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**CIRCULAR TO BANKS AND OTHER FINANCIAL INSTITUTIONS :
AMENDMENT OF ANTI-MONEY LAUNDERING/COMBATING THE
FINANCING OF TERRORISM (AML/CFT) REGULATION, 2009 TO ALIGN
WITH MONEY LAUNDERING (PROHIBITION) ACT (MLPA), 2011 AND
TERRORISM (PREVENTION) ACT (TPA), 2011**

Further to our circular dated May 5, 2010, referenced *FPR/DIR/CIR/AML/CFT/01/001*, the following sections of the AML/CFT Regulation, 2009 are hereby amended :

FORMS OF REPORTING

Section 1.15.2

Financial institutions are required to investigate suspicious transactions and report their findings to the Nigerian Financial Intelligence Unit (NFIU) in the Economic and Financial Crimes Commission (EFCC) within 7 days of the transaction in compliance with section 6 (2) (c) of MLPA, 2011.

Section 1.18.3

Financial institutions are required to report in writing any single transaction, lodgment or transfer of funds in excess of ₦5,000,000 and ₦10,000,000 or their equivalent made by an individual and body corporate respectively to the *NFIU* in accordance with section 10 (1) of the MLPA, 2011.

In compliance with section 2(1) of the MLPA, 2011 financial institutions are also required to render reports on transfers to or from a foreign country of funds or securities by a person or body corporate including a Money Service Business of a sum exceeding US\$10,000 or its equivalent to Central Bank of Nigeria (CBN), Securities and Exchange Commission (SEC) and EFCC in writing within 7 days from the date of the transaction.

Furthermore, in compliance with section 14 of the Terrorism (Prevention) Act (TPA), 2011, financial institutions are required to, within a period of not more than 72 hours, forward the following reports of suspicious transactions relating to the NFIU:

- (a) Fund derived from illegal or legal sources but are intended to be used for any act of terrorism ; or
- (b) Proceeds of a crime related to terrorism financing ; or
- (c) Proceeds belonging to a person, entity or organization as terrorist.

Please note that financial institutions are not statutorily liable for violation of confidentiality rules for every lawful action taken in furtherance of their obligations under the CBN AML/CFT Regulation, 2009 (as amended). Also, details of a report sent by the institution shall not be disclosed by the institution or any of its officers to any other person.

SANCTIONS

Section 1.18.1.2

The above section has equally been amended to include the fact that *no financial institution or its officers shall benefit from violation of extant AML/CFT laws and regulations.*

Accordingly, incidence of false declaration, or false disclosure or non-declaration or non-disclosure in the returns rendered under the AML/CFT Regulation, 2009 (as amended) by a financial institution or its officers shall be subject to administrative review, criminal prosecution and sanction. While criminal cases will be referred to EFCC or other law enforcement agencies for prosecution, the offender will forfeit any pecuniary benefit obtained as a result of the violation or breach.

The failure of any officer to follow his/her institution's internal procedure will be considered a serious misconduct which will attract termination of appointment in line with section 48(4)(5) &(6) of the Banks and Other Financial Institutions Act (BOFIA), Cap. B3 Laws of the Federation of Nigeria 2004, and offender blacklisted from employment in the financial services industry. In addition, the defaulting institutions will be made to bear the financial loss suffered by any victim of a financial crime.

However, the amount of penalties for infraction still remains at a maximum limit of ₦2 million per infraction.

In compliance with the various provisions of AML/CFT Regulation, 2009 (as amended), we attach herewith the list of returns to be rendered jointly to CBN & NFIU (*Appendix I*) ;

and to NFIU exclusively (*Appendix II*) for your information and necessary action. Financial institutions are hereby required to render a *nil return* where there is nothing to report on each of the items in the appendices.

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LIST OF RETURNS REQUIRED TO BE RENDERED JOINTLY TO THE CBN AND NFIU ; AND THOSE TO BE RENDERED EXCLUSIVELY TO NFIU BY FINANCIAL INSTITUTIONS IN COMPLIANCE WITH THE AML/CFT REGULATION, 2009 (AS AMENDED)

APPENDIX I

LIST OF RETURNS TO BE RENDERED TO BOTH CBN AND NFIU

(i) B1396 SECTION 1.1.1

SCOPE OF OFFENSIVE PROCEEDS

This section requires financial institutions to *identify and report to the CBN and NFIU the proceeds of crimes derived from* :

- Participation in an organized criminal group and racketeering ;
- Terrorism, including terrorist financing ;
- Trafficking inhuman beings and migrant smuggling ;
- Sexual exploitation, including sexual exploitation of children ;
- Illicit trafficking in narcotic drugs and psychotropic substances ;
- Illicit arm trafficking ;
- Illicit trafficking in stolen and other goods ;
- Corruption and bribery ;
- Fraud ;
- Counterfeiting currency ;
- Counterfeiting and piracy of products ;
- Environmental crime ;
- Murder, grievous bodily injury ;
- Kidnapping, illegal restraint and hostage-taking ;
- Robbery or theft ;
- Smuggling ; (including in relation to customs and excise duties and taxes) ;
- Tax crimes (related to direct taxes and indirect taxes) ;
- Extortion ;
- Forgery ;
- Piracy ;
- Insider trading and market manipulation ; and all other predicate

offences as contained in section 15 of Money Laundering (Prohibition) Act, 2011.

