

Extraordinary



Federal Republic of Nigeria

Official Gazette

No. 59

Lagos - 6th September, 2013

Vol. 100

Government Notice No. 165

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

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Printed and Published by The Federal Government Printer, Lagos, Nigeria
FCP 96/102013/1,200 (CL 76)

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.

Federal Republic of Nigeria
Official Gazette

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Col. 10. 2. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845

© 2000 Blackwell Science Ltd, *Journal of Internal Medicine* 247: 399–406

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MONEY LAUNDERING (PROHIBITION) ACT, 2011 (AS AMENDED)

FEDERAL MINISTRY OF INDUSTRY, TRADE AND INVESTMENT (DESIGNATION OF NON-FINANCIAL INSTITUTIONS AND OTHER RELATED MATTERS) REGULATIONS, 2013



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S. I. No. 21 of 2013

MONEY LAUNDERING (PROHIBITION) ACT, 2011 (AS AMENDED)**FEDERAL MINISTRY OF INDUSTRY, TRADE AND INVESTMENT
(DESIGNATION OF NON-FINANCIAL INSTITUTIONS AND OTHER
RELATED MATTERS) REGULATIONS, 2013**

In exercise of the powers conferred on me by sections 5(4) and 25 of the Money Laundering (Prohibition) Act, 2011 (as amended) and all other powers enabling me in that behalf, I, DR. OLUSEGUN AGANGA, Honourable Minister of Industry, Trade and Investment, make the following Regulations—

[29th Day of August, 2013]

Commence-
ment.**PART I—DESIGNATION OF NON-FINANCIAL INSTITUTIONS**

1. As from the commencement of the Money Laundering (Prohibition) Act, 2011 (as amended), the following businesses and professions shall continue to exist as Designated Non-Financial Institutions for the purposes of registration, reporting and conduct of customer due diligence as described in these Regulations—

Designated
Non-
Financial
Institutions.

- (a) business outfits dealing in jewelries ;
- (b) car dealers ;
- (c) dealers in luxury goods ;
- (d) chartered accountants ;
- (e) audit firms ;
- (f) tax consultants ;
- (g) clearing and settlement companies ;
- (h) legal practitioners ;
- (i) hotels ;
- (j) casinos ; and
- (k) supermarkets.

2.—(1) As from the commencement of these Regulations, the following professions shall exist as Designated Non-Financial Institutions in Nigeria for the purposes of registration, reporting and conduct of Customer Due Diligence (CDD) as described in these Regulations—

Designation
of
professional
and business
outfits as
Designated
Non-
Financial
Institutions.

- (a) Law firms, notaries, and other independent legal practitioners ;
- (b) Accountants and Accounting firms ;
- (c) Trust and Company Service Providers ; and
- (d) Estate Surveyors and Valuers.

(2) As from the commencement of these Regulations, the following businesses shall exist as Designated Non-Financial Institutions in Nigeria for the purposes of registration, reporting and conduct of customer due diligence as described in these Regulations—

- (a) dealers in precious stones and metals ;
- (b) dealers in Real Estate, Estate Developers, Estate Agents and Brokers ;
- (c) hospitality Industry ;
- (d) Consultants and Consulting Companies ;
- (e) Construction Companies ;
- (f) importers and dealers in cars or any other automobiles ;
- (g) dealers in mechanized farming equipment and machineries ;
- (h) practitioners of mechanized farming ;
- (i) mortgage brokers ; and
- (j) non-governmental organisations.

Further
Designations.

3. The Minister may by notice published in the Federal Government *Gazette*, declare and designate any other business or profession not listed under regulations 1 and 2 of these Regulations as Designated Non-Financial Institution where—

- (a) the National AML/CFT Risk Assessment Reports, or
- (b) an Industry AML/CFT Risk Assessment Report

reveal new businesses or professionals that are vulnerable to money laundering or terrorism financing risks.

Registration
and
supervision
of
Designated
Non-
Financial
Institutions.

4.—(1) Subject to the provisions of the Money Laundering (Prohibition) Act, 2011 (as amended), the Special Control Unit against Money Laundering ("SCUML") of the Federal Ministry of Industry, Trade and Investment shall be responsible for the registration, supervision and monitoring of the activities of Designated Non-Financial Institutions in Nigeria pursuant to the provisions of these Regulations, the relevant provisions of the Act, the Terrorism (Prevention) Act, 2011 (as amended) and any other relevant laws or Regulations ; in collaboration with the Nigerian Financial Intelligence Unit (NFIU) and other relevant regulators, professional bodies and self-regulatory organizations.

(2) The relevant Self-Regulatory Organizations recognized under extant laws shall be responsible for undertaking the following activities for its members in consultation with SCUML and NFIU—

- (a) registering and compiling the names of its members for AML/CFT monitoring and supervision ;
- (b) developing an internal compliance system and training programmes for its members ;
- (c) monitoring its members to ensure compliance with these Regulations, the Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism (Prevention) Act, 2011 (as amended) ;
- (d) applying relevant administrative sanctions on its members, including revocation, withdrawal and suspension of licence of members for failure to :

(i) register and submit registration information whenever required to do so ;

(ii) file Suspicious Transaction Reports in compliance with the provisions of subsisting laws and Regulations ;

(iii) file Currency Transaction Reports to the NFIU ; and

(iv) file cash based transaction Reports to SCUML.

