

MONEY LAUNDERING ACT (AMENDMENT) ACT 2002



ARRANGEMENT OF SECTIONS

Section :

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MONEY LAUNDERING ACT (AMENDMENT) ACT 2002

2002 ACT No. 9

**AN ACT TO AMEND THE MONEY LAUNDERING ACT 1995 ; AND FOR
MATTERS CONNECTED THEREWITH**

[14th December 2002]

**Commence-
ment.**

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

1. The Money Laundering Act 1995 (in this Act referred to as "the Principal Act") is amended as set out in this Act.

**Amendment
of 1995 No.
3.**

2. Section 3 of the Principal Act is amended—

**Amendment
of section 3.**

(a) in subsection (1) by substituting therefore the following—

(i) (1) A person whose annual business is the carrying out of over-the-counter exchange transaction or a financial institution shall—",

(ii) in paragraph (b) by substituting therefor the following new paragraph—

"(b) prior to any transaction involving a sum greater than \$5,000 or its equivalent with a customer, identify the customer by requiring him to fill a standard data form and present an authentic international passport, a valid driving licence ; the national identity card or such other document bearing his photograph as may be prescribed by the Central Bank or the appropriate regulatory authority ;"

(b) by inserting immediately after subsection (2) the following new subsection (3)—

"(3) Any person or financial institution that fails to comply with requirement of customer identification and the submission of returns on such transactions specified in this Act within 7 days from the date of the transaction is guilty of an offence and liable on conviction to—

(a) a fine ₦1,000,000 for each day during which the offence continues ;

(b) the revocation of its licence as bank or as a financial institution or the withdrawal by the Central Bank of the authorised dealer's licence ; and

(c) such other sanctions as may be imposed by the appropriate regulatory authority".

3. Section 5 of the Principal Act is amended in subsection (6) by substituting for the words "laundering of drug money" the words "laundering of the proceeds of a crime or an illegal act".

**Amendment
of section 5.**

4. Section 6 of the Principal Act is amended—

**Amendment
of section 6**

(a) in subsection (1) by inserting immediately after paragraph (a) thereof the following new paragraph—

"(aa) involves a frequency which is *unjustifiable or unreasonable* ;"

(b) in Subsection (2)—

(i) by substituting for the words "*If the financial institution decides to carry out the transaction, it shall within a period of 7 days after the transaction referred to in subsection (1) of this section*"—

(ii) in paragraph (b) by substituting therefore the words—

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

(iii) in paragraph (c) by substituting therefore the words—

"(c) send a copy of the report and action taken to the Central Bank, the Agency, the Securities and Exchange Commission or such other appropriate regulatory authority as the case may be for that purpose." ;

"(c) Immediately after Subsection (2) therefore inserted the following new Subsection (3) —

"(3) A financial institution which fails to comply with the provision of subsection (2) of this section is guilty of an offence and is liable on conviction to a fine of ₦1,000,000 for each day during which the offence continues".

Amendment
of section 9

5. Section 9 of the Principal Act is amended by substituting for the words "laundering of drug money" the words "laundering of a proceed of a crime or an illegal act".

Amendment
of section 10

6. Section 10 of the Principal Act is amended—

(a) in subsection (1) by substituting therefore the following—

"(1) Notwithstanding anything to the contrary in any other enactment, a financial institution or casino or such other financial institution specified in section 23 of this Act, shall disclose and report to the Agency in writing, within 7 days any single transaction, lodgment or transfer of funds in excess of " ;

(b) in subsections (1) (a) and (b) and (2) (a) and (b) by substituting for the figure ₦500,000 or its equivalent, in the case of an individual ; and "2 million naira or its equivalent, in the case of a body corporate" the figure ₦1,000,000 or its equivalent, in the case of an individual ; and ₦5,000,000 or its equivalent, in the case of a body corporate", respectively.

Amendment
of section 11

7. Section 11 of the Principal Act is amended by substituting for the words "laundering of drug money" the words "laundering of the proceed of a crime or an illegal act".

