

MONEY LAUNDERING (PREVENTION AND PROHIBITION) BILL, 2016

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A BILL [EXECUTIVE]

FOR

AN ACT TO REPEAL THE MONEY LAUNDERING (PROHIBITION) ACT, 2011 (AS AMENDED) AND ENACT THE MONEY LAUNDERING (PREVENTION AND PROHIBITION) ACT TO PROVIDE FOR MEASURES FOR THE PREVENTION AND PROHIBITION OF MONEY LAUNDERING IN NIGERIA AND FOR OTHER RELATED MATTERS

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 PART I - OBJECTIVE

2 1. The objective of this Act is to provide for an effective and Objective
3 comprehensive legal and institutional framework for the prevention,
4 prohibition, detection, prosecution and punishment of money laundering
5 and other related offences in Nigeria.

6 PART II - OFFENCES

7 2.-(1) Money laundering is prohibited in Nigeria. Money laundering
8 (2) A person who knows, ought reasonably to have known or offences

9 suspects that property has a criminal origin, commits an offence if he
10 conceals, disguises converts, transfers or removes the property from
11 Nigeria.

12 (3) A person does not commit an offence under subsection (2) of
13 this section if:

14 (a) he makes a report under section 12 of this 'Act and, 'if the report
15 is made before he does any act referred to in subsection (2) of this section; he
16 has the appropriate consent;

17 (b) he intended to make a report referred to in paragraph (a) of this
18 section but had a justifiable reason for not doing so; or

19 (c) the act he does is done in carrying out a function he has relating

1 to the enforcement of any provision of this Act or of any other enactment
2 relating to any criminal enterprise or benefit from any unlawful act.

3 (4) To conceal or disguise criminal property includes concealing or
4 disguising its nature, source, location, disposition, movement or ownership or
5 any rights with respect to it.

Being concerned
in an arrangement
etc.

6 3.-(1) A person commits an offence if he enters into or becomes
7 concerned in an arrangement which he knows, ought reasonably to have
8 known, or suspects, facilitates by whatever means, the acquisition, retention,
9 use or control of property that has a criminal origin by or on behalf of another
10 person.

11 (2) A person does not commit an offence under subsection (1) of this
12 section if:

13 (a) he makes a report under section 12 of this Act and, if the report is
14 made before he does any act referred to in subsection (1) of this section, he has
15 the appropriate consent;

16 (b) he intended to make a report referred to in paragraph (a) of this
17 subsection but had a justifiable reason for not doing so; or

18 (c) the act he does is done in carrying out a function he has relating to
19 the enforcement of any provision of this Act or of any other enactment relating
20 to any criminal enterprise or benefit from any unlawful act.

Acquisition, use
and possession

21 4.-(1) A person who knows, ought reasonably to have known, or
22 suspects that property has a criminal origin, commits an offence if he:

23 (a) acquires the property;

24 (b) uses the property; or

25 (c) has possession of the property.

26 (2) A person does not commit an offence under subsection (1) of this
27 section if:

28 (a) he makes a report under section 12 of this Act and, if the report is
29 made before he does any act referred to in subsection (1) of this section, he has
30 the appropriate consent;

1 (b) he intended to make a report referred to, in paragraph (a) of this
2 subsection but had a justifiable reason for not doing so;

3 (c) he acquired, used or had possession of the property for adequate
4 consideration; or

5 (d) the act he does is done in carrying out a function he has relating
6 to the enforcement of any provision of this Act or of any other enactment
7 relating to any criminal enterprise or benefit from any unlawful act.

8 (3) For the purpose of this section:

9 (a) a person acquires property for inadequate consideration if the
10 value of the consideration is significantly less than the value of the property;

11 (b) a person uses or has possession of property for inadequate
12 consideration if the value of the consideration is significantly less than the
13 value of the use or possession; and

14 (c) the provision by a person of goods or services which he knows
15 or suspects may help another to carry out any unlawful act is not a
16 consideration.

17 (4) For the purpose of subsection (1)(c) of this section, a person has
18 possession of any property if he does an act in relation to the property.

19 **5.-(1)** A person commits an offence if:

20 (a) he knows, or ought reasonably to have known or suspects that
21 another person is engaged in money laundering;

22 (b) the information or other matter on which his knowledge or
23 suspicion is based came to him in the course of a business, trade or
24 profession; and

25 (c) he does not make the required report specified in subsection (2)
26 of this section as soon as is practicable after the information or other matter
27 comes to him.

28 (2) The required report referred to in subsection (1) of this section
29 is a report of the information or other matter:

30 (a) to a designated officer; or

Failure to report
knowledge or
suspicion of money
laundering

1 (b) to a person referred to in section 9(1)(b) of this Act; and

2 (c) in the form and manner, if any, prescribed for the purposes of this
3 subsection by regulations; made under section 13 of this Act.

4 (3) A person does not commit an offence under this section if:

5 (a) he has a justifiable reason for not disclosing the information or
6 other matter;

7 (b) he has a justifiable reason for not making the required report as
8 soon as practicable as mentioned in subsection (1)(c) of this section;

9 (c) he is a private legal practitioner and the information or other
10 matter came to him in privileged circumstances in connection with legal
11 proceedings; or

12 (d) subsection (4) of this section applies to him,

13 (4) Subsection (3)(c) of this section applies to a person if:

14 (a) he does not know, ought reasonably to have known or suspect that
15 another person is engaged in money laundering; and

16 (b) he has not been provided by his employer with the training
17 referred to in section 28 of this Act for the purposes of this section.

18 (5) In deciding whether a person committed an offence under this
19 section, the court shall consider whether he followed any relevant guidelines
20 which were at the relevant time:

21 (a) issued by a supervisory authority or any other appropriate body;

22 (b) approved by the Attorney-General of the Federation; and

23 (c) published in a manner approved by the Attorney-General as
24 appropriate in his opinion to bring the guidelines to the attention of persons
25 likely to be affected by it.

26 (6) A report to a designated officer is a report, which is made:

27 (a) to a person designated by the alleged offender's employer to
28 receive reports under this section; and

29 (b) in the course of the alleged offender's employment in accordance
30 with the procedure established by the employer for the purpose.

1 (7) Information or other matter comes to a private legal practitioner
2 in privileged circumstances in connection with legal proceedings if it is
3 communicated or given to him by:

4 (a) a client or the representative of a client, in connection with the
5 giving by the private legal practitioner of legal advice; or

6 (b) a person in connection with legal proceedings or contemplated
7 legal proceedings.

8 6.-(1) A person designated to receive reports under section 5 of this
9 Act commits an offence if the conditions set out in subsection (2) of this
10 section are satisfied.

Failure to report
by designated
officers

11 (2) The conditions to be satisfied under subsection (1) of this
12 section are that:

13 (a) the person knows or suspects or has reasonable grounds for
14 knowing or suspecting that another person is engaged in money laundering;

15 (b) the information or other matter:

16 (i) on which his knowledge or suspicion is based; or

17 (ii) which gives reasonable grounds for such knowledge or
18 suspicion, came to the person in consequence of a report made under section
19 5 of this Act; and

20 (c) the person does not make the required report specified in
21 subsection (3) of this section as soon as it is practicable after the information
22 or other matter comes to him.

23 (3) The required report referred to subsection (2) of this section is a
24 report of the information or other matter:

25 (a) to a person mentioned in section 9(1)(b) of this Act; and

26 (b) in the form and manner, if any, prescribed for the purposes of
27 this section by regulations made under section 13 of this Act.

28 (4) A person does not commit an offence under this section if he has
29 a justifiable reason for not reporting the information or other matter.

30 (5) in deciding whether a person committed an offence under this

1 section, the court shall consider whether he followed any relevant guidelines
2 which was at the relevant time:

- 3 (a) issued by a supervisory authority or any other appropriate body;
4 (b) approved by the Attorney-General; and
5 (c) published in a manner approved by the Attorney-General as
6 appropriate in his opinion to bring the guidelines to the attention of persons
7 likely to be affected by it.

8 (6) Section 33 of this Act has effect for the purpose of determining
9 what a supervisory authority is.

10 (7) In this section, an "appropriate body" is a body that regulates or is
11 representative of a trade, profession, business or employment.

Tipping off

12 7.-(1) A person commits an offence if:

- 13 (a) he knows or suspects that a report falling within section 10 or 11 of
14 this Act has been made or is about to be made; and
15 (b) he makes an unauthorised disclosure which is likely to prejudice
16 any investigation which might be conducted following the report referred to in
17 paragraph (a) of this subsection.

18 (2) A person does not commit an offence under subsection (1) of this
19 section if:

- 20 (a) he did not know or suspect that the disclosure was likely to
21 prejudice an investigation as specified in subsection (1) of this section;
22 (b) the disclosure is made in the course of carrying out his duties in
23 relation to the enforcement of any provision of this Act or of any other
24 enactment relating to criminal conduct or activity or benefit from criminal
25 conduct or activity; or

26 (c) he is a private legal practitioner and the report falls within
27 subsection (3) of this section.

28 (3) A disclosure for the purpose of subsection (2)(c) of this section is a
29 disclosure to:

- 30 (a) a customer or the representative of the customer, in connection

1 with the giving by the private legal practitioner of legal advice; or

2 (b) a person in connection with legal proceedings or contemplated
3 legal proceedings.

4 (4) A disclosure does not fall within subsection (3) of this section if
5 it is made with the intention of furthering a criminal purpose.

6 **8. -**(1) A person found guilty of an offence under section 2, 3 or 4 of Penalties
7 this Act is liable on conviction, in the case of:

8 (a) an individual, to imprisonment for a term of not less than seven
9 years without the option of a fine;

10 (b) a financial institution, to a fine of not less than twenty-five
11 million Naira; and

12 (c) a designated non-financial business and profession, to a fine of
13 not less than ten million Naira.

14 (2) A person found guilty of an offence under:

15 (a) sections 5 or 6 of this Act is liable on conviction to
16 imprisonment for a term of not less than three years without the option of a
17 fine; and

18 (b) section 7 of this Act is liable on conviction to imprisonment for
19 a term of not less than five years without the option of a fine.

20 **9. -**(1) The appropriate consent is the consent of:

21 (a) a designated officer to do a prohibited act if a report of the type
22 referred to in section 11 or 12 of this Act is made to the designated officer; or

23 (b) a person authorised for the purposes of this Part by the Director-
24 General of the Nigeria Financial Intelligence Centre (in this Act referred to
25 as "the Centre"),

26 (2) A person shall be treated as having the appropriate consent if:

27 (a) he makes a report to a person referred to in subsection(1)(b) of
28 this section; and

29 (b) either of the conditions set out in subsection (3) of this section is
30 satisfied.