5. The Minister shall issue guidelines to guide Designated Non-Financial Institutions in the implementation of Customer Due Diligence (CDD) requirements and other relevant provisions of the Act and these Regulations.

Minister to issue Guidelines.

PART II—OBLIGATIONS OF DESIGNATED NON-FINANCIAL INSTITUTIONS

6.—(1) Designated Non-Financial Institutions shall conduct their businesses in compliance with the requirements of the Money Laundering (Prohibition) Act, 2011 (as amended), Terrorism (Prevention) Act, 2011 (as amended) and the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013, including related laws and Regulations.

Compliance with existing laws and Regulations.

(2) For the purpose of the provisions of these Regulations, the reporting obligations of law firms, notaries and other independent legal professionals; audit firms; accountants and accounting firms shall arise when they render services to and carry out transactions for any client concerning—

(i) buying and selling of Real Estate (within or outside Nigeria) ;

(ii) managing of client money, securities or other assets ;

(iii) management of bank savings or securities accounts ;

(iv) organization of contributions for the creation, operation or management of companies ;

(v) creation, operation or management of legal persons or arrangements and buying and selling of business entities ;

(vi) acting as a formation agent of a legal person or entity ;

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

(viii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement ;

(ix) acting as or arranging for another person to act as a trustee of an express trust or performing the equivalent function for another form of legal arrangement ; or

(x) acting as or arranging for another person to act as a nominee shareholder for another person.

(3) The reporting requirement under sub-regulation (2) of this regulation shall not apply where the relevant information was obtained in the course of

ascertaining the legal position of the client or in performing tasks of defending or representing the client in judicial, administrative, arbitration or mediation proceedings, and subject to professional secrecy or legal professional privileges.

(4) For the purpose of the provisions of these Regulations, the reporting and other compliance obligations of Trust and company service providers including Non-Profit Organisations registered as trustees shall arise when—

- (i) acting as a formation agent of legal persons ;
- (ii) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons ;
- (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement ;
- (iv) acting as or arranging for another person to act as a trustee of an express trust or performing the equivalent function for another form of legal arrangement ; or
- (v) acting as or arranging for another person to act as a nominee shareholder for another person.

The obligations to establish AML/CFT programmes.

7.—(1) Designated Non-Financial Institutions, shall establish Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) programmes designed on a risk-based approach and shall integrate its customers or clients into its AML/CFT regime in order to ensure and monitor compliance, which shall include—

- (a) internal policies, procedures and controls, based on the Designated Non-Financial Institution's assessment of the AML/CFT risks associated with its business and designed to reasonably anticipate and prevent money laundering and terrorist financing ;
- (b) Customer Due Diligence ;
- (c) appointment of a Compliance Officer ;
- (d) rendition of Currency Transaction Reports (CTRs) and Suspicious Transactions Report (STRs) to the NFIU in compliance with the relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended), the Terrorism (Prevention) Act, 2011 (as amended) and related Regulations ;
- (e) rendition of Cash Based Transaction Reports (CBTRs) to SCUML ;
- (f) on-going or regular training for its employees ;
- (g) record keeping ;
- (h) establishment of an Internal Audit and Control Unit to ensure compliance with the AML/CFT programme ; and
- (i) centralization of the information collected.

(2) Designated Non-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.

(3) Designated Non-Financial Institutions shall comply promptly with requests made pursuant to current AML/CFT legislation and provide information to Special Control Unit against Money Laundering (SCUML), NFIU and other relevant law enforcement agencies.

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

(5) Designated Non-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 the AML/CFT legislation.

(6) Designated Non-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.

(7) Designated Non-Financial Institutions shall reflect AML/CFT policies and procedures in its strategic policies.

(8) Designated Non-Financial Institutions shall conduct on-going due diligence on all business relationships and shall obtain information on the purpose and intended nature of the business relationship of their potential customers.

(9) Designated Non-Financial Institutions shall ensure that their employees, agents and others doing business with them, clearly understand the AML/CFT programme.

8. Designated Non-Financial Institutions shall, in the course of their business or activities, identify and report to the NFIU, any suspicious transactions derived from the following criminal activities—

Predicate offences to money laundering.

- (a) participation in an organized criminal group and racketeering ;
- (b) terrorism, including terrorism 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 goods ;
- (h) corruption and bribery ;
- (i) fraud ;
- (j) currency counterfeiting ;
- (k) counterfeiting and piracy of products ;

- (l) environmental crimes ;
- (m) murder and grievous bodily injury ;
- (n) kidnapping, illegal restraint and hostage taking ;
- (o) robbery or theft ;
- (p) smuggling (including in relation to customs and excise duties and taxes) ;
- (q) extortion ;
- (r) forgery ;
- (s) piracy ;
- (t) taxes crimes (related to direct and indirect taxes) ; and
- (u) insider trading and market manipulation.

