



## **Counter measures in combating illicit financial flows and money laundering in Nigeria**

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### **Abstract**

Africa reportedly loses 50 to 80 billion dollars annually through illicit financial flows (IFF). These include funds looted by public officials and hidden abroad, those fraudulently taken away by multinational corporations through tax evasion, mis-invoicing, money laundering, and trade mispricing among others. Globally, yearly cross boarder flow of proceeds of criminal activities is estimated at between 1 trillion and 16 trillion dollars, half of which comes from developing economies. The effect is that African countries are deprived of the capacity to realize the UNs sustainable development goals of no poverty, zero hunger, good health, quality education etc. One of the ways through which these goals can be achieved is through assets recovery (AR) measures. The aim of this paper is to explore the measures put in place by Nigeria to combat illicit financial flows.

**Keywords:** illicit financial flows (IFF), money laundering, Nigeria

### **1. Introduction**

In view of the fact that money laundering is at the centre of predominantly all other criminal acts, it becomes an integral part of any transnational organized crime. Hence, any genuine effort to combat transnational organized crime has to necessarily address the serious issue of adopting counter measures to fight the menace of money laundering.

Since the goal of a large number of criminal acts is to generate a profit for the criminal that carries out the act, the processing of the criminal proceeds through money laundering assumes critical importance, as it enables the criminals to disguise their illegal origin and helps him in enjoying the proceeds of his crime without threat. Thus, money launderers are continuously looking for new methods and routes for laundering their ill-gotten proceeds from crime. The criminals do this by effectively exploiting the differences between the national anti-money laundering systems and trend to move their networks to countries and financial systems with weak or ineffective countermeasures.

Most fundamentally, since money laundering is inextricably linked to the underlying criminal activity that generated it, targeting the money laundering aspect of criminal activity that generated it, targeting the money laundering aspect of criminal activity and depriving the criminal of his ill-gotten proceeds of crime would automatically mean hitting him where it hurts the most, i.e. where he becomes financially most vulnerable without a usable profit, the criminal activity cannot continue.

This invariably brings to the fore the need for having an effective and organized system to deal with money laundering by adopting suitable countermeasures in the legislative systems and law enforcement mechanism of various countries.

### **2. Examples of how the criminal economy derived from drug trafficking is affecting Nigeria**

The Economic effect of Money Laundering on Nigeria is

Enormous. Funds derived from drug trafficking and other predicate offences undermine the integrity of the financial institutions and economic policies in Nigeria <sup>[1]</sup>. The hallmark of any financial institution is its reputation for integrity. This reputation can be seriously undermined if funds from criminal activity can be easily processed through that particular institution, thus creating perception of active complicity in criminal networks <sup>[2]</sup>. Evidence of such complicity will have a damaging effect on the attitude of the financial intermediaries and of the regulatory authorities as well as ordinary customers.

Money laundering distorts market prices by fueling inflammatory tendencies in essential commodities and real estate market by increasing money supply that is not matched by production of goods and services. Money laundering elicits unfair competition against genuine business and kills entrepreneurship. It also diverts capital away from meaningful national economic activities that enhances individual gain at the expense of economic development, discharges foreign investment and distorts international capital flows.

The Nigeria Economy is characterized mainly with the term "Informal economic activities <sup>[3]</sup>" An informal economy is the unregulated, non-financial component of the market economy that produces goods and services for sale or for other forms of remuneration <sup>[4]</sup>.

Money Laundering affects indigenous entrepreneurship <sup>[5]</sup>. The Illicit funds gotten from money laundering activities are used in bringing goods to the market and such goods are being sold at prices below the cost prices. This will affect the business and other entrepreneurs in the same business. Another effect is that it attacks the reliability of the people on financial institutions. It was observed that between 80s and 90s the reputation of the financial institutions in Nigeria was very low because the institutions relied extensively on the illicit proceeds of economic and financial crimes.

Foreign investors find it extremely difficult to invest in any venture in the country due to the effect of economic and financial crimes on the economy.

### 2.1 Impact of Money Laundering on Domestic Products

Money Launderers in Nigeria in order to conceal the source of their ill-gotten wealth engage in mass importation of all kinds of goods such as drugs, automobiles spare parts, baby wears etc. These goods are sold at very low prices to recoup the illicit funds now in the nature of legitimate funds. The deliberate reductions of prices tend to affect the economic value of domestic products manufactured by domestic industries.

### 2.2 Socio- Economic impact of Money Laundering

The socio-economic effect of Money Laundering on Nigeria is that the reputation of the Country had been negatively affected; this imports some constraints on Nigeria in international economic relations. It has been observed that until recently, Nigerians were treated with disrespect in almost every entry points of western countries on account of the country's association with money laundering (Macdonald, 2011)

### 2.3 Political Effect of Money Laundering In Nigeria

Another avenue of legitimizing illicit funds is by using such funds to sponsor political campaigns during election period. The resultant effect of this is that it undermines the democratic and economic basis of the society which leads to weakening of institutions and loss of confidence in the rule of law <sup>[6]</sup>. Another political effect of Money Laundering in Nigeria is that it undermines Political stability, democratic structure of the country and good governance, the resultant effect is that it instigates social and political unrest within the country such as the recent happenings in Nigeria <sup>[7]</sup>.