(ii) B 1400 SECTION 1.6.4

LEVEL OF RISK OF CUSTOMERS, TRANSACTIONS OR PRODUCTS

Financial institutions are required to adopt *CDD measures on a risk sensitive basis* and to have regard to the risk involved in the type of customer, product, transaction or the location of the customer. *Where there is doubt they are directed to clarify with the CBN.*

(iii) B 1402 SECTION 1.10.3

POLITICALLY EXPOSED PERSONS

Senior management approval must be obtained by financial institutions before they establish any business relationship with a PEP and they must render monthly returns to the CBN and NFIU.

(iv) B 1404 SECTION 1.14.1

MAINTENANCE OF RECORDS ON TRANSACTIONS

This section requires financial institutions to maintain all necessary record, in respect of domestic or international transactions *for a minimum period of 5 years following completion of the transaction. They shall keep such record longer if requested by the CBN and NFIU in specific cases.*

(v) B 1405 SECTION 1.15.2

COMPLEX, UNUSUAL (LARGE) AND SUSPICIOUS TRANSACTIONS

Financial institutions are required *to examine as far as possible the background and purpose of suspicious transactions and make available their findings to the CBN, NFIU and other competent authorities and auditors. Returns on suspicious transactions, however, are to be rendered to the NFIU in compliance with section 6(2) of MLPA, 2011.*

(vi) B 1408 SECTION 1.18.3

CURRENCY TRANSACTION REPORT

Financial institutions are required *to report all cash transactions in any currency above a threshold of ₦5 million for individual and ₦10 million for corporate bodies to the CBN and NFIU. This directive is overtaken by section 10 of MLPA, 2011 that requires these returns to be rendered solely to the NFIU.*

(vii) B 1409 SECTION 1.18.5.3

FOREIGN BRANCHES AND SUBSIDIARIES

Financial institutions are required *to inform the CBN in writing when their foreign branches or subsidiaries are unable to observe the appropriate AML/CFT measures because they are prohibited by the host country's laws, regulations or other measures.*

(viii) B 1410 SECTION 1.18.6.1.2

EMPLOYEE EDUCATION AND TRAINING PROGRAMME

Financial institutions are required to design a comprehensive training program for employees and *to render quarterly returns on their level of compliance to the CBN and NFIU.*

(ix) B 1410 SECTION 1.18.6.1.3

Financial institutions are required to submit their Annual AML/CFT Employee Training Program for the next year to the CBN and NFIU not later than 31st December every financial year.

(x) B 1411 SECTION 1.18.7.1

MONITORING OF EMPLOYEE CONDUCT

For potential signs of money laundering, financial institutions are required to monitor employees as well as customers' accounts. This is to be done under the supervision of the Chief Compliance Officer and *compliance reports, including findings are to be rendered to the CBN and NFIU at the end of June and December every year.*

(xi) B 1411 SECTION 1.19.1

ADDITIONAL AREAS OF AML/CFT RISKS

Financial institutions are required to review, identify and record other areas of potential money laundering risks not covered by AML/CFT Regulation, 2009 (as amended) and report same quarterly to the CBN and NFIU.

(xii) B 1411 SECTION 1.20

ADDITIONAL PROCEDURES AND MITIGANTS

Where the financial institutions have reviewed the AML/CFT framework and identified new areas of potential money laundering risks, they are required to *design additional procedures and mitigants as contingency plan* in their AML/CFT Operational Manual. *Details of the contingency plan are to be rendered to the CBN and NFIU as at 31st December every financial year.*

(xiii) B 1411 SECTION 1.21

TESTING FOR THE ADEQUACY OF THE AML/CFT COMPLIANCE

Every financial institution is required to make a policy commitment and to subject its AML/CFT Compliance Program to independent-testing or require its internal audit function to determine its adequacy, completeness and effectiveness. *Report of compliance is required to be rendered to the CBN and NFIU as at 31st December every financial year.*

(xiv) B 1412 SECTION 1.22

FORMAL BOARD APPROVAL OF THE AML/CFT COMPLIANCE

The Board of a financial institution is required to ensure that *a comprehensive AML/CFT Operational Regulation is formulated by its management and presented to the Board for consideration and final approval. Copies of the approved Regulation are to be forwarded to the CBN and NFIU within six (6) months of the release of AML/CFT Regulation, 2009.*