PART III—CUSTOMER DUE DILIGENCE MEASURES

Relationship
with
anonymous
or fictitious
customers.

9.—(1) Designated Non-Financial Institutions shall not establish business relationship with anonymous or fictitious clients, customers or persons.

(2) Designated Non-Financial Institutions shall endeavour to know the customer, client or person with whom they are dealing with through—

THE ALL INFORMATION PROVIDED FOR INFORMATION PURPOSES ONLY

(ii) clear, written and risk based client or customer acceptance policies and procedures, which provisions shall include dealings with different client or customer profiles.

Customer
Due
Diligence
measures.

10.—(1) Subject to the relevant provisions of these Regulations and the Money Laundering (Prohibition) Act, 2011 (as amended), Designated Non-Financial Institutions shall undertake Customer Due Diligence (CDD) measures when—

- (a) establishing a new business relationship ;
 - (b) carrying out occasional transactions in excess of \$1,000 or its equivalent ;
- or

(c) where there is doubt about the veracity or adequacy of previously obtained identification data, provided that Designated Non-Financial Institution shall not, upon obtaining all necessary documents and being so satisfied, repeatedly perform identification and verification exercise each time a customer conducts a transaction.

(2) Designated Non-Financial Institutions shall—

(a) identify a customer, whether existing or occasional, natural or legal person, or any other form of legal arrangements, using identification documents as prescribed in relevant laws and Regulations ;

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

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

(3) Designated Non-Financial Institutions shall carry out the full range of CDD measures in this regulation using a risk based approach.

(4) Where the client or customer is acting on behalf of another person, the relevant Designated Non-Financial Institution shall take reasonable steps to obtain sufficient identification data to verify the identity of that other person.

(5) Designated Non-Financial Institutions shall, in respect of customers that are legal persons or legal arrangements—

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

(b) determine the natural persons that ultimately own or control the customer ;

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

(d) verify the legal status of the legal persons or legal arrangement by obtaining—

(i) proof of incorporation from the Corporate Affairs Commission or similar evidence of establishment or existence, and

(ii) information concerning the customer's name, the names of trustees (for trusts), legal form, address, directors (for legal persons), and provisions regulating the power to bind the legal person or arrangement.

(6) The requirements for CDD should apply to all new customers as well as, on the basis of risk, to existing customers or beneficial owners; provided that in the case of beneficial owners, the Designated Non-Financial Institution concerned shall conduct due diligence at the appropriate times.

(7) Designated Non-Financial Institutions shall adopt CDD measures on a risk sensitive-basis and shall determine in each case the risks exposure, using risk factors such as type of customer, services required, transaction or the location of the customer; and where there is doubt, the entity is required to contact the NFIU for guidance.

(8) The Designated Non-Financial Institutions shall rely on the documents presented by the customers and verify the identity of such customers, using other independent data or resources to analyze and understand the ownership structure of clients or customers.

(9) A Designated Non-Financial Institution shall ensure that the CDD measures contained in these Regulations are applicable to their branches and subsidiaries and other companies within their group.

(10) Financial transactions above specified thresholds under these Regulations shall include situations where the transactions are carried out in a single or several operations that appear to be linked.

Special
Circumstances
under which
Certain
Designated
Businesses
are to
identify and
verify
customers.

Special
Circumstances
under which
Designated
Professionals
are to
identify and
verify
customers.

11.—(1) Casinos shall identify and verify the identity of their customers when their customers engage in financial transactions equal to or above US\$3,000 or its equivalent in Naira or any other currency.

(2) Dealers in precious metals or stones shall identify and verify the identity of their clients when they engage in any cash transaction with a customer of an amount equal to or above US\$15,000 or its equivalent in Naira or any other currency.

12.—(1) For the purpose of the provisions of these Regulations, the designated professionals including law firms, notaries and other independent legal professionals, audit firms, accountants and accounting firms, Trust and company service providers, Non-Profit Organisations registered as trustees and other professionals listed in regulations 1 and 2 (1) of these Regulations shall identify, record and verify their client's identities when—

- (a) managing of client money, securities or other assets ;
- (b) buying and selling of Real Estate (within or outside Nigeria) ;
- (c) management of bank savings or securities accounts ;
- (d) organization of contributions for the creation, operation or management of companies ;
- (e) creation, operation or management of legal persons or arrangements and buying and selling of business entities ;
- (f) acting as a formation agent of a legal person or entity ;
- (g) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons or arrangement ;
- (h) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement ;
- (i) acting as or arranging for another person to act as a trustee of an express trust or performing the equivalent function for another form of legal arrangement ; or
- (j) acting as or arranging for another person to act as a nominee shareholder for another person.

(2) Real Estate Agents shall identify and verify the identity of their clients, whenever involved in transactions for the purchase or sell of real estates.

Complex
and unusual
large
transactions.

