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

(Act No. 11, 2011 and Act No. 1, 2012)

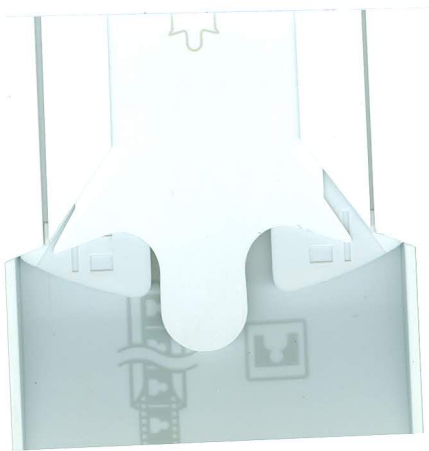


FEDERAL REPUBLIC OF NIGERIA

Money Laundering (Prohibition) Act, 2011 (As Amended)

(Harmonized Act No. 11, 2011 and Act No. 1, 2012)

PRODUCED BY
FEDERAL MINISTRY OF JUSTICE,
ABUJA



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

(Act No. 11, 2011 and Act No. 1, 2012)



ARRANGEMENT OF SECTIONS

SECTION :

PART I—PROHIBITION OF MONEY LAUNDERING

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2. Duty to report international transfer of funds and securities.
3. Identification of customers.
4. Duties incumbent upon casinos.
5. Occasional cash transaction by designated non-Financial Institutions.
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9. Internal procedures, policies and controls.
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**MONEY LAUNDERING (PROHIBITION) ACT, 2011
(AS AMENDED)**

(Act No. 11, 2011 and Act No. 1, 2012)

AN ACT TO REPEAL THE MONEY LAUNDERING (PROHIBITION) ACT 2004 AND ENACT THE MONEY LAUNDERING (PROHIBITION) ACT, 2011 TO ENHANCE THE SCOPE OF MONEY LAUNDERING OFFENCES AND CUSTOMER DUE DILIGENCE MEASURES, AND FOR RELATED MATTERS

[3rd Day of June, 2011]

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

PART I—PROHIBITION OF MONEY LAUNDERING

1. No person or body corporate shall, except in a transaction through a Financial Institution, make or accept cash payment of a sum exceeding—

- (a) ₦5,000,000.00 or its equivalent, in the case of an individual ; or
- (b) ₦10,000,000.00 or its equivalent, in the case of a body corporate.

2.—(1) A transfer 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 shall be reported to the Central Bank of Nigeria, Securities and Exchange Commission or the Commission in writing within 7 days from the date of the transaction.

(2) A report made under subsection (1) of this section shall indicate the nature and amount of the transfer, the names and addresses of the sender and the receiver of the funds or securities.

(3) Transportation of cash or negotiable instruments in excess of US\$10,000 or its equivalent by individuals in or out of the country shall be declared to the Nigerian Customs Service.

(4) The Nigeria Customs Service shall report any declaration made pursuant to subsection (3) of this section to the Central Bank and the Commission.

(5) Any person who falsely declares or fails to make a declaration to the Nigerian Customs Service pursuant to section 12 of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, Cap. F34, LFN, 2004 is guilty of an offence and shall be liable on conviction to forfeit the undeclared funds or negotiable instrument or to imprisonment to a term of not less than 2 years or to both.

3.—(1) A Financial Institution and a Designated Non-Financial Institution shall—

- (a) identify a customer, whether permanent or occasional, natural or legal person or any other form of legal arrangements, using identification documents as may be prescribed in any relevant regulation ;
- (b) verify the identity of that customer using reliable, independent source documents, data or information ; and

† Long Title, Act No. 1, 2012.

Commencement.

Limitation to make or accept cash payment.

Duty to report international transfer of funds and securities.

† Section 2, Act No 1, 2012.

Identification of customers.

† Section 3
(a), Act No
1, 2012.

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

(2) Financial Institutions and Designated Non-Financial Institutions shall undertake customer due diligence measures when—

(a) establishing business relationships ;

(b) carrying out occasional transactions above the applicable designated threshold prescribed by relevant regulations, including transactions carried out in a single operation or in several operations that appear to be linked ;

(c) carrying out occasional transactions that are wire transfers ;

(d) there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds ; or

(e) the Financial Institution or Designated Non-Financial Institution has doubts about the veracity or adequacy of previously obtained customer identification data.

