

# **CORRUPTION: THE DIMENSIONS AND IMPLICATIONS FOR DEVELOPMENT IN NIGERIA**

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## **Introduction**

The latest of Transparency International Corruption Perception Index (CPI) placed Nigeria as the 32<sup>nd</sup> most corrupt country out of 147 countries that were assessed in 2007. This is an improvement over the 2005 and 2006 ratings which placed the country as 3<sup>rd</sup> and 17<sup>th</sup> most corrupt out of 146 countries, respectively. The improvement was attributed to the efforts of the anti corruption institutions in Nigeria, especially the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the National Extractive Industries Transparency Initiative (NEITI). In spite of these efforts, the level of corruption is still of serious concern and remains the greatest challenge. Majority of Nigerians are yet to buy into the anti corruption programme of the Federal Government, particularly at the state and local government levels.

Consequently, the negative consequences of the endemic corruption continue to impede development and threaten security of lives of the citizenry. Poverty, unemployment, insecurity of life and property and decaying infrastructure are the common features which are largely attributable to the high incidence of corruption which has reached an endemic level.

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The objective of this paper is therefore, to review the dimensions of corruption in Nigeria and its implications and propose measures which, if adopted, will assist in drastically reducing its level to the barest minimum, and ensure that national resources are used to eradicate poverty and attain the Millennium Development Goals (MDG) by 2015.

The rest of this paper is organized into five parts. The first part attempts the definition, types, causes and measurement of corruption. The various dimensions of corruption and the effects on most sectors of the Nigerian economy are contained in part two. The offences and punishments as contained in the major anti corruption legislations are reviewed in part three. Part four discusses the measures to adopt to tackle corruption while the conclusion of the paper comes up in part five.

## **Part I**

### **(a) Definition, Types, Causes and Measurement of Corruption**

Corruption has no uniform definition. This is so because what is regarded as corruption depends on the actors, the profiteers, initiators, how and where it takes place. It also depends on the existing laws and regulations guiding certain actions. Some countries define corruption in the broadest form while others legislated on the narrow definition of the term. The social and cultural contexts and the time dimensions also make a unique definition difficult. There are also levels of corrupt practices. As a result of the fluidity and the evolving nature of the concept, the United Nations (UN) has adopted a descriptive approach and criminalization of the act to describe what act is corrupt. The UN clearly highlighted bribery, embezzlement, illicit enrichment, abuse of office, laundering of proceeds of corruption, obstruction of justice, etc, as corrupt acts.

The World Bank (1997) defines corruption as “the abuse of public power for private benefit”. The Transparency International (TI) defined it as “the abuse of entrusted power for private gain”. Mushtaq Khan (1996) views corruption as the “behaviour that deviates from the formal rules of conduct governing the action of someone in position of public authority because of private motives such as wealth, power or status”.

The Independent Corrupt Practices Commission (ICPC) Act, 2000, defines corrupt acts to include “bribery, fraud and other related offences”. The Vision 2010 Committee defines corruption as “all those improper actions or transactions aimed at changing the normal course of events, judgments and position of trust”.

In effect, the motivation for corruption is to take undue advantage of position of trust which is not limited to pecuniary issues. It is also not limited to the public sector. The act is criminal when considered along with the existing legislations on the subject in Nigeria.

(b) **Types of Corruption**

Corruption can be classified using parameters such as the amount of money involved, the degree of incidence, location of the event, controlled and uncontrolled. Some examples include:

- (i) **Grand Corruption:** This occurs at the highest level of government and involves enormous monetary value and impacts heavily on the budget and the growth prospect. It may have both national and international dimensions.

- (ii) **Political Corruption:** This involves political office holders who also are usually involved in grand corruption. It may manifest in the form of subversion of political and electoral processes and it is aimed at capturing power for determining the rules of economic and political engagements.
- (iii) **Bureaucratic/Official Corruption:** This occurs at the level of government bureaucracy and often involves perversion of the laid-down rules and due process. E.g. absence of transparency and due process in contract award for pecuniary reasons.
- (iv) **Judicial Corruption:** When judicial officers fall short of the standard of integrity and the course of justice is perverted for personal gains.
- (v) **Moral Corruption:** Behaviour considered immoral and socially unacceptable to the people or the law.
- (vi) **Petty Corruption:** This covers corrupt practices usually associated with lower levels of public and private office holders such as the customs, immigration, police, civil servants, etc.
- (vii) **Religious Corruption:** When religious leaders dubiously and fraudulently take money from the faithfuls or knowingly receive proceeds of fraud for own use.
- (viii) **Corruption In Aid:** This is usually associated with donor countries whereby developing countries are induced through aid, to engage in

white elephant projects which are of no significant economic benefits to the recipients.

- (ix) **Controlled Corruption:** Usually practiced at the level of the ruling elites who have strict control over the processes and proceeds of corruption. Such proceeds are usually distributed according to “merit” and status of public employees.
  
- (x) **Uncontrolled Corruption:** There is total absence of control as everything is ready for grab at various levels with dire consequences for the society. Example is road contract award where the minister and the civil servants at various levels take bribes from the contractor with the result that poor quality work is delivered.

The common sources and corruption prone areas include but are not limited to agencies and specific desks in government offices where direct contact is maintained with the members of the public, who have business with such offices. Such activities relate to issuance of licenses and permits such as drivers license, birth and death certificates, passport, building permit and mining license. Among the other prominent sources of corrupt practices are the border establishments such as the Customs and Excise and Immigration Departments, Police Station and check points, procurement and accounts departments of ministries, departments and agencies (MDAs) of governments.

It is also common for corrupt practices to manifest by way of undervaluation of government assets by privatization agencies, as well as in revenue collection in MDAs such as the port and tax authorities.

Health Sector fraud involving hospitals, pharmaceutical departments and unexecuted contracts for provision of infrastructure are all avenues through which public funds are illegally diverted. Restructuring/reorganization of government enterprises have also been exploited to divert resources in collaboration with vendors of outsourced services in several instances. The issue of fake and sub-standard products including drugs are common incidences arising from corrupt practices.

(c) **Causes of Corruption**

Most theories on the causes and effects of corruption are a mix of issues bordering on poverty, greed, opportunity and the perception of associated risk. Indeed, there is no agreement on what the main causal factors are. There are ideological and world view differences and various scientific approaches leading to different explanations on causes of corruption.

While some hold the strong view that indeed bad governance creates the basis for corruption in many countries, some others see corruption arising from neo-liberal policies of multilateral institutions including the World Bank, the International Monetary Fund and the World Trade Organization. Their dominant roles in many developing countries which resulted in hurried sale and privatization of state properties, lowering of wages, lowering of import tariffs and reduction in free social services have left the citizens poorer and lacking.

Yet, another school of thought places much premium on culture and ethical moralism. In this case corruption is seen to be an outgrowth of weak social values, which manifests in greed and moral decadence.

However, the explanation for corruption in Nigeria cannot be totally divorced from all the above. A review of the Nigerian political and economic history points out clearly that a number of factors accounted largely for the endemic corruption particularly in the public sector. These factors include:

- (1) Long Period of Military Rule - The military regimes controlled the government for about 35 years out of 47 years of independence. They ruled without regards for democratic principles that could provide checks and balances. The application of discretion and arbitrariness in the manner decisions were taken without accountability provided avenue for corruption.
- (2) Failure to apply standards and clear cut operational procedure. This allows operators and officials to operate with large discretion in the performance of duty with tendency for corrupt practices.
- (3) Weak legal and judicial processes which give room for either miscarriage or delay in dispensation of justice.
- (4) Immunity granted some public office holders from prosecution while in office.

- (5) Weak law enforcement mechanism: This often arises from inadequate capacity to investigate and prosecute cases.
- (6) Bad leadership – Leadership that is corrupt or perceived to be so often encourages the followership to be corrupt.
- (7) Weak or absence of internal administrative controls in many government establishments to prevent fraud.
- (8) Extremely poor welfare and working conditions which do not allow for decent living often encourages officials to pilfer and obtain bribes. The removal of subsidies on many services by government and subjecting pricing of virtually every service to market forces often left the low and medium income group poorer thereby making them susceptible to corruptive tendencies.
- (9) The increasing and widespread loss of jobs and the attendant social insecurity have changed the perception of public servants. This is worsened by the attitude of government towards regular payment of retirement benefits and pension.
- (10) Widespread and pervasive poverty which provokes social pressure on the few office holders. This remains a major motivation for corruption in Nigeria.
- (11) Greed and high societal tolerance for corruption – It is common to see traditional rulers award chieftaincy titles to people whose sources of wealth are questionable.

- (12) Low risk compared with the high proceeds of corruption: this remains a motivating factor for corruption. The belief that one can always “settle” any other person that is expected to check, prevent or punish corrupt practices makes the practice less risky.
- (13) Excessive materialism, weak ethical environment, erosion of moral values and lust for power are some of the factors that encourage corruption.
- (14) Inadequate education of the members of the public on their rights as well as penalties and consequences of corrupt practices.
- (15) Pressures exerted by transnational companies and even highly placed wealthy individuals on high level government officials for quick access to resources and contracts: This remains a major driver of corruption in Nigeria. The recent revelation by Siemens and others will suffice as examples.

(d) **Measurement of Corruption**

Corruption is a difficult phenomenon to measure. Even when one is able to clearly define what corruption is in a particular jurisdiction or sector, the fact that the act is illegal means that it is more likely to be perpetrated in secret. This makes its measurement almost impossible and can only be estimated based on estimator’s perceptions. In which case, corruption perception indices are derived from surveys of respondents’ views or perceptions rather than the actual extent or the amount of money involved. An objective criterion is the number or amount involved in judicial decisions or reported cases of corruption. Even then this will

represent a small fragment of corrupt incidents because not all corrupt activities are reported or prosecuted in courts.

The commonly used indices of corruption include: the Corruption Perception Index (CPI) and the Bribe Taker Index (BTI) by Transparency International; Governance Indicators by the World Bank; the International Country Risk Guide (ICRG) by the Political Risk Services (PRS); and the Country Forecasts Index by the Economist Intelligence Unit (EIU). The CPI of the TI is based on 17 different polls and surveys from 10 independent institutions carried out among business people, the general public and country analysts. It represents assessment of perceived degree of corruption among public officials and politicians.

In Nigeria, while corruption is seen to be endemic and widespread particularly in the public sector, there is no firm figure on amount involved. However, the report of the ICPC and the EFCC on several cases being investigated as well as those that have been successfully prosecuted indicate that the amount involved should be significant. Only one of Nigeria's former Head of State and Commander-in-Chief was discovered to have stolen over \$3.0 billion which was found in his foreign accounts, apart from his investment in physical assets. A former Inspector General of Police was found guilty of diverting ₦17.0 billion. With only a few examples one can imagine how much of public resources have been stolen by government officials. Currently under prosecution are some former state governors who have been alleged to have stolen states' funds amounting to several billions of Naira. Total amount recovered by the EFCC and the ICPC as at June, 2007 totaled ₦613 billion involving 225 convictions (Thisday, 11<sup>th</sup> March, 2008). This represented about 4 per

cent of Federal and State budgetary provisions for the period 2002 – 2006 (see table 1). This was the tip of the iceberg in view of the fact that the bulk of the fraud and corrupt enrichment could not have been discovered. Indeed, it has been estimated that up to 40 per cent of government budget at all levels was lost to corrupt practices of government officials at various stages.

Indeed, the society would have been better if the remaining 60 per cent had produced quality projects or services. Quality of projects and services are usually compromised when corruption element is involved in such contract. In effect, the society does not really get value for its money. Little wonder services like turn around maintenance of refineries and gas turbines did not result in efficient performance of the facilities in spite of huge sums involved.

