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Topic: Anti-Money Laundry

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Objectives

As the economy of various countries in developed and developing countries such as Nigeria recovers from the recession caused by the collapse of the financial industry, Money laundering prevention remains high on the agenda and an integrated approach to fight the risk is needed. This session will provide an exposition and get responses on some of the issues involved in money laundering and terrorist financing. This paper consists of three modules.

Module 1 (1.1 -1.5) dwell on concept of money laundering, causes and prevention of money laundering, the process of money laundering, terrorist financing and importance of money laundering.

Module 2 (1.6 – 1.9) of this paper consists of money laundering and terrorist financing and the impact on developing and developed countries/damage to corporations and countries, history of the fight against Money Laundering and US Patriot Act, what records must have to be kept and concept of suspicious transactions.

Module 3 (1.10 - 1.15) discusses how to identify suspicious transactions, internal reporting system, what must be reported to the authorities and how we report and records we need.

Essential Reading: Pre-reading: Antoinette Verhage (2011): *The Anti Money Laundering Complex and the Compliance Industry*, Routledge

Pre-reading: Dennis Cox (2011): *An Introduction to Money Laundering Deterrence*, Wiley & Sons Ltd, West Sussex

Further Reading: Nicholas Ryder (2011): *Financial Crime in the 21st Century – Law and Policy (2011)*, Edward Elgar Publishing Limited, Cheltenham

MODULE 1

1.1 INTRODUCTION

This topic is part of an education and awareness campaign conducted throughout the financial institution to raise people's knowledge of key requirements and expectations, ensuring that each firm complies with local rules and regulations promulgated in their jurisdiction by their relevant authority. I attempt to explore some of the approaches that a bank needs to adopt to deter money laundering e.g suspicious transactions and to enable terrorist financing to be identified.

Concept of Money Laundering (ML) – The person who received some form of ill gotten gains will seek to ensure that they can use these funds without people realizing that they are the result of inappropriate behavior. To do this they will need to disguise the proceeds such that the original source of the proceeds is hidden and therefore the funds themselves appear to be legitimate. The process of creating the appearance that large amounts of money obtained from serious crimes such as drug trafficking or terrorists activity originated from a legitimate source. In the literature, it is estimated that the size of the amount involve Money Laundering is over a billion naira annually. Often thought of as a victimless crime, money laundering is a very serious issue. Without it, international organized crime would not be able to function. An example is the Boko Haram in Nigeria. By mingling legitimate and illegitimate funds the entire amount could potentially appear to be legitimate, and therefore laundered. Indeed launderettes which were generally cash-based businesses would represent an ideal business which be used to achieve this.

Cash-based businesses are areas which money launderers would concentrate to launder funds. Money Laundering would manifest in two forms– Professional and amateur money launderer.

The Professional money launderer will take advantage of any perceived weakness in the systems of control operated by a financial institution or structure, Amateur money launderer takes an opportunity and does not really cover its tracks very well. It is normally the latter type of money laundering that is detected. The professional is always much harder to identify. eg Boko Haram in Nigeria .

1.2 CAUSES AND PREVENTION OF MONEY LAUNDERING (FRAUDS)

Chizea (1991) and Atijosan (1993) opined that computers are used to perpetrate fraud and it is sometimes referred to as computer fraud. By NDIC's (2011) analysis, seven commonest types of fraud and forgeries cases are presentation of forged cheque, granting of unauthorized loans, posting of fictitious credits, suppression of cash/cheques, fraudulent transfer and withdrawals, outright theft and loss of money to armed robbers.

The causes of money laundering can be represented in a linear mathematical model:

$ML = f(x)$ ……..equation (1)

Expressing this in a linearly econometric form, we have

$ML = b_0 + b_1x_1 + \mu$ ………..equation (2)

Further expressing this in an explicit form, we have

$$ML = b_0 + b_1x_1 + b_2x_2 + b_3x_3 + b_4x_4 + b_5x_5 + b_6x_6 + b_7x_7 + b_8x_8 + b_9x_9 + \mu$$

Where ML = Money Laundering

b_0 = Intercept

X_1 = Lack of Experienced and adequate personnel

X_2 = Internal Audit and Control

X_3 = Inadequate Book Keeping/Accounting Procedure

X_4 = Poor credit administration

X_5 = Inadequate job rotation/Segregation of duties

X_6 = Ineffective bank Management

X_7 = Poor Knowledge of the Job/Clearing fraud

X_8 = Delay Justice

X_9 = Moral decadence and Wrong value system/Society expectation

μ = Stochastic disturbance term

According to apriori expectations, b_1, b_3, b_4, b_5, b_6, b_7, b_8, $b_9 > 1$

$$b_2 < 1$$

Wrong Value System: The society places too much emphasis on material wealth to the extent that we failed to question how individuals come by their wealth. A way out is to question individual's sources of wealth.

