satisfied, repeatedly perform identification and verification exercise every time a customer conducts a transaction except there is a suspicion that the previously obtained information is not complete or has changed.

Identification and verification of identity of Customer

14.—(1) A financial institution shall identify their customers, whether permanent or occasional, natural or legal persons, or legal arrangements, and verify the customers' identities using reliable, independently sourced documents, data or information.

A financial institution shall carry out the full range of the CDD measures in these Regulations, the relevant provisions of the Money Laundering on) Act, 2011 (as amended), and any other relevant laws or Regulations.

Financial institutions shall apply the CDD measures on a risk-sensitive

Types of customer information to be obtained and identification data to verify the information are contained in Schedule II to these Regulations.

Where the customer is a legal person or a legal arrangement, the financial shall—

identify any person purporting to have been authorized to act on behalf stomer by obtaining evidence of the customer's identity and verifying y of the authorized person ; and

) identify and verify the legal status of the legal person or legal ent by obtaining proof of incorporation from the Corporate Affairs on ('CAC'), or similar evidence of establishment or existence and any ant information.

Verification of Beneficial Ownership.

5.—(1) A financial institution shall identify and take reasonable steps he identity of a beneficial-owner, using relevant information or data rom a reliable source to satisfy itself that it knows who the beneficial- hrough methods including—

for legal persons :

dentifying and verifying the natural persons, where they exist, that ate controlling ownership interest in a legal person, taking into cognizance t ownership interests can be so diversified that there may be no natural whether acting alone or with others) exercising control of the legal arrangement through ownership ;

to the extent that it is manifestly clear under sub-paragraph (*i*) of this hat the persons with the controlling ownership interest are the beneficial where no natural person exerts control through ownership interests, d verify the natural persons, where they exist, exercising control of the n or arrangement through other means ; and

(*iii*) where a natural person is not identified under sub-paragraph (*i*) or (*ii*) of this paragraph, financial institutions sha[redacted]

(7) A financial institution shall obtain information on the purpose and intended nature of the business relationship of its potential customers.

(8) A financial institution shall conduct on-going Due Diligence on a business relationship.

(9) The conduct of on-going Due Diligence includes scrutinizing the transactions undertaken by the customer throughout the course of the financial institution and customer relationship to ensure that the transactions being conducted are consistent with the financial institution's knowledge of the customer, his business, risk profiles and the source of funds.

(10) A financial institution shall ensure that documents, data or information collated under the CDD process are kept up-to-date and relevant by undertaking regular periodic reviews of existing records, particularly the records in respect of higher-risk business-relationships or customer categories.

Application of Enhanced Due Diligence to Higher Risk Customers and Activities.

16. A financial institution shall perform Enhanced Due Diligence for higher-risk customers, business relationship or transactions including—

(*a*) non-resident customers ;

(*b*) private banking customers ;

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

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

(*e*) Politically Exposed Persons ('PEPs'), cross-border banking and business relationships, amongst others. ;

(*f*) cross-border banking and business relationships, and

(*g*) any other businesses, activities or professionals as may be prescribed by regulatory, supervisory or competent authorities.

Attention to High Risk Countries.

17.—(1) A financial institution shall give special attention to business relationships and transactions with persons, including legal persons and other financial institutions, from countries which do not or insufficiently apply the FATF recommendations.

(2) A financial institution shall report transactions that have no apparent economic or visible lawful purpose to competent authorities with the background and purpose of such transactions as far as possible, examined and written findings made available to assist competent authorities.

(3) A financial institution that does a business with foreign institutions which do not apply the provisions of FATF recommendations shall take measures, including the following—

(*a*) stringent requirements for identifying clients and enhancement of advisories, including jurisdiction-specific financial advisories to financial institutions for identification of the beneficial owners before business relationships are established with individuals or companies from that jurisdiction ;

(*b*) enhance relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with such countries are more likely to be suspicious ;

(*c*) in considering requests for approving the establishment of subsidiaries or branches or representative offices of financial institutions, in countries applying the counter measure shall take into account the fact that the relevant financial institution is from a country that does not have adequate AML/CFT systems ; and

(*d*) warn that non-financial sector businesses that transact with natural or legal persons within that country might run the risk of money laundering; limiting business relationships or financial transactions with the identified country or persons in that country.

Politically Exposed Persons (PEP).

18.—(1) Politically Exposed Persons ('PEPs') are individuals who are or have been entrusted with prominent public functions in Nigeria or in foreign countries, and people or entities associated with them and include—

(*a*) Heads of State or Government ;

(*b*) State Governors ;

(*c*) Local Government Chairmen ;

(*d*) senior politicians ;

(*e*) senior government officials ;

(*f*) judicial or military officials ;

(*g*) senior executives of state owned corporations ;

(*h*) important political party officials ;

(*i*) family members or close associates of PEPs ; and

(*j*) members of royal families.

(2) PEPs also include persons who are or have been entrusted with a prominent function by an international organization, including members of senior management including directors, deputy directors and members of the board or equivalent functions other than middle ranking or more junior individuals.

(3) Financial institutions shall in addition to performing CDD measures, to put in place appropriate risk management systems to determine whether a potential customer or existing customer or the beneficial-owner is a PEP.

(4) Financial institutions shall obtain senior management approval before they establish business relationships with a PEP and shall render monthly returns on all transactions with PEPs to the CBN and NFIU.

(5) Where a customer has been accepted or has an ongoing relationship with a financial institution and the customer or beneficial-owner is subsequently found to be or becomes a PEP, the financial institution shall obtain senior management approval to continue the business relationship.

(4) The policies and procedures required to be taken shall be applied automatically when establishing customer relationships and conducting on-going Due Diligence and measures for managing the risks are to include specific and effective CDD procedures that apply to non face-to-face customers.

Money or Value Transfer (MVT) Services.

21.—(1) All natural and legal persons performing Money or Value Transfer Service ('MVTS operators') shall be licensed by the Banking and Payment Systems Department of the CBN and shall be subject to the provisions of these Regulations, the relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended), the Terrorism Prevention Act, 2011 (as amended) and any other relevant laws or Regulations.

(2) MVTS Operators shall maintain a current list of their agents and render quarterly returns to the CBN and the NFIU.

(3) In addition to the requirement specified in this regulation, MVTS Operators shall gather and maintain sufficient information about their agents and correspondent operators or any other operators or institutions they are or likely to do business with.

(4) MVTS Operators shall—

(*a*) assess their agents' and correspondent operators' AML/CFT contro[illegible]

(5) Financial institutions shall subject to the AML/CFT principles contained in these Regulations, apply consistently the CDD measures at their group levels

(8) Where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer (during the necessary time to adapt payment systems), a record shall be kept for five years by the receiving intermediary financial institution of all the information received from the ordering financial inst

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

Existing Customers.

26.—(1) A financial institution shall apply CDD requirements to existing customers on the basis of materiality and risk, and continue to conduct Due Diligence on such existing relationships at appropriate times.

(2) The appropriate time to conduct CDD by financial institutions is where—

(*a*) a transaction of significant value takes place ;

(*b*) a customer documentation standards change substantially ;

(*c*) there is a material change in the way that the account is operated ; or

(*d*) the institution becomes aware that it lacks sufficient information about an existing customer.

(3) A financial institution shall properly identify the customer in accordance with the criteria contained in these Regulations and the customer identification records shall be made available to the AML/CFT compliance officer, other appropriate staff and competent authorities.

Failure to complete CDD.

27.—(1) A financial institution that fails to comply with the CDD measures pursuant to these Regulations shall—

(*a*) not be permitted to open the account, commence business relations or perform the transaction ; and

(*b*) be required to render a Suspicious Transaction Report to the NFIU.

(2) The financial institution that has commenced the business relationship shall terminate the business relationship and render Suspicious Transaction Reports to the NFIU.

(3) Where, a financial institution suspects that transactions relate to money laundering or terrorist financing, during the establishment or course of the customer relationship, or when conducting occasional transactions, it shall immediately—

(*a*) obtain and verify the identity of the customer and the beneficial owner, whether permanent or occasional, irrespective of any exemption or any designated threshold that might otherwise apply ; and

(*b*) render a Suspicious Transaction Report ('STR') to the NFIU without delay.

(4) Where a financial institution suspects that a transaction relates to money laundering or terrorist financing and it believes that performing the CDD process shall tip-off the customer, it shall—

(*a*) not pursue the CDD process, and

(*b*) file an STR to the NFIU without delay.

(5) A financial institution shall ensure that its employees are aware of, and sensitive to the issues mentioned under this regulation.

(6) When assessing risk, financial institution shall consider all the relevant risk factors before determining the level of overall risk and the appropriate level of mitigation to be applied.

(7) Financial institutions are allowed to differentiate the extent of measures, depending on the type and level of risk for the various risk factors and in a particular situation they may—

(*a*) apply the normal CDD for customer acceptance measures ;

(*b*) enhanced CDD for on-going monitoring ; or

(*c*) apply any of the procedures as may be considered appropriate in the circumstance.

Reliance on Intermediaries and Third Parties on CDD Function.

28.—(1) A financial institution that relies upon a third party to conduct its CDD shall—

(*a*) immediately obtain the necessary information concerning the property which has been laundered or which constitutes proceeds from instrumentalities used in or intended for use in the commission of money laundering and financing of terrorism or other relevant offences ; and

(*b*) satisfy itself that copies of identification data and other relevant documentation relating to the CDD requirements shall be made available from the third party upon request without delay.

(2) The financial institution shall satisfy itself that a third party is a regulated and supervised institution and that it has measures in place to comply with requirements of CDD reliance on intermediaries and other third parties on CDD as contained in these Regulations.

(3) Financial institutions relying on intermediaries or other third parties who have no outsourcing, agency, business relationships, accounts or transactions with it or their clients shall perform some of the elements of the CDD process on the introduced business.

(4) The criteria to be met in carrying the elements of the CDD process by the financial institution referred to in sub-regulation (3) of this regulation are to—

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

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

(*c*) satisfy themselves that the third party is regulated and supervised 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*) ensure that adequate Know Your Customer ("KYC") provisions are applied to the third party in order to obtain account information for competent authorities.

(5) Notwithstanding the conditions specified in this regulation, the ultimate responsibility for customer identification and verification shall be with the financial institution relying on the third party.

PART V—MAINTENANCE OF RECORDS

Maintenance of Records on Transactions.

29.—(1) A financial institution shall maintain all necessary records of transactions, both domestic and international for at least five years after completion of the transaction or such longer period as may be required by the CBN and NFIU, provided that this requirement shall apply regardless of whether the account or business relationship is on-going or has been terminated.

(2) The components of records of transaction to be maintained by financial institutions include the—

(*a*) records of customer's and beneficiary's names, addresses or other identifying information normally recorded by the intermediary ;

(*b*) nature and date of the transaction ;

(*c*) type and amount of currency involved ; and

(*d*) type and identifying number of any account involved in the transaction.

(3) Financial institutions shall maintain records of the identification data, account files and business correspondence for at least five years after the termination of an account or business relationship or such longer period as may be required by the CBN and NFIU.

(4) A financial institution shall ensure that all customer-transaction records and information are available on a timely basis to the CBN and NFIU.

Attention on Complex and unusual large Transactions.

30.—(1) A financial institution shall pay special attention to all complex, unusually large transactions or unusual patterns of transactions that have no visible economic or lawful purpose.

(2) A financial institution shall investigate suspicious transactions and report its findings to the NFIU immediately, in compliance with the provision of section 6(2)(*c*) of Money Laundering (Prohibition) Act, 2011 (as amended).

(3) For the purpose of sub-regulation (1) of this regulation, complex or unusually large transaction' or, 'unusual pattern of transactions' include significant transactions relating to a relationship, transactions that exceed certain limits, very high account turnover inconsistent with the size of the balance or transactions which fall outside the regular pattern of the account's activity.

Suspicious Transaction Monitoring.

31.—(1) Where a transaction—

(*a*) involves a frequency which is unjustifiable or unreasonable ;

(*b*) is surrounded by conditions of unusual or unjustified complexity ;

(*c*) appears to have no economic justification or lawful objective ; or

(*d*) in the opinion of the financial institution involves terrorist financing or is inconsistent with the known transaction pattern of the account or business relationship,

the transaction shall be deemed to be suspicious and the financial institution shall seek information from the customer as to the origin and destination of the fund, the aim of the transaction and the identity of the beneficiary.

(2) Where a financial institution suspects that the funds mentioned under sub-regulation (1) of this regulation—

(*a*) are derived from legal or illegal sources but are intended to be used for an act of terrorism ;

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

(*c*) belong to a person, entity or organization considered as terrorists,

it shall immediately and without delay report the matter to the NFIU and shall not be liable for violation of the confidentiality rules and banking secrecy obligations for any lawful action taken in furtherance of this obligation.

(3) A financial institution shall immediately and without delay ; but not later than within 24 hours—

(*a*) draw up a written report containing all relevant information on the transaction, together with the identity of the principal and where applicable, of the beneficiary or beneficiaries ;

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

(*c*) report to the NFIU any suspicious transaction, stating clearly the reasons for the suspicion and actions taken.

(4) The obligation on financial institutions provided for in this regulation shall apply whether the transaction is completed or not.

(5) A financial institution that fails to comply within the stipulated timeframe with the provisions of—

(*a*) sub-regulation (1) of this regulation is liable to a fine of ₦1, 000,000 for each day the offence subsists ; or

(*b*) sub-regulation (2) of this regulation is liable to sanction as stipulated under the Terrorism (Prevention) Act, 2011 (as amended).

(6) Any person who being a director or employee of a financial institution warns or in any other way intimates the owner of the funds involved in a suspicious transaction report, or who refrains from making the report as required, is liable to a fine of not less than ₦10,000,000 or banned indefinitely or for a period of not less than 5 years from practicing his profession.

(7) The directors, officers and employees of financial institutions who carry out their duties in good faith shall not be liable to any civil or criminal liability, or have any criminal or civil proceedings brought against them by their customers.

Procedure for the Monitoring and Reporting of Suspicious Transactions.

32.—(1) A financial institution shall have a written Policy Framework that guides and enables its staff to monitor, recognize and respond appropriately to suspicious transactions in addition to the list of Money Laundering "Red Flags" provided for in the Third Schedule to these Regulations.

(2) Every financial institution shall appropriately designate an officer as the AML/CFT Compliance Officer to supervise the monitoring and reporting of terrorist financing and suspicious transactions, among other duties.

(3) Financial institutions shall be alert to the various patterns of conduct that are known to be suggestive of money laundering, and shall maintain and disseminate a checklist of such transactions to the relevant staff.

(4) When any staff of a financial institution detects any "red flag" or suspicious money laundering or terrorist financing activity, the institution shall promptly institute a "Review Panel" under the supervision of the AML/CFT Compliance Officer and every action taken shall be recorded.

(5) A financial institution and its staff shall maintain confidentiality in respect of any investigation conducted in pursuance of these Regulations and any suspicious transaction report that may be filed with the NFIU consistent with the provision of the Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism (Prevention) Act, 2011 (as amended), and shall not say anything that might "tip off" any person or entity that is under suspicion of money laundering.

(6) A financial institution that 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.

(7) All suspicious transactions, including attempted transactions are to be reported regardless of the amount involved.

(8) The requirement to report suspicious transactions applies regardless of whether they are considered to involve tax matters or other matters.

(9) Financial institutions, their directors, officers and employees whether permanent or temporary, are prohibited from disclosing the fact that a report of a transaction shall be filed with the competent authorities.

(10) In compliance with the Terrorism (Prevention) Act, 2011 (as amended), financial institutions are also required to, forward to the NFIU without delay but not later than within 24 hours, reports of suspicious transactions relating to—

(*a*) funds derived from illegal or legal sources are intended to be used for any act of terrorism ;

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

(*c*) proceeds belonging to a terrorist, terrorist entity or organization.

PART VI—MONITORING, INTERNAL CONTROLS, PROHIBITIONS AND SANCTIONS

Internal Controls, Compliance and Audit.

33.—(1) A financial institution shall establish and maintain internal procedures, policies and controls to prevent money laundering and financing of terrorism and to communicate these to their employees.

(2) The procedures, policies and controls established by financial institution shall cover operational matters including the CDD, record retention, the detection of unusual and suspicious transactions and the reporting obligation.

(3) The AML/CFT Compliance Officer and appropriate staff are to have timely access to customer identification data, CDD information, transaction records and other relevant information.

(4) Financial institutions are accordingly required to develop programs against money laundering and terrorist financing, such as—

(*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*) on-going employee training programs to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends ;

(*c*) providing clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting ; and

(*d*) adequately resourced and independent audit function to test compliance with the procedures, policies and controls.

(5) A financial institution shall put in place a structure that ensures the operational independence of the Chief Compliance Officer ('CCO') and Branch Compliance Officers.

Sanctions and Penalties for Non-Compliance.

34.—(1) Failure to comply with the provisions contained in these Regulations shall attract appropriate sanction in accordance with the provisions of the MLPA, 2011 (as amended), existing laws on AML/CFT and as provided for under the provisions of the Second Schedule to these Regulations.

(2) A financial institution, its officers or employees shall not benefit from any violation of extant AML/CFT laws and Regulations.

(3) A financial institution that fails to comply with, or contravenes the provisions in these Regulations, shall be subject to sanctions by the CBN (including the suspension or withdrawal of its operating licence).

(4) Any individual, being an official of a financial institution, who fails to take reasonable steps to ensure compliance with the provisions of these Regulations shall be sanctioned accordingly based on relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended), the Terrorism (Prevention)

Act, 2011 (as amended) and any other relevant law or Regulations, the extant administrative sanction regime issued by the Central Bank of Nigeria or direction by the Attorney-General of the Federation; including revocation, suspension or withdrawal of professional licences by appropriate self - regulatory organizations.

(5) Criminal cases involving officers and the financial institutions shall be referred to the relevant law enforcement agencies for prosecution and the offender shall be liable to forfeit any pecuniary benefit obtained as a result of the violation or breach.

(6) Incidence of false declaration, false disclosure, non-declaration or non-disclosure of returns to be rendered under these Regulations by a financial institution or its officers shall be subject to administrative review and sanctions as stipulated in these or other Regulations and the appropriate administrative or civil penalties applied.

Prohibition of Numbered or

35.—(1) A financial institution shall not keep anonymous accounts or accounts in fictitious names.

(2) A financial institution shall not establish correspondent relationships with high risk fo[illegible] shall [illegible] nothing shell bank[illegible]

Act, 2011 (as amended) financial institutions shall render reports in writing on transfers to or from a foreign country of funds or securities by a person or body corporate including a Money Service Business of a sum exceeding US$10,000 or its equivalent to CBN, Securities and Exchange Commission ('SEC') and the NFIU within 7 days from the date of the transaction.

Monitoring of employee conduct.

38.—(1) A financial institution shall monitor their employees' accounts for potential signs of money laundering.

(2) A financial institution shall subject employees' accounts to the same AML/CFT procedures as applicable to other customers' accounts.

(3) The requirement specified in sub-regulation (2) of this regulation shall

(2) Report of compliance by a financial institution shall be rendered to the CBN and NFIU by 31st December of every financial year and any identified weaknesses or inadequacies promptly addressed by a financial institution.

Formal Board approval of the AML/CFT Compliance.

43.—(1) The ultimate responsibility for AML/CFT compliance is placed on the Board and top Management of every financial institution in Nigeria.

(2) The Board of a financial institution shall ensure that a comprehensive operational AML/CFT Policy and Procedure is formulated annually by Management and presented to the Board for consideration and formal approval.

(3) Copies of the approved AML/CFT Policy and Procedure referred to in sub-regulation (2) of this regulation shall be forwarded to the CBN and NFIU within six months of the release of these Regulations.