According to Transparency International CPI, in relative terms, Nigeria ranked high among 180 most corrupt countries in the world, improving in perception from being the 3<sup>rd</sup> most corrupt in 2005 to 32<sup>nd</sup> position in 2007. The improvement was attributable to the zeal with which the anti corruption agencies performed in prosecuting corrupt officials which served as deterrent.

## **Part II**

### **Corruption and the Effects on Some Sectors of the Economy**

Corruption is often seen as dangerous in any human environment. This is because the perpetrators distorts decision making process for selfish reasons and thereby prevent the public from attainment of optimum benefits of public policy. In general, corruption results in high cost of

public projects and lowers the quality and standards of goods and services. It prevents the poor from having access to public good and undermines basic human rights. Corrupt practices undermine growth and development and have serious socio-economic and political consequences. The trend in socio-economic deterioration in Nigeria cannot be divorced from the endemic corruption which has eaten deep into the fabrics of the national life.

In what follows, an attempt will be made to highlight the implications and consequences of corrupt practices as they have affected the various sectors of the society. As earlier mentioned, while it is difficult to measure the level of corruption, the act itself manifests in several areas of national life by the deterioration in public services nation-wide. The effects include:

- (i) **Effect on Economic Development:** Diversion of public resources by way of inflated contracts means that fewer projects will be executed with what government earns as revenue. Similarly, obtaining "grease payments" on contracts awarded will either result in lower quality job or non-completion of such contracts as we have all over the country. Loss of revenue to government as a result of corrupt practices of some officials in revenue and customs departments also means that not as much resources that can be invested by government will be available. All of these impede economic growth and development.

The more worrisome of this corrupt act is that, usually the proceeds of corrupt practices are not usually invested to provide employment. Quite often corrupt people spent such money on luxurious items of

consumption or transfer such funds into foreign account. This does not only deny the economy of the use of such fund, but also creates pressure on demand for foreign exchange which often results in deterioration in the country's balance of payments with the resultant consequences of depreciation of the naira and inability to attract foreign investments. In addition, it raises the level of prices and worsens the standard of living of the citizens, particularly the poor.

- (ii) **Deterioration in Social Services:** The decay in social services such as the education sector is not only because of inadequate financial allocation but also as a result of corrupt practices. Teachers offer private tutoring to students outside school hours in order to enrich themselves rather than teaching at the normal time. Indeed, students who opt out of such arrangement are often failed in examinations. Teachers sometimes sell question papers in advance to those who can pay. It is also common to find that funds raised by Non Governmental Organizations (NGOs) and Parents' Organization are embezzled. The incidence of 'ghost teachers' as well as absenteeism by teachers are symptoms of corruption. All of these corrupt practices have not helped in building or sustaining standards in the education sector, rather services have deteriorated.

The health sector also has its problems. Many government doctors prefer to treat patients at their private clinics while corruption in areas of drug procurement has turned hospitals to mere consulting clinics. Drugs provided by NGO's which are donated free or at highly subsidized rates are sometimes found in the open market after they were stolen from government stores. All of this has made

medical service delivery costly and beyond the reach of the poor who are the most vulnerable and consequently making attainment of the Millennium Development Goals much more difficult.

Nigeria's inability to generate and distribute enough energy is largely associated with the level of corruption in that sector. It has been estimated that the allocation to the sector between 2001 and 2007 stood at about \$10.0 billions (~~₦~~1,300 billion). In spite of this, power supply has declined from about 3200 to barely 2600 mega watts during the period. Even when the supply was temporarily cut off as a result of faults arising from malfunctioning of equipment, officials of Power Holding Company of Nigeria (PHCN) would demand bribe before repair could be effected and service restored. This has limited economic growth, resulted in high cost of production and made Nigeria's export uncompetitive in the global market. Employment creation has also been negatively affected by this development

- (iii) **Effects on Environment:** Gas flaring and pollution of water and air by industries are issues that are dangerous to human lives. However, because of "grease payment" the regulations are either unenforced or officials are influenced to ensure that penalties for contraventions are generally too mild as to prevent breach.
  
- (iv) **Effects on Peace and Security:** The level of corruption has a way of putting peace and security of a country in danger. The Niger Delta crisis currently being experienced is largely an offshoot of grand corruption that prevailed. State resources were being

diverted by the ruling elite which left the people with little option other than taking up arms in order to get more of state resources. The inability to generate enough electricity is directly as a result of the insecurity and crises which corruption has promoted.

(v) **Corruption and Effects on Political System**

The use of stolen money in political campaign and in corrupting electoral process has weakened the electorates' faith in democracy. People no longer see government as their own and the legitimacy of the government in power is put to question. Corruption erodes the confidence of the citizens as well as the foreigners in government.

Indeed, the corrupted democratic process has given room to autocratic rule and total disregard for the rule of law. The high incidence of politically motivated assassinations and kidnap of prominent people are all outcomes of a corrupt political system in Nigeria. Political system has been corruptly manipulated to weaken opposition to the disadvantage of the citizens.

(vi) **Effects on Development Cooperation**

Countries are usually rated by the level of transparency and good governance. Governments that are perceived to be corrupt usually lack cooperation that can promote development.

At the multilateral level, global financial institutions such as the World Bank are usually unwilling to release credit nor recommend such country for financial assistance from regional groups. At the bilateral level, such country is denied development aid. When such

country is indebted to external creditors, quite often relief is not usually extended. Consequently, the rate of development of the country will be slow. This was the situation Nigeria found herself until the country was perceived to have adopted anti corruption policy measures.

### **Part III**

#### **Offences and Punishments In Major Anti Corruption Acts**

Several laws were enacted to prevent, investigate and punish corrupt acts of public officers as well as members of the general public who engage in corrupt practices. These include among others, the Code of Conduct Bureau Act Cap 56 LFN 1990, the EFCC Establishment Act, 2004 and the Corrupt Practices and Other Related Offences Act, 2000. This review will be limited to only these three institutions and the provisions of their establishment acts.

##### **1. CODE OF CONDUCT BUREAU**

The Code of Conduct Bureau was established to ensure high standard of morality in the conduct of government business. Also established, although autonomous, is the Code of Conduct Tribunal which has the responsibility of adjudicating on cases sent to it by the Code of Conduct Bureau.

The Bureau specifically has the mandate to implement Section 3, Part 1 of the Fifth Schedule of the 1999 Constitution of the Federal Republic. It receives and investigates declarations of public officers regarding the assets acquisition and prosecute officials discovered to have made false declaration of assets or fails to declare assets. It also sets standard

regarding the code of conduct for public servants. These relate to issues of divided loyalty and receiving income for activities that are adjudged immoral. These activities include, seeking and collecting bribe, gratification and gifts for or before performing one's duties as public servant or receiving remunerations from different sources and in a manner considered unfair or improper.

The law establishing the Code of Conduct Bureau also makes it a serious offence for public officers who fail to complete and submit to the bureau the assets declaration form on timely basis.

The punishment for breaching the provisions of the Code of Conduct Bureau Act range from removal of the officer from office, disqualification from holding public office for not less than ten years, to seizure and forfeiture to the state of any property acquired in abuse or corruption of office. This is however, without prejudice to the penalties that may be imposed by any law where the conduct is also a criminal offence.

## **2. THE ECONOMIC AND FINANCIAL CRIMES COMMISSION**

The EFCC is an institution established by the EFCC Act, 2002 and EFCC (Establishment) Act, 2004 as the designated Financial Intelligence Unit in Nigeria with the responsibility of coordinating the various institutions involved in the fight against money laundering and investigation and enforcement of all laws dealing with economic and financial crimes in Nigeria. In addition to the powers conferred on the Commission by the Act, it has responsibility for enforcing the provisions of the Money Laundering Act 2004; 2003 No. 7; and 1995 No. 13, the Advance Fee Fraud and Related Offences Act, 1995, the Failed Banks (Recovery of

Debts) and Financial Malpractices in Banks Act, The Banks and Other Financial Institutions Act, 1991 as amended, Miscellaneous Offences Act; and any other law or regulation relating to economic and financial crimes, including Criminal Code and Penal Code.

### **Punishments for Contravening EFCC Act**

Section 14 of the EFCC Act provides for an imprisonment of not more than 5 years and or a fine of ₦500,000.00 for any official of any financial institution who fails to comply with the provisions of the Act or neglects to secure authenticity of any statement submitted pursuant to the provisions of the Act.

The Act provides for a life imprisonment for offences relating to financing of terrorism while offences relating to false information regarding issues specified in the Act attracts imprisonment terms of between 2 to 3 years for that offender and 3 to 5 years if the offender is a public officer. Section 17 of the Act provides for an imprisonment term of not less than 3 years or a fine equivalent of 100 per cent of the value of the proceeds of economic and financial crimes for any person who conceals, removes and deliberately retains proceeds of a criminal conduct.

Similarly, any person who engages in acquisition, possession or use of property, management and financing of the offences, as well as engages in conversion and transfer of property knowing that they all derive from any offences under the Act shall be imprisoned for between 2 – 3 years. Moreover, all assets forfeited after conviction under the Act shall belong to the Federal Government of Nigeria.

The Act also provides that the EFCC, in collaboration with the Attorney General of the Federation, can compound any offence punishable under the Act by accepting such sum of money as it deems fit, but not more than the amount to which the offender would have been liable if convicted, as option to discontinue or investigate criminal proceeding against any offender.

**3. THE INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES COMMISSION**

The ICPC Act 2000 was enacted to prohibit and prescribe punishment for corrupt practices and other related offences. It established the Commission and vested it with the responsibility for investigation and prosecution of offenders for the offences committed with effect from June 13, 2000. The offences and punishments covered in the Act include the following:

<b>SECTION</b>	<b>OFFENCE</b>	<b>PUNISHMENT IN JAIL TERMS/ FINE</b>
8	Acceptance or attempt to receive or request for gratification by an official directly or indirectly.	7 years
9	Corrupt offer to public officers	7 years
10	Corrupt demands by persons	7 years
12	Fraudulent acquisition of property	7 years
13 & 14	Fraudulent receipt of property (Fraudulent receipt of postal matters, chattel).	7 years (3 years)
15	Deliberate frustration of investigation by the Commission	7 years
16	Making false statement or returns in respect of money or property received.	7 years
17	Gratification by and through agents	5 years

18	Bribery of public officers in relation to voting or performance of duty	5 years with hard labour.
19	Using office or position to gratify or confer unfair advantages on oneself, relation or associate	5 years without option of fine.
21	Bribery in relation to auctions	3 years
22(3)	Inflation of the price of goods/services	7 years and ₦1million fine
22(4)	Award of Contract without Budget Provision, Approval and Cash Backing	3 years and ₦100,000.00 fine.
22(5)	Transferring money from one vote to another (virement).	1 year or ₦500,000.00.
23	Failure to report bribery transactions.	2 years and or N100,000.00 fine.

## **Part IV**

### **Tackling Corruption: The Way Forward**

So much efforts have been made in the last five years to tackle corruption in Nigeria. Yet, the level of corruption remains high and intolerable even though significant awareness has been created and the institutions and arrangements put in place have by and large moderated the incidence. In order to achieve a more meaningful success in the fight against corruption, there is the need to review the anti corruption strategy.

The strategy should be transparent and nonpartisan and be mindful of all conflict of interest issues. The anti corruption strategy should be quite realistic in terms of operationality and resource requirements and should focus on causes, not the symptoms, cure not just diagnosis and on system rather than just individual. Indeed, the strategy should depend on the type of corruption that is prevalent in the country.

A number of challenges have confronted the institutions that are charged with the responsibility of fighting corruption in Nigeria. These range from inadequate and costly legal representation in fighting the war, political interference which creates hurdles and absence of whistle blowers to support the fight. These challenges also point to the need to adopt a more holistic and integrated approach in the fight against corruption.

