



# *Regional Course on Techniques of Combating Money Laundering*

Organised by: ***WEST AFRICAN INSTITUTE FOR FINANCIAL & ECONOMIC MANAGEMENT (WAIFEM)***



**CBN Training Centre, Lagos**



# *“Effects of Money Laundering on the Financial System”*

By

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# Ground Rules

- The outcome of this session depends on our contributions
- We should participate actively by expressing our thoughts or ideas but avoid private discussions
- Lets be willing to share our experiences but keep to the subject matter
- One person at a time & lets be patient with other participants & appreciate their viewpoints
- Lets switch off (silent/quiet mode) our phones
- **LETS HAVE FUN!**



# CRIME

Ordinarily crimes are acts that communities abhor, which explains why there are always laws targeted specifically at such acts. To serve as deterrents these laws usually incorporate sanctions for convictions. However, because of the perceived benefits, usually pecuniary, that the “criminal” hopes to enjoy, he gambles by engaging in these acts.

Some actually weigh the punishments against the benefits and are willing to damn the consequences. Notwithstanding the foregoing no criminal wishes to be identified as such and is willing to do anything that would make it possible for him to be perceived as legitimate. This he achieves through a process described as “**money laundering**”. With this garb of legitimacy he is then able to enjoy his illicit crime proceeds un-molested.

## CRIME contd...



It was in the light of the foregoing that the international community in its collaborative & continuing drive to combat crime came up with the initiative of making it hard, (if not impossible) for the criminal to enjoy the proceeds of his illegal acts by criminalizing the process of attempting to utilize the proceeds derived from any criminal act or venture.

## FINANCIAL ACTION TASK FORCE (FATF)



*An independent international policy making body originally established in 1989 by governments of the G7 countries. Membership now includes all OECD countries plus the European Commission & The Gulf Cooperation Council. (South Africa & Russia admitted in 2003). A major signpost in the activities of the FATF is the famous 40 Recommendations (now 49 with the addition of 8 special recommendations in the wake of the 9-11 attacks & another one on cross border cash movement in 2005 ) which were released in 1990.*

*The Recommendations are essentially meant to harmonize & standardize the international effort at combating money laundering. In this regard, it emphasizes the following:*

## *Legislation*

- All UN members to institute the relevant legislative framework to criminalize Money Laundering & identify the predicate crimes

## *Content of the Law*

- Emphasis on KYC principles
- Good record keeping practices
- Rendition of CTRs for qualifying transactions

## *Asset forfeitures*

- Essentially aimed at eliminating the motivation ie. the gain, as part of the penalties for conviction

## *International cooperation*

- Free flow of information & mutual assistance in investigations.

## *Institutional framework*

- Instituting a body charged with the responsibility of enforcement.

# WHY WOULD ANYONE ENGAGE IN CRIME?

**Expectation of enjoying the crime proceeds!!!**

Nobody want to be identified as a criminal. A need to appear legit

**Money Laundering** assists the criminal in achieving this end.

## ***WHAT IS money laundering?***

***“the processing of criminal proceeds in order to disguise their illegal origin”.***

# Stages in Money Laundering



## PLACEMENT:

Money acquired illicitly is first introduced into the system either by placement in the financial system or acquisition of assets.

## LAYERING:

Myriad of transactions/activities designed to obfuscate the audit Trail. The prime objective is to divorce the funds from its true origin.

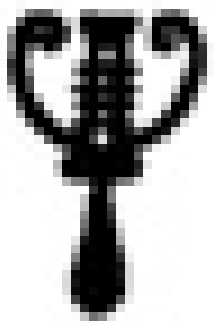
## INTEGRATION:

Laundering mission accomplished, funds now form part of the legitimate money in use in the economy. Traces of its illicit origin has been obliterated thereby providing an apparently legitimate explanation for the funds.



# The Objectives of Money Laundering

- To conceal the origin and true ownership of the criminal proceeds
- To maintain control over the proceeds
- To enjoy the proceeds in the guise of legitimate business



# THE GUARDIAN



CONSCIENCE, NURTURED BY TRUTH

### The Human Rights Watch report

IN this country, Government's official reaction to criticism is all too familiar and all too predictable. In its most recent report on human rights violation focusing on torture by the Nigeria Police, Human Rights Watch had summarised damning evidence of torture by the police suggesting very strongly its common practice across the country. Tagged 'Rest in Pieces,' a euphemism that is illustrative of the primitive crudity and barbarity that is the familiar trade mark of the police in the maltreatment of persons, the report went further to make concrete recommendations not only to Nigeria's leadership at various levels, but also to various agencies abroad that help to fund police reform.