(4) Monthly reports on the AML/CFT [illegible]

(*g*) such accounts may cover Mobile Banking products, issued in accordance with the CBN Regulatory Framework for Mobile Payments Services in Nigeria ;

(*h*) deposits may be made by account holder and 3rd parties while withdrawal is restricted to account holder only ;

(*i*) may be linked to mobile phone accounts ;

(*j*) operation is valid only in Nigeria ;

(*k*) limited ATM transactions are allowed ;

(*l*) a maximum single deposit amount is limited to ₦20,000 and maximum cumulative balance of ₦200,000 at any point in time ;

(*m*) international funds transfer is prohibited ; and

(*n*) accounts are strictly savings ;

(3) Tier two for which—

(*a*) evidence of basic customer information such as passport photograph, name, place and date of birth, gender and address is required ;

(*b*) items in paragraph (*a*) of this regulation may be forwarded electronically or submitted on-site in banks' branches or agents' offices ;

(*c*) customer information obtained shall be against similar information contained in the official data-bases such as National Identity Management Commission (NIMC), Independent National Electoral Commission (INEC) Voters Register, Federal Road Safety Commission (FSRC) among others ;

(*d*) accounts may be opened face to face at any branch of a bank by agents for enterprises used for mass payroll or by the account holder ;

(*e*) evidence of basic customer information is required at this level and identification, verification and monitoring by financial institutions are also required ;

(*f*) accounts may be contracted by phone or at the institution's website;

(*g*) accounts may be linked to a mobile phone ;

(*h*) may be used for funds transfers within Nigeria only ;

(*i*) the accounts are strictly savings ;

(*j*) no amount is required for opening of the accounts ;

(*k*) such accounts cover Mobile Banking products (issued in accordance with the CBN Regulatory Framework for Mobile Payments Services in Nigeria) ;

(*l*) maximum single deposit of ₦50,000 and a maximum cumulative balance of ₦400,000 are allowed at any time ; and

(*m*) withdrawal shall be denied where cross-checking of client's identification information is not completed at the point of account opening.

(4) Tier three for which—

(*a*) a financial institution shall obtain, verify and maintain copies of all the required documents for opening of accounts in compliance with the KYC requirements contained in these Regulations ;

(*b*) no amount is required for opening of the accounts ;

(*c*) there is no limit on cumulative balance, deposit and transactions, and

(*d*) KYC requirements shall apply.

Duty to Obtain Identification Evidence.

46.—(1) A Financial institution shall not establish a business relationship until the relevant parties to the relationship have been identified, verified, and the nature of the business they intend to conduct ascertained.

(2) Where an on-going business relationship is established, any activity that is not consistent to the business relationship shall be examined to determine whether or not there are elements of money laundering, terrorist financing or any suspicion activity.

(3) The first requirement of knowing your customer for money laundering and terrorist financing purposes, is for the financial institution to be satisfied that a prospective customer is who he claims to be.

(4) A Financial institution shall not engage in any financial business or provide advice to a customer or potential customer except where the financial institution is sure or certain as to who that person actually is.

(5) Where a customer is acting on behalf of another in a situation where funds are supplied by someone else or the investment is to be held in the name of someone else, a financial institution shall verify the identity of the customer, the agent or trustee except where the customer is itself a Nigerian regulated financial institution.

(6) A Financial institution shall obtain evidence of identification of its customers.

stitution shall identify all relevant parties to a business
eginning in accordance with the general principles of
entification evidence set out in these Regulations.

(7) A financial i
relationship from the b
obtaining satisfactory id

ial institution shall obtain sufficient information on the
at its customer intends to undertake, including expected
f transactions.

Nature and Level of the Business.

47.—(1) A financ
nature of the business th
or predictable pattern o

ion obtained before the commencement of the business

(2) The informat
shall include—

pening the account or establishing the relationship ;

(*a*) purpose for o

ctivity that is to be undertaken ;

(*b*) nature of the

n of the funds to be used during the relationship ; and

(*c*) expected origi

(*d*) details of occupation, employment or business activities and sources of wealth or income.

(3) A financial institution shall take reasonable steps to keep the information up-to-date as the opportunities arise, include where an existing customer opens a new account.

(4) Any information obtained during any meeting, discussion or other communication with a customer shall be recorded and kept in a customer's file to ensure, as far as practicable, that current customer information is readily accessible by the Anti-Money Laundering Compliance Officers ('AMLCOs') or relevant regulatory bodies.

Application of Commercial Judgment.

48.—(1) A financial institution shall take a risk-based approach of KYC requirements.

(2) A financial institution shall decide on the number of times to verify the customers' records during the relationship, the identification evidence required and when additional checks are necessary and its decisions shall be recorded.

(3) A financial institution shall for personal account relationships, identify and verify all joint-account holders.

(4) A financial institution shall for private company or partnership, identify and verify the principal owners or controllers.

(5) The identification evidence obtained from the beginning of a business relationship shall be reviewed against the inherent risks in the business or service.

Identification.

49. The customer identification process shall continue to exist throughout the duration of the business relationship.

(2) The process of confirming and updating identity and address, and the extent of obtaining additional KYC information collected may differ from one type of financial institution to another.

(3) The general principles for establishing the identity of legal and natural persons and the guidance on obtaining satisfactory identification evidence set out in these Regulations are not exhaustive.

Factors to consider in identification.

50. In determining a customer's identity under these Regulations, the following shall be considered—

(*a*) the name used ;

(*b*) date of birth ;

(*c*) the residential address at which the customer can be located ;

(*d*) in the case of a natural person, the date of birth shall be obtained as an important identifier in support of the name and there shall be no obligation to verify the date of birth provided by the customer ; and

(*e*) where an international passport, driver's licence, INEC voter's card 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 and driver's licence) shall be recorded.

Time for Verification of Identity.

51.—(1) The identity of a customer shall be verified whenever a business relationship is to be established, on account opening, during one-off transaction or where a series of linked transactions takes place.

(2) In these Regulations, "transaction" include the giving of advice and "advice" under this regulation shall not apply where information is provided on the availability of products or services and when a first interview or discussion prior to establishing a relationship takes place.

(3) Where the identification procedures have been completed and business relationship established, as long as contact or activity is maintained and records concerning that complete and kept, no further evidence of identity shall be undertaking when another transaction or activity is subsequently undertaken.

(4) Where an investor finally realizes the investment made (wholly or partially), where the amount payable is US$ 1,000 or its equivalent or above or such other monetary amounts as may, from time to time be stipulated by any applicable money laundering legislation or Regulations, the identity of the investor shall be verified and recorded where this had not been done previously.

(5) Where there is a redemption or surrender of an investment (wholly or partially), a financial institution 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.

Verification of Identity.

52.—(1) Financial institutions shall obtain sufficient evidence of the client's identity to ascertain that the client is the person he claims to be.

(2) Where a person is acting on behalf of another, the obligation is to obtain sufficient evidence of identities of the two persons involved.

Exceptions.

53.—(1) Notwithstanding the provisions of regulation 52 of these Regulations, in situation of consortium lending, the lead-manager or agent shall supply a confirmation letter as evidence that he has obtained the required identity.

(2) There is no obligation to look beyond the client where—

(*a*) the client is acting on its own account (rather than for a specific client or group of clients) ;

(*b*) the client is a bank, broker, fund manager or other regulated financial institutions ; or

(*c*) all the businesses are to be undertaken in the name of a regulated financial institution.

Additional Verification Requirements.

54. In other circumstances, except where the client is a regulated 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 for—

(*a*) the named account holder or 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 of an account or business relationship including those who regularly provide instructions ; and

(*d*) any intermediate parties including cases where an account is managed or owned by an intermediary.

Identification of Directors and other Signatories.

55. A financial institution shall identify directors and all the signatories to an account.

Joint Account Holders.

56. Identification evidence shall be obtained for all joint applicants or account holders.

Verification of Identity for High Risk Business.

57. For higher risk business undertaken for private companies including those not listed on the stock exchange sufficient evidence of identity and address shall be verified in respect of—

(*a*) the principal underlying beneficial owner(s) of the company with 5% interest and above ; and

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

Duty to keep watch of significant changes in nature of business.

58. A financial institution shall—

(*a*) be at alert in circumstances that may indicate any significant changes in the nature of a business or its ownership and shall make enquiries accordingly; and

(*b*) observe the additional provisions for High Risk Categories of Customers under AML/CFT directive in these Regulations.

Verification of identity of Person providing Funds for Trust.

59.—(1) A financial institution shall obtain and verify the identity of those providing funds for Trusts.

(2) The identity of those providing funds for Trust envisaged under these regulations include the settlor 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.

Savings schemes and investments in third parties' names.

60. Where an investor sets up a savings account or a regular savings scheme whereby, the funds are supplied by one person for investment in the name of another (such as in the case of a spouse or a child), the person who funds the subscription or makes deposits into the savings scheme is for all intent and purposes, the applicant for the business in question and for such person, identification evidence shall be obtained in addition to that of the legal owner.

Personal Pension Schemes.

61.—(1) 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.

(2) Personal pension advisers are charged with the responsibility of obtaining the identification evidence on behalf of the pension fund provider and confirmation that identification evidence has been taken shall be provided on the transfer of a pension to another pension fund provider.

Timing of Identification Requirements.

62.—(1) An acceptable time-span for obtaining satisfactory evidence of identity is determined by the nature of the business, the geographical location of the parties and the possibility of obtaining the evidence before commitments are entered into or actual monies given or received.

(2) Any business conducted before satisfactory evidence of identity has been obtained shall only be in exceptional cases and under circumstances that can be justified with regard to the risk and in such a case, financial institution shall—

(*a*) obtain identification evidence as soon as reasonably practicable 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 paragraph (*a*) of this regulation, the financial institution shall discontinue any activity it is conducting for the client and bring to an end any understanding reached with the client.

(3) A financial institution shall also observe the provision in the timing of verification under the AML/CFT directive contained in these Regulations.

(4) A financial institution may however start processing the business or application immediately, provided that it—

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

(*b*) does not transfer or pay any money out to a third party until the identification requirements are carried out.

Consequence of failure to provide satisfactory Identification Evidence.

63.—(1) The failure or refusal of an applicant to provide satisfactory identification evidence within a reasonable time and without adequate explanation may lead to a suspicion that the depositor or investor is engaged in money laundering.

(2) A financial institution under the situation stipulated in sub-regulation (1) of this regulation shall immediately make an STR to the NFIU based on the information in its possession before the funds involved are returned to the potential client or original source of the funds.

(3) A financial institution shall have in place written and consistent policies of closing an account or unwinding a transaction where satisfactory evidence of identity cannot be obtained.

(4) A financial institution is also required to respond promptly to inquiries made by competent authorities and financial institutions on the identity of their customers.

Identification Procedures.

64.—(1) A financial institution shall ensure that it is dealing with a real person or organization whether natural, corporate or legal, by obtaining sufficient identification evidence.

(2) Where reliance is placed on a third party to identify or verify the identity of an applicant, the overall responsibility for obtaining satisfactory identification evidence rests with the account holding financial institution.

(3) In all cases, it is mandatory to obtain satisfactory evidence that a person lives at the address he provided 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.

(4) The identification process should be cumulative, as no single form of identification can be fully guaranteed as genuine or representing correct identity.

(5) The procedures adopted to verify the identity of private individuals, whether or not identification was done face-to-face or remotely, shall be stated in the customer's file and the reasonable steps taken to avoid single, multiple fictitious applications, substitution (impersonation) or fraud shall be stated also by the financial institution in the client's file.

(6) An introduction from a respected customer, a person personally known to a Director or Manager or a member of staff often provides comfort but shall not replace the need for identification evidence requirements to be complied with as set out in this Regulation.

(7) Details of the person who initiated and authorized the introduction should be kept in the customer's mandate file along with other records and the Directors or Senior Managers shall insist on the prescribed identification procedures for every applicant.

New Business for Existing Customers.

65.—(1) Where an existing customer closes one account and opens another or enters into a new agreement to purchase products or services, it shall not be necessary to verify the identity or address for such a customer unless the name or the address provided does not tally with the information in the financial institution's records, provided that procedures are put in place to guard against impersonation or fraud.

(2) The opportunity of opening the new account referred to in sub-regulation (1) of this regulation shall be utilized to ask the customer to confirm the relevant details and to provide any missing KYC information and where—

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

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

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

(3) In the circumstances in sub-regulation (2) of this regulation, details of the previous account and any identification evidence previously obtained or any introduction records shall be linked to the new account-records and retained for the prescribed period in accordance with the provisions of these Regulations.

Certification of Identification Documents.

66.—(1) In order to guard against the dangers of postal-interception and fraud, prospective customers shall not be asked to send originals of their valuable personal identity documents including international passport, identity card, driver's licence, by post.

(2) Where there is no face-to-face contact with a customer and documentary evidence is required, certified true copies by a lawyer, notary public or court of competent jurisdiction, banker, accountant, senior public servant or their equivalent in the private sector shall be obtained provided that the person undertaking the certification is known and capable of being contacted. In the case of a foreign national, a copy of international passport, national identity card or documentary evidence of his address shall be certified by—

(*a*) the embassy, consulate or high commission of the country of issue ;

(*b*) a senior official within the account opening institution ; or

(*c*) a lawyer or notary public.

(3) Certified True Copies of identification evidence are to be stamped, dated and signed "original sighted by me" by a senior officer of the financial institution.

(4) A financial institution shall always ensure that a good production of the photographic evidence of identity is obtained provided that where this is not possible, a copy of evidence certified as providing a good likeness of the applicant is acceptable in the interim.

Recording Identification Evidence.

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

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

(3) Confirmation of evidence in sub-regulation (2) of this regulation shall be provided that the original documents were seen by certifying either on the photocopies or on the record that the details were taken down as evidence.

(4) Where checks are made electronically, a record of the actual information obtained or where it can be re-obtained shall be retained as part of the identification evidence.

(5) The record in sub-regulation (4) of this regulation shall make the reproduction of the actual information that would have been obtained before, less cumbersome.

Concession in respect of Payment made by Post.

68.—(1) Where the money laundering risk is assessed to be low, concession may be granted for product or services in respect of long-term life insurance business or purchase of personal investment products.

(2) Where payment is to be made from an account held in a customer's name or jointly with one or more other persons, at a regulated financial institution, no further evidence of identity shall be necessary.

(3) Additional verification requirements for postal or electronic transactions shall apply to the following—

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

(*b*) situations where funds may be repaid or transferred to a person other than the original customer ; and

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

(4) Postal concession shall not be an exemption from the requirement to obtain satisfactory evidence of a customer's identity and payment debited from an account in the customer's name shall be capable of constituting the required identification evidence in its own right.

(5) To avoid proceeds of crime from being laundered by a customer who uses a third-party cheque, draft or electronic payment drawn on a bank, payment from joint accounts shall be considered acceptable for this purpose where the name of the account-holder from where the funds have been provided shall be clearly indicated on the record reflecting the payment or receipt, provided that a financial institution may rely upon the required documentary evidence of a third party, without further verification of the identity, where there is no apparent inconsistency between the name in which an application is made and the name on the payment instrument.

(6) In the case of a mortgage institution's cheque or banker's draft, it shall only be possible to rely on the concession in sub-regulation (5) of this regulation where the holder of the account from which the money is drawn is confirmed to have met the KYC requirements by the mortgage institution or bank, and payment

by direct debit or debit card shall be relied upon except the authentication procedure identifies the name of the account holder from which the payment is drawn and confirms the customer's address.

(7) In respect of direct debits, it shall not be assumed that the account-holding bank or institution may carry out any form of validation of the account name and number or that the mandate shall be rejected where they do not match.

(8) Where payment for the product is to be made by direct debit or debit card or notes, and the applicant's account details have not previously been verified through sighting of a bank statement or cheque drawn on the account, repayment proceeds shall only be returned to the account from which the debits were drawn.

(9) Records shall be maintained indicating how a transaction arose, including details of the financial institution's branch and account number from which the cheque or payment is drawn.

(10) The concession in this regulation may apply both where an application is made directly to the financial institution and where a payment is passed through a regulated intermediary.

(11) A financial institution that has relied on the postal concession to avoid additional verification requirements, which shall be so indicated on the customer's file, cannot introduce that customer to another financial institution for the purpose of offering bank accounts or other products that provide cheque or money transmission facilities.

(12) Where the customer in sub-regulation (11) of this regulation wishes to migrate to an account that provides cheque or third party transfer facilities, additional identification checks shall be undertaken at that time, and where these circumstances occur on a regular basis a financial institution shall identify all the parties to the relationship at the outset.

Term Deposit Account ('TDA').

69. Term Deposit Accounts ('TDA') can be broadly classified as a one-off transaction provided that a financial institution shall note that concession is not available for TDAs opened with cash where there is no audit trail of the source of funds or where payments to or from third parties are allowed into the account.

Investment Funds.

70. Where the balance in an investment fund account is transferred from one funds manager to another and the value at that time is above $1,000 or its equivalent and identification evidence has not been taken or confirmation obtained from the original fund manager, such evidence shall be obtained at the time of the transfer.

PART VIII—GENERAL INFORMATION

Establishing Identity.

71. Establishing identity under these Regulations is divided into three broad categories, namely—

(*a*) private individual customers ;

(*b*) quasi corporate customers ; and

(*c*) pure corporate customers.

Private Individuals—General Information.

72.—(1) The following information shall be established and independently validated for all private individuals whose identities need to be verified—

(*a*) the full name used ; and

(*b*) the permanent home address, including landmarks and postcode, where available.

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

(3) The date of birth shall be obtained as required by the law enforcement agencies, provided that the information need not be verified and the residence or nationality of a customer is ascertained to assist risk assessment procedures.

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

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

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

(7) For low-risk accounts or simple investment products such as deposit or savings accounts without cheque-books or automated money transmission facilities, the financial institution shall satisfy itself as to the identity and address of the customer.

Private Individuals Resident in Nigeria.

73.—(1) The confirmation of name and address shall be established by reference to a number of sources.

(2) The checks shall be undertaken by cross-validation that the applicant exists at the stated address either through the sighting of actual documentary evidence or by undertaking electronic checks of suitable databases or by a combination of the two.

(3) The overriding requirement to ensure that the identification evidence is satisfactory shall rest with the financial institution opening the account or providing the product or service.

Documenting Evidence of Identity.

74.—(1) To guard against forged or counterfeit documents, care shall be taken to ensure that documents offered are originals.

(2) Copies that are dated and signed 'original seen' by a senior public servant or equivalent in a reputable private organization may be accepted in the interim, pending presentation of the original documents.

(3) Suitable documentary evidence for private individuals resident in Nigerian as contained in the Second Schedule to these Regulations.

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

Physical Checks on Private Individuals Resident in Nigeria.

75.—(1) A financial institution shall establish the true identity and address of its customer and carryout effective checks to protect the institution against substitution of identities by applicants.

(2) Additional verification of a customer's identity and the fact that the application was made by the person identified shall be obtained through one or more of the following procedures—

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

(*b*) an initial deposit cheque drawn on a personal account in the applicant's name in another financial institution in Nigeria ;

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

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

(*e*) card or account activation procedures.

(3) A financial institution shall ensure that additional information on the nature and level of the business to be conducted and the origin of the funds to be used within the relationship are obtained from the customer.

Electronic Checks.

76.—(1) An applicant's identity, address and other available information may be checked electronically by accessing other data-bases or sources, as an alternative or supplementary to documentary evidence of identity or address.

(2) A financial institution shall use a combination of electronic, documentary and physical checks to confirm different sources of the same information provided by a customer.

(3) In respect of electronic checks, confidence as to the reliability of information supplied shall be established by the cumulative nature of checking across a range of sources, preferably covering a period of time or through qualitative checks that assess the validity of the information supplied.

(4) The number or quality of checks to be undertaken shall vary depending on the diversity as well as the breath and depth of information available from each source.

(5) Verification that the applicant is the data-subject shall be conducted within the checking process.

(6) Suitable electronic sources of information include—

(*a*) an electronic search of the electoral register not be used as a sole identity and address check ;

(*b*) access to internal or external account database ; and

(*c*) an electronic search of public records where available.

(7) Application of the process and procedures in this regulation shall assist financial institutions to guard against impersonation, invented-identities and the use of false addresses provided that where an applicant is a non face-to-face person, one or more additional measures shall be undertaken for re-assurance.