The various stakeholders should also appreciate the need to come together and show commitment in the fight. This collaboration should involve not just the executive arm of government, but also the legislature, the judiciary, the private sector, the media, the civil society organizations, local governments and the anti corruption institutions for greater effectiveness. Specifically, legislations that support access to information, protect whistle blowers and support collaboration with international institutions should be enacted. The civil society should be much more involved in monitoring, detecting and reversing corrupt activities. Institutional checks and balances and the separation of powers among various arms of government should be fortified to enable oversight functions to be effectively undertaken. Executive dominance in democratic setup always encourages corruption.

Ownership of the anti corruption war is also an issue that requires attention. Currently, the people see the anti corruption issue as a government matter. There is the need to educate the public to own the programme, perform over-sight functions, and play the role of whistle blower. Information regarding offences, punishment and trials of corrupt persons should be well disseminated to discourage others from corrupt act.

Policy guidelines on major areas of operation must be clearly articulated and communicated as required down the line to avoid abusive use of discretion. Procedural complexity which gives room for corrupt practices should be reduced or eliminated. Similarly, the code of business ethics should be put in place, publicized and strictly enforced.

The legal system should be dynamic in order to support the fight and the judicial system should be refocused to ensure quick dispensation of justice. The belief that the judiciary can be compromised has always been a major factor in widespread corruption in Nigeria.

Leadership by example is a major requirement for a successful war against corruption. The fight against corruption will necessarily have to start from the highest levels of the state. Leaders should act what they preach. A situation whereby leaders speak against corruption while in reality every event around such leaders clearly shows proofs of corruption will not help the struggle.

To be effective as a deterrent, disciplinary measures must, within the requirements of due process, be prompt, evenly applied and publicized.

At the individual level, officials should make a personal commitment to live up to the obligations of forging an ethical destiny for their establishments and indeed Nigeria at large. They should refuse the temptation of collaborating with outsiders to perpetrate fraud and endeavour to report corrupt practices through the Anti Corruption Unit of their establishment. Every worker should aspire to live good legacies by making sacrifices and avoiding activities that can tarnish the image of their organization.

## **Part V**

### **Conclusion**

This paper has attempted to link the slow pace of development in Nigeria to the high level of corruption. It has been unable to measure accurately in monetary terms the level of corruption because fraud and corrupt activities are undertaken in the secret. It is only what is discovered or reported that can be captured. It has however, relied on the recording of corruption rating agencies and the abysmally low level of infrastructural facilities compared with some budgetary provisions to make statements, draw conclusions and proposed measures for its curtailment.

The fact of the matter is that no society has been able to eliminate corruption completely. What is expected however, is that the level of corruption should be minimized by putting in place appropriate preventive and punitive measures and the display of commitment by all levels and arms of government. Nigeria has achieved some progress in this regard in the last few years and it is only expected that the policy measures should be sustained.

It has also been suggested that the operational procedures of all government MDAs should be very clear and supervision and accountability should be ensured in order to prevent corruption. Similarly, sanctions should be applied whenever any infringement is noticed.

Officials need to avoid the temptation of falling for the baits of external customers who may want to secure the support of insiders to manipulate the system

Finally, the recruitment process in the MDAs should be made more thorough in order to avoid the likelihood of recruiting people with dubious character into the service. Such people are not just dangerous, but are likely to pollute the honest staff.

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**ECONOMIC CLASSIFICATION OF FEDERAL GOVERNMENT EXPENDITURE (NAIRA BILLION)**

<b>PARTICULARS</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>APROVED ESTIMTE</b>	<b>PROVISIONAL</b>	<b>TOTAL</b>
TOTAL EXPENDITURE	1,018.2	1,226.0	1,426.2	1,822.1	1,900.0	1,938.0	7,330.5
RECURRENT EXPENDITURE	696.8	984.3	1,032.7	1,223.7	1,240.9	1,290.2	6,468.6
CAPITAL EXPENDITURE AND NET LENDING	321.4	241.7	351.3	519.6	567.6	662.4	2,664.0
TRANSFERS	0.0	0.0	42.2	78.9	91.6	96.4	309.1
<b>TOTAL</b>							<b>16,772.2</b>

**FUNCTIONAL CLASSIFICATION OF STATE GOVERNMENT RECURRENT AND CAPITAL EXPENDITURE  
(NAIRA BILLION)**

<b>PARTICULARS</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>TOTAL</b>
TOTAL EXPENDITURE	724.6	921.3	1,125.1	1,478.6	1,586.8	5,836.4
RECURRENT EXPENDITURE	424.2	545.3	556.8	789.1	894.3	3,209.7
CAPITAL EXPENDITURE	283.5	324.0	412.92	514.7	584.0	2,119.1
<b>TOTAL</b>						<b>11,165.2</b>

**LOCAL GOVERNMENT FINANCES (2002 – 2006). (NAIRA BILLION)**

<b>PARTICULARS</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>TOTAL</b>
TOTAL EXPENDITURE	169.8	361.7	461.1	587.9	665.8	2,246.3
RECURRENT EXPENDITURE	124.7	211.6	295.7	374.5	398.2	1,404.7
CAPITAL EXPENDITURE	45.1	150.1	165.4	213.4	267.6	841.6
<b>TOTAL</b>						<b>4,492.6</b>
<b>GRAND TOTAL</b>						<b>32,430.0</b>

**Recovered Loot (2002 – 2006)**

**613.0**

**Source: CBN Annual Report and statement of Account December, 2006.**

## **ENSURING ETHICAL CONDUCT, INTEGRITY AND DUE DILIGENCE IN THE WORK PLACE**

**By Mrs. Rasheedat Okoduwa\***

### **Introduction**

It is indeed an honour and privilege to stand before you to deliver a paper at this very important occasion. I believe we are all familiar with the Obasanjo Administration efforts at fighting corruption and promoting efficient service delivery to the Nigerian public. The Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), SERVICOM, the Due Process Mechanism and the several reforms across major sectors of the economy (including the banking and financial sector) are all testimonials to those efforts.

The topic is apt in the sense that it moves beyond mere discussions on corruption and other malaise in the work place to the more challenging issue of seeking a framework for instituting positive values such as **ethical conduct, integrity and due diligence** as an enduring counter-force against the systemic rot.

The starting point for our nation was overcoming our collective denial as reflected in our 'head-in-the sand' attitude and acknowledging up-front that we are suffering from a seriously debilitating and ultimately terminal disease called Corruption. We have had almost seven years, since the

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establishment of the ICPC in September 2000, to work through that process. Now it is time to fashion out concrete and enduring solutions to the problem. With the glaring reality of widespread ethical decadence in our work places and the larger society, an orientation that underscores the importance of positive values is not only timely but profoundly relevant.

This paper will discuss the importance of these positive values and proffer suggestions on strategies of instituting them and ensuring their continued existence in the work place.

### **Definition of Terms**

It is pertinent at this juncture to define the terms used in the topic.

### **Ethical Conduct**

Ethics is derived from the Greek word 'ethos' which means the distinctive moral ideas and attitudes of a people. Ethics means moral principles that control or influence a person's behaviour. Synonyms for the word ethics include principles, standards, values, morals, ideals, beliefs, codes etc. Former President Olusegun Obasanjo gave an insight into the nature of ethics when he said 'Ethics is about honesty, respect, compassion, fairness, loyalty, love, dependability, courage and good citizenship...' (Obasanjo 2002). Ethical conduct is the aggregate of social behaviour measured against a set of guiding beliefs, standards or ideals that are operative in a group or community. Therefore ethical conduct in the work place refers to conduct that is morally correct or acceptable as determined by guiding standards in the work place.

## **Integrity**

Integrity is defined as wholeness, uprightness, honesty and purity (Chambers 1999). This is a concept that should underscore all behavior in the society as it is a summation of all there is about ethics and ethical conduct. The attribute of wholeness implies that there can be no such thing as 'a small integrity' - it is either there or not. Integrity is not a seasonal or ceremonial model ascribed only to particular occasions, situations and circumstances. It is the quality of having strong moral principles and doing the right thing all the time whatever the situation or whether or not any one is watching.

## **Due Diligence**

This is an attribute of steady application and commitment to laid-down procedures, rules and regulations in official matters. Due diligence encompasses accountability, probity and transparency. The diligent officer is the one who conducts himself in accordance with official guidelines and regulations and is ready to subject his actions and utterances to public scrutiny at all times.

Since I am required to speak of these values in relation to the work place, I shall situate further discussions within the ambit of the Public Service.

The public service is the most important tool with which government implements its policies and delivers service to the people. The Constitution of the Federal Republic of Nigeria, 1999, provides for the establishment of a Federal Civil Service in section 169 and section 206 contains a similar provision for a State Civil Service. The erosion of **ethical conduct**,

**integrity** and **due diligence** in the Nigerian Public Service over the years, has resulted in the unpleasant situation where the generality of the people believe the public service is inept and corrupt, and government business is conducted without any recourse to set standards and ethical considerations as laid down in extant rules and regulations (Federal Government 2003).

There is no gainsaying the fact that the Service has failed to provide the highest possible benefit as intended for the welfare of the Nigerian public that it was established to serve. The reform agenda of the past administration earlier alluded to is the consequence of this sorry state of affairs. Perhaps some people might still wonder why the past government was doggedly intent on the reforms in the public service and in the way government business was being conducted? Why have there been easy abuse of office, misappropriation of funds and property in the public service? It is obvious that the answers to these questions lie in the unfortunate breakdown of the ethics infrastructure in the public service. President Olusegun Obasanjo stated in March 2004 that:

“Public offices are a shopping floor for government businesses. Regrettably, Nigerians have for too long been feeling short-changed by the quality of public service delivery by which decisions are not made without undue influence and files do not move without being pushed with inducements. Our public offices have for too long been showcases for the combined evils of inefficiency and corruption, whilst being impediments to effective implementation of government policies. Nigerians deserve better and we will ensure they get what is better”.

This statement, made at a Presidential Retreat on the review of service delivery aptly captures the sorry state of the public service as an institution riddled with corruption and the absence of integrity, transparency and accountability. However, it is germane to mention at this point that the breakdown in ethics and the concomitant systemic rot are not limited to the public service. The private sector is equally bedeviled by the malaise and indeed so for the entire society.

The banking industry cannot be exempted. Research into the operations of the banking industry reveals so much corruption. The level of corruption in the system ranging from kick backs, fraud, money laundering and insider loans abuse, conferring undue advantage to oneself and cronies through illegal and indiscriminate granting of loans etc, is mind-boggling. The distress syndrome of 1990s, from which the banking sub- sector is just recovering is enough lesson on how the compromise of ethical standards and lack of due diligence could hamper the growth of institutions.

This paper will not dwell so much on the negative effects of the breakdown of ethical standards as they are so obvious and well known but will now examine strategies for instituting and sustaining **ethical conduct, integrity** and **due diligence** in our work places, in line with the thrust of the topic which underscores the imperative of finding a solution to the problem.

## **2. Ensuring Ethical Conduct, Integrity And Due Diligence In The Work Place**

Before we launch into the strategies of instituting and sustaining **ethical conduct, integrity** and **due diligence** in the work place, it is important that a window is provided into the behaviour of human beings (the core resource in the work place). Man is created essentially a moral and social being. He comes into the world with a conscience that seems to recognize certain fundamental principles of social existence and interaction; principles such as fairness, equity, justice, integrity, dignity, service, honesty, excellence, etc. However, that conscience is conditioned in a social milieu that moulds his character through a learning process which involves cultural norms, belief systems, individual and collective experiences. The dynamics of this socialization process creates his peculiar values and character traits. The extent to which the social conditioning has been positively reinforcing of the fundamental principles of existence is the extent to which the individual will possess positive or negative social values.

Organizations are aggregates of people from different social and cultural backgrounds, as such, values would differ between individuals and groups in the work place. Some examples of the differing values that people who have to work together may have are courage, desire for wealth, ostentation, personal freedom, honesty, contentment, communality, individualism, popularity, discipline, etc. Since the values that people hold direct their behaviour, it is obvious that the work place will be a melting-pot of different types of behaviours: desirable and undesirable.