(xv) B 1412 SECTION 1.25.2

MONEY OR VALUE TRANSFER (MVT) SERVICES

All MVT service operators are required *to maintain a current list of its agents and quarterly returns of such be rendered to the CBN.*

(xvi) B 1413 SECTION 1.25.3

Before establishing new correspondent relationships, MVT operators are required *to obtain approval from the CBN and to also document/ maintain a checklist of the respective AML/CFT responsibilities of each of its agents and correspondent operators.*

(xvii) B 1427 SECTION 2.6.1.5.9

FINANCIALLY EXCLUDED PERSONS

Returns should be rendered to the CBN and NFIU quarterly on financially excluded persons/customers.

(xviii) B 1448 SECTION 2.8.8.3

LINKED TRANSACTIONS

In the event where returns have been rendered to the NFIU after suspicion of money laundering arising from linked transactions, the financial institution *is required to maintain copies of supporting cheques, application forms and other relevant records until such financial institution is informed by the CBN, NFIU or the investigating officer that the records are of no further interest.*

APPENDIX II

LIST OF RETURNS TO BE RENDERED EXCLUSIVELY TO NFIU

(i) B 1401 SECTION 1.8.2

FAILURE TO COMPLETE CDD

Any financial institution that has already commenced business relationship and later comes to realize *lapses in the completion of CDD is required to terminate such relationship and render suspicious transaction reports to the NFIU.*

(ii) B 1403 SECTION 1.10.5

PEP

Where a financial institution is in a business relationship with a PEP and notices *any abnormal transaction, it is required to flag the account and report same immediately to the NFIU.*

(iii) B 1405 SECTION 1.15.2

COMPLEX, UNUSUAL (LARGE) AND SUSPICIOUS TRANSACTION

Financial institutions are required *to examine as far as possible the background and purpose of such transactions and forward the report of their findings to the NFIU.*

(iv) B 1406 SECTION 1.16.2.5

SUSPICIOUS TRANSACTIONS

A financial institution that *suspects or has reason to suspect that funds are the proceeds of a criminal activity or is related to terrorist financing is required to report promptly its suspicion to the NFIU.*

Financial institutions are also required *to report suspicious transactions relating to terrorism financing to the NFIU.*

(v) B1414 SECTION 1.26.9

WIRE TRANSFERS

Financial institutions are required *to report to the NFIU any wire transfer that lacks complete originator information as this is considered a factor for assessing suspicious transactions.*

(vi) B 1419 SECTION 2.4.8.5

TIME-FRAME FOR IDENTIFICATION REQUIREMENTS

Where an applicant *refuses to provide satisfactory identification evidence within a reasonable time-frame without adequate explanation, the financial institution is required*

to make a suspicious transaction report to the NFIU based on the information in its possession before the funds involved are returned to the potential client or where they came from.

(vii) B 1419 SECTION 2.4.9

CANCELLATION AND COOLING-OFF RIGHTS

In the event where *abnormal exercise* from cancellation and cooling-off rights by an investor or in respect of business introduced through an intermediary becomes apparent, financial institutions are required to treat the matter as suspicious and report same to the NFIU.

(viii) B 1430 SECTION 2.6.1.8.5

NON FACE TO FACE IDENTIFICATION

Where a financial institution's business is operated electronically, computerized monitoring systems/solutions designed to recognize unusual transactions and related patterns of transactions should be put in place to recognize suspicious transactions. *AML/CFT Compliance officers are required to review these systems/solutions, record exemptions and report same quarterly to the NFIU.*

(ix) B 1432 SECTION 2.6.2.2.6

OFFSHORE TRUSTS

Any application to open an account or undertake a transaction on behalf of another without the applicant identifying their Trust or Nominee capacity should be regarded as suspicious and should lead to further enquiries and rendition of reports to the NFIU.

(x) B 1434 SECTION 2.6.2.6.4

EXECUTORSHIP ACCOUNTS

In the event that suspicions are aroused concerning the nature or origin of assets comprising an estate that is being wound up, the reports of the suspicions are to be rendered to the NFIU.

(xi) B 1435 SECTION 2.6.2.7.4

"CLIENT ACCOUNTS" OPENED BY PROFESSIONAL INTERMEDIARIES

Financial institutions are required to make reasonable enquiries about transactions passing through such accounts that give cause for concern and should report any suspicious transaction to the NFIU.

(xii) B 1448 SECTION 2.8.6.3

LINKED TRANSACTIONS

Where transactions are believed to be linked and money laundering is suspected, *the financial institution should investigate and render returns on same together with documentary evidence to the NFIU.*