Insecurity and Temporariness of Employment: Empirical studies by (NDIC) have proved that employees with less security and temporary status are more prone to committing fraud in the bank than those with permanent employment who have a lot at stake. Many frauds in the bank have been linked to staff on industrial attachment, casual workers and even youth corpers. Temporary staff should be converted to permanent staff within the shortest possible time.

Weak internal Control: Fraudsters are experts in exploiting the loopholes in the control systems of an organization to defraud. Appropriate measures must be put in place to detect lapses as quickly as possible for remedial action

1.3 THE PROCESS OF MONEY LAUNDERING

Money laundering is essentially a three-stage process. Stage 1: Placement, Stage 2: Layering Stage 3: Integration

Stage 1 – Placement: Money laundering starts with criminal activity that gives rise to illegal funds. It includes drug trafficking offences, tax evasion, bribery and corruption results in funds being produced which the criminal will seek to disguise. The funds need to first be received and then introduced into the system. The initial proceed enter the banking system at a perceived point of weakness and then the funds are moved around such that the initial source of the funds is disguised. The funds are reintegrated into the mainstream banking system as clean funds.

Stage 2 – The Layering Phase: Once the funds have initially been placed the next phase is the layering phase. The objective of the layering phase is to disguise the proceeds such that the original source and the current position of the funds are unclear. For instance, using the illegitimate funds to invest in something legitimate, so that the funds now appear to be 'clean".

Stage 3 – The Integration Phase: This is where the disguised criminal proceeds can be returned to and used by the money launderer and they will now appear to be legitimate funds. Money launderers will typically put the “cleaned” money into the normal economy to make it appear to have been legitimately earned. The objective now is to successfully integrate funds so that it becomes difficult for anyone to distinguish between legitimate (criminal proceeds) funds and they will then be free to use them for any purpose they require

Common methods of integration used by money launderers include the following

(i) The simplest method of integrating funds is to transfer money to a legitimate bank from a shell bank owned by the launderers.

(ii) Money launderers can send embellished invoices overvaluing goods or services which allow them to move funds from one country to another. The invoices act as verification for the origins of the funds placed with financial institutions.

(iii) Money launderers can establish anonymous companies in countries where the right to secrecy is guaranteed. They are then able to grant themselves loans out of the laundered money in the event of a future legal transaction. Furthermore, they may increase their profits, they will also claim tax relief on the loan repayments and charge themselves interest on the loan

(iv) Asset acquired can be sold either in an open market or as a private sale with funds being received ideally electronically into a legitimate bank account, perfectly laundered of course

1.4 TERRORIST FINANCING

Terrorist have traditionally relied on two sources of funding: state and private sponsors. State sponsorship is where a government provides logistical and financial support to terrorist organizations. A large percentage of terrorists during the 1970s and 1980s were backed by sympathetic governments and it was during this time that the US released its first state sponsors of terrorism list. The Secretary of State has the authority to declare a country a state sponsor of terrorism by virtue of the Foreign Assistance Act 19961 and the Export Administration Act

1979. Four countries were designated as state sponsors of terrorist: Sudan (12th August, 1993), Syria (29th December, 1979), Iran (19th January, 1984) and Cuba (1st March, 1982). Terrorist also get assistance from al-Qaeda.

Al-Qaeda's global funding network is built upon a foundation of charities, nongovernmental organizations, mosques, websites, intermediaries, facilitators, and banks and other financial institutions. Terrorists also use misapplied charitable donations and financing from legitimate operations, including membership fees, speaking tours, cultural and social events, appeals to wealthy members of the community and donations. Terrorists also acquire funding through criminal activities such as fraud, the sale of counterfeit goods and drug trafficking.