13.—(1) Designated Non-Financial Institutions shall pay special attention to all complex, unusually large transactions and unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

(2) The background and purpose of such transactions shall as far as possible, be examined, the findings established in writing, and any suspicion shall be made available to the NFIU.

14.—(1) Under this Part of these Regulations, the term, “natural persons” include persons exercising ultimate and effective control over the legal persons or legal arrangement.

The natural persons.

(2) For companies, the natural persons are those who own the controlling interest and those who comprise the mind and management of the company; while for trusts, the natural persons are the settler, the trustee and any person exercising effective control of the trust and beneficiaries.

(3) Where the customer or the owner of the controlling interest is a public company subject to regulatory disclosure, it is not necessary or expedient to identify the identity of the shareholders of such a public company.

15.—(1) In order to manage and mitigate risks, Designated Non-Financial Institutions shall perform enhanced CDD measures—

Enhanced Customer Due Diligence Measures.

(a) for higher risk categories of customers, and

(b) business relationships or transactions where higher risks are identified, based on the customer's individual risk situation and the types of business relationships.

(2) For the purpose of this section, high risk categories of customers include—

(a) non-resident customers ;

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

(c) Politically Exposed Persons (PEPs) ;

(d) cross-border transactions or activities ; and

(e) non face-to-face business relationships.

(3) In carrying out enhanced CDD, Designated Non-Financial Institutions, businesses and professions in Nigeria, shall consider and apply the following measures—

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

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

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

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

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

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

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Enhanced
Customer
Due
Diligence
measures on
cross border
business
transactions
or activities.

16.—(1) In addition to carrying out enhanced CDD measures on cross border business activities and other similar relationships, the Designated Non-Financial Institutions shall—

- (a) gather sufficient information on the respondent institution or client ;
- (b) assess the respondent institution or client's anti-money laundering and combating the financing of terrorism control measures ; and
- (c) document respective responsibilities of each institution or client in this regard.

(2) In addition to performing enhanced CDD for higher risk business relationships, Designated Non-Financial Institutions shall apply enhanced CDD measures where there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere.

Simplified
Customer
Due
Diligence.

17.—(1) Subject to the provisions of these Regulations, the Act and the Terrorism (Prevention) Act, 2011 (as amended), where lower risks of money laundering or the financing of terrorism are identified based on—

- (a) a country's National Risk Assessment Report ;
- (b) the Designated Non-Financial Institution's own assessment ;
- (c) the information on the identity of the customer and the beneficial owner is publicly available ; or
- (d) where adequate checks and controls exist elsewhere in the national systems,

it may be reasonable for the Designated Non-Financial Institutions to apply simplified or reduced CDD measures when identifying and verifying the identity of the customer, the beneficial owner and other parties to the business relationship.

(2) Designated Non-Financial Institutions that apply simplified or reduced CDD measures to customers resident abroad shall limit such application of simplified or reduced CDD to customers in countries that have effectively implemented international standards on combating money laundering, financing of terrorism and proliferation of weapons of mass destruction.

(3) Where there is suspicion of money laundering, terrorist financing or specific higher risk scenario, Designated Non-Financial Institutions shall not apply simplified CDD to a customer but shall apply mandatory enhanced CDD and a Suspicious Transaction Report (STR) shall be filed immediately and without delay but not later than 24 hours with the NFIU.

Timing of
verification.

18.—(1) Designated Non-Financial Institutions shall verify the identity of the customer, beneficial-owner and occasional customer before or during the course of establishing a business relationship or conducting transactions with them.

(2) Designated Non-Financial Institutions shall complete the verification of the identity of the customer and beneficial owner following the establishment of business relationship, only when—

(a) an acceptable time span for obtaining satisfactory evidence of identity will be determined by the nature of the business, the geographical location of the parties and whether it is possible to obtain the evidence before commitments are entered into or money changes hands ;

(b) it is essential not to interrupt the normal business conduct of the customer such as non-face-to-face business transactions ; or

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

(3) The Designated Non-Financial Institution shall obtain identification as soon as reasonably practicable after it had contact with client to—

(a) agreeing with client to carry out an initial transaction ; or

(b) reaching an understanding (whether binding or not) with the clients that it may carry out future transactions,

provided that where the client does not supply the required information as stipulated above, the Designated Non-Financial Institution shall discontinue the business activity and file an STR to the NFIU without delay but not later than within 24 hours.

(4) Where a client, customer or a beneficiary is permitted to utilize the business relationship prior to verification, the Designated Non-Financial Institution shall adopt risk management procedures concerning the conditions under which this may occur; which shall include—

(a) a limitation of the number, types or amount of transactions that may be performed ; and

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

19.—(1) In the event of failure or inability to complete verification of any relevant information or data, or to obtain information on the purpose and intended nature of the business relationship, the Designated Non-Financial Institution shall not perform the transaction.

Failure to complete CDD.

(2) Any Designated Non-Financial Institution that has already commenced a business relationship under sub-regulation (1) of this regulation is required to terminate the business relationship and render an appropriate STR to the NFIU.