(3) Financial Institutions or Designated Non-Financial Institutions shall—

(a) conduct ongoing due diligence on a business relationship ;

(b) scrutinise transactions undertaken during the course of the relationship to ensure that the transactions are consistent with the institution's knowledge of the customer, their business and risk profile and where necessary, the source of funds ; and

(c) ensure that documents, data or information collected under the customer due diligence process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.

(4) Financial Institutions and Designated Non-Financial Institutions shall take enhanced measures to manage and mitigate the risks and—

(a) where higher risks are identified, take enhanced measures to manage and mitigate the risks ;

(b) where lower risks are identified, take simplified measures to manage and mitigate the risks, provided that simplified customer due diligent measures are not permitted whenever there is suspicion of money laundering or terrorist financing ;

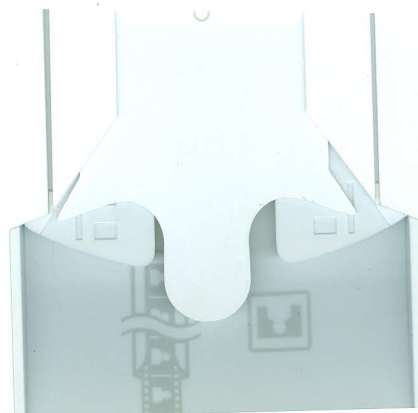
(c) in the case of cross-border correspondent banking and other similar relationships and in addition to carrying out customer due diligence measures—

(i) gather sufficient information about a respondent institution ;

(ii) assess the respondent institution's anti-money laundering and combating the financing of terrorism controls ;

(iii) document respective responsibilities of each institution in this regard ;
and

† Paragraph
1, Corrigendum
on
Section 3 (4)
(a), Act No
1, 2012.



(iv) obtain management approval before establishing new correspondent relationships.

† Section 3
(b), Act No
1, 2012.

(5) A casual customer shall comply with the provisions of subsection (2) of this section for any number or manner of transactions including wire transfer involving a sum exceeding US\$1,000 or its equivalent if the total amount is known at the commencement of the transaction or as soon as it is known to exceed the sum of US\$1,000 or its equivalent.

(6) Where a Financial Institution or Designated Non-Financial Institution suspects or has reasonable grounds to suspect that the amount involved in a transaction is the proceeds of a crime or an illegal act, it shall require identification of the customer notwithstanding that the amount involved in the transaction is less than US\$1,000 or its equivalent.

† Section 3
(c), Act No
1, 2012.

(7) Where the customer is a politically exposed person, the Financial Institution or Designated Non-Financial Institution shall in addition to the requirements of subsection (1) and (2) of this section—

† Section 3
(d), Act No
1, 2012.

(a) put in place appropriate risk management systems ; and

(b) obtain senior management approval before establishing and during any business relationship with the politically exposed person.

4.—(1) A Casino shall—

Duties
incumbent
upon
casinos.

(a) verify the identity of any of its customers carrying out financial transactions by requiring its customer to present a valid original document bearing his name and address ;

(b) record all transactions under this section in chronological order including—

(i) the nature and amount involved in each transaction ; and

(ii) each customer's surname, forenames and address, in a register forwarded to the Ministry for that purpose.

(2) A register kept under subsection (1) (b) of this section shall be preserved for at least 5 years after the last transaction recorded in the register.

5.—(1) A Designated Non-Financial Institution whose business involves cash transaction shall—

Occasional
cash
transaction
by
designated
non-
Financial
Institutions.

(a) in the case of—

(i) a new business, before commencement of the business ;

(ii) an existing business, within 3 months from the commencement of this Act, submit to the Ministry a declaration of its activities ;

(b) prior to any transaction involving a sum exceeding US\$1,000 or its equivalent, identify the customer by requiring him to fill a standard data form and present his international passport, driving license, national identity card or such other document bearing his photograph as may be prescribed by the Ministry ;

(c) record all transactions under this section in chronological order, indicating each customer's surname, forenames and address in a register numbered and forwarded to the Ministry.

(2) The Ministry shall forward the information received pursuant to subsection (1) of this section to the Commission within 7 days of its receipt.

(3) A register kept under subsection (1) of this section shall be preserved for at least 5 years after the last transaction recorded in the register.

(4) The Minister may make regulations for guiding the operations of Designated Non-Financial Institutions under this section.

