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MONEY LAUNDERING (PREVENTION AND PROHIBITION) BILL, 2021

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A BILL

FOR

AN ACT TO REPEAL THE MONEY LAUNDERING (PROHIBITION) ACT, 2011 (AS AMENDED) AND ENACT THE MONEY LAUNDERING (PREVENTION AND PROHIBITION) ACT TO PROVIDE COMPREHENSIVE LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PREVENTION AND PROHIBITION OF MONEY LAUNDERING IN NIGERIA, ESTABLISH THE SPECIAL CONTROL UNIT UNDER THE ECONOMIC AND FINANCIAL CRIMES COMMISSION AND OTHER RELATED MATTERS

Sponsored by Senator Sadiq Suleiman

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

PART I - OBJECTIVE

1. The objective of this Act is to -

Objective

(a) provide for an effective and comprehensive legal and institutional framework for the prevention, prohibition, detection, prosecution and punishment of money laundering and other related offences in Nigeria;

(b) strengthen the existing system for combating money laundering and associated predicate offences;

(c) make adequate provisions to prohibit money laundering;

(d) expand the scope of money laundering offences and provide appropriate penalties;

(e) provide protection for employees of various institutions, bodies and professions who may discover money laundering;

(f) enhance customer due diligence; and

(g) Establish the Special Control Unit against Money Laundering under the Commission for effective implementation of the Money

	1	provisions of the Act in relation to the Designated Non-Financial Business and
	2	Profession.
	3	PART II - PROHIBITION OF MONEY LAUNDERING, OFFENCES, PENALTIES,
	4	DEFENCES, AND REPORTS
Prohibition of money laundering	5	2. Money laundering and all unlawful acts as defined in this Act are
	6	prohibited in Nigeria.
Money laundering offences	7	3.-(a) A person who knows, ought reasonably to have known or
	8	suspects that a property has a criminal origin, commits an offence if he
	9	conceals, retains, disguises, converts, transfers or removes the property within
	10	or outside Nigeria.
	11	(b) For the purpose of the provisions of subsection (1) of this section,
	12	to conceal or disguise criminal property includes concealing or disguising its
	13	nature, source, location, disposition, movement or ownership or any rights
	14	with respect to it.
Being concerned in an arrangement, etc.	15	4. A person commits an offence if he enters into or becomes
	16	concerned in an arrangement which he knows, ought reasonably to have
	17	known, or suspects that a property has a criminal origin; facilitates by whatever
	18	means, the acquisition, retention, use or control of the property by or on behalf
	19	of another person.
Acquisition, Use and Possession	20	5. A person who knows, ought reasonably to have known, or suspects
	21	that property has a criminal origin, commits an offence if he-
	22	(a) acquires the property;
	23	(b) uses the property; or
	24	(c) has possession of the property.
Tipping off	25	6.-(1) A person commits an offence if -
	26	(a) he knows or suspects that a report falling within section 8 of this
	27	Act has been made or is about to be made; and
	28	(b) he makes an unauthorised disclosure which is likely to prejudice
	29	any investigation which might be conducted following the report referred to in
	30	paragraph (a) of this subsection.

1	7.-(1) A person who commits an offence under section 3 or 4 of this	Penalties
2	Act is liable on conviction, in the case of-	
3	(a) an individual, to imprisonment for a term of not less than seven	
4	years without the option of a fine;	
5	(b) a financial institution, to a fine of not less than fifty million	
6	naira; and	
7	(c) a designated non-financial business and profession, to a fine of	
8	not less than twenty - five million naira.	
9	(2) A person who commits an offence under section 5 or 6 of this	
10	Act is liable on conviction to imprisonment for a term of not less than five	
11	years without the option of a fine.	
12	8.-(1) A money laundering information report to a designated	Reports on
13	officer or an authorised person of the Unit or Commission that satisfies the	knowledge or
14	conditions set out in this section does not constitute a breach of any	suspicion of money
15	restriction on the disclosure of information, however imposed in this Act if	laundering
16	made -	
17	(a) in the course of the discloser's trade, profession, business or	
18	employment;	
19	(b) the information or other matter disclosed-	
20	(i) causes the discloser to know or suspect, or	
21	(ii) gives the discloser reasonable grounds for knowing or	
22	suspecting,	
23	that another person is engaged in money laundering; and	
24	(c) to a person designated by the designated officer's employer to	
25	receive reports under this section; and	
26	(d) in accordance with the procedure established by the employer	
27	for the purpose.	
28	(2) the money laundering information report must be to a	
29	designated officer or an authorised person of the Unit or Commission as	

1 soon as is practicable after the information or other matter comes to the
2 discloser.

3 (3) a designated officer is a person designated to receive report under
4 this section.

5 (4) Where a transaction-

6 (a) (i) involves a frequency which is unjustifiable or unreasonable;

7 (ii) is surrounded by conditions of unusual or unjustified complexity;

8 (iii) appears to have no economic justification or lawful objective, or

9 (iv) in the opinion of financial institution or designated non-financial

10 business and profession involves terrorist financing or inconsistent with the

11 known transaction pattern of the account or business relationship;

12 That transaction shall be deemed to be suspicious and the financial institution

13 involved in such transaction shall seek information from the customer as to the

14 origin and destination of the fund, the aim of the transaction and the identity of

15 the beneficiary.

16 (b) A financial institution or designated non-financial business and

17 profession shall immediately after the transaction referred to in sub-section

18 (1)(a) of this section-

19 (i) draw up a written report containing all relevant information on the

20 matters mentioned in subsection (1)(a) of this section together with the identity

21 of the principal and where applicable, of the beneficiary or beneficiaries;

22 (ii) take appropriate action to prevent the laundering of the proceeds

23 of a crime or an illegal act; and

24 (iii) report any suspicious transaction and actions taken to the Unit

25 and the Commission.

26 (c) The provisions of subsections (a) and (b) of this section shall apply

27 whether the transaction is completed or not.

28 (d) The Unit or Commission shall acknowledge receipt of any

29 disclosure, report or information received under this section and may demand

30 such additional information as it may deem necessary.

1 (e) (i) the acknowledgment of receipt shall be sent to the financial
2 institution or designated non-financial business and profession within the
3 time allowed for the transaction to be undertaken and it may be accompanied
4 by a notice deferring the transaction for a period of not exceeding 72 hours;

5 (ii) notwithstanding the provision of paragraph (i) of this sub-
6 section, the Chairman of the Commission or his representative or the
7 Director of the Unit or his representative shall place a Post No Debit Order
8 for a period not exceeding 5 days on any account or transaction if it is
9 discovered in the course of their duties that such an account or transaction is
10 suspected to be involved in any crime.

11 (f) If the acknowledgement of receipt is not accompanied by a stop
12 notice, or where the stop notice has expired and the order specified in
13 subsection (g) of this section to block the transaction has not reached the
14 financial institution or designated non-financial business or profession, it
15 may carry out the transaction;

16 (g) Where it is not possible to ascertain the origin of the funds
17 within the period of stoppage of the transaction, the Federal High Court may
18 at the request of the Commission, Unit or other persons or authority duly
19 authorized in that behalf, order that the funds, accounts or securities referred
20 to in the report be blocked;

21 (h) An order made by the Federal High Court under this subsection
22 (g) of this section shall be enforced forthwith;

23 (i) A financial institution or designated non-financial business and
24 profession which fails to comply with the provisions of sub-section (a),(b)
25 and (e) of this section commits an offence and is liable on conviction to a fine
26 of N2, 000,000.00 for each day which the offence continues;

27 (j) The Directors, Officers and Employees of Financial Institutions
28 and Designated Non-Financial Business and Profession who carry out their
29 duties under this Act in good faith shall not be liable to any criminal or civil
30 proceedings brought against them by their customers.

Failure to report
knowledge or
suspicion of
money laundering

- 1 9.-(1) A person commits an offence if-
- 2 (a) he knows, or ought reasonably to have known or suspects that
- 3 another person is engaged in money laundering;
- 4 (b) the information or other matter on which his knowledge or
- 5 suspicion is based came to him in the course of a business, trade or profession;
- 6 and
- 7 (c) he does not make the report specified in section 10 of this Act as
- 8 soon as it is practicable after the information or other matter comes to him.
- 9 (2) Information or other matter comes to a private legal practitioner in
- 10 privileged circumstances in connection with legal proceedings if it is
- 11 communicated or given to him by-
- 12 (a) a client or the representative of a client, in connection with the
- 13 giving by the private legal practitioner of legal advice; or
- 14 (b) a person in connection with legal proceedings or contemplated
- 15 legal proceedings.
- 16 (3) For the purposes of this Part, legal professional privilege and the
- 17 invocation of client confidentiality shall not apply in connection with-
- 18 (a) the purchase or sale of property;
- 19 (b) the purchase or sale of any business;
- 20 (c) the purchase or sale of any high-value item;
- 21 (d) any investment;
- 22 (e) any matter concerning the payment of any tax;
- 23 (f) any matter concerning the transfer of any funds whatsoever;
- 24 (g) the managing of client money, securities or other assets;
- 25 (h) the opening or management of bank, savings or securities
- 26 accounts;
- 27 (i) the creation, operation or management of trusts, companies or
- 28 similar structures;
- 29 (j) the organisation of contributions necessary for the creation,
- 30 operation or management of companies;

1 (k) any paid fees or retainer fees; and

2 (l) anything produced in furtherance of any unlawful activity.