### 2.4 Money Laundering on the Oil and Gas Sector in Nigeria.

The impact of money laundering on the Nigerian economy cannot be complete without considering the oil and gas sector of the country <sup>[8]</sup>. The removal of the fuel subsidy in Nigeria which resulted into a nationwide strike action in 2012 had adverse effect on the country's economy. Because of the sole dependence on the oil and gas sector, most corrupt practices of government offices in this sector result in untold hardship and instability in governance <sup>[9]</sup>.

### 2.5 Nigeria Politically Exposed Persons (PEP) who got involved in money laundering

It was revealed that the estimated sum of US \$ 521 billion was stolen and laundered by past Nigerian rulers in foreign banks. Also, the sum of US \$ 400 billion was laundered by past military rulers of the country. Some Governors were involved in money laundering activities in Bahamas Republic in the Caribbean.

### 3. Strategies introduced by Nigeria to prevent the laundering of the illicit profits generated by drug trafficking and other crimes

Nigeria's national strategic initiative is three pronged:

Prevention, detection and Prosecution

#### 3.1 Summary of Legal and Policy Framework in Nigeria

1. Independent Corrupt Practices Commission. Established by the Independent Corrupt Practices and other related offences Act 2000 (ICPC Act). Focuses on corrupt activities and prevention in the public sector.
2. The Economic and Financial Crimes Commission (EFCC) established by the Economic and Financial Crimes (Establishment) Act, 2004 with extensive powers to implement and enforce existing penal laws on related economic crime offences. Existing laws enforced by the EFCC include:
  - 1) The Money Laundering (Prohibition) Act, 2011
  - 2) The Advanced Fee Fraud and other related offences Act.
  - 3) The failed Banks (Recovery of Debt and Financial Malpractices in Banks) Act.
  - 4) The Banks and other Financial Institutions Act 1991.
  - 5) Miscellaneous offences Act.
  - 6) Criminal Code
  - 7) Penal Code
  - 8) Any other law or regulation relating to the economic and financial crimes.
3. Nigeria Financial Intelligence Unit (NFIU) <sup>[10]</sup>.
4. The Nigerian Extractive Industries Transparency Initiative (NEITI) <sup>[11]</sup>
5. The Technical Unit on governance and Anti-corruption Reforms (TUGAR) <sup>[12]</sup>.
6. Special Control unit against Money Laundering (SCUML) <sup>[13]</sup>
7. As part of Nigeria's national strategic initiatives to combat Money Laundering /Terrorist Financing, the country initiated the Inter-Agency Task Team on Anti-Corruption (IATT), a working group of anti-graft agencies <sup>[14]</sup>. The agencies working on anti-money laundering include:
  - 1) Economic and Financial Crimes Commission (EFCC)
  - 2) Independent Corrupt Practices Commission (ICPC)
  - 3) Nigerian Financial Intelligence Unit (NFIU)
  - 4) Special Control Unit Against Money Laundering (SCUML)
  - 5) The Nigeria Police Force (NPF)
  - 6) Department of State Security Services(DSS)
  - 7) Federal Ministry of Justice
  - 8) National Drug Law Enforcement Agency (NDLEA)
  - 9) National Agency for the Prohibition of Trafficking in Persons (NAPTIP)
  - 10) Federal Inland Revenue Services (FIRS)
  - 11) The Central Bank of Nigeria (CBN)
  - 12) Security and Exchange Commission (SEC)
  - 13) Code of Conduct Bureau (CCB)
  - 14) Code of Conduct Tribunal
  - 15) Bureau of Public Procurement (BPP)
  - 16) National Insurance Commission (NAICOM)
  - 17) Corporate Affairs Commission (CAC)
  - 18) Public Complaint Commission (PCC)
  - 19) Technical unit on Governance and Anti – corruption Reforms (TUGAR)
8. Further to the Federal Government of Nigeria's investment in building transparent institutions and

promotion of active interagency coordination in the implementation of AML/CFT, the inter-ministerial committee (IMC) on AML/CFT was created and inaugurated in 2008. The IMC is part of Nigeria's national initiative to ingrain country specific strategies to monitor and evaluate anti-corruption, AML/CFT regime and other governance initiatives and to implement remedial actions when needed <sup>[15]</sup>.

