

MONEY LAUNDERING (PROHIBITION) ACT, 2003**ARRANGEMENT OF SECTIONS****SECTION :**

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SCHEDULES

MONEY LAUNDERING (PROHIBITION) ACT, 2003

2003 ACT NO. 7

AN ACT TO REPEAL THE MONEY LAUNDERING ACT, 1995 No 3 AND ENACT A NEW MONEY LAUNDERING ACT ; AND FOR RELATED MATTERS

[24th May, 2003]

Commence-
ment.

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

PART I—PROHIBITION OF MONEY LAUNDERING

1.—(1) No person or body corporate shall make or accept cash payment of a sum exceeding—

Limitation
to make or
accept cash
payment.

(a) ₦500,000 or its equivalent, in the case of an individual, or

(b) ₦2,000,000.00 (Two million Naira) or its equivalent, in the case of a body corporate,

except in a transaction through a financial institution.

2.—(1) A transfer to or from a foreign country of funds or securities of a sum exceeding \$10,000 or its equivalent shall be reported to the Central Bank of Nigeria (in this Act referred to as “the Central Bank”).

Duty to
report
international
transfer of
funds and
security.

(2) A report made under subsection (1) of this section shall indicate the nature and amount of the transfer, and the names and addresses of the sender and receiver of the funds or securities.

3.—(1) A person whose usual business is to undertake over-the-counter exchange transactions or a financial institution shall—

Regulation of
over the
counter
exchange.

(a) before the commencement of business, submit to the Central Bank a declaration of his or its activity ;

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

(c) record all transactions under this section in chronological order, indicating each customer's surname, forenames, and address in a register numbered and initialed by an officer authorized by the Central Bank for that purpose ;

(2) A register kept under subsection (1)(c) of this section shall be preserved for at least 10 years after the last transaction recorded in the register.

(3) Any person or financial institution that fails to comply with the requirements of customer identification and the submission of returns on such transactions as

specified in this Act within 7 days from the date of the transaction commits an offence and is liable on conviction—

(a) in the case of an individual to a fine of ₦25,000 for each day during which the offence continues ;

(b) in the case of a bank or financial institution, to a fine of ₦1,000,000 for each day during which the offence continues ;

(c) to the revocation of its licence as a bank or financial institution or the withdrawal by the Central Bank of the authorized dealer's licence.

Duties
incumbent.

4.—A casino shall—

(a) verify the identity of a gambler who buys, brings into exchanges chips or tokens, by requiring the gambler to present an authentic document bearing his names and address ;

(b) record all transactions under this section in chronological order indicating —

(i) the nature and amount involved in each transaction, and

(ii) each gambler's surname, forenames and address,

in a register numbered initiated by an officer authorized by the Federal Ministry of Commerce for that purpose.

(2) A register kept under subsection (1) (b) of this section be preserved for at least 10 years after the last transaction recorded in the register.

Identifica-
tion of a
customer.

5.—(1) A financial institution shall verify its customer's identity and address before opening an account for, issuing a passbook to , entering into a fiduciary transaction with, renting a safe deposit box to or establishing any business relationship with the customer.

(2) An individual shall be required to provide proof of his—

(a) identity, by resending to the financial institution a valid original copy of an official document bearing his names and photograph ;

(b) address, by presenting to the financial institution the originals of receipts issued within the previous three months by public utilities.

(3) A body corporate shall be required to provide proof of its identity by presenting its certificate of incorporation and other valid official documents attesting the existence of the body corporate.

(4) The manager, employee or assignee delegated by a body corporate to open or operate an account shall be required to produce not only the documents specified in subsection (2) of this section, but also proof of the power of attorney granted to him in that behalf.

(5) A casual customer shall be identified in the same way as in subsection (2) of this section for any transaction involving a sum exceeding US\$5,000 or its equivalent

or for any number of transactions whose sum total exceed ₦500,000.00 if the total amount is known at the commencement of the transaction or as soon as it is known to exceed the sum of US\$5,000 or its equivalent.

(6) Where a financial institution reasonably suspects that the amount involved in a transaction is the proceeds of a crime or an illegal act, it shall require identification of the customer notwithstanding that the amount involved in the transaction is less than US\$5,000 or its equivalent.