Given the above position, is it then possible to have individuals in the workplace subscribe to and uphold the same values? The answer is an unqualified 'YES' because as different as people may be, there is still similarity in the consciousness of certain universal concepts such as honesty, peace, courage, wisdom, fairness, equity, etc. Can **ethical conduct, integrity, due diligence** and other positive values in the work place be an antidote for corruption and ensure improved service delivery to the populace? The answer is also an unqualified 'YES'. The importance of a re-orientation towards positive social values in the Anti-corruption war can be deduced from the mandate given to the ICPC by its enabling law in Section 6 (e) – (f) to **'educate the public on and against bribery, corruption and related offences; and enlist and foster public support in combating corruption'**.

By this charge, the Commission is empowered to utilize all strategies that will achieve the aim of educating the public against corruption and attain their collective support in fighting it. One of such strategies currently being used by the Commission is the ethical re-orientation of the Nigerian populace through its National Integrity Outreach. Under this umbrella programme, there are several sub-programmes all geared towards the same goal of re-orienting Nigerians towards moral rectitude in their public and private lives. Such sub-programmes include the Grassroots Integrity Outreach, Integrity Programme for Schools, the National Values Curriculum Project (for use across all educational levels), the Integrity First Initiative (an integrity assessment framework for the private sector), and the Integrity Officer's Course.

The Commission believes firmly that the value re-orientation effort will be successful as corruption and moral turpitude are abhorred in our traditional cultures. Time was when the Nigerian who travelled abroad was an acknowledged example in morals, diligence and responsibility. Time was when in our country, a trader's wares could be placed at the roadside unattended without any fear of theft. Across the different ethnic groups, our traditional upbringing inculcated sound moral values in us, instructing us with precepts and examples that a good name was better than gold and silver. Somewhere along the line, our socialization took a wrong course. We can unlearn the bad values and habits and retrace our steps.

### **3. The Framework for Instituting a Corporate Ethical Mindset for Enhanced Performance, Accountability and Transparency**

As stated earlier, values are learned through experiences of socialization, thus it is possible to unlearn negative values and change them through a positively reinforcing socialization process. The value system of members of an organization is undoubtedly reflected in the organizational culture which is a system of shared values held by members of that organization. To mould behaviour in the direction desired, it is essential that the organization's culture is congruent with the values it wants to promote. Therefore, the behaviour, norms, beliefs, assumptions, expectations and ways of doing things must be in accord with the desired value goals.

In building a corporate ethical mindset, the effort must be deliberate, structured and promoted within a larger framework of supportive operational policies. To ensure that **ethical conduct, integrity** and **due diligence** sum up the culture of any work place, there is a caveat which

determines the success of the effort and it is that the entire campaign must not only be at the instance of top management, it must be supported wholeheartedly in all ramifications. Top management must 'walk the talk', because as Confucius said "if you lead the people with correctness, who will dare not be correct?"

An outline is suggested below on how the orientation towards these positive values can be initiated and nurtured.

- **Taking Stock and Clarifying Existing Values in the System:** It is important as a starting point to take stock of the existing value system operant in the organization i.e. the norms, behaviour, beliefs, assumptions, expectations and ways of doing things. This can be done effectively through a non-threatening survey or opinion poll. It is at this stage that assumptions about integrity and ethical issues such as conflict of interest can be brought to light and clarified.
- **Identifying and Choosing the Positive Values to be Promoted:** A next step will be to identify from the result of the survey what positive values are already in the system and introduce additional ones that may be desirable. Staff opinion can also be an input at this stage.

Each organization will decide for itself what values it considers important, but there are certain universal principles that enhance corporate and individual effectiveness which can guide the choice of

values. Examples of some of these principles are Fairness, Justice, Integrity, Excellence, etc. Our nation for example, has identified its national ethics and values as Discipline, Integrity, Dignity of labour, Social Justice, Religious Tolerance, Self-reliance and Patriotism (Federal Government 1999).

- **Putting Policies in Place to Support these Values:** Since the ultimate aim is to bring about a positive change in behaviour and sustain it, Management must accept the responsibility for creating an environment that facilitates behavioural change. This enabling environment is created when policies, procedural network, norms and actions which shape the corporate socialization process are in harmony with the values being promoted.
- **Developing a Code of Ethics and Operational Manual:** Identified values and agreed-upon institutional best practices should be codified and published for the use of all staff. The desired behavioural change should be articulated to serve as a benchmark for assessing the efficacy of the orientation effort over time. The Code of Conduct for Public Officers as entrenched in the Constitution provides a pathway in this regard.

The Code is the compass for ethical conduct in the public service and all public officers are expected to comply with its provisions. In fact, it is suggested here that the Code of Conduct should form the scaffold for the local code of the organization where the organization

is part of the Public Service as in the case of the Central Bank of Nigeria.

In addition to a Code of Ethics, formal procedural guidelines must exist in the organization for synchronization and efficiency in operations.

- **Communicating and Sensitizing on the Code:** In order to orientate and re-orientate staff on the Code, i.e. to direct staff aims and actions towards achieving a positive corporate ethos, strategic communication is essential to support and promote the expected outcome. Several integrated strategies must be used in order to attain an enduring corporate culture built on integrity and due diligence that will curb corruption and enhance transparency and accountability. Some of these strategies include training and sensitization sessions tailored to the literacy level of the audience, counselling sessions, the use of corporate slogans, production of Integrity and Ethical Conduct (IEC) materials such as posters, stickers, T-shirts, caps etc. and publications like bulletins, circulars, and newsletters. The values espoused by the code must be integrated into all corporate activities as a long-term commitment.
- **Trouble-shooting hot spots** by paying focused attention to areas of operation that are most prone to malfeasance.
- **Conducting Regular Monitoring:** This will provide vital feedback information on the degree of compliance with rules and

procedures and also promote internal control as issues highlighted by the feedback can be addressed. Such issues could be **willful infraction of the Code which must be promptly and appropriately dealt with. An effective enforcement and compliance mechanism is a sine qua none for a successful code of ethics regime.**

- **Ensuring that Punishment for Infractions are Appropriate and Equitable:** There must not be sacred cows in the application of the code and in the dispensation of justice as the fastest way to kill the spirit of the entire process is to be discriminatory in its execution.
- **Carrying Out Enlightenment on The Provisions of the ICPC Act:** It is important that staff are enlightened on the provisions of the Corrupt Practices And Other Related Offences Act 2000. This is necessary so they can appreciate the fact that corruption in all its ramifications is criminalized and the Commission is uncompromising in enforcing the law to the letter.
- **Developing and Maintaining a Mechanism for Whistle-blowing and Protection for Whistle-blowers:** There must be a known and structured channel for reporting acts that run against the stated values and ethics of the organization. There also must be protection for those that blow the whistle. It is only when this is assured and seen to be practically operative, that

the conspiracy of silence can be broken and corrupt people in the system be exposed.

- **Recognizing and Rewarding Role Models:** Just as it is important to deal with those that contravene the Code, it is equally vital to create viable platforms for sustained behavioural change and encouragement of role models through the recognition and reward of those who are exemplary.

#### **4. Conclusion**

This paper has addressed the topic by suggesting practical steps to be taken in instituting and sustaining a corporate culture of **ethical conduct, integrity** and **due diligence** in the work place. It has stated that values are learned and negative ones can be unlearned, giving way to the learning of positive ones. When individuals are aware of the values that are necessary for their well-being and corporate progress, they can be encouraged to subscribe to and consistently apply these identified positive values.

Every individual possesses the innate capacity to change and positively re-direct his life and he will do so with the right motivation. As it is for organizations, so it is for nations. Herein lies the hope for this nation for as Henry David Thoreau said 'I know of no more encouraging fact than the unquestionable ability of man to elevate his life by conscious endeavour'.

Wrong values as manifested through corrupt and decadent acts have brought our nation to the edge of the precipice. The cheering news is the

political will that has been brought to bear on the anti-corruption effort. However, the fight is not for the government or the anti-corruption agencies alone. The fight against corruption begins with having the proper values and strengthening our moral fibre. We are at the threshold of renewal and it is only by developing and sustaining a unified and uncompromising stand against corruption that we can cross over to an enduring era of egalitarianism and life more abundant.

At all times everyone should examine the values that propel his/her actions and change for the better where necessary. We must imbibe the values of diligence, integrity, contentment, teamwork, patriotism, community, justice and fairness in our public and private affairs. It is these qualities that will engender openness in our actions, make us bold to subject our decisions to the most stringent scrutiny and naturally welcome oversight actions and the obligations of accountability.

Let us herald a new dawn for Nigeria as President Umar Musa Yar'Adua has urged us to and reject the unacceptable phrase 'the Nigerian factor' which insults our collective psyche as 'if to be a Nigerian is to settle for less' (Yar'Adua 2007). Distinguished Ladies and Gentlemen, fellow compatriots, the time is now to contribute our quota to building a Nigeria that is 'worthy of our children' for our benefit and that of generations yet unborn. The time is truly now.

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# **ETHICS: A NECESSITY FOR TRANSPARENCY IN CORPORATE GOVERNANCE**

**By Sampson B. C. Ekpdekumo\***

## **1.0 Introduction**

Organizational goals may be pursued in accordance with an underlying philosophy which determines the culture of the organization and governs the overall conduct of its operations. Goals are translated into objectives and policy and the objectives set out the aims to be achieved which are the desired end-results.

There are many considerations and motivations which affect the desire for maximum economic efficiency of an organization. Attention must be given to all those areas which are of vital importance to the survival and prosperity of the organization.

An important approach to exploring values in an organization is ethics. There is a rising interest in ethical behaviour in governance particularly in the banking and financial sector and in the public sector institutions in general in Nigeria. This is evidenced by the public calling for transparency, integrity and accountability in the conduct of corporate business. The scarcity of transparency, integrity and accountability in our institutions in Nigeria is real and hopefully installing an "ethics infrastructure" may turn things around by influencing the way and manner the institutions and the people operate.

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This paper seeks to inform and stimulate thinking on ethical issues and how to confront ethical challenges. For orderly presentation, section two of the paper is on Understanding Ethics including some dictionary definitions. Section three covers the Effects of Ethical Lapses in Organizations. Ethical Guides and Ethical Code are considered in section four. Section five examines the Benefits of Ethical Practices in Organizations while section six is a brief Conclusion.

## **2.0 UNDERSTANDING ETHICS**

The field of ethics involves internalizing concepts of right and wrong behaviour. Whether in business, government or any other enterprise, all persons are concerned with ethics. In Webster's Dictionary, ethics is defined as "the discipline dealing with what is good and bad and with moral duty and obligation." Oxford Advanced Learner's Dictionary defines ethics as "moral principles that govern or influence a person's behaviour." Ethics is defined in The Chambers Dictionary as "the science of morals, that branch of philosophy which is concerned with human character and conduct; a system of morals or rules of behaviour (Chambers Harrap, 1999).

According to an Irish philosopher, William Berkeley, ethics consists in striking the right balance between two basic human feelings: concern for one's self and concern for others.

At work, members of organizations may experience a clash of values. Some colleagues may be influenced more than others by principles or a sense of duty. Their views may be guided by religious beliefs or other

moral ideas. Some people may hold the view that ethical behaviour requires ethically based actions regardless of consequences. There are those who may consider the moral value of the outcomes as more important than the actions resulting in those outcomes. Another group of colleagues may perceive an act to be right or wrong in so far as it is approved or otherwise by one's society. Yet another moral view holds that individuals create their own moral standards.

Confronted with the various ethical standard-points, a common ground is reached as most people can agree that virtues such as honesty, truthfulness and integrity are essential in the formation of good character and the establishment of correct or proper behaviour. Therefore, the question of character, which has to do with what makes someone a morally good or bad person, becomes the central factor with which ethics must deal.