Appropriate
consent

1 (3) The conditions to be satisfied under subsection(2) of this section
2 are that, before the end of the notice period, 'the person:

3 (a) does not receive notice from a person referred to in subsection
4 (1)(b) of this section that consent to the doing of the act is refused; or

5 (b) receives notice from a 'person referred to in subsection(1)(b) of
6 this section that consent to the doing of the act is refused, and the deferral
7 period referred to in subsection (5) of this section has expired.

8 (4) The notice period is the period of seven working days starting with
9 the first working day after the person makes the report,

10 (5) The deferral period is the period of twenty-eight working days
11 starting with the day on which the person receives notice that consent to the
12 doing of the act is refused.

13 (6) A reference to a prohibited act is to an act referred to in section
14 2(2), 3(1) or 4(1) of this Act, as the case may be,

15 (7) A designated officer is a person designated to receive reports
16 under section 12 or 13 of this Act.

17 (8) Subsections (1) to (4) of this section apply only for the purposes of
18 this Part,

Consent by a
designated officer

19 **10.-(1)** A designated officer shall not give the appropriate consent
20 under section 9 of this Act to the doing of a prohibited act unless he makes a
21 report to a person referred to in section 9(1)(b) of this Act that property is
22 property of a criminal origin, and:

23 (a) the person gives consent to the doing of the act;

24 (b) before the end of the notice period, he:

25 (i) does not receive notice from the person that consent to the doing of
26 the act is refused, or

27 (ii) receives notice from the person that consent to the doing of the act
28 is refused, and the deferral period has expired.

29 (2) A designated officer commits an offence if he:

30 (a) gives consent to a prohibited act in circumstances where none of

1 the provisions of subsection (1)(a) or (b) of this section is satisfied; and

2 (b) knows or suspects that the act is a prohibited act.

3 (3) A designated officer found guilty of an offence under
4 subsection (2) of this section is liable on conviction to imprisonment for a
5 term of not less than twelve months or to a fine of not less than one million
6 Naira or to both,

7 (4) The notice period is the period of seven working days starting
8 with the first working day after the designated officer makes the report,

9 (5) The deferral period is the period of twenty-eight working days
10 starting with the day on which the designated officer is given notice that
11 consent to the doing of the act is refused

12 (6) A reference to a prohibited act is to an act referred to in section
13 2(2), 3(1) or 4(1) of this Act, as the case may be,

14 (7) A designated officer is a person designated to receive reports
15 under section 11 or 12 of this Act.

16 **11.-(1)** A report that satisfies the conditions set out in sub-
17 section (2) of this section does not constitute a breach of any restriction on
18 the disclosure of information, however, imposed,

Reports on
knowledge or
suspicion of money
laundering

19 (2) The conditions to be satisfied in subsection (1) of this section
20 are that:

21 (a) the information or other matter disclosed came to the person
22 making the disclosure ("the discloser") in the course of his trade, profession,
23 business or employment;

24 (b) the information or other matter:

25 (i) causes the discloser to know or suspect, or

26 (ii) gives the discloser reasonable grounds for knowing or
27 suspecting, that another person is engaged in money laundering; and

28 (c) the report is made to a person mentioned in section 9(1)(b) of
29 this Act or to a designated officer as soon as is practicable after the
30 information or other matter comes to the person making the report (in this

1 Act referred to as 'the reporter').

2 (3) A report to a designated officer is a report, which is made:

3 (a) in the course of the reporter's employment;

4 (b) to a person designated by the reporter's employer to receive
5 reports under this section; and

6 (c) in accordance with the procedure established by the employer for
7 the purpose,

Reports on
property of a
criminal origin

8 **12.-(1)** For the purposes of this Part, a report is a "property of criminal
9 origin report" if:

10 (a) it is a report, to a person referred to in section 9(1)(b) of this Act or
11 to a designated officer by the person at risk of prosecution, that the property is,
12 or is suspected to be property of a criminal origin;

13 (b) it is made in the form and manner, if any, prescribed for the
14 purpose of this section by regulations made under section 13 of this Act; and

15 (c) the conditions set out in subsection (2) of this section are satisfied.

16 (2) The conditions to be satisfied under subsection (1)(c) of this
17 section are that:

18 (a) the report referred to in subsection (1) of this section is made
19 before the person at risk of prosecution does the prohibited act;

20 (b) the report is made after the person at risk of prosecution does the
21 prohibited act;

22 (c) there is a justifiable reason for his failure to make the report before
23 he did the act; and

24 (d) the report is made on his own initiative and as soon as it is
25 practicable for him to make it.

26 (3) A property of criminal origin report does not constitute a breach of
27 any restriction on the disclosure of information, however imposed.

28 (4) A report to a designated officer is a report that is made:

29 (a) in the course of the reporter's employment;

30 (b) to a person designated by the reporter's employer to receive

1 reports under this section; and

2 (c) in accordance with the procedure established by the employer
3 for the purpose.

4 (5) A reference to a prohibited act is to an act referred to in sections
5 2(2),3(1) or 4(1) of this Act, as the case may be,

6 13.-(1) The Attorney-General may by regulations prescribe the
7 form and manner in which a report referred to in section 5, 6, 11 or 12 shall
8 be made,

Form and manner
of reports

9 (2) Regulations under this section may also provide that the form
10 may include a request to the reporter to provide additional information
11 specified in the form,

12 (3)* The additional information shall be information that is
13 necessary to enable the person to whom the report is made to decide whether
14 a money laundering intelligence enquiry or investigation should be
15 commenced,

16 (4) A report made in pursuance of a request under subsection (2) of
17 this section does not constitute a breach of any restriction on the disclosure
18 of information however imposed,

19 (5) The reporter is the person making a report, referred to in
20 subsection (1) of this section, whether or not he is the person who made the
21 initial report or the designated officer who forwarded that report to the
22 Centre,

23 (6) A money laundering investigation is an investigation into
24 whether a person has committed an offence under this Act,

25 (7) A money laundering intelligence enquiry is an enquiry,
26 conducted by the Centre as to whether there is sufficient credible
27 intelligence to conduct a money laundering investigation,

28 (8) Additional information referred to in subsection (2) of this
29 section shall be provided to the Centre without delay,

30 ⁴(9) Subsection (2) of this section does not apply to a report made to

1 a designated officer,

Protection of
persons making
reports

2 **14.**-(1) No action, whether criminal or civil, lies against a financial
3 institution, designated non-financial business and profession, supervisory
4 body, the Federal Inland Revenue Service or any other person complying in
5 good faith with a provision of this Part, including any director, employee or
6 other person acting on behalf of the financial institution, designated non-
7 financial business and profession, supervisory body, the Federal Inland
8 Revenue Service or any other person.

9 (2) A person who has made, initiated or contributed to a report under
10 sections 11, 12, 16, 17 or 18 of this Act or who has furnished additional
11 information concerning a report or the grounds for a report under any provision
12 of this Part is competent, but not compellable, to give evidence in criminal
13 proceedings arising from the report.

14 (3) No evidence concerning the identity of a person who has:

15 (a) made, initiated or contributed to a report under section 11, 12, 16,
16 17 or 18 of this Act; or

17 (b) furnished additional information concerning a report or the
18 grounds for a report under a provision of this Part, or the contents or nature of
19 additional information or grounds, is admissible as evidence in criminal
20 proceedings unless that person testifies at those proceedings.

Interpretation of
terms applicable
under this Part

21 **15.**-(1) This section applies for the purposes of this Part.

22 (2) Property has a criminal origin if it:

23 (a) constitutes in a person's benefit, in whole or in part, directly or
24 indirectly, from an unlawful act in any part of the Nigeria or where the unlawful
25 act occurs outside Nigeria, would be unlawful act if it occurred in Nigeria; and

26 (b) the alleged offender knows or suspects that it constitutes or
27 represents such a benefit.

28 (3) "Unlawful act" includes participation in an organised criminal
29 group, racketeering, terrorism, terrorist financing, trafficking in persons,
30 smuggling of migrants, sexual exploitation, sexual exploitation of children,

1 illicit trafficking in narcotic drugs and psychotropic substances, illicit arms
2 trafficking, illicit trafficking in stolen goods, corruption, bribery, fraud,
3 currency counterfeiting, counterfeiting and piracy of products,
4 environmental crimes, murder, grievous bodily injury, kidnapping, hostage
5 taking, robbery or theft, smuggling (including, in relation to customs" and
6 excise, duties and taxes), tax crimes (related to direct taxes and indirect
7 taxes), extortion, forgery, piracy, insider trading and market manipulation,
8 proliferation of weapons of mass destruction and any other criminal act.

9 (4) It is immaterial:

10 (a) who carried out the act;

11 (b) who benefitted from the act; or

12 (c) whether the act occurred before or after the passing of this Act. **6**

13 (5) Subject to section 54 of this Act, a person benefits from an act if
14 he obtains property as a result of or in connection with the act.

15 (6) If a person obtains a pecuniary advantage as a result of or in
16 connection with an act, he is deemed to have obtained, as a result of
17 connection with the act, a sum of money equal to the value of the pecuniary
18 advantage.

19 (7) A reference to property or a pecuniary advantage obtained in
20 connection with an act includes a reference to property or a pecuniary
21 advantage obtained in both that connection and some other connection.

22 (8) If a person benefits from an act, his benefit is the property
23 obtained as a result of or in connection with the act.

24 (9) Property is all property wherever situated and includes:

25 (a) money;

26 (b) all forms of property, real or personal, heritable, moveable or
27 immoveable; and

28 (c) things in action and other intangible or incorporeal property.