PART IX—FINANCIAL EXCLUSION FOR THE SOCIALLY OR FINANCIALLY DISADVANTAGED APPLICANTS

"Financial Exclusion" for the socially or financially disadvantaged Applicants Resident in Nigeria.

77.—(1) Notwithstanding that access to basic banking facilities and other financial services is a necessary requirement for most adults, the socially or financially disadvantaged shall not be precluded from opening accounts or obtaining other financial services merely because they do not possess evidence to identify themselves.

(2) The socially or financially disadvantaged shall not be precluded from opening accounts or obtaining other financial services merely because they do not possess evidence to identify themselves since access to basic banking facilities and other financial services is a necessary requirement for most adults.

(3) Where the socially or financially disadvantaged cannot reasonably comply with sub-regulation (1) of this regulation, the internal procedures of the financial institution shall make allowance for such persons by way of providing appropriate advice to staff on how the identities of such group of persons may be confirmed and what checks shall be made under these exceptional circumstances.

(4) Where a financial institution has reasonable grounds to conclude that an individual client is not able to produce the detailed evidence of his identity and cannot reasonably be expected to do so, the institution 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.

(5) When a financial institution has decided to treat a client as "financially excluded", it shall record the reasons for doing so along with the account opening documents, and returns of same shall be rendered to the CBN and NFIU quarterly.

(6) Where a letter or statement is accepted from a person in position of responsibility, it shall include a telephone number where the person can be contacted for verification and the financial institution shall verify from an independent source

the information provided by that person so as to satisfy itself that such customer is the person he claims to be.

(7) A financial institution shall include in its internal procedures the "alternative documentary evidence of personal identity and address" that may be accepted to guard against "financial exclusion" and to minimize the use of the exception procedure.

(8) A financial institution shall put in place additional monitoring for accounts opened under the financial inclusion procedures to ensure that such accounts are not misused.

Private Individuals not resident in Nigeria.

78.—(1) International passports or national identity cards shall generally be available as evidence of the name of a customer and reference numbers, date and country of issue shall be obtained and recorded in the customer's file as part of the identification evidence in respect of prospective customers who are not resident in Nigeria but who make face-to-face contact.

(2) A financial institution shall obtain separate evidence of an applicant's permanent residential address from the best available evidence, preferably from an official source.

(3) A Post Office Box number ("P.O.Box Number") alone shall not be accepted as evidence of address and the applicant's residential address shall be such that it may be physically located by way of a recorded description or other means.

(4) Relevant evidence shall be obtained by the financial institution directly from the customer or through a reputable credit or financial institution in the applicant's home country or country of residence, provided that particular care shall be taken when relying on identification evidence obtained from other countries.

(5) A financial institution shall ensure that a customer's true identity and current permanent address are actually confirmed. In such cases, copies of relevant identity documents shall be sought and retained.

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

(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 where the financial institution shall obtain one separate item of evidence of identity in respect of the name of the customer and one separate item for the address.

(8) Documentary evidence of name and address may be obtained from—

(*a*) an original documentary evidence supplied by the customer ;

(*b*) a certified copy of the customer's passport or national identity card and a separate certified document including utility bill and driving licence, verifying the customer's address ; or

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

(9) Where an applicant does not already have a business relationship with the financial institution that is supplying the information or the financial institution is outside Nigeria, certified copies of relevant underlying documentary evidence shall be sought, obtained and retained by the institution.

(10) An additional comfort shall be obtained by confirming the customer's true name, address and date of birth from a reputable credit institution in the customer's home country, where necessary.

(11) A financial institution shall use requirements in this regulation in conjunction with the First Schedule to these Regulations.

Non Face-to-Face Identification.

79.—(1) In respect of a non face-to-face customer, an additional measure or check shall be undertaken to supplement the documentary or electronic evidence to ensure that an applicant is who he claims to be and these additional measures shall apply whether the applicant is resident in Nigeria or elsewhere and shall be particularly robust where the applicant is requesting a bank account or other product or service that offers money transmission or third party payments.

(2) Procedures to identify and authenticate a customer shall ensure that there is sufficient evidence either documentary or electronic, to confirm his address and personal identity and to undertake at least one additional check to guard against impersonation or fraud.

(3) The extent of the identification evidence required in this regulation shall depend on the nature and characteristics of the product or service and the assessed risk, provided that care shall be taken to ensure that the same level of information is obtained for internet customers and other postal or telephone customers.

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

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

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

(7) AML/CFT compliance officers shall review these systems or solutions, record exemptions and report same quarterly to the NFIU.

Refugees or Asylum Seekers.

80.—(1) Where a refugee or asylum seeker requires a basic bank account without being able to provide evidence of identity, authentic references from the Nigerian Immigration Services endorsed by the State Security Services shall be used in conjunction with other readily available evidence.

(2) Additional monitoring procedures shall be undertaken in respect of sub-regulation (1) of this regulation to ensure that the use of the account is consistent with the customer's circumstances.

Students and Minors.

81.—(1) When opening accounts for students or other young people, the normal identification procedures set out in these Regulations shall be followed and where such procedures may not be relevant or do not provide satisfactory identification evidence, verification may be obtained through –

(*a*) the home address of the parent ;

(*b*) confirming the applicant's address from his institution of learning ; or

(*c*) seeking evidence of a tenancy agreement or student accommodation contract.

(2) An account for a minor may be opened by a family member or guardian and where the adult opening the account does not already have an account with the financial institution, the identification evidence for that adult or of any other person who will operate the account shall be obtained in addition to obtaining the birth certificate and passport of the child, provided that strict monitoring shall be undertaken.

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

(4) Account of a minor shall be constantly monitored to ensure that it is not used for the purposes of money laundering or terrorist financing and that the transaction does not exceed an amount that should be determined by the financial institution.

Quasi Corporate Customers.

82. Trusts, nominee companies and fiduciaries are popular vehicles for criminals wishing to avoid the identification procedures and mask the origin of the dirty money they wish to launder. The particular characteristics of Trust that attract the genuine customer, the anonymity and complexity of structures that they can provide are also highly attractive to money launderers.

Part X—Trust, Policy, Receipt and Payment of Funds

Trust, Nominees and Fiduciaries.

83.—(1) Trusts, nominees and fiduciary accounts present a higher money laundering risk than others.

(2) Identification and "Know Your Customer's Business" procedures shall be set and managed in accordance with the perceived risk.

(3) The principal objective of money laundering prevention trusts, nominees and fiduciaries shall be to verify the identity of the provider of funds such as the settlor, and those who have control over funds like the trustees and any controllers who have the power to remove the trustees.

(4) For discretionary or offshore trust, the nature and purpose of the trust and the original source of funding shall be ascertain :d.

(5) Whilst reliance may be placed on other financial institutions that are regulated for money laundering prevention to undertake the checks or confirm identity, the responsibility to ensure that this is undertaken shall vest with the financial institution and the underlying evidence of identity shall be made available to law enforcement agencies in the event of an investigation.

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

Offshore Trusts.

84.—(1) Since offshore trusts present a higher money laundering risk, additional measures shall be needed for Special Purpose Vehicles (SPVs) or International Business Companies connected to trusts.

(2) Where trusts are set up in offshore locations with strict bank secrecy or confidentiality rule, those created in jurisdictions without equivalent money laundering procedures in place shall warrant additional enquiries.

(3) Except an applicant for business is a regulated financial institution, 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 principals including settlors and controllers on whose behalf the applicant for business is acting shall be obtained.

(5) For overseas trusts, nominee and fiduciary accounts, where the applicant is a financial institution that is regulated for money laundering purposes—

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

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

(*c*) documentary evidence of the appointment of the current trustees shall be obtained.

(6) Where the evidence is not retained in Nigeria, enquiries shall be made to determine, that there is no overriding bank secrecy or confidentiality constraint that shall restrict access to the documentary evidence of identity, shall it be needed in Nigeria.

(7) An application to open an account or undertake a transaction on behalf of another without the applicant identifying his trust or nominee capacity shall be regarded as suspicious and shall lead to further enquiries and rendition of reports to the NFIU.

(8) Where a bank in Nigeria is the applicant for an offshore trust on behalf of a customer, where the corporate trustees are not regulated, the Nigerian bank shall undertake due diligence on the trust itself.

(9) Where 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 be verified except where the identity of beneficiaries have not previously been verified and verification shall be carried out where payments are made to them.

Conventional Family and Absolute Nigerian Trusts.

85.—(1) For Conventional Nigerian Trusts, identification evidence shall be obtained for—

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

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

(*c*) where the settlor 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 where 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 financial institution may not review an existing trust but the bank confirmation of the settlor 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.

(5) Where a risk based approach is adopted, consideration shall be given as to whether the identity of any additional authorized signatories to the bank account may be verified.

(6) A payment for any trust property shall be made to a trustee and as a matter of practice, some life assurance companies make payments directly to beneficiaries on receiving a request from the trustees, payment shall be made to the named beneficiary by way of a crossed cheque marked "account payee only" or a bank transfer direct to an account in the name of the beneficiary in such circumstances.

Receipt and payment of Funds.

86.—(1) Where money is received on behalf of a trust, reasonable steps shall be taken to ensure that the source of funds is properly identified and the nature of the transaction or instruction is understood.

(2) A Payment shall be properly authorized in writing by the trustees.

Identification of new Trustees.

87. 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 funds of the Trust.

Life policies placed in Trust.

88. Where a life policy is placed in trust, an applicant for the policy is also a trustee and where the trustees have no beneficial interest in the funds, it shall verify the identity of the person applying for the policy except that the remainder of the trustees shall 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.

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

(2) At the start of a relationship, identification evidence shall be obtained from a holder of Power of Attorney and third party mandates in addition to the customer or subsequently on a later appointment of a new attorney, where advised, within one year of the start of the business relationship.

(3) An attorney for corporate or trust business shall be verified and a financial institution shall always ascertain the reason for the granting of a power of attorney.

(4) A records of a transaction undertaken in accordance with a Power of Attorney shall be maintained as part of the client's record.

PART XI—EXECUTORSHIP, CLIENT ACCOUNTS, UNINCORPORATED AND CORPORATED ORGANIZATIONS

Executorship Accounts.

90.—(1) Where a bank 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.

(2) Identification evidence shall not be required for the executors or administrators where payment is made from an established bank or mortgage institution's account in a deceased's name, solely for the purpose of winding up the estate in accordance with the grant of probate or letter of administration.

(3) Where a life policy pays out on death, identification evidence shall not be obtained for the legal representatives.

(4) A Payment to beneficiaries in sub-regulations (1) (2) and (3) of this regulation on the instructions of the executor or administrator may be made without additional verification requirements, except that where a beneficiary wishes to transact business in his own name, then identification evidence shall be required.

(5) Where suspicion is aroused in respect of the nature or origin of assets comprising an estate that is being wound up, such suspicion shall be reported to the NFIU.

"Client Accounts" Opened By Professional Inter-mediaries.

91.—(1) Stockbrokers, fund managers, solicitors, accountants, estate agents and other intermediaries frequently hold funds on behalf of their clients in "client accounts" opened with a financial institution.

(2) Accounts in sub-regulation (1) of this regulation may be general omnibus accounts holding the funds of many clients or they may be opened specifically for a single client.

(3) In each case, it is the professional intermediary who is the financial institution's customer. These situations shall be distinguished from those where an intermediary introduces a client who himself becomes a customer of the financial institution.

(4) Where a professional intermediary is covered and is indeed monitored under the money laundering Regulations or AML/CFT supervisors or their equivalent, identification may be waived on production of evidence.

(5) Notwithstanding sub-regulation (4) of this regulation, where the professional intermediary is not regulated by money laundering Regulations or their equivalent, the financial institution shall verify the identity of the professional intermediary and also verify the identity of the person on whose behalf the professional intermediary is acting.

(6) Where it is impossible for a financial institution to establish the identity of the person for whom a solicitor or accountant is acting, it shall take a commercial decision based on its knowledge of the intermediary, as to the nature and extent of business that they are prepared to conduct where the professional firm is not itself covered by these Regulations.

(7) Financial institutions shall make reasonable enquiries about transactions passing through client-accounts that give cause for concern and shall report any suspicion to the NFIU.

Un-incorporated Business or Partnership.

92.—(1) Where an applicant is an un-incorporated business or a partnership whose principal partners or controllers do not already have a business relationship with the financial institution, identification evidence shall be obtained in respect of the principal beneficial owners or controllers and any signatory in whom significant control has been vested by the principal beneficial owners or controllers.

(2) Evidence of the address of a business or partnership shall be obtained and where a current account is being opened, a visit to the place of business may be made to confirm the true nature of the business activities and a copy of the latest report and audited accounts shall be obtained.

(3) The nature of the business or partnership shall be verified to ensure that it has a legitimate purpose.

(4) Where a formal partnership arrangement exists, a mandate from the partnership authorizing the opening of an account or undertaking of the transaction shall be obtained.

Limited Liability Partnership.

93. A limited liability partnership shall be treated as a corporate customer for verification of identity and know your customer purposes.

Pure Corporate Customers.

94.—(1) The legal existence of an applicant-company shall be verified from official documents or sources to ensure that persons purporting to act on its behalf are fully authorized.

(2) Where the controlling principals cannot be identified, enquiries shall be made to confirm that the legal person is not merely a "brass-plate company".

The identity of a corporate company.

95.—(1) The identity of a corporate company shall comprise of—

(*a*) registration number ;

(*b*) registered corporate name and any trading names used ;

(*c*) registered address and any separate principal trading addresses ;

(*d*) directors ;

(*e*) owners and shareholders ; and

(*f*) the nature of the company's business.

(2) The extent of identification measures required to validate the information or the documentary evidence to be obtained in this regulation depends on the nature of the business or service that the company requires from the financial institution and a risk-based approach shall be taken.

(3) Information as to the nature of the normal business activities that the company expects to undertake with the financial institution shall be obtained.

(4) Before a business relationship is established, measures shall be taken by way of company search at the Corporate Affairs Commission (CAC) and other commercial enquiries undertaken to check that the applicant-company's legal existence has not been or is not in the process of being dissolved, struck off, wound up or terminated.

Non Face-to-Face Business.

96.—(1) Additional procedures shall be undertaken to ensure that the applicant's business, company or society exists at the address provided and it is for a legitimate purpose because of the risks with non face-to-face business, as with the requirements for private individuals.

(2) Where the characteristics of the product or service permit, steps shall be taken to 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 customers shall be followed.

Public Registered Companies.

97. (1) Corporate customers that are listed on the stock exchange are considered to be publicly- owned and generally accountable and there is no need to verify the identity of the individual shareholders.

(2) The Identity of the directors of a quoted company may not be verified.

(3) A financial institution shall make appropriate arrangements to ensure that an officer or employee, past or present, is not using the name of the company or its relationship with the financial institution for a criminal purpose.

(4) The Board resolution or other authority for a representative to act on behalf of the company in its dealings with the financial institution shall be obtained.

(5) Phone calls may be made to the Chief Executive Officer of a company in sub-regulation (4) of this regulation to intimate him of the application to open the account in the financial institution.

(6) Further steps shall not be taken to verify identity more than the usual commercial checks where the applicant company is listed on the stock exchange or there is independent evidence to show that it is a wholly owned subsidiary or a subsidiary under the control of such a company.

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

Private Companies.

98. Where the applicant is an unquoted company and none of the principal directors or shareholders already have an account with the financial institution, to verify the business, the following documents shall be obtained from an official or a recognized independent source—

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

(*b*) a search at the CAC or an enquiry through a business information service to obtain the information on the company ;

(*c*) an undertaking from a firm of lawyers or accountants confirming the documents submitted to the CAC ;

(*d*) a financial institution shall pay attention to the place or origin of the documents and background against which they were produced ; and

(*e*) where comparable documents cannot be obtained, verification of principal beneficial owners or controllers shall be undertaken.

Higher Risk Business Applicant.

99. Where a higher-risk business applicant is seeking to enter into a full banking relationship or any other business relationship where third party funding and transactions are permitted, the following evidence shall be obtained either in documentary or electronic form—

(*a*) for established companies that are incorporated for 18 months or more, a set of the latest report and audited accounts shall be produced ;

(*b*) a search report at the CAC or an enquiry through a business information service or an undertaking from a firm of lawyers or accountants confirming the documents submitted to the CAC ;

(*c*) a certified copy of the resolution of the Board of Directors to open an account and confer authority on those who will operate it ; and

(*d*) the Memorandum and Articles of Association of the company.

Higher Risk Business Relating to Private Companies.

100.—(1) Where a private company is undertaking a higher risk business, in addition to verifying the legal existence of the business, the principal requirement is to look behind the corporate entity to identify those who have ultimate control over the business and the company's assets.

(2) What constitutes significant shareholding or control for the purpose of this regulation depends on the nature of the company and identification evidence shall be obtained for shareholders with interests of 5% or more.

(3) 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.

(4) Where the principal owner is another corporate entity or trust, it shall take measures that look behind that company or vehicle and verify the identity of the beneficial-owner or settlers and where a financial institution is aware that the principal-beneficial owners or controllers have changed, they are required to verify the identities of the new owners.

(5) Financial institutions shall identify directors who are not principal controllers and signatories to an account for risk based approach purpose.

(6) Financial institutions shall visit the place of business to confirm the existence of such business premises and the nature of the business conducted.

(7) Where suspicions are aroused by a change in the nature of the business transacted or the profile of payments through a bank or investment account, further checks shall be made to ascertain the reason for the changes.

(8) In full banking relationships, periodic enquiries shall be made to establish changes to controllers, shareholders or the original nature of the business or activity.

(9) Particular care shall be taken to ensure that full identification and KYC requirements are met if the company is an International Business Company (IBC) registered in an offshore jurisdiction and operating out of a different jurisdiction.

Foreign Financial Institutions.

101.—(1) For a foreign financial institution, the confirmation of existence and regulated status shall be checked by—

(*a*) checking with the home country's Central Bank or relevant supervisory body ;

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

(*c*) checking with Nigerian regulated correspondent bank of the overseas institution; or

(*d*) obtaining evidence of its license or authorization to conduct financial and banking business from the institution itself.

(2) Additional information on banks all over the world may be obtained from various international publications and directories or any of the international business information services.

(3) The publications referred to in sub-regulation (2) of this regulation shall not replace the confirmation evidence requirements under these Regulations.

Bureau De Change.

102.—(1) A Bureau De Change ("BDC") is subject to the provisions of these Regulations and shall be verified in accordance with the procedures for other financial institutions, and satisfactory evidence of identity, ownership structure, source of funds and a certified copy of the applicant's operating license shall be obtained.

(2) A financial institution shall consider the risks associated with doing business with BDCs before entering into a business relationship with them.

Designated Non-Financial Businesses and Professions (DNFBPs).

103.—(1) As part of KYC documentation for designated non-financial businesses and professions, the certificate of registration with Special Control Unit against Money Laundering in the Federal Ministry of Trade and Investment or a certificate from a self-regulatory organization as defined under the relevant Designated Non-Financial Business and Professions ("DNFBP") Regulations shall be obtained including identities of at least two of the directors.

(2) Where an application is made on behalf of a club or society, a financial institution shall take reasonable steps to satisfy itself as to the legitimate purpose of the organization by sighting its constitution and the identity of at least two of the principal contact persons or signatories shall be verified in line with the requirements for private individuals and where signatories are changed, a financial institution shall verify the identity of at least two of the new signatories.

(3) Where the purpose of a club or a society is to purchase the shares of a regulated investment company or where all the members are regarded as individual clients, all the members in such cases shall be identified in line with the requirements for personal customers on a case-by-case basis.

Occupational Pension Schemes.

104.—(1) Where transactions carried out 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.

(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 if the employer is dissolved or wound up.

(3) For the Trustees of Occupational Pension Schemes, satisfactory identification evidence shall be based on the inspection of formal documents concerning the Trust which confirm the names of the current Trustees and their addresses for correspondence and in addition to the documents, confirming the Trust identification shall be based on extracts from Public Registers or references from Professional Advisers or Investment Managers.