(5) Notwithstanding the provisions of subsection (2) of this section, the Commission shall have powers to demand and receive reports directly from Designated Non-Financial Institutions.

(6) A Designated Non-Financial Institution that fails to comply with the requirements of customer identification and the submission of returns on such transaction as specified in this Act within 7 days from the date of the transaction commits an offence and is liable to—

(a) a fine of ₦250,000 for each day during which the offence continues ; and

(b) suspension, revocation or withdrawal of license by the appropriate licensing authority as the circumstances may demand.

Suspicious transaction reporting.

† Section 4 (a) Act No 1, 2012.

6.—(1) Where a transaction—

(a) involves a frequency which is unjustifiable or unreasonable ;

(b) is surrounded by conditions of unusual or unjustified complexity ;

(c) appears to have no economic justification or lawful objective ; or

(d) in the opinion of the Financial Institution or Designated Non-Financial Institution involves terrorist financing or is inconsistent with the known transaction pattern of the account or business relationship ;

that transaction shall be deemed to be suspicious and the Financial Institution involved in such transaction shall seek information from the customer as to the origin and destination of the fund, the aim of the transaction and the identity of the beneficiary.

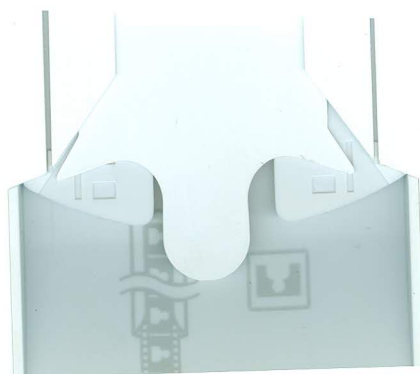
(2) A Financial Institution or Designated Non-Financial Institution shall immediately after the transaction referred to in sub-section (1) of this section—

(a) draw up a written report containing all relevant information on the matters mentioned in subsection (1) of this section together with the identity of the principal and where applicable, of the beneficiary or beneficiaries ;

(b) take appropriate action to prevent the laundering of the proceeds of a crime or an illegal act ; and

(c) report any suspicious transaction and actions taken to the Economic and Financial Crimes Commission.

† Section 4 (b), Act No 1, 2012.



(3) The provisions of subsections (1) and (2) of this section shall apply whether the transaction is completed or not.

(4) The Economic and Financial Crimes Commission shall acknowledge receipt of any disclosure, report or information received under this section and may demand such additional information as it may deem necessary.

† Section 4
(c), Act No
1, 2012.

(5) (a) The acknowledgement of receipt shall be sent to the Financial Institution or Designated Non-Financial Institution within the time allowed for the transaction to be undertaken and it may be accompanied by a notice deferring the transaction for a period not exceeding 72 hours.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the Chairman of the Economic and Financial Crimes Commission or his authorised representative shall place a Stop Order not exceeding 72 hours, on any account or transaction if it is discovered in the course of their duties that such account or transaction is suspected to be involved in any crime.

† Section 4
(d), Act No
1, 2012.

(6) If the acknowledgment of receipt is not accompanied by a stop notice, or where the stop notice has expired and the order specified in subsection (7) of this section to block the transaction has not reached the Financial Institution or Designated Non-Financial Institution, it may carry out the transaction.

(7) Where it is not possible to ascertain the origin of the funds within the period of stoppage of the transaction, the Federal High Court may, at the request of the Commission or other persons or authority duly authorized in that behalf, order that the funds, accounts or securities referred to in the report be blocked.

(8) An order made by the Federal High Court under this subsection (7) of this section shall be enforced forthwith.

(9) A Financial Institution or Designated Non-Financial Institution which fails to comply with the provisions of subsections (1) and (2) of this section commits an offence and is liable on conviction to a fine of ₦1,000,000 for each day during which the offence continues.

(10) The Directors, Officers and Employees of Financial Institutions and Designated Non-Financial Institutions who carry out their duties under this Act in good faith shall not be liable to any civil or criminal liability or have any criminal or civil proceedings brought against them by their customers.

7. A Financial Institution and Designated Non-Financial Institution shall preserve and keep at the disposal of the authorities specified in section 8 of this Act—

Preservation
of records.