.President Obasanjo on a visit to Emir of Zaria

## Integrity Bank Nig. Plc Sealed off by EFCC for Money Laundering - MD Arrested

A TELEVISION footage on a Brazilian shot to death a day after the botched bombings in London has contradicted British Police reports. Contrary to the reports, the footage showed that the victim had walked casually onto a train before being gunned down by undercover officers. The police had said the man disobeyed their orders.

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### FEC okays new export strategy for Nigeria

*From Madu Onuorah, Abuja*

THE Federal Executive Council (FEC) yesterday approved a new National Export Strategy for Nigeria from 2001-2010.

*(continued on page 2)*

### PDP asks police to probe alleged threat to Ogbeh's life

THE ruling Peoples Democratic Party (PDP) has called for a thorough investigation of an allegation by its former National Chairman, Chief Audu Ogbeh, that his life is under threat.

*(continued on page 2)*

# FGN ANTI-CORRUPTION CRUSADE

There are indications that CHIEF X, who is currently standing trial for alleged stealing, money laundering and gratification is already negotiating a plea bargain deal with his prosecutors. The arrangement when fully ratified by both parties would entail CHIEF X forfeiting the money, stocks and property worth N17 billion already seized from him to the Federal Government in exchange for mitigated punishment.

CHIEF X is facing a criminal trial for alleged stealing and money laundering at the Federal High Court, Abuja and another on gratification at the Abuja High Court.

CHIEF X was alleged to have perpetrated the N13 billion theft using eight different companies, which were either wholly owned by him or where he had interests. The companies include **Yeboa** Investment Limited, **Caledonian** Telecommunications Ltd, **Renovations** constructions Ltd and **Aworo** Investment Ltd. Others are **Olatrade** Ltd, **Yeboa** Nigeria Ltd and **Ceejay** Properties Nigeria Ltd.

CHIEF X, according to the charges used the said N13 billion ... to either buy shares in blue chip companies or buy choice houses across the country, particularly in Lagos and Abuja.

The companies where CHIEF X bought the said shares included Nigeria Breweries, First Bank of Nigeria Plc, Union Bank Plc, Fountain Trust Bank and Guinness Nigeria Plc. For the landed property, CHIEF X invested in the high brow Park View Estate, Ikoyi, Victoria Garden City, Victoria Island, Garki, Wuse and Maitama areas of the Federal Capital Territory (FCT).

*THISDAY, Wednesday 17<sup>th</sup> August, 2005*

# The import:



***FIs occupy a pivotal position in the AML crusade. Thus the myriad of new legislative measures and international regulations require the utmost vigilance from all financial institutions. Harsh penalties and blacklisting await those not adequately vigilant. This is in addition to the risk of loss of reputation by such financial institutions.***

## The result:



***Good systems, effective controls, information sharing and a fluid communication structure have all as a consequence, become minimum requirements.***

## Why the focus on BANKS?

Globally recognised as a highly regulated, respected, & credible institution universally accepted as a repository for monies. It is the fulcrum/pivot around which an economy revolves.

A bank with its infrastructures is a veritable vehicle that can be exploited to legitimize/anonymise monies that pass through it. This is possible with the aid of the variety of products and services which a bank avails.

# Why combat MONEY LAUNDERING?

- It is a crime & BOFI are a very good line of defense.
- It is a requirement by law and international best practice.
- It transcends national boundaries
- Unchallenged it could weaken a society's social fabric, collective ethical standards, and promote further crime.
- Unchallenged it could create room for criminals to assume commanding heights of key sectors of an economy & could undermine it.

## Why combat...

- It can penetrate, contaminate and corrupt the structures of government, legitimate commerce & society at all levels. Foreign investments would as a consequence be discouraged.
- It helps to protect the integrity of banks & banking systems thereby insulating the bank from losses and embarrassments arising from associated money laundering risks.

# ASSOCIATED RISKS

## Reputation

This is the potential that adverse publicity regarding a bank's business practices and associations, whether accurate or not will cause a loss of confidence in the integrity of the institution.

## Operation

This has to do with direct or indirect loss resulting from inadequate or failed internal processes, people & systems or from external events bordering on failure to observe due diligence.

## Legal

This is the possibility that lawsuits, adverse judgements or contracts that turn out to be unenforceable can disrupt or adversely affect the operations or conditions of a bank.

## Concentration

This is particularly relevant in the context of related counter parties & connected lending/funding with a view to risk diversification.

