

# MONEY LAUNDERING, TERRORISM FINANCING IN NIGERIA

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## INTRODUCTION

Money laundering according to Black's law dictionary (9<sup>th</sup>)<sup>i</sup> – The act of transferring illegally obtained money through legitimate people or accounts so that its original source cannot be traced.

The word launder simply means to clean i.e. money laundering simply means cleaning of money. One cannot clean what is in its nature clean. However, cleaning is a necessity to something dirty. Money laundering can be traced to mafia groups who acquired money from gambling, extortion, prostitution, illegal source and distribution of liquor.<sup>ii</sup>

Money laundering is a form of organised crime.<sup>iii</sup> According to Interpol, alternative remittance system distinguishing system of ethnic money laundering in Interpol member countries on the Asian continent<sup>iv</sup> The major source of income of organised crime are prostitution, human trafficking, illicit drug, gambling, pornography<sup>v</sup> advance fee scam and embezzlement of public fund.

However, money laundering is a means used to conceal funds. According to the Vienna Convention and the Palermo Convention provisions on money laundering, it may encompass three distinct alternative actus reas<sup>vi</sup>:

- I. The conversion or transfer, knowing that such property is the proceeds of crime
- II. The concealment or disguise of the true nature source, location, disposition, movement or ownership of or rights with respect to property knowing at the time of the receipt, that such property is the proceeds of crime and
- III. The acquisition, possession or use of property, knowing at the time of receipt that such property is the proceeds of crime.

The purpose of this activity is to disguise the illicit origin of the property, to assist any individual who is engaged in such an activity to dodge any legal consequences of his/her actions.<sup>vii</sup>

Money laundering and terrorism financing share the same techniques. Schott<sup>viii</sup> opines that there is a close link between money laundering and terrorism financing as the methods used in money laundering are similar to those used in concealing the source of terrorist financing.

In Nigeria, following the establishment of the Economic Financial Crimes Commission (EFCC) in 2003, there have been prosecution of those involved in financial crime such as advance fee fraud and embezzlement of public fund, but this has not in any way curb the persistent determination of Nigerians to involved in the laundering of money.

On July 2018, the President of the Federal Republic of Nigeria signed into law, the Nigerian Financial Intelligence Unit (NFIU) Bill. The NFIU is the Nigerian arm of the Global Financial Intelligence unit (FIUs) which was before now domicile in the EFCC.<sup>ix</sup> The NFIU is domicile in the Central Bank but work autonomously and independently, to collate and disseminate financial intelligence to security agencies.

## STAGES OF LAUNDERING MONEY

According to World Bank<sup>x</sup> money laundering constituting passing of funds through these stages, which are Placement, Layering, and Integration which aims at ensuring the funds appear clean after the process is completed.

**Placement** – This involves the physical movement of currency as other funds derived from illegal activities to a place/form that is less suspicious to law enforcement authorities and more convenient to the criminal/lauderer. The proceeds are introduced into traditional or non-traditional financial institution i.e retail outlets.

Also, illegally obtained funds such as misappropriated and embezzled funds which already lies within the system (bank accounts). Placement also involves splitting huge sum of money into less sums that are deposited in different bank accounts or purchase of financial instrument such as bonds and treasury bills.<sup>xi</sup>

### ***Layering State***

A criminal/launderer may carry out different financial transactions so as to develop a layer between the fund. This is aimed at concealing trails of evidence by creating series of transaction layers to disguise the fund from their original source (example wire transfer) to hide the proceeds.

### ***Integration State***

Funds re-enter legitimate businesses and financial institutions through commercial activities in real properties, shell companies, luxury assets and business venture. In this stage launderers enjoy the proceeds of the crime with no or low risk of detection and it becomes difficult to distinguish legal funds from illegal funds

### ***Laundering Techniques***

1. Cash smuggling
2. Insurance policies
3. Securities
4. Gambling ventures

### ***Cash Smuggling***

This is a process shipping/transferring of large sum of money across the border in inconspicuous manner. It is however illegal to transport cash or negotiable instrument in excess of US \$10,000 or its equivalent by individuals in or out of the country. Where such attempt is made by an individual, appropriate declaration made to the Nigerian Custom Service.<sup>xii</sup> The Nigerian custom have been working with the EFCC on matters cash smuggling.<sup>xiii</sup> With the series of clamp down by the Nigerian custom service, this has not in any way dissuaded the launderer from smuggling cash, because of the existing anti-money laundering measure taken by commercial banks.