3 **10.-(1)** A person designated to receive reports under this Act
4 commits an offence if -

Failure to report
by a designated
officer

5 (a) the person knows or suspects or has reasonable grounds for
6 knowing or suspecting that another person is engaged in money laundering;

7 (b) the information or other matter-

8 (i) on which his knowledge or suspicion is based, or

9 (ii) which gives reasonable grounds for such knowledge or
10 suspicion, came to the person in consequence of a report made under section
11 10 of this Act; and

12 (2) In deciding whether a person committed an offence under this
13 section, the Court shall consider whether the person followed any applicable
14 regulations or guidelines which was at the relevant time issued by a
15 supervisory authority or any other appropriate body;

16 **11.-(1)** An action, whether criminal or civil shall not lie against a
17 financial institution, designated non-financial business and profession,
18 supervisory body, the Federal Inland Revenue Service or any other person
19 complying in good faith with a provision of this Part, including any director,
20 employee or other person acting on behalf of the financial institution,
21 designated non-financial business and profession, supervisory body, the
22 Federal Inland Revenue Service or any such other person.

Protection of
persons making
reports

23 (2) No evidence concerning the identity of a person who has-

24 (a) made, initiated or contributed to a report under this Act; or

25 (b) furnished additional information concerning a report or the
26 grounds for a report under a provision of this Part, or the contents or nature
27 of additional information or grounds, is admissible as evidence in criminal
28 proceedings unless that person testifies at those proceedings.

29 **12.-(1)** In this Part, property has a criminal origin if it-

30 constitutes in a person's benefit, in whole or in part, directly or indirectly,

Interpretation of
terms applicable
to this Part

1 from an unlawful act in any part of Nigeria or where the unlawful act occurs
2 outside Nigeria, would be unlawful act if it occurred in Nigeria; and

3 (2) In this Part, "unlawful act" includes participation in an organised
4 criminal group, racketeering, terrorism, terrorist financing, trafficking in
5 persons, smuggling of migrants, sexual exploitation, sexual exploitation of
6 children, illicit trafficking in narcotic drugs and psychotropic substances, illicit
7 arms trafficking, illicit trafficking in stolen goods, corruption, bribery, fraud,
8 currency counterfeiting, counterfeiting and piracy of products, environmental
9 crimes, murder, grievous bodily injury, kidnapping, hostage taking, robbery or
10 theft, smuggling (including, in relation to customs and excise, duties and
11 taxes), tax crimes (related to direct taxes and indirect taxes), extortion, forgery,
12 piracy, insider trading and market manipulation, proliferation of weapons of
13 mass destruction and any other criminal act.

14 (3) It is immaterial, who-

15 (a) carried out the unlawful act; or

16 (b) benefited from the unlawful act.

17 (4) A person benefits from an unlawful act if he obtains property as a
18 result of or in connection with the unlawful act.

19 (5) If a person obtains a pecuniary advantage as a result of or in
20 connection with an unlawful act, he is deemed to have obtained, as a result of or
21 in connection with the unlawful act, a sum of money equal to the value of the
22 pecuniary advantage.

23 (6) A reference to property or a pecuniary advantage obtained in
24 connection with an unlawful act includes a reference to property or a pecuniary
25 advantage obtained in such connection or some other connection.

26 (7) If a person benefits from an unlawful act, his benefit is the
27 property obtained as a result of or in connection with the unlawful act.

28 (8) Property is all property wherever situated and includes-

29 (a) money;

30 (b) all forms of property, real or personal, heritable, moveable or

1 immoveable; and

2 (c) things in action and other intangible or incorporeal property.

3 (9) The following rules apply in relation to property-

4 (a) property is obtained by a person if he obtains an interest in it;

5 (b) references to an interest, in relation to-

6 (i) land in Nigeria, are to any legal estate or equitable interest or
7 power, and

8 (ii) property, other than land, include references to a right,
9 including a right to possession.

10 (10) For the purpose of a report to a designated officer, a reference
11 to-

12 (a) a person's employer, includes a person, body corporate,
13 association or organisation, including a voluntary organisation, in
14 connection with whose activities the person exercises a function, whether or
15 not for gain or reward; and

16 (b) employment shall be construed in accordance with the
17 provision of paragraph (a) of this subsection.

18 PART III - TRANSACTIONS ABOVE PRESCRIBED LIMITS

19 **13.-(1)** (a) A person shall not, except through a Bank, give or accept Cash payments
20 cash of a sum exceeding Five Million Naira (N5000000.00) or its
21 equivalent;

22 (b) a person who contravenes the provision of section 1(a) shall be
23 liable to conviction of not less than two year or a fine of Ten Million Naira
24 (N10,000,000.00) only or both.

25 (2) (a) A financial institution shall within 7 days report to the Unit
26 any transaction, lodgement, or transfer of funds in excess of:

27 (i) N5, 000,000.00 in the case of an individual;

28 (ii) N10, 000,000.00 in the case of a body corporate.

29 (b) a designated non-financial business and profession shall within

1 7 days report to SCUML any transaction, lodgement, or transfer of funds in
2 excess of:

3 (i) N2, 000,000.00 or its equivalent in the case of an individual;

4 (ii) N5, 000,000.00 in the case of a body corporate.

5 (c) a person shall not conduct two or more transactions separately
6 with one or more financial institution or designated non-financial business and
7 profession in order to:

8 (i) avoid the duty to report a transaction which should be reported
9 under this Act;

10 (ii) breach the duty to disclose information under the act by any other
11 means;

12 (iii) a person or body corporate who contravenes the provisions of this
13 section shall be liable on conviction for a term of not less than two year or a fine
14 of Ten Million Naira (N10,000,000.00) only or both.

15 (3) A financial institution or designated non-financial business and
16 profession commits an offence if it fails to make a report referred to in
17 subsection (2) of this section and is liable on conviction to a fine of not less than
18 twenty five million Naira or the equivalence or the equivalent amount of the
19 transacted sum or whichever is higher.

20 (4) An officer of a financial institution or designated non-financial
21 business and profession who facilitates an offence under subsection (3) of this
22 section commits an offence and is liable on conviction to a fine of not less than
23 five million Naira or imprisonment for a term of not less than twelve months or
24 both.

Duty to report
International
transfer of Funds
and Securities

25 **14.-(1)** A transfer, exchange or movement of funds or securities by
26 whatever means to or from a foreign country into Nigeria by any person or
27 body corporate of a sum exceeding USD10, 000 or its equivalent shall within 7
28 days from the dated of the transaction report in writing to:

29 (i) To the Central Bank of Nigeria and the Unit where the transfer was
30 done by a financial institution;

1 (ii) To SCUML where the transaction was done by Designated
2 Non-Financial Businesses and Profession.

3 (2) (a) A financial institution or designated non-financial
4 businesses and profession commits an offence if it fails to make the reports
5 referred to in subsection (1) of this section and is liable on conviction to a
6 fine of:

7 (i) not less than twenty - five million Naira in the case financial
8 institution.

9 (ii) not less than ten million naira in the case of a designated non-
10 financial businesses and profession.

11 (3) An officer of a financial institution or a designated non-
12 financial businesses and profession who facilitates an offence under
13 subsection (2) of this section commits an offence and is liable on conviction
14 to a fine of not less than five million naira or imprisonment for a term of not
15 less than twelve months or to both the fine and imprisonment.

16 (4) For the purpose of this section, "person" includes a money
17 service business listed in the Second Schedule to this Act.

18 **15.-(1)** A person importing into or exporting from Nigeria-

19 (a) cash; or

20 (b) a negotiable instrument,

21 in excess of US\$10,000 or its equivalent, shall, before the importation or
22 exportation, make a declaration of the total amount to the Nigeria Customs
23 Service on the prescribed form.

24 (2) The Nigeria Customs Service shall report any declaration made
25 pursuant to subsection (1) of this section to the Unit, the Commission, the
26 Central Bank of Nigeria and other designated agencies without delay for the
27 performance of their functions under this Act or any other legislation.