20.—(1) Designated Non-Financial Institutions shall apply CDD measures on existing customers on the basis of risks taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.

Application of CDD measures on Existing customers.

(2) The appropriate time to conduct CDD on existing customers is when—

(a) business transaction of significant value takes place ;

(b) the Designated Non-Financial Institution becomes aware that it lacks sufficient information about an existing customer ; or

(c) when a suspicious transactions occurs.

On-going
Due
Diligence.

21.—(1) Designated Non-Financial Institutions shall perform on-going due diligence on all business relationships and shall pay attention to all requested changes to the business relationship.

(2) Designated Non-Financial Institutions shall assess if the change or transaction does not fit the profile of the customer or beneficial owner.

(3) Designated Non-Financial Institutions shall continue to review all transactions to determine if there are unusual or suspicious reasons to terminate the relationship and file STRs with the NFIU.

PART IV—MANDATORY TRANSACTION REPORTS

Suspicious
Transaction
Reports.

22.—(1) In these Regulations, a “Suspicious Transaction” includes—

- (a) a transaction which is unusual because of its size, volume, type or pattern ;
- (b) a transaction which is suggestive of known money laundering methods ;
- (c) a transaction which is or are inconsistent with the client’s or customer’s known legitimate, normal business or personal activities ; or
- (d) activities that lack obvious economic rationale.

(2) Where the conduct of additional Due Diligence activities would lead to an unintentional tip-off to the customer, beneficial owner or other subjects, the Designated Non-Financial Institutions shall instead of performing an additional CDD because of suspicion, file an STR to the NFIU.

(3) It is a criminal offence punishable under the Act for the Designated Non-Financial Institutions, their directors, officers and employees to disclose to the customer, client or beneficiary, the fact that an STR or any other related information will be reported, or has been reported to the NFIU.

(4) A Designated Non-Financial Institution shall ensure that there is a clear procedure for staff to report suspicious transactions involving money laundering and the financing of terrorism without delay to the Compliance Officer.

(5) The Designated Non-Financial institutions shall put in place a clear procedure for reporting suspicious transactions involving money laundering and the financing of terrorism to the NFIU immediately and without delay when it occurs or it is identified.

(6) All suspicious transactions including attempted transactions are to be reported to the NFIU regardless of the amount involved and the report should include any action taken on the suspicious activity by the Designated Non-Financial Institution.

Filing of
Suspicious
Transaction
Report
(STR).

23.—(1) Subject to the provisions of Parts 1, 2 and 3 of these Regulations, the Money Laundering (Prohibition Act), 2011 (as amended), Terrorism (Prevention) Act, 2011 (as amended) and the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013, including related laws and Regulations, all Designated Non-Financial Institution shall be required to submit suspicious transaction reports to the NFIU.

(2) Suspicious Transaction Report shall be filed through the Chief Compliance Officer of any Designated Non – Financial Institution, provided that where there is only one office, the STR shall be filed by the designated Compliance officer who may also be the Chief Executive of the business or firm.

(3) Staff of a Designated Non-Financial Institution shall at all time, have the level of competence and integrity necessary to perform their duties taking into account potential conflicts of interests and other relevant factors.

(4) Where a Designated Non-Financial Institution is in the process of establishing a business relationship and was unable to conclude the verification process because the customer refused to provide the required documents or information, such by itself shall be considered suspicious and be reported to the NFIU.

(5) A Designated Non-Financial Institution that suspects the source of funds as the proceeds of a criminal activity or related to terrorist financing, shall report its suspicion to the NFIU immediately and without delay but not later than 24 hours.

(6) A Designated Non-Financial Institution shall file an STR where it is unable to ascertain the identity of the beneficiary or beneficial owner or where it is unable to determine risk factors applicable to the beneficiary or beneficial owner.

(7) The NFIU shall develop and provide the reporting format for all STRs and Designated Non-Financial Institutions shall develop internal procedures for the purpose of filing confidential STRs to the NFIU.

(8) Designated Non-Financial Institutions shall not disclose the fact that a Suspicious Transaction Report (STR) or related information was or is being filed with the NFIU and shall be subject to administrative sanctions and penalties provided in these Regulations or the relevant laws where a disclosure is reported.

(9) Designated Non-Financial Institutions, their directors and employees shall be protected from criminal or civil liability for breach of confidentiality rules related to their profession or breach of restriction placed on disclosure of information imposed by contract or any legislative, regulatory or administrative provisions if they report their suspicion in good faith to the NFIU notwithstanding that they did not know precisely what the underlying criminal activity was and regardless of whether the illegal activity actually occurred.

24.—(1) Subject to the provisions of Parts 1, 2 and 3 of these Regulations, relevant Designated Non-Financial Institutions shall file all Currency Transactions Reports that are above ₦5,000,000 in the case of individuals or ₦10,000,000 in the case of bodies corporate or its equivalent to the NFIU immediately but not later than within 24 hours.

Currency
Transaction
Reports.