The question goes thus, how well are the measures in place against money laundering?

Cash are usually exchanged with precious stones and fashionable items such as jewelleryes, which do not require disclosure in a much as one can claim they are personal items.

Several auto dealerships are found to always looking away from questioning where a potential customer is paying cash for car purchase.

### ***Insurance Policies***

The use of insurance policies to launder money is less common to general insurance but common to life insurance. This is because, such product/policy allows customers to place huge sum of money into the sector. It should be noted that permanent life insurance policy that has cash surrender value is one particularly inviting money laundering vehicles. Such cash value can be used as a source of further investment of his tainted funds. For example, taking loans out against such cash value<sup>xiv</sup>

Single premium insurance policy is most attractive to launderers, for which the premium is paid at large sum rather than instalments. It has been argued that single premium insurance is usually sold by banks with premium payments coming from bank accounts and constantly with reduced money laundering risk.<sup>xv</sup>

Another is annuity contract which is a method of converting illicit funds into a stream of income, an investor gives an insurance company money in exchange the company agrees to provide the investor with a benefit on a long run (future).

Annuity contracts typically have a “free look” period during which the investor may terminate the contract without paying any penalties and receive a refund for the amount of the contract. The amount of the refund may equal either the account value when the contract is terminated or the amount of purchase payments, depending on the terms of the contract and applicable legal requirements. This condition may allow a money launderer to purchase an annuity and then seek a refund in the free look period. The cheque received from the insurance company may not draw suspicion when deposited at a bank.

It should be noted that many insurance policies are sold through intermediaries(brokers), this therefore implies that insurance companies themselves do not always have direct contact with beneficiaries.

## SECURITIES

Money laundering in the securities industry occurs primarily at the layering and integration stages; and securities industry provides the money launderer with a double advantage i.e the ability to launder illicit assets generated from outside the securities industry and the ability to use these external illicit assets to generate additional illicit assets within the securities industry, for example through market manipulation and securities fraud.<sup>xvi</sup>

Some of the methods used are: changing share ownership in order to transfer wealth across borders; redeeming a long-term investment within a short period; using brokerage accounts as long term depository accounts for funds; effecting transactions involving nominees or third parties.<sup>xvii</sup>

Some of the example of securities are share warrant, Bonds, Mortgage Bond, Derivatives etc

## KYC – KNOW YOUR CUSTOMER

The governing body of financial institutions should ensure that companies know and understand their customers, their source of wealth, beneficial parties and also monitor customers investment to suspicious transactions to flag down and monitor money laundering.

Suspicious activities insurance professional may encounter that could be an indication of money laundering.

- customer cancels an insurance contract and directs that the funds be sent to a third party;
- Customer borrows against the cash surrender value of permanent life insurance policies, particularly when payment is made to apparently unrelated third party;
- Customer purchase of policy that is more than his normal range;
- Purchase of product with termination features without concern for the product investment performance;
- Purchase of policy to permits the transfer of interest to a third party without the consent of issuer
- A customer purchase of product using a single, large premium payment, using cash or draft (bank draft);
- Use of proceed from policy to purchase assets;

- Designation of an unrelated person as a beneficiary to an insurance policy;
- Customer is particularly interested in the product's early surrender and in the amount that he will then have at his disposal.

## RECOMMENDATIONS

- There should be a regulation just as the CBN has done in the several publications on cash limits for transport; BDC regulation on limit to be changed
- A refund of premium, particularly during a cooling off period or in a case of overpayment;<sup>xviii</sup>
- Surrendering a policy, even with surrender penalty is another mode.<sup>xix</sup>
- Another mode is whereby a person who purchased a policy in his name and then transfer the policy or change the beneficiary to a third party.<sup>xx</sup>
- Also, through a policy loan, whereby a client buys a single premium policy and applies for a policy loan which he does not repay, the outstanding loan is then deducted from any future claim.<sup>xxi</sup>
- It should be noted that, launders or their clients purchase these insurance policies and then redeem them at a discounted amount, paying the required fees and penalties and receiving a clean cheque from the insurance company.