(4) Any payment of benefits by or on behalf of the Trustees of an Occupational Pension Scheme will not require verification of identity of the recipient.

(5) Where individual members of an Occupation Pension Scheme are to be given personal investment advice, their identities sha'l be verified but where the

Trustees and principal employer have been satisfactorily identified (and the information is still current) it can be appropriate for the employer to provide confirmation of the identity of individual employees.

Registered Charity Organizations.

105.—(1) A financial institution shall adhere to the identification procedures requirements for opening of accounts on behalf of charity organizations ; and the confirmation of the authority to act in the name of the organization.

(2) The opening of accounts on behalf of charity organizations in Nigeria shall be carried out by a minimum of two signatories, duly verified and documentation evidence shall be obtained.

(3) When dealing with an application from a registered charity organization, a financial institution shall obtain and confirm the name and address of the organization concerned.

(4) Where a person making an application or undertaking a transaction is not the official correspondent or the recorded alternate, a financial institution shall send a letter to the official correspondent, informing him of the charity organizations' application before it and the official correspondent shall respond as a matter of urgency where there is any reason to suggest that the application has been made without authority.

(5) An application on behalf of un-registered charity organization shall be made in accordance with the procedures for clubs and societies as set out in these Regulations.

(6) Where a charity organization is opening a current account, the identity of all signatories shall be verified and where the signatories change, identities of the new signatories shall be verified.

Religious Organizations (ROs).

106. A Religious Organization ("RO") shall have a CAC, and SCUML registered numbers and its identity may be verified by reference to the CAC, appropriate headquarters or regional area of the denomination, and the identity of at least two signatories to its account shall be verified.

Three - Tiers of Government and Parastatals.

107.—(1) Where the applicant for business is a legal person, a financial institution shall verify the legal standing of the applicant, including its principal ownership and address.

(2) A certified copy of the resolution or other documents which authorise an official representing the body to open an account or undertake any transaction shall be obtained.

(3) A financial institution shall telephone the Chief Executive Officer of the organization or parastatal concerned, to verify and confirm the application to open an account with the financial institution.

(4) An authorization from the Federal or State Accountant-General shall be obtained before any of the three tiers of government or parastatals can open accounts with a financial institution in Nigeria.

Foreign Consulates.

108. The authenticity of an applicant who requested to open accounts or undertake transactions 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 and the relevant authorities in the Consulate's home country or as confirmed by the Head of the High Commission of that country in Nigeria.

Intermediaries or other third parties to verify identity or to introduce business.

109. Whilst the responsibility to obtain satisfactory identification evidence rests with the financial institution that is entering into a relationship with a client, it is reasonable, in a number of circumstances, for reliance to be placed on another financial institution to—

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

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

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

PART XII—INTRODUCTIONS, APPLICATIONS AND FOREIGN INTERMEDIARIES

Introductions from Authorized Financial Intermediaries.

110.—(1) Where an intermediary introduces a customer and then withdraws from the ensuing relationship altogether, then the underlying customer has become the applicant for the business and shall be identified in line with the requirements for personal, corporate or business customers as appropriate.

(2) An introductory letter shall be issued by the introducing financial institution or person in respect of each applicant for business.

(3) To ensure that product-providers meet their obligations, satisfactory identification evidence shall be obtained and retained for the necessary statutory period.

(4) Each introductory letter shall either be accompanied by certified copies of the identification evidence 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.

Written Applications.

111.—(1) Where other arrangements have been made, the service provider shall verify the identity itself and financial intermediary shall provide along with each application, the customer's introductory letter together with certified copies of the evidence of identity which shall be placed in the customer's file.

(2) Where these procedures are followed, a product provider, stockbroker or investment banker shall be considered to have fulfilled its own identification obligations.

(3) Where the letter is not forthcoming from the intermediary, or the letter indicates that the intermediary has not verified the dentity of the applicant, the

service provider shall satisfy its obligation by applying its own direct identification procedures.

Non-Written Application.

112.—(1) A Unit Trust Manager and other product providers receiving non-written applications from a financial intermediary, where a deal is made over a telephone or by other electronic means, shall verify the identity of such a customer and ensure that the intermediary provides specific confirmation that identity has been verified.

(2) The answers given by the intermediary shall be recorded and retained for a minimum period of 5 years.

(3) The answers constitute sufficient evidence of identity in the hands of the service provider.

Foreign Intermediaries.

113. Where business is introduced or received from a regulated financial intermediary who is outside Nigeria, the reliance that shall be placed on that intermediary to undertake the verification of identity-check shall be assessed by the AMLCO or some other competent persons within the financial institution, on a case-by-case basis based on the knowledge of the intermediary.

Corporate Group Introductions.

114.—(1) Where a customer is introduced by one part of a financial sector group to another, identity shall not be re-verified and neither shall the records be duplicated except—

(*a*) the identity of the customer has been verified by the introducing parent company, branch, subsidiary or associate in line with the money laundering requirements of 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 customer's account opening records ; and

(*d*) in respect of group introducers from outside Nigeria, in which case 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 customers are retained for the necessary period.

(2) Where a financial institution has day-to-day access to all the group's KYC information and records, there is no need to identify an introduced customer or obtain a group introduction letter where the identity of that customer has been verified previously.

(3) Where an identity of a customer has not previously been verified, then any missing identification evidence will need to 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.

(4) A financial institution 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.

(5) Where such restrictions apply, copies of the underlying records of identity shall, wherever possible, be sought and retained.

(6) Where identification records are held outside Nigeria, it shall be the responsibility of the financial institution to ensure that the records available meet the requirements in these Regulations.

Business Conducted by Agents.

115.—(1) Where an applicant is dealing in its own name as agent for its own client, a financial institution shall, in addition to verifying the agent, establish the identity of such a client.

(2) A financial institution shall accept or admit evidence as sufficient where it has established that the client is—

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

(*b*) 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 financial institution deals with its own client regardless of whether or not such a client has disclosed to the financial institution, then where—

(*a*) the agent is a financial institution, there is no requirement to establish the identity of such a client or to obtain any form of written confirmation from the agent concerning the due diligence undertaken on its underlying clients;

(*b*) a regulated agent from outside Nigeria deals through a customer omnibus account or for a named customer 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 ; and

(*c*) such an assurance cannot be obtained, then the business shall not be undertaken.

(4) Where an agent is either unregulated or is not covered by the money laundering legislation, then each case shall be treated on its own merits.

(5) The knowledge of the agent shall determine the type of the Due Diligence standards to apply and risk-based approach shall be observed by a financial institution.

Syndicated Lending.

116. Where there is a syndicated lending arrangement, the verification of identity and any additional KYC requirements rest with the lead-manager or agent to supply the normal confirmation letters.

Correspondent Relationship.

117.—(1) Transactions conducted through correspondent relationships shall be managed, in accordance with a risk-based approach; and "Know Your Correspondent" procedures shall be established to ascertain whether or not the correspondent bank or the counter-party is itself regulated for money laundering prevention; and where regulated, the correspondent shall verify the identity of its customers in accordance with FATF standards; and where this is not the case, additional due diligence shall be required to ascertain and assess the correspondent's internal policy on money laundering prevention and KYC procedures.

(2) The volume and nature of transactions flowing through correspondent accounts with a financial institution, from high risk jurisdictions or those with inadequacies or material deficiencies shall be monitored against expected levels and destinations and any material variances shall be checked.

(3) A financial institution shall maintain records and ensure 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.

(4) A financial institution shall guard against establishing 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.

(5) Staff dealing with correspondent banking accounts shall be trained to recognize higher risk circumstances and be prepared to challenge the correspondents over irregular activity whether isolated transactions or trend and to submit a suspicious activity report to the NFIU.

(6) A financial institution shall terminate an account with a correspondent bank that fails to provide satisfactory answers to questions including confirming the identity of customers involved in unusual or suspicious circumstances.

Acquisition of one financial institution and business by another.

118.—(1) Where a financial institution acquires a business and accounts of another financial institution, it is not be necessary for the identity of all the existing customers to be re-identified, provided that all the underlying customers' records are acquired with the business, but it shall carry out due diligence enquiries to confirm that the acquired institution had conformed with the requirements of the provisions of these Regulations.

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

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

(*b*) procedures shall be checked ; or

(*c*) customer-records are not available to the acquiring financial institution.

Vulnerability of Receiving Bankers and Agents.

119.—(1) A receiving financial institution can be used by money launderers in respect of offers for sale where new issues are over-subscribed and their allotment is scaled down; the money launderer is not concerned if there is a cost involved in laundering dirty money.

(2) New issues that trade at a discount will, therefore, still prove acceptable to the money launderer.

(3) Criminal funds can 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.

Categories of persons to be identified.

120.—(1) A receiving financial institution shall obtain satisfactory identification evidence of a new applicant, including such applicants in a rights issue, where the value of a single transaction or a series of linked transactions is $1,000 or its equivalent or as per the tiered KYC directive issued by the CBN.

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

Applications Received through Brokers.

121.—(1) Where an 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, 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 bank's records.

(2) The terms and conditions of the issue shall state that any requirements to obtain identification evidence are the responsibility of the broker lodging the application and not the receiving financial institution.

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

Applications Received from Foreign Brokers.

122.—Where a broker or other introducer is a regulated person or institution (including an overseas branch or a subsidiary) from a country with equivalent legislation and financial sector procedures, and the broker or introducer is subject to anti-money laundering laws or 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.

Multiple Family Applica-tions.

123.—(1) Where multiple family applications are received supported by one cheque and the aggregate subscription price is US $1,000 or more; and $1,000 or more for an individual person, then identification evidence will not be required for—

(*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 applications for more than $1,000 or its equivalent; or as per the tiered KYC directive issued by the CBN, where such application is supported by a cheque signed by someone whose name differs from that of the applicant.

(3) Other monetary amounts or more shall, from time to time, be stipulated by any applicable money laundering legislation and guidelines.

(4) 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*) attaching other supporting documents.

PART XIII—LINKED TRANSACTIONS, FOREIGN ACCOUNTS AND INVESTMENT

Linked Transactions.

124.—(1) Where a person handling applications that a number of single applications under $1,000 or its equivalent in different names are linked, such as payments from the same financial institution account apart from the multiple family applications above, identification evidence shall be obtained in respect of parties involved in each single transaction.

(2) Installment payment issues shall be treated as linked transactions where it is known that total payments will amount to $1,000 or its equivalent or such other monetary amounts as may, from time to time, be stipulated by any applicable money laundering legislation or guidelines; and either from the beginning or when a particular point has been reached, identification evidence shall be obtained.

(3) An application that is believed to be linked with money laundering shall be processed on a separate batch for investigation after allotment and registration have been completed.

(4) The returns with the documentary evidence shall 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 financial institution is informed by CBN, NFIU or the investigating officer that the records are of no further interest.

125.—(1) Where a customer wishes to open a Domiciliary Account (DA) or make a wholesale deposit by means of cash or inter-bank transfer, a financial institution shall obtain identification evidence in accordance with the requirements for private individuals, companies or professional intermediaries operating on behalf of third parties as appropriate. Foreign Domiciliary Account (FDA).

(2) A financial institution shall satisfy itself that the transferring institution is regulated for money laundering prevention in its country of origin.

126.—(1) Precautions shall be taken in relation to requests to hold boxes, parcels and sealed envelopes in a safe custody. Safe Custody and Safety Deposit Boxes.

(2) Where such facilities are made available, the identification procedures set out in these Regulations shall be followed, depending on the type of individual involved or risks associated with the business relationship.

127. Where a customer's identity was not properly obtained as contained in these Regulations and the requirements for Account Opening Procedure, a financial institution shall re-establish the customer's identity in line with the provisions of these Regulations. Customer's Identity Not Properly Obtained.

128. Identification evidence shall not be required where the applicant for business is a Nigerian financial institution or person covered and persons regulated by the requirements of these regulations. Exemption from Identification Procedures.

129.—(1) Cash remittances and wire transfers either inward or outward or other monetary instruments that are undertaken against payment in cash for customers who do not have an account or other established relationship with the financial institution such as walk in customers, present a high risk for money laundering purposes. One-off Cash Transaction, Remittances and Wire Transfers.

(2) Adequate procedures shall be established to record the transaction and relevant identification evidence taken; and where such transactions form a regular part of the financial institution's business, the limits for requiring identification evidence of US $ 1,000 or its equivalent for foreign transfers shall be observed.

130. The proceeds of a one-off transaction due can be paid to a customer or be further re-invested where records of his identification requirements were obtained and kept. In the absence of this, 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. Re-investment of Income.

131.—(1) The Central Bank of Nigeria may, as it considers appropriate, amend or revoke the provisions of these Regulations which amendment or revocation shall be published in the *Gazette*. Amendment or revocation of these Regulations

(2) The Central Bank of Nigeria (Anti – Money Laundering/Combating the Financing of Terrorism (AML/CFT) Regulations, 2009 (as amended) is hereby revoked.

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

Interpretation.

132.—In these Regulations–

'AMCLO' means Anti-Money Laundering Complaince Officer ;

'Applicant for Business' means a person or company seeking to establish a 'business relationship' or an occasional customer undertaking a 'one-off' transaction whose identity must be verified ;

'Batch transfer' means a transfer comprising a number of individual wire transfers that are being sent to the same financial institution, but may or may not be ultimately intended for different persons ;

'BDC' means Bureau De Change ;

'Beneficial owner' includes a natural person who ultimately owns or controls a customer or a person on whose behalf a transaction is being conducted and the persons who exercise ultimate control over a legal person or arrangement ;

'Beneficiary' includes a natural person who receives charitable, humanitarian or other types of assistance through the services of a Non-Profit Organization (NPO), all trusts other than charitable or statutory permitted non-charitable trusts which may include the settlor, and a maximum time, known as the perpetuity period, normally of 100 years ;

'Business Relationship' means any arrangement between the financial institution and the applicant for business the purpose of which is to facilitate the carrying out of transactions between the parties on a 'frequent, habitual or regular' basis and where the monetary value of dealings in the course of the arrangement is not known or capable of being ascertained at the outset ;

'Cross-border transfer' means any wire transfer where the originator and beneficiary institutions are located in different jurisdictions. This term also refers to any chain of wire transfers that has at least one cross-border element ;

'Designated categories of offences' includes—

(*a*) participation in an organized criminal group and racketeering;

(*b*) terrorism, including terrorist financing ;

(c) trafficking in human beings and migrant smuggling ;

(d) sexual exploitation, including sexual exploitation of children ;

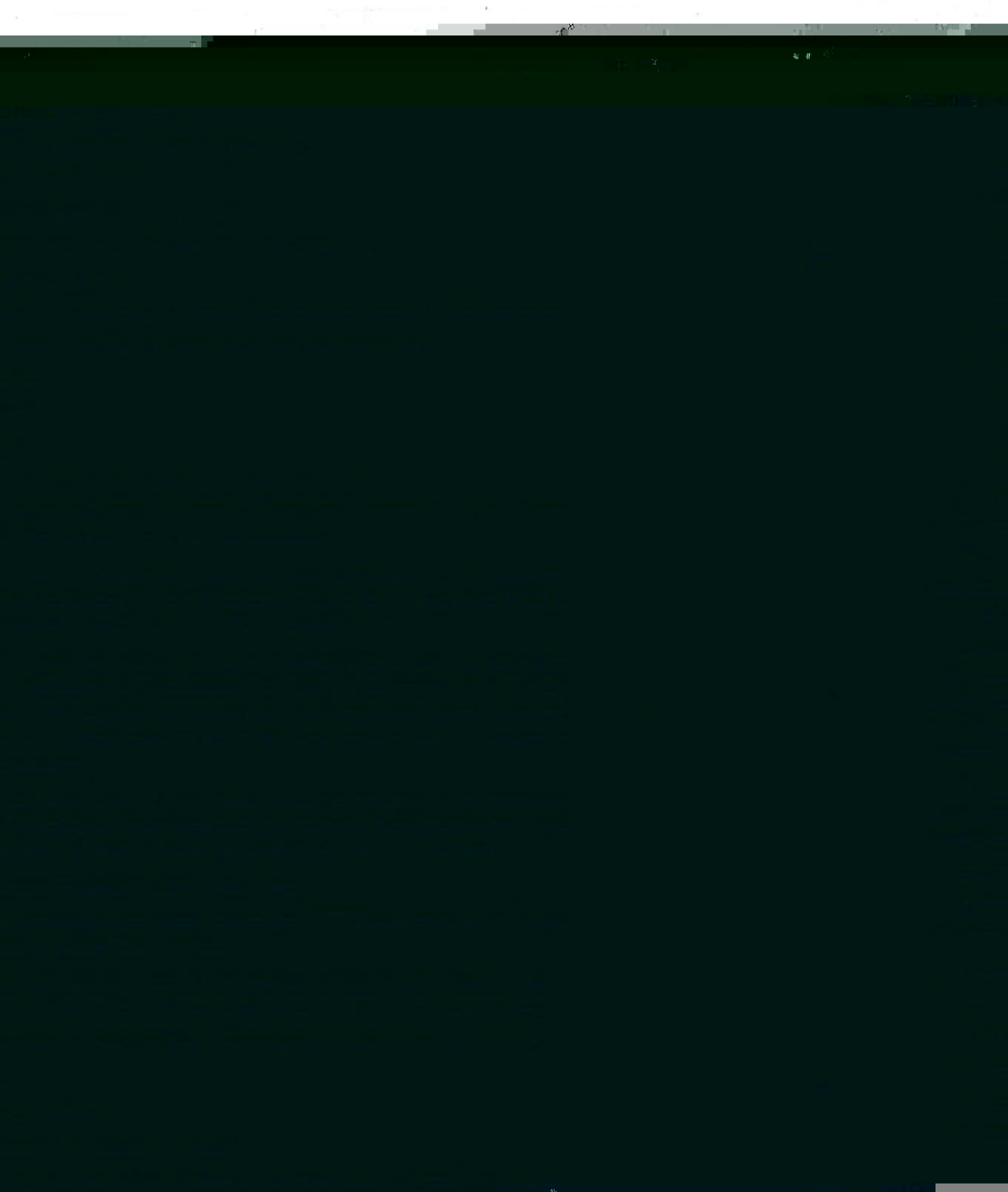
(*e*) illicit trafficking in narcotic drugs and psychotropic substances ;

(*f*) illicit arms trafficking ;

(*g*) illicit trafficking in stolen and other goods ;

(*h*) corruption and bribery ;

(*i*) fraud ;



(*f*) financial guarantees and commitments ;

(*g*) trading in—

(*i*) money market instruments (cheques, bills, CDs, derivatives etc.) ;

(*ii*) foreign exchange ;

(*iii*) exchange, interest rate and index instruments ;

(*iv*) transferable securities ; and

(v) commodity futures trading ;

(*h*) participation in securities issues and the provision of financial services related to such issues ;

(*i*) individual and collective portfolio management ;

(*j*) safekeeping and administration of cash or liquid securities on behalf of other persons ;

(*k*) otherwise investing, administering or managing funds or money on behalf of other persons ;

(*l*) underwriting and placement of life insurance and other investment related insurance ; and

(*m*) money and currency changing.