9. Presidential inter-Agency Committee to the financial Action Task Force (FATF), THE TUGAR, IATT and IMC on AML/CFT legal and institutional standards.
10. Between 2011 and 2015, there have been significant changes in the legal and policy framework of the AML/CFT regime in Nigeria. The money laundering (Prohibition) Act, 2011 was amended in 2012 to inter alia, expand the scope of money laundering offences and enhance customer due diligence measures, make comprehensive provisions to prohibit the financing of terrorism, the laundering of the proceeds of crime, or illegal act; and provide appropriate penalties as well as expand the scope of supervisory and regulatory authorities to effectively address the challenges faced in the implementation of the anti-money laundering regime in Nigeria.

### 3.2 Procedure of Implementing the Economic and Financial Crimes (Establishment) Act 2004.

In the exercise of the powers conferred upon the Attorney General of the Federation and Minister of Justice (AGF) by the *Economic and Financial Crimes (Establishment) Act, 2004* <sup>[16]</sup> the AGF made regulation <sup>[17]</sup> to guide the EFCC to effectively implement the *Economic and Financial Crimes (Establishment) Act, 2004*. The Regulation is divided into ten parts: The first part deals with objectives, application and scope. This includes regulations to provide a procedure for carrying out the mandate <sup>[18]</sup> of the Commission as well as procedures for receiving complaint, initiation of prosecution and related matters <sup>[19]</sup>.

Part II, is on Procedure for receiving complaint. This part has four sections, which includes the mode of making complaint, endorsement of the case of illiterate, the need for complaint to be confidential and provision that nothing shall be construed as preventing the Commission from exercising any of its powers under section 7 of the Act <sup>[20]</sup>.

Part III is on investigations. This includes the powers of the Chairman of the Commission to require the attendance of any person for the purpose of examining that person in relation to any matter which in the opinion of the Chairman will assist in the investigation of the offence <sup>[21]</sup>. This part also provides that whenever the EFCC is conducting an examination, under the Regulation, it shall conform to the requirements of section 35 of the Constitution and it is immaterial that no formal arrest has been made <sup>[22]</sup>. An authorized officer of the Commission examining any person shall after due caution, record in writing any statement made by the person and the statement so recorded shall be read over to the maker who on being satisfied that it is a true record of his statement shall sign the same before a superior officer of the Commission. Where such person refuses to sign the record, the officer shall: In the presence of the person, endorse thereon under his hand the

fact of such refusal and the reasons stated by the person examined. The officer shall also take the person and the record before his superior officer who shall again ask the person to provide reason for refusing to sign: and if the reasons are the same with the reason recorded by the officer the superior officer shall endorse the record by signing <sup>[23]</sup>. Where the person under investigation is taken before a superior officer disputes the record recorded as responsible for his refusal to sign, the superior officer shall direct another officer to take a fresh statement <sup>[24]</sup>. In case of recording a statement made by an illiterate, the officer shall write his name and address on such document <sup>[25]</sup>. The outcome of Investigations on complex or serious complaint must be forwarded to the AGF with recommendations on whether there are sufficient grounds to initiate prosecution <sup>[26]</sup>.

A case or complaint is serious or complex if the case or complain:

- a) Has a significant international dimension;
- b) Involves money or assets of a value exceeding N50 million
- c) Requires specialized knowledge of financial, commercial, fiscal or regulatory matters such as the operation of markets, banking systems, trusts or tax regimes;
- d) Involves allegation of fraudulent activity against numerous victims;
- e) Involves substantial and significant loss of funds by a Ministry of Department or a public body;
- f) Is likely to be of widespread public concern; or
- g) Involves an alleged misconduct which amounts to an act of economic sabotage <sup>[27]</sup>.

In addition to above, the Commission shall prepare quarterly reports of its activities pursuant to its mandate and such other statistical information relating to those activities as the Commission considers appropriate <sup>[28]</sup>.

Part IV, is on arrest and granting of bail. This part consists of provisions for granting bail to suspects. Any person arrested who is not released on bail shall without reasonable delay and in any case within 24 hours excluding the time for the journey be arraigned before the court <sup>[29]</sup>. The essence of this regulation is to respect the right of suspect to personal liberty guaranteed by the *1999 Constitution*.

An officer of the Commission shall comply with all the laws relating to the arrest and granting of bail to suspects <sup>[30]</sup>. In other words, officers of the Commission must adhere to the rules of procedure under the Criminal Procedure Code (CPC) and the Criminal Procedure Act (CPA).