# Effects on the System

- Distortions in the system with regards to reliable statistics for economic planning and forecasts (estimate \$500bn laundered annually worldwide)
- New laws & regulations for the conduct of business (due diligence)
- Investment in systems and infrastructures by players to prevent, detect and report

# Distortions

- Not valid for foreign exchange transactions
- Unfair competition (non business motivations)

# Laws & Regulations

- Multilateral agencies eg. FATF, Basel Committee, Wolfberg Group, etc.
- Local laws (Money Laundering Prohibition Act, BOFIA, CAMA, EFCC Act, etc)
- Expanding the scope of regulation (DNFIs)

# Suspicious Transactions

# FATF's Recommendations



R.11	Customer Due Diligence & Record Keeping	Financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities and auditors.
R.13	Reporting of Suspicious Transactions & Compliance	If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, directly by law or regulation, to report promptly its suspicions to the financial intelligence unit (FIU).

# THE MONEY LAUNDERING PROHIBITION ACT OF 2004

## Suspicious Transactions (S.6)



### S.6

1. When a transaction, whether or not it relates to the laundering of crime proceeds
  - a. Irrespective of the sum involves a frequency that is unjustifiable or unreasonable
  - b. Is surrounded by conditions of unusual or unjustified complexity; and
  - c. Appears to have no economic justification or lawful objectiveThe involved FI or designated non FI **shall seek information from the customer as to the origin & destination of the funds, the aim of the transaction and the identity of the beneficiaries**
2. The financial institution shall within a period of 7 days after the transaction referred to in s1 of this section
  - a) Draw up a written report containing all relevant information on the matters mentioned above together with the identity of the principal &, where applicable, of the beneficiary (ies);
  - b) Take appropriate action to prevent the laundering of the proceeds of a crime or an illegal act**
  - c) Send a copy of the report and action taken to the EFCC irrespective of whether the transaction was completed or not.

6(4&5)	EFCC'S Response	EFCC shall acknowledge receipt of returns and may request for & obtain necessary additional information. The acknowledgement may be accompanied by a stop notice deferring the transaction for a <b>maximum period of 72 hours.</b>
6(6)	EFCC'S approval	If the acknowledgement has no stop notice or at the expiration of the stop notice period, then the transactions can be carried out.
6(7&8)	Transaction Blockage by the Courts	If the EFCC cannot determine the origin of funds within a stoppage period, the Federal High court at the EFCC's request may block the transaction. The court's order in this regard must be obeyed.
6(9)	Penalty for non compliance	A financial Institution or designated non financial Institution which contravenes the provisions s1 & s2 is guilty of an offence and liable upon conviction to a fine of N1million for each day during which the offence continues
11	<b>LIABILITY OF DIRECTORS AND EMPLOYEES OF FINANCIAL INSTITUTIONS</b>	Once funds are blocked S6(7) & if conspiracy can be established, criminal proceedings for the laundering of proceeds of crime or an illegal act may be brought against the org. plus the directors and employees involved in the conspiracy.

# Systems & Infrastructure Investments

- Bank branches
- Archiving and storage
- Curriculum and training
- Tracking & reporting – AML Software

# Conclusion

**Except for some very few extreme instances, crime is usually motivated by the prospect of the criminal enjoying the proceeds of his criminal activities. If the criminal knew that there was absolutely nothing else to gain but prescribed punishment as enshrined in the statute books), chances are that crime would be largely, if not completely, eliminated. Considering the deleterious effect of money laundering on any economy, we all must cooperate in the AML crusade. No one single body can do it alone.**

# Recommendations

- Regulatory/Enforcement officers should engage financial Institutions and see them as partners. Two hands of the same body working together to achieve common goals. Efforts should be collaborative & complementary
- The Act should be amended in line with the FATFs recommendations of protecting banks and bankers as well as clear all other ambiguities in line with the peculiarities of our environment (*e.g. identification*)
- The regulatory/enforcement bodies should encourage FIs & their officers should through their conduct treat the reports as they ought to be treated i.e. discreet confidential reports
- Systematic & guided implementation of AML solution by FIs
- Automation of reports that would make for better analysis & sensitization
- Consider change in nomenclature. *“Suspicious” Vs “Unusual”*
- The Act should be amended to reflect the realities/peculiarities of our environment as well as align with the overall economic policy direction of the country
- Compliance Officers in the industry should take the initiative and come together as a body to share experience and influence relevant policy as it relates to the money laundering problem and the industry.

## Final note

***“...If an officer lives beyond his income, dismiss him; even if his excess of expenditures can be explained consistently with his integrity, still dismiss him. Extravagance, if not a crime, very naturally leads to crime. A man cannot be a safe officer of a bank who spends more than he earns.”***

**Hugh McCudlock (1863)**  
US Comptroller of the Currency

# Let us discuss

***THANK YOU!!!***