28 (3) Where a person is found to be in contravention of the provisions
29 of subsection (1) of this section, an officer of the Nigeria Customs Service or
30 any other law enforcement agency shall seize and detain, in the case of-

Other transfers
of funds and
securities

- 1 (a) cash, the whole of the cash in the person's possession; or
- 2 (b) a negotiable instrument, the negotiable instrument.
- 3 (4) Items seized and detained under subsection (3) of this section shall
- 4 be recorded by the Nigeria Customs Service and forwarded to the Commission.
- 5 (5) A person commits an offence under this section if he-
- 6 (a) fails to make a declaration of the type required in subsection (1) of
- 7 this section; or
- 8 (b) makes the declaration of the type required by subsection (1) of this
- 9 section that is false or misleading in any material particular.
- 10 (6) A person who commits an offence under subsection (5) of this
- 11 section is liable on conviction to forfeit the undeclared funds or negotiable
- 12 instrument or to imprisonment for a term of not less than two years or to both
- 13 the forfeiture and imprisonment.
- 14 **16.**-(1) The Attorney-General shall, by way of regulations made on
- 15 the recommendations of the supervisory authorities, vary prescribed amounts
- 16 referred to in sections 13 (1) and (2), 14 (1) and 15 (1) of this Act.
- 17 **17.**-(1) Where a supervisory authority or self-regulatory organisation,
- 18 as a result of an inspection or otherwise, knows or suspects that a financial
- 19 institution or designated non-financial business and profession, knowingly or
- 20 otherwise-
- 21 (a) has received property of a criminal origin;
- 22 (b) is about to receive property of a criminal origin;
- 23 (c) has been used to commit an offence under sections 3, 4 or 5 of this
- 24 Act; or
- 25 (d) has been in any way involved in an act of money laundering,
- 26 the supervisory authority or self-regulatory organisation shall inform the Unit
- 27 and the Commission of that fact and furnish the Unit and Commission with all
- 28 information and records regarding that knowledge or suspicion which the Unit
- 29 and Commission may reasonably require for the achievement of the objectives
- 30 of this Act.

Prescribed
amounts and
particulars

Information held
by supervisory
authorities,
self-regulatory
organisations
or Federal Inland
Revenue Service

1 (2) Where the Unit or Commission has reason to believe that a
2 supervisory authority or self-regulatory organisation has information
3 indicating that a financial institution or designated non-financial business
4 and profession, knowingly or otherwise-

5 (a) has received property of a criminal origin;

6 (b) is about to receive property of a criminal origin;

7 (c) has been used to commit an offence under sections 3, 4 or 5 of
8 this Act; or

9 (d) has been in any way involved in an act of money laundering,
10 the supervisory authority or self-regulatory organisation shall supply the
11 Unit and the Commission with all information and records regarding that
12 knowledge or suspicion which the Unit and Commission may reasonably
13 require for the achievement of the objectives of this Act.

14 PART IV - ACCESS TO INFORMATION

15 **18.**-(1) The Director of the Unit may direct a financial institution to
16 supply customer information and customer details to the Unit where-

Customer
information

17 (a) a person for whom customer information or customer details
18 are required is, directly or indirectly, the subject of an intelligence enquiry
19 by the Unit; and

20 (b) the information or details are sought for the purpose of the
21 enquiry.

22 (2) A financial institution, which is required to provide information
23 or details under subsection (1) of this section, shall provide the information
24 or details to the Unit in such manner, and at or by such time, as may be
25 required by the Director of the Unit.

26 (3) A financial institution commits an offence if it fails to comply
27 with any provision of this section and is liable on conviction to a fine of not
28 less than twenty - five million Naira.

29 (4) In this Act, "customer information", in relation to a person and a
30 financial institution, is information as to whether a person holds, or has held,

1 an account or accounts at the financial institution, whether solely or jointly
2 with another person and, if so, information as to the matters referred to in-

3 (a) subsection (5) of this section, where the person is an individual; or

4 (b) subsection (6) of this section, where the person is a body corporate
5 or a similar body whether incorporated or otherwise established in Nigeria or
6 elsewhere.

7 (5) The matters referred to in subsection (4)(a) of this section are-

8 (a) the account number or numbers;

9 (b) the person's full name;

10 (c) his date of birth;

11 (d) his most recent address and any previous addresses;

12 (e) the date or dates on which he began to hold the account or accounts
13 and, where he has ceased to hold the account or any of the accounts, the date or
14 dates on which he did so;

15 (f) any evidence of his identity that was obtained by the financial
16 institution under or for the purpose of this Act or any other legislation relating
17 to money laundering;

18 (g) the full name, date of birth and most recent address, and any
19 previous addresses, of any person who holds, or has held, an account at the
20 financial institution jointly with him; and

21 (h) the account number or numbers of any other account or accounts
22 held at the financial institution to which he is a signatory and details of the
23 person holding the other account or accounts.

24 (6) The matters referred to in subsection (4)(b) of this section are-

25 (a) the account number or numbers;

26 (b) the person's full name;

27 (c) a description of any business which the person carries on;

28 (d) the country or territory in which it is incorporated or otherwise
29 established and any number allocated to it by virtue of relevant legislation;

30 (e) any number assigned to it for the purposes of tax in Nigeria;

1 (f) its registered office and any previous registered offices, whether
2 in Nigeria or elsewhere;

3 (g) the date or dates on which it began to hold the account or
4 accounts and, where it has ceased to hold the account or any of the accounts,
5 the date or dates on which it did so;

6 (h) evidence of its identity as was obtained by the financial
7 institution under or for the purpose of this Act or any other legislation
8 relating to money laundering; and

9 (i) the full name, date of birth and most recent address and any
10 previous addresses of any person who is a signatory to the account or any of
11 the accounts.

12 (7) Customer information includes information regarding-

13 (a) a person; or

14 (b) a customer of the financial institution,

15 who is acting or who has acted for or on behalf of a person referred to in
16 subsection (4)(a) of this section.

17 PART V - MONEY LAUNDERING CONTROL MEASURES

18 **19.-(1)** A financial institution or designated non-financial business
19 and profession shall not establish a business relationship or conclude a
20 single transaction with a customer unless the financial institution or
21 designated non-financial business and profession has undertaken due
22 diligence-

Duty to identify
customers

23 (a) to establish and verify the identity of the customer;

24 (b) if the customer is acting on behalf of another person, to
25 establish and verify-

26 (i) the identity of that other person,

27 (ii) the customer's authority to establish the business relationship
28 or to conclude the single transaction on behalf of that other person, and

29 (iii) in the case of a body corporate, the identity of the beneficial
30 owner; and

1 (c) if another person is acting on behalf of the customer, to establish
2 and verify-

3 (i) the identity of that other person, and

4 (ii) that other person's authority to act on behalf of the customer.

5 (2) Where a financial institution or designated non-financial business
6 and profession had established a business relationship with a customer before
7 this Act took effect, the financial institution or designated non-financial
8 business and profession shall not conclude a transaction in the course of that
9 business relationship, unless the financial institution or designated non-
10 financial business and profession has undertaken due diligence-

11 (a) to establish and verify the identity of the customer;

12 (b) if another person acted on behalf of the customer in establishing
13 the business relationship, to establish and verify-

14 (i) the identity of that other person, and

15 (ii) that other person's authority to act on behalf of the customer;

16 (c) if the customer acted on behalf of another person in establishing
17 the business relationship, to establish and verify-

18 (i) the identity of that other person,

19 (ii) the customer's authority to act on behalf of that other person, and

20 (iii) in the case of a body corporate, the identity of the beneficial
21 owner; and

22 (d) to trace all accounts at that financial institution or designated non-
23 financial business and profession that are involved in transactions concluded in
24 the course of that business relationship.

25 (3) A financial institution or designated non-financial business and
26 profession commits an offence if it fails to comply with any provision of this
27 section and is liable on conviction to a fine of not less than twenty-five million
28 Naira.

29 (4) An officer of a financial institution or designated non-financial
30 business and profession who facilitates the commission of an offence under

1 subsection (3) of this section commits an offence and is liable on conviction
2 to a fine of not less than seven million Naira or imprisonment for a term of
3 not less than two years or to both the fine and imprisonment.

4 (5) In this section, "beneficial owner" has the meaning given to it
5 under the First Schedule to this Act.

6 **20.-(1)** A financial institution or designated non-financial business
7 and profession shall preserve and keep-

Record to be kept
of business
relationships and
transactions

8 (a) the record of a customer's identification and all of the measures
9 undertaken to establish the identification referred to in section 24 of this Act
10 for a period of at least ten years after the closure of the account or the
11 severance of relations with the customer; and

12 (b) the record and other related information of a transaction carried
13 out by a customer and the report provided for in sections 10, 17 or 18 of this
14 Act for a period of at least ten years after carrying out the transaction or
15 making of the report, as the case may be.

16 (2) The records referred to in subsection (1) of this section may be
17 kept in electronic form.

18 (3) A record kept under subsections (1) and (2) of this section, or a
19 certified extract of the record or printout of any extract of an electronic
20 record, is on its mere production in a matter before a court admissible as
21 evidence of any fact contained in it of which direct oral evidence would be
22 admissible.

23 (4) An officer of a financial institution or designated non-financial
24 business and profession who wilfully destroys any record required to be kept
25 by virtue of subsection (1) of this section or otherwise facilitates an offence
26 under this section commits an offence and is liable on conviction to a fine of
27 not less than seven million Naira or imprisonment for a term of not less than
28 two years or to both the fine and imprisonment.