The Terrorism Act 2000 establishes a series of offences related to the involvement of persons or organizations in arrangements for facilitating, raising or using funds for terrorist purposes.

WHAT MIGHT HIGHLIGHT TERRORIST ACTIVITY

Money and laundering and terrorist financing are closely connected. Staff must be given guidance and examples of activities which suggest potential terrorist financing activity and might include the following: (i) purchase of military hardware or technology (ii) media reports on suspected, arrested terrorist or groups (iii) the use of wire transfers and the internet to move funds to from high risk countries and geographic locations (iv) frequent international ATM activity (v) the absence of any known (vi) frequent address changes etc

1.5 IMPORTANCE OF MONEY LAUNDERING

Strengthening the measures, reporting requirements and establishing limits to the amount of cash that can be used in certain transactions really helps mitigate the risk and exposure to money laundering. But it cannot be achieved without the co-operation of professionals such as accountants, lawyers, financial advisors and financial institutions among others. They must be aware, and be trained on, the regulations in force in order to comply and ensure that prevention measures are in place.

There is no doubt that money launderers will continue to develop new skills and techniques, improving their schemes and finding new ways to make money appear to be "clean". However, we cannot give up on our own development and must remain dedicated in order to stay up to date and combat money laundering. Money launderers many times deal on drugs and launder money, and the more drug dealing, the more money laundering. The more money laundering, the more drug dealing and so on and so on. With increased money laundering firms and organization will device training programmes such as high-tech e-training stuff to curb the activities of the launderers.

MODULE 2

1.6 MONEY LAUNDERING AND TERRORISG FINANCING - THE IMPACT ON BOTH DEVELOPED AND DEVELOPING COUNTRIES/DAMAGE TO CORPORATION

The impact of money laundering and terrorist activities on developing and developed countries can looked at from the perspective of profit and cost.

Profits

(i) The cost of money laundering is estimated at around 50% of the amount that is to be laundered (Unger, 2006). Operations may take time, as sometimes complex procedures are put in place and, at each stage of the money laundering process, there is a risk of detection. As soon as the money is successfully laundered, taxes need to be paid.

(ii) Money laundering is a necessary result of a number of crimes that provide advantages for their perpetrators and is an important driving force for the development of crime, not only nationally, but also internationally and even globally'. They are able to invest their illegally earned money in their enterprises, which results in an increased potential for gaining economic power and influence. This observation leads us to the assumption that gaining power in the illegal economy and transforming this power to enhance one's economic position in the legal economy (by making use of money laundering) could be a feature of a specific category of crime and criminals.

(iii) Perpetrators of power crime are offenders who posses and exorbitantly exceeding amount of material and symbolic resources when compared to those possessed by their victims. This power is transformed into “legal” power by converting the money from illegal into seemingly legal revenues. Criminal entrepreneurs are not only driven by an irrational impetus to achieve power, but also by the desire to display that power in the form of status. They will stand out and the desire to show strength is part of the incentive.

(iv) Persons who engage in money laundering do this to avoid punishment and to be able to benefit from their profits through investments and consumptions in the legal economy (Stessens, 2000; Levi and Reuter, 2006).

(v) Several authors warn of the stimulating effect that money laundering may have on crime: the rise in economic power makes crime more worthwhile (unger, 2006).

(vi) Central banks have taken steps to protect their economy. In their view, money laundering, apart from a profitable way to use illegal gained money in the legal economy **also has an impact on a broader macro level**. To be more specific, it disturbs the normal flow of money within the financial system. “The Unpredictable money flows entering the legal financial system as a result of money laundering, allegedly impact on the overall volume of money circulating within an economy”, (Barlett,2002).These monetary volume changes supposedly disrupt the economy and have influence on inflation, interest rates and exchange rates.

(vii) As a result of Money laundering banks become victimised which can also several disturbing impacts, ranging from reputational damage, loss of public confidence in banks, or material damage as a result of fraud **– Financial Interest**

Costs

(i) The war on Terror has increased budgets for security of nations in developing and developed countries (police army, navy) e.g Nigeria. President recently in 2014 sought approval to take One (1) billion (One billion) naira loan to fight terrorism in Nigeria.

(ii) Terrorism reduced investment in developing and developed nations. Investors are scared to invest/do business in Northern part of Nigeria.