29 (10) The following rules apply in relation to property:

30 (a) property is obtained by a person if he obtains an interest in it;

1 (b) references to an interest, in relation to land in Nigeria, are to any
2 legal estate or equitable interest or power; and

3 (c) references to an interest, in relation to property other than land,
4 include references to a right, including a right to possession,

5 (11) Money laundering is an act which:

6 (a) constitutes an offence under sections 2,3 or 4 of this Act;

7 (b) constitutes an attempt, conspiracy or incitement to commit an
8 offence specified in paragraph (a) of this subsection;

9 (c) constitutes aiding, abetting, counselling or procuring the
10 commission of an offence specified in paragraph (a) of this subsection; or

11 (d) if done elsewhere than Nigeria, would constitute an offence
12 specified in paragraph (a), (b) or (c) of this subsection, if done in Nigeria,

13 (12) For the purpose of a report to a designated officer:

14 (a) a reference to a person's employer includes anybody, association
15 or organisation, including a voluntary organisation, in connection with whose
16 activities the person exercises a function, whether or not for gain or reward; and

17 (b) a reference to employment shall be construed accordingly,

18 (13) A person referred to in section 9 (1) (b) of this Act is an employee
19 of the Centre, authorised by the Director - General of the Centre,

20 (14) For the purposes of this Part, legal professional privilege and the
21 invocation of client confidentiality shall not apply in connection with:

22 (a) the purchase or sale of property;

23 (b) the purchase or sale of any business;

24 (c) the purchase or sale of any high-value item;

25 (d) any investment;

26 (e) any matter concerning the payment of any tax;

27 (f) any matter concerning the transfer of any funds whatsoever;

28 (g) the managing of client money, securities or other assets;

29 (h) the opening or management of bank, savings or securities
30 accounts;

1 (i) the creation, operation or management of trusts, companies or
2 similar structures;

3 (j) the organisation of contributions necessary for the creation,
4 operation or management of companies;

5 (k) any paid fees or retainer fees; and

6 (l) anything produced in the furtherance of any unlawful activity,

7 PART III - TRANSACTIONS ABOVE PRESCRIBED LIMITS

8 16.-(1) A person shall not, except in a transaction through a Cash payments
9 financial Institution, make or accept cash payment of a sum exceeding the
10 prescribed amount ("the prescribed amount"),

11 (2) A financial institution or designated non-financial business and
12 profession shall, within the specified period, report to the Centre the
13 specified particulars concerning a transaction concluded with a customer if
14 in terms of the transaction an amount of cash in excess of the prescribed
15 amount:

16 (a) is paid by a financial institution to the customer, or to a person
17 acting on behalf of the customer, or to a person on whose behalf the customer
18 is acting; or

19 (b) is received by a financial institution or designated non-financial
20 business and profession from the customer, or from a person acting on
21 behalf of the customer, or from a person on whose behalf the customer is
22 acting.

23 (3) A financial institution or designated non-financial business and
24 profession commits an offence if it fails to make a report referred to in
25 subsection (2) of this section and is liable on conviction to a fine of not less
26 than ten million Naira.

27 (4) An officer of a financial institution or designated non-financial
28 business and profession who facilitates an offence under subsection (2) of
29 this section commits an offence and is liable on conviction to imprisonment
30 for a term of not less than twelve months or a fine of not less than one million

Electronic
transfers of money
to or from Nigeria

1 Naira or to both,

2 **17.**-(1) If a financial institution, by way of transfer, sends money in
3 excess of the prescribed amount to another country or receives money in excess
4 of the prescribed amount from a country outside Nigeria on behalf, or on the
5 instruction, of another person, it shall, within the specified period after the
6 money was transferred or received, report the transfer or receipt, together with
7 the specified particulars concerning the transfer, to the Centre,

8 (2) Transfers or receipts of the type referred to in subsection (1) of this
9 section shall also be reported to the Central Bank of Nigeria,

10 (3) A financial institution commits an offence if it fails to make a
11 report referred to in subsection (1) or (2) of this section and is liable on
12 conviction to a fine of not less than ten million Naira,

13 (4) An officer of a financial institution who facilitates an offence
14 under subsection (2) of this section commits an offence and is liable on
15 conviction to imprisonment for a term of not less than twelve months or a fine
16 of not less than one million Naira or to both;

17 (5) For the purpose of this section, "person" includes a money service
18 business listed in Schedule 2 to this Act.

19 **18.**-(1) A person importing into or exporting from Nigeria:

20 (a) cash; or

21 (b) a negotiable instrument, in excess of the prescribed amount, shall,
22 before the importation or exportation, make a declaration of the total amount to
23 the Nigeria Customs Service on the prescribed form.

24 (2) The Nigeria Customs Service shall report any declaration made
25 pursuant to subsection (1) of this section to the Centre without delay.

26 (3) A copy of the report referred to in subsection (1) of this section
27 shall also be forwarded, without delay, to the Central Bank of Nigeria for the
28 performance of its functions under this Act or any other legislation and for
29 reasons of statistics.

30 (4) Where a person is found to be in contravention of the provisions of

Other transfers
of funds and
securities

1 subsection (1) of this section, an officer of the Nigeria Customs Service shall
2 seize and detain, in the case of:

3 (a) cash, the whole of the cash in the person's possession; or

4 (b) a negotiable instrument, the negotiable instrument.

5 (5) Items seized and detained under subsection (4) of this section
6 shall be recorded by the Nigeria Customs Service and forwarded to the
7 Proceeds of Crimes Recovery and Management Agency.

8 (6) Items forwarded to the Proceeds of Crimes Recovery and
9 Management Agency under subsection (5) of this section shall, in the case
10 of:

11 (a) cash, be paid into an interest bearing account and held there and
12 the interest accruing shall be added to it on its forfeiture or release; or

13 (b) a negotiable instrument, be so far as is possible, realized by sale
14 or otherwise and the proceeds paid into an interest bearing account and held
15 there and the interest accruing shall be added to it on its forfeiture or release.

16 (7) Where it is not possible to realize a negotiable instrument as
17 required by subsection (6)(b) of this section, the instrument shall be retained
18 by the Proceeds of Crimes Recovery and Management Agency until such
19 time as it is forfeited or released.

20 (8) A person commits an offence under this section if he:

21 (a) fails to make a declaration of the type required in subsection (1)
22 of this section; or

23 (b) makes the declaration of the type required by subsection (1) of
24 this section that is false or misleading in any material particular.

25 (9) A person found guilty of an offence under subsection (1) of this
26 section is liable on conviction to forfeit the undeclared funds or negotiable
27 instrument as provided under subsection (10) of this section or to
28 imprisonment for a term of not less than two years or to both.

29 (10) Items seized or detained under subsections (4) and (5) of this
30 section shall if the person from whom it is seized is:

1 (a) acquitted, be released to the person;

2 (b) convicted, be forfeited to the Federal Government of Nigeria and
3 paid into the Confiscated and Forfeited Assets Accounts in accordance with the
4 provisions of section 76 of the Proceeds of Crimes Act.

Prescribed amounts,
specified periods
and particulars:

5 **19.**-(1) The Attorney-General shall, by way of regulations made on
6 the recommendations of the supervisory authorities, set out the prescribed
7 amounts and the specified particulars referred to in sections 16(2), 17(1) and
8 18(1) of this Act.

9 (2) The specified period referred to in sections 16(2) and 17(2) of this
10 Act is seven days.

Reporting
procedures and
furnishing of
additional
information

11 **20.**-(1) The Attorney-General may by regulations prescribe the form
12 and manner in which a report under section 16(2) or 17(1) shall be made.

13 (2) Regulations under this section may also provide that the form may
14 include a request to the reporter to provide additional information specified in
15 the form.

16 (3) The additional information shall be information that is necessary
17 to enable the person to whom the report is made to decide whether a money
18 laundering intelligence enquiry or money laundering investigation should be
19 commenced.

20 (4) A report made in pursuance of a request under subsection (2) of
21 this section does not constitute a breach of any restriction on the disclosure of
22 information, however imposed.

23 (5) For the purpose of this section, the reporter is the person making a
24 report referred to in subsection (1) of this section.

25 (6) A money laundering intelligence enquiry is an enquiry conducted
26 by the Centre as to whether there is sufficient credible intelligence to conduct a
27 money laundering investigation.

28 (7) Additional information referred to in sub-section (2) of this
29 section shall be provided to the Centre without delay.

1 21.-(1) If a supervisory authority or self-regulatory organisation,
2 as a result of an inspection or otherwise, knows or suspects that a financial
3 institution or designated non-financial business and profession, knowingly
4 or otherwise:

Information held
by supervisory,
self-regulatory
organisations,
Federal Inland
Revenue Service

5 (a) has received property of a criminal origin;

6 (b) is about to receive property of a criminal origin;

7 (c) has been used to commit an offence under section 2, 3, or 4 of
8 this Act; or

9 (d) has been in any way involved in an act of money laundering, the
10 supervisory authority or self-regulatory organisation shall supply the Centre
11 of that fact and furnish the Centre with all information and any records
12 regarding that knowledge or suspicion which the Centre may reasonably
13 require for the achievement of its objectives.

14 (2) If the Centre has reason to believe that a supervisory authority
15 or self-regulatory organisation has information indicating that a financial
16 institution or designated non-financial business and profession, knowingly
17 or otherwise:

18 (a) has received property of a criminal origin;

19 (b) is about to receive property of a criminal origin;

20 (c) has been used to commit an offence under section 2, 3, or 4 of
21 this Act; or

22 (d) has been in any way involved in an act of money laundering; the
23 supervisory authority or self-regulatory organisation shall supply the Centre
24 with all information and any records regarding that knowledge or suspicion
25 which the Centre may reasonably require for the achievement of its
26 objectives.

27 (3) If the Federal Inland Revenue Service knows or suspects that a
28 financial institution or designated non-financial business and profession,
29 knowingly or otherwise:

30 (a) has received property of a criminal origin;

- 1 (b) is about to receive property of a criminal origin;
- 2 (c) has been used to commit an offence under section 2, 3, or 4 of this
- 3 Act; or
- 4 (d) has been in any way involved in an act of money laundering, the
- 5 Federal Inland Revenue Service shall advise the Centre of that fact and furnish
- 6 the Centre with all information and any records regarding that knowledge or
- 7 suspicion which the Centre may reasonably require for the achievement of its
- 8 objectives.
- 9 (4) If the Centre has reason to believe that the Federal Inland Revenue
- 10 Service has information indicating that a financial institution or designated
- 11 non- financial business and profession, knowingly or otherwise:
- 12 (a) has received property of a criminal origin;
- 13 (b) is about to receive property of a criminal origin;
- 14 (c) has been used to commit an offence under section 2, 3, or 4 of this
- 15 Act; or
- 16 (d) has been in any way involved in an act of money laundering, the
- 17 Federal Inland Revenue Service shall supply the Centre with all information
- 18 and any records regarding that knowledge or suspicion which the Centre may
- 19 reasonably require for the achievement of its objectives.
- 20 (5) The Chairman of the Federal Inland Revenue Service may make
- 21 such procedural arrangements and impose such reasonable safeguards
- 22 regarding the furnishing of information referred to in subsections (3) and (4) of
- 23 this section as the Chairman considers appropriate to maintain the
- 24 confidentiality, if any, of that information.

25 PART IV - ACCESS TO INFORMATION

- 26 22.-(1) Provided that the conditions set out in subsection (2) of this
- 27 section are satisfied, the Director - General of the Centre may direct a financial
- 28 institution to supply customer information and customer details to the Centre.
- 29 (2) The conditions to be satisfied under sub-section (1) of this section
- 30 are that:

1 (a) A person for whom customer information or customer details
2 are required is, directly or indirectly, the subject of an intelligence enquiry
3 by the Centre; and

4 (b) the information or details are sought for the purpose of the
5 enquiry;

6 (3) A financial institution, which is required, to provide
7 information or details under subsection (1) of this section, shall provide the
8 information or details to the Centre in such manner, and at or by such time, as
9 may be required by the Director - General of the Centre.

10 (4) A financial institution commits an offence if it fails to comply
11 with any provision of this section and is liable on conviction to a fine of not
12 less than ten million Naira.