29 (5) A financial institution or designated non-financial business and
30 profession commits an offence if it fails to comply with any provision of this

	1	section and is liable on conviction to a fine of not less than thirty million Naira.
Establishment and implementation of appropriate policies and procedures	2	21. -(1) A financial institution or designated non-financial business
	3	and profession shall devise and implement internal rules in relation to-
	4	(a) the verification of the identity of persons who must be identified
	5	by virtue of section 24 of this Act;
	6	(b) the information required to maintain a record required under
	7	section 25 of this Act;
	8	(c) the manner in which and the place at which the records may be
	9	kept;
	10	(d) the steps to be taken when a report under section 10 of this Act is
	11	required to ensure compliance under this Act; and
	12	(e) such other matters as may be prescribed by the Attorney-General
	13	in regulations made under section 52 of this Act.
	14	(2) Internal rules made under this section shall comply with
	15	regulations made under section 52 of this Act.
	16	(3) A financial institution or a designated non-financial business and
	17	profession shall make its internal rules available to each of its employees.
	18	(4) A financial institution or designated non-financial business and
	19	profession shall, on request, make a copy of its internal rules available to the-
	20	(a) appropriate supervisory authority;
	21	(b) appropriate self-regulatory organisation; or
	22	(c) Unit.
	23	(d) Commission.
	24	(5) A financial institution or designated non-financial business and
	25	profession commits an offence if it fails to comply with any provision of this
	26	section and is liable on conviction to a fine of not less than ten million Naira.
Enhanced customer due diligence	27	22. -(1) Whenever a financial institution or designated non-financial
	28	business and profession-
	29	(a) establishes a business relationship;
	30	(b) has an established relationship; or

1 (c) carries out an occasional transaction,
2 with or for a high risk customer, it shall apply appropriate enhanced due
3 diligence measures and enhanced ongoing monitoring.

4 (2) Whenever a report has been made under the provisions of
5 section 10 of this Act, the reporting institution concerned shall apply
6 appropriate enhanced due diligence measures and enhanced ongoing
7 monitoring of the subject of the report.

8 (3) For the purposes of this Act, a high risk customer includes-

9 (a) a customer who is not physically present for identification
10 purposes;

11 (b) a financial institution that has or proposes to have a
12 correspondent banking relationship with a bank outside Nigeria;

13 (c) a politically exposed person;

14 (d) a customer who has, will have, a business relationship, or who
15 carries out occasional transactions on behalf of a politically exposed person;

16 (e) a customer who has business relationships and conducts
17 transactions with countries that do not apply or insufficiently apply the
18 recommendations of the Financial Action Task Force;

19 (g) a customer whose business, which by its nature presents a
20 higher risk of money laundering; and

21 (f) a customer who has business relationships or is involved in
22 transactions with-

23 (i) non-resident customer,

24 (ii) private banking customers,

25 (iii) legal persons or asset holding vehicles, or

26 (iv) cross border transactions.

27 (4). A financial institution or designated non-financial business
28 and profession;

29 commits an offence if it fails to comply with any provision of this section

30 and is liable on conviction to a fine of not less than fifty million Naira.

1 (5). An officer of a financial institution or designated non-financial
2 business and profession who facilitates an offence under this sub section (4) of
3 this section commits an offence and is liable on conviction to a fine of not less
4 than seven million Naira or imprisonment for a term of not less than two years
5 or to both the fine and imprisonment.

6 (6) In this section, "politically exposed persons" means-

7 (a) individuals, not including middle- ranking or more junior
8 officials, who are or have been entrusted with prominent public functions,
9 including the following-

10 (i) heads of State, heads of Government, Ministers and deputy or
11 assistant Ministers;

12 (ii) Governors and Deputy Governors of States;

13 (iii) members of Parliaments, National and State Assemblies and
14 similar bodies;

15 (iv) Justices, Judges, members of Courts of Record;

16 (iv) members of the Board of the Central Bank of Nigeria;

17 (v) members of Boards of Extra Ministerial Departments and
18 Agencies of the Federal Government;

19 (vi) members of boards and management staff of Departments and
20 Agencies in States and local government within the country;

21 (vii) ambassadors and chargés d'affaires;

22 (viii) high-ranking officers in the armed forces and law enforcement
23 agencies, and

24 (ix) members of the administrative, management or supervisory
25 bodies of enterprises owned by national, State, or local governments;

26 (b) close family members of individuals referred to in paragraph (a) of
27 this subsection, including-

28 (i) a spouse,

29 (ii) a partner, or person considered by national law as equivalent to a
30 spouse,

- 1 (iii) children and their spouses or partners,
2 (iv) parents, and
3 (v) siblings; or
4 (c) persons known to be close associates of individuals referred to
5 in paragraph (a) of this subsection, including an individual who-
6 (i) is known to have joint beneficial ownership of a legal entity or
7 legal arrangement, or any other close business relations, with a politically
8 exposed person, and
9 (ii) has sole beneficial ownership of a legal entity or legal
10 arrangement which is known to have been set up for the benefit of a
11 politically exposed person.
- 12 **23.-(1)** A financial institution or designated non-financial business
13 and profession shall devise and deliver training to its employees to ensure
14 compliance with the provisions of this Act, applicable regulations and
15 internal rules..
- 16 (2) The designated officer shall be responsible for ensuring and
17 monitoring of compliance by the-
- 18 (a) employees of the financial institution or designated non-
19 financial business and profession with the provisions of this Act, applicable
20 regulations and internal rules; and
21 (b) financial institution or designated non-financial business and
22 profession with its obligations under this Act.
- 23 (3) A designated officer who fails to comply with this section
24 commits an offence and is liable on conviction to a fine of not less than seven
25 million Naira or imprisonment for a term of not less than two years or to both
26 the fine and imprisonment.
- 27 (4) A financial institution or designated non-financial business and
28 profession commits an offence if it fails to comply with any provision of this
29 section and is liable on conviction to a fine of not less than thirty million
30 Naira.

Training and
monitoring of
compliance

Referral for
non-compliance

1 **24.**-(1) Where, in the performance of its functions, the Unit has
2 reasonable grounds to suspect that a financial institution or designated non-
3 financial business and profession or any other person who is subject to this Act,
4 other than a supervisory authority, has contravened or failed to comply with
5 any provision of this Act or any guideline, rule or requirement that facilitates
6 compliance with this Act and which is applicable to that institution, business
7 and profession or employee, it may, if it considers it appropriate to do so, refer
8 the matter to a relevant-

9 (a) supervisory authority; or

10 (b) investigating authority,

11 together with any recommendation that is considered appropriate.

12 (2) The supervisory authority to which a referral of the type referred to
13 in subsection (1) of this section is made shall investigate the matter and after
14 consultation with the Unit take such action as is considered appropriate.

Numbered or
anonymous
accounts

15 **25.**-(1) A financial institution shall not open or maintain a numbered,
16 anonymous account or an account in a fictitious name.

17 (2) Where a person, who is known by more than one name, opens an
18 account with a financial institution, the account shall bear all of the names by
19 which the person is known.

20 (3) Where an account exists and it becomes apparent that the account
21 holder is known by more than one name, the account shall be amended to
22 include all of the names by which the account holder is known.

23 (4) Details of all accounts where the account holder is known by more
24 than one name shall be forwarded to the Unit.

25 (5) A financial institution commits an offence if it fails to comply
26 with any provision of this section and is liable on conviction to a fine of not less
27 than thirty million Naira.

28 (6) An officer of a financial institution who facilitates the commission
29 of an offence under subsection (5) of this section commits an offence and is
30 liable on conviction to a fine of not less than seven million Naira or

1 imprisonment for a term of not less than two years or to both the fine and
2 imprisonment.

3 **26.-(1)** A person commits an offence if he-

Opening of
account in fictitious
names

4 (a) opens an account at a financial institution in a fictitious name;

5 (b) makes a false or misleading document with the intention of
6 producing it in order to support an application to open an account at a
7 financial institution in a fictitious name;

8 (c) has in his possession a false or misleading document with the
9 intention of producing it in order to support an application to open an
10 account at a financial institution in a fictitious name; or

11 (d) produces a false or misleading document in support of an
12 application to open an account at a financial institution.

13 (2) A financial institution commits an offence if it opens an account
14 or provides financial services to a person-

15 (a) using a fictitious name; or

16 (b) to assure customer anonymity.

17 (3) For the purpose of this section-

18 (a) "opening an account" includes a single transaction where
19 verification of identity by virtue of section 24 of this Act is required;

20 (b) "false or misleading" means that it is false or misleading in any
21 material particular and is intended to deceive;

22 (c) "financial services" includes, the-

23 (i) transfer of any funds whatsoever,

24 (ii) exchange of any foreign currency into Naira,

25 (iii) exchange of Naira into any foreign currency,

26 (iv) creation or management of any trust,

27 (v) purchase of any security, option, contract, bond, currency or
28 derivative,

29 (vi) purchase of any property or high value item,

30 (vii) provision of depository or safe custody services, and

1 (viii) provision of gambling or gaming services.

2 (4) A person who commits an offence under subsection (1) of this
3 section is liable on conviction to a fine of not less than seven million Naira or
4 imprisonment for a term of not less than two years or to both the fine and
5 imprisonment.

6 (5) A financial institution that commits an offence under subsection
7 (2) of this section is liable to a fine of not less than thirty million Naira and
8 withdrawal of its licence to operate.

9 (6) An officer of a financial institution who facilitates an offence
10 under subsection (2) of this section commits an offence and is liable on
11 conviction to a fine of not less than seven million Naira or imprisonment for a
12 term of not less than two years or to both the fine and imprisonment.

Shell banks

13 **27.-(1)** A person shall not establish or operate a shell bank in Nigeria.