(a) the record of a customer's identification for a period of at least 5 years after the closure of the account or the severance of relations with the customer ;
and

(b) the record and other related information of a transaction carried out by a customer and the report provided for in section 6 of this Act shall be preserved, for a period of at least 5 years after carrying out the transaction or making of the report as the case may be.



Communica-
tion of
information.

8. The records referred to in section 7 of this Act shall be communicated on demand to the Central Bank of Nigeria or the National Drug Law Enforcement Agency (in this Act referred to as the "Agency") and such other regulatory authorities or judicial persons as the Commission may specify from time to time, by order published in the *Gazette*.

Internal
procedures,
policies and
controls.

† Section
5(a) Act No
1, 2012.

9.—(1) Every Financial Institution and Designated Non-Financial Institution shall develop programmes to combat the laundering of the proceeds of a crime or other illegal acts, and these shall include—

(a) the designation of compliance officers at management level at its headquarters and at every branch and local office ;

(b) regular training programmes for its employees ;

(c) the centralization of the information collected ; and

(d) the establishment of an internal audit unit to ensure compliance with and effectiveness of the measures taken to enforce the provisions of this Act.

† Section 5
(b) Act No 1,
2012.

(2) Notwithstanding the provision of this Act or any other Law, the Central Bank of Nigeria, Securities and Exchange Commission, National Insurance Commission or any other relevant regulatory authority may—

(a) impose a penalty of not less than ₦1,000,000 for capital brokerage and other financial institutions and ₦5,000,000 in the case of a Bank ; and

(b) in addition, suspend any licence issued to the Financial Institution or Designated Non-Financial Institution,

for failure to comply with the provisions of subsection (1) of this section.

† Section 5
(c) Act No 1,
2012.

Mandatory
disclosure by
financial
institutions.

† Section 6,
Act No 1,
2012.

10.—(1) Notwithstanding anything to the contrary in any other law or regulation, a Financial Institution or Designated Non-Financial Institution shall report to the Economic and Financial Crimes Commission in writing within 7 days, any single transaction, lodgement or transfer of funds in excess of—

(a) ₦5,000,000 or its equivalent, in the case of an individual ; or

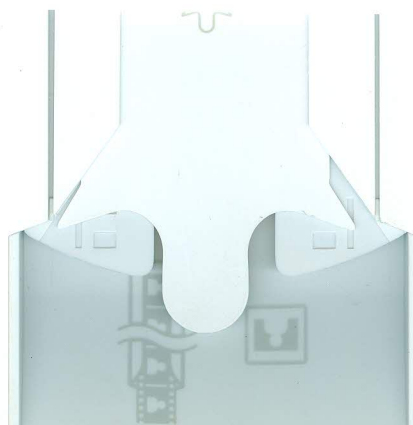
(b) ₦10,000,000 or its equivalent, in the case of a body corporate.

(2) A person other than a Financial Institution may voluntarily give information on any transaction, lodgement or transfer of funds in excess of—

(a) ₦1,000,000 or its equivalent, in the case of an individual ; or

(b) ₦5,000,000 or its equivalent, in the case of a body corporate.

(3) Any Financial Institution or Designated Non-Financial Institution that contravenes the provisions of this section is guilty of an offence and is on conviction liable to a fine of not less ₦250,000 and not more than ₦1 million for each day the contravention continues.



11.—(1) The opening or maintaining of numbered or anonymous accounts by any person, Financial Institution or body corporate is prohibited.

(2) A person shall not establish or operate a shell bank in Nigeria.

(3) A financial institution shall—

(a) not enter into or continue correspondent banking relationships with shell banks ; and

(b) satisfy itself that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

(4) Any person, Financial Institution or body corporate that contravenes the provisions of subsections (1), (2) and (3) of this section, commits an offence and is liable on conviction to—

(a) in the case of an individual, a term of imprisonment of not less than 2 years but not more than 5 years ; or

(b) in the case of a financial institution or body corporate, a fine of not less than ₦10,000,000 but not more than ₦50,000,000, in addition to :

(i) the prosecution of the principal officers of the body corporate, and

(ii) the winding up and prohibition of its constitution or incorporation under any form or guise.

12. Where funds are blocked under subsection (7) of section 6 of this Act and there is evidence of conspiracy with the owner of the funds, the Financial Institution or the Designated Non-Financial Institution involved shall not be relieved of liability under this Act and criminal proceedings for all offences arising there from, may be brought against its director and employees involved in the conspiracy.