Part v is on entry, search, inspection, seizure, forfeiture and disposal of properties. This part has six sections, which includes: the requirement for a court order <sup>[31]</sup> to enter and search premises, seize, take possession of any document, book or other articles used for committing the offence; it also includes the requirement that an officer of the Commission must obtain a warrant <sup>[32]</sup> from a judge or magistrate in order to break any inner or outer door or window of any premises to enter the premises; warrant to remove by force any obstruction to such entry, search, seizure, or removal as he is empowered to effect <sup>[33]</sup>; an order to detain any person found in any premises, in any conveyance searched pursuant to Regulation 13, until the premises or conveyance has been searched <sup>[34]</sup>; the requirement that nobody shall be searched except by a

person who is to the same gender as the person to be searched<sup>[35]</sup>; the commission also has powers to freeze or confiscate the assets of any person or body corporate after obtaining an order from a court of competent jurisdiction<sup>[36]</sup>; the Commission must send a copy of every final order for forfeiture of a convicted person to the Attorney General<sup>[37]</sup>; finally, this regulation also provided for procedure of valuation and disposal of forfeited assets<sup>[38]</sup>. The Commission shall in disposing forfeited assets or proceeds thereof shall be subject to the supervision of the Attorney General of the Federation. This is to ensure transparency in the disposal of forfeited assets<sup>[39]</sup>. Also, before disposing the assets, a valuer recognized by a professional body who shall undertake the valuing of the assets must be appointed<sup>[40]</sup>. Upon valuation of any forfeited asset or property the Commission shall send a copy of the valuation report duly authenticated by an appointed valuer with its recommendation of the disposal of such property to the Attorney General of the Federation<sup>[41]</sup>. No disposal of any forfeited property or assets shall be carried out without such property being advertised in at least two newspapers with national circulation in Nigeria<sup>[42]</sup>. Finally, this regulation provides that where an appeal is pending, the Commission shall not dispose of or release any asset or property ordered to be forfeited, frozen or confiscated pursuant to the Act<sup>[43]</sup>.

Part VI of the Regulation is on prosecution of cases. It is provided that at the close of business of any investigation into a matter the Commission shall determine whether in the light of the investigation there is evidence which in the Commission's opinion is sufficient to support the allegation against the suspect; and the offence or the circumstances of its commission is or are of such a character that a prosecution in respect thereof is required in the public interest<sup>[44]</sup>. Where in any particular case the Commission is unable to determine whether or not a prosecution is in the public interest, it shall seek the advice of the Attorney General of the Federation<sup>[45]</sup>. This Regulation also provides for the procedure of preparing charges or information. The commission shall in preparing charges consider the need to reflect the seriousness and extent of the criminality supported by the evidence<sup>[46]</sup>; to furnish the court with sufficient information to enable the court arrive at an appropriate decision<sup>[47]</sup> to preside in a clear and simple way<sup>[48]</sup>. The Attorney General of the Federation may designate Legal Officers from his office to work in the Commission for the purpose of facilitating the prosecution of the Commission's cases<sup>[49]</sup>.

The Regulation also provided for entering of plea bargain. No officer of the Commission shall enter into plea bargain discussion with an accused person without the prior knowledge and approval of the Attorney General of the Federation. An agreement made pursuant to such discussion shall be subject to the Attorney General's approval<sup>[50]</sup>. Where before trial or in the course of trial the accused proposes or signifies readiness to plead guilty to a lesser charge as part of a plea bargain agreement, the Commission shall before entering discussion leading to such agreement be satisfied that

the plea bargain will enable the court to pass a sentence that matches the seriousness of the offence taking into account other aggravating features<sup>[51]</sup>. Where the discussion leads to plea bargain agreement, the agreement must be reduced into writing as a plea agreement signed by both parties and including a list of the charges, a statement of the facts, and a declaration, signed by the defendant personally, to the effect that he or she accepts the stated facts and admits he or she is guilty of the agreed charges<sup>[52]</sup>. When seeking the approval of the Attorney General of the Federation, for an agreement referred to in paragraph (30) of the Regulation, the Commission shall send with the request:

- a) The signed plea bargain agreement;
- b) A joint submission as to sentence and sentencing considerations;
- c) All of the materials provided by the Commission to the accused in the course of the plea discussions;
- d) Any material provided by the accused to the Commission; and
- e) The minutes of any meetings between the parties and any correspondence generated in the plea discussion<sup>[53]</sup>.

Part VIII of the Regulation is on appeal against the Commission. Where there is an appeal or petition to the Attorney General of the Federation on the conduct of the Commission a copy of such petition shall be sent to the Commission and the Attorney General of the Federation may direct that the relevant case file, if any, be forwarded to him for examination<sup>[54]</sup>.

Part IX of the Regulation is on foreign aids and grants to the Commission. The Attorney General of the Federation must be informed of all foreign aids and grants. The Chairman of the Commission shall within 30 days of the signing or receipts of any foreign aid or grants inform the Attorney General of the Federation of such aid or grant with details of the terms and conditions of the grant or aid<sup>[55]</sup>.

While part X is a general regulation for sanctions, interpretation and citation<sup>[56]</sup>.

From 2006 to 2011, the commission recorded tremendous success in its crusade to salvage Nigeria from the menace of financial crimes. The table and chart below illustrates the successes recorded from 2006 to 2011. At the time of compiling these statistics the commission was yet to compile the 2012 to 2014 reports.