14 (2) A financial institution shall not enter into a correspondent banking
15 relationship with-

16 (a) a shell bank; or

17 (b) another financial institution that has a correspondent banking
18 relationship with a shell bank.

19 (3) Where a financial institution becomes aware that it has entered
20 into a correspondent banking relationship with-

21 (a) a shell bank; or

22 (b) another financial institution that has a correspondent banking
23 relationship with a shell bank,

24 the financial institution shall, within fourteen days after becoming aware of the
25 relationship terminate the relationship.

26 (4) A financial institution that becomes aware that it has entered into a
27 relationship described in subsection (2) of this section shall immediately
28 inform the Unit.

29 (5) A financial institution that-

1 (a) knowingly enters into a relationship described in subsection (2)
2 of this section;

3 (b) having become aware that it has entered into a correspondent
4 banking relationship as described in subsection (3) of this section fails to
5 terminate the relationship within the period described in that subsection, or

6 (c) fails to inform the Unit, as required by subsection(4) of this
7 section;

8 commits an offence and is liable on conviction to a fine of not less than one
9 hundred million Naira and withdrawal of its licence to operate.

10 (6) An officer of a financial institution who facilitates an offence
11 under subsection (5) of this section commits an offence and is liable on
12 conviction to a fine of not less than ten million Naira or imprisonment for a
13 term of not less than two years or to both the fine and imprisonment.

14 (7) A person who establishes or operates a shell bank as mentioned
15 in subsection (1) of this section commits an offence and is liable on
16 conviction to a fine of not less than ten million Naira or imprisonment for a
17 term of not less than two years or to both the fine and imprisonment.

18 PART VI - SUPERVISION OF BANKS AND OTHER FINANCIAL
19 INSTITUTIONS

20 **28.-(1)** The following bodies are the supervisory authorities for the Supervisory
21 purposes of this Act- responsibilities

22 (a) the Central Bank of Nigeria is the supervisory authority for
23 banks and other financial institutions;

24 (b) the Securities and Exchange Commission is the supervisory
25 authority for-

26 (i) securities, commodity exchanges and capital trade points,

27 (ii) futures, options and derivatives exchanges,

28 (iii) depository, clearing and settlement agencies,

29 (iv) capital market operators, experts or consultants, and

30 (v) collective investment schemes;

	1	(c) the National Insurance Commission is the supervisory authority
	2	for-
	3	(i) insurance companies;
	4	(ii) reinsurance companies;
	5	(iii) insurance brokers;
	6	(iv) agents registered with the National Insurance Commission; and
	7	(v) loss adjusters
	8	(2) For the purpose of subsection (1)(a) of this section, "banks and
	9	other financial institutions" has the meaning given to it under the Banks and
	10	Other Financial Institutions Act.
Role of the supervisory authorities	11	29. A supervisory authority shall-
	12	(a) monitor a financial institution for whom it is the supervisory
	13	authority and take necessary measures for the purpose of securing compliance
	14	by that institution with the requirements of this Act and applicable regulations,
	15	internal rules and guidelines;
	16	(b) where appropriate, maintain a register of all the institutions they
	17	supervise; and
	18	(c) enforce the provisions of Part V of this Act and apply sanctions
	19	where necessary and appropriate.
	20	PART VII - SUPERVISION OF DESIGNATED NON FINANCIAL BUSINESSES
	21	AND PROFESSIONS
Establishment of the Special Control Unit against Money Laundering	22	30.-(1) There is established a department under the Economic and
	23	Financial crimes Commission to be known as the Special Control Unit Against
	24	Money Laundering (in this Act referred to as "the SCUML") which shall be
	25	responsible for the supervision of designated non-financial businesses and
	26	professions in their compliance with the provisions of this Act and applicable
	27	regulations.
Functions of the SCUML	28	31. The functions of SCUML are to-
	29	(a) Register and certify designated non-financial businesses and

1 professions in accordance with the provisions of this Act and relevant
2 regulations;

3 (b) Monitor and supervise Designated Non-financial Businesses
4 and Professions in accordance with the provisions of this Act and relevant
5 regulations;

6 (c) Take necessary enforcement actions to ensure compliance with
7 this Act and relevant regulations;

8 (d) To conduct off-site, on-site, and on the spot checks, inspection
9 of designated non-financial businesses and professions for the purposes of
10 money laundering control and supervision;

11 (e) To Establish and maintain a comprehensive database of
12 designated non-financial businesses and professions;

13 (f) Sensitize designated businesses and professions regarding their
14 responsibilities under this Act; and

15 (g) Any other function necessary to fulfil its responsibilities under
16 this Act or any other relevant laws and regulations.

17 PART VIII - JURISDICTION AND ADMINISTRATIVE PENALTIES

18 **32.-(1)** The Federal High Court (in this Act referred to as "the
19 Court") located in any part of Nigeria regardless of the location where the
20 offence is committed shall have jurisdiction to-

Jurisdiction to try
offences under
this Act

21 (a) try offences under this Act or any other related enactment; and

22 (b) hear and determine proceedings arising under this Act.

23 (2) The Court shall exercise jurisdiction under subsection (1) of
24 this section whether or not the offence was commenced in Nigeria and
25 completed outside Nigeria and the alleged offender is-

26 (a) in Nigeria;

27 (b) on a ship, vessel or aircraft registered in Nigeria;

28 (c) dealing with or on behalf of the Government of Nigeria, or a
29 citizen of Nigeria or an entity registered in Nigeria;

30 (d) outside Nigeria where the alleged offender is in Nigeria and not

1 extradited to any other country for prosecution; or

2 (e) a citizen of outside Nigeria, if the his conduct would constitute an
3 offence in Nigeria and under a law of the country where the offence was
4 committed.

5 (3) The Federal High Court has jurisdiction to impose any penalty
6 provided for an offence under this Act or any other related law.

7 (4) In a trial for an offence under this Act, the Court may,
8 notwithstanding anything to the contrary in any other enactment, adopt all
9 legal measures to avoid unnecessary delays and abuse in the conduct of
10 matters.

11 (5) Subject to the provisions of the Constitution, an application for
12 stay of proceedings or for an interlocutory injunction in respect of any matter
13 brought under this Act shall not be entertained by the Court but shall be stayed
14 until judgment in the matter is delivered by the Court.

15 (6) In any trial an offence under this act, the fact that an accused
16 person is in possession of pecuniary resources or property for which he cannot
17 satisfactorily account and which is disproportionate to his known sources of
18 income, of that he had at or about the time of the alleged offence obtained an
19 accreditation to his pecuniary resources or property for which he cannot
20 satisfactorily account, my be proved and taken into consideration by the Court
21 as corroborating the testimony of any witness in the trial.

Administrative
penalties

22 **33.-(1)** Supervisory authorities may impose on-

23 (a) a financial institution;

24 (b) designated non-financial business and profession;

25 (c) self-regulatory organisation; or

26 (d) any officer of a financial institution or designated non-financial
27 business and profession,

28 for any breach of any requirement of this Act, such administrative sanctions as
29 may be prescribed in the regulations made pursuant to section 52 of this Act.

30 (2) Any penalty imposed by a supervisory authority by virtue of

1 subsection (1) of this section shall take precedence over and is not limited by
2 any other sanction that may be imposed under any other enactment or
3 regulation.

4 (3) A person may appeal against a decision made or sanction
5 imposed by a supervisory authority to the independent Review Panel
6 established by regulations made under section 52 of this Act.

7 PART IX - MISCELLANEOUS

8 34.-(1) Within two years of the coming into force of this Act and
9 every two years after that, the Attorney-General shall cause to be prepared,
10 for submission to the President, a Nigerian Money Laundering Strategy
11 Report (in this section referred to as "the Report") which shall contain
12 contributions from all relevant law enforcement agencies and competent
13 authorities.

Periodic furnishing
of reports on money
laundering, etc.

14 (2) The Report shall provide details of-

15 (a) the number of currency transactions and activities undertaken
16 during the period;

17 (b) convictions made for-

18 (i) money laundering offences, and

19 (ii) financing of terrorism;

20 (c) areas of high risk concerns encountered;

21 (d) amounts of moneys frozen, restrained or confiscated-

22 (i) for trafficking in drugs,

23 (ii) corruption, and

24 (iii) other criminal activities.