13.—(1) The Commission, Agency, Central Bank of Nigeria or other regulatory authorities pursuant to an order of the Federal High Court obtained upon an *ex-parte* application supported by a sworn declaration made by the Chairman of the Commission or an authorized officer of the Central Bank of Nigeria or other regulatory authorities justifying the request, may in order to identify and locate proceeds, properties, objects or other things related to the

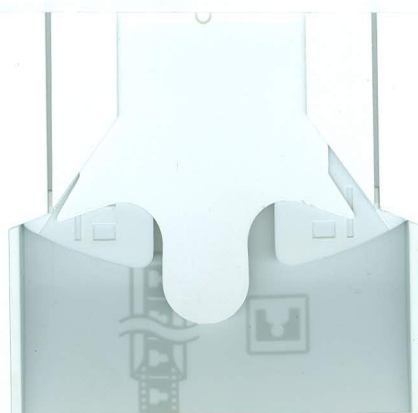
Prohibition of numbered or anonymous accounts, accounts in fictitious names and shell banks.

† Section 7 (a) and (b) Act No 1, 2012.

Liability of directors, employees of Financial Institutions, Designated Non-Financial Institutions, Financial Intelligence Unit, Regulators, the Commission and the Agency.

† Section 8, Act No. 1, 2012.

Surveillance of Bank Accounts.



commission of an offence under this Act, the Economic and Financial Crimes Commission (Establishment) Act or any other law—

- (a) place any bank account or any other account comparable to a bank account under surveillance ;
- (b) obtain access to any suspected computer system ;
- (c) obtain communication of any authentic instrument or private contract, together with all bank, financial and commercial records, when the account, the telephone line or computer system is used by any person suspected of taking part in a transaction involving the proceeds of a financial or other crime.

(2) The Agency may exercise the powers conferred under subsection (1) of this section where it relates to identifying or locating properties, objects or proceeds of narcotic drugs or psychotropic substances.

(3) In exercising the power conferred under subsection (2) of this section, the Agency shall promptly make a report to the Commission.

(4) Banking secrecy or preservation of customer confidentiality shall not be invoked as a ground for objecting to the measures set out in subsection (1) and (2) of this section or for refusing to be a witness to facts likely to constitute an offence under this Act, the Economic and Financial Crimes Commission (Establishment), etc.) Act or any other law.

Determina-
tion of flow
of
transactions.

14. The Commission shall in consultation with the Central Bank and the Corporate Affairs Commission determine the flow of transaction and the identities of beneficiaries under this Act including the beneficiaries of individual accounts and of corporate accounts.

PART II—OFFENCES

Money
laundering
offences.

15.—(1) Money laundering is prohibited in Nigeria.

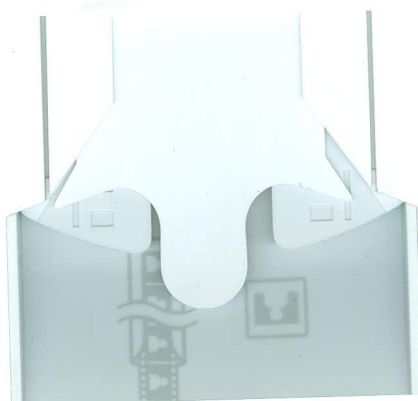
(2) Any person or body corporate, in or outside Nigeria, who directly or indirectly—

- (a) conceals or disguises the origin of ;
- (b) converts or transfers ;
- (c) removes from the jurisdiction ; or
- (d) acquires, uses, retains or takes possession or control of ;

any fund or property, knowingly or reasonably ought to have known that such fund or property is, or forms part of the proceeds of an unlawful act ;
commits an offence of money laundering under this Act.

(3) A person who contravenes the provisions of subsection (2) of this section is liable on conviction to a term of not less than 7 years but not more than 14 years imprisonment.

(4) A body corporate who contravenes the provisions of subsection (2) of this section is liable on conviction to—



(a) a fine of not less than 100% of the funds and properties acquired as a result of the offence committed ; and

(b) withdrawal of licence.

(5) Where the body corporate persists in the commission of the offence for which it was convicted in the first instance, the Regulators may withdraw or revoke the certificate or licence of the body corporate.