**Table 1: EFCC Scorecard From 2006 – 2011**

Year	Petitions Received.	Cases Investigated	Cases Under Prosecution	Convictions
2006	3135	1839	196	91
2007	3672	1705	183	70
2008	3301	1230	130	52
2009	3967	2863	221	64
2010	6782	2538	206	68
2011	7737	2606	417	82

*Source:* EFCC Annual Report 2006-2011

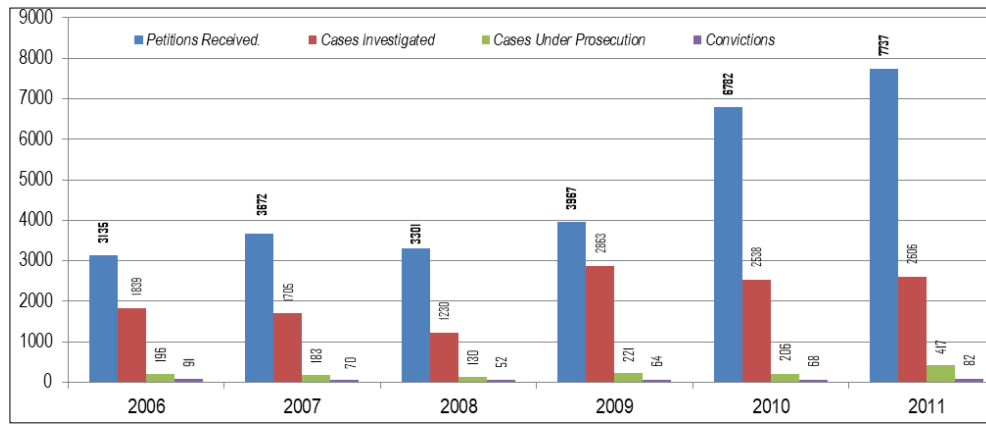


Fig 1

In the year 2006, a total of 3135 petitions were received, while cases investigated stood at 1839. The Commission had 196 cases under investigation and recorded 91 convictions. In 2007, 3672 petitions were received, cases investigated stood at 1705, while the commission had 183 cases under prosecution and 70 convictions were recorded. In 2008, the number of petitions decreased from 3672 to 3301. Cases investigated also decreased from 2705 to 1230. Cases under investigation also decreased from 183 to 130, while 52 convictions were recorded. In 2009, 3967 petitions were received, cases under investigation increased from 1230 to 2863. The year had 22 cases under investigation and 64 convictions. In 2010, the Commission received 6782 petitions, 2538 cases investigated, 206 cases under investigation and 68 convictions were recorded. In 2011 there was an increase in the number of petitions received from 6782 to 7737, 2606 cases were investigated, while 417 cases were pending in court. The year recorded 82 convictions.

It is submitted that the 2010 and 2011 statistics are indicative that the Commission is not committed to fighting the war against economic and financial crimes. Out of the 7737 petitions received, less than half (2606) of these petitions were investigated, while 5131 cases were discarded. One wonders what criterion was used by the Commission to discard 5131 petitions. Also, in 2010, out of 6782 petitions received, only 2556 petitions were investigated, while 4244 petitions were discarded.

### 3.3 What could be improved? <sup>[57]</sup>

1. Absence of comprehensive mutual legal assistance legislation.
2. Lack of Proceeds of Crime Law.
3. Lack of harmonization of the various amendments made to the MLPA, 2011 and the Prevention of Terrorism Acts 2013 to make them consistent with international standards.
4. Ineffective coordination of the overall AML/CFT regime.
5. Controversy surrounding the status and location of the NFIU in EFCC. (i.e. its autonomy).
6. Lack of credible records of statistics in the achievements in AML/CFT
7. Obvious or visible patterns of money laundering through various methods, including massive outflow of cash, real estate and the prevalence of corruption.

8. Poor records of dealing with high profile corruption cases, most of which remain inclusive.
9. Weak beneficial ownership and legal arrangements among others.

### 4. Some money laundering cases investigated in Nigeria

Launderers use many methods, techniques and instruments in order to launder funds. Cases examined revealed some of the methods used in Nigeria.

#### Property Management Company

When using the real sector, the goal is to set up a property management company that will eventually yield legal source of income. The purchase and construction of properties through the property management company are commonly used by criminals to launder their funds. The property that is bought or constructed using illegally obtained funds may subsequently be rented or leased to provide an apparent legal source of income in order to camouflage movements of funds, and to mix funds of illegal origin with what is perceived to be the legal income. The company if set up may be an integral part of the criminal organisation or provide part of criminal business activity, fundamentally money laundering.