(7) If it appears that a customer may not be acting on his own account, the financial institution shall seek from the customer by all reasonable means, information as to the true identity of the principal.

6.—(1) When a financial institution is requested to carry out a transaction, whether or not it relates to the laundering of the proceeds of a crime or an act, the financial institution shall seek information from the customer as to the origin and the destination of the funds, the aim of the transaction and the identity of the beneficiary.

Special
surveillance
on certain
transactions.

(2) A financial institution shall within 7 days after the transaction referred to in subsection (1) of this section—

(a) draw up a written report containing all relevant information on the matters mentioned in subsection (1) of this section together with the identity of the principal and, where applicable, of the beneficiary ;

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

(c) send a copy of the report and action taken to the Central Bank, the Commission, the Security and Exchange Commission or such other appropriate regulatory authority, as the case may be.

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

7. A financial institution shall preserve and keep at the disposal of the authorities specified in section 8 of this act—

Preservation
of records.

(a) the record of the customer's identification for a period of at least ten years after the closure of the accounts or the severance of relations with the customer ; and

(b) the record of transaction carried out by a customer and the report provided for in section 6 of this Act, for a period of at least ten years after carrying out the transaction or making of the report, as the case may be.

8. The records referred to in section 7 of this Act shall be communicated only to the Central Bank, the National Drug Law Enforcement Agency (in this Act referred to as "the Agency") judicial authorities, customs officers and such other persons as the Central Bank may, from time to time, by order published in the *Gazette*, specify.

Communica-
tion of
information.

9.—(1) Every financial institution shall develop programmes to combat the laundering of the proceeds of a crime or other illegal act, and these shall include—

Arousing
awareness
among
employees
of financial
institution.

- (a) the designation of compliance officers at management level at its headquarters and at every branch and local office ;
- (b) regular training programme for its employees ;
- (c) the centralization of the information collected ; and
- (d) the establishment of an internal audit unit to ensure compliance with and ensure the effectiveness of the measures taken to enforce the provisions of this Act.

(2) Notwithstanding the provisions of this Act. the Governor of the Central Bank shall impose a penalty of not less than 1 million Naira or the suspension of any licence issued on a financial institution for failure to comply with the provisions of subsection (1) of this section.

10.—(1) Notwithstanding anything to the contrary in any other law or enactment, a financial institution or Casino shall report to the Agency in writing, within 7 days any single transaction, lodgement or transfer of funds in excess of —

Mandatory
disclosure by
financial
institution.

- (a) ₦1,000,000 or its equivalent, in the case of an individual ; and
- (b) 5 million Naira or its equivalent, in the case of a body corporate.

(2) A person, other than a financial institution, may voluntarily give information on any transaction, lodgment or transfer of funds in excess of—

- (a) 100,000 or its equivalent, in the case of an individual ; and
- (b) ₦5,000,000 or its equivalent, in the case of a body corporate.

(3) The Agency shall acknowledge receipt of any disclosure, report or information received under this section and may demand such additional information as it may deem necessary.

(4) The acknowledgement of receipt shall be sent to the financial institution within the time allowed for the transaction to be undertaken and it may be accompanied by a notice deferring the transaction for a period not exceeding 72 hours.

(5) If the acknowledgment of receipt is not accompanied by a stop notice, or if, when the stop notice expires, the order specified in subsection (6) of this section to block the transaction has not reached the financial institution, the financial institution may carry out the transaction.

(6) When it is not possible to ascertain the origin of the funds within the period of stoppage of the transaction, the Federal High Court may, at the request of the Agency, or other person or authority duly authorized in that behalf, order that the funds, accounts or securities referred to in the report be blocked.

(7) An order made by the Federal High Court under subsection (6) of this section shall be enforced forthwith.

11. Where funds are blocked under section 10(6) of this Act and there is evidence of conspiracy with owner of the funds, the financial institution shall not be relieved of liability under this Act and criminal proceedings for all offences arising there from, may be brought against its director and employees involved in the conspiracy.

Liability of directors, etc. of financial institution.

12.—(1) The Agency, pursuant to a Federal High Court Order obtained on a sworn declaration made by the Chairman 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 Agency of an offence under this Act or the Economic and Financial Crimes Commission Act 2002 or any other Act or law—

Surveillance of bank accounts, etc.