The list is not exhaustive but subject to the definition contained in BOFIA 2004 ;

'*Financing of terrorism*' extends to all acts so defined under the Terrorism (Prevention) Act, 2011 (as amended) and the Terrorism Prevention ((Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013 ;

'*Funds*' include assets of every kind, tangible or intangible, movable or immovable however acquired, legal documents or instruments in any form, electronic or digital evidencing title or interest in such assets, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit ;

'*Funds transfer*' means any transaction carried out on behalf of an originator person, both natural and legal 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 and the originator and the beneficiary may be the same person ;

'*Legal arrangement*' means express trusts or other similar legal arrangements ;

'*Legal persons*' mean *bodies* corporate, foundations, partnerships, or associations, or any similar bodies that can establish a permanent customer relationship with a financial institution or otherwise own property ;

'*Money or value transfer services (MVTS)*' include financial services that involve the acceptance of cash, cheques, other monetary instruments or other stores of value and the payment of a corresponding sum in cash or other form to a beneficiary by means of a communication, message, transfer or through a clearing network to which the MVTS provider belongs and transactions performed by such services can involve one or more intermediaries and a final payment to a third party, and may include any new payment methods. Sometimes these services have ties to particular geographic regions and are described using a variety of specific terms, including *hawala, hundi, and fei-chen* ;

'*Non-profit/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 ;

'*Originator*' means an account holder or where there is no account, the person natural or legal that places the order with the financial institution to perform the wire transfer ;

'*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 ;

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

'*Proceeds*' mean any property or value 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 ;

'*Risk*' means the risk of money laundering and/or terrorist financing ;

'*SCUML*' means Special Control Unit against Money Laundering in the Federal Ministry of Trade and Investment ;

'*Settlors*' Settlors include persons or companies who transfer ownership of their assets to trustees by means of a trust deed and where the trustees have some discretion as to the investment and distribution of the trust's assets, the deed may be accompanied by a non-legally binding letter setting out what the settlor 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 service group that is subject to effective consolidated supervision ;

'Physical presence' means meaningful mind and management located within a country and the existence simply of a local agent or low level staff does not constitute physical presence ;

'Terrorist" has the same meaning as in Terrorism (Prevention) Act, 2011 (as amended) ;

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

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

'Terrorist property' includes a property which—

(*a*) has been, is being or is likely to be used for any act of terrorism ;

(*b*) has been, is being or is likely to be used by a proscribed organization ;

(*c*) is the proceeds of an act of terrorism ; and

(*d*) is provided or collected for the pursuit of or in connection with an act of terrorism ;

'Those who finance terrorism' include 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 and those who provide or collect funds or other assets with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out terrorist acts ;

'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, or a custodian trustee, who holds the assets to the order of the managing trustees ;

'Unique identifier' means any unique combination of letters, numbers or symbols that refers to a specific originator ; and

'Wire transfer' means any transaction carried out on behalf of an originator both natural and legal person, 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; where the originator and the beneficiary may be the same person.

Citation.

133. These Regulations may be cited as Central Bank of Nigeria (Anti-Money Laundering and Combating Financing of Terrorism for Banks and Other Financial Institutions in Nigeria), Regulations, 2013.

SCHEDULES

SCHEDULE I—SANCTIONS AND PENALTIES

SANCTIONS

Sections 15 and 16 of the Money Laundering (Prohibition) Act, 2011 (as amended) provide for fines or term of imprisonment or both upon committing money laundering or aiding and abetting money laundering activities. The administrative sanctions outlined in this document will be imposed consequent upon the examination of a financial institution and observance of contraventions by CBN Examiners and other agencies.

In determining the sanctions to apply, all the circumstances of the case will be taken into account, including -

Nature and seriousness of contravention/ exception(s) observed.

1.—(*a*) Whether the contravention was deliberate, dishonest or reckless ;

(*b*) The duration and frequency of the contravention ;

(*c*) The amount of any benefit gained or loss avoided due to the contravention ;

(*d*) Whether the contravention reveals serious or systemic weaknesses of the management systems or internal rules relating to all or part of the business ; and

(*e*) The nature and extent of any AML/CFT crime facilitated, occasioned or otherwise attributable to the contravention—

(*i*) whether there are a number of smaller issues, which individually may not justify administrative sanction, but which do so when taken collectively ; and

(*ii*) Any potential or pending criminal proceedings in respect of the contravention which will be prejudiced or barred if a monetary penalty is imposed pursuant to the Administrative Sanctions Procedure.

The conduct of the regulated financial institution or person concerned in its management after the contravention.

2.—(*a*) How quickly, effectively and completely the financial institution or person concerned in its management brought the contravention to the attention of the CBN or any other relevant regulatory authority ;

(*b*) The degree of co-operation with CBN Examiners or other agency provided during the examination ;

(*c*) Any remedial steps taken since the contravention was identified, including: taking disciplinary action against staff involved (where appropriate); addressing any systemic failures; and taking action designed to ensure that similar problems do not arise in the future ;

(*d*) The likelihood that the same type of contravention will reoccur if no administrative sanction is imposed ; and

(*e*) Whether the contravention was admitted or denied.

3. The previous record of the financial institution or person concerned in its management :

(*a*) Whether CBN has taken any previous action resulting in a settlement, sanctions or whether there are relevant previous criminal convictions ;

(*b*) Whether the financial institution or person concerned in its management has previously been requested to take remedial action ; and

(*c*) General compliance history.

General considerations.

4.—(*a*) Prevalence of the contravention ;

(*b*) Action taken by CBN in previous similar cases ; and

(*c*) Any other relevant consideration.

PENALTIES

The penalties that the CBN shall apply for contraventions of the MLPA 2011 (as amended), Terrorism Prevention Act (TPA), 2011 (as amended), Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations, 2013 and CBN AML/CFT Regulation 2013 (comprise revocation or suspension of the operating license, non-monetary and financial penalties) shall be as permitted by BOFIA or any other relevant laws or any regulations issued by the Attorney General of the Federation.

SCHEDULE II

INFORMATION TO ESTABLISH IDENTITY

Natural Persons.

1.—(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*) permanent address (full address shall be obtained and the use of a post office box number only, is not 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

(*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 customer of the same institution ;

(2) The Financial Institution shall verify the information referred to in paragraph 6 (1) of this Schedule by at least one of the following—

(*a*) obtaining an independent undertaking from a reputable and known firm of lawyers or accountants confirming the documents submitted ;

(*b*) obtaining prior bank references ; and

(*c*) accessing public and private databases or official sources.

Retirement Benefit Programme.

6. 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 financial institution shall take steps to verify their identities.

Mutual or Friendly.

7. Where Mutual or Friendly, Cooperative and Provident Societies is an applicant for an account, the principals to be identified shall be consi[illegible]

SCHEDULE III

MONEY LAUNDERING AND TERRORIST FINANCING "RED FLAGS"

Suspicious Transactions "Red Flags".

1. Potential Transactions which may be referred to as 'Red Flags' shall be categorized as follows—

(*a*) potential transactions perceived or identified as being suspicious which among others shall include :

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

(*ii*) transactions involving shell companies ;

(*iii*) transactions with correspondents that have been identified as higher

(ix) br[redacted]

(*vii*) items shipped which are inconsistent with the nature of the

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S/No.	Section of	Section		

S/No.	*Section of MLPA*	*Section of CBN AML/CFT Regulation 2013*	*Offence*	*Administrative Penalty*
				· where the contravention persists after three penalties, suspension of license.
15.	9(1)(*c*)	Reg. 31	The **centralization of information collected,** compliance and audit.	· ₦2 million penalty on the Managing Director of the OFI ; · ₦2 million penalty on the OFI ; · ₦10 million on the Managing Director of the DMB ; · ₦25 million on the DMB ; and · where the contravention persists after three penalties, suspension of license.
16.	10(3)	Reg. 34	Failure to **render returns on any single transaction, lodgment or transfer of funds** in excess of : (*a*) ₦5,000,000 or its equivalent, in the case of an individual ; or (*b*) ₦10,000,000 or its equivalent, in the case of a body corporate.	· ₦250,000 penalty on the OFI for each day the contravention continues ; · ₦2 million penalty on the Managing Director of the OFI ; · ₦9.5 million on the Managing Director of the DMB ; · ₦750,000 on the DMB for each day the contra-ention continues ; and · where the contraven-tion persists after three penalties, suspension of license.
17.	11(4)	Reg. 33	Prohibition of **numbered or anonymous account, accounts in fictitious names and shell banks.**	· ₦2 million penalty on the Managing Director of the OFI ; · ₦10 million penalty on the OFI ; · ₦10 million on the Managing Director of the DMB ; · ₦25 million on the DMB ; and

S/No.	Section of MLPA	Section of CBN AML/CFT Regulation 2013	Offence	Administrative Penalty
				· The winding up and prohibition of its constitution or incorporation under any form or guise. · Escalation of same for further investigation and possible prosecution by the LEAs.
18.	15(4)		Any person or body corporate in or outside Nigeria, who directly or indirectly – (*a*) Conceals or disguises the origin of; (*b*) Converts or transfers ; (*c*) Removes from the jurisdiction ; or (*d*) Acquires, uses, retains or takes possession or control of **any fund or property, knowingly or reasonably ought to have known that such fund or property is, or forms part of the proceeds of an unlawful act.**	· ₦2 million penalty on the Managing Director of the OFI ; · ₦2 million penalty on the OFI ; · ₦10 million on the Managing Director of the DMB ; · ₦25 million on the DMB ; and · where the contravention persists after three penalties, suspension of license ; and · escalation of same for further investigation and possible prosecution by the LEAs.
19.	16(2)(*a*)	Reg. 30	Any person who being a director or employee of FI **warns or in any way intimate the owner of the funds** involved in suspicious transaction about the report he is required to make.	· ₦2 million penalty on the Managing Director of the OFI ; · ₦2 million penalty on the OFI ; · ₦10 million on the Managing Director of the DMB ; · ₦25 million on the DMB ; and

S/No.	Section of MLPA	Section of CBN AML/CFT Regulation 2013	Offence	Administrative Penalty
				· where the contravention persists after three penalties, suspension of license.
20.	16(2)(*b*)		Any person who being a director or employee of FI **destroys or removes a register or record** to be kept under MLPA.	· ₦2 million penalty on the Managing Director of the OFI ; · ₦2 million penalty on the the OFI ; · ₦10 million on the Managing Director of the DMB ; · ₦25 million on DMB ; and · where the contravention persists after three penalties, suspension of license.
21.	16(2)(*e*)		Any person who **fails to report an international transfer of funds or securities** that falls within the reportable thresholds.	· ₦2 million penalty on the Managing Director of the OFI ; · ₦2 million penalty on the OFI ; · ₦10 million on the Managing Director of the DMB ; · ₦25 million on the DMB ; and · where the contravention persists after three penalties, suspension of license.
22.	17 (*b*)		A person who knowing that any property either in whole or in part directly or indirectly represents another person's proceeds of a criminal conduct, acquires or uses that property or possession of it, commits an offence under the MLPA.	· ₦2 million penalty on the Managing Director of the OFI ; · ₦2 million penalty on the OFI ; · ₦10 million on the Managing Director of the DMB : · ₦25 million on DMB ; and · where the contravention persists after three penalties, suspension of license.

S/No.	*Section of MLPA*	*Section of CBN AML/CFT Regulation* 2013	*Offence*	*Administrative Penalty*
23.	18(*c*)		A person who incites, procures or induces any other person by any means whatsoever to commit an offence, under the MLPA, commits an offence and is liable on conviction to the same punishment as is prescribed for that offence under the MLPA.	· ₦2 million penalty on the Managing Director of the OFI; · ₦2 million penalty on the OFI; · ₦10 million on the Managing Director of the DMB; · ₦25 million on the DMB; and · where the contravention persists after three penalties, suspension of license.

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Government Notice No. 163

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

S. I. No.	*Short Title*	*Page*
18	Regulation C/Reg. 3/05/2008 on the Harmonization of Rules Governing Pesticides Registration in the ECOWAS Region	B317-330

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S. I. No. 18 of 2013

ECONOMIC COMMUNITY OF WEST AFRICAN STATES

REGULATION C/REG.3/05/2008 ON THE HARMONIZATION OF RULES GOVERNING PESTICIDES REGISTRATION IN THE ECOWAS REGION

SIXTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abuja, 17 – 18 May 2008

THE COUNCIL OF MINISTERS

MINDFUL OF Articles 10, 11 and 12 of ECOWAS Revised Treaty establishing the Council of Ministers and defining its composition and functions ;

MINDFUL OF Decision A/DEC.11/01/05 adopting an Agricultural Policy for the Economic Community of West African States ;

MINDFUL OF Decision C/DEC.1/5/81 in relation to the eradication of hunger, popularization of seed varieties and more productive animal species, financing of research programmes and agricultural production projects, as well as the storage and processing of agricultural products ;

MINDFUL OF Decision C/DEC.5/5/81 related to the production of selected basic seeds and the choice of seed production stations ;

MINDFUL OF Decision C/DEC.1/05/83 on short and medium term programmes for implementation of the Regional Agricultural Development Strategy ;

CONSIDERING the FAO International Code of Conduct on the Distribution and Use of Pesticides ;

CONSIDERING the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides and International Trade ;

CONSIDERING the Stockholm Convention on Persistent Organic Pollutants (POPs) ;

CONVINCED that pesticides could contribute to the development of sustainable agriculture in our Member States, given their proven efficacy in agricultural systems across the world ;

AWARE of the need to foster and create, in the sub-region, the conditions for sustainable agriculture underpinned by regular market supply of quality procedures accessible to farmers ;

RECOGNIZING, however, that the use of pesticides could pose a danger both for the populations and for the environment of our Member States ;

DESIROUS of building inter-state cooperation within ECOWAS for the sale and use of quality pesticides through the harmonization of rules governing the registration of pesticides in the ECOWAS region ;

COMMENDING the active involvement and positive contribution of other sub-regional organizations, notably CILSS and UEMOA, in the formulation of this Regulation ;

ON THE RECOMMENDATION of the ECOWAS Member States' Ministers of Food and Agriculture meeting in Ouagadougou, Burkina Faso on 8th November 2007 ;

ENACTS :

SECTION I—GENERAL PROVISIONS

CHAPTER I—DEFINITIONS

Definitions.

1. For the purpose of this Regulation :

ECOWAS means the Economic Community of West African States ;

WAPRC means the West African Pesticides Registration Committee for pesticides evaluation and registration in West Africa ;

Applicator means any individual or corporate entity engaged, for his/her own purposes or on behalf of a third party, in phytosanitary protection of crops, treatment of stored food items, treatment of premises and materials used for storage of agricultural produce, sanitization of means of transport and storage of agricultural produce, sanitization of public places, residential premises and animal shelters, and in external disinfestation of animals ;

Provisional Sale Authorization (*PSA*) means the temporary authorization to market of a pesticide, pending collection of additional data as may be required for its registration ;

Biocide means any product used to fight pests, for example, products designed to eliminate mosquitos, fleas and cockroaches, cowshed disinfectants, etc. ;

Biopesticide means any pesticide derived from natural organisms such as animals, plants, bacteria and some minerals ;

Packaging means any container together with its protective wrappings used to deliver pesticides to the consumer through wholesale and retailer distribution networks ;

Distributor means any authorized individual or corporate body who imports or acquires for himself, approved pesticides for commercial purposes ;

Manufacturer means any company, individual, public or private body whose activities or functions is, directly or indirectly through an agent or body under its control, or with whom it has entered into an agreement, to produce pesticides active ingredients or prepare formulations and products from such ingredients.

Formulation means any combination of various compounds aiming at making a pesticide efficiently usable for a set purpose or transforming such pr[illegible]

(*c*) facilitate timely and convenient access by farmers to quality pesticides ;

(*d*) ensure rational and judicious use of pesticides ;

(*e*) contribute to the creation of a climate propitious to private investment

Chapter IV—Organ and Tools for Pesticides Management

West African

9.—1. A West African Committee for Pesticides Registration, hereinafter

4. However, Member States may refuse to authorize the sale, on their national market, of a registered pesticide, or a pesticide that has been granted provisional sale authorization (PSA). For that matter, they shall submit a request to the Commission stating the reasons for refusal. The ECOWAS Commission shall inform the Member States of its decision.

SECTION II—REGISTRATION OF PESTICIDES

CHAPTER V—REGISTRATION DUTIES AND RESPONSIBILITIES

Duty to register.

11. No pesticide may be marketed and used on the Member States' territory unless it has been registered or granted a PSA in accordance with the provisions of this Common Regulation, except where the use for which it is intended has not been covered by the provisions of *Articles 19 and 28* hereunder.

Registration Responsibility.

12.—1. Consideration and evaluation of pesticides registration applications shall be the responsibility of WACPR. This exercise shall be applicable to all Member States.

2. Decision to register shall be taken by the ECOWAS Commission on the recommendation of WACPR.

3. Registration conditions and procedures are specified in Chapters VI and VII of this Common Regulation.

Implementation.

13. In accordance with the provisions of *Article 7* of this Regulation, the WACPR shall evaluate all notifications and Decision Concept Papers (DCP) regarding the aforementioned Conventions. It shall submit its opinion thereon to the Commission which, in turn, shall transmit same to Member States for implementation.

Appropriate Use.

14.—1. Pesticides shall be used in an appropriate manner.

2. Appropriate use includes :

a. compliance with the conditions stipulated in *Articles 15* and *16* and those indicated on the label; and

b. application of the principles of best phytosanitary and veterinary practices, or of vectors control, as well as the principle of integrated management of pests, whenever this possible.

CHAPTER VI—REGISTRATION CONDITIONS

Registration Requirements.

15.—1. A pesticide shall be registered on the basis of registration dossier, the contents of which shall be clearly defined by the ECOWAS Commission.

2. A pesticide shall be registered where it has met the requirements specified in the registration dossier.

3. The applicant for pesticide registration shall have its headquarters or a representation in one of the Member States.

4. Pesticide registration shall be granted for a specific purpose, and such purpose shall be such that has been authorized in the Member States.

5. Registration shall be granted with specific restrictions as to its use.

Registration Criteria.

16.—1. The registration criteria shall embrace the biological efficacy and quality of the formulations offered for sale, their toxicity and risk to humans, as well as their harmful effects and the danger posted to the environment.

2. These criteria shall be spelt out by the ECOWAS Commission in conjunction with WACPR and member States, in implementing Regulation.

Registration Processing Fee.

17. A fee is hereby instituted for processing of all pesticides registration applications. The amount of such processing fee shall be determined by the ECOWAS Commission on the recommendation of WACPR. The said fee shall be borne by the applicant.

Period of Validity of Registration.

18. Pesticide registration shall be valid for a period of five (5) years renewable.

Emergency Situations.

19.—1. The use of an unregistered pesticide or a pesticide that has not been granted the PSA by the Commission shall be accepted, exceptionally, in the event of phytosanitary, veterinary and sanitary emergencies such as unexpected pest invasion or sudden appearance of a disease vector.

2. The use of unregistered pesticide or a pesticide that has not been accorded the PSA shall be authorized only where there is no other available alternative for management of pest. Its use shall be on a large scale and for a specific time frame.

3. A Member State wishing to use an unregistered pesticide or a pesticide that has not been granted provisional sale authorization (PSA) in the event of emergency, shall immediately notify the Commission accordingly, by submitting a report containing the justification for its request. The Commission shall approve or reject such request after due consideration.

CHAPTER VII—REGISTRATION PROCEDURE

Evaluation of Applications for Registration.

20. The procedures for evaluation of applications for registration shall be established and defined by the Commission.

Registration Decision.

21.—1. The Commission may :

(*a*) decide to register a pesticide for a period of five (5) years renewable ;

(*b*) grant provisional sale authorization (PSA) pending further study ;

(*c*) keep the file open for further information ;

(*d*) refuse to register a pesticide ; and

(*e*) withdraw the registration or the PSA ;

2. A pesticide registered or granted the PSA shall bear one sole registration number common to all Member States.

3. The registration or the PSA granted by the Commission shall be in two copies dully signed. One copy shall be transmitted to the applicant, and the second kept by WACPR.

4. The WACPR shall be responsible for updating the list of registered pesticides and of those granted the PSA after every meeting. The updated list shall be forwarded to each Member State and published in the Official Journal of ECOWAS.

Provisional Registration and Validity.

22.—1. Provisional sale authorization (PSA) shall be granted where additional data and information have been deemed necessary to satisfactorily meet the conditions spelt out in *Article 15* of this Regulation.

2. The PSA shall be valid for a period of three (3) years, and is not renewable.

Further Study.

23. A pesticide registration application shall be kept for further study where the information provided is not sufficient to meet the conditions stipulated in *Article 15* of this regulation. In this case, the Commission shall, through the WACPR, request the applicant to provide the required additional information.