(6) The unlawful act referred to in subsection (2) of this section includes participation in an organized criminal group, racketeering, terrorism, terrorist financing, trafficking in persons, smuggling of migrants, sexual exploitation, sexual exploitation of children, illicit trafficking in narcotic drugs and psychotropic substances, illicit arms trafficking, illicit trafficking in stolen goods, corruption, bribery, fraud, currency counterfeiting, counterfeiting and piracy of products, environmental crimes, murder, grievous bodily injury, kidnapping, 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 or any other criminal act specified in this Act or any other law in Nigeria.

(7) A person who commits an offence under subsection (2) of this section shall be subject to the penalties specified in this section notwithstanding that the various acts constituting the offence were committed in different countries or places.

† Section 9,
Act No. 1,
2012.

16.—(1) Without prejudice to the penalties provided under section 15 of this Act, any person who—

Other
Offences.

(a) being a director or employee of a Financial Institution warns or in any other way intimates the owner of the funds involved in the transaction referred to in section 6 of this Act about the report he is required to make or the action taken on it or who refrains from making the report as required ;

(b) destroys or removes a register or record required to be kept under this Act ;

(c) carries out or attempts under a false identity to carry out any of the transactions specified in sections 1 to 5 of this Act ;

(d) makes or accepts cash payments exceeding the amount authorized under this Act ;

(e) fails to report an international transfer of funds or securities required to be reported under this Act ; or

(f) being a director or an employee of a Financial Institution or Designated Non-Financial Institution contravenes the provisions of sections 2, 3, 4, 5, 6, 7, 9, 10, 12, 13 or 14 of this Act,

commits an offence under this Act.

† Section 10
(a), Act No.
1, 2012.

(2) A person who commits an offence under subsection (1) of this section—

(a) paragraph (a), is liable on conviction to imprisonment for a term of not less than 2 years or a fine of not less than ₦10,000,000 ; and



† Section 10
(b), Act No
1, 2012.

(b) paragraphs (b) — (f), is liable to imprisonment for a term of not less than 3 years or a fine of ₦10,000,000 or to both, in the case of individual and ₦25,000,000, in the case of a body corporate.

(3) A person found guilty of an offence under this section may also be banned indefinitely or for a period of 5 years from practicing the profession, which provided the opportunity for the offence to be committed.

(4) Where as a result of a serious oversight or a flaw in its internal control procedures, a Financial Institution or person designated under subsection (1) (a) of section 9 of this Act, fails to meet any of the obligations imposed by this Act, the disciplinary authority responsible for the Financial Institution or the person's professional body may, in addition to any penalty in this Act take such disciplinary action against the Financial Institution or persons as is in conformity with its professional and administrative regulations.

Retention of
proceeds of a
criminal
conduct.

17. Any person who—

(a) conceals, removes from jurisdiction, transfers to nominees or otherwise retains the proceeds of a crime or an illegal act on behalf of another person knowing or suspecting that other person to be engaged in a criminal conduct or has benefited from a criminal conduct or conspiracy, aiding, etc. ; or

(b) knowing that any property either in whole or in part directly or indirectly represents another person's proceeds of a criminal conduct, acquires or uses that property or possession of it,

commits an offence under this Act and is liable on conviction to imprisonment for a term not less than 5 years or to a fine equivalent to 5 times the value of the proceeds of the criminal conduct or both such imprisonment and fine.

Conspiracy,
aiding and
abetting.

18. A person who—

(a) conspires with, aids, abets or counsels any other person to commit an offence ;

(b) attempts to commit or is an accessory to an act or offence ; or

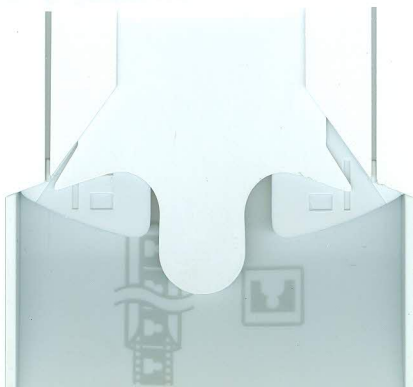
(c) incites, procures or induces any other person by any means whatsoever to commit an offence under this Act,

commits an offence and is liable on conviction to the same punishment as is prescribed for that offence under this Act.

Offences by
a body
corporate.

19.—(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed on the instigation or with the connivance of or attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate where applicable, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

—(2) Where a body corporate is convicted of an offence under this Act, the court may order that the body corporate shall thereupon and without any further



assurances, but for such order, be wound up and all its assets and properties forfeited to the Federal Government.