(a) place any bank account or any other account comparable to a bank account under surveillance,

(b) tap any telephone line or place it under surveillance ;

(c) obtain access to any computer system, and

(d) obtain communication of any authentic instrument or private contract, together with all bank, financial and commercial records,

when the account, telephone line or computer system is used or reasonably suspected to have been used by any person suspected of taking part in a transaction involving the proceeds, of a financial or other crime.

(2) Banking secrecy shall not be invoked as a ground for objecting to the measures set out in subsection (1) of this section or for refusing to be witness to facts likely to constitute an offence under this Act or the National Drugs Law Enforcement Agency.

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

Cap. 253
LFN 1990.

13. The Agency shall, in consultation with the Central Bank and the Corporate Affairs Commission determine the flow of transactions and the identities of beneficiaries under this Act, including the beneficiaries of individual accounts and of corporate accounts.

Determination of flow of transactions etc.

14.—(1) Any person who—

(a) converts or transfers resources or property derived directly or indirectly from illicit traffic in narcotic drugs or psychotropic substances or any illegal act, with the aim of either concealing or disguising the illicit origin of the resources or property, or aiding any person involved in the illicit traffic in narcotic drugs or psychotropic substances or any other crime or illegal act to evade the legal consequences of his action ; or

Money laundering offences.

(b) collaborates in concealing or disguising the genuine nature, origin, location, disposition, movement or ownership of the resources, property or rights thereto derived directly or indirectly from illicit traffic in narcotic drugs or psychotropic substances or any other crime or illegal act,

Commits an offence under this section and is liable on conviction to imprisonment for a term of not less than 2 years or more than 3 years.

(2) A person who commits an offence under subsection (1) of this section shall be subject to the penalty specified in that subsection notwithstanding that the various acts constituting the offence were committed in different countries or places.

Other
offences.

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 illegal act, any person who—

(a) being a director or employee of a financial institution warns or in any other way intimates the owner of the funds involved in the transaction referred to in section 10 of this Act about the report he is required to make or the action taken on it or who refrains from making the report as required under that section ; or

(b) destroys or removes a register or record required to be kept under this Act ;
or

(c) carries out or attempts under a false identity to carry out any of the transactions specified in sections 1 to 5 of this Act ; or

(d) makes or accepts cash payments exceeding the amount authorized under this Act ; or

(e) fails to report an international transfer of funds or securities required to be reported under this Act ; or

(f) being a director or an employee of a *bureau de change*, casino or other financial institution, contravenes the provisions of section 2, 3, 4, 5 or 10 of this Act ;

commits an offence under this section.

(2) A person who commits an offence under subsection (1) of this section is liable on conviction—

(a) in the case of an offence under paragraphs (a) to (c) of subsection (1) to imprisonment for a term of not less than 2 years or more than 3 years ;

(b) in the case of offences under paragraphs (d) to (f), where the offender—

(i) is an individual, to a fine of not less than ₦250,000 or more than 1 million Naira or a term of imprisonment of not less than 2 years or more than 3 years or to both fine and imprisonment ; or

(ii) is a financial institution or any other body corporate, to a fine of not less than ₦250,000 or more than ₦1,000,000.00 (1 million Naira)

(3) A person found guilty of an offence under this section may also be banned indefinitely or for a period of 5 years from exercising the profession, which provided the opportunity for the offence to be committed.

(4) A person found guilty of an offence under paragraph (d), (e) or (f) of subsection (1) of this section shall not be affected but the provisions of this section 18, 19, 20 and 25 of the National Drugs Law Enforcement Agency Act.

Cap. 253
LFN 1990.

(5) When, as a result of a serious oversight or a flaw in the internal control procedures, a financial institution or person designated in section 10 of this Act, fails to meet any of the obligations imposed on him or it by this Act, the disciplinary authority responsible for the financial institution, or the person's professional body may, in addition to any penalty in this Act take such disciplinary action against the financial institution or person as is in conformity with its professional and administrative regulations.

16. Any person who—

Retention of
proceeds of
a criminal
conduct.

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

(b) knowing that any property either 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 from a term of not less than 5 years or to a fine equivalent to 5 times the value of the proceeds of the criminal conducts or to both such imprisonment and fine.

17. A person who—

Conspiracy
aiding, etc.