Furthermore, Webley (1993) believes that the promotion of ethics can be assisted by organizations developing codes of business ethics to guide individual members in their activities.

### **3.0 EFFECTS OF ETHICAL LAPSES IN ORGANISATIONS**

Ethical issues are at the root of various problems in organizations. Developing anti-corruption and transparency strategies with scant attention to ethical issues is missing the point.

In exploring ethical business, emphasis is placed on the organization as the main moral agent. This is to ensure that ethical issues are not viewed

as solely individual problems in a business setting but that other features of the organization also contribute to wrong doings.

However, many ethical lapses in business do arise from need or greed or entrepreneurial over ambition on the part of individuals.

Corporate culture may influence other wrong doings. It may be the culture of excessive pressure for results or of inadequate supervision through ignorance or laziness.

Although business ethics is not solely about finance but that is where most scandals happen and most media attention is focused.

The following are typical effects of ethical lapses in organizations which cut across national boundaries:

- dereliction of duties
- frauds and embezzlements
- bribery/corruption
- falsification of records
- concealment of material information
- abuse of limits of authority
- misuse of resources of organizations
- violation of rules and regulations
- poor customer service
- poor performance
- lack of transparency, fairness and accountability
- weak institutions, systems and structures.

This unwholesome scenario has aroused public exasperation as well as investor activism. Accordingly, pressure is being brought to bear on organizations to apply more integrity, transparency and accountability in the conduct of their affairs.

Corporate entities themselves should develop genuine interest in ethics and transparency in response to the pressure. In fact, the sick should develop interest in medicine.

#### **4.0 ETHICAL GUIDES AND ETHICAL CODE**

Ethical guides are tentative statements which can serve as a basis for guiding behaviour and for formulation of ethical principles. They comprise "primary guides", "middle guides" and "area of prudential judgement."

##### **Primary Guides**

- Ethical actions are grounded in the backing of the generally accepted social institutions of the society.
- Business is an integral part of the society hence business managers are expected to act in a way that contributes to society.
- Respect for interpersonal relationships; honesty in communication and business transactions.
- Accepting the personal integrity, rights and privileges of others.
- Personal responsibility for one's own behaviour and actions.

##### **Middle Guides**

The middle guides rest on the primary guides. They help to accomplish the goals of the primary guides and are more specific:

- Obligation to observe laws of the land.
- Power and authority are held in the interest of others.
- Managers must not act solely for their own personal advantage.
- The actions of managers must not be in conflict with the interest of others.
- Authority and power must be matched with responsibility.

### **Prudential Judgement**

As a result of the broad nature of the guides, a great deal of judgement is required in their application to specific situations. Prudential judgement is more in the domain of applied ethics. Applied ethics consists of the analysis of specific controversial moral issues in such fields as medicine, business, the environment and also in the area of sexual morality. The issues include abortion, confidentiality of patients' records, mandatory screening of all patients for AIDS, physician assisted suicide, deceptive advertising, affirmative actions, whistle blowing, pollution control, monogamy versus polygamy, homosexual relations and extramarital affairs. There are also social morality issues of capital punishment, racism, among others.

The ethics code may include principles guiding the organization in conducting its business and in relating to its stakeholders. The stakeholders comprise employees, customers, shareholders or other providers of finance, suppliers, government and the general public. The ethics code will also cover specific ethical standards to be respected by members of the organization. The following areas may be covered:

- Conflicts of interest

- Giving and receiving of gifts
- Confidentiality
- Environmental pollution
- Health and safety
- Equal opportunities
- Political activity
- Loyalty
- Customer relations
- Accounting practices
- Negligence
- Bribery and corruption
- Pricing and advertising of goods and services
- Timely payment of suppliers
- Communication
- Discipline
- Performance
- Self-development

Enhancement of awareness of ethical issues must be undertaken. Human Resource practitioners and other managers should promote ethics policies and programmes and increase access to information. This is helpful in preserving organizational integrity and fostering transparency. Also the work of oversight units should be enhanced. Awareness can be sustained through members of the organization internalizing its vision, mission and values.

It is vital to make the ethical code effective by providing for enforcement. Those who exhibit unethical behaviour must be sanctioned. In fact, monitoring and enforcing the code require consistent ethical behaviour and support from the leadership and top management.

## **5.0 BENEFITS OF ETHICAL PRACTICES IN ORGANISATIONS**

The ethical code and ethical behaviour can bring immense benefits to corporate stakeholders and the corporate entity itself. The stakeholders include shareholders, management, employees, customers and suppliers.

Shareholders benefit from sound ethical behaviour of an organization through fair deals by being treated equitably as equal partners. The practice of ethics in the running of the organization could deliver good returns to shareholders or maximize efficiency and value. Moreover, shareholders' confidence in the organization is given a boost.

As for the Management, a leadership that consistently demonstrates ethical behaviour naturally attracts employees' loyalty as timely and accurate information provided by loyal and dedicated employees will facilitate management decision making process. Indeed, a happy and highly motivated work force will cooperate with management to achieve corporate goals in a conducive industrial climate.

Ethical considerations by management underpin a good climate of employee relations. Ethical considerations entail management willingly meeting obligations to employees, believing in employee involvement and participation as a means of generating their commitment to the success of

the organization and promoting the flow of information. Such considerations give assurance of employee well-being and security.

Ethical code provides guides for behaviour and reduces uncertainties. Therefore, employees are protected by the code in their refusal to engage in unethical practices.

Code of ethics makes employees to tend towards professionalism through adherence to self-development provision in the code.

Ethical behaviour produces good customer relations. Customers become hopeful of fair and honest business transactions. It is also true that customer's confidence can be inspired as to result in sustained patronage. Similarly, the requirement of ethical code to maintain acceptable standards of relationship with all stakeholders compels timely payment of suppliers.

To an organization, consistency between what is said and what is done, which springs from ethics, builds trust in an organization and this eliminates employee suspicion of management. Tension and labour unrests are avoided and industrial harmony will be maintained. The organization may prevent external controls and government actions by obeying laws, rules and regulations and also through self-regulation which the ethics code promotes. Installing functional and effective internal control systems reduces incidences of frauds and forgeries. This helps to preserve the integrity of the organization and to check the loss of funds. Moreover, the publication of the ethical code and its practice may position the organization to attract public confidence and goodwill. When an

organization runs on ethical lines, it is expected that resources would be efficiently used and wastages minimized.

## **6.0 CONCLUSION**

Ethics is an area of vital importance to the survival and prosperity of any organization. Therefore, due attention must be given to this area. There is the growing interest in codes of ethics among organizations in the global arena which is informed by the positive impact of the codes.

It is instructive for our local organizations to move in that direction with a positive attitude and in a more determined manner. It must be conceded that the ethical code will not solve all the problems, nonetheless, it has a lot to recommend it.

Finally, an ethics dividend can be earned only through sustained management involvement and support.

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## **COMPUTER FRAUD PREVENTION, DETECTION & INVESTIGATION: HOW PREPARED IS THE CENTRAL BANK OF NIGERIA?**

**By T. A. Akeke\***

### **Introduction**

In 1999, CBN embarked on Project EAGLES; a transformation journey aimed at repositioning the CBN for sustainable improvement of overall Efficiency, Accountability, Goal Orientation, Leadership, Effectiveness and Staff Motivation (EAGLES).

Project EAGLES recommended the strategic use of ICT to achieve the Bank's vision. The redesigned processes of the Bank make extensive use of ICT to deliver on its core mandates. Consequently, CBN stakeholders connect through public ICT infrastructures to transact business in spite of the vulnerabilities inherent in the infrastructures.

Fraudsters are now taking advantage of the speed and easy accessibility of ICT to exploit the vulnerabilities inherent in ICT systems. Distance is no longer a barrier. With the Internet, computer fraud can now come from anywhere on the planet. The most popular of these computer frauds are the Internet Fraud schemes perpetrated through e-mail, chat rooms, message boards, websites, etc. It is easier to trick unsuspecting people into giving personal and corporate data through deceptive ICT services.

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## **Objectives**

This paper was developed to generate awareness and consciousness in staff that computers are valuable tools for achieving business values and intimate them on the need to exercise diligence in the use of computer systems.

Information Communications Technology (ICT) has become a useful tool for organizations to have competitive advantage. However, there are vulnerabilities inherent in ICT systems which detractors are ready to take advantage of. Some of the published tricks of these detractors should be made known to members of staff so that the antics of the fraudsters can be detected and remedies proffered to prevent their disruptive nature.

Members of staff should be aware of the fact that most computer frauds are traceable to **who, when, how** and **what** was involved in the fraud. These as well as, other questions and issues will be addressed in the subsequent parts of this presentation.

Some published computer fraud cases are listed in APENDIX I while APPENDIX II lists some educative websites that deal with Computer Fraud. APPENDIX III gives the Statistics on Internet Scam based on the report of the National Consumer League of the USA.

## **2. WHAT, WHY, HOW AND TYPES OF COMPUTER FRAUD**

### **What is Computer Fraud?**

A fraud can be defined as an act of deception deliberately perpetrated in order to secure unfair or unlawful gain resulting into injury/loss to another.

A **computer fraud** is a computer related fraud involving deliberate misrepresentation or alteration of data in order to obtain something of value. It can be described as “Any defalcation or embezzlement accomplished by tampering with computer programs, data, files, operations, equipment or media and resulting in losses sustained by the organization whose computer system was manipulated”. Computer fraud can also be described as a scheme or illegal activity that alters, changes, damages or disables computers.

### **Why Computer Fraud?**

The main reason for computer fraud is personal benefit which can be financial, ego trip, fun, inquisitiveness, peer recognition, demonstration of technical skills, etc. The instant gain or personal benefits from a computer fraud can be very huge once the fraud succeeds. The benefits of a single fraud transaction can be in billions of US dollars. The widespread use of ICT systems and the low cost of ownership of ICT devices have made it easier for people to have access to computers and the Internet.

People commit computer fraud for political and malicious reasons, display of dissatisfaction for services rendered, competitive advantage, espionage, etc.

The ease of exploitation of the inherent vulnerabilities in ICT systems and the process of prosecuting the perpetrators makes it a popular occurrence in most countries. In Nigeria, the legislative framework on the use of ICT is not strong enough to deter perpetrators of computer fraud. In some

countries, the legislative framework is strong but the process of prosecution is onerous.

Some organizations have weak internal control processes and lack good corporate policies and standards. The sanctions are not tough enough to serve as a deterrent to fraudsters. Also some organizations are weary of the negative effects of publicity given to computer frauds. Consequently, they don't report computer fraud incidents to the appropriate authorities.

Security consciousness is not incorporated into appraisal system by most organizations. If all stakeholders are security conscious, then the incidence of security breaches will be reduced.

Corporate Governance is being given prominence by modern organizations in order to cope with the dynamic market environment, particularly since the high-profile collapse of a number of large US firms such as Enron Corporation and Worldcom. For an organization to continue in business, corporate governance must be institutionalized for its ICT processes. Board members and those with the responsibility for corporate governance are increasingly using the services of external providers to conduct anti-corruption, auditing, due diligence and training.

### **How are Computer Frauds Perpetrated?**

Computers are used as tools to access valuable information stored in a computer for fraud, espionage, malice/ransom opportunity. For example, 'Phishing' Scam, whereby an Internet user is lured to reveal personal details (like passwords and credit card information) on a fake web page or

spoof email form pretending to come from a legitimate company (like the bank).

Sometimes, computer frauds are perpetrated by Denial of Service (DOS) attacks. This is achieved by preventing computer resources from being available to intended users. It impedes or alters the functioning of the computer. Examples of Distributed Denial of Service (DDoS) attacks are Viruses, Worms, Trojans, Spyware, etc where criminals gain control of multiple computers and use them to attack specific targets.