13 23.-(1) "Customer information", in relation to a person and a
14 financial institution, is information as to whether a person holds, or has held,
15 an account or accounts at the financial institution, whether solely or jointly
16 with another person and, if so, information as to the matters referred to in:

Meaning of
customer
information

17 (a) subsection (2) of this section, where the person is an individual;

18 (b) subsection (3) of this section, where the person is a body
19 corporate or a similar body whether incorporated or otherwise established in
20 Nigeria or elsewhere.

21 (2) The matters referred to in subsection (1)(a) of this section are:

22 (a) the account number or numbers;

23 (b) the person's full name;

24 (c) his date of birth;

25 (d) his most recent address and any previous addresses;

26 (e) the date or dates on which he began to hold the account or
27 accounts and, where he has ceased to hold the account or any of the accounts,
28 the date or dates on which he did so;

29 (f) any evidence of his identity that was obtained by the financial
30 institution under 'or for the purpose of this Act or any other legislation

- 1 relating to money laundering;
- 2 (g) the full name, date of birth and most recent address, and any
3 previous addresses, of any person who holds, or has held, an account at the
4 financial institution jointly with him; and
- 5 (h) the account number or numbers of any other account or accounts
6 held at the financial institution to which he is a signatory and details of the
7 person holding the other account or accounts.
- 8 (3) The matters referred to in subsection (1)(b) of this section are:
- 9 (a) the account number or numbers;
- 10 (b) the person's full name;
- 11 (c) a description of any business which the person carries on;
- 12 (d) the country or territory in which it is incorporated or otherwise
13 established and any number allocated to it by virtue of relevant legislation;
- 14 (e) any number assigned to it for the purposes of tax in Nigeria;
- 15 (f) its registered office and any previous registered offices, whether in
16 Nigeria or elsewhere;
- 17 (g) the date or dates on which it began to hold the account or accounts
18 and, where it has ceased to hold the account or any of the accounts, the date or
19 dates on which it did so;
- 20 (h) evidence of its identity as was obtained by the financial institution
21 under or for the purpose of this Act or any other legislation relating to money
22 laundering; and
- 23 (i) the full name, date of birth and most recent address and any
24 previous addresses of any person who is a signatory to the account or any of the
25 accounts,
- 26 (4) Customer information includes information regarding:
- 27 (a) a person who is acting or who has acted on behalf of a person
28 referred to in section 22(2)(a) of this Act; or
- 29 (b) a customer of the financial institution who is acting or who has
30 acted for or on behalf of a person referred to in section 22(2)(a) of this Act.

PART V - MONEY LAUNDERING CONTROL MEASURES

24.-(1) A financial institution or designated non-financial business and profession shall not establish a business relationship or conclude a single transaction above the prescribed limit with a customer unless the financial institution or designated non-financial business and profession has undertaken due diligence:

Duty to identify customers

(a) to establish and verify the identity of the customer;

(b) if the customer is acting on behalf of another person, to establish and verify:

(i) the identity of that other person;

(ii) the customer's authority to establish the business relationship or to conclude the single transaction on behalf of that other person, and

(iii) in the case of a body corporate, the identity of the beneficial owner; and

(c) if another person is acting on behalf of the customer, to establish and verify:

(i) the identity of that other person, and

(ii) that other person's authority to act on behalf of the customer.

(2) Where a financial institution or designated non-financial business and profession had established a business relationship with a customer before this Act took effect, the financial institution or designated non-financial business and profession shall not conclude a transaction in the course of that business relationship, unless the financial institution or designated non-financial business and profession has undertaken due diligence:

(a) to establish and verify the identity of the customer;

(b) if another person acted on behalf of the customer in establishing the business relationship, to establish and verify:

(i) the identity of that other person, and

(ii) that other person's authority to act on behalf of the customer;

1 (c) if the customer acted on behalf of another person in establishing
2 the business relationship, to establish and verify:

3 (i) the identity of that other person,
4 (ii) the customer's authority to act on behalf of that other person, and
5 (iii) in the case of a body corporate, the identity of the beneficial
6 owner; and

7 (d) to trace all accounts at that financial institution or designated non-
8 financial business and profession that are involved in transactions concluded in
9 the course of that business relationship

10 (3) An officer of a financial institution or designated non-financial
11 business and profession who facilitates an offence under this section commits
12 an offence and is liable on conviction to imprisonment for to a term of not less
13 than two years or a fine of not less than five million Naira or to both.

14 (4) A financial institution or designated non-financial business and
15 profession commits an offence if it fails to comply with any provision of this
16 section and is liable on conviction to a fine of not less than ten million Naira.

17 (5) "Beneficial owner" has the meaning given to it under Schedule 1
18 to this Act.

Record to be kept
of business
relationships and
transactions

19 25.-(1) A financial institution or designated non-financial business
20 and profession shall preserve and keep:

21 (a) the record of a customer's identification and all of the measures
22 undertaken to establish the identification referred to in section 24 of this Act for
23 a period of at least five years after the closure of the account or the severance of
24 relations with the customer; and

25 (b) the record and other related information of a transaction carried
26 out by a customer and the report provided for in section 11, 12, 16 or 17 of this
27 Act for a period of at least five years after carrying out the transaction or
28 making of the report, as the case may be.

29 (2) The records referred to in subsection (1) of this section may be
30 kept in electronic form,

1 (3) A record kept under subsections (1) and (2) of this section, or a
2 certified extract of the record, or a certified printout of any extract of an
3 electronic record, is on its mere production in a matter before a court
4 admissible as evidence of any fact contained in it of which direct oral
5 evidence would be admissible,

6 (4) An officer of a financial institution or designated non-financial
7 business and profession who wilfully destroys any record required to be kept
8 by virtue of subsection (1) of this section or otherwise facilitates an offence
9 under this section commits an offence and is liable on conviction to
10 imprisonment for a term of not less than two years or a fine of not less than
11 five million Naira or to both.

12 (5) A financial institution or designated non-financial business and
13 profession commits an offence if it fails to comply with any provision of this
14 section and is liable on conviction to a fine of not less than ten million Naira.

15 26.-(1) A financial institution or designated non-financial business
16 and profession shall devise and implement internal rules in relation to:

Establishment and
implementation of
appropriate policies
and procedures

17 (a) the verification of the identity of persons who must be
18 identified by virtue of section 24 of this Act;

19 (b) the information required to maintain a record required under
20 section 25 of this Act;

21 (c) the manner in which and the place at which the records may be
22 kept;

23 (d) the steps to be taken when a report under section 11 or 12 of this
24 Act is required to ensure compliance under this Act; and

25 (e) such other matters as may be prescribed by the Attorney-
26 General in regulations made under section 53 of this Act.

27 (2) Internal rules shall comply with regulations made under section
28 53 of this Act.

29 (3) A financial institution or a designated non-financial business

1 and profession shall make its internal rules available to each of its employees.

2 (4) A financial institution or designated non-financial business and
3 profession shall, on request, make a copy of its internal rules available to:

4 (a) the appropriate supervisory authority;

5 (b) the appropriate self-regulatory organisation; or

6 (c) the Centre.

7 (5) A financial institution or designated non-financial business and
8 profession commits an offence if it fails to comply with any provision of this
9 section and is liable on conviction to a fine of not less than ten million Naira.

Enhanced
customer due
diligence

10 27.-(1) Whenever a financial institution or designated non-financial
11 business and profession:

12 (a) establishes a business relationship;

13 (b) has an established relationship; or

14 (c) carries out an occasional transaction, with or for a high-risk
15 customer, it shall apply appropriate enhanced due diligence measures and
16 enhanced ongoing monitoring.

17 (2) Whenever a report has been made under the provisions of section
18 11 or 12 of this Act, the reporting institution concerned shall apply appropriate
19 enhanced due diligence measures and enhanced ongoing monitoring of the
20 subject of the report.

21 (3) For the purposes of this Act, a high risk customer includes:

22 (a) a customer who is not physically present for identification
23 purposes;

24 (b) a financial institution that has or proposes to have a correspondent
25 banking relationship with a bank outside Nigeria;

26 (c) a politically exposed person;

27 (d) a customer who has, will have, a business relationship, or who
28 carries out occasional transactions on behalf of a politically exposed person;

29 (e) a customer who has business relationships and conducts
30 transactions with countries that do not apply or insufficiently apply the

- 1 recommendations of the Financial Action Task Force;
- 2 (f) a customer whose business, which by its nature presents a
3 higher risk of money laundering; and
- 4 (g) a customer who has business relationships or is involved in
5 transactions with:
- 6 (i) any non-resident customers,
7 (ii) private banking customers,
8 (iii) legal persons or asset holding vehicles, or
9 (iv) cross border transactions.
- 10 (3) An officer of a financial institution or designated non-financial
11 business and profession who facilitates an offence under this section
12 commits an offence and is liable on conviction to imprisonment for to a term
13 of not less than two years or a fine of not less than five million Naira or to
14 both.
- 15 (4) A financial institution or designated non-financial business and
16 profession commits an offence if it fails to comply with any provision of this
17 section and is liable on conviction to a fine of not less than ten million Naira.
- 18 (5) In this section, "politically exposed persons" means:
- 19 (a) individuals, not including middle-ranking or more junior
20 officials, who are or have been entrusted with prominent public functions
21 including the following:
- 22 (i) heads of State, heads of Government, Ministers and deputy or
23 assistant Ministers,
- 24 (ii) Governors and Deputy Governors of States within a country,"
25 (iii) members of Parliaments, National Assemblies and similar
26 bodies,
- 27 (iv) members of Supreme Courts, constitutional courts or of other
28 high-level judicial bodies whose decisions are not generally subject to
29 further appeal, other than in exceptional circumstances,
- 30 (v) members of the boards of central banks,

1 (vi) members of boards of Ministries, Departments and Agencies of
2 national government;

3 (vii) members of boards of Ministries, Departments and Agencies in
4 States and local government within a country,

5 (viii) ambassadors and charges d'affaires,

6 (ix) high-ranking officers in the armed forces and law enforcement
7 agencies, and

8 (x) members of the administrative, management or supervisory
9 bodies of enterprises owned by national, State or municipal governments;

10 (b) close family members of individuals referred to in paragraph (a)
11 of this subsection, including:

12 (i) a spouse,

13 (ii) a partner, or person considered by national law as equivalent to a
14 spouse,

15 (iii) children and their spouses or partners,

16 (iv) parents, and

17 (v) siblings; or

18 (c) persons known to be close associates of individuals referred to in
19 paragraph (a) of this subsection, including an individual who:

20 (i) is known to have joint beneficial ownership of a legal entity or
21 legal arrangement, or any other close business relations, with a politically
22 exposed person, and

23 (ii) has sole beneficial ownership of a legal entity or legal
24 arrangement which is known to have been set up for the benefit of a politically
25 exposed person.