PART III—MISCELLANEOUS

20.—(1) The Federal High Court shall have jurisdiction to—

(a) try offences under this Act or any other related enactment ; and
(b) hear and determine proceedings arising under this Act whether or not the offence was commenced in Nigeria and completed outside Nigeria and the victim is—

- (i) a citizen or resident of Nigeria ;
- (ii) not a citizen of any country but ordinarily resident in Nigeria ;
- (iii) in transit or has a link with Nigeria ; and
- (iv) dealing with or on behalf of the Government of Nigeria, or a citizen of Nigeria or an entity registered in Nigeria ; or
- (v) the alleged offender is in Nigeria and not extradited to any other country for prosecution.

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

(3) In any trial for an offence under this Act, the Court shall have power, notwithstanding anything to the contrary in any other enactment, to adopt all legal measures necessary to avoid unnecessary delays and abuse in the conduct of matters.

(4) Subject to the provisions of the Constitution of the Federal Republic of Nigeria, an application for stay of proceedings in respect of any criminal matter brought under this Act shall not be entertained until judgment is delivered.

21. For the purpose of this Act, the Director of Investigation or an officer of the Ministry, Commission, or Agency duly authorized in that behalf may demand, obtain and inspect the books and records of the Financial Institution or Designated Non-Financial Institution to confirm compliance with the provisions of this Act.

22. A person who wilfully obstructs officers of the Ministry, the Commission, the Agency or any authorized officer in the exercise of the powers conferred on the Ministry, the Commission or the Agency by this Act commits an offence and is liable on conviction—

- (a) in the case of an individual, to imprisonment for a term of not less than 2 years and not exceeding 3 years ; and
- (b) in the case of a financial institution or other body corporate, to a fine of ₦1,000,000.

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

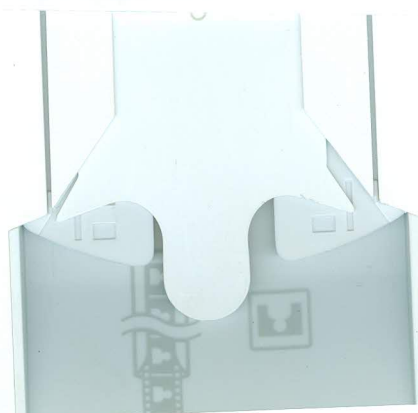
Jurisdiction to try offences under this Act.

† Section 11, Act No. 1, 2012.

Power to demand and obtain records.

Obstruction of the Commission or authorised officers.

Regulations.
† Section 12, Act No. 1, 2012.



(2) Orders, rules, guidelines or regulations made under subsection (1) of this section may provide for the—

- (a) method of custody of video and other electronic recordings of suspects apprehended under this Act ;
- (b) method of compliance with directives issued by relevant international institutions on money laundering and terrorism financing counter measures ;
- (c) procedure for freezing, unfreezing and providing access to frozen funds or other assets ;
- (d) procedure for the prosecution of all money laundering cases in line with international human rights standards ; and
- (e) any other matter the Attorney-General may consider necessary or expedient for the purpose of the implementation of this Act.

Repeal of the Money Laundering (Prohibition) Act 2004.

24.—(1) The Money Laundering (Prohibition) Act 2004 is repealed.

(2) The repeal of the enactment specified in subsection (1) of this section shall not affect anything done or purported to be done under or pursuant to that enactment.

Interpretation.

25. In this Act—

“*Account*” means a facility or arrangement by which a Financial Institution—

- (a) accepts deposits of currency ;
- (b) allows withdrawals of currency or transfers into or out of the account ;
- (c) pays cheques or payment orders drawn on a Financial Institution or cash dealer by a person or collect cheques or payment orders on behalf of a person ; or
- (d) supplies a facility or an arrangement for a safe deposit box ;

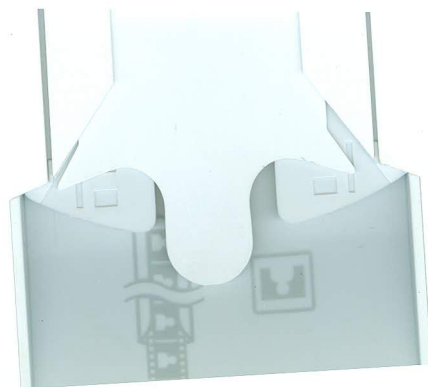
“*Agency*” means National Drug Law Enforcement Agency ;