(iii) Citizens cannot move freely where there is reign of terror. For instance, not every Nigeria can travel anyhow and to any part of Northern part of Nigeria. Terror has reduced the social activities in Nigeria especially (northern part) of the country.

(iv) According to the Federal Ministry of Education and the State governments, with the reign of terror in Nigeria, the number of enrollment in primary and secondary school has dropped in the northern part of Nigeria. This will further worsen the literacy level in Nigeria.

(v) Banks choose to intensify their checks and procedures, as any association with terrorism financing could have disastrous effects (Kochan,2006).The FATF (Financial Action Task Force) developed specific guidelines for financial institutions to enable them to detect terrorist funding and the emphasis has now shifted from drug-related crime to all serious forms of organized (international) crime (Gouvin,2003) and terrorism. The banking sector to protect itself from fraud and from being used as a mechanism for criminal purposes have instituted self-regulatory initiatives related to corporate governance and reputation protection were put in place **(Reputation interests)**

DAMAGE TO CORPORATIONS

Money laundering impedes legitimate corporations in their daily business. It results in unfair competition towards corporations (Ponsaers, 2009). For example, if organized crime groups are allowed to buy property with criminal money in order to launder the proceeds of their crime, this could result in **higher property prices and unbalance market**. The legal status of financial means makes it possible for launderers to act as investors and buyers on the formal market, which may enhance criminal activities. Bad money **would drive out the good money** (Coggan, 2002). Suendorf, who studied several cases of money laundering states that the profit motive is not the only reason for entrance into the legal economy. Illegal operations and the development of **professional forms of money laundering are made possible thanks to the availability of legal corporations, some of which can also guarantee high standards to launderers or even spurious forms of retirement funds**. By laundering criminal proceeds, launderers secure their illegal businesses on the one hand, and their personal future on the other. Money laundering therefore acts as an insurance policy. Criminals consolidate their place in illegality.

The business criminal and money laundering

By laundering illegal funds, criminal entrepreneurs become real players in the formal economy, which enhances their opportunities for cooperation and partnership in the world of legitimate business.

CASE STUDY/ILLUSTRATION

Bank of Credit and Commerce International (BCCI) caused up roar in the 1980s. In this case, the bank was actively involved in money laundering schemes. The BCCI admitted facilitating among other things money laundering, bribery and tax fraud, and was found guilty of several offences. The role of the BCCI bank was proactive: the financial institution assisted the disguising of criminal revenues, enabling criminals' clients to accumulate economic power, and reinforcing its own power in the process. The more powerful the actors who employ the services of international financial institutions, the greater is the institutions' ability to court attention, purchase influence and outspend control agencies (Passas and Groskin, 2001)

1.7 HISTORY OF THE FIGHT AGAINST MONEY LAUNDERING AND US PATRIOT ACT

The historical development of money laundering is largely contained in the myth that the term was first reported by Al Capone. In its early origins, organized criminals laundered their proceeds of crime through cash intensive businesses such as casinos. By 1950s it was already a complicated and cleverly planned system of financial management. Money laundering was criminalized in both the United States of America (US) and the United Kingdom (UK) in 1986 by virtue of the Money Laundering Control Act (MLCA) and the Drug Trafficking Offences Act (DTOA).Money laundering has since received worldwide regulatory attention as a result of the US –led war on drugs and the establishment of the Financial Action task Force (FATF).

The US Patriot Act adds to the existing US legislation on anti-money laundering by extending the **Bank Secrecy Act (BSA)** across the entire financial services industry. However different institutions will find that the Act impacts them in different ways since there are additional criteria that relate to the size and complexity of an institution and the nature of their operation.

The Bank secrecy Act is a tool the US government uses to fight drug trafficking, money laundering and other crimes. Congress enacted the BSA to prevent banks and other financial service providers from being used as intermediaries for, or to hide the transfer or deposit of money derived from, criminal activity. More than 170 crimes are listed in the federal money laundering statutes. They range from drug trafficking, gunning, murder for hire, fraud, acts of terrorism etc.

1.8 WHAT RECORDS MUST HAVE TO BE KEPT

The Exact details of which records must be kept will vary between jurisdictions. The general objective of such rules is to ensure that the firm is able to provide details of the audit trail in the event that the firm's customer is investigated. The types of records maintained usually include the following.