Rejection of Registration Application.

24. An application for registration of pesticide shall be rejected where it has failed to meet the conditions set out in *Articles 15* and *16* of this Regulation.

Review, Modification or Annulment of Registrations and PSAs.

25.—1. Pesticide registration or PSA may be reviewed. Such review may result in the withdrawal of registration or, where appropriate, subject to legal action.

2. Pesticide registration or PSA may be annulled where :

(*a*) one of the requirements is no longer fulfilled ; and

(*b*) the information required for registration or PSA are deemed false or misleading.

3. Pesticide registration or PSA may be modified where, in light of new scientific and technical knowledge :

(*a*) the directions for use and the recommended quantities could be modified ; and

(*b*) appraisal of the data provided in the application for registration has changed.

Confidentiality.

26.—1. Data provided by an applicant for pesticide registration shall be confidential.

2. This confidentiality shall not apply in the event of a request by a Member State regarding :

(*a*) the designation and content of active ingredient (s) and description of commercial product ;

(*b*) the names of other substances considered hazardous for humans or the environment ;

(*c*) the physical-chemical data on the active ingredient (s), degradation substances or metabolites of (eco) toxicological significance and the commercial product ;

(*d*) the means used to make the ingredient (s) active, or the non-hazardous commercial product ;

(*e*) summary of the results of tests conducted to established the product efficacy and its safety for humans, animals, plants and the environment ;

(*f*) the recommended methods and precautions to reduce risks during handling, storage, transportation, etc. ;

(*g*) the methods used for analysis of the active ingredient(s), its or their post-application residues, as well as metabolites or other compounds considered as (eco) toxicologically important ;

(*h*) product disposal and packaging procedures ;

(*i*) decontamination measures to be taken in the event of accidental application or leakage ; and

(*j*) First aid and medical treatment to be applied in the event of accidental exposure or poisoning.

CHAPTER VIII—TRIALS

Trial protocols.

27. Detailed conditions for experimental protocols and methodologies, for the purpose of pesticide registration, shall be spelt out in the pesticides registration dossier of the Commission.

Experimental Trials with Release of Unauthorized Products.

28. Experimental trials in Member States for research or development purposes, involving the release into the environment of a phytosanitary product not authorized by the Commission, shall not be conducted except with prior authorization of the appropriate authority of the Member State in which the trial or test is to be undertaken and in accordance with the applicable national legislation.

Biological Efficacy Tests.

29.—1. Biological efficacy tests for the purpose of registration of a pesticide shall be conducted by public or private institutions approved by ECOWAS Commission on the WACPR's recommendation.

2. Such tests shall be undertaken according to the protocols formulated by the Commission on the recommendation of recommendation of WACPR.

CHAPTER IX—APPEAL

Right of Appeal.

30.—1. Appeal against the rejection of application for registration as defined in *Article 24* of this Regulation, or for modification or annulment of a PSA or registration as stipulated in *Article 25* above, may be brought before the President of the Commission or his/her representative or, where appropriate, before the Community Court of Justice.

2. The appeal procedure shall be defined by the ECOWAS Commission on WACPR's recommendation.

SECTION III—MARKETING OF PESTICIDES

CHAPTER X REQUIREMENTS

Licencing.

31.—1. The practice of his profession as pesticide manufacturer, importer, distributor retailer, applicator, exporter, formulator, repackaging and transporter shall be subject to license acquisition, issued by the Member State concerned.

2. The license is renewable at the holder's request for similar duration. It may be suspended or withdrawn.

3. The conditions and modalities for obtaining a license, or for its suspension or withdrawal shall be specified by each Member State, in accordance with relevant provisions of this Regulation.

Stock Accounting.

32.—1. All pesticide dealers shall keep a detailed record of all entries and sales pesticides in a ledger which could be consulted and checked at any time by the official control authority or any other accredited private body and by the competent authorities of the Ministry of Trade or by any other relevant Ministry.

2. The quantities of pesticides received, purchased and stored shall then constitute an obsolete stock.

Warehouse Storage Conditions.

33. To ensure an effective conservation of pesticides, all warehouses for storage of pesticides intended for sale shall :

(*a*) have adequate temperature and moisture levels ; and

(*b*) be kept tidy and well ventilated.

Products Storage Conditions.

34. 1. Pesticides shall be stored in their original container with their labels intact. They shall be stored separately in key-locked cupboards. The storage cupboards shall be exposed to free air circulation and access thereto shall be monitored to avoid unauthorized use.

2. More detailed conditions for storage of pesticides that conform to international standards shall later be spelt out by the Commission as proposed by WACPR.

Transportation Conditions.

35.—1.Pesticides shall be transported in a compartment isolated from the driver and passengers.

2. Pesticide shall not be transported in the same compartment as animals, food, clothing, household items or other personal effects.

3. Detailed conditions for transportation of pesticides shall later be defined by the Commission on the recommendation of WACPR.

Setting-up of Factories.

36. Any setting-up of pesticide manufacturing and/or packing factory shall be subject to prior authorization of the country concerned in accordance with international standards.

Import and Export Systems.

37.—1. Without prejudice to community regulations on foreign trade, the import and export of pesticides shall be subject to prior authorization of the concerned country based on the list of registered pesticides approved by the Member State in question.

2. The importer or exporter shall furnish all the information required on the forms designed for that purpose by the Commission.

Chapter XI—Labelling

Obligation to Label.

38.—1. Any packaging containing a registered pesticide shall bear a label.

2. User Information shall be provided in the labels and the instruction leaflets attached to the registration application.

Label Content.

39.—1. The minimum information required on the label and/or on instruction leaflets shall be specified by the Commission. The labels and/or instruction leaflets shall be written in the official language(s) of the country where the product is marketed.

2. Pictograms shall complement the text on the label.

3. The label shall bear at the bottom a toxicology band in accordance with FAO/WHO classification of pesticides.

Chapter XII—Packaging

Packaging Characteristics.

40. Packaging characteristics shall be those set by the ECOWAS Commission, and shall be in conformity with the international standards.

Section IV—Quality Conrol Of Pesticides

Chapter XIII—Responsibilities And Procedures

General Responsibility for Quality Control.

41.—1. Member States have the overall responsibility for post registration control, distribution and use of pesticides. They shall, to this end, grant to their competent authorities the necessary powers as well as the human and financial resources to carry out their mission.

2. Management of packaging and stocks of obsolete pesticides shall be the responsibility of Member States ; and this shall be done in accordance with standards set by the ECOWAS Commission.

Empowerment and Authority of Quality Control Agents.

42.—1. Member States shall draw up a list of phytosanitary agents accredited to undertake control visits.

2. Such agents shall be empowered to conduct inspections and investigations enabling them to, among other things.

(*a*) enter professional premises including compounds and buildings for pesticide manufacture, formulation and distribution as well as warehouses, storerooms and storage depots for pesticides ;

(*b*) have access and request submission to them any document related to the operations of pesticides formulators, repackaging agents and distributors ;

(*c*) Inspect pesticides plants, vehicles and pesticides applicator ; and

(*d*) Take samples, and ensure that these samples are representative enough and quantitatively sufficient to allow an alternative evaluation.

3. Inspections during production and marketing shall be carried out in the presence of the formulator, repackaging agent, distributor or his/her representative.

Toxicant Monitoring.

43.—Registered pesticides or pesticides granted the PSA featuring on the list of product under toxicant monitoring as stipulated in *Article 10* of this Regulation shall be subject to special monitoring by the competent organs of Member States.

Control Field.

44.—1. Pesticides control in the ECOWAS regions shall be conducted at any time and at any place of production, import, export, storage, transportation, formulation and packaging, as well as marketing, use and disposal of the said pesticides.

2. Member States shall ensure compliance with the requirements contained in this Common Regulation, particularly those on :

(*a*) licensing ;

(*b*) compliance with the import and exporter requirements as stipulated in *Article 36* ;

(*c*) quality of formulations offered for sale ;

(*d*) labelling requirements ;

(*e*) use of pesticides marketed according to the indications on the labels ;

(*f*) storage and transportation conditions ;

(*g*) impact of pesticides on the environment ;

(*h*) any other conditions defined in this Regulation.

Control Procedures.

45.—1. Pesticides control shall be conducted in accordance with the provisions of this Community regulation.

2. However, pesticides control shall be carried out in the presence of the pesticide manufacturer, importer, distributor, applicator, exporter, formulator, repackaging agent and transporter or his/her accredited representative, with submission of an appropriate report containing pertinent observations as well as technical recommendations or directives.

3. A sample control report shall be defined by the Commission on the recommendation of WACPR.

Right of Appeal and Experts' Re-evaluation.

46.—1. In case of dispute over control report, the formulator, repackaging agent, distributor, applicator and transporter shall have the right of recourse to experts' re-evaluation.

2. The appeal process shall be that which is in force in Member States.

SECTION V—SPECIAL PROVISIONS

CHAPTER XIV SANCTIONS

Sanctions.

47.—1. Member States shall take appropriate measures to impose sanctions for breaches of the provisions of this Regulation and its implementing regulation.

2. The following shall constitute breaches of the provisions of this Regulation and its implementing regulation.

(*a*) the production, import or export of unregistered pesticides ;

(*b*) marketing of pesticides without license ;

(*a*) false statements on the label of a pesticide and the use of any trickery to mislead third parties regarding the quality of this pesticide ;

(*b*) alteration or any wilful falsification of a label ;

(*c*) lack of proper stock accounting ;

(*d*) obstruction to the official discharge of control activities ;

(*e*) any other infringement on this Regulation and its implementing regulation.

CHAPTER VI—FINAL PROVISIONS

Implimentation.

48. To further its activities, WACPR shall be open to the sub-regional institutions operating in the pesticides sector. Specific Conventions shall define the modalities of such opening.

Publication.

49. This Regulation shall be published by the Commission in the Official Journal of the Community within thirty (30) days following signature by the Chairperson of the Council of Ministers. It shall also be published in Member States' Official Gazette within the same time frame.

Entry into Force.

50. This Regulation shall enter into force upon publication.

DONE at Abuja, this 18th Day of May, 2008.

H. E. MRS. MINATA SAMATE CESSOUMA
Chairperson,
for : Council of Minister

Federal Republic of Nigeria
Official Gazette

No. 68 **Lagos - 11th September, 2013** **Vol. 100**

Government Notice No. 163

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

S. I. No.	*Short Title*	*Page*
19	Regulation C/Reg. 4/05/2008 on the Harmonization of Rules Governing Quality Control, Certification and Marketing of Plant Seeds and Seedlings in the ECOWAS Region	B 331-355

Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 101/92013/150 (OL 74)

Annual Subscription from 1st January, 2013 is Local : ₦25,500.00 Overseas : ₦37,500.00 [Surface Mail] ₦49,500.00 [Second Class Air Mail]. Present issue ₦1,500.00 per copy. Subscribers who wish to obtain *Gazette* after 1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

S. I. No. 19 of 2013

ECONOMIC COMMUNITY OF WEST AFRICAN STATES

REGULATION C/REG. 4/05/2008 ON THE HARMONIZATION OF RULES GOVERNING QUALITY CONTROL, CERTIFICATION AND MARKETING OF PLANT SEEDS AND SEEDLINGS IN THE ECOWAS REGION

SIXTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abuja, 17 – 18 May 2008

THE COUNCIL OF MINISTERS

MINDFUL OF Articles 10, 11 and 12 of ECOWAS Revised Treaty establishing the Council of Ministers and defining its composition and functions ;

MINDFUL OF Decision A/DEC.11/01/05 adopting an Agricultural Policy for the Economic Community of West African States ;

MINDFUL OF Decision C/DEC.1/5/81 in relation to the eradication of hunger, popularization of seed varieties and more productive animal species, financing of research programmes and agricultural production projects, as well as the storage and processing of agricultural products ;

MINDFUL OF Decision C/DEC.5/5/81 related to the production of selected basic seeds and the choice of seed production stations ;

MINDFUL OF Decision C/DEC.1/05/83 on short and medium term programmes for implementation of the Regional Agricultural Development Strategy ;

MINDFUL OF Decision C/DEC.14/12/90 on the establishment of a Sub-regional Seed Committee ;

MINDFUL OF Decision C/DEC.16/12/90 on the establishment of Inter State Technical Committees to monitor price trends for specific agricultural products or groups of products ;

CONSIDERING the strategic role of the agricultural sector in the economy of Member States in terms of meeting the food needs of the population and eradicating poverty in rural areas ;

CONSIDERING the need to promote in Member States, sustainable agriculture that is more productive and competitive, and capable of ensuring food security and higher living standards for farmers ;

CONSIDERING that seeds are of crucial importance in promoting, sustainable agriculture and for actualization of the Community agricultural policy ;

CONSIDERING that seeds are of crucial importance in promoting sustainable agriculture and for actualization of the Community agricultural policy ;

RECOGNIZING that regular supply of quality and affordable seeds to markets of Member States is a prerequisite for achieving food security and improved living standards for farmers ;

DESIROUS OF ensuring safe and regular quality seeds supply to Member States' markets and, to this end, harmonizing the rules governing seed production and marketing in these States ;

COMMENDING the active involvement and positive contribution of other sub regional organizations such as CILSS and UEMOA in the formulation, improvement and finalisation of this draft Regulation ;

ON THE RECOMMENDATION OF the ECOWAS Member States' Ministers of Food and Agriculture meeting in Ouagadougou on 8 November 2007.

ENACTS :

SECTION I—GENERAL PROVISIONS

CHAPTER I : DEFINITIONS

Definitions.

1.—For the purposes of this Regulation—

"*Farmer-seed Farmer*" means the category of farmers specialized in seed farming ;

"*Allogamy*" means the cross-pollination mode whereby the two gametes (male and female reproductive cells) are from two different individuals ;

"*Seed Analysis*" means the range of techniques used in the laboratory to determine the quality of seed sample ;

"*Cropping History*" means cropping undertaken during the planting season immediately preceding the said season ;

"*Self Fertilization*" means the fertilization of a pistle by a pollen from the same flower or another flower of the same plant ;

"*Autogamy*" means the fertilization mode whereby the male and female gametes come from the same unit ;

"*Plant Castration*" means the removal or destruction of male plants reproductive organs ;

"*Catalogue of Species and Varieties*" means the official document containing the list of all registered species and varieties ;

"*West African Catalogue of Plant Species and Varieties*" or "*WACPSV*" means the catalogue of plant species and varieties common to Member States ;

"*Seed Category*" means the class of seeds of the same nature potentially of one or several generations ;

"*Phytgosanitary Certificate*" means the document that conforms to the models recommended by the International Convention for Plant Protection (ICPP) ;

"*Certification*" means the culmination of seed quality control process in

the field or in the laboratory, ensuring that the seeds conform to minimum standards of varietal purity through genealogical parentage and a system of breeder seed maintenance of varietal features, in accordance with the provisions of applicable technical regulations ;

"*Seed Production Farm*" means any plot of land devoted to seeds production and farming of a specific variety ;

"*Marketing*" means the sale, conservation for the purpose of selling, sale offer and any form of cession, supply or transfer for the purpose of commercial transaction, of seeds or plants with or without remuneration ;

"*Commission*" means the ECOWAS Commission ;

"*Community*" means the Economic Community of West African States ;

"*Seeds Conditioning*" means the operation by which seeds are dried, cleaned, sorted, treated and packaged to avoid physical, chemical or biological degradation and facilitate handling ;

"*Seed Farming Contract*" means a written agreement bidding farmers-seed farmers and seed producers accredited by competent authorities ;

"*Quality Control*" means the set of activities carried out by competent authorities to verify that the varietal or genetic purity of seeds, their physiological and health conditions as well as their technological standards conform to the technical regulations applicable in Member States ;

"*Seed Controller*" means any technician responsible for inspecting standing plants to ensure that seed farming establishment and management conform to technical regulations applicable in Member States ;

"*Cropping Declaration*" means the document or form to be filled out by any individual or corporate body whose name features on the list of seed producers ;

"*Disjunction*" means any plant deriving from a species progeny but without the features of that species given the fact that it has not been genetically engineered ;

"*Seed Distributor*" means any individual or corporate body other than the seed producer engaged in seed marketing either as a wholesaler, semi-wholesaler or retailer ;

"*Community Law*" means a law resulting from the enforcement of the ECOWAS Treaty and subsequent texts ;

"*Seed Samplying*" means any portion that is representative of seed batch sampled in accordance with the applicable technical regulations ;

"*Sampling*" means the range of techniques used to obtain samples following a specific process ;

"*Packaging*" means any container notably bags, sachets, cartons made of various materials such as cotton, paper, aluminium and polythelene in which seeds are packaged ;

"*Roguing*" means the elimination of off-type plants, diseased plants or any other plants that could alter seed quality ;

"*Species*" means all plants that inter-cross and are distinguishable by a number of common features ;

"*Germination Test or Trial*" means any laboratory test carried out in view of observing the appearance of a seedling and its development up to the stage where its basic organs indicate that it would be able or unable, in future, to evolve into a normal plant under conducive full soil conditions ;

"*Seed Health Status*" means a condition related to the presence or absence of diseases caused mainly by moulds, bacteria, virus and other parasites such as insects, acarinas and nematodes ;

"*Label*" means any document visibly displaying specific information in a readable manner to facilitate seed identification or traceability ;

"*Germinating Capacity*" means the ability of a batch of seeds to germinate, evaluated by calculating the percentage of grains that germinate in a given batch of seeds, under normalized conditions within a given time frame ;

"*Generation*" means phylogenies in successive progenies ;

"*Farm Grain and Seed*" means any seed or grain produced on the farm itself meant for the farmer's personal use and not destined for sale on the market ;

"*Weed Grain*" means any grain produced by herbaceous wild plants ;

"*Registration*" means the procedure by which the species or varieties intended to be included in the national catalogue of species, are registered ;

"*Homozygote*" means any unit whose cells contain double the amount of genes of a specific nature ;

"*Off-Type*" means any plant of given species that does not conform to the standards of the species ;

"*Double Cross Hybrid*" means the product of a cross between two single cross involving four strains ;

"*Single Cross* (F^1)" means the product of a cross between two pure strains obtained by artificial self-fertilization ;

"*Three-Way Cross*" means the product of a cross between a single female cross and a pure male strain ;

"*Hybrid*" means the product of a cross between two or several genetically different species ;

"*Unit*" means any live specimen of an animal or plant species deriving from a single cell ;

"*Isolation*" means measures taken to protect a seed production farm from pollution by a foreign pollen ;

"*Isolation In Time*" means staggering the planting date of varieties of the same species such that the flowering periods do not coincide ;

"*Isolation In Space*" means keeping a set distance between a variety meant for farming and another variety of the same species, or between a variety that has been farmed and the same variety that has not been rogued ;

"*ISTA*" means International Seed Test Association ;

"*Laboratory Assistant*" means any person trained to work in a laboratory ;

"*Seed Analysis Laboratory*" means any premises specially designed to conduct seed tests generally on special purity, varietal purity, germination, humidity level and health status, with a view to determining the quality ;

"*Pure Strain*" means any genetically homozygote and homogeneous strain ;

"*Strain*" means stock of descendants of one or several parents. In plants, line is the result of successive self-fertilizations over several generations ;

"*Seed Batch*" means any quantity of seeds defined and identifiable by a number, and is homogenous especially in terms of identity and varietal or genetic purity, special purity, germinating capacity and humidity level ;

"*RAW SEED BATCH*" means any batch of seeds meant for certification ;

"*Maintainer*" means any person or organization responsible for maintaining a variety listed in the national catalogue and likely to be sent in for certification ;

"*Parent Material* (G_n)means any initial or zero generation (G_0) material, production of which is based on a well-defined breeder seed conservation method ;

"*Active Ingredient*" means the content of a product to which its effectiveness is wholly or partly attributable ;

"*Inert Ingredient*" means any impurities such as debris, soil or straw fragments contained in a batch of seeds ;

"*Standards*" means a set of benchmarks for evaluating seed quality ;

"*Seed Breeder*" means any individual or corporate body that has created or discovered or developed a new variety ;

"*Accredited Private Body*" means any private institution authorized by the Member State to undertake control and certification activities ;

"*Batch Origin*" means any place for production of seed batch such as country, town, village or any other relevant locality ;

"*Seed Production Farm*" means any plot of a land of a single tenant comprising one or several seed farms ;

"*Adventive Plant*" means any undesirable plant or weed growing on a farm land ;

"*Allogamous Plant*" means any cross-fertilized plant ;

"*Autogamous Plant*" means any plant which reproduces through the fertilization of its ovules by its own pollen ;

"*Plant*" means any young plant, stem cuttings, leaves or root, grafts and runners meant for plant production ;

"*Diseased Plant*" means any plant showing signs of malformation caused by infestation ;

"*Shoot*" means any young plant resulting from grain germination and still dependent on the same grain for nourishment ;

"*Pollen*" means an aggregation of microscopic grains produced by stamens and which constitute the male productive elements of flowering plant ;

"*Contamination*" means any contamination of the seed farming process by the presence of off-type and adventive weeds and/or dangerous diseases and other cultivated plant species difficult to separate ;

"*Seed Producer*" means any individual or corporate body specialized in the production of seeds and dully registered for inspection ;

"*Seed Producer-Distributor*" means any individual or corporate body specialized in the production of seeds and engaged in their wholesale, semi-wholesale or retail marketing ;

"*Specific Purity*" means the proportion of elements considered in a seed batch ;

"*Varietal or Genetic Purity*" means the proportion of plants in the field that meet the standards of the variety. In the laboratory, it means the proportion of a given variety in a seed batch ;

"*Technical Regulation*" means the document specifying the characteristics of a product or its production procedures and methods, including the applicable administrative requirements that must be respected. Technical regulation may also partially or fully determine the terminologies, symbols or specifications used for packaging, marking and labelling of a product, service, production procedure or method ;

"*Plant Breeder*" means any individual or corporate body engaged in plant improvement with a view of creating new varieties ;

"*Seed*" means any plant material or organ, or part of plant organ, such as grain, shoot, bulb, scion, rhizome, tuber or embryo, able to reproduce a unit ;

"*Seed Tuber*" means all or any part of a tuber meant for cultivation, as in the case of yam and potato ;

"*Conventional Seed*" means any seed of a variety of which the visual, technological and agronomic characteristics have been stabilized through genetic and biological manipulation ;

"*Certified Seed*" means any seed obtained from the first or second farming of basic seed ;

"*Rogue Seed*" means any seed of undesirable plants or weeds growing in a farmland ;

"*Basic Seed or Foundation Seed (G)*" means any seed from pre-basic or has been produced under the responsibility of a maintainer in accordance with generally accepted breeding conservation rules for that variety and intended for the production of certified seeds.