“*Beneficiary*” includes a natural or legal person or any other form of legal arrangement identified by the originator as the receiver of the requested wire transfer ;

“*Beneficial owner*” refers to—

- (a) the natural person who ultimately owns or controls a customer ;
- (b) the natural person on whose behalf a transaction is being conducted; and
- (c) a person who exercises ultimate effective control over a legal person or arrangement ;

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



“*Central Bank*” means the Central Bank of Nigeria ;

“*Commission*” means the Economic and Financial Crimes Commission ;

“*Competent authority*” means any agency or institution concerned with combating money laundering and terrorist financing under this Act or under any other law or regulation ;

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

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

“*False Declaration*” refers to a misrepresentation of—

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

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

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

“*Funds*” refers to assets of every kind whether tangible or intangible, movable or immovable, howsoever acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts or letters of credit ;

“*Minister*” means the Minister charged with responsibility for matters pertaining to Trade and Investment ;

“*Ministry*” means the Federal Ministry of Industry, Trade and Investment ;

“*Money Service Business*” includes currency dealers, money transmitters, cheque cashers, and issuers of travellers’ cheques, money orders or stored value ;

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



“*Other Regulatory Authorities*” means the Securities and Exchange Commission, and the National Insurance Commission ;

“*Physical Presence*” in relation to shell banks, means having structure and management located within a country and not merely the existence of a local agent or low level staff ;

“*Politically exposed persons (‘PEPs’)*” includes—

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

(b) individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of Government, senior politicians, senior government, judicial or military officials, senior executives of State owned corporations and important political party officials ; and

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

“*Proceeds*” means property derived from or obtained, directly or indirectly through the commission of an offence ;

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

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

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

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

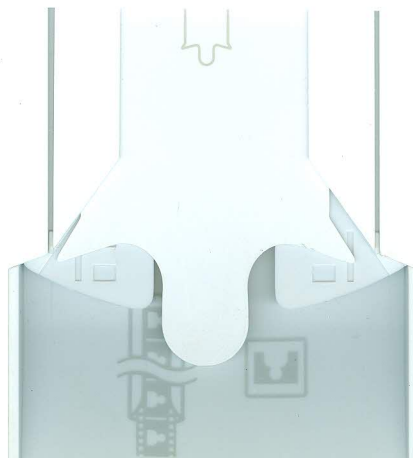
“*Suspicious*” means a matter which is beyond mere speculations and is based on some foundation ;

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

“*Transaction*” means—

(a) acceptance of deposit and other repayable funds from the public ;

(b) lending ;

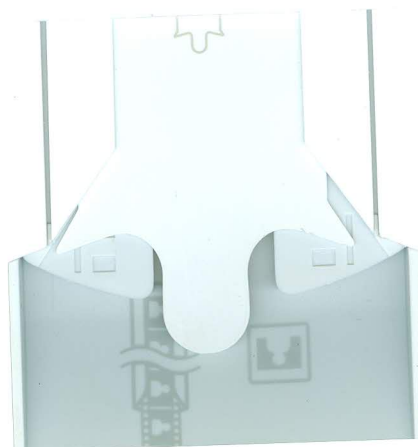


- (c) financial leasing ;
- (d) money transmission service ;
- (e) issuing and managing means of payment (for example, credit and debit cards, cheques, travellers' cheque and bankers' drafts etc.) ;
- (f) financial guarantees and commitment ;
- (g) trading for account of customer (spot-forward, swaps,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

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

† Section
13, Act No.
1, 2012.

26. This Act may be cited as the Money Laundering (Prohibition) Act, 2011 (as Amended). Citation.



EXPLANATORY MEMORANDUM

(This Memorandum does not form part of the above Act but is intended to explain its purport)

This Act provides for the repeal of the Money Laundering Act, 2004 and enacts the Money Laundering (Prohibition) Act, 2011 to make comprehensive provisions to prohibit the financing of terrorism, the laundering of the proceeds of crime or illegal acts, expand the scope of money laundering offences, enhance customer due diligence measures, provide appropriate penalties and expand the scope of supervisory and regulatory authorities to address the challenges faced in the implementation of the anti-money laundering regime in Nigeria.

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