

**G.R.F. DALLEY & PARTNERS**

Mitigating Money Laundering

Risks from a Regulatory

Perspective

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## **OVERVIEW**

- What is money laundering?
- The Process.
- Why we need to tackle money laundering.
- Mitigating Money Laundering.
- Recent AML efforts in Nigeria.
- Conclusion.

## **What is Money Laundering?**

Money laundering involves conduct or actions designed to conceal or disguise in whole or in part the location, source, ownership or control of proceeds of crime.

## **The process**

Money laundering often involves a diverse and complex process of:

- **Placing** – the proceeds of crime into the financial system.
- **Layering** – by way of a series of financial transactions, separate the proceeds from each other and in effect distancing it from its source.
- **Integration** – legitimize the proceeds of crime by re-introducing it as clean money.

## **Why we need to tackle Money Laundering.**

- Criminals Launder between USD \$500 billion and USD \$1 trillion world wide, yearly (FATF)
- The aggregate size of ML is somewhere between 2-5% of the world's GDP (IMF).
- Socially – Encourages crime (i.e. drug trafficking, white collar crimes) which in turn discourages honest businesses.
- Economically – leads to misleading economic policy particularly in third world countries, unrealistic competition and huge tax burdens on legitimate businesses.
- Politically – leads to instability and further enhances economic corruption.

# Mitigating Money Laundering.

The problem of money laundering is not novel and has existed for centuries, however due to advancements in technology and the increased velocity and the globalization of financial transactions criminals have devised more sophisticated methods of laundering proceeds of crime.

The control of money laundering requires the introduction of robust legislative changes and regulatory reforms on:

- Criminalisation of Money Laundering and Terrorist Financing and other predicate offences.
- Effective punishment and easy accessibility to the grant of confiscation, freezing, seizure and other relevant orders.
- Establishment of well funded agencies to carry out various regulatory, investigative, law enforcement and prosecutory roles.
- Introduction of anti-secrecy/confidentiality laws in respect of banks and financial institutions, relevant corporate bodies and Professional privilege.
- Introduction and enforcement of adequate processes for supervision, monitoring, auditing and reporting of transactions in banks and financial institutions and relevant corporate bodies, by both the institutions themselves and external regulators.

## **Criminalisation of Money Laundering**

- Application of the crime to all serious offences, including the widest possible list of predicate offences.
- Predicate offences should include offences that occurred in another jurisdiction and would be indictable if it occurred within jurisdiction.
- Criminal and/or civil liability for money laundering should apply to legal entities (i.e. corporate bodies).

## **Punishment confiscation, freezing, seizure and other relevant orders**

- Imposition of severe prison terms upon full determination of the case.
- Smooth processes for the sale of confiscated items or repatriation of funds upon proffering adequate proof.
- Fast and smooth interim processes from the grant of tracing, freezing and seizure orders.

## **Establishment of well funded agencies**

- Establishment of well funded and trained designated AML units of law enforcement agencies, with unfettered powers to monitor, source information, and sanction financial institutions.
- Establishment of FIU's for receiving, analyzing and disseminating STR's and other details. Unfettered powers to demand information and obtain same efficiently is critical.

## **ANTI-SECURITY LAWS**

- Prevent institutions and professional firms from failing to disclose details of its clients personal and account details, if requested.

# **SUPERVISION**

- **INTERNAL SUPERVISION:**

- Development of AML programmes including internal policies, procedure and controls, training and audits in order to:
  - Avoid creation of anonymous accounts and accounts with fictitious names and details.
  - Carry out customer due diligence (CDD) measures on existing and new transaction (with particular emphasis on cross boarder and large transactions) and customers and if not satisfied refuse account opening steps and make reports according to STR procedures (This should be applicable to non-financial businesses and professionals).
  - Carry out more stringent CDD in the case of politically exposed persons (PEP's).
  - Pursue record keeping of all transactions for a period of at least five years.

- **EXTERNAL SUPERVISION:**

- Establishment of well funded and adequately skilled regulatory agencies (FIU, law enforcement and supervisory bodies) with requisite powers to monitor and ensure compliance, authority to demand information and documentation, conduct inspections and to impose stern sanctions in case of default.

# **RECENT AML EFFORTS IN NIGERIA**

- **LEGISLATIVE:**
  - Independent Corrupt Practices Commission (ICPC) Act 2000.
  - Bank and Other Financial institution (Amendment) Act 2002
  - Economic and Financial Crimes Commission (Establishment) (EFFCC) Act 2003.
  - Money Laundering (Prohibition) Act 2004.
  - Trafficking in persons (Prohibition) Law Enforcement and Administration Act 2005
  - Advance Free Fraud and Other Fraud Related Offences Act 2006.

# **RECENT AML EFFORTS IN NIGERIA**

## **REGULATORY:**

- Establishment of the Nigeria Financial Intelligence Unit January 2005. (Egmont Group observer status)
- Establishment of Central Banks of Nigeria's Know Your Customer Rules November 28, 2001 and April 11, 2005, including:
  - Recording of complex unusual transactions or STR's.
  - Report of lodgment, transfers and transactions over set threshold.
  - Development of anti-money laundering programmes within institutions.
  - All STR's to be forwarded to EFCC, NFIU within 7 days.
- Establishment of the STR reports in accordance with the XML reporting format by March 31, 2007
- Resulting in the removal of Nigeria from FATF's list of Non co-operative countries and territories in 2006.

## **RECENT AML EFFORTS IN NIGERIA**

Successful convictions:

**VARIOUS BANKS MD'S  
DIEPREYE ALAMIEYESEIGHA  
TAFABALOGUN  
ANAJEMBA, NWUDE AND MANY MORE ... ..**

## **CONCLUSION**

Money laundering is a global problem.

Therefore it is critical that all nations in the world act in unison, as far as practicable.

Over the last five years Nigeria has, as part of its national strategy plan, taken key steps towards the fight, however there remain's a number of challenges. It is expected that with continued momentum the problem of money will be significantly reduced in the near future.

Thank you.