"*Infected Seed*" means any seed invaded by living pathogens such as bacteria, mycoplasma, viruses, protozoa, fungi or yeasts ;

"*Infested Seed*" means any seed invaded by parasitic animals such as insects or acarids ;

"*Parent Seed*" means any seed sown to produce a new generation. Any generation can be used as parent seed, except the generation sold to farmers to produce consumer grains ;

"*Non-conventional Seed*" means any seed other than conventional seed ;

"*Pre-Basic or Breeder Seed*" means any generation G^1 G^2 G^3 seed situated between parent material and basic seed. Pre-basic seed is produced directly by the breeder of the variety or his authorized agent ;

"*Official Control and Certification Body*" means the national service or body responsible for seed control and certification ;

"*Seed Storage*" means any conservation of seeds in a storage area or warehouse under appropriate temperature and humidity conditions ;

"*Moisture or Water Content*" means the percentage of water content in a seed sample ;

"*Seed Technician*" means any seed professional licensed by the national seed quality control and certification body or authority of the Member State to assist seed producers ;

"*Chemical Treatment*" means the use of one or several chemical agents on seeds for their phytosanitary protection ;

"*Phytosanitary Treatment*" means the use of chemical products of several to protect them against diseases and parasites ;

"*Composite Variety*" means any variety obtained by the combination of several lines or populations, of relative genetic variability ;

"*Plant Species or Varieties*" means the collection of plants of the lowest known botanic taxon (*i*) defined by using the characteristics of some genotype or a combination of genotypes, (*ii*) distinguishable from all other plant collections by at least one of these characteristics and (*iii*) considered as an entity given its capacity for authentic reproduction.

Chapter II—Purpose and Scope

Purpose.

2.—1. The purpose of this Regulation is to harmonize the rules governing quality control, certification and marketing of plant seeds and agricultural plants in the Member States.

2. The harmonization is aiming at ensuring good quality and determining the origin of the seeds of plant species and varieties listed in the West African Catalogue of Plant Species and varieties, as defined in Article 9 of this regulation

3. More specifically, the purpose of this harmonization should—

- facilitate local production of quality seeds ;

- facilitate trade in seeds amongst Member States, through implementation of regionally agreed principles and rules that minimize trade barriers ;
- facilitate timely and convenient access by farmers to quality seeds ;
- create a climate propitious for private investments in the seed industry ;
- help widen the choice of seeds available to farmers ; and
- promote partnership between public and private sectors.

Scope.

3.—1. This Regulation shall apply to all seed related activities, especially those pertaining to seed quality control, certification and marketing.

2. It shall not be applicable to freely used farm grains and seeds, without prejudice to the regulations in force in the ECOWAS region.

Chapter III—General Principles

Principle of Harmonization.

4. In pursuance of this harmonization as intended by this Regulation, the Community shall help bridge the gap between Member States' legislations in terms of seeds.

Principle of Free Movement of Seeds.

5. In view of contributing to the organization of a common market as defined in the Community agricultural policy, there shall be free movement of seeds on the ECOWAS Member States territory so far as the seeds conform to the quality standards applicable in the ECOWAS region.

Principle of Mutual Recognition and Equivalence.

6. Member States shall implement the principle of mutual recognition of certifications based on technical specifications and Community standards on plant seeds as well as applicable procedures of control and registration in the ECOWAS region, and shall region, and shall recognize such conditions and procedures as equivalent.

Each Member State allows on its territory seeds that comply with the technical standards adopted by another Member State.

Principle of International Standards recognition.

7. To ensure the free movement of seeds within Community and foster regional and international trade thereon, Member States shall anchor their seed technical regulations on international standards, guidelines and recommendations.

Principle of Participation and Information.

8.—1. Member States shall ensure the full participation of various seed sector stakeholders in the process of public decision-making in seed related matters.

2. Member States shall organize public access to the seed related information held by public authorities.

3. Member States shall help train and build the awareness of the seed sector stakeholders.

Chapter IV—Seed Management Tool and Organ

West African Catalogue of Plant Species and Varieties.

9.—1. A West African Catalogue of Plant Species and Varieties, hereinafter known as the "WACPSV", is hereby established for a more effective management of seed quality control and certification in the Member States.

2. The WACPSV shall be the official document containing the list of all registered varieties in the Member States.

3. The WACPSV shall be constituted by all registered varieties listed in the Member States' national catalogues. To this end, each Member State shall institute a national catalogue of plant species and varieties.

4. The conditions for organizing WACPSV shall be determined by the Commission by regulations made thereunder.

West African Seed Committee.

10.—1. A West African Seed Committee hereinafter referred to as WASC is hereby established. This Committee shall implement seed quality control, certification and marketing related applicable regulations, with a view to fostering the development of the seed sector in Member States.

2. The West African Seed Committee shall work closely with national seed committees for development of the seed sector. To this end, each Member State shall set up a national seed committee and a seed sector support fund.

3. At the request of WASC, each Member State shall provide information for verification of compliance with national seed quality control and certification systems with Community texts. WASC may conduct investigations in the Member States to verify the accuracy of information provided.

4. The functions, organisation, operations and financing of the West African Seed Committee shall be defined in due course.

SECTION II—QUALITY CONTROL

CHAPTER V—PRELIMINARY PROVISIONS

Purpose of Control.

11.—1. The purpose of control shall be to enable the official quality control and certification authority or any other accredited private body to ascertain that the seeds submitted to it.

- are of acceptable varietal or genetic purity ;
- are in good physiological and health condition ; and
- meet technological standards, where appropriate

2. The required standards regarding the above characteristics shall be spelt out in the annexed technical regulations as mentioned in Article 58 of this Regulation.

Area of Control.

12. Seed quality control shall apply to all stages and venues of production, from the farm to the producer's or distributor's storage facility which must have previously been subject to control.

Quality Control Authority.

13. Seed quality control in each Member State shall be carried out by the official quality control and certification authority or any other accredited private body, in accordance with the provisions of this Regulation.

Application for Admission for Quality Control.

14.—(*a*) In each Member State, admission for quality control shall be granted to any individual or corporate body who applies accordingly. Admission shall be determined by the official national quality control and certification authority or any other accredited private body for one or several of the species listed in the WACPSV and, with regard to each of these species, for one or several categories of seed as defined in Article 22 of this Regulation ;

(*b*) Applications, using the appropriate form, shall be addressed to the official quality control and certification authority or any other accredited private body in the Member State before the start of the planting season ;

(*c*) The quality control and certification authority or any other accredited private body shall examine the application and ensure that the admission requirements that are set by regional regulations have been meet. The applicant shall be notified of the approval or rejection of the application within fifteen (15) days of its submission ;

(*d*) Where the official quality control and certification authority or any other accredited private body deems it necessary, it may grant an additional period of ten (10) days to the applicant for submission of fresh application or provision of supplementary information.

Eligibility Criteria.

15.—(*a*) *General Criteria*

Any individual or corporate body wishing to be admitted for quality control shall meet the following conditions—

(*i*) undertake to observe the annexed technical regulations as mentioned in Article 58 of this Regulation ;

(*ii*) have sufficient land ;

(*iii*) have sufficient and qualified technical personnel ; and

(*iv*) possess appropriate facilities and equipment.

(*b*) *Specific Criteria*

The specific criteria shall be determined by the annexed technical regulations in accordance with the characteristics of each species.

Professional Card.

16.—1. The official quality control and certification service shall issue a professional card to individuals or corporate bodies who have met the admission requirements.

2. Issuance of such card shall be subject to payment of a single registration fee in accordance with the type of activity. The amount, payment modalities and allocation of the proceeds of the single registration fee shall be determined by the concerned State.

3. Professional card shall be issued to the following individuals or corporate bodies :

- Seed/Plant Breeder
- Producer of basic seeds
- Producer of certified seeds
- Plant producer (Nursery farmer)
- Wholesaler
- Retailer
- Importer/Exporter
- Associated operators such as packaging professionals, brokers, transporters and packers.

Validity of Professional Card.

17. The professional card shall be issued for a period of three years, renewable upon the holder's request, in accordance with the applicable procedures.

Suspension of Professional Card.

18.—1. The professional card shall be suspended in the following cases, after written notification to the holder—

(*a*) Where there has been non-observance of the provisions of this Regulation despite the official quality control and certification authority's directives ;

(*b*) Where sanction has been imposed on the holder in accordance with the concerned Member State's legislation related to crack down on offenses.

2. In the event of suspension of the professional card, the holder shall have a period of thirty (30) days from the date of notification to comply with the provisions of this Regulation. After this deadline, the holder's name shall be deleted from the register of professionals for the specific activity.

Withdrawal of Professional Card.

19.—1. Professional card shall be withdrawn where—

(*a*) The holder has not been active for two consecutive years ;

(*b*) The holder commits fresh infringement punishable by suspension within one year of the lifting of a previous suspension ;

(*c*) The holder under suspension has not complied with the provisions of this Regulation within the thirty (30) days time frame granted under *Article* 18 of this Regulation.

2. The official quality control and certification authority shall serve notice of termination to the professional card holder. However, the holder may still have access to the quality control services for crops cultivated prior to the withdrawal decision and, hence obtain certification for the seeds therefrom derived, where these have met the set standards.

3. Where a professional card has been withdrawn, fresh application may be filed only after three years following the date of withdrawal of the card.

CHAPTER VII—ORGANIZATION OF PRODUCTION

Seed Producer and Farmer-Seed Grower.

20.—1. A seed producer is any individual or corporate entity duly admitted for quality control.

2. A seed producer may enter into multiplication contract with one or several farmer-seed growers engaged in similar species.

3. A farmer-seed grower shall not be authorized to conclude multiplication contract with several producers. However, exemptions may be allowed where the contract with several producers does not cause prejudice to any one of them.

Varieties to be farmed.

21.—1. Only seeds of the varieties registered in national catalogue or the West African Catalogue of Plant Species and Varieties (WACPSV) may be eligible for multiplication, for the purpose of certification.

2. The characteristics of these varieties shall be consistent with those of samples deposited at the time of registration in the WACCPSV and conserved under the responsibility of the national committee in charge of registration in the catalogue.

Seed Categories.

22. The seed categories shall be as follows :

(*a*) Parent Materials (G_0)

Parent material G_0, means the initial material, production of which shall be based on well-defined methodology for pedigree seed production.

(*b*) *Pre-basic Seed (G_1 . G_2 and G_3).*—Pre-basic seed G_1, G_2 and G_3 means the seed generations between parent material and basic seed. Pre-basic seed shall be produced directly by the breeder of the variety or his/her authorized agent.

(*c*) *Basic Seed (G_4).*—Basic seed G_4 means the seed derived from pre-basic seed produced under the responsibility of the maintainer according to pedigree seed production of rules generally accepted for the variety, and intended for production of certified seeds.

(*d*) *Certified Seed.*—Certified seed means the seed resulting directly from the first or second multiplication of basic seeds

Generations of Certificated Seed.

23.—1 Certified concern several successive seed generations :

- First generation or "R_1" certified seed, from basic seed ;
- Second generation or "R_2" certified seed, "R_1" certified seed ;
- Third generation or "R_3" certified seed, from "R_2" certified seed ;

2. For hybrid varieties, certified seeds resulting from one sole hybridization (F_1) of basic seeds. These are referred to certified seeds of hybrid varieties.

Generations of Authorized Certified Seeds.

24.—1. The last authorized generation under this Regulation shall be the certified seeds of the second generation "R_2" which is not likely to produce seeds.

2. However, in case of difficulty of certified seeds supply owing to force majeur in one of the Member States, the other Member States may authorize the delivery or marketing of seeds from the last authorized R_2 generation to address the crisis situation. Such seed must comply with the basic standards required for R_2 certified seeds and shall be referred to as third generation of "R_3" seed.

3. The required standards in relation to the above characteristics shall be defined in the annexed technical regulations as mentioned in Article 59 of this Regulation.

Chapter VIII— Production Conditions

Location of Seed Farm.

25.—1. Individual or corporate entities admitted for quality control shall abide by the production zones recommended by the breeder of a given variety:

2. The seed farm shall be accessible for inspection at any time throughout the growing cycle.

Cultivated Areas.

26. The minimum and maximum areas per crop and per plot shall be as applicable in each Member State.

Number of Varieties and Categories.

27.—1. The number of seed varieties and categories authorized for multiplication on the same agricultural property shall be determined by the species and in accordance with the standards laid down in the annexed technical regulations.

2. The number of varieties shall not be restricted, as far as testing stations or experimental farms are concerned, on condition that the isolation standards defined in the aforementioned technical agreements are observed.

Origin of the Parent Seed.

28.—1. The official quality control and certification authority or any other accredited private body shall ensure that the producer or farmer-seed grower uses only certified parent seeds.

2. All seed producers or farmer-seed grower shall justify the origin of the parent seed with documentary evidence such as certification label, invoice, delivery note or any other relevant document.

Chapter IX—Production Control

Control Periods.

29. Control shall be undertaken at all stages of activity, namely: Seed production, conservation, packaging, warehousing, transportation, marketing and utilization.

Cropping Declaration.

30.—1. Before each certification season, individuals or corporate bodies admitted for control shall transmit, prior to cultivation, a cropping declaration to the national quality control and certification authority or any other accredited private body within a reasonable time frame, failing which the declaration shall be rejected.

2. Any subsequent changes to the cropping declaration shall be reported immediately to the quality control and certification authority or any other accredited private entity:

3. A sample cropping declaration shall feature in the implementing Regulation as defined in Article 57 of this Regulation.

Seed Multiplication Contract.

31.—1. The seed multiplication contract concluded between the seed producer and one or several farmer-seed growers shall include :

(*a*) a commitment by the farmer-seed grower to respect existing regulations, allow the quality control agents to inspect his/her crops and not inconvenience neighbouring seed farms ; and

(*b*) an undertaking by the producer to provide the farmer-seed grower with all necessary technical instructions and deliver the parent seeds in good time.

2. A seed multiplication contract template is listed in the implementing Regulation referred to in Article 57 of this Regulation.

Control Agents.

32.—1. Throughout their growing cycle, seed crops shall be under the surveillance of sworn in agents, hereinafter known as inspectors, drawn from the official national quality control and certification authority of the concerned Member State or any other accredited private body.

2. The inspectors shall have the mandate to visit seed farms to ascertain their characteristics and cropping condition.

Field Inspections.

33.—1. The inspectors shall carry out extension visits and shall, in this regard, have free access to seed farms. They shall produce a field inspection report with respect to each visit.

2. At least four inspection exercises shall be undertaken in the course of a cropping cycle.

(*a*) *First Inspection : Preliminary Inspection.*—This first inspection shall take place before cropping to ascertain whether or not the land set aside by the producer meets the minimum characteristics and standards required for species to be multiplied.

(*b*) *Second Inspection : Pre-Flowering phase.*—The second inspection shall take place during the vegetative phase extending from cropping phase to that start of flowering up to emergence of inflorescence.

(*c*) *Third Inspection : Flowering Phase.*—The third inspection shall take place when some 50 percent of the plants are in flower, the flowers are open, the stigmas are receptive and the spores release pollen.

(*d*) *Fourth Inspection : Pre-Harvest Phase.*—The fourth inspection shall take place a few days before harvest: the seed is sufficiently firm and has attained physiological maturity.

3. The field characteristics and minimum standards required for each species are specified in the annexed technical regulations mentioned in Article 58 of this Regulation.

34.—1. The minimum number of inspections shall be determined based on the following characteristics : Factors determining Number of Inspections.

- Seed farm environment ;
- Origin of parent seed ;
- Cropping history ;
- Isolation ;
- Crop condition.

35.—1. A seed farm shall be rejected by the official quality control and certification authority or any other accredited private body if it fails to meet the required standards in respect of : Grounds for Rejection of a Seed farm.

- Physical purity,
- Adventive plants,
- Health status, and
- Varietal purity.

2. The required standards in regard to the above characteristics shall be spelt out in the annexed technical regulations mentioned in Article 58 of this Regulation.

36.—1. The inspections shall take place in the presence of the seed grower or an accredited representative of the producer, and a report containing observations on the cropping condition of the seed farm issued. Inspection Report.

2. The report shall also contain technical recommendations or directives in accordance with the rules governing the specific species.

3. A sample field inspection report is listed in the implementing Regulation mentioned in Article 57 of this Regulation.

37.—1. Any seed producer without the necessary technical skills shall resort to the services of a seed technician whom he shall engage from the stage of production up to that of sale to distributors. Seed Technicians.

2. The seed technician shall meet the following conditions :

- be accredited by the official national quality control and certification authority ;
- provide services to only one producer at a time. This requirement may, however, be waived if the contract concluded with several producers does not cause prejudice to any of them.

3. The seed technician shall :

- oversee standing crops ;
- be present at each inspection visit ;
- tidy up the sowing, cropping, harvesting and transportation as well as the packaging and storage facilities ;
- identify seed batches ; and
- store the seeds in appropriate conditions.

4. The application for registration template as seed technician is found in the annexed Regulation mentioned in Article 57 of this Regulation.

Internal Control.

38. Any producer admitted for control may put in place an internal crop control structure that engages seed technicians.

Abandoning a Seed Farm.

39. seed farm may be abandoned for climatic or technical reasons at any stage of the vegetative process. In that event, the producer shall accordingly inform the official quality control and certification authority or any other accredited private body within the shortest possible time.