#### Case Study 1: Use of proceeds of drug to buy properties. Predicate offence; drug trafficking.

Drug baron named Mr. G. O. successfully acquires cocaine from Latin America to Nigeria. He uses various couriers to send the drug to the UK and the proceeds in cash was concealed in used truck and shipped back to Nigeria. He approaches Mr. B a Bureau De-Change operator for the exchange of the proceeds to the local currency. This is however on the condition that some manager's cheques with various names be raised from Mr. B's account. He then approaches Mr. C a property lawyer for the purchase of properties, and the manager's cheques from Mr. B's account were used to settle the purchase price. Intelligence reveals that the Bureau De-Change operator received over a million pounds in cash from the baron.

Indicators and Methods identified;

- Maritime exportation of drugs from Latin America to Nigeria and finally the UK and the importation of cash from the UK.
- The use of funds from Bureau De-Change's account.
- The use of property lawyer to acquire properties.

**Source:** Directorate of Assets & Financial Investigation Data Bank NDLEA

### Case Study 2: Alternative Remittance System

Often the most complex money laundering methods involves the use of international trade to disguise funds transfers. Money laundering takes many forms including the Black Market Exchange, which separates the crime from the cash early in the money laundering process. Under this scheme, drug dealers are able to hands off their illicit dollars in the United States of America USA to professional money launderers who make clean funds available to them in Nigeria. Legal entities, including corporations, limited liability companies and trusts, serve many legitimate purposes but can also be used for money laundering. Criminals who are able to hide their control of a company or trust can disguise their money laundering activity as commercial transactions. Minimal registration requirements and lax oversight can make it difficult to determine who owns and operates legal entities. In practice, strategies to launder money usually combine several different techniques. Often these involve abuse of both the financial and international remittance systems. Importation of new or used vehicles provides a useful illustration of how a number of different money laundering techniques can be combined into a single criminal operation.

#### Case Study 2: Alternative Remittance System & Complex Transactions

The Nigerian drug Cartel smuggles illegal drugs into the United States and sells them for cash. The drug cartel arranges to exchange the US dollars to Naira at a discounted rate to an auto dealer (residing in the US) for the currency to be collected in Nigeria (Naira). The auto dealer pays the drug cartel with Naira from his bank account in Nigeria (this eliminates the drug cartel from any further involvement in the arrangement). The drug cartel had already arranged for the purchase of a stake in reputable information technology firm in Nigeria and the deployment of many internet broadband services in Nigeria. The money from the auto dealer's Nigerian bank account was used to pay the information technology firm. The auto dealer does not need to take the money into any financial institution in the United States. In fact, he usually uses the cash to purchase expensive used vehicles and other expensive beverages and ship them to Nigeria. A clearing company clears the vehicles and the beverages which are then sold in a car shop in Nigeria. The proceeds are then deposited into the auto dealer's account here in Nigeria.

#### Indicators and Methods identified;

- Maritime exportation of drugs from Latin America to Nigeria and finally the US.
- The abuse of the alternative remittance system.
- The use of reputable firms.
- Abuse of the importation of used vehicles to Nigeria.
- Lack of regulation in the sales of used imported vehicles.

**Source:** Directorate of Assets & Financial Investigation Data Bank NDLEA

### Case Study 3: The Use of Stock Market,

Banks and other depository institutions like the stock broking firms are the principal gateway to the Nigerian financial system and are constantly threatened by criminals attempting to launder illicit funds. Once illegal proceeds are placed into a depository institution, the funds can be converted to stocks of quoted companies or disguised by intermingling them with

legitimate funds. The challenges depository institutions faces include criminals attempting to hide their identities and sources of income in order to open accounts and launder illicit drug proceeds. The use of "correspondent," "payable through," and "nested" accounts also create opportunities for concealing a customer's true identity in the absence of adequate customer due diligence.

#### Case Study 3: Predicate offence; drug trafficking.

A drug baron named Mr. O. I. Was arrested by the National Drug Enforcement Agency for unlawful possession of narcotic drug, his assets investigated revealed that he used fictitious oil deals to provide legitimacy for the laundered proceeds, it was also discovered that he bribed officials of a bank and a stock broking firm to acquire over 30 million units of shares using under aged nominees. It was also discovered that fictitious oil deals with reputable companies was used to obtain loans and subsequently the funds were diverted and used for the purchase of real estate,

#### Indicators and Methods identified;

- Willingness of the officials of financial institution to help launder proceeds.
- Lack of strict KYC measures in opening and maintaining of stocks accounts.
- Lack of enforcement of use of loans by financial institutions.

**Source:** Directorate of Assets & Financial Investigation Data Bank NDLEA

### Case Study 4: Multiple Invoicing of Goods

Another technique used to launder funds involves issuing more than one invoice for the same trade transaction. By invoicing the same good or service more than once, a money launderer is able to justify multiple payments for the same goods or delivery of services. Using a number of different financial institutions these additional payments can further increase the level of complexity surrounding such transactions. In addition, where a case of multiple payments relating to the same goods or delivery of services is detected, there are a number of legitimate explanations for such situations including the amendment of payment terms, corrections to previous payment instructions or the payment of late fees.