26 (6) "Beneficial owner" has the meaning given to it under Schedule I to
27 this Act and "beneficial ownership" is to be construed accordingly.

28 **28.-(1)** A financial institution or designated non-financial business
29 and profession shall devise and deliver training to its employees to ensure
30 compliance with the provisions of this Act, associated regulations and internal

1 rules that are applicable to them,

2 (2) The designated officer shall be responsible for ensuring
3 compliance by:

4 (a) the employees of the financial institution or designated non-
5 financial business and profession with the provisions of this Act and the
6 internal rules applicable to them; and

7 (b) the financial institution or designated non-financial business
8 and profession with its obligations under this Act.

9 (3) A designated officer who facilitates an offence under this
10 section commits an offence and is liable on conviction to: imprisonment for
11 to a term of not less than two years or a fine of not less than five million Naira
12 or to both,

13 (4) A financial institution or designated non-financial business and
14 profession commits an offence if it fails to comply with any provision of this
15 section and is liable on conviction to a fine of not less than ten million Naira,

16 **29.-(1)** Where, in the performance of its functions, the Centre has
17 reasonable grounds to suspect that a financial institution or designated non-
18 financial business and profession or any other person who is subject to this
19 Act, other than a supervisory authority, has contravened or failed to comply
20 with any provision of this Act or any guideline, rule or requirement that
21 facilitates compliance with this Act and which is applicable to that
22 institution, business and profession or person employed therein, it may, if it
23 considers it appropriate to do so, refer the matter to a relevant:

Referral for non-
compliance

24 (a) supervisory authority; or

25 (b) investigating authority, together with any recommendation that
26 is considered appropriate.

27 (2) The supervisory authority to which a referral of the type
28 referred to in subsection (1) of this section is made shall investigate it and
29 after consultation with the Centre take such action as is considered
30 appropriate.

Numbered or
anonymous
accounts

1 **30.**-(1) A financial institution shall not open or maintain a numbered
2 or anonymous account or an account in a fictitious name.

3 (2) If a person, who is known by more than one name, opens an
4 account with a financial institution, the account shall bear all of the names by
5 which the person is known.

6 (3) Where an account exists and it becomes apparent that the account
7 holder is known by more than one name, the account shall be amended to
8 include all of the names by which the account holder is known.

9 (4) Details of all accounts where the account holder is known by more
10 than one name shall be forwarded to the Centre.

11 (5) An officer of a financial institution who facilitates an offence
12 under this section commits an offence and is liable on conviction to
13 imprisonment for to a term of not less than two years or a fine of not less than
14 five million Naira or to both.

15 (6) A financial institution or commits an offence if it fails to comply
16 with any provision of this section and is liable on conviction to a fine of not less
17 than ten million Naira.

Opening of
account in
fictitious names

18 **31.**-(1) person commits an offence if he:

19 (a) opens an account at a financial institution in a fictitious name;

20 (b) makes a false or misleading document with the intention of
21 producing it in order to support an application to open an account at a financial
22 institution in a fictitious name;

23 (c) has in his possession a false or misleading document with the
24 intention of producing it in order to support an application to open an account at
25 a financial institution in a fictitious name; or

26 (d) produces a false or misleading document in support of an
27 application to open an account at a financial institution.

28 (2) A financial institution commits an offence if it opens an account or
29 provides financial services to a person:

30 (a) using a fictitious name; or

- 1 (b) an a basis of assuring customer anonymity.
- 2 (3) For the purpose of this section:
- 3 (a) "opening an account" includes a single transaction where
4 verification of identity by virtue of section 24 of this Act is required;
- 5 (b) "false or misleading" means that it is false or misleading in any
6 material particular and is intended to deceive;
- 7 (c) "financial services" includes:
- 8 (i) the transfer of any funds whatsoever,
- 9 (ii) the exchange of any foreign currency into Naira,
- 10 (iii) the exchange of Naira into any foreign currency,
- 11 (iv) the creation or management of any trust,
- 12 (v) the purchase of any security, option, contract, band, currency or
13 derivative,
- 14 (vi) the purchase of any property or high value item,
- 15 (vii) the provision of depositary or safe custody services, and
- 16 (viii) the provision of gambling or gaming services.
- 17 (4) A person who commits an offence under subsection (1) of this
18 section is liable on conviction to imprisonment for a term of not less than
19 two years and a fine of not less than five million Naira or to both.
- 20 (5) A financial institution that commits an offence under
21 subsection (2) of this section is liable to a fine of not less than ten million
22 Naira and withdrawal of its licence to operate.
- 23 (6) An officer of a financial institution who facilitates an offence
24 under subsection
25 (2) of this section commits an offence and is liable on conviction
26 imprisonment for to a term of not less than two years and a fine of not less
27 than five million Naira or to both.
- 28 **32.**-(1) A person shall not establish or operate a shell bank in Shell banks
29 Nigeria.
- 30 (2) A financial institution shall not enter into a correspondent

1 businesses and professions; and
 2 (c) issue guidelines,
 3 (3) For the purpose of subsection (1);(a) of this section Banks -and
 4 other financial institutions" has the meaning given to it under the Banks and
 5 Other Financial Institutions Act.

Role of the
 supervisory
 authorities

6 **34. A supervisory authority shall:**
 7 (a) monitor a financial institution or designated non-financial
 8 business and profession for whom it is the supervisory authority and take
 9 necessary measures for the purpose of securing compliance by that institution,
 10 business and profession with the requirements of this Act and associated
 11 regulations;
 12 (b) where appropriate, maintain a register of all the institutions,
 13 businesses and professions they supervise;
 14 (c) enforce the provisions of Part V of this Act and apply sanctions
 15 where necessary and appropriate.

16 **PART VII - BUREAU FOR MONEY LAUNDERING CONTROL**

Establishment
 of the Bureau
 for Money
 Laundering
 Control

17 **35.-(1)** There is established under this Act the Bureau for Money
 18 Laundering Control (in this Act referred to as "the Bureau") which shall be
 19 responsible for the supervision of designated non-financial businesses and
 20 professions in their compliance with this Act and associated regulations.

21 (2) The Bureau is a body corporate:
 22 (a) with perpetual succession and a common seal;
 23 (b) which may sue and be sued in its corporate name; and
 24 (c) which may for the purposes of its functions, acquire, hold or
 25 dispose of property (whether movable or immovable).

26 (3) The Bureau shall be independent in the discharge of its functions
 27 and responsibilities under this Act.

Establishment
 and membership
 of the Advisory
 Board of the
 Bureau

28 **36.-(1)** There is established for the Bureau a Advisory Board (in this
 29 Act referred to as "the Advisory Board").

30 (2) The members of the Advisory Board are:

1 (a) a part-time Chairman who shall be appointed by the President
2 on the advise of the Minister;

3 (b) a representative, not below the grade level of a director, from
4 each of the following Federal Ministries and agencies:

5 (i) Ministry of Finance,

6 (ii) Ministry of Trade, industry and Investment,

7 (iii) Ministry of Justice,

8 (iv) Economic and Financial Crimes Commission, and

9 (v) State Security Services;

10 (c) two other members with experience in industrial, commercial,
11 financial or economic matters or of businesses or professions to be
12 appointed by the Minister; and

13 (d) the Executive Director of the Bureau who shall also be the
14 Secretary of the Advisory Board.

15 (3) The Chairman shall be a person who by reason of his ability,
16 experience or specialised knowledge in industrial, commercial, financial or
17 economic matters or of businesses or professions would be capable of
18 making outstanding contributions to the work of the Bureau.

19 (4) The Advisory Board may co-opt a person to act as adviser at a
20 meeting of the Advisory Board, but a person so co-opted shall not count
21 towards a quorum or vote at the meeting.

22 (5) A member of the Advisory Board, including a person co-opted
23 as a member under subsection (4) of this section, shall be paid such
24 reasonable allowances in accordance with the scale approved by the Federal
25 Government.

26 (6) The Supplementary Provisions set out in Schedule 3 to this Act
27 relate to the proceedings of the Advisory Board and the other matters
28 specified in it.

29 37. -(1) A member of the Advisory Board, other than an ex-officio Tenure of office
30 member:

1 (a) shall hold office for a term of four years commencing on the date
2 of appointment on such terms and conditions as may be specified in his letter of
3 appointment; and

4 (b) may, at the end of his term unless he previously vacates or is
5 otherwise removed from office, be re-appointed for a further term of four years
6 and no more.

7 (2) The office of a member, other than an ex-officio member, shall
8 become vacant if:

9 (a) he resigns his office by a notice in writing addressed to the person
10 who appointed him;

11 (b) his term of office has expired;

12 (c) the Advisory Board by resolution declares that the member:

13 (i) has been declared bankrupt,

14 (ii) is unable or unfit to discharge the functions of a member of the
15 Advisor! Board by reason of mental or bodily infirmity, or

16 (iii) is convicted of a felony or of an offence involving immoral
17 conduct.

18 (3) Where the office of a member of the Advisory Board becomes
19 vacant, the President or Minister, as the case may be, shall appoint another
20 person in his place in accordance with the provisions of this Act.

Functions of the
Bureau

21 38. The functions of the Bureau are to:

22 (a) ensure that all designated businesses and professions comply with
23 the provisions of this Act and exercise supervision in that respect;

24 (b) ensure that all designated non-financial businesses and
25 professions are registered for the purposes of money laundering control;

26 (c) advise all designated businesses and professions regarding their
27 responsibilities under this Act; and

28 (d) fulfil the requirements of section 34 of this Act.

Powers of the
Advisory Board

29 39. The Advisory Board shall advise the Bureau generally on the
30 exercise of its functions and powers under this Act and shall, in particular but

1 without prejudice to the generality of the foregoing:

2 (a) advise on the formulation of the policies of the Bureau in
3 accordance with this Act;

4 (b) have general oversight on the administration of the Bureau:

5 (c) approve the budgetary estimates of the Bureau;

6 (d) determine the terms and conditions of service of the employees
7 of the Bureau; and

8 (e) perform any other functions as may be conferred on it by this
9 Act.

10 **40.-(1)** There shall be for the Bureau an Executive Director who
11 shall be appointed by the President on the advise of the Minister,

Executive
Director of the
Bureau

12 (2) A person shall not be appointed as a Executive Director unless
13 he:

14 (a) he holds a qualification in law, economics, accounting or
15 business administration and has cognate experience in the supervision of
16 designated non-financial businesses and professions in Nigeria;

17 (b) is of an unquestionable integrity; and,

18 (3) The Executive Director shall:

19 (a) be the chief executive of the Bureau;

20 (b) be responsible for the execution and implementation of the
21 policies of the Bureau and the transaction of the day-to-day administration
22 of the Bureau;

23 (c) exercise supervision and control over all staff of the Bureau;

24 (d) cause to be kept the minutes of the meetings of the Advisory
25 Board and such other records as the Advisory Board may direct;

26 (e) ensure that, in conducting its affairs, the Bureau is guided by the
27 laws of Nigeria and international best practices; and

28 (f) perform such other functions as are assigned to him under this
29 Act.