Classification of Crops.

40.—1. The inspectors shall classify the crops on the basis of the outcomes of and the observations made during control visits.

2. A crop may be rejected where the technical recommendations or directives issued during previous visits have not been complied with :

(*a*) the concerned party shall be notified as soon as possible of any rejection;

(*b*) where there has been multiplication of parent seeds imported from non-ECOWAS Member States, classification of the seed farms shall be subject to the results of varietal control conducted in the laboratory or in the farm.

Chapter X—Quality Control of Seed Batches

Constitution of Seed Batch.

41.—1. All seed batches shall be physically identifiable by a number which could be a figure or letter or a combination of both.

2. With the authorization of the quality control service, a given batch of certified seeds may be constituted from the products of several farms of the same variety and of the same parent seed.

3. However, with respect to pre-basic and basic seeds, the product from one farm constitutes a batch

Size of a Seed Batch.

42. The size of seed batches shall depend on the species. It shall be defined in the annexed technical regulations mentioned in Article 58 of this Regulation.

Identification of Raw Seed Batches.

43. From the harvest to the packaging stage, raw seed batches of all categories, whether bagged or loose, shall be provisionally identified by a label, a harvest tag or any other relevant document to avoid any accidental mix up.

Sampling.

44.—1. To determine the value of seed batches, the official quality control and certification authority or any other accredited private body shall take samples for laboratory testing.

2. Sampling shall be carried out in accordance with the international rules established by the International Seed testing Association (ISTA)

3. The sample weight for each species shall be defined in the annexed technical regulations mentioned in Article 58 of this Regulation.

4. The samples shall be placed in sachets bearing the following information—

- Official quality control and certification authority or accredited private body of the Member State ;

- Name of producer ;
- Species and variety ;
- Category ;
- Batch number ;
- Batch weight or number of units in the batch ;
- Treatment and products used ;
- Sampling date ;
- Name of agent of the official authority or accredited private body responsible for quality control and certification or of the laboratory assistant.

Laboratory Control.

45.—1. Any seed batch submitted for certification shall be tested in a laboratory designated by the Member State or an official laboratory affiliated to the ISTA.

2. Such control shall embrace the five key areas indicated hereunder. These standards shall be defined in the annexed technical regulations as stipulated in Article 58 of this Regulation.

(*a*) *Analytical Purity.*—The laboratory control of analytical purity shall determine.

(*i*) The composition of the analysed sample; and

(*ii*) The identity of seed species and inert particles that constitute the sample.

(*b*) *Water Content.*—The laboratory control of water content shall seek to determine seed moisture content using appropriate methodology.

(*c*) *Germination Test.*—The germination test shall seek to determine the germinative value of the seeds for sowing in farm and provide data for comparison of different seed batches between them.

(*d*) *Health Status Test.*—The health status test shall determine the health of a seed sample through examination to detect diseases caused by organisms such as fungi, bacteria and viruses as well as animal parasites including nematodes and insects.

(*e*) *Varietal Purity.*—The laboratory control of varietal purity shall ascertain the varietal identity of a seed batch and compare its varietal purity with that of a reference sample.
Determination of varietal purity may be morphological, physiological, cytological or chemical.

Laboratory Reports.

46.—1. All test results shall be indicated in a seed analysis report issued by the competent national seed testing laboratory of the Member State.

2. A sample seed laboratory report is presented in the annexed Regulation mentioned in Article 57 of this Regulation.

3. For this purpose of seed trade in Member States, an International Seed Analysis Certificate is also issued to the national seed testing laboratory of the Member State in accordance with the applicable rules of the ISTA.

A posteriori Control.

47.—1. A posteriori control shall be carried out after certification, on a reference sample of seeds of all categories. Such control may extend to parent material and pre-basic seeds in the event of a dispute or complaint.

2. With regard to pre-basic and basic seeds, the outcomes of such control shall enable to confirm or modify the classification of remaining seed batches and the progeny of controlled batches.

3. The sample used for quality control shall be taken in accordance with ISTA standards and conserved by the official quality control and certification authority or nay other accredited private body of the Member State.

4. A posteriori control shall be conducted in accordance with a protocol established by the quality control and certification authority in collaboration with the national research institutions concerned.

5. Quality control during seed marketing shall be carried out by agents of the official quality control and certification authority or any other accredited private entity and agents of the Ministry of Trade.

Chapter XI—Conditioning

Seed Treatment.

48. Seeds presented for certification shall be treated in a seed conditioning plant accredited by the official quality control and certification authority of the Member State in which they have been provided.

Use of Sorting Sieve.

49. Seed cleaning lines in accredited conditioning plants shall use at least one set of three-grid sieve, with top, middle and bottom sieves, selected according to the species to be conditioned.

Maintenance of Facilities.

50. The conditioning facilities shall be leaned after every use to avoid accidental mix ups.

Chapter XII—Packaging

Types of Packaging.

51. The type of packaging used shall be those authorised in each Member State. The packaging shall be clean, resistant and to ensure proper seed protection and viability.

52.—1. All producers shall mark the packaging of their seeds.

2. The package markings shall be indicated in clear and easily legible print—

(*a*) name and address of the producer or distributor ;

(*b*) logo or trade name, where it exist ;

(*c*) name of the species and of the variety as listed in the WACPSV ;

(*d*) category, generation and production cycle ;

(*e*) net weight ;

(*f*) certification label ; and

(*g*) name of the product used for treatment

Chapter XIII—Splitting – Repackaging

53. Where seed batches have been assembled and labelled, any subsequent splitting and/or repackaging shall be undertaken in the presence of agents of the quality control and certification authority, failing which the seed batches concerned shall be rejected. Splitting and Repackaging.

54. In the case of splitting and/or repackaging, the new labels shall bear the same particulars as the original labels, with additional information indicating that the batch has been repackaged. Labelling.

Chapter XIV—Storage

55.—1. All seed storage facilities must have an appropriate temperature and humidity. They shall be kept tidy and well ventilated to ensure effective seed conservation. State of Storage Facilities.

2. Storage facilities must also be regularly disinfected.

56. Seed bags shall be placed on duckboards or pallets. They must not be laid down on the ground or be kept in contact with walls. Seeds batches shall be arranged in a way to create a passage between piles of seeds to facilitate control and sampling. Conditions for Bags Storage.

Chapter XV—Modalities

57. An implementing Regulation of the Commission shall define the administrative documents template to be used for seed quality control in Member States. Administrative documents template.

58. An implementing Regulation of the Commission related to the annexed technical regulations shall complement the modalities of seed quality certification and control in the Member States. Annexed technical regulations.

SECTION III: SEED CERTIFICATION

Chapter XVI—Certification, Eligibility Conditions And Certification Fee

59. All plant seed produced for the purpose of marketing shall be certified in accordance with the provisions of the Regulation and its implementing Regulations. Certification.

60. Certificate shall be applicable only to seed batches from farms regularly eligible for control and for varieties listed in WACPSV. Eligibility.

61.—1. Any service in respect of certification, be it for control in the field or in laboratory, shall be subject to collection of a certification fee. Certification Fee.

2. A certification fee shall be collected by the official service or any other quality control and certification body at the time of certification labels issuance or laboratory reports

3. The fee, payment modalities and the conditions for allocation of proceeds shall be determined by each Member State.

Mandatory Labelling.

62.—1. Any packaging containing certified seeds shall bear a certification label issued by the official quality control and certification authority or body. The certification label shall be different from the seed producer's label in accordance with Article 52 of this Regulation.

2. The official service or body responsible for quality control and certification shall have the sole authority to print, distribute and affix official certification labels. This responsibility may, however, be delegated to an accredited private body.

3. Certification labels shall be affixed in a way to ensure inviolability of the package.

4. A certification label identical to that affixed to the package shall be placed inside the said package, where such package does not bear printed specifications of the seed batch.

5. The certification labels sample is listed in the implementing Regulation as stipulated in Article 57 of this regulation.

Colour of Certification Labels.

63. The colours of certification labels shall depend on seed category. The authorised colours shall be :

(*a*) white with diagonal stripes- for parent material and pre-basic seeds ;

(*b*) white for basic seeds ;

(*c*) blue for "*R1*" or first generation certified seeds ; and

(*d*) red for "*R2*" or second generation seeds and "*F1*" hybrid seeds.

Specifications on Certification Labels.

64.—1. The top side of certification labels shall bear the following indications—

(*a*) Name of species, followed where appropriate by cropping suitability or varietal type \; for example—

Specie: rainfed rice or irrigated rice ;

Hybrid maize or composite maize ;

(*b*) Name of variety as listed in ACPSV ;

(*c*) Batch number ;

(*d*) Size ;

(*e*) Minimum germination capacity ;

(*f*) Year and month of harvest ;

(*g*) Minimum genetic purity ;

(*h*) Weight ;

(*i*) Reference to this Regulation ;

(*j*) Name of official quality control and certification service or body.

2. The seal of the official quality control and certification authority or accredited private body of the country in which the seed was produced, shall be used as a guarantee of the authenticity of the certification label.

3. The back side of the certification label shall bear no annotation.

4. The number of certification labels shall be strictly limited to the number of units that make up each certified batch.

Withdrawal of Certification Labels.

65.—1. Where a seed batch has been declassified or rejected after testing, for non-compliance with the set standards, all certification labels already issued shall be withdrawn and recovered by the official quality control and certification service or any other accredited private body at the request of any person wishing to use the batch in question.

2. A certification attestation template is listed in the implementing Regulation mentioned in Article 57 of this regulation.

Chapter XIX—Exemptions

Exceptional Issuance of Certification Labels.

67.—(*a*) Authorization of non-conforming pre-basic and basic seeds. The official authority or any other accredited private body responsible for quality control and certification may exceptionally issue certification labels for pre-basic or basic seeds, which germinating capacity falls below the required standards. In such case, the real germinating capacity shall be indicated on the label.

(*b*) *Authorization of non-conforming seeds.*—The official authority or any other accredited private body responsible for quality control and certification may exceptionally issue, in case of an emergency and/or for dormant seeds, certification labels for non-conforming seed batches, after a rapid preliminary evaluation of viability through a biochemical process.

Chapter XX—Carry-over Seed Batches

Declaration of Carry-Over Seed Batches.

68.—1. Certified seed batches shall be considered as carry-over batches counting from the starting date of the new planting season following the harvest season. Such batches shall be declared to the official quality control and certification authority or any other accredited private body.

2. Such seed batches shall be examined to ascertain germinating capacity by the national laboratory of the Member State or any other laboratory dully accredited. Labels of non-conforming batches shall be withdrawn.

Chapter XXI—Mutual Recognition

Mutual Recognition of Certification.

69. Seeds certified by an authorised service of a Member State in accordance with the provisions of this Regulation and its implementing Regulations shall be recognised as such by all other Member States.

SECTION IV: SEED MARKETING

CHAPTER XXII— MARKETING BY PRODUCER-DISTRIBUTORS AND DISTRIBUTORS

Variety of Seeds Marketed on the Regional Market.

70. Only seeds registered in the West African Catalogue of Plant Species and Varieties shall be marketed in the sub-region.

Accreditation.

71—1. The marketing of seeds by producer-distributors and distributors shall be subject to official accreditation.

2. Such accreditation shall be renewable every three years at the holder's request.

3. The criteria for accreditation shall be determined by each Member State in accordance with the provisions of the Regulation.

Stores Accounting.

72. All seed producers-distributors and distributors shall keep detailed account of stock entries and withdrawals in a ledger that shall be available for checking and inspection at all times by the official quality control and certification authority or any other accredited private body, and by the competent authorities of the Ministry of Trade.

State of Storage Facilities.

73.—1. All storage facilities for seed marketing must have appropriate temperature and humidity levels. They shall be kept tidy and well ventilated for effective seed conservation.

2. The storage facilities shall also be regularly disinfected.

Conditions for Bags Storage.

74. Seed bags shall be placed on duckboards or pallets. They must not be laid down on the ground or be kept in contact with walls. Seeds batches shall be arranged in a way to create a passage between piles of seeds to facilitate control and sampling.

Conditions for Transportation.

75. Seeds shall be transported in conditions that maintain their intrinsic quality.

CHAPTER XXIII— EXPORT–IMPORT

Procedure.

76.—1. Without prejudice to Community regulations on external trade, the import and export of conventional seeds shall be subject to prior declaration to the official quality control and certification authority or body.

2. The importer or exporter shall provide the following information regarding the seed batch—

- Individual or corporate name ;
- Name and address of consignee or supplier ;
- Species and variety as registered in the WACPSV ;
- Category and generation ;
- Batch number ;

- Declared batch weight ;
- Number of packages ;
- Unit weight of packages ;
- Number of labels specifying first and last figures ; and
- Chemical treatment with the name of active ingredients used.

3. The import and export of unconventional seeds shall be governed by the legislation applicable in the Member States.

Issuance of International Certificate.

77. Member States' national seed testing laboratories accredited by the ISTA shall be authorised to issue an International Certificate where this is required.

Phytosanitary Certificate.

78.—1. All seed export and import shall be accompanied by a phytosanitary certificate issued by the national service or agency responsible for plant protection in the seed country of origin.

2. For the purpose of issuance of phytosanitary certificate, Member States shall periodically conduct surveys and exchange information with a view to drawing up comprehensive inventories of existing pests in the respective States.

3. Such inventories shall aim at updating the list of quarantine and non-quarantine pests.

4. The list of quarantine and non-quarantine pests and the modalities of seed phytosanitary control drawn up for the purpose of inter and intra-Community trade shall be determined by ECOWAS Commission.

Scientific Research.

79. Exchange of plant material among Member States for scientific research shall not be affected by the provisions of Article 76 of this Regulation. However, a phytosanitary certificate shall be required.

Dubious Seed Batches.

80.—1. Any imported or exported seed batch that arouses suspicion of fraud or falsification shall be considered as dubious and temporarily impounded.

2. A sample thereof shall be taken by the official quality control and certification authority or any other accredited private body and transmitted to the national seed testing laboratory for investigation of fraud and falsification. Where the results fail to match the specifications on the documents accompanying the seeds, the seed batch hall be seized by agents or officers of the criminal police or sworn in agents of Customs and plant protection. Thus, the use of such batch shall not be authorised; and labels shall be withdrawn and destroyed.

Batches in Transit

81.—1. Any batch transmitting through the territory of a Member State shall be declared to the official quality control and certification authority or any other accredited private body by the individual or corporate entity responsible for the transit.

2. Information concerning the consignee and the country of destination shall be communicated to the official quality control and certification authority or any other accredited private body and to the official plant protection services by the aforementioned individual or corporate entity.

3. Transiting batches shall be accompanied by a phytosanitary certificate indicating the source and destination of the seeds. The concerned batches shall not be subject to quality control in the transit countries.

SECTION V : SANCTIONS

Sanctions for Infringement.

82.—1. The following shall constitute breaches of the provisions of this Regulation and its implementing Regulations.

(*a*) production of seeds without professional card ;

(*b*) marketing of seeds without accreditation ;

(*c*) misleading information on seed labelling, wilful modification or alteration of labelling and the use of any trickery to mislead third parties regarding seed quality ;

(*d*) distribution, for animal or human consumption, of seeds treated with substances harmful to human or animal health and, thus, unfit for consumption;

(*e*) failure to keep proper ledger as laid down in Article 73 of the Regulation;

(*f*) import or export of conventional seeds without prior declaration ;

(*g*) import or export of unconventional seeds contrary to the applicable legislation ;

(*h*) obstruction of official inspection or control activities;

(*i*) non-compliance with the conditions of admission for control ; and

(*j*) fraud or attempted fraud in the use or marketing of seeds transiting through Member States.

2. Member States shall take all appropriate measures to impose sanctions for any breach of the provisions of the Regulation.

Empowerment and Authority of Control Agents.

83.—1. Member States shall draw up a list of agents authorised to carry pout compliance verifications.

2. The agents shall be granted the power to inspect and investigate to enable them to, among other things—

(*a*) enter the professional premises including compounds and buildings meant for seed distribution as well as seed warehouses, storeroom and other storage places and depots ;

(*b*) access request submission to them on any document related to seed producers and seed distributors activities ;

(*c*) inspect facilities, sites, works, vehicles, devices and tools used in seed related activities; and

(*d*) collect samples and ensure the validity of these samples and leave open the possibility of alternative evaluation.

3. Inspections during seed production and marketing shall be carried out in the presence of the producer and the distributor or their representative.

SECTION VI : GUARANTESS FOR PERSONS SUBJECT TO CONTROL AND FOR DISTRIBUTORS

Scope of Guarantees.

84. Individuals or corporate bodies subject to compliance control and inspection at all stages of seed production, certification and marketing shall be granted the following guarantees—

(*a*) confidentiality of the information they provide, since the authorised individuals or corporate bodies are bound by professional secrecy ;

(*b*) Representatives of samples used as basis for contested administrative measures ;

(*c*) Right to resort to alternative opinion and to lodge an appeal according to applicable procedures ;

(*d*) Right to be present or be represented during control exercise ;

(*e*) Right to request disclosure of documents such as notification of measures taken against them, grounds for such decision, receipts for sampling and seed seizure reports, ;laboratory test results, their statements and any other document that inform the decisions that affect them.

SECTION VII: MISCELLANEOUS PROVISIONS

Implementation.

85. To further its activities, WACPSV may be open to the sub-regional institutions operating in the seed sector. Specific Conventions shall define the modalities of such opening.

Relation with Other Community Texts.

ARTICLE 86. Seed quality control, certification and marketing activities within the community shall be carried out in accordance with applicable ECOWAS texts.

SECTION VIII : FINAL PROVISIONS

Publication.

87. This Regulation shall be published by the Commission in the Official Journal of the Community within thirty (30) days following signature by the Chairperson of the Council of Ministers. It shall also be published in the Member States' Official Gazette within the same time frame.

Entry into Force.

88. This Regulation shall enter into force upon its publication.

DONE in ABUJA, this 18TH DAY OF May, 2008.

H.E. MRS. MINATA SAMATE CESSOUMA
Chairperson for the Council

Federal Republic of Nigeria
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S.I. No.	*Short Title*	*Page*
20	National Union of Petroleum and Natural Gas Workers (1st Party) and Etco Nigeria Limited (2nd Party)—Confirmation IAP Award 2013.	B357

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S.I. No. 20 of 2013

TRADE DISPUTES ACT, CAP. T8, LAWS OF THE FEDERATION OF NIGERIA (LFN), 2004

NATIONAL UNION OF PETROLEUM AND NATURAL GAS WORKERS (1ST PARTY)

AND

ETCO NIGERIA LIMITED (2ND PARTY)

CONFIRMATION OF IAPAWARD 2013

Pursuant to the provisions of Section 13(4) of the Trade Disputes Act, Cap. T8, Laws of the Federation of Nigeria (LFN) 2004, the Industrial Arbitration Panel Award set out in the Schedule hereto, has been confirmed by me, the Honourable Minister of Labour and Productivity and shall have effect as so confirmed in accordance with those provisions.

SCHEDULE

Name of Arbitration	*Parties in Dispute*	*Terms of Award*
Industrial Arbitration Panel.	National Union of Petroleum and Natural Gas Workers (NUPENG) (1st Party) and ETCO Nigeria Limited (2nd Party).	"For the avoidance of doubt, the Tribunal awards as follows :— *i* That ETCO Nigeria Limited should pay the workers listed in 1st Party's *Annexure J* their final entitlements in accordance with the Collective Bargaining Agreement dated 11th November, 2010".

DATED at Abuja, this 12th day of June, 2013.

. CHIEF EMEKA WOGU, CON
Honourable Minister of Labour and Productivity

EXPLANATORY NOTE

(This note does not form part of the above notice but is intended to explain its purport)

This Notice confirms the Award made by the Industrial Arbitration Panel in respect of the trade dispute which arose between the National Union of Petroleum and Natural Gas Workers (NUPENG) (1st Party) and ETCO Nigeria Limited (2nd Party).