25 (3) The Report shall also include further plans to-

26 (a) substantially reduce the extent of money laundering in Nigeria;

27 (b) develop a better coordinated response to money laundering;

28 (c) implement mechanisms to improve the discovery,
29 investigation and prosecution of money laundering offences;

30 (d) improve coordination between Financial Institutions and

	1	Designated Non- Financial businesses and Professions; and
	2	(e) improve on inter- law enforcement cooperation.
Extradition	3	35. -(1) Offences under this Act are considered to be extraditable
	4	offences for which extradition may be requested, granted or obtained under the
	5	Extradition Act.
	6	(2) Notwithstanding the provisions of subsection (1) of this section, a
	7	person shall not be extradited pursuant to this Act, where the Government has
	8	substantial grounds for believing that a request for extradition for an offence
	9	has been made for the purpose of prosecuting or punishing a person on account
	10	of that person's race, religion, nationality, ethnic origin or political opinion or
	11	that compliance with the request would cause prejudice to that person's
	12	position for any of these reasons.
Regulations	13	36. -(1) The Attorney-General may make regulations, orders, rules or
	14	guidelines for:
	15	(a) the method of compliance with directives issued by relevant
	16	international institutions on money laundering and terrorism financing
	17	counter-measures;
	18	(b) the procedure for the prosecution of all money laundering cases in
	19	line with international human rights standards.
Repeals and other consequential amendments	20	37. -(1) The Money Laundering (Prohibition) Act, 2011 (as amended)
	21	is repealed.
	22	(2) Section 12 of the Foreign Exchange (Monitoring and
	23	Miscellaneous Provisions) Act, 1995 is repealed.
	24	(3) Without prejudice to section 6 of the Interpretation Act, the repeal
	25	of the Act specified in subsection (1) of this section, and the section specified
	26	under section (2) of this section shall not affect anything done under or
	27	pursuant to the Act.
	28	(4) All regulations, orders, reports, ongoing investigations,
	29	prosecutions and other proceedings, actions taken and things done under the

1 repealed Act shall continue and have effect as if made, issued, carried on,
2 taken or done under this Act.

3 (5) Any conduct or activity which was a criminal conduct or
4 activity under the repealed Act shall constitute a criminal conduct or activity
5 in respect of which the provisions of this Act shall apply.

6 **38.** In this Act, unless the context otherwise requires-

Interpretation

7 "account" means a facility or financial arrangement-

8 (a) that accepts deposits of currency, including those made by way
9 of a payment order, whether or not those payments are made physically or by
10 way of transfer;

11 (b) that allows withdrawals of currency out of the account,
12 including those made by way of a payment order, whether or not those
13 payments are made physically or by way of transfer;

14 (c) that supplies a facility or an arrangement for a safe deposit box;

15 (d) whereby credit is made available, including a credit card, a
16 loan, secured or otherwise, an overdraft or any other arrangement,
17 and includes any account whether or not it has a nil balance, or any
18 transactions have been allowed on the account;

19 "account holder" includes the person whose name is on the account and
20 includes all persons designated and authorized to transact business on behalf
21 of an account;

22 "adoptive sibling" include adopted siblings that are legally adopted by both
23 legal parents, adopted siblings that are adopted by only the legal mother only
24 and adopted siblings that are legally adopted by legal father only;

25 "affluent individual" means an a person who has liquid assets of the
26 equivalent of more than one hundred thousand United States of America
27 dollars available for investment;

28 "authorized person" means-

29 "appropriate body" or "appropriate authority" is a body or authority that

- 1 regulates or is representative of a trade, profession, business or employment;
- 2 "Attorney-General" means Attorney-General of the Federation and Minister of
3 Justice;
- 4 "auditor" means any firm or individual who is qualified to, and responsible for
5 evaluating and checking the accuracy, validity and reliability of the financial
6 statements of a company or an organisation;
- 7 "bank" has the meaning given to it in the Banks and Other Financial Institutions
8 Act;
- 9 "beneficial owner" has the meaning given to it in the First Schedule to this
10 Act;
- 11 "Board" means the Board established for the Bureau under sections 36 of this
12 Act;
- 13 "business" includes a venture or concern in trade or commerce, whether or not
14 conducted on a regular, repetitive or continuous basis;
- 15 "business relationship" means a business, professional or commercial
16 relationship between a financial institution or designated non-financial
17 business and profession and a customer, which is expected, at the time when
18 contact is established, to have an element of duration;
- 19 "cash" means money in the form of notes, coins or travellers' cheques in any
20 currency;
- 21 "casino" means a building or large room used for meetings, entertainment,
22 gambling or dancing and equipped with gambling devices, gambling tables,
23 etc. and the casino owner is a holder of a casino operating licence;
- 24 "competent authority" means any agency or institution concerned with
25 combating money laundering and terrorist financing under this Act or under
26 any other law or regulations;
- 27 "Commission" means Economic and Financial Crimes Commission.
- 28 "correspondent banking" means the provision of banking services by one bank
29 (the "correspondent bank") to another bank (the "respondent bank");
- 30 "criminal enterprise" means participation, either solely or jointly with others,

- 1 in any act mentioned in section 14 of this Act;
- 2 "customer" means-
- 3 (a) the person for whom an account or right or obligation under a
- 4 transaction has been assigned or transferred;
- 5 (b) a person who is authorised to conduct a transaction or control an
- 6 account;
- 7 (c) a person who attempts to take any of the actions referred to in
- 8 paragraph (a) or (b); and
- 9 (d) such other persons as may be prescribed by regulations made
- 10 under this Act;
- 11 "currency" means the coin and paper money of Nigeria or of a foreign
- 12 country that is designated as legal tender or is customarily used and accepted
- 13 as a medium of exchange;
- 14 "data" means a representation of information, knowledge, facts or concepts;
- 15 "designated account" means an account designated by the President on the
- 16 recommendation of the Minister of Finance or by an act of the National
- 17 Assembly for the receipts of proceeds of crime, confiscated and forfeited
- 18 assets;
- 19 "designated agency" means anybody, agency, authority or institution
- 20 established by an Act of the National Assembly for the purpose of the
- 21 recovery and management of proceeds of crime;
- 22 "designated non-financial businesses and professions" include-
- 23 (a) automotive dealers;
- 24 (b) businesses involved in the hospitality industry;
- 25 (c) casinos;
- 26 (d) clearing and settlement companies;
- 27 (e) company service providers, who provide services to third
- 28 parties;
- 29 (f) consultants and consulting companies;
- 30 (g) dealers in luxury items;

- 1 (h) dealers in mechanized farming equipment, farming equipment
2 and machineries;
- 3 (i) dealers in precious metals and precious stones;
- 4 (j) dealers in real estate, estate developers, estate agents and brokers;
- 5 (k) high value dealers;
- 6 (l) hotels;
- 7 (m) law firms and notaries;
- 8 (n) licensed professional accountants;
- 9 (o) mortgage brokers;
- 10 (p) non-profit organisations;
- 11 (q) practitioners of mechanized farming;
- 12 (r) religious and charitable organisations;
- 13 (s) supermarkets;
- 14 (t) tax consultants;
- 15 (u) trust and company service providers;
- 16 (v) pools betting; or
- 17 (w) dealers in precious stones and metals, dealers in real estate, estate
18 developers, estate agents and brokers, hospital industry, consultants and
19 consulting companies, construction companies, importers and dealers in cars
20 or any other automobiles, dealers in mechanized farming equipment and
21 machineries, practitioners of mechanized farming, mortgage brokers, non-
22 governmental organisations and other businesses and professions as may be
23 designated in a regulation by the Minister responsible for Trade and
24 Investment;
- 25 "designated officer" means-
- 26 "estate agent" means a firm or sole practitioner who, or whose employees,
27 carry out estate agency work when in the course of carrying out such work, but
28 a person is not acting as an estate agent where he acts-
- 29 (a) pursuant to instructions received by him in the course of his
30 employment in relation to an interest in land where his employer is the person

- 1 who, on his own behalf, wishes to dispose of or acquire that interest; or
- 2 (b) in relation to any interest in any property where the property is
- 3 subject to a mortgage and he is the receiver of the income of it;
- 4 "estate agency work" means things done by any person in the course of a
- 5 business (including a business in which he is employed) pursuant to
- 6 instructions received from another person (in this definition referred to as
- 7 "the client") who wishes to dispose of or acquire an interest in land-
- 8 (a) for the purpose of, or with a view to, effecting the introduction
- 9 to the client of a third person who wishes to acquire or, as the case may be,
- 10 dispose of the interest; and
- 11 (b) after effecting the introduction, for the purpose of securing the
- 12 disposal or, as the case may be, the acquisition of that interest,
- 13 but does not include things done in the course of carrying out any survey or
- 14 valuation pursuant to a contract which is distinct from that under which
- 15 other things falling under paragraphs (a) and (b) of this definition;
- 16 "entity" means a person, group, trust, partnership, fund or any other
- 17 association or organisation, whether corporate or unincorporated or
- 18 partnership, for the purpose of providing a product or service either for
- 19 profit or non-profit;
- 20 "false declaration" refers to a misrepresentation of-
- 21 (a) the value of the currency or bearer negotiable instrument being
- 22 transported; and
- 23 (b) other relevant data required for submission in the declaration or
- 24 otherwise requested by the authorities;
- 25 "Financial Action Task Force" means the inter-governmental body created
- 26 in 1989 under the aegis of the European Union G7 to generate the necessary
- 27 political will to bring about legislative and regulatory reforms for the
- 28 development and promotion of national and international policies to combat
- 29 money laundering and terrorism financing;
- 30 "financial institution" means an undertaking, including a money service

1 business, when it carries out one or more of the activities listed in Schedule 2 to
2 this Act other than-

3 (a) an undertaking whose only listed activity is trading for its own
4 account in-

5 (i) money market instruments,

6 (ii) foreign exchange,

7 (iii) financial futures and options,

8 (iv) exchange and interest rate instruments, or

9 (v) transferable securities where the undertaking does not have a
10 customer, (and, for this purpose, "customer" means a third party which is not a
11 member of the same group as the undertaking);