30 (4) The Executive Director shall hold office:

1 (a) for a term of five years, which may be renewed for a further term of
2 five years only; and

3 (b) on such other terms and conditions as are specified in his letter of
4 appointment.

5 (5) The Advisory Board may advise the Executive Director on such
6 other matters as are necessary to enable him execute efficiently the day-to-day
7 administration of the Bureau.

Other staff

8 41.-(1) The Bureau may appoint directly, or on secondment or
9 transfer from Government Ministries and agencies, such number and
10 categories of employees as it may require to assist it in the effective discharge
11 of its functions under this Act.

12 (2) The Bureau shall control and supervise its employees in a manner
13 and for such purposes as may be necessary for the promotion of the purpose and
14 the object for which the Bureau is established.

15 (3) The Bureau shall be responsible for the determining the job
16 description, title, terms, conditions, qualifications and, salaries, including the
17 allowances of: its employees.

18 (4) The employees of the Bureau shall be paid such remuneration and
19 allowances to ensure the engagement and retention of employees that meet
20 with the objects of the Bureau.

21 (5) The Bureau shall make rules relating generally to the conditions of
22 service of its employees, including rules providing for the appointment,
23 advancement, promotion, determination of appointment, and disciplinary
24 control over the employees.

25 (6) The Bureau shall publish rules made under subsection (5) of this
26 section in such manner as it may determine.

Service in the
Bureau to be
pensionable

27 42.-(1) Service in the Bureau shall be approved service for the
28 purpose of the Pension Reform Act and accordingly, officers and other persons
29 employed in the Bureau shall in respect of their service in the Bureau be
30 entitled to pensions, gratuities and other retirement benefits enjoyed by

1 persons holding equivalent grades in the public service of the Federation.

2 (2) Subject to the provisions of subsection (1) of this section, there
3 shall be established a pension scheme to be administered by a board of
4 trustees which membership shall take into account the various interest
5 within the ranks in the Bureau,

6 (3) Nothing in this Act shall prevent the appointment of a person to
7 any office on terms in the Bureau which preclude the grant of pension or
8 gratuity in that respect.

9 **43.** The Bureau shall establish and maintain a fund into which shall Fund of the
10 be paid: Bureau

11 (a) such moneys as may be appropriated by the National Assembly
12 for the administration of the Bureau;

13 (b) aid and assistance from international bilateral and multilateral
14 agencies; and

15 (c) any other moneys which may accrue to the Bureau from any,
16 other lawful source, including charges, interest, deposit and other
17 investments made by the Bureau,

18 **44.** The Bureau shall, from time to time, apply the moneys in the Expenditure of
19 fund established and maintained under section 15 of this Act to: the Bureau

20 (a) the cost of administration of the Bureau;

21 (b) the payment of allowances, expenses and other benefits of
22 members and committees of the Advisory Board and the salaries,
23 allowances and benefits of the employees of the Bureau; and

24 (c) undertake such other activities as are connected with the
25 functions of the Bureau and the Advisory Board as provided under this Act,

26 **45.** -(1) The Bureau shall not later than 30th September of each Estimates and
27 year, submit to the Minister for approval, estimates of the income and accounts
28 expenditure of the Bureau for the preceding financial year,

29 (2) The Bureau shall:

30 (a) keep proper records and accounts of its incomes and

1 expenditures; and

2 (b) prepare a statement of accounts in respect of each year.

Audit 3 46.-(1) The Bureau shall, within the first four months of each
4 financial year, submit its accounts to auditors appointed by the Bureau from the
5 list and in accordance with guidelines approved by the Auditor-General of the
6 Federation, for auditing,

7 (2) The audited accounts of the Bureau and the Auditor-General's
8 report on those accounts shall form part of the Auditor General's overall annual
9 report to the National Assembly,

Annual report 10 47. -(1) The Bureau shall, not later than 30th June of each financial
11 year, submit to the Minister in respect of the preceding financial year an annual
12 report on the activities of the Bureau in such form as the Minister may direct.

13 (2) The report under subsection (1) of this section shall include:

14 (a) information with regard to the activities of the Bureau in that year;

15 (b) a copy of the audited accounts of the Bureau for that year together
16 with the Auditor-General's report on the accounts; and

17 (c) such other information as the Minister may request.

18 (3) The Minister shall, as soon as practicable after receiving the
19 annual report, cause it to be submitted to the President.

20 (4) The Executive Director shall also, from time to time, provide the
21 Minister with such information relating to the affairs of the Bureau as the
22 Minister may request.

Obstruction of 23 48. A person who wilfully obstructs an officer of the Bureau in the
employees of 24 performance of its functions under this Act commits an offence and is liable on
Bureau 25 conviction, in the case of:

26 (a) an individual, to imprisonment for a term of not less than twelve
27 months or a fine of not less than one million Naira or to both; and

28 (b) a body corporate, to a fine of not less than ten million Naira,

Dissolution of 29 49. -(1) The unit known as the Special Control Unit Against Money
the Special Control 30 Laundering within the Ministry of Industry, Trade and Investment (in this
Unit against Money
Laundering

1 section referred to as the "dissolved unit") is dissolved: and any reference in
2 any other law or document to the dissolved unit shall be construed as a
3 reference to the Bureau established under this Act.

4 (2) Every regulation, order, requirement, certificate, notice,
5 direction, decision, authorisation, consent, application, request or thing
6 made, issued, given or done by the dissolved unit, if in force at the
7 commencement of this Act, shall continue to be in force and have effect as if
8 made, issued, given or done by the Bureau established under this Act;

9 (3) Any person who immediately before the commencement of this
10 Act was working in the dissolved unit may continue in office in the Bureau
11 and be deemed to have been appointed under this Act for purposes of
12 pensions.

13 (4) All assets, funds, resources and other movable and immovable
14 property which, immediately before the commencement of this Act, is
15 vested in the dissolved unit shall by virtue of this Act be vested in the Bureau
16 established under this Act.

17 (5) Every reference to the dissolved unit, or any person under its
18 control or a document issued in the name of the dissolved unit, or employee
19 of the dissolved unit shall be read, unless the context otherwise requires, as a
20 reference to the Bureau, or an employee of the Bureau established under this
21 Act, as the case may be,

22 (6) All rights, obligations and liabilities, which, immediately
23 before the commencement of this Act, were vested in or imposed on the
24 dissolved unit shall be the rights, obligations and liabilities of the Bureau
25 established under this Act.

26 (7) Any proceeding or cause of action pending or existing
27 immediately before the commencement of this Act by or against the
28 dissolved unit in respect of any right, interest, obligation or liability of the
29 dissolved unit may be continued or commenced, as the case may be,

30 (8) Any determination of a court of law, tribunal or other body or

1 person may be enforced by or against the Bureau established under this Bill to
2 the same extent that such proceeding, cause of action or determination might
3 have been, commenced, continued or enforced by or against the dissolved unit.

4 (9) As from the commencement of this Act, any disciplinary
5 proceeding pending or existing against any employee of the dissolved unit
6 shall be continued and completed by the Bureau established under this Act.

7 PART VIII - JURISDICTION AND ADMINISTRATIVE PENALTIES

8 **50.** -(1) The Federal High Court (in this Act referred to as "the Court"
9 located in any part of Nigeria regardless of the location where the offence is
10 committed shall have jurisdiction to:

11 (a) try offences under this Act or any other related enactment; and

12 (b) hear and determine proceedings arising under this Act;

13 (2) The Court shall exercise jurisdiction under subsection, (1) of this
14 section whether or not the offence was commenced in Nigeria and completed
15 outside Nigeria and the alleged offender is:

16 (a) in Nigeria;

17 (b) on a ship, aircraft or vessel registered in Nigeria;

18 (c) dealing with or on behalf of the Government of Nigeria, or a
19 citizen of Nigeria or an entity registered in Nigeria;

20 (d) outside Nigeria where the alleged offender is in Nigeria and not
21 extradited to any other country for prosecution; or

22 (e) a Nigerian outside Nigeria, if the person's conduct would also
23 constitute an offence under a law of the country where the offence was
24 committed.

25 (3) The Federal High Court shall have jurisdiction to impose any
26 penalty provided for an offence under this Act or any other related law.

27 (4) In any trial for an offence under this Act, the Court may,
28 notwithstanding anything to the contrary in any other enactment, adopt all
29 legal measures to avoid unnecessary delays and abuse in the conduct of
30 matters.

1 (5) Subject to the provisions of the Constitution of the Federal
2 Republic of Nigeria, an application for stay of proceedings or for an
3 interlocutory injunction in respect of any matter brought under this Act shall
4 not be entertained by the Court but shall be stayed until judgment in the
5 matter is delivered by the Court.

6 51.-(1) Supervisory authorities may impose on:

Administrative
Penalties

7 (a) a financial institution;

8 (b) designated non-financial business and profession;

9 (c) self regulatory organisation; or

10 (d) any officer of a financial institution or designated non-financial
11 business and profession, for any breach of any requirement of this Act, such
12 administrative sanctions as may be prescribed in the regulations made
13 pursuant to section 53 of this Act.

14 (2) Any penalty imposed by a supervisory authority by virtue of
15 subsection (1) of this section shall take precedence over and is not limited by
16 any other sanction that may be imposed under any other enactment or
17 regulation.

18 (3) A person may appeal against a decision made or sanction
19 imposed by a supervisory authority to the independent Review Panel
20 established by regulations made under section 53 of this Act.

21 PART IX - MISCELLANEOUS

22 52.-(1) Offences under this Act are considered to be extraditable
23 offences for which extradition may be requested, granted be obtained under
24 the Extradition Act.

Extradition

25 (2) Notwithstanding the provisions of subsection (1) of this
26 section, no person shall be extradited pursuant to this Act, where the
27 Government has substantial grounds for believing that a request for
28 extradition for an offence has been made for the purpose of prosecuting or
29 punishing a person on account of that person's race, religion, nationality,
30 ethnic origin or political opinion or that compliance with the request would

Regulations

1 cause prejudice to that person's position for any of these reasons.

2 53.-(1) The Attorney-General may make regulations, orders, rules or
3 guidelines or as are necessary for the efficient implementation of the
4 provisions of this Act.

5 (2) Regulations, orders, rules or guidelines made under subsection (1)
6 of this section may provide for:

7 (a) the method of custody of video and other electronic recordings of
8 suspects apprehended under this Act;

9 (b) the method of compliance with directives issued by relevant
10 international institutions on money laundering and terrorism financing counter
11 measures;

12 (c) the procedure for the prosecution of all money laundering cases in
13 line with international human rights standards; and

14 (d) any other matter the Attorney-General may consider necessary or
15 expedient for the purpose of the implementation of this Act.