Amendment
of section 12

8. Section 12 of the Principal Act is amended as follows—

(a) by amending section 12(1) to read as follows—

"The Agency subject to a Federal High Court Order which may only be obtained on a sworn declaration of the Head of the Agency justifying the request may in order to identify and locate narcotic drugs and psychotropic substances, proceeds, property, objects or other things related to the

Commission of an offence under this Decree or the National Drug Law Enforcement Agency Decree 1989."

(b) by inserting immediately after subsection (1) the following new Subsection (1A)—

"(1A) Notwithstanding the powers conferred on the Agency by subsection (1) of this section, the Agency and such other appropriate regulatory authority shall place any other account relating to such financial activities specified in this Act under surveillance."

9. Section 14 of the Principal Act is amended in subsection (1)—

Amendment
of section
14.

(a) paragraph (a) by inserting immediately after the words "illicit traffic of narcotic drugs or psychotropic substances" the words "or any other crime or an illegal act";

(b) paragraph (b) by inserting immediately after the words "illicit traffic or narcotic drugs or psychotropic substances" the words "or any other crime or an illegal act"

10. Section 15 of the Principal Act is amended in subsection (1) by substituting therefor the following—

Amendment
of section 15

"(1) Without prejudice to the penalties provided for illicit traffic in narcotic drugs or psychotropic substances, the laundering of drug money or the proceeds of a crime or an illegal act, any person—"

11. Insert immediately after the existing section 15 of the Principal Act the following new section 15 (6)—

Amendment
of section
15A.
Retention of
proceeds of
criminal
conduct.

"15(6) A person who—

(a) whether by concealment, removal from jurisdiction, transfer to nominees or otherwise retains the control of the proceeds of a criminal conduct or an illegal act on behalf of another person knowing or suspecting that the person has been engaged in a criminal conduct or has benefited from a criminal conduct ; or

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

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

12. Section 23 of the Principal Act is amended by inserting in alphabetical sequence the interpretation of the following words—
"financial activities" includes—

Amendment
of section
23.

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

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

"financial institution" includes any individual, body, association or group of persons, whether corporate or unincorporated which carries on the business of investment and securities, a discount house, finance company and money brokerage whose principal object include factoring, project financing, equipment leasing, debt administration, fund management, private ledger services, investment management, local purchase order financing, export finance, project consultancy, financial consultancy, pension fund management, insurance institutions, debt factorization and conversion firms, dealers, clearing and settlement companies, legal practitioners, hotels, supermarkets and such other business as the Central Bank or appropriate regulatory authorities may, from time to time, designate ;

"over-the-counter exchange transaction" includes a financial investments, and securities transaction normally carried out otherwise than in an organised exchange market and without any prescribed form ;

"other appropriate regulatory authorities" includes the Securities and Exchange Commission and the National Insurance Commission".

Short title.

13. This Act may be cited as the Money Laundering Act (Amendment) Act, 2002

I certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Bill passed by both Houses of the National Assembly.

IBRAHIM SALIM, CON
Clerk to the National Assembly
14th December, 2002

EXPLANATORY MEMORANDUM

This Act provides sundry amendments to the Money Laundering Act 1995 to expand its scope from drug related offences to other financial crimes.

SCHEDULE TO THE MONEY LAUNDERING ACT (AMENDMENT) BILL 2002

(1)	(2)	(3)	(4)	(5)
<i>Short Title of the Bill</i>	<i>Long Title of the Bill</i>	<i>Summary of the Contents of the Bill</i>	<i>Date passed by the Senate</i>	<i>Date passed by the House of Representatives</i>
Money Laundering Act (Amendment) Bill 2002.	An Act to amend the Money Laundering Act 1995; and for matters connected therewith.	This Bill provides sundry amendments to the Money Laundering Act 1995 to expand its scope from drug related offences to other financial crimes.	14th December, 2002	11th December, 2002

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, Laws of the Federation of Nigeria 1990.

I ASSENT.



IBRAHIM SALIM, CON
Clerk to the National Assembly
14th December, 2002

CHIEF OLUSEGUN OBASANJO, GCFR
President of the Federal Republic of Nigeria
14th December, 2002