12 (b) an insurance company whose products are limited to -

13 (i) a life insurance contract where the annual premium is no more than
14 the equivalent of US \$1,000 or where a single premium of no more than the
15 equivalent of US \$2,500 is paid, or

16 (ii) an insurance contract for the purpose of a pension scheme where
17 the contract contains no surrender clause and cannot be used as collateral; or

18 (c) a collective investment undertaking when marketing or otherwise
19 offering its units or shares;

20 "firm" means any entity, whether or not a legal person, that is not an individual
21 and includes a body corporate and a partnership or other unincorporated
22 association;

23 "funds" refers to assets of every kind whether tangible or intangible, movable
24 or immovable, however acquired, and legal documents or instruments in any
25 form, including electronic or digital, evidencing title to or interest in such
26 assets, including but not limited to bank credits, travellers cheques, bank
27 cheques, money orders, shares, securities, bonds, drafts or letters of credit;

28 "high net-worth individual" means an individual who has in excess of the
29 equivalent of one million United States of America dollars of liquid assets
30 available for investment;

- 1 "high risk customer" has the meaning given to it in section 27 (1) of this Act;
- 2 "high value dealer" means a firm or sole trader, including an auctioneer, who
- 3 by way of business trades in goods when he receives, in respect of any
- 4 transaction, a payment or payments in cash of the equivalent of at least US
- 5 \$15,000 in total, whether the transaction is executed in a single operation or
- 6 in several operations which appear to be linked;
- 7 "immediate stop" means to on the spot halt the transfer, conversion,
- 8 disposal, alteration, use of or dealing with funds in any way that would result
- 9 in change of volume, amount or location, ownership or possession,
- 10 character, destination or movement of fund or other assets;
- 11 "justifiable reason" means any reason, explanation or excuse acceptable to
- 12 the court for the doing, failure or omission to do an act under this Act;
- 13 "liquid asset" means an asset that can be converted into cash in a short time
- 14 with little or no loss in value;
- 15 "Minister" under Part VII of this Act means the Minister responsible for
- 16 Trade and Investment;
- 17 "Money laundering" is an act which-
- 18 (a) constitutes an offence under section 3, 4 or 5 of this Act;
- 19 (b) constitutes an attempt, conspiracy or incitement to commit an
- 20 offence specified in paragraph (a) of this subsection;
- 21 (c) constitutes aiding, abetting, counselling or procuring the
- 22 commission of an offence specified in paragraph (a) of this subsection; or
- 23 (d) if done outside Nigeria, would constitute an offence specified
- 24 in paragraphs (a), (b) or (c) of this subsection, if done in Nigeria.
- 25 "negotiable instrument" means a document contemplated by or consisting
- 26 of a contract that may be transferred to a third-party and, which
- 27 unconditionally promises the payment of money, either on demand or at a
- 28 future date, without condition to the holder of the document;
- 29 "occasional transaction" means a transaction, carried out other than as part
- 30 of a business relationship, amounting to the equivalent of US \$15,000 or

1 more, whether the transaction is carried out in a single operation or several
2 operations which appear to be linked;

3 "person at risk of prosecution" means the person who is under obligation to
4 make a report under this Act and liable to be prosecuted where he fails to do so;

5 "precious metal" include-

6 (a) gold;

7 (b) silver;

8 (c) platinum;

9 (d) palladium;

10 (e) iridium;

11 (f) osmium;

12 (g) rhodium;

13 (h) any alloy or other compound containing-

14 (i) gold,

15 (ii) silver,

16 (iii) platinum,

17 (iv) palladium,

18 (v) iridium,

19 (vi) osmium,

20 (vii) rhodium, or

21 (viii) a metal specified in the regulations; or

22 (i) any other metal, alloy or compound that may be specified by the
23 Attorney-General in regulations;

24 "predicate offences" include all unlawful activities as defined under this Act;

25 "private banking customers" means affluent or high net-worth individuals who
26 are offered banking services that assist them to manage their assets through
27 investments and related services in exchange for commissions and fees;

28 "private legal practitioner" means a firm or sole practitioner who by way of
29 business provides legal or notarial services to other persons, when that
30 practitioner is participating in financial transactions or real property

- 1 transactions, including, the-
- 2 (a) buying and selling of real property or business entities;
- 3 (b) managing of client money, securities or other assets;
- 4 (c) opening or management of bank, savings or securities accounts;
- 5 (d) organisation of contributions necessary for the creation,
- 6 operation or management of companies; and
- 7 (e) creation, operation or management of trusts, companies or
- 8 similar structures,
- 9 and a person participates in a financial or real property transaction by
- 10 assisting in the planning or execution of the transaction or otherwise acting
- 11 for or on behalf of a client in the transaction;
- 12 "proceeds of an offence" means property-
- 13 (a) wholly derived or realised, whether directly or indirectly, from
- 14 the commission of the offence, or
- 15 (b) partly derived or realised, whether directly or indirectly, from
- 16 the commission of an offence,
- 17 whether the property is situated within or outside Nigeria; or whether or not
- 18 a person has been convicted of the offence;
- 19 "property" means assets of every kind, whether corporeal or incorporeal,
- 20 moveable or immoveable, tangible or intangible and legal documents or
- 21 instruments evidencing title to or interest in such assets;
- 22 "property of a criminal origin" has the meaning given to it in section 15 of
- 23 this Act;
- 24 "recommendations of the Financial Action Task Force" means counter-
- 25 measures against money laundering and terrorism financing proposed by
- 26 the Financial Action Task Force for the criminal justice system and law
- 27 enforcement, the financial system and its regulation, and international
- 28 cooperation;
- 29 "relevant agencies" includes the-
- 30 (a) Code of Conduct Bureau;

- 1 (b) Economic and Financial Crimes Commission;
2 (c) National Drug Law Enforcement Agency;
3 (d) Nigeria Police Force;
4 (e) Nigeria Customs Service;
5 (f) Department of State Security;
6 (g) Independent Corrupt Practices and other Related Offences
7 Commission;
8 (h) Federal Inland Revenue Service;
9 (i) National Agency for the Prohibition of Traffic in Persons;
10 (j) Nigeria Immigration Service; and
11 (k) any other law enforcement, regulatory or security agency that may
12 be specified by the Attorney - General in regulations;
13 "relevant officer" means-
14 "report" means an account or statement describing in details, an event,
15 situation, suspicious or unusual transaction or the like, usually as the result of
16 observation or inquiry made pursuant to the provisions of this Act or any other
17 relevant law or regulations;
18 "self-regulatory body" means a body that-
19 (a) represents a profession and which is made up of members of that
20 profession; and
21 (b) has a role in regulating the persons that are qualified to enter and
22 who practice in the profession, and
23 (c) performs supervisory or monitoring functions over its members;
24 "shell bank" means a bank that is not physically present in the country in which
25 it is incorporated and licensed and which is unaffiliated with a regulated
26 financial group that is subject to effective consolidated supervision and
27 "physical presence" in relation to shell banks, means having structure and
28 management located within a country and not merely the existence of a local
29 agent or low level staff;
30 "sibling" means one of two or more individuals who have one or both parents in

- 1 common and includes adoptive siblings;
- 2 "supervisory authorities" has the same meaning applicable to it in this Act
- 3 and regulations made pursuant to the Act;
- 4 "suspicious" means a matter which is beyond mere speculations and based
- 5 on some foundation;
- 6 "suspicious transaction" means a transaction that falls within a description
- 7 of transactions in section 6 of this Act;
- 8 "terrorism" and "terrorism financing" have the respective meanings
- 9 ascribed to them under the Terrorism (Prevention and Prohibition) Act;
- 10 "transaction" means an agreement between two or more parties to enter into
- 11 a relationship that involves the exchange of items of value, either on a one-
- 12 off basis or on an ongoing basis and includes any purchase, sale, loan, gift,
- 13 transfer, deposit into, withdrawal from or transfer between accounts,
- 14 exchange of currency, loan, extension of credit, purchase or sale of any
- 15 stock, bond, certificate of deposit, or other monetary instrument, trading in
- 16 any commodity, or product, use of a safe deposit box, or any other payment,
- 17 transfer, or delivery by, through, or to a financial institution or designated
- 18 non-financial business and profession, by whatever means effected;
- 19 "trust and company service provider" means a firm or sole practitioner who
- 20 by way of business provides any of the following services to other persons-
- 21 (a) forming companies or other legal entities;
- 22 (b) acting, or arranging for another person to act-
- 23 (i) as a director or secretary of a company,
- 24 (ii) as a partner of a partnership, or
- 25 (iii) in a similar position in relation to other legal persons;
- 26 (c) providing a registered office, business address, correspondence
- 27 or administrative address or other related services for a company,
- 28 partnership or any other legal person or arrangement; or
- 29 (d) acting, or arranging for another person to act, as-
- 30 (i) a trustee of an express trust or similar legal arrangement, or

Short title

1 (ii) a nominee shareholder for a person other than a company whose
2 securities are listed on a regulated market, when providing such services;
3 "Unit" means the Nigerian Financial Intelligence Unit established under the
4 Nigerian Financial Intelligence Unit Act, 2018;

5 **39.** This Bill may be cited as the Money Laundering (Prevention and
6 Prohibition) Bill, 2021.