Repeals and other
consequential
amendments

16 54.-(1) The Money Laundering (Prohibition) Act, 2011 is repealed.

17 (2) The Money Laundering (Prohibition) (Amendment) Act, 2012 is
18 repealed.

19 (3) Section 12 of the Foreign Exchange (Monitoring and
20 Miscellaneous Provisions) Act, 1995 is repealed

21 (4) Without prejudice to section 6 of the Interpretation Act, the repeal
22 of the Act specified in subsection (1) of this section, and the section specified
23 under section (2) of this section shall not affect anything done under or
24 pursuant to the Act.

25 (5) All regulations, orders, reports, ongoing investigations,
26 prosecutions and other proceedings, actions taken and things done under the
27 repealed Act shall continue and have effect as if made, issued, carried On, taken
28 or done under this Act.

29 (6) Any conduct or activity which was a criminal conduct or activity
30 under the repealed Act shall constitute a criminal conduct or activity in respect

1 of which the provisions of this Act shall apply.

2 **55.** In this Act, unless the context otherwise requires:

Interpretation

3 "account" means a facility or financial arrangement:

4 (a) that accepts deposits of currency, including those made by way
5 of a payment order, whether or not those payments are made physically or by
6 way of transfer;

7 (b) that allows withdrawals of currency out of the account,
8 including those made by way of a payment order, whether or not those
9 payments are made physically or by way of transfer;

10 (c) that supplies a facility or an arrangement for a safe deposit box;

11 (d) whereby credit is made available, including a credit card, a
12 loan, secured or otherwise, an overdraft or any other arrangement, and
13 includes any account whether or not it has a nil balance, or any transactions
14 have been allowed on the account;

15 "account holder" includes the person whose name is on the account and
16 includes all persons designated and authorized to transact business on behalf
17 of an account;

18 "adoptive sibling" include adopted siblings that are legally adopted by both
19 legal parents, adopted siblings that are adopted by only the legal mother only
20 and adopted siblings that are legally adopted by legal father only;

21 "affluent individual" means an a person who has liquid assets of the
22 equivalent of more than one hundred thousand United States of America
23 dollars available for investment;

24 "Attorney-General" means Attorney-General of the Federation and Minister
25 of Justice;

26 "auditor" means any firm or individual who is qualified to, and responsible
27 for evaluating and checking the accuracy, validity and reliability of a the
28 financial statements of a company or other organisation;

29 "beneficial owner" has the meaning given to it in Schedule 1 to this Act;

30 "business" includes a venture or concern in trade or commerce, whether or

- 1 not conducted on a regular, repetitive or continuous basis;
- 2 "business relationship" means a business, professional or commercial
3 relationship between a financial institution or designated non-financial
4 business and profession and a customer, which is expected, at the time when
5 contact is established, to have an element of duration;
- 6 "cash" means money in the form of notes, coins or travellers' cheques in any
7 currency;
- 8 "casino" means the holder of a casino operating licence;
- 9 "Centre" means the Nigeria Financial Intelligence Centre;
- 10 "criminal enterprise" means participation, either solely or jointly with others,
11 in any act mentioned in section 15(3) of this Act;
- 12 "correspondent banking" means the provision of banking services by one bank
13 (the "correspondent bank") to another bank (the "respondent bank");
- 14 "customer" includes client;
- 15 "designated non-financial businesses and professions" include:
- 16 (a) automotive dealers;
- 17 (b) businesses involved in the hospitality industry;
- 18 (c) casinos;
- 19 (d) clearing and settlement companies;
- 20 (e) company service providers, who provide services to third parties;
- 21 (f) consultants and consulting companies;
- 22 (g) dealers in luxury items;
- 23 (h) dealers in mechanized farming equipment, farming equipment
24 and machineries;
- 25 (i) dealers in precious metals and precious stones;
- 26 (j) dealers in real estate, estate developers, estate agents and brokers;
- 27 (k) high value dealers;
- 28 (l) hotels;
- 29 (m) law firms and notaries;
- 30 (n) licensed professional accountants

1 (o) mortgage brokers;

2 (p) non-profit organisations;

3 (q) practitioners of mechanized farming;

4 (r) religious and charitable organisations;

5 (s) supermarkets;

6 (t) tax consultants;

7 (u) trust and company service providers; or

8 (v) other businesses and professions as may be designated by the

9 Attorney- General in regulations;

10 "estate agent" means a firm or sole practitioner who, or whose employees,
11 carry out estate Bureau work when in the course of carrying out such work,
12 but a person is not acting as an estate agent where he acts:

13 (a) pursuant to instructions received by him in the course of his
14 employment in relation to an interest in land where his employer is the
15 person who, on his own behalf, wishes to dispose of or acquire that interest;

16 (b) in relation to any interest in any property where the property is
17 subject to a mortgage and he is the receiver of the income of it;

18 "estate Bureau work" means things done by any person in the course of a
19 business (including a business in which he is employed) pursuant to
20 instructions received from another person (in this definition referred to as
21 "the client") who wishes to dispose of or acquire an interest in land:

22 (a) for the purpose of, or with a view to, effecting the introduction
23 to the client of a third person who wishes to acquire or, as the case may be,
24 dispose of the interest; and

25 (b) after effecting the introduction, for the purpose of securing the
26 disposal or, as the case may be, the acquisition of that interest, but does not
27 include things done in the course of carrying out any surveyor valuation
28 pursuant to a contract which is distinct from that under which other things
29 falling under paragraphs (a) and (b) of this definition;

30 "Financial Action Task Force" means the intergovernmental body created in

1 1989 under the aegis of the then G7 to generate the necessary political will to
2 bring about legislative and regulatory reforms for the development and
3 promotion of national and international policies to combat money laundering
4 and terrorism financing;

5 "financial institution" means an undertaking, including a money service
6 business, when it carries out one or more of the activities listed in Schedule 2 to
7 this Act other than:

8 (a) an undertaking whose only listed activity is trading for its own
9 account in:

10 (i) money market instruments,

11 (ii) foreign exchange,

12 (iii) financial futures and options,

13 (iv) exchange and interest rate instruments, or

14 (v) transferable securities where the undertaking does not have a
15 customer, (and, for this purpose, "customer" means a third party which is not a
16 member of the same group as the undertaking);

17 (b) an insurance company whose products are limited to:

18 (i) a life insurance contract where the annual premium is no more than
19 the equivalent of US \$1,000 or where a single premium of no more than the
20 equivalent of US \$2,500 is paid, or

21 (ii) an insurance contract for the purpose of a pension scheme where
22 the contract contains no surrender clause and cannot be used as collateral; or

23 (c) a collective investment undertaking when marketing or otherwise
24 offering its units or shares;

25 "firm" means any entity, whether or not a legal person, that is not an individual
26 and includes a body corporate and a partnership or other unincorporated
27 association;

28 "funds" refers to assets of every kind whether tangible or intangible, movable
29 or immovable, however acquired, and legal documents or instruments in any
30 form, including electronic or digital, evidencing title to or interest in such

1 assets, including but not limited to bank credits, travellers cheques, bank
2 cheques, money orders, shares, securities, bonds, drafts or letters of credit;

3 "high net-worth individual" means an individual who has in excess of the
4 equivalent of one million United States of America dollars of liquid assets
5 available for investment;

6 "high value dealer" means a firm or sole trader, including an auctioneer, who
7 by way of business trades in goods when he receives, in respect of any
8 transaction, a payment or payments in cash of the equivalent of at least US
9 \$15,000 in total, whether the transaction is executed in a single operation or
10 in several operations which appear to be linked;

11 "liquid asset" means an asset that can be converted into cash in a short time
12 with little or no loss in value;

13 "Minister" means Attorney-General of the Federation and Minister of
14 Justice;

15 "negotiable instrument" means a document contemplated by or consisting
16 of a contract that may be transferred to a third-party and, which
17 unconditionally promises the payment of money, either on demand or at a
18 future date, without condition to the holder of the document;

19 "Nigeria Financial Intelligence Centre" means the independent central body
20 created by the Nigerian Financial Intelligence Centre Act that is responsible
21 for receiving, requesting, analysing and disseminating financial intelligence
22 reports on money laundering, terrorism financing and other relevant
23 information to law enforcement, security and intelligence agencies, and
24 other relevant authorities;

25 "occasional transaction" means a transaction, carried out other than as part
26 of a business relationship, amounting to the equivalent of US \$15,000 or
27 more, whether the transaction is carried out in a single operation or several
28 operations which appear to be linked;

29 "precious metal" means:

30 (a) gold;

- 1 (b) silver;
- 2 (c) platinum;
- 3 (d) palladium;
- 4 (e) iridium;
- 5 (f) osmium;
- 6 (g) rhodium;
- 7 (h) any alloy or other compound containing:
- 8 (i) gold,
- 9 (ii) silver,
- 10 (iii) platinum,
- 11 (iv) palladium,
- 12 (v) iridium,
- 13 (vi) osmium,
- 14 (vii) rhodium, or
- 15 (viii) a metal specified in the regulations; or
- 16 (i) any other metal, alloy or compound that may be specified by the
- 17 Attorney General in regulations;
- 18 "private banking customers" means affluent or high net-worth individuals who
- 19 are offered banking services that assist them to manage their assets through
- 20 investments and related services in exchange for commissions and fees;
- 21 "private legal practitioner" means a firm or sole practitioner who by way of
- 22 business provides legal or notarial services to other persons, when that
- 23 practitioner is participating in financial transactions or real property
- 24 transactions, including:
- 25 (a) the buying and selling of real property or business entities;
- 26 (b) the managing of client money, securities or other assets;
- 27 (c) the opening or management of bank, savings or securities
- 28 accounts;
- 29 (d) the organisation of contributions necessary for the creation,
- 30 operation or management of companies; and

1 (e) the creation, operation or management of trusts, companies or
2 similar structures, and a person participates in a financial transaction by
3 assisting in the planning or execution of the transaction or otherwise acting
4 for or on behalf of a client in the transaction;

5 "property of a criminal origin" has the meaning given to it in section 15 of
6 this Act;

7 "recommendations of the Financial Action Task Force" means counter-
8 measures against money laundering and terrorism financing proposed by
9 that body covering the criminal justice system and law enforcement, the
10 financial system and its regulation, and international co-operation;

11 "sibling" means one of two or more individuals who have one or both
12 parents in common and includes adoptive siblings;

13 "terrorism", and "terrorism financing" have the respective meanings given
14 to them under the Terrorism (Prevention) Act;

15 "transaction" means an agreement between two or more parties to enter into
16 a relationship that involves the exchange of items of value, either on a one-
17 off basis or on an ongoing basis and includes any purchase, sale, loan, gift,
18 transfer, deposit into, withdrawal from or transfer between accounts,
19 exchange of currency, loan, extension of credit, purchase or sale of any
20 stock, bond, certificate of deposit, or other monetary instrument, trading in
21 any commodity, or product, use of a safe deposit box, or any other payment,
22 transfer, or delivery by, through, or to a financial institution or designated
23 non-financial business and profession, by whatever means effected;

24 "shell bank" means a bank that is not physically located country in which it is
25 incorporated and licensed and which is unaffiliated with a regulated
26 financial group that is subject to effective consolidated supervision and

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

30 "trust and company service provider" means a firm or sole practitioner who

1 by way of business provides any of the following services to other persons:

2 (a) forming companies or other legal persons;

3 (b) acting, or arranging for another person to act:

4 (i) as a director or secretary of a company,

5 (ii) as a partner of a partnership, or

6 (iii) in a similar position in relation to other legal persons;

7 (c) providing a registered office, business address, correspondence or
8 administrative address or other related services for a company, partnership or
9 any other legal person or arrangement; or

10 (d) acting, or arranging for another person to act, as:

11 (i) a trustee of an express trust or similar legal arrangement, or

12 (ii) a nominee shareholder for a person other than a company whose
13 securities are listed on a regulated market, when providing such services;

Short title

14 **56.** This Act may be cited as the Money Laundering (Prevention and
15 Prohibition) Act, 2016.