(2) For regulatory compliance, where there are no instances of transactions, Designated Non-Financial Institutions shall file nil report on a monthly basis to the NFIU in hard copy or electronically in such format as the NFIU may require.

**Cash-Based
Transaction
Reports.**

25.—(1) Subject to the provisions of Parts 1, 2 and 3 of these Regulations, relevant Designated Non-Financial Institutions shall fill a Standard Data Form on all cash transactions in excess of US\$1,000 or its equivalent and forward same to SCUML immediately but not later than within 24 hours through provided forms or SCUML website in accordance with the relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended).

(2) For regulatory compliance, where there are no instances of cash transactions, Designated Non-Financial Institutions shall file nil report on a monthly basis to SCUML in hard copy or electronically.

(3) Subject to the provisions of section 5 of the Money Laundering (Prohibition) Act, 2011 (as amended), SCUML shall forward all reports collected pursuant to the provisions of this regulation to the NFIU.

PART V—COMPLIANCE OFFICER AND INTERNAL CONTROL**Designation
of a
Compliance
Officer.**

26.—(1) Designated Non-Financial Institutions shall appoint and designate AML/CFT Compliance Officer with the relevant qualification, competence, authority and independence to implement the company's AML/CFT compliance programmes.

(2) Where the Designated Non-Financial Institutions is a small business, the head of the Designated Non-Financial Institution shall be designated and trained as the Compliance Officer.

(3) To ensure a measure of authority and independence for the function, the Compliance Officer shall not be below the status or rank of a management staff or the Head of the Designated Non-Financial Institution.

**Duties of a
Compliance
Officer.**

27. The duties of the AML/CFT Compliance Officer, among others, shall include—

- (a) developing an AML/CFT Compliance Programme for the institution ;
- (b) filing Suspicious Transaction Reports with the NFIU in the prescribed format ;
- (c) filing CTRs with the NFIU in the prescribed format ;
- (d) filing "nil" reports monthly to the NFIU in the prescribed format ;
- (e) filing Cash Based Transaction Reports (CBTRs) in the Standard Data Form to SCUML ;
- (f) rendering "nil" reports with SCUML, where necessary to ensure compliance ;
- (g) ensuring that the Designated Non-Financial Institutions compliance programme is implemented ;
- (h) co-ordinating the training of staff in AML/CFT awareness, detection methods and reporting requirements ;
- (i) serving both as a liaison officer for SCUML and the NFIU and a point of contact for all employees on issues relating to money laundering and terrorist financing ; and

(j) carrying out any other duty necessary or expedient to ensure compliance with relevant AML/CFT extant laws and Regulations.

28.—(1) Designated Non-Financial Institutions shall carry out on a regular basis, independent review of their AML/CFT programme; which may be performed by—

Internal
Control and
Audit.

(a) its internal audit and inspection departments where they have the requisite AML/CFT knowledge or experience ; or

(b) qualified and experienced AML/CFT Consultant, appointed by the Designated Non-Financial Institution.

(2) The Audit Report shall specifically comment on the robustness of the internal policies, controls and processes, and make constructive suggestions, where necessary, to strengthen the policy and implementation aspects.

29.—(1) Designated Non-Financial Institutions shall take appropriate measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes especially in the area of the use of internationally accepted Credit or Debit Cards and Mobile Telephone Banking systems for the purpose of money laundering, terrorist financing and fraud.

New
Technology
and non-
face-to-face
transactions.

(2) Designated Non-Financial Institutions shall have policies and procedures in place to address specific risks associated with non-face-face business relationships or transactions.

30.—(1) Designated Non-Financial Institutions shall design and implement a comprehensive AML/CFT training programmes not only to make employees fully aware of their obligations but also equip them with relevant skills required for the effective discharge of their AML/CFT compliance tasks.

Design and
implementa-
tion of
comprehen-
sive AML/
CFT training
programmes.

(2) Designated Non-Financial Institutions should consider what training is appropriate for each category or level of employees, which training shall be ongoing so as to keep pace with the dynamism of money laundering and terrorism financing challenges.

(3) The employee training programme shall be developed under the guidance of the AML/CFT Compliance Officer acting on the overall directive of top Management, which shall include the following basic elements—

(a) a description of the nature and processes of money laundering and terrorist financing, including new developments, emerging trends, techniques and methods in AML/CFT ;

(b) a general explanation of the underlying legal obligations contained in the relevant laws ;

(c) reporting requirements ;

(d) due diligence and enhanced CDD on high risk persons ;

(e) risk-based approach to AML/CFT ;

(f) record keeping ;

- (g) general understanding of the AML/CFT policy and procedures ;
- (h) verification and recognition of suspicious customer transactions ; and
- (i) the need to report suspicions to the Compliance Officer.

(4) All staff of a Designated Non-Financial Institution shall be trained to be aware of their legal responsibilities in relation to AML/CFT generally and should be conversant with the company's AML/CFT policies and procedures.

(5) To ensure maximum compliance with the training requirements on current AML/CFT legislation, all staff of a Designated Non-Financial Institution shall undergo a minimum of one AML/CFT training in a year.