#### Case Study 4: Multiple Invoicing of Goods

Drug baron in Nigeria connives with a company from Latin America, which poses as a paper manufacturing company, the company shipped to Nigeria reels of paper and usually conceals cocaine in containers, they receive their payments through financial institutions from Nigeria, and this is made possible by multiple invoicing of goods by the drug baron. Back in Nigeria the drug baron entered into a credit arrangement with three financial institutions. In fact every of his finances comes from these facilities, the baron uses various couriers to send the drug to the UK and the proceeds in cash was smuggled back to Nigeria, using various Bureau De-Change operators and other customers that buy paper from his company. He deposits large sums of cash into the three financial institutions. He normally uses the facility for the purchase of a dilapidated structure in a choice area. He then demolishes it and builds an expensive structure in its place.

Intelligence reveals that the baron has laundered over £3 million pounds using this scheme.

*Indicators and Methods identified;*

- Maritime exportation of drugs from Latin America to Nigeria and finally the UK and the importation of cash from the UK.
- The abuse of facilities from financial institutions.
- The manipulation of the value of properties.

**Source:** Directorate of Assets & Financial Investigation Data Bank NDLEA

**Case Study 5: Landed Properties**

The real estate sector requires closer consideration given the large scope of monetary transactions, its significant social impact, and because of the number of cases in which money laundering have been detected. Abuse in this sector also has the undesirable effect of political, institutional and economic destabilization. Given that the purchase or sale of a property is one of the largest financial transactions a family or individual may undertake, changes in property prices have a substantial impact on the considerations taken into account by potential buyers and sellers of properties. Fluctuations in property prices have an impact on decisions about where to live and work in addition to affecting an owner’s net worth. Moreover, to the extent that property values influence rents, the effect is manifested in the distribution of wealth between landlords and tenants, property prices significantly influence the building industry. Taken together, these factors all suggest that fluctuations in property prices may influence economic activity and price stability by affecting aggregate supply and demand. Nevertheless, it is difficult to monitor and explain variations in property prices due to lack of reliable and uniform information. Property markets are geographically segmented and numerous factors shape the local price of real-estate. Historically there exists a commercial and residential real-estate market, and the property in both types of market may be bought and sold, managed and/or developed. Investment in the real-estate sector offers advantages both for law-abiding citizens and for those who would misuse the sector for criminal purposes. The sector may provide for obscuring the true source of the funds and the identity of the (ultimate) beneficial owner of the real asset, which are two key elements of the money laundering process.

**Case Study 5: Predicate offence; drug trafficking.**

A drug baron named A. I. was arrested in Lagos. Investigation conducted revealed that he owns a lot of landed properties, even though he has no evidence of any legitimate business. It was also discovered that he used real estate agents for the acquisition of the properties. It was also discovered that he used the names of members of his family when acquiring the properties. It was also discovered that cash was used for the settlement of the purchase prices.

*Indicators and Methods identified;*

- use of real estate agents for property purchase
- use of cash as medium for exchange
- lack of effective KYC in DNFB

**Source:** Directorate of Assets & Financial Investigation Data Bank NDLEA

**5. Relationship between Law Enforcement and Private Financial Sector such as Legal Firms etc**

1. Sensitization, Public Enlightenment and Training. Special Control unit against Money Laundering (SCUML) has continuously developed and conducted sensitization seminars at sector, state and regional levels for designated non-financial business such as hotels, casinos, real estate, car dealership, legal firms, etc.
2. Designation/Classification of Additional Businesses and Professions as DNFBPS – for purpose of AML regulations, the designation of DNFI is guided by National/Industry AML Risk Assessment Reports revealing that such businesses are vulnerable to money laundering risks. Consequent upon the conduct of the risk and vulnerable assessment of the non-financial sector and reliable AML/CFT typology studies, additional sector have been added such as nonprofit organizations, construction companies, mechanized farming etc.
3. Maintenance of Data base on DNFBPs Profile and reputable Transactions.
4. Customer/Client identification and Due Diligence. Special Control unit against Money Laundering (SCUML) compliance enforcement strategy has placed emphasis on proper and adequate, internal policies and procedures for conducting customer identification and due diligence. DNFBPs are mandated to obtain and verify the identity of clients.
5. Conduct AML Supervision on risk based approach.
6. Record keeping requirement. DNFBPs must keep record of customer’s identity and transactions for a minimum of five years.