(i) **Customer information –** The firm is to keep a copy of references and other evidence of a customer's identity, which has been obtained during the process of customer due diligence. Due diligence is identifying that the customer or associate is an appropriate person for the company to do business with. The financial institution will be required to undertake monitoring of the customer to see that the activities undertaken appear to be consistent with their understanding of the customer.

Copies of identification certificates should also be kept. There will be requirements as to the period for which customer identification information must be kept, **with a period of up to five years after the relationship with the customer has ended being frequently used.** The end of the relationship is, in the case of an occasional transaction, the date which is the last in a series of transactions. In the case of a longer term business relationship ending, the termination date is the date when the account was closed

(ii) **Transactions records** – Regulations normally require that transactions which are carried out throughout the duration of the business relationship be kept as part of the firm's record. Records of transaction can be in numerous forms such as credit and debit slips, cheques and correspondence. Firms need to ensure that they are maintained in a form where a satisfactory audit trail may be compiled and a financial profile established for any suspect account or customer.

The length of time for which such records will need to be maintained will be specified in local regulations, with a period of up to five years from the date on which the transaction is completed being quite normal. However if the transaction relates to an asset where a claim against the firm could exist for a period in excess of five years then it may well be appropriate for the firm to implement a longer retention period than that which is specifically required by money laundering deterrence regulations to adequately protect the firm.

(iii) **Internal and external suspicion –** it is normally a requirement that firms must make and retain records of all actions taken under the internal and external reporting requirements. Firms should keep records of when the nominated officer has considered information or other material concerning possible money laundering, but has not made a report to the relevant authority. Obviously copies of any suspicion activity reports actually made should also be retained. Again local regulations will specify the retention period, **but generally all external and internal reports should be retained for a period of up to five years from the date when the report was made.** It may also prove useful to a firm to retain records of the following:

(a) Procedures undertaken prior to hiring staff to ensure that they are fit and proper.
(b) Details of staff that have received anti-money laundering induction training on joining the firm
(c) Dates of when anti-money laundering training was given
(d) The nature of training
(e) The names of staff who received the training

(f) The results of any tests undertaken by staff to show that they are really understood the training

(g) Reports made by the Money laundering reporting officer (MLRO) to senior management

(h) Records of consideration of those reports and of any action taken as a consequence

(i) Internal audit reports relating to money laundering deterrence policies, processes and procedures.

(iv) **Investigation records –** Records requested by relevant law enforcement agencies and are being used as part of ongoing investigations, the records should be retained until the firm is informed by the relevant authority that the case has been closed. **However, if a firm has not been advised of an ongoing investigation within five years** of a disclosure having been made, the records may generally be destroyed in compliance with the normal record-keeping procedure, although the rules of the local jurisdiction could vary this requirement.

(v) **Money laundering Reporting Officer (MLRO) annual reports –** Such an annual report aims to focus on specific outcomes rather that to just provide a list of various statistics. It should generally conclude on the effectiveness of the firm's money laundering and terrorist financing deterrence systems and make recommendation for improvements. Another benefit of producing such a report is that it is a helpful tool which enables the MLRO to document key money laundering and terrorist financing deterrence policies and procedures, identifying key issues of relevance to senior management. Recommendations made by the MLRO should then be considered by the firm's senior management. It is the role of the senior management to assess whether internal reports are being made when required and to consider whether figures revealed in the report could in fact conceal inadequate reporting. The senior management will need to take any necessary action to remedy any deficiencies identified by the report.

(vi) **Information not acted on –** In circumstances where neither the identity of the fraudster, nor the location of the criminal property is known or likely to be discovered, there will generally not be an obligation to report since there is limited usable information available for disclosure. For example, when a person loses a cheque book or debit card, this can lead to multiple low value fraudulent transactions over a period of time of relatively little importance to the reporting agency. There will be no obligation to make a report, where none of the following are known or suspected:

- The identity of the person who is engaged in money laundering
- The whereabouts of any of the laundered property,
- Any of the information that is available would assist in identifying that person, or the whereabouts of the laundered property.

