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Comply or Pay the Price: Adapting to Nigeria's Financial Compliance Shift

Introduction

In Q4 2024, the Nigerian Financial Intelligence Unit ("NFIU") issued the *Guidelines for the Identification, Verification, and Reporting of Suspicious Transactions Related to Money Laundering, Financing of Terrorism, and Proliferation of Weapons of Mass Destruction (ML/FT/PF) for Financial Institutions* (the "**Guidelines**").¹ Designed to enhance compliance and oversight, the Guidelines provide a structured framework to assist financial institutions² in identifying and filing Suspicious Transaction Reports ("**STR**"), thereby strengthening internal control measures.

Around the same time, the Economic and Financial Crimes Commission (the "**EFCC**") released the *Economic and Financial Crimes Commission (Anti-Money Laundering, Combating the Financing of Terrorism, and Countering Proliferation Financing of Weapons of Mass Destruction for Designated Non-Financial Businesses and Professions, and Other Related Matters) Regulations, 2024* (the "**New Regulations**")³, which repealed the 2022 version (the "**Old Regulations**").⁴

¹ REF: STR-NFIU-2024-A0001 <<https://www.nfiu.gov.ng/AdvisoryAndGuidance>> accessed 05 February 2025

² Financial institutions include banks, body corporates, associations or group of persons, whether corporate or incorporate which carries on the business of investment and securities, virtual asset service providers, a discount house, insurance institution, debt factorisation 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 designate.

³ EFCC-AML-CFT-CPF Regulations, 2024 <<https://scuml.org/wp-content/uploads/2024/09/EFCC-AML-CFT-CPF-REGULATIONS-2024-pdf.pdf>> accessed 05 February 2025

⁴ EFCC-AML-CFT Regulations, 2022 <<https://www.scuml.org/wp-content/uploads/2022/11/EFCC-AML-CFT-REGULATIONS-2022.pdf>> accessed 05 February 2025.

In this publication, we highlight key provisions introduced by both the Guidelines and the New Regulations, outlining their implications for individuals and businesses navigating Nigeria's compliance landscape.

The Guidelines

We examine key provisions in the Guidelines in the paragraphs that follow.

1. **Steps to Identifying a Suspicious Transaction:** Under the Guidelines, a Reporting Entity ("RE") must establish reasonable grounds for suspecting that a transaction is linked to money laundering, terrorism financing, or proliferation financing before filing an STR with the NFIU. To do so, the RE must: (i) screen and review transaction alerts; (ii) assess the facts and context of the transaction; (iii) identify red flags by linking Money Laundering/Terrorism Financing/Proliferation Financing indicators and; (iv) justify the suspicion by clearly explaining its findings in the STR. By following this approach, REs ensure that STRs are not just reactive filings but well-founded reports that contribute meaningfully to combating financial crime.
2. **Period for Forming a Suspicion and Filing the Transaction as an STR:** If a transaction appears suspicious based on the criteria outlined in section 7 (1) (a-e) of the Money Laundering Prevention and Prohibition Act, 2022 ("MLPPA")⁵ and 84(1) (a-c) of the Terrorism (Prevention and Prohibition) Act, 2022 ("TPPA")⁶, an RE is required to thoroughly review it within 72 hours. If a suspicion is confirmed, the RE must file an STR with the NFIU within 24 hours. Even if a transaction is reviewed but not found suspicious, the RE must keep a written record explaining why the transaction is deemed unsuspicious, in case of future investigations.
3. **Required Documents for Filing an STR:** In submitting the STR, the following documents must be a part of it, as part of the customer due diligence process when a customer opens an account:
 - (a) a copy of a valid identity document (e.g. international passport, National Identification Number slip);
 - (b) proof of address such as utility bill, visitation report, lease agreement, etc;
 - (c) business registration documents;
 - (d) copy of beneficial owner's document (where applicable); and
 - (e) copy of the legal representative's identity document (where applicable).

For transactions, the following documents must be included:

- (a) transaction slips or receipts;
- (b) bank statements or account activity logs;
- (c) electronic payment records;
- (d) account opening or closing records;
- (e) fixed deposit account records/call deposits, treasury bills, bonds etc (if any);

⁵ Per this provision, a transaction is deemed suspicious if it: (a) occurs with unjustifiable or unreasonable frequency (b) involves unusually complex or unjustified conditions; (c) lacks clear economic rationale or lawful purpose; (d) deviates from the customer's established transaction pattern; or (e) is suspected by a financial institution or designated non-financial business or profession (DNFBP) to involve the proceeds of crime, money laundering, terrorist financing, or any other unlawful activity.