**6. How Law Enforcement work with Nigerian Financial Intelligence Unit (NFIU)**

Apart from being the coordinating entity for the receipt and analysis of financial disclosure of currency transaction reports in line with Nigeria’s anti-money laundering and combating the financing of terrorism (AML/CFT) regime, NFIU also disseminates intelligence gathered to competent authorities. NFIU draws its powers from the FATF 40 Recommendations, EFCC (Establishment) Act, 2004 and the Money Laundering (Prohibition) Act, 2011. The law requires Financial Institutions to submit records of financial transactions to NFIU. It is domiciled in EFCC and has three central roles which are receiving, analysis of financial intelligence and dissemination of such intelligence to end users<sup>[58]</sup>. Presently, NFIU is a member of Egmont Group of Financial Intelligence Units and the coordinating agency in the West Africa sub-region as it helps GIABA in the enforcement of AML/CFT regime.

**7. Links between Drug Trafficking Profits and the Financing of Terrorism**

Significant part of the funding of terrorism in Nigeria and in other parts of the world came from money earned from drug trafficking and if the illicit movement of drugs is not urgently curtailed, terrorists would have enormous resources at their

disposal to acquire the most sophisticated weapons to kill more innocent people<sup>[59]</sup>.

Indeed drug trafficking has provided funding for insurgency and those who use terrorist violence in various regions throughout the world, including transit regions.

In Nigeria, the Boko Haram terrorist group have declared their allegiance to ISIS and ISIS source of funding have been linked to drug trafficking and arms dealing.

Also, in Nigeria, the Niger Delta terrorists who share borders with some African countries sale drugs to their neighbors in exchange of firearms, which in turn are used for financing terrorism. In fact, drugs have been the currency used in the commission of terrorist attacks<sup>[60]</sup>. There is evidence to suggest that groups and cells in West Africa and beyond rely on proceeds from drugs trafficking and hostage taken for ransom<sup>[61]</sup>.

### **8. Challenges in Investigating and recovering Criminal Proceeds of Crime**

1. Lack of political will on the part of Government combating money laundering may be a mirage if political actors do not cooperate with the effort of the international agencies and national agencies since most politicians have the political control of the implementation agencies<sup>[62]</sup>. Some of the legislation contains unequivocal provisions against financial crimes. The irony of the situation is that what is seen in practice is quite far from what is on paper and this appears to be common phenomenon in most African countries<sup>[63]</sup>.
2. Lack of information sharing among relevant agencies where there is no integration, cooperation and information sharing among anti-money laundering agencies there is impediment in fighting it. All hands must be on deck. All regulatory agencies, financial institutions, insurance companies, off shore financial centers etc must cooperate with security agencies by sharing information necessary for investigating money laundering.
3. Corruption – Any organization that employ and maintain personnel who lack professional integrity, accountability and probity can never succeed in fighting money laundering.
4. Challenges with Judicial Process – where the process of criminal justice is slow, it constitute a major challenge to the enforcement of the law and sometimes could frustrate the agency meant to implement the law.
5. Another issue which presents complications that are unique to African Continent and it's predominantly cash based economy is that of cash movement and cash transactions which are neither documented nor traceable. Cash transactions are the norm rather than the exception in Africa. Introducing a requirement to report to the authorities, transactions that exceed certain threshold and subjecting them to the usual AML/CFT control is often suggested<sup>[64]</sup>.
6. Investigating money laundering is often very expensive.
7. Conviction based forfeiture requirements of Nigerian legislation.
8. Poor knowledge of subject of investigation.
9. Lack of investigative tools.

### **9. Conclusion and way forward**

Anti-Money laundering and Counter Financing of terrorism is an important element in the fight against corruption, which is one of the main thrusts of the Government of Nigeria. Since 2013, no significant input has been added to the AML/CFT framework. As Nigeria seeks to strengthen democracy by reinforcing rule of law, there is no alternative to strengthening the mechanisms for accountability including robust ML/CFT regime.

With South Africa as a member of the FATF and with Egypt nearer to attaining membership, the regional balance that FATF sought for may have been achieved to some extent. However, it would still be a fact that Sub-Saharan Africa is not represented and it will be a disappointment if any country will overtake Nigeria and become a member of the FATF. The second round of evaluations has already commenced and if the Nigerian system remains as it is with the strategic deficiencies mentioned earlier on Nigeria's leadership influence in AML/CFT will diminish regrettably.

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12. Primary function is to generate and maintain empirical data and a veritable resource data bank for anti – corruption and good governance in Nigeria.
13. Regulates operations of designated Non-Financial Institutions, Businesses and Professions (DNFIs)
14. It saddled with the responsibility of improving the coordination and partnership amongst Participatory agencies in the areas of investigation and prosecution and

- also serves as a platform for sharing opinions, ideas, information and SWOT analysis of the current strategies.
15. The Committee comprises the Federal Ministry of Justice, Finance, Interior and selected Ministries, Departments and Agencies (MDAs) which are also members of IATT
  16. Section 43.Ibid.
  17. Economic and Financial Crimes Commission (Enforcement) Regulations, 2010.
  18. Regulation 1 of the Economic and Financial Crimes Commission (Enforcement) Regulations, 2010.
  19. Regulation 2
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  26. Regulation 10 (1)
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  28. Regulation 11
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