Record
keeping of
documents
or data
collected
under the
customer
identification
process.

31.—(1) Designated Non-Financial Institutions shall ensure that information, documents or data collected under the customer identification process are kept up-to-date and relevant by undertaking regular reviews of existing records, particularly the record in respect of higher risk business relationships or categories of customers.

(2) Designated Non-Financial Institutions are required to maintain all necessary records of transactions, both domestic and international, for at least five (5) years following completion of the transaction or longer if requested by the NFIU or any other competent authorities in specific cases.

(3) The provisions of sub-regulation (2) of this regulation shall apply regardless of whether the contract or business relationship is on-going or has been terminated.

(4) The records of transactions required to be maintained by Designated Non-Financial Institution shall include—

- (a) the risk profile of each customer or beneficial owner ;
- (b) the data obtained through the CDD process including the name, address, nature and date of the transaction ;
- (c) the type and amount of currency involved ;
- (d) the identifying number of any account involved in the transaction ;
- (e) official identification documents such as passports, identity cards or similar documents ; and
- (f) business correspondences.

(5) Designated Non-Financial Institutions shall implement specific procedures for retaining internal records of transactions, both domestic or international, to enable them to comply swiftly with information requests from the competent authorities, and such records must be sufficient to permit reconstruction of individual transactions including the amounts and types of currency involved so as to provide, where necessary, evidence for the prosecution of criminal activities.

(6) Where the records relate to on-going investigations or transactions which have been the subject of a disclosure, the Designated Non-Financial Institution shall retain them for at least five years after the case has been closed.

PART VI—PENALTIES FOR NON COMPLIANCE AND MISCELLANEOUS

32.—(1) A Designated Non-Financial Institution which fails to comply with the provisions of these Regulations shall be sanctioned in accordance with the relevant provisions of the Money Laundering (Prohibition) Act, 2011 (as amended) and Terrorism Prevention Act 2011 (as amended).

Penalties for
Non-
Compliance.

(2) The NFIU and SCUML may apply administrative sanctions where there is a breach of the reporting requirements 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 laws or Regulations.

(3) The relevant Self Regulatory Organization or professional body, in consultation with the NFIU, SCUML or other appropriate authorities may apply additional administrative sanctions and shall withdraw, revoke, or suspend the licence of professionals where there is persistent and deliberate breach of 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.

33. In these regulations, unless the context otherwise requires—

Interpreta-
tions.

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

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

(a) accepts deposits of currency ;

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

(c) pays cheques or payment orders drawn on a financial institution or cash dealer by a person or collect cheques or payment orders on behalf of a person ;

(d) supplies a facility or an arrangement for a safe deposits box ;

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

“as soon as reasonably practicable” means as soon as possible ;

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

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

“Beneficiary” means those natural persons, or groups of natural persons who are entitled to benefit from any trust arrangement. A beneficiary may be a natural or legal person or arrangement ;

"Banks and Other Financial Institutions Act" means the Banks and Other Financial Institutions Act, 2004 (as amended) ;

"BOFIA" means Bank and Other Financial Institutions Act, 2004 (as amended) ;

"Business relationship" means any arrangement between a Designated Non-Financial Institution and a customer, client or business which purpose is to facilitate the carrying out of a transaction between the parties on a frequent, habitual or regular basis ;

"Central Bank" means the means Central Bank of Nigeria ;

"Competent authority" means any agency or institution concerned with combating money laundering and terrorist financing under this Act or under any other law or Regulations ;

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

"CAC" means the Corporate Affairs Commission ;

"CBT Reports" means Cash Based Transaction Reports required by Section 5 of the Act ;

"CBTR" means Cash Based Transaction Reports (CBTRs) ;

"CDD" means Customer Due Diligence ;

"CTR" means Currency Transaction Report in accordance with Section 10 of the Act ;

"Current AML/CFT legislation" means the Money Laundering (Prohibition) Act 2011 and Terrorism (Prevention) Act 2011 (as amended) ;

"Cross-border transaction" means any transaction where the originator and beneficiary are located in different jurisdictions ;

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

"DNFI" means Designated Non- Financial Institutions ;

"ECDD" means Enhanced Customer Due Diligence ;

"EFCC" means Economic and Financial Crimes Commission ;

"False Declaration" refers to a misrepresentation of—

(a) the value of the currency or bearer negotiable instrument being transported ; and

(b) other relevant data required for submission in the declaration or otherwise requested by the authorities ;

"False disclosure" means a misrepresentation of the value of currency or bearer negotiable instruments being transported, or a misrepresentation of other

relevant data which is asked for in the disclosure or otherwise requested by the authorities ;

"Financial Institution" include banks, body corporate, associations or group of persons, whether corporate or incorporate which carries on the business of investment and securities, a discount house, insurance institution, debt factorization and conversion firm, bureau de change, finance company, money brokerage firm whose principal business includes factoring, project financing, equipment leasing, debt administration, fund management, private ledger service, investment management, local purchase order financing, export finance, project consultancy, financial consultancy, pension funds management and such other business as the Central Bank or other appropriate regulatory authorities may from time to time designate ;