⁶ This requires financial institutions and DNFBPs to report any suspicious transactions related to terrorism, terrorist financing, or proliferation financing to the NFIU within 24 hours of forming such suspicion. Upon receipt, the NFIU must immediately assess the report and forward it to the appropriate law enforcement or security agency if there are reasonable grounds to suspect that: (a) the funds, whether from legal or illegal sources, are intended for use in terrorist acts, terrorist financing, or proliferation financing; (b) the funds are proceeds of a crime linked to such activities; or; (c) the transaction involves a person, entity, or organisation identified as a terrorist or terrorist group.

- (f) customer loan account records, including executed loan agreement and offer letters; and
- (g) evidence of remittances by International Money Transfer Operators.

While the list covers essential documentation, it would benefit from an improved structure, clearer definitions, and better alignment with practical compliance processes. For example, under proof of address, the term "**visitation report**" is unclear – the concern being whether it refers to a physical inspection report by the RE, a site visit confirmation, or an official government-issued document.

- 4. Contents and Nature of Narration of the STR:** When submitting STR, REs must amongst others provide:
- (a) a clear and structured account of the suspicious activity, explicitly linking it to a specific predicate offence. This should include: (i) who is involved; (ii) when the transaction occurred; and (iii) where it took place.
 - (b) a breakdown of the activity, explaining (i) what the subject is doing; (ii) why the activity appears suspicious; and (iii) how it is being carried out and;
 - (c) details of the alert or alerts that triggered the investigation of any previous alerts or STR filings related to the subject (where applicable).

We note that this approach is intended to enable the NFIU to quickly assess the nature of the suspicious activity and take the appropriate actions. A well-structured, fact-driven narrative will be crucial in facilitating this process.

- 5. Sanctions and Penalties:** The Guidelines reinforce the provisions of extant laws.⁷ Non-compliance may result in penalties, fines, or even licence withdrawal for REs. It is important to note that compliance with the Guidelines does not exempt financial institutions from their broader legal responsibilities and liabilities under existing Nigerian laws.



⁷ This includes the Money Laundering (Prevention & Prohibition) Act, 2022; Terrorism (Prevention & Prohibition) Act, 2022; and National Financial Intelligence Unit Act, 2018.

The Regulations

The New Regulations set out detailed implementation guidelines for the registration and supervision of Designated Non-Financial Businesses and Professions ("DNFBPs")⁸. In the paragraphs that follow, we examine some of the key innovations introduced under the New Regulations, highlighting provisions that represent a marked departure from the Old Regulations. We also consider the potential implications of these changes, particularly for compliance obligations, supervisory practices, and the broader risk management landscape within which DNFBPs now operate.

1. **Strengthened Entry Control Measures:** While the Old Regulations focused on background checks and due diligence, the New Regulations strengthens verification processes by mandating cross-referencing with external databases and international feedback. The New Regulations require Government Licensing Authorities ("GLAs") and Self-Regulatory Bodies ("SRBs") to verify applicant information using criminal databases held by law enforcement agencies, adverse media reports from credible sources, and feedback from international counterpart SRBs.⁹ While this appears to be a clear effort to improve the effectiveness of entry control measures, we anticipate potential challenges in how these entities will access criminal databases held by law enforcement agencies and obtain feedback from international counterparts. In our view, this process could face delays or obstacles due to bureaucratic hurdles. To mitigate this challenge, we propose that there should be established a central liaison unit within SRBs and GLAs to co-ordinate requests and follow-ups with law enforcement agencies and international SRBs. Alternatively, the SRBs and GLAs should work towards entering into a memorandum of understanding with the law enforcement agencies and SRBs to manage the access to required databases.
2. **Modification of Obligations of NFBP:** One significant change introduced by the New Regulations is the increased emphasis on integrating customers into Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation Financing ("AML/CFT/CPF") programs, which was less pronounced in the Old Regulations. The requirement for the operational independence of the Chief Compliance Officer and detailed training guidelines has been repealed. We note that this indicates a shift towards broader compliance frameworks rather than specific procedural mandates. Additionally, the New Regulations reduce detailed prescriptions for foreign subsidiaries, focusing instead on core risk-based compliance principles without extensive cross-border requirements. A risk-based approach tailored to the size of DNFBPs is emphasized to ensure that compliance measures align with the scale of operations. Considering this, the New Regulations require the appointment of a Compliance Officer at the management level and the establishment of the operational independence of the Chief Compliance Officer of DNFBPs. DNFBPs are also obligated to ensure that their branches, subsidiaries, agencies, or representative offices in foreign jurisdictions apply AML/CFT measures that are at least equivalent to those under Nigerian law. This requirement is especially critical where the foreign jurisdiction either does not apply or insufficiently applies AML/CFT measures equivalent to those in Nigeria. To the extent permitted by the host country's laws, DNFBPs must implement additional measures to mitigate Money Laundering ("ML") and Terrorism Financing ("TF") risks and notify the Special Control Unit

⁸ This includes: automotive dealers, businesses involved in the hospitality industry, casinos, clearing and settlement companies, consultants and consulting companies, dealers in jewelries, hotels, supermarket, pool betting, etc.