(a) conspires with, aids, or abets counsels any other person to commit an offence ; or

(b) attempts to commit or is an accessory to an offence, or

(c) incites, procures or induces any other person by any means whatsoever to commit an offence, under this Act, commits an offence and is liable on conviction to the same punishment as is prescribed for that offence under this Act .

18. —(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed on the instigation or with the connivance of or attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, where practicable, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by
a body
corporate.

(2) Where a body corporate is convicted of an offence under this Act, the court may order that the body corporate shall thereupon and without any further assurances, but for such order, be wound up and all its assets and properties forfeited to the Federal Government.

Trial of
offences.

19.—(1) The Federal High Court shall have jurisdiction to try offences under this Act.

(2) The Federal High Court shall have power to impose the penalties provided under this Act.

(3) In any trial for an offence under this Act, the fact that an accused person is in possession of pecuniary resources or property for which he cannot satisfactory account and which is disproportionate to his known sources of income, or that he had at or about the time of the alleged offence obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the Federal High Court as corroborating the testimony of any witness in such trial.

Power to
demand and
obtain
records, etc.

20. For the purposes of this Act, the Director of Investigations or an officer of the Agency duly authorized in that behalf may demand, obtain and inspect the books and records of a financial institution to confirm compliance with the provisions of this Act.

Obstruction
of the
Agency or
authorized
officers.

21. A person who willfully obstructs the Agency or any authorized officer in the exercise of the power conferred on the Agency by this Act commits an offence and is liable on conviction—

(a) in the case of an individual, to imprisonment for a term of not less than 2 years or not exceeding 3 years ;

(b) in the case of a financial institution or other body corporate, to a fine of 1 million Naira.

Repeal of
section 13
Cap. 253
LFN 1990.
Repeal, etc of
1995 No. 3.

22. Section 13 of the National Drug Law Enforcement Agency Act is repealed.

23. The Money Laundering Act 1995 is hereby consequentially repealed.

Savings.

24. The repeal of the Act specified in section (23) of this Act shall not affect anything done or purported to be done under or pursuant to the Act.

Interpretation.

25. In this Act—

"Agency" means the National Drugs Law Enforcement Agency ;

"Coastal Bank" means the Central Bank of Nigeria ;

"Transactions" means—

(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, etc.) ;
- (f) financial guarantees and commitments ;
- (g) trading for account of customers (spot, forward, swaps, futures, option, etc.) in—
 - (i) money market instruments (cheques, bills, CDs etc.)
 - (ii) foreign exchange ;
 - (iii) exchange, interest rate index instruments ;
 - (iv) transferable securities ;
 - (v) commodity futures trading ;
- (h) participation in capital market activities and the provisions of financial services related to such issues ;
- (j) individual and collective portfolio management ;
- (j) safekeeping and administration of cash or liquid securities on behalf of clients ;
- (k) life insurance and all other insurance related matters ;
- (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 includes 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, dealer, clearing and settlement companies, legal practitioners, hotels, casinos, bureau de change, supermarkets and such other businesses 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 processed through a bank without reference to a bank account or one that is normally carried out otherwise than in organised exchange market and without any prescribed form.

26. This Act may be cited as the Money Laundering (Prohibition) Act 2003. Short title.

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
23rd May, 2003

EXPLANATORY MEMORANDUM

This Act provides for a new Money Laundering Act to prohibit the laundering of the proceeds of a crime or an illegal act and repeal the Money Laundering Act 1995 No. 3.

It further provides appropriate penalties and expands the interpretation of financial institutions and scope of supervision of regulatory authorities on Money Laundering activities, among other things.

SCHEDULE TO THE MONEY LAUNDERING (PROHIBITION) BILL, 2003

(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 (Prohibition) Bill 2003.	An Act to repeal the Money Laundering Act 1995 No. 3 and enact a new Money Laundering Act ; and for related matters.	This Bill seeks to provide for a new Money Laundering Bill to prohibit the laundering of the proceeds of a crime or an illegal act and repeal the Money Laundering Act 1995 No. 3. It further seeks to provide appropriate penalties and expand the interpretation of financial institutions and scope of supervision of regulatory authorities on money laundering activities, among other things.	22nd May, 2003.	22nd May, 2003.

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
23rd May, 2003

CHIEF OLUSEGUN OBASANJO, GCFR
President of the Federal Republic of Nigeria
24th May, 2003