"FATF" means Financial Action Task Force ;

"FMITI" means Federal Ministry of Industry, Trade and Investment ;

"Funds" refers to assets of every kind whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including but not limited to bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts or letters of credit ;

"Funds Transfer" means any transaction carried out on behalf of an originator (both natural and legal) through a Designated Non-Financial Institution by electronic means with a view to making an amount of money available to a beneficiary through another Designated Non-Financial Institution. The originator and the beneficiary may be the same person ;

"Immediately" means spontaneous, instantly, rapidly, straightaway, take action in a timely manner, without delay or within 24 hours ;

"Hotels and Hospitality industry" means those engaged in providing hotel services, lodging and restaurants ;

"Legal persons" means bodies corporate, foundations, partnerships, associations, or any similar bodies that can establish a permanent client's relationship with a Designated Non-Financial Institution or otherwise own property ;

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

"Minister" means the Minister charged with responsibility for matters pertaining to Industry, Trade and Investment ;

"Ministry" means the Federal Ministry of Industry, Trade and Investment ;

"MLPA" means Money Laundering (Prohibition) Act, 2011 (as amended) ;

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

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

"NGO" means Non-Governmental Organizations ;

"NPO" means Non Profit Organizations ;

"Non-Profit Organizations/Non-Governmental Organizations" 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 social works and registered under Part C of the Companies and Allied Matters Act, 2004 ;

"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 part of a business relationship as this can affect the identification requirements ;

"PEPs means Politically Exposed Persons" and includes—

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

(b) individuals who have been entrusted domestically with prominent public functions by foreign heads of State or governments, senior politicians; senior government, judicial or military officials, senior executives of State owned corporations and important political party officials ; or

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

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

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

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

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

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

"Relevant authority" means any persons or organization which has mandate over your activity as an individual ;

"Risk" means the risk of money laundering or terrorism financing ;

"SCUML" means Special Control Unit against Money Laundering ;

"Self-Regulatory Organization" or **"SRO"** means a professional body or faith based organization registered under the Law that represents its members (e.g. Lawyers, Accountants, Doctors, Pharmacists, Nurses, Engineering, Auditors, Estates, Car Dealers, Hotel owners, Transporters and other professional or religious organizations, and which is made up of members from the profession. A Self Regulatory Organization has a role in regulating the persons that are qualified to enter and who practice in the profession, and also performs certain supervisory or monitoring type functions. Such bodies should enforce rules to ensure that high ethical and moral standards are maintained by those practicing the profession ;

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

"STR" means Suspicious Transactions Report ;

"Suspicious" means a matter which is beyond mere speculations and is based on available facts ;

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

"Terrorist" has the same meaning ascribed to it under the Terrorism (Prevention) Act, 2011 (as amended) ;

"Terrorist act" means acts which constitutes an offence under the Terrorism (Prevention) Act, 2011 (as amended) ;

"TPA" means Terrorism (Prevention) Act, 2011 (as amended) ;

"Terrorism Financing" means financial support, in any form, of terrorism or of those who encourage, plan, or engage in terrorism ;

"Those who finance terrorism" means any person, group, undertaking or other entity that provides or collects, by any means, directly or indirectly, funds or other assets that may be used, in full or in part, to facilitate the commission of terrorist acts, or to any persons or entities acting on behalf of, or at the direction of such persons, groups, undertakings or other entities. This includes

those who provide or collect funds or other assets with the intention that they shall be used or in the knowledge that they are to be used, in full or in part, in order to carry out terrorist acts ;

"Transaction" means—

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

"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 trustee's proposals or remove them, or a custodian trustee, who holds the assets to the order of the managing trustees ;

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

34. These Regulations may be cited as the Federal Ministry of Industry, Trade and Investment (Designation of Non-Financial Institutions and Other Matters) Regulations, 2013.

Citation.

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

DR. OLUSEGUN AGANGA
*Honourable Minister of Industry,
Trade and Investment*

EXPLANATORY NOTE

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

These Regulations designates Designated Non-Financial Institutions, provides guidelines for the implementation of a robust AML/CFT regime by Designated Non-Financial Institutions pursuant to the Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism (Prevention) Act, 2011 (as amended), and empowered the Special Control Unit against Money Laundering of the Federal Ministry of Industry, Trade and Investment to register, monitor, supervise and regulate the activities of Designated Non-Financial Institutions, Businesses and Professions in Nigeria.

EXH B

attached to the above captioned report of the Commission on the subject of the proposed amendment to the Constitution of the State of New York.

Very respectfully,
J. J. [illegible]

Commissioner of the State
Department of Education
Albany, New York

Enclosed for the Commission are two copies of the report of the Commission on the subject of the proposed amendment to the Constitution of the State of New York, and two copies of the report of the Commission on the subject of the proposed amendment to the Constitution of the State of New York, and two copies of the report of the Commission on the subject of the proposed amendment to the Constitution of the State of New York.