### **Types of Computer Fraud**

**Unauthorized Access:** Any kind of access without the permission of either the rightful owner or the person in charge of a computer.

**Denial of Service Attack:** A denial of service (DOS) attack is an incident in which a user or organization is deprived of the services of a resource they would normally expect to have. In a Distributed Denial-of-Service attack, large numbers of compromised systems attack a single target.

**Malicious Systems Administrator:** Malicious activities of a systems administrator (driving down the stock value of a company).

**Online Auction Fraud:** This is due to the misrepresentation of a product advertised for sale through an Internet auction site, the non-delivery of an item purchased through an Internet auction site or non-payments for goods purchased through an Internet auction site.

**Identity Theft:** A crime in which an imposter obtains key pieces of personal information, such as Social Security or Driver's License number. The information could even be obtained through Social Engineering, Eavesdropping, etc.

**Phishing:** The lure of an Internet user to reveal personal details (like passwords and credit card information) on a fake web page or email from someone pretending to come from a legitimate company (like their bank).

**Salami Fraud:** The perpetrator carefully 'skims' small sums from the balances of a large number of accounts in order to bypass internal controls and escape detection.

**Software theft:** The comparative ease of making copies of computer software (Piracy) has led to a huge illegal market, depriving authors of very significant revenues.

**Manipulation of accounts/banking systems:** Similar to 'Salami' Fraud but on a much larger and usually more complex scale. This type of fraud is usually perpetrated as a 'one-off' 'kamikaze' fraud.

**Scams:** Fraudulent business scheme [Internet scam, Credit Card Scam, Religious scam, etc].

**Computer Worm:** Self replicating computer program. It uses a network to send copies of itself to other nodes (computer terminals on the network) and it may do so without any user intervention. For example,

The Melissa Worm- First found on March 20, 1999, Melissa shut down Internet Mail systems that got clogged with infected e-mails propagating from the worm.

**Illegal Data Mining:** Illegal gathering of data (personal or company profile). This is a violation of the common man's right to privacy.

### **3. COMPUTER FRAUD – PREVENTION & DETECTION**

It is really difficult to speak of computer fraud prevention in isolation of computer fraud detection and vice versa. This section covers both computer fraud prevention and detection.

Computer fraud can be prevented by classifying information according to the scope of circulation in order to apply appropriate security measures. Information can be classified as being 'Open', 'Confidential', 'Secret', or 'Top Secret' and appropriate security measures are applied with more security attached to 'Top Secret' information.

Good Documentation Rules for the various components of ICT systems makes it difficult to breach security controls. Documentation rules can be applied to:

Information Classification System; Identification and Authorization System; Application Systems; and IT Security Policy and Security Rules to be included in Security Handbook.

An effective and efficient administration of ICT systems development, operation and support would reduce the incidence of computer fraud by ensuring that the following activities are in place:

- Develop good working practices and establish procedures
- Create security- conscious atmosphere and establish discipline approach
- Conduct security screening of staff based on security level of information to be handled
- Be alive to its responsibilities [Conduct Risk Analysis, have good Security Policies, Security Plan and implement approved policies]
- Ensure its users are responsible using approved guidelines

User identification and Authorization Rules assist in the reduction of and investigation of computer fraud incidents. These relate to:

- Identification of the user and authenticating (validating) the identity of the subject through username, password, smart cards, biometrics methods, etc). There should also be a set of rules to control what objects ( Files, Devices) each subject is allowed to access (Access Control)

There is also the need for the review of incident logs to provide answers to **'who', 'when', 'where', and 'what'** questions and provide additional information depending on what was involved. Access to these logs should be restricted. These include:

History files, Temporary Files, Systems Logs, Transaction Logs, Security System Logs, Database Logs, Application Logs and Technical Logs

Backup/Restore Strategy is also quite important. The frequency of the backups should be based on the frequency with which the information changes, the value of the information and the problems its loss could cause.

**Firewalls** are a preventive mechanism used to protect organizations through a system or group of systems that enforces access control policy between two networks. It is a pair of mechanisms for Locking and Permitting traffic. They represent the first line of defense between internal networks and the outside world.

There are two (2) types of firewalls namely:

- Packet Filtering Gateway – which acts as a router between two networks by forwarding or blocking packets as they pass through the networks;
- Application-Layer Gateways – which convert the network layer address information found inside an application header between the addresses acceptable by the hosts on either side of the firewall/NAT to determine blockage or passage.

**Intrusion Detection System (IDS)** can be used for the prevention of attacks from both insiders and outsiders.

The Outsiders are intruders from outside your own network who try to attack your system from external networks while the Insiders intruders are authorized to use your internal network but are misusing their privileges.

- IDS are of two types namely:

Statistical detection which is done by looking for deviations from statistical measures to detect unusual behaviour; and

Pattern matching detection by comparing activities against a collection of known attacks or set of rules with the intention of identifying matches or deviations from rules.

IDS complements Firewalls in order to block intrusion from inside the network and present a well managed single point of entry to ICT systems.

**Incident Handling:** The aim of incident handling is to develop capabilities to detect problems, determine their cause, minimize the resulting damage, preserve related evidence, resolve the problem, take appropriate disciplinary or legal action, and documenting each step of the response for future reference.

There are six (6) steps for incident handling:

- Preparation – have documented policy, obtain management support, conduct training, ensure interfaces with the law enforcement agencies;
- Detection – Identify the incident, staff and or vendor responsible;
- Containment – On-site team to survey the situation, backup of the systems and conduct risk determination;
- Eradication – Perform vulnerability analysis and remove the cause of the incident;

- Recovery – Restore the system and validate the integrity; and
- Follow-up – Develop a follow-up report

#### **4. Salient Points to Note about Computer Fraud Detection and Prevention**

There are salient points to note about computer fraud detection and prevention. Organizations must:

- Have organizational Security Strategy which should identify and evaluate business assets, understand the business drivers, conduct risk assessment, identify gaps, prioritize security programs, document security strategy and obtain approval to implement policy.
- Have a good security management process which entails the following:
  - Having a security policy and standards as well as conduct security awareness programme.
  - Ensuring security compliance, having good security administration team and maintain security programme.
  - Reviewing security operations and ensure there is a good disaster recovery business continuity plan
- Apply appropriate sanctions for Security Policy violations
- Ensure proper screening of new employees, employing good staff with reliable references and performing background checks on prospective staff.
- Have company policy on dismissal,
- Have strong and good internal controls
- Conduct proper audit of ICT systems
- Conduct real time monitoring of security policy violations with adequate alerts

- Internal Audits and supervisors conduct regular system monitoring
- Prosecute fraudsters with existing legal framework to deter other fraudsters
- Develop and maintain Computer Crime Prevention Unit
- Conduct daily call-over and reconciliation of its transactions
- Have regular assessment and vulnerability tests of systems and the network
- Conduct constant online review of all security, system and application logs
- Review user access rights [read, modify, create or delete], which should only be on the 'need to know' and 'need to do' basis
- Restrict access to all system logs
- Encrypt its data
- Have policy to ensure information should be transported in a secured and confidential manner and its integrity must be preserved.
- Ensure information is stored in a secured and confidential manner and its integrity preserved
- Apply two man rule for granting system privileges
- Install fraud detection/prevention software
- Install and update its anti-virus software
- Appropriate welfare package for staff
- Prevent Identity Theft [Delete Internet History, Cookies, Cache, Temporary Internet Files, Empty Your Recycle Bin, etc]
- Have policy against allowing users to install unauthorized software on their systems

- Warn its staff against giving away personal information on the Internet
- Encourage the formulation of Anti-Phishing Group
- Encourage development of appropriate legislation on electronic or computer fraud
- Encourage creation of Public Awareness of Computer Fraud

## **5. Process of Investigation**

When a computer fraud is identified, the organization has to know who did it, how the fraud was committed, and what controls can be put in place to stop the fraud from happening again.

There should be standard set of guidelines for staff to follow when a computer fraud is suspected. Computer fraud investigation guidelines may also help guard the organization against employees' claims of selective treatment.

Computer fraud investigation is best conducted by forensic experts. It is a carefully planned undertaking that has to be done right by a qualified and experienced consultant. A poorly executed investigation can worsen a delicate situation. Hence professional investigators are usually engaged.

To gather additional information, witnesses are interviewed. Interviews can reveal motives and can be used to verify opportunities presented to the perpetrator for committing the fraud. Locations for investigations are always carefully chosen, attendees carefully selected and series of questions organized to achieve best result.

There are three steps approach that can be adopted

- Secure and collect all tangible and oral evidence in a manner consistent with the rules of evidence to ensure legal admissibility
- Analyze the evidence, and
- Present the evidence in an understandable manner in a venue of the client's choice.

The computer forensics will

- Uncover more of the facts
- Support otherwise unsubstantiated information
- Confirm or refute allegations
- Analyze competing theories in relation to those facts
- It involves identifying, collecting, analyzing large numbers of data
- Ensures presentation of data in an admissible format for legal proceedings.

The forensic group would search and analyze

- Emails (depending on the type of fraud)
- Documents and files that may be hidden, password protected or encrypted
- Files that have been generated from the operating system
- Databases of all user input and activity
- Recently opened, accessed, created or deleted files, online activities including Internet banking transactions.

Electronic evidence is not limited to just laptops and network computers at workplace, offsite computer files, servers, Blackberry and even telephone

handsets can prove valuable in an investigation. Forensic experts use sophisticated tools and laboratories to conduct investigations.

### **Pragmatic Investigation Process**

The computer fraud investigation should always be taken seriously and it is always best to limit the information of on-going investigations on the need-to-know basis. The area under investigation should be understood by those conducting the investigation. It is best to:

Relieve crime perpetrators of their duties, restore backups of previous data [this contains the audit trail], preserve footprints of the fraud (don't work with original copies of documents); and Review appropriate reports. It is also important to obtain written statements from all involved, review documented statements and interview all, including those remotely connected to the case under investigation. Thereafter, appropriate sanctions are recommended for indicted individuals.

### **6. HOW PREPARED IS CBN?**

The Central Bank of Nigeria as a financial institution and the Apex Bank in the country is very much aware that it faces a lot of risks from both insiders and outsiders. Some fraudsters for many reasons, even for the sheer fun of it would like to break into the CBN and create or cause havoc. The risks the institution faces have increased not only because of the advancement in technology but because CBN has permitted some of its stakeholders to have direct access to CBN resources. All the Deposit Money Banks and Discount Houses in the country transact online real-time business with CBN by using the Central Bank of Nigeria Inter-Bank Funds Transfer System [CIFTS) (Real Time Gross Settlement System) and the

CBN T24 Internet Banking. There is the online suppliers' registration system used for registration of contractors.

The management of the Bank realizes the risks it is exposed to by using ICT to render its services to its stakeholders. To this end, CBN management has invested and implemented many security mechanisms to protect the Bank. Some of the security mechanisms are listed below as:

- A Security Master Plan to establish enterprise Risk Management Framework;
- IT Security Policies;
- Rules and Procedures For assigning responsibility for IT security issues;
- Rules and procedures for employee screening;
- Access Control System;
- Role Assignment with Job Description which ensures segregation of duties;
- Defined Procedure For Daily Call-over of transactions;
- Backup and Recovery Strategy For ICT Operations
- Security Control Features embedded in all applications;
- "Two Man Rule" for transaction authorization;
- Transaction Logs and audit trails for application, databases, operating systems which log all user activities;
- Quality Management System to ensure that Standards and Procedures are followed in the development, testing, implementation and improvement phases of the computer systems;
- Document Retention Policy;

- Internet Usage Policy to guide usage of the Internet;
- Incident Registers for all systems;
- Non-disclosure of Information Policy applicable to Internal Stakeholders and External Stakeholders;
- Code of Ethics and Business Culture;
- Sanction Policy for violators of its rules;
- Security Awareness Seminar plan;
- Network Threat Assessment and Vulnerability Tests Plan;
- Procedure for its processes;
- Operations Manual For all application systems;
- Process For Review of its IT Security Policy;
- Policy for Removal of Administrative Privileges from User Workstations;
- McAfee Anti-Spyware Version 8.5.0i;
- McAfee VirusScan Enterprise Version 8.5i software for intercepting malicious file downloads and scans for viruses;
- McAfee Host Intrusion Prevention software version 6.0.1;
- Automatic Update of network clients with the latest antidote from McAfee;
- Deployed McAfee Group Shield for mail services;
- Deployed Mine Sweeper to prevent spam mails;
- PIX Firewalls delineate network zones, CISCO IDS for intrusion detection, RSA Encryption of External Stakeholders for connections (Extranet Gateway Infrastructure), RSA PKI for non-repudiation, RSA SecurID for secure access to network resources, etc under the Project EAGLES IT Initiatives (EMS);

- ZENWORKS for centralized software distribution to user workstations to enforce Desktop Policy;
- Forum for regular demonstration of Industry Tools by computer industry experts to keep staff abreast of developments in IT industry; and
- A framework for the review of staff benefits.