⁹ Regulation 6 (2)

against Money Laundering (the “**SCUML**”).¹⁰ We note that this introduces additional layer of responsibilities for DNFBs. Enforcing these standards across multiple jurisdictions imposes a considerable compliance burden, especially where regulatory environments vary widely. While it mandates that DNFBs apply AML/CFT measures equivalent to those in Nigeria, this may not always be feasible if the host country has different or less stringent regulations or even prohibits certain compliance measures.

Lastly, DNFBP Groups are required to implement group-wide policies, procedures, and controls to combat ML and TF, applicable to all branches and subsidiaries. These policies must include clear procedures for sharing information required for Customer Due Diligence (“**CDD**”) and ML/TF risk management, along with adequate safeguards to ensure confidentiality and proper use of shared information.

3. **Introduction of additional role for Compliance Officers:** The New Regulations enhances the compliance framework for DNFBs by introducing additional responsibilities for Compliance Officers. A key change is the mandatory implementation of employee screening procedures to uphold high recruitment standards. These procedures include criminal background checks, financial sanctions screening, verification of employment history, reference checks, and education verification.

Furthermore, the Compliance Officer's role has been expanded to actively oversee the identification and assessment of money laundering, terrorist financing, and proliferation financing risks before launching new products or business practices.¹¹ These changes, along with clearer and more structured guidelines are poised to strengthen risk management and enhance the integrity of compliance processes within DNFBPs.

4. **Verification of Beneficial Owners:** The New Regulations requires DNFBPs to take reasonable steps to verify the identity of beneficial owners.¹² Beyond identification, DNFBPs must also understand and obtain information about the objectives, purpose, and intended nature of the business relationship.¹³ This enhancement strengthens the CDD process by ensuring a more comprehensive understanding of the client's activities. DNFBPs must also implement additional measures to verify the identity of beneficial owners, particularly in trusts and other legal structures. This includes identifying key individuals such as the settlor, trustee, and any person exercising control over a trust or legal arrangement. Furthermore, DNFBPs must gain a thorough understanding of the customer's business, its ownership structure, and verify senior management identities. In cases where beneficial ownership is unclear, further verification is required to identify the natural persons who ultimately control the entity.¹⁴

¹⁰ The Special Control Unit against Money Laundering (SCUML) is a department under the EFCC charged with the responsibility of registering monitoring, and supervising the activities of DNFBPs in line with the Money Laundering (Prevention & Prohibition) Act, 2022 and Economic & Financial Crimes Commission (Anti-Money Laundering, Combating the Financing of Terrorism and Proliferation of Weapons of Mass Destruction for Designated Non-Financial Businesses and Professions and other Related Matters) Regulations, 2022.

¹¹ Regulation 14(2) (h) and (m)

¹² The New Regulations defines a Beneficial Owner as (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.

¹³ Regulation 23(7)

¹⁴ Regulation 24(3)

5. **Customer Due Diligence:** The New Regulations significantly expands the CDD obligations for DNFBPs. Previously, the focus was on prohibiting transactions where verification of customer information or business relationships was incomplete. Under the New Regulations, DNFBPs must go beyond simply avoiding such transactions; they are now required to actively obtain and assess detailed information regarding the objectives, purpose, and nature of the business relationship. This includes key data such as the client's business activities, occupation, anticipated transaction volumes, source of funds and wealth, beneficial ownership, and registered business address. For legal persons or arrangements, DNFBPs must now verify the customer's legal existence, management structure, registered office, ownership, and control structure. This requirement closely aligns with the legal due diligence typically performed by lawyers, particularly regarding the corporate information of an entity.

Beyond verification, the New Regulations emphasize a more comprehensive risk-based approach to CDD. DNFBPs must assess both the materiality and risk level of each customer relationship. CDD is no longer solely event-driven; it must now be conducted on an ongoing basis according to a customer's risk classification to ensure continuous monitoring. DNFBPs are also required to update customer information whenever it becomes inadequate. This introduces additional responsibilities for DNFBPs and may lead to increased costs for them.

A shift in the New Regulations is the expansion of the scope of suspicion. DNFBPs must now assess potential money laundering or terrorist financing risks even when no specific suspicious transactions have been identified.¹⁵ This, in our view, ensures a more proactive and continuous approach to compliance.