(vii) **Action taken resulting from agency requests –** The regulations in each country will specify the sanctions or penalties for failing to comply with a reporting regime. Normally where an officer fails to make disclosures to the relevant agency as soon as is practical, firms, employees and officers as appropriate will be subject to criminal prosecution.

(viii) **Training and compliance monitoring –** Knowledge by staff of the key regulatory requirements that exist within their jurisdiction, together with what constitutes money laundering and terrorist financing, is absolutely critical. Maintaining adequate staff awareness and appropriate relevant training is an important element in any bank achieving its overall objective of combating money laundering. One of the most important controls over the prevention and detection of money laundering is to have staffs that are alert to the risk of money laundering and terrorist financing and well trained in the identification of unusual or suspicious activities.

(ix) **Information about the effectiveness of training –** Training must be provided to all of a firm’s employees. This training should explain to employees how the products and services offered by the firm may be used as a vehicle for money laundering or terrorist financing. This is because unless the training appears to be applicable to the nature of the business being conducted there will be little obvious relevance to the day-to-day work of the employees. The training should also explain the firm's procedures and the methods it uses to manage these risks. The legal liabilities both to the firm and to its employees will need to be explained to highlight how important this training is. Employees should be informed how the firm itself may be at risk of prosecution if suspicious transactions are proceeded with in the absence of consent from the relevant authorities.

1.9 WHAT IS A SUSPICIOUS TRANSACTION?

The following are examples of potentially suspicious activities that might raise initial concerns. They would therefore indicate that the transactions are worthy of further investigation to determine whether the transaction or activities reflect illicit activities rather than legitimate business activities. An individual must actually know that a person was engaged in money laundering or terrorist financing activity. Knowledge of a transaction should be inferred from surrounding circumstances. Knowledge must come to the firm in the course of business or as a consequence of making a relevant disclosure to the appropriate agency.

Surveillance of Suspicious Transactions

Suspicious transactions of a frequent, unjustifiable or unreasonable nature, surrounded with unusual and unjustifiable complexity, and that appears to have no economic justification or lawful objective, and that may involve financing or are inconsistent with the known pattern of the account or business relationship with a customer are required to be reported to Economic and Financial Crimes Commission (EFCC) within seven days of such transaction.

It is the responsibility of financial institutions and designated non-financial institutions to take all appropriate action to prevent the laundering of the proceeds of a crime or any illegal activity.The Economic and Financial Crimes Commission with the Central Bank of Nigeria are authorized to, whenever they receive a report such as the one mentioned above, among other things, place a stop order not exceeding 72 hours on the account or transaction if it is suspected that such account is involved in the commission of a crime. This period could be extended where an application is made to the Federal High Court for such an extension.

The Federal High Court also has power to order that the funds and the accounts or securities referred to in the financial or designated non-financial Institution's report should be block forth.

Any institution that fails to comply with the above provisions commits an offence and is liable on conviction to a fine of N1,000,000 (One Million Naira) for each day during which the offence continues to be committed.

MODULE 3

1.10 HOW TO IDENTIFY SUSPICIOUS TRANSACTIONS

(a) A customer opens a greater number of different accounts than would be expected for the type of business they are purportedly conducting.

(b) A customer's corporate account(s) has deposits or withdrawals primarily in cash rather than cheques or other types of transfer.

(c) Any unusual pattern of cash transactions will alert the bank to potential concerns. If the customer engages in unusual activity in cash purchases of traveller's cheques, cashier's cheques, money orders etc then this is likely to be an area requiring investigation.

(d) Activity that is inconsistent with the bank's understanding of the customer will always be a cause for concern. For example if a customer deposits a large volume of cashier's cheques, money orders, and /wire transfers into an account when the nature of the account holder's business would not appear to justify such activity, then further reviews would be required

(e) Where a customer frequently makes large dollar transactions (such as deposits, withdrawals or purchases of monetary instruments) without an explanation as to how they will be used in the business, or purchases allegedly are for a business that generally does not deal in large amounts of cash, then investigation will be required.

(f) If there is a business account history that shows little or no regular, periodic activity, or the account appears to be used primarily as a temporary repository for funds that are transferred abroad then this will be considered as high risk. For example, if the account has numerous deposits of cash which are then followed by a single lump-sum wire transfer overseas then this could be disguising drug trafficking.