Members of staff have important roles to play in ensuring a computer fraud free environment in the Bank. They represent both the weakest as well as the strongest point in the security chain. It is in the interest of all that we operate in fraud free institution in order to maintain our integrity.

## **7. CONCLUSION**

Information Communications Technology affords entities to meet their corporate objectives and stay in tune in the ever changing business environment. Adversaries are however throwing the challenges of securing the information that pass through the components of the technology as on-going concern.

Huge investments are made to guarantee the confidentiality, integrity and availability of the information that are processed and stored in the ICT components. The Central Bank of Nigeria Management has invested resources to ensure the security and integrity of the ICT business environment.

No security measure is total but awareness and discipline can reduce the incidence of attacks. We need to work together to ensure that CBN is Anti-Corruption and Transparency compliant.

## Appendix I

### **Examples of Computer Fraud Cases:**

**Unauthorized Access At North Bay Health Care:** According to Computer Crime and Intellectual Property Section, Criminal Division United States Department of Justice (CCIPS, [www.cybercrime.gov](http://www.cybercrime.gov)), May 27, 2004, United States Attorney McGregor W.Scott announced that Jessica Quitugua Sabathisa, 31, of Vallejo, California was charged with ten counts of fraudulently using her computer to embezzle more than \$875,035 from North Bay Health Care Group ("North Bay"). North Bay is a not-for-profit organization which operates hospitals and clinics in Vacaville and Fairfield, California. The incident was from July 2001 to April 2004. She issued 127 cheques to herself and others by making it appear she was issuing cheques to the company vendors.

**Illegal Data Mining at Acxiom Company:** In March 2006, the scales tilted in Google's favor in the tug-of-war between the search giant and the US government; score one for the common man's right to privacy. Now, the New York-based Datran Media Corp. has been forced to pay a settlement of \$1.1 million for unauthorized use of nearly 6 million email addresses gleaned from various companies that used the lure of freebies to fool customers into giving up their personal information.

**The Wake County Transportation Fraud:** Between July 1, 2002 and December 31, 2005, Wake County School employees in the school transportation department and Barnes Motor & Parts Co., based in Wilson, NC, submitted at least \$3.8 million in fraudulent invoices for school bus

and automotive parts. Much of the money was used by the employees to buy personal items such as automobiles, campers, golf carts and plasma-screen televisions. This was despite a bid limit of just \$2,500. Wake County schools had one internal auditor. The story received wide press coverage. An audit report explaining many of the details is available on the School Board's web page. The School district fired the employees and an investigation was performed, \$4.8 million was recovered from Barnes and the former employees.

**Malicious Systems Administrator at UBS:** In June 2006, a former systems administrator for financial giant UBS PaineWebber went on trial for allegedly sabotaging two-thirds of the company's computer network in what prosecutors said was a vengeful attempt to profit from a crashing stock price.

## Appendix II

### Educative Websites

- <http://www.deloitte.com/dtt/article>
  
- [http://www.parliament.uk.parliamentary\\_offices/post/pubs2006.cfm](http://www.parliament.uk.parliamentary_offices/post/pubs2006.cfm)
  
- <http://www.interpol.int/Public/TechnologyCrime/crimePrev/ITSecurity.asp>
  
- [http://www.oreilly.com/catalog/crime/chapter/crime\\_02.html](http://www.oreilly.com/catalog/crime/chapter/crime_02.html)
  
- [http://en.wikipedia.org/wiki/Computer\\_fraud\\_case\\_studies](http://en.wikipedia.org/wiki/Computer_fraud_case_studies)
  
- <http://lrs.ed.uiuc.edu/wp/crime-2002/fraud.htm>
  
- [http://www.usdoj.gov/criminal/cybercrime/1030\\_new.html](http://www.usdoj.gov/criminal/cybercrime/1030_new.html)
  
- [http://www.elsevier.com/wps/find/journaldescription.cws\\_home/405876/description#description](http://www.elsevier.com/wps/find/journaldescription.cws_home/405876/description#description)

## APPENDIX III

### 2005 Statistics of Internet Scam

Category of Scam	% of All Complaints	Average Loss
Auctions:- Goods never delivered or misrepresented	42%	\$1,155
General Merchandise:- Sales not through auctions, goods never delivered or misrepresented	30%	\$2,528
Nigerian Money Offers:- False promises of riches if consumers pay to transfer money to their bank accounts	8%	\$6,937
Fake cheques:- customers paid with phony Cheques	6%	\$4,361
Lotteries/Lottery Clubs:- Requests for payment to claim lottery winnings	4%	\$2,919
Phishing:- Emails pretending to be from well-known source	2%	\$612
Advanced Fee Loans:- False promises of personal or business loans, even if credit is bad, for a fee paid upfront	1%	\$1,426
Information/Adult Services:- Cost & Terms of services not disclosed	1%	\$504
Work-at-Home plans:- Kits sold on false promises of big profits from working at home	1%	\$1,785
Internet Access Services:- Cost of Internet access & other services misrepresented or services never provided	1%	\$1,262

### 2006 Statistics of Internet

Category of Scam	% of All Complaints	Average Loss
Auctions:- Goods never delivered or misrepresented	34%	\$1,331
General Merchandise:- Sales not through auctions, goods never delivered or misrepresented	33%	\$1,197
Nigerian Money Offers:- False promises of riches if consumers pay to transfer money to their bank accounts	11%	\$4,053
Fake cheques:- customers paid with phony Cheques	7%	\$3,741
Lotteries/Lottery Clubs:- Requests for payment to claim lottery winnings	4%	\$1,750
Phishing:- Emails pretending to be from well-known source	3%	\$1,515
Advanced Fee Loans:- False promises of personal or business loans, even if credit is bad, for a fee paid upfront	2%	No loss reported
Information/Adult Services:- Cost & Terms of services not disclosed	1%	\$2,447
Work-at-Home plans:- Kits sold on false promises of big profits from working at home	1%	\$920
Internet Access Services:- Cost of Internet access & other services misrepresented or services never provided	1%	\$4,759

Source: National Consumer League, USA.

# **MONEY LAUNDERING AND DEPOSIT MONEY BANKS IN NIGERIA: EXPERIENCE AND THE WAY FORWARD**

**By Mr. A. B. Okauru\***

## **INTRODUCTION**

Money laundering is currently top on the global agenda because of its devastating effects on global security and development. As a country, we have had our share of these problems. The adverse effect of money laundering has taken its toll on our nation, ranging from reputational damage, loss of foreign direct investment to distortions in the Nigerian financial system. Even though Nigeria has made significant progress in the implementation of anti money laundering (AML) programme in the last few years, the continuing menace of this crime makes it imperative for us to keep partnering and exploring better ways to deal effectively with this problem. This seminar affords us the opportunity to explore the benefits of strategic partnership as well as share experiences that will help us confront the challenges associated with the management of Anti Money Laundering (AML) programme, especially within the banking sector. We commend the efforts of the Central Bank of Nigeria (CBN) for the initiative in organizing this seminar and indeed, the continuous cooperation in the implementation of the AML programme within the banking sub sector.

This paper shall examine the concept of money laundering, sectors and entities susceptible to money laundering, methods and trends in money laundering and vulnerability of the deposit money banks to money

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laundering. I would also like to share our experiences in the management of AML within the deposit money banks, suggest the ways forward and provide an update on the Anti Money Laundering/Counter Financing of Terrorism (AML/CFT) programme in the country, including some areas that may require further cooperation.

### **WHAT IS MONEY LAUNDERING?**

Money Laundering is the process by which criminals attempt to hide and disguise the true origin and ownership of the proceeds of their criminal activities thereby avoiding prosecution, conviction and confiscation of the ill gotten wealth. In other words, it is a process whereby the origin of funds generated by illegal means is concealed.

It is imperative to note that the process of legitimizing the proceeds of crime involves series of multiple and most often, complex transactions. These transactions fall within three stages that sometimes overlap, occur as separate and distinct phases or may occur simultaneously. These stages are:

- **Placement** - this involves placing illicit funds into the financial and designated non financial systems through activities such as deposits, purchase of luxury items (exotic cars, jewelry).
- **Layering** - this is the process of separating illicit proceeds from their source by creating complex layers of financial transactions

designed to distort audit trail thereby creating anonymity. Example includes wire transfers, buying and selling of investible products.

- **Integration** - this is the process of using an apparently legitimate transaction to disguise illicit proceeds. At this stage, the ill gotten funds are moved into the main stream of the economy through legitimate economic activities such as investment, purchasing of shares etc. That is, the illegal proceeds are re-integrated back to the economy.

## **SECTORS AND ENTITIES MOST VULNERABLE TO MONEY LAUNDERING**

Generally, all sectors are vulnerable to money laundering though the degree may vary. Entities most vulnerable include:

- Banks
- Non bank financial institutions including securities firms, insurance firms, bureau de change, (BDC) etc.
- Designated non financial institutions such as law firms, accounting/audit firms, car dealers, hotels, super markets, casinos, real estate companies, etc.
- Other cash intensive businesses.

## **METHODS OF MONEY LAUNDERING**

Typology studies carried out by the Financial Action Task Force (FATF) and FATF style regional bodies have shown that money laundering can be carried out using several methods. Few are considered below.

- **Structuring (smurfing)** – Several deposits below reportable thresholds

- **Bank Complicity:** Occurs when a bank employee or the management is involved in facilitating part or all of the money laundering process

- **Money services & currency exchanges –**

Dubious BDCs can help criminals convert local currencies to foreign currency that can then be transferred out of the country. Porous borders make this method very convenient for criminals

Money can also be wired to accounts in other countries while the sale of money orders, travellers cheques, etc can provide avenue for money laundering.

- **Legitimate Business/Co-mingling of Funds:**

Criminals may invest in businesses that customarily handle a high cash transaction volume in order to mix the illicit proceeds with those of the legitimate business.

They can also inject proceeds of criminal activities into the legitimate business, thereby sustaining the business and in the process reintegrate the illicit funds into the economy.

- **Loan Back:**

This is an arrangement whereby a criminal provides an associate with a sum of money for which the associate creates the paperwork for a loan or mortgage to the criminal for the same amount, including all of the necessary documentation creating an impression that the criminal's funds are legitimate.

The scheme's legitimacy is further reinforced through regular scheduled loan payments made by the criminal, which provides another means to transfer money

- **Asset Acquisition with Bulk Cash:** This involved purchase of high value items such as cars, jewelry, properties and electronics with laundered funds. This can be bought, registered or acquired in an associate's name. This is quite common in a cash based economy like Nigeria.
- **Casinos:** Money laundering through casino requires that cash be taken to a casino to purchase chips which can then be redeemed for a casino cheque which stands as **proceeds of a legitimate win**.
- **Electronic Funds Transfer** (telegraphic or wire transfer): This involves sending funds electronically from one location to another to avoid the need to physically transfer the currency. **Introduction of ATM and similar devices have further thrown up more challenges in monitoring money laundering.**
- **Use of fronts** – where a criminal uses a close associate, relative **or a company to launder funds**.
- **Use of alternative remittance system** – This is a common characteristic of a cash based economy where the financial system is not well developed. Criminals use the informal transfer system such as the unauthorized courier service providers to move money from one part of the country to another. Moreover, because proper records are either not available or not being kept, audit trails cannot be established and it therefore, becomes very difficult to track such illicit funds.