6. **Record-Keeping and Regulatory Oversight:** Unlike the Old Regulations which did not explicitly impose record-keeping obligation, the New Regulations reinforce DNFBPs' responsibility to provide prompt access to compliance records for regulatory inspection.¹⁶ This is poised to enhance transparency and regulatory compliance by ensuring timely access to relevant records.
7. **Mandatory Transaction Reports:** The New Regulations clarifies that when a DNFBP suspects money laundering or terrorist financing activities and believes that performing CDD may unintentionally tip off the customer or beneficial owner, the DNFBP is permitted to halt the CDD process and instead file an STR with the NFIU. From a practical perspective, this provision provides flexibility for DNFBPs when dealing with potentially sensitive situations. The New Regulations also offers legal protection to DNFBPs and their directors, officers, and employees by providing that they report their suspicions in good faith to the NFIU. This protection applies even if the exact nature of the underlying criminal activity is unknown or if the suspected activity does not eventually materialize.¹⁷ These additions were not included in the Old Regulations, which focused primarily on the reporting of suspicious transactions and the procedural aspects of filing STRs without mentioning the legal protections for those reporting.

¹⁵ Regulation 24(3)

¹⁶ Regulation 34

¹⁷ Regulation 35

8. **Compliance Requirements for Legal Professionals and Trust & Company Service Providers:** Under the New Regulations, legal practitioners and accountants must fully adhere to CDD requirements outlined in the Money Laundering (Prevention & Prohibition), Act 2022 and the New Regulations when handling transactions such as real estate purchases, client fund management, and asset administration. Similarly, trust and company service providers must comply with the CDD obligations when acting as formation agents for legal entities, appointing or arranging directors and secretaries, and performing other related services.¹⁸ However, this raises questions about whether these provisions contradict established legal principles as articulated by Nigerian courts. In *Registered Trustees of the Nigeria Bar Association v. A.G. Federation & Ors*¹⁹, the Federal High Court ruled in favour of the Nigerian Bar Association ("NBA"), stating that the Legal Practitioners Act and the old Money Laundering (Prevention & Prohibition) Act could not operate concurrently. The court specifically held that the term "legal practitioners" should be removed from the list of Designated Non-Financial Institutions (DNFIs) under section 25 of the MLPPA 2011. Consequently, the provisions of section 5 of the MLPPA 2011, insofar as they applied to legal practitioners, were declared invalid, null, and void. This decision was appealed, and the court of appeal upheld the decision of the Federal High Court.²⁰

Furthermore, in *Federal Republic of Nigeria v. Chief Mike Ozekhome (SAN)*²¹, the Court of Appeal reaffirmed its earlier decision in NBA's case by confirming that legal practitioners are excluded from the category of DNFIs under section 25 of the MLPPA 2011. Despite these judicial pronouncements, section 30(2) of the MLPPA, 2022 subsequently re-included legal practitioners in the category of designated non-financial businesses and institutions required to register with the SCUML and fulfill reporting obligations. This can be seen as an attempt to circumvent the Court of Appeal's decision. In 2023, a similar issue arose in *Abu Arome v. CBN & 3 Ors*²² before the Federal High Court in Abuja, where the court ruled that provisions of sections 6, 7, 8, 9, 11, and 30 of the MLPPA were inconsistent with the 1999 Constitution of the Federal Republic of Nigeria and therefore void. Consequently, the provisions requiring legal practitioners to comply with the MLPPA are deemed void. Until overturned by the Supreme Court, the Court of Appeal's ruling remains authoritative. It is important to note that the *Rules of Professional Conduct for Legal Practitioners 2023* provides a comprehensive framework for addressing money laundering, terrorism financing, and proliferation financing within the legal profession.

Conclusion

The Guidelines and the New Regulations represent a significant step forward in Nigeria's regulatory framework by strengthening compliance measures and aligning with global best practices. A key aspect of Nigeria's efforts to exit the FATF grey list is the enhanced supervision of financial institutions and DNFIs, with these frameworks playing a pivotal role in that process. However, the Guidelines and New Regulations introduce additional obligations and cost implications for both individuals and businesses. To navigate this evolving regulatory landscape, individuals and businesses must take proactive steps to ensure full compliance and mitigate the risk of sanctions.

For tailored guidance on how the New Regulations and Guidelines may impact your business, please feel free to contact us.

¹⁸ Regulation 40(8)

¹⁹ Suit No. FHC/ABJ/CS/173/2013 (unreported)

²⁰ CBN v Registered Trustees of the NBA & Ors (2021)5 NWLR (pt.1769) 268.

²¹ CA/L/174/19

²² FHC/ABJ/CS/25/2023