(g) If a customer's place of business or residence is outside the financial institution's normal service area then this is likely to raise concerns and require enhanced due diligence to be conducted.

(h) A corporate customer that frequently makes large cash deposits and maintains high balances but does not use other banking services would alert the firm to the need to do additional investigation.

(i) A retail business that routinely makes numerous deposits of cheques, but rarely makes cash withdrawals for daily operations would appear to be unusual activity.

(j) In terms of layering of money laundering this may arise from an international transfer in an unusual currency. Generally if the currency transaction patterns of a business experience a sudden and inconsistent change from normal activities it would be expected that this would be identified by the firm and reviews conducted.

(k) If the amount and frequency of cash deposits are inconsistent with that observed at the customer's place of business then this might alert the firm to some concern. Similarly if the business frequently deposits large amounts of cash but cheques or other debits drawn against the account are inconsistent with the customer' s retail business then this should be checked out.

(l) Transactions which do not appear to have a commercial basis will be a cause for concern. For example, unusual transfers of funds among related accounts or accounts that involve the same principal or related principals should be investigated.

(m) If a business owner, such as an owner who has only one store, makes several deposits the same day using different bank branches then this will be highly unusual. However if the same customer uses accounts at a number of different banks then they would be unlikely to be identified.

(n) A professional service provider, such as a lawyer, accountant or broker, who makes substantial deposits of cash into client accounts or in-house company accounts, such as trust accounts and escrow accounts.

(o) A large loan is suddenly paid down with no reasonable explanation of the source of funds.

(p) Mailing address outside the normal jurisdiction or business area of the institution.

1.11 INTERNAL REPORTING SYSTEM

All relevant employees of a regulated firm are obliged to report to the nominated officer when they have grounds for knowledge or suspicion of money laundering. Therefore, this must be made clear to all employees so that they know who they should report to and the impact on their firm's liabilities of failing to do so. **Firms may suggest that employees should consult with line managers before sending reports to the nominated officer, but this can be done if the employee believes that the line manager is not personally involved with the potential inappropriate activity.**

Firms must ensure that internal procedures do not prevent or delay reports from reaching nominated officers. Firms will need to have procedures agreed with their relevant agencies as to what would constitute an appropriate maximum time for investigation prior too reporting to the relevant agency.

1.12 WHAT MUST BE REPORTED TO THE AUTHORITIES

The Money Laundering (Prohibition) Act, 2011 has repealed the Money Laundering (Prohibition) Act, 2004 by providing for, among other things, that no person or body corporate shall, except in a transaction executed through a licensed financial institution, make or accept cash payments of a sum exceeding N5,000,000 (Five Million Naira) or its equivalent in the case of an individual, or N10,000,000 (Ten Million Naira) or its equivalent in the case of a body corporate.

Any Financial Institution or Designated – Financial Institution that fails to comply with the above provision by making the appropriate compliance report to the regulatory authorities commits an offence and is liable on conviction to a fine of not less than N250,000 (Two hundred and Fifty Thousand Naira) for an individual and not more than N1,000,000 (One Million Naira) for a body, corporate, for each day that the contravention continues unabated.

Foreign Exchange Transfers

Also, **any transfer to or from a foreign country of funds or securities in excess of US$10,000** (Ten Thousand United States Dollars) or its equivalent must be reported to the Central Bank of Nigeria (CBN), the Securities & Exchange Commission (SEC) and the Economic & Financial Crimes Commission (EFCC) **within seven days** from the date of the transfer transaction in question. The Report must indicate the names and addresses of the Sender, and of the Receiver of the funds or securities.

Customs Declaration

Any transportation of cash or of nay negotiable instrument in excess of US$10,000 or its equivalent by individuals in or out of Nigeria must be declared to the Nigeria Custom Service who in turn is obliged to report such declarations to the CBN and the EFCC.

Any person who falsely declares or fails to make a declaration to the Nigeria Custom Service in pursuance of Section 12 of the foreign Exchange (Monitoring and Miscellaneous) Act commits an offence and is liable on conviction to forfeit not less than 25% of the undeclared funds or negotiable instrument, or to a term of imprisonment of not less than two (2) years, or to both the term of imprisonment and the forfeiture of the undeclared amount.