## **THE VULNERABILITY OF DEPOSIT MONEY BANKS TO MONEY LAUNDERING**

Over the years deposit money banks have made significant progress in money laundering detection and prevention. However, they remain vulnerable to this crime mainly for the following reasons:

### **■ Expansion of products and services**

The expansion of banks' products and services from the traditional acceptance of deposits, granting of loans, etc to the myriad of services available today allows for easy infiltration of criminals funds into the banking system.

While some of these services are high risk in terms of money laundering (e.g. electronic banking, western union services, etc) others open up the banks to high risk customers, including cash intensive business operators.

For example, electronic banking is vulnerable to money laundering and terrorist financing because of its user anonymity, rapid transaction speed, and its wide geographic availability

Complicated financial relationships involving non face-to-face transactions and cases where customers are introduced by others, open opportunity for vulnerability to money laundering.

### **■ Weak application of Know Your Customers/Code of Due Diligence (KYC)/(CDD) principles** – This provides avenue for criminals to operate and perpetrate money laundering activity.

### **■ Sophistication of the criminals** - criminals always aspire to be one step ahead of the law by taking the most advantage of the recent advancement in communications technology.

- **Issue of Confidentiality of Customers Transactions** - Until recently, banks confidentiality policy helped to keep illicit funds hidden. However, under the MLPA. Act 2004 S 12 (4) the cover has been weakened to enable the enforcement agencies probe into such customer's account. It has also been observed that some banks still do not voluntarily provide certain details of their customers unless compelled to do so.

## **THE NIGERIAN FINANCIAL INTELLIGENCE UNIT (NFIU) EXPERIENCES**

The implementation of AML/CFT in the country is primarily the responsibility of the NFIU. The exercise is not without challenges. Most of the challenges frequently encountered, especially within the banking sector relate to:

### **(i) Partial Compliance with Provisions of Sections 2, 6 & 10 of the MLPA 2004**

Banks hardly comply fully with the provisions of the above sections of the Act. Experience showed that Banks either doctored reports, under reported or outrightly failed to report suspicious transactions. Inflows and outflows of foreign exchange are not always adequately reported while some transactions above the reporting threshold are some times not reported while in other instances, reports do not contain all the necessary or required information. Consequently, no meaningful analysis can be undertaken when all required information are not provided.

## **(ii) Late Submission of Returns**

Hitherto, only very few banks submitted reports within record time. On the average, 70.0 per cent of reports are submitted late to the NFIU by banks. Untimely rendition of reports adversely affects planning **and could render the information worthless especially for operational and tactical reasons.**

## **(iii) Customers' Protection**

Some banks engage in protectionist tendency in an attempt to safe guard funds of public officers suspected of looting public treasury, who they consider as high valued customers.

## **(iv) Use of fronts**

Most money laundering activities in Nigeria are perpetrated using front companies, close relatives or associates. Until a thorough investigation is done to unravel or establish the link, recovering such funds remains a mirage. Sadly, some unscrupulous banks encourage public treasury looters/criminals to open accounts using front companies, individuals or close associates thereby shielding them from the weight of the law.

## **(v) Uncooperative Attitude**

A common challenge usually faced during compliance examination or investigation is that most often relevant documents are either not provided, delayed or inadequate to draw necessary conclusion to prosecute suspects.

**(vi) Poor Records Preservation Culture**

Some banks do not have complete records of most transactions as required by S7 of the MLPA 2004 and this affects investigation. **The recent mergers and acquisition of banks in the last consolidation exercise have thrown open the inadequacies of banks in record keeping in the same manner that they have provided an alibi for banks to hide their weakness on this issue.**

**(vii) Weak Know Your Customer (KYC)/Customer Due Diligence (CDD) Culture**

Some banks do not carry out comprehensive KYC/CDD on their customers as required by Section 3 of the MLPA 2004. This allows easy infiltration of criminals and the introduction of illicit funds into the financial system. Effective identification system is critical in weeding out criminals at the inception of every business relationship and vital to the campaign against money laundering and money laundering investigations.

**(viii) Granting of credit facilities – loans and overdrafts**

Some banks connive with state and local government executives to grant facilities which are diverted to personal use while same is serviced with such state or local government statutory allocations. Excessive interests and cost of transactions are charged on these facilities which are equally shared.

**(ix) Tip off**

This remains the greatest challenge being faced by the NFIU/EFCC. It frustrates the entire investigation process as facts and documents are

sometimes destroyed because the suspect has a tip off. In some occasions, suspects disappear before the actual investigation commences

**(x) Funds transfers:**

Some investment bank officials assist unscrupulous politicians to remit looted funds on their behalf overseas most times using front companies, associate accounts, etc. In some other cases some banks through their subsidiaries, assist to invest the proceeds of looted funds on behalf of their 'high valued customers'.

**(xi) Co-mingling of funds**

This is a commonly used method by money launderers in the country. Criminals declare high level of income which mostly cannot be explained or justified given the nature of business. Experience and investigation have shown that most of the unexplained incomes are proceeds of crime.

**(xii) Low Awareness/Training on AML/CFT**

Some banks do not have adequate provision for AML/CFT training. Sometimes only very few staff are trained and this affects staff ability to perform their responsibility as required by the MLPA 2004 as complaint affairs.

**WAY FORWARD**

There is no doubt that banks in Nigeria have a major role to play if money laundering will be reduced to the barest minimum. Prominent among the measures that can help stem the trend in money laundering are the following:

- (a) Strengthening of KYC/Customer Due Diligence Culture:**  
Thorough checks should be made on the identity and legitimacy of clients, especially new clients and those acting on behalf of others. The KYC or CDD obligation helps to establish the true identity of a client. Banks should make efforts to verify identity of their customers so as to avoid dealing with criminals. Banks should equally evolve a monitoring system that can track changes in the pattern of operations in any given account.
- (b) Records Preservation:** Banks should develop good archive policies as well as entrench this into their compliance programme so that when a money laundering or suspicious transaction case is investigated, a bank should be able to help the authorities establish an audit trail going as far back as five years.
- (c) Training & Awareness Creation:** Bank should adequately train their employees on AML/CFT requirements so that they can perform their duties as required under the MLPA and avoid being unwittingly used by criminals.
- (d) Develop Risk-Based Anti-Money Laundering Programmes:**  
Banks' anti-money laundering programs should be structured to address the controls needed based on the risks posed by the products and services offered, customers, sectors and geographical areas.

- (e) **Imposition of Sanctions:** Regulators should apply appropriate sanctions on erring banks to serve as deterrence.
- (f) **Screening of Transactions:** Banks should always screen their transactions **against officially black listed persons and entities such as those on UN terrorist watch list, national security watch list, etc.** Such list shows entities and persons that banks are not expected to do business with.
- (g) **There is need to streamline existing reporting channels** as well as institute appropriate measures within every bank to avoid the current bureaucracy that is partly responsible for late rendition of returns.
- (h) **Information Exchange:** This is necessary amongst banks, regulators, etc. in order to expose money launderers in the country. Similarly, it is important to strengthen interagency and international cooperation. This helps to facilitate information exchange, investigation and training on money laundering matters.

## **UPDATES ON AML/CFT PROGRAMME IN NIGERIA**

### **(i) Delisting of Nigeria from the Financial Action Task Force (FATF) List**

As a result of the various anti corruption and anti money laundering efforts of Nigeria since 2004, the country was delisted from the Financial Action Task Force list of Non Cooperating Countries and Territories (FATF/NCCT). The country was placed under monitoring phase. This is part of the FATF's

requirements and a stage leading to the sealing of the delisting of the country from the FATF shame list. At that stage, updates on the implementation of Nigeria's AML/CFT programme were required and the country was being assessed against earlier comments and concerns raised by the FATF to see what progress was being made. Nigeria recently submitted her updates and it was wholly adopted. It is our belief that our monitoring status will terminate at the next FATF plenary. Towards this, we continue to seek the support and cooperation of the Central Bank of Nigeria in order to ensure that the country does not return to the list by effective regulation, monitoring and sanctioning of defaulting deposit money banks.

### **Withdrawal of FinCEN Advisory**

In further recognition of the significant progress recorded in our AML/CFT programme, FinCEN recently withdrew their advisory on the country. The significance of this to our banking industry is enormous both in terms of correspondence banking and other business relationships.

### **Admission of Nigeria into the EGMONT Group**

Nigeria was granted full membership status of the Egmont Group during their last plenary at Bermuda between May 27, 2005 – June 2, 2007. The Egmont Group is an international network of Financial Intelligence Units (FIUs). It was founded in June 1995 by a group of government agencies and international organizations to foster international co-operation in the exchange of information, training and sharing of expertise that would help in combating money laundering and more recently, terrorism financing.

The benefits to Nigeria among others, include:

Enhanced information exchange/financial intelligence on money laundering and terrorism financing; Training support & sharing of technical experts; Strengthening of the operations of the Nigerian Financial Intelligence Unit (NFIU) and Positioning of the country into the main stream of the global campaign against money laundering and terrorism financing

### **AREAS OF FURTHER COOPERATION**

It is important to note that a lot still needs to be done to ensure total success in the AML/CFT struggle. Prominent among issues that should be further addressed are:

- (a) **Bank Supervision/Examination** – We appreciate the excellent cooperation and support from the Central Bank of Nigeria in this direction and solicit for further cooperation in order to build on the gains achieved so far for effective AML/CFT examination.
- **Training/capacity building** – The CBN had at several times supported the training of the NFIU staff on AML/CFT. In view of the dynamism of money laundering and terrorism financing, constant training is indispensable. There is need for more joint training programmes to position all officers (both at the CBN and the NFIU) to the challenges associated with managing AML/CFT in the country.
- **Joint investigation** – There is no single government agency that has the capacity to combat money laundering and terrorism financing without collaborating with other relevant government agencies. In the light of this, there is need for a stronger working relationship in terms of joint investigation to facilitate the process of

bringing criminals to justice. The Customs, the Central Bank of Nigeria, the Economic and Financial Crimes Commission, the Police and even the Courts have roles to play.

- **Sensitization and awareness creation** – It is our belief that effective sensitization and awareness would reduce the ignorance on the part of the public on the AML/CFT requirements as well as enhance their buy-in into the entire efforts to rid the country of criminality. This task can more easily be accomplished through cooperation and efforts of both the CBN and the NFIU.
- **Typology Exercises** – There is need for the CBN and the NFIU to engage in joint research and typology exercises in order to create synergy and harmonize areas of comparative advantage in support of tactical, operational and strategic optimization of our AML/CFT regime.
- **Policy enhancement** – As many opportunities for collaboration between our agencies are being exploited, the resultant benefits for policy enhancement would become more apparent as a fall out of observed new trends and patterns in the vulnerability factors among the financial institutions with regard to money laundering and terrorism financing. With this, policy and decision makers will be in a better position to embark on informed responses to the challenges of combating money laundering and terrorism financing in the country.

## **CONCLUSION**

Deposit money banks play vital roles and are critical to the successful implementation of AML/CFT programme in the country. They could be

used to launder funds if not properly regulated and could be effective instruments in combating money laundering where there are effective control measures/compliance programmes or policies and regulation. Ensuring that deposit money banks are not misused by criminals requires collaborative efforts among stakeholders particularly the CBN, NFIU and the Nigeria Customs and Excise.

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