16 SCHEDULES

17 SCHEDULE I

18 *[Sections 24 and 27]*

19 MEANING OF BENEFICIAL OWNER

20 (1) "Beneficial owner" means, in the case of:

21 (a) a body corporate:

22 (i) any individual as respects anybody other than a company whose
23 securities are listed on a regulated market, ultimately owns or controls, whether
24 through direct or indirect ownership or control, including through bearer share
25 holdings, more than 25% of the shares or voting rights in the body, or

26 (ii) as respects anybody corporate, otherwise exercises control over
27 the management of the body;

28 (b) a partnership, any individual who:

29 (i) ultimately is entitled to or controls, whether the entitlement or
30 control is direct or indirect, more than a 25% share of the capital or profits of the

1 partnership or more than 25% of the voting rights in the partnership, or
2 (ii) otherwise exercises control over the management of the
3 partnership; and

4 (c) a trust:

5 (i) any individual who is entitled to a specified interest in at least
6 25% of the capital of the trust property,

7 (ii) as respects any trust other than one which is set up or operates
8 entirely for the benefit of individuals falling within sub-paragraph (a) of this
9 sub-paragraph, the class of persons in whose main interest the trust is set up
10 or operates; or

11 (d) any individual who has control over the trust.

12 (2) In paragraph (1)(c) of this Schedule:

13 (a) "specified interest" means a vested interest which is:

14 (i) in possession or in remainder or reversion, and

15 (ii) defeasible or indefeasible;

16 (b) "control" means a power (whether exercisable alone, jointly
17 with another person or with the consent of another person) under the trust
18 instrument or by law to:

19 (i) dispose of, advance, lend, invest, pay or apply trust property,

20 (ii) vary the trust,

21 (iii) add or remove a person as a beneficiary or to or from a class of
22 beneficiaries,

23 (v) appoint or remove trustees, or

24 (iv) direct, withhold consent to, or veto the exercise of a power
25 such as is referred to in sub-paragraph (b) (i) to (iv) of this paragraph.

26 (3) For the purposes of paragraph (2) of this Schedule, where an
27 individual is the beneficial owner of a body corporate which is entitled to a
28 specified interest in the capital of the trust property or which has control over
29 the trust, the individual is to be regarded as entitled to the interest or having
30 control over the trust.

1 (4) In the case of a legal entity or legal arrangement that does not fall
2 within paragraph (1) of this Schedule, "beneficial owner" means:

3 (a) where the individuals who benefit from the entity or arrangement
4 have been determined, any individual who benefits from at least 25% of the
5 property of the entity or arrangement;

6 (b) where the individuals who benefit from the entity or arrangement
7 have yet to be determined, the class of persons in whose main interest the entity
8 or arrangement is set up or operates; or

9 (c) any individual who exercises control over at least 25% of the
10 property of the entity or arrangement.

11 (5) For the purposes of paragraph (4) of this Schedule, where an
12 individual is the beneficial owner of a body corporate, which benefits from or
13 exercises control over the property of the entity or arrangement, the individual
14 is to be regarded as benefiting from or exercising control over the property of
15 the entity or arrangement.

16 (6) In the case of an estate of a deceased person in the course of
17 administration, "beneficial owner" means the executor, original or by
18 representation, or administrator for the time being of a deceased person.

19 (7) In any other case, "beneficial owner" means the individual who
20 ultimately owns or controls the customer or on whose behalf a transaction is
21 being conducted.

22 (8) In this Schedule, "arrangement", "entity" and "trust" mean an
23 arrangement, entity or trust that administers and distributes funds.

24 SCHEDULE 2

25 *(Sections 17(3) and 42)*

26 MONEY SERVICE BUSINESS

27 Money service businesses include businesses that undertake:

28 (a) lending including, consumer credit, mortgage credit, factoring,
29 with or without recourse,

30 (b) financing of commercial transactions, including forfeiting;

- 1 financial leasing;
- 2 (c) money transmission services;
- 3 (d) issuing and administering means of payment, including debit
4 cards, credit cards, travellers' cheques and bankers' drafts;
- 5 (e) guarantees and commitments;
- 6 (f) trading for own account or for account of customers in financial
7 instruments and products, including:
- 8 (i) money market instruments,
- 9 (ii) foreign exchange,
- 10 (iii) financial futures and options,
- 11 (iv) exchange and interest-rate instruments,
- 12 (v) transferable securities, or
- 13 (vi) currencies in any form;
- 14 (g) a role in the issuance of securities and the provision of services
15 related to such issues;
- 16 (h) the giving of advice to undertakings on capital structure,
17 industrial strategy and related questions and advice as well as services
18 relating to mergers and the purchase of undertakings;
- 19 (i) money broking;
- 20 (j) portfolio management and advice;
- 21 (k) safekeeping and administration of securities; and
- 22 (l) safe custody services; and
- 23 (m) any other type of business that may be designated as a money
24 service business by the Attorney General in regulations.

1 SCHEDULE 3

2 [Section 36 (7)]

3 SUPPLEMENTARY PROVISIONS RELATING TO THE ADVISORY BOARD

4 AND OTHER MATTERS

5 *Proceedings of the Board*

6 1. Subject to this Act and section 27 of the Interpretation Act, the
7 Advisory Board shall have power to regulate its proceedings and may make
8 standing orders with respect to the holding of its meetings, and those of its
9 committees, notices to be given, the keeping of minutes of its proceedings, the
10 custody and production for inspection of such minutes and such other matters
11 as the Board may, from time to time determine.

12 2. There shall be at least three ordinary meetings of the Board in every
13 calendar year and subject thereto, the Advisory Board shall meet whenever it is
14 convened by the Chairman, and if the Chairman is requested to do so by notice
15 given to him by not less than four other members, he shall convene a meeting of
16 the Board to be held within 30 days from the date on which the notice was
17 given.

18 3. Every meeting of the Advisory Board shall be presided over by the
19 Chairman and if the Chairman is unable to attend a particular meeting, the
20 members present at the meeting shall elect one of them to preside at the
21 meeting.

22 4. The quorum of any meeting of the Board shall consist of the
23 Chairman (or in an appropriate case, the person presiding at the meeting
24 pursuant to paragraph 2 of this Schedule) and three other members.

25 5. A question put before the Advisory Board at a meeting shall be
26 decided by consensus and where this is not possible, by a majority of the votes
27 of the members present and voting.

28 6. The Chairman shall, in the case of an equality of votes, have a
29 casting vote in addition to his deliberate vote.

30 7. Where the Advisory Board seeks the advice of any person on a

1 particular matter, the Board may invite that person to attend, for such period
2 as it deems fit, but a person who is invited by virtue of this paragraph shall
3 not be entitled to vote at any meeting of the Board and shall not count
4 towards the quorum.

5 8. The Advisory Board shall meet for the conduct of its business at
6 such places and on such days as the Chairman may appoint.

7 9. Where the Board seeks the advice of any person on a particular
8 matter, the Advisory Board may invite that person to attend for such period
9 as it deems fit, but a person who is invited by virtue of this paragraph shall
10 not be entitled to vote at any meeting of the Board and shall not count
11 towards the quorum.

12 *Committees*

13 10. The Advisory Board may appoint one or more committees to
14 carry out on behalf of the Board such of its functions as the Board may
15 determine and report on any matter with which the Board is concerned,

16 11. A committee appointed under paragraph 10 of this Schedule
17 shall be presided over by a member of the Advisory Board and shall consist
18 of such number of persons (not necessarily all members of the Board) as
19 may be determined by the Board and a person other than a member of the
20 Advisory Board shall hold office on the committee in accordance with the
21 terms of his appointment.

22 12. A decision of a committee of the Board shall be of no effect
23 until it is confirmed by the Advisory Board,

24 *Miscellaneous*

25 13. The fixing of the seal of the Bureau shall be authenticated by
26 the signature of the Chairman and the Secretary to the Advisory Board,

27 14. A contract or an instrument which, if made or executed by any
28 person not being a body corporate, would not be required to be under seal,
29 may be made or executed on behalf of the Bureau by the Executive Director

1 or by any person generally or specifically authorized to act for that purpose by
2 the Board.

3 **15.** A document purporting to be a contract, an instrument or other
4 document signed or sealed on behalf of the Bureau shall be received in
5 evidence and until the contrary is proved, be presumed without further proof, to
6 have been properly signed or sealed.

7 **16.** The validity of any proceeding of the Board or its committees
8 shall not be affected by:

- 9 (a) any vacancy in the membership of the Board or its committees;
10 (b) reason that a person not entitled to do so, took part in the
11 proceedings; or
12 (c) any defect in the appointment of a member,

13 **17.** Any member of the Advisory Board or committee who has a
14 personal interest in any arrangement entered into or proposed to be considered
15 by the Advisory Board or any committee shall:

- 16 (a) disclose his interest to the Board or committee; and
17 (b) not vote on any question relating to the arrangement.

EXPLANATORY MEMORANDUM

*(This Memorandum does not form part of this Act but is intended
to explain its purport.)*

This Act provides for the repeal of the Money Laundering (Prohibition) Act 2011 as amended in 2012 to make comprehensive provisions to prohibit the laundering of the criminal activities, expand the scope of money laundering offences, provide protection for employees of various institutions, bodies and professions who may discover money laundering, enhance customer due diligence, provide appropriate penalties and expand the scope of supervisory bodies whilst recognising the role of certain self-regulatory organisations to address the challenges faced in the implementation of a comprehensive anti-money laundering regime in Nigeria.