Know Your Customers (KYC)

All financial institutions Nigeria with all designated non-financial institutions like Jewelers, Car and Luxury goods distributors, Chartered Accountants, Audit Firms, Tax Practitioners, Casinos, Clearing and Settlement agents, Legal Practitioners, Supermarkets, etc are required to verify the identity of their customers and update all relevant information on the customers regularly.

Financial Institutions and designated non-financial institutions are also obligated to scrutinize all on-going transactions that they undertake on behalf of their customers by ensuring that their customers' transactions are consistent with the business and risk profile of the customers.

Where the customer is a public officer entrusted with performing a prominent public function, both within and outside Nigeria, the financial institution shall put in place for such a customer, an appropriate risk management system in addition to obtaining senior management approval to maintaining any business relationship with the public officer.

Declaration of Nature of Business – DNF

A designated non-financial institution whose business involves the one of cash transactions shall before commencing business **submit to the Federal Ministry of Commerce a declaration of the nature of its business along with subsequently submitting a returns register of all its cash transactions** above the limited set out in the Money Laundering (Prohibition) Act, 2011

Also, prior to any transaction **involving a sum of US$1,000** or its equivalent, the designated non-financial institution must identify the customer by requiring him to fill a standard data form and have the customer submit copies of his or her international passport, driving license, national identity card or such other document bearing his or her photograph and or as may be prescribed by the Federal Ministry of Commerce.

A designated non-financial institution that fails to comply with the collation of data on its customers, the process that is more commonly referred to as KYC, and submit the returns requirements as above stated within seven days from the date of each relevant transaction, commits an offence and is liable on conviction to a fine of N250,000 (Two Hundred and Fifty Thousand Naira) for each day during which the offence continues unabated.

In addition to the above –mentioned penalty, the offending party could also suffer a suspension or a revocation or a withdrawal of his or her or its operating license by the appropriate licensing authority, and as the circumstances of the offence may demand.

1.13 HOW WE SHOULD REPORT

Reports of suspicious transactions made to the nominated officer should be appropriately documented, with a combination of physical and electronic recording normally being requested. What needs to be included in a report made by an employee to a reporting officer is normally specified in the relevant firm's rules and regulations. **The MLRO would want such reports to include full details of the transaction or relationship which gives rise to the knowledge or suspicion together with details of the customer who is the subject of the report**. Without this information the MLRO would be unable to identify whether a suspicion actually exists and therefore they would only then be required to request such information from the relevant employee.

It is also best practice for all subsequent transactions or activity concerning a customer that is the subject of a report to be reported to the MLRO as they arise, until a report is received from the responsible agency that the customer is no longer under any form of suspicion

1.14 RECORDS NEEDED IN MONEY LAUNDERING

In terms of record keeping, the requirements are as follows:

(a) Customer due diligence – a copy of references and other evidence of a customer's identity, which has been obtained during the process of customer due diligence. Copies of identification certificates should also generally be kept. Customer identification information must be kept for up to five years after the business relationship with their customer has ended.

(b) Business relationships and transactions – the supporting evidence and records, consisting of the original documents or copies admissible in court proceedings under the applicable national legislation for a period of at least five years following the carrying out of the transactions or the end of the business relationship.

1.15 IN WHAT FORM SHOULD RECORDS BE KEPT

Firms will retain reports with a view to reducing the volume and density of records, whilst still complying with statutory records retention rules. The extent to which this is permitted within a particular jurisdiction will vary, with some jurisdiction requiring that only and all original documents should be retained. The following are the options that may be considered in terms of recording information:

- by way of original documentation;
- by way of photocopies of original documents;
- On microfiche;
- In scanned form;
- In computerized or electric form.

It is important to recognize that the record retention periods and rules are normally unaffected by the format in which the records are kept. Aside from money laundering obligations, records should be accessible and readily retrievable when rationalising computer systems and physical storage arrangements for firms involved in mergers and takeovers. There are generally no locations specified by regulations as to where records should be kept, simply a requirement that they should be retrievable without undue delay. Firms have a responsibility to ensure that the records held outside their country also meet the same record-keeping requirement. **No secrecy or data protection legislation should be allowed to restrict access to records either by the firm and its officers, or by the home country law enforcement agencies under court order or relevant mutual assistance procedure**. If such restrictions do exist, copies of the underlying records of identity should be sought where possible, and retained in the home country.

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