## CONCLUSION

With the internet of things, and the rapid growth of technology, KYC should be made a very important and the verification process of such data should not be left to one person. It is advisable that KYC should be dealt with independently by certain organisation who would be held liable for misinformation. Many institutions are very fast at verifying information of potential customer without proper due diligence. Internet-based securities trading and traders accounts pose particular challenges to the implementation of due diligence procedures because of the lack of face-to-face interaction between the intermediary and the customer when an account is opened.



However, this should not be a bottle-neck as software can be developed to monitor, detect and report suspicious data and activities of customers.

Also, the regulators of financial institution should ensure that their operators encourage electronic payment by customers rather than cash.

## ENDNOTES

<sup>i</sup> Bryan A. Garner, WEST, A Thomson Reuters business, 2009

<sup>ii</sup> The mafia use laundry as a means to legitimise their money, the Al Capone laundromats are said to be the origin of money laundering, legitimising the proceeds of crime through cleaning at the laundromat. Duthel H, professional politics & Crime, international Money Laundering (2008)

<sup>iii</sup> It involves a permanent association established to execute criminal activities through the application of means of techniques commonly agreed on

<sup>iv</sup> >> <http://www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp>

<sup>v</sup> Siegal Larry J, Criminology, Belmont, CA, 2008

<sup>vi</sup> Anti-Money Laundering/Combating the Financing of Terrorism – Topics >>

<http://www.imf.org/external/np/leg/amlcft/eng/aml1.htm>

<sup>vii</sup> Mitsilegas V., "Money Laundering Counter Measures in the European Union: A New Paradigm of Security Governance Versus Fundamental Legal Principle (Kluwer Law International, New York, 2003

<sup>viii</sup> Paul Allen Schott, Reference Guide to Anti-Money laundering and Combating the financing of Terrorism (2<sup>nd</sup> Edn, World Bank 2006)

<sup>ix</sup> >> <https://dailypost.ng/2018/07/12/buhari-signs-nigerian-financial-intelligence-unit-bill-law/> (accessed 1-04-2020)

<sup>x</sup> Combating Money Laundering and the Financing of Terrorism: A Comprehensive Training Guide, World Bank Publication, Washington DC (2009)

<sup>xi</sup> Ibid, J. Walters and Other, Anti-Money Laundering and Counter-terrorism financing across the globe: A Comparative study of regulatory action, AIC Report, Research and Public Policy Series 113, Australian Institute of Criminology (2011)

<sup>xii</sup> Section 2(3) Money Laundering (Prohibition) Act 2011 (as amended); (4) The Nigeria Custom Service shall report a declaration made pursuant to subsection (3) to the Central Bank of Nigeria

<sup>xiii</sup> EFCC receives \$375,000 cash intercepted at the Kano Airport, Sahara Reports March 07, 2018 >>

<http://saharareporters.com/2018/03/07/efcc-receives-375000-cash-intercepted-kano-airport> and Skift Corporate, Nigeria is cracking down on passengers leaving Lagos airport with excessive amount of cash >>

<https://skift.com/2012/11/21/nigeria-is-cracking-down-on-passengers-leaving-lagos-airport-with-excessive-amounts-of-cash/>

<sup>xiv</sup> Business Mirror, Money Laundering in the Insurance Industry by Dennis B. Funa (May, 3 2016) >>

<https://businessmirror.com.ph/2016/05/03/money-laundering-in-the-insurance-industry/>

<sup>xv</sup> Ibid

<sup>xvi</sup> The Financial Action Task Force (FATF) Report, Money Laundering and Terrorism Financing in the Securities Sector, October 2009

<sup>xvii</sup> Ibid

<sup>xviii</sup> Ibid

<sup>xix</sup> Ibid

<sup>xx</sup> Ibid

<sup>xxi</sup> Ibid