7 SCHEDULES

8 FIRST SCHEDULE

9 (Sections 24 and 55)

10 MEANING OF BENEFICIAL OWNER

11 (1) "Beneficial owner" means, in the case of-

12 (a) a body corporate-

13 (i) any individual as respects anybody other than a company whose
14 securities are listed on a regulated market, ultimately owns or controls, whether
15 through direct or indirect ownership or control, including through bearer share
16 holdings, more than 25% of the shares or voting rights in the body, or

17 (ii) as it relates to anybody corporate, otherwise exercises control
18 over the management of the body;

19 (b) a partnership, any individual who-

20 (i) ultimately is entitled to or controls, whether the entitlement or
21 control is direct or indirect, more than a 25% share of the capital or profits of the
22 partnership or more than 25% of the voting rights in the partnership, or

23 (ii) otherwise exercises control over the management of the
24 partnership; and

25 (c) a trust-

26 (i) any individual who is entitled to a specified interest in at least 25%
27 of the capital of the trust property,

28 (ii) as it relates to any trust other than one which is set up or operates
29 entirely for the benefit of individuals falling within sub-paragraph (a) of this

1 sub-paragraph , the class of persons in whose main interest the trust is set up
2 or operates; or

3 (d) any individual who has control over the trust.

4 (2) In paragraph (1) (c) of this Schedule-

5 (a) "specified interest" means a vested interest which is-

6 (i) in possession or in remainder or reversion, and

7 (ii) defeasible or indefeasible;

8 (b) "control" means a power (whether exercisable alone, jointly
9 with another person or with the consent of another person) under the trust
10 instrument or by law to-

11 (i) dispose of, advance, lend, invest, pay or apply trust property,

12 (ii) vary the trust,

13 (iii) add or remove a person as a beneficiary or to or from a class of
14 beneficiaries,

15 (iv) appoint or remove trustees, or

16 (v) direct, withhold consent to or veto the exercise of a power such
17 as is referred to in sub-paragraph (b) (i) to (iv) of this paragraph.

18 (3) For the purposes of paragraph (2) of this Schedule, where an
19 individual is the beneficial owner of a body corporate which is entitled to a
20 specified interest in the capital of the trust property or which has control over
21 the trust, the individual is to be regarded as entitled to the interest or having
22 control over the trust.

23 (4) In the case of a legal entity or legal arrangement that does not
24 fall within paragraph (1) of this Schedule, "beneficial owner" means-

25 (a) where the individuals who benefit from the entity or
26 arrangement have been determined, any individual who benefits from at
27 least 25% of the property of the entity or arrangement;

28 (b) where the individuals who benefit from the entity or
29 arrangement have yet to be determined, the class of persons in whose main
30 interest the entity or arrangement is set up or operates; or

1 (c) any individual who exercises control over at least 25% of the
2 property of the entity or arrangement.

3 (5) For the purposes of paragraph (4) of this Schedule, where an
4 individual is the beneficial owner of a body corporate, which benefits from or
5 exercises control over the property of the entity or arrangement, the individual
6 is to be regarded as benefiting from or exercising control over the property of
7 the entity or arrangement.

8 (6) In the case of an estate of a deceased person in the course of
9 administration, "beneficial owner" means the executor, original or by
10 representation, or administrator for the time being of a deceased person.

11 (7) In any other case, "beneficial owner" means the individual who
12 ultimately owns or controls the customer or on whose behalf a transaction is
13 being conducted.

14 (8) In this Schedule, "arrangement", "entity" and "trust" mean an
15 arrangement, entity or trust that administers and distributes funds.

16 SECOND SCHEDULE

17 (Section 18)

18 MONEY SERVICE BUSINESS

19 Money service businesses include businesses that undertake-

20 (a) lending including, consumer credit, mortgage credit, factoring,
21 with or without recourse, financing of commercial transactions, including
22 forfeiting;

23 (b) financial leasing;

24 (c) money transmission services;

25 (d) issuing and administering means of payment, including debit
26 cards, credit cards, travellers' cheques and bankers' drafts;

27 (e) guarantees and commitments;

28 (f) trading for own account or for account of customers in financial
29 instruments and products, including-

30 (i) money market instruments,

-
- 1 (ii) foreign exchange,
2 (iii) financial futures and options,
3 (iv) exchange and interest-rate instruments,
4 (v) transferable securities, or
5 (vi) currencies in any form;
6 (g) a role in the issuance of securities and the provision of services
7 related to such issues;
8 (h) the giving of advice to undertakings on capital structure,
9 industrial strategy and related questions and advice as well as services
10 relating to mergers and the purchase of undertakings;
11 (i) money broking;
12 (j) portfolio management and advice;
13 (k) safekeeping and administration of securities; and
14 (l) safe custody services; and
15 (m) any other type of business that may be designated as a money
16 service business by the Attorney - General in regulations.

EXPLANATORY MEMORANDUM

*(This Memorandum does not form part of this Act but is intended
to explain its purport)*

This Bill seeks to provides for the repeal of the Money Laundering (Prohibition) Act 2011 (as amended) to make comprehensive provisions to prohibit the laundering of the criminal activities, expand the scope of money laundering offences, provide protection for employees of various institutions, bodies and professions who may discover money laundering, enhance customer due diligence, provide appropriate penalties and expand the scope of supervisory bodies whilst recognising the role of certain self-regulatory organisations to address the challenges faced in the implementation of a comprehensive anti-money laundering regime in Nigeria and establishes the Special Control Unit Against Money Laundering for the regulation of Designated Non-Financial businesses and Professions.

PROCEEDS OF CRIME (RECOVERY AND MANAGEMENT) BILL, 2021

ARRANGEMENT OF SECTIONS

PART I - OBJECTIVE AND APPLICATION

1. Objectives
2. Application

PART II - PROCEEDS OF CRIME (MANAGEMENT) DIRECTORATE

3. Establishment and Functions of the Proceeds of Crime (Management) Directorate in the Relevant Organisation
4. Powers of the Relevant Organisation
5. Roles of the Directorate in the Process of Management of Forfeited Properties

PART III - RELATIONSHIP BETWEEN THE RELEVANT ORGANISATION
AND OTHER ENTITIES

6. Co-operation with relevant organization and other entities

PART IV - NON-CONVICTION BASED RECOVERY OF THE
PROCEEDS OF CRIME

7. Application of this Part
8. Nature of proceedings under this Part
9. Preservation order
10. Notice of preservation order
11. Duration of a preservation order
12. Renewal of a preservation order
13. Disposal of property subject to preservation order
14. Appointment of asset manager for property subject to a preservation order
15. Orders in respect of immovable property subject to a preservation order
16. Variation and rescission of orders
17. Application for forfeiture order
18. Service of notice out of time

19. Making of a forfeiture order
20. Protection of third parties
21. Effect of appeals on preservation or other ancillary orders
22. Effect of forfeiture order
23. Fulfillment of forfeiture order
24. Unlawful activities or conduct forming the basis of multiple orders
25. Application of this Part to deceased estates
26. Effect of death of joint owner of property under a preservation order

PART V - RECOVERY OF IMPORTED OR EXPORTED CASH

27. Seizure and detention of imported and exported cash
28. Detention of seized cash
29. Interest to be paid on seized cash
30. Release of detained cash
31. Application for forfeiture of seized or detained cash
32. Appeals
33. Other owners or claimants

PART VI - CONFISCATION OF PROCEEDS OF CRIME

34. Objectives of this Part
35. Application of this Part
36. Application for restraint order
37. Purposes of restraint order
38. Property subject to a restraint order
39. Affidavit in support of a restraint order
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41. Registration of restraint orders
42. Setting aside a disposition contravening a restraint order
43. Contravening restraint orders
44. Seizure of property covered by a restraint order
45. Exclusion of specific property under a restraint order
46. Application for distress order subject to leave of Court

47. Cessation of restraint orders
48. Making of confiscation orders
49. Value of proceeds of criminal activities
50. Amounts that may be realised
51. Realisable property
52. Value of property
53. Gifts made by a convicted person
54. Statements relating to proceeds of criminal activity
55. Evidence relating to proceeds of criminal activity
56. Procedure where a person absconds or dies
57. Reconsideration of confiscation order
58. Enforcement of confiscation orders
59. Variation of confiscation order
60. Property subject to a person's effective control
61. Discharge of confiscation order made in relation to a conviction

PART VII - INVESTIGATION, SEARCH AND SEIZURE

62. Objectives of this Part
63. Application of this Part
64. Actions detrimental to an investigation
65. Retention of seized property
66. Obstructing the execution of a search and seizure warrant

PART VIII - ADMINISTRATION

67. Powers and duties of the Relevant Organisation in respect of property seized
68. Preserving controlled property
69. Rights attaching to shares
70. Destroying or disposing of property
71. Notice of proposed destruction or disposal of controlled property
72. Procedure where a person objects to proposed destruction or disposal

- 73. Proceeds from sale of property
- 74. Discharge of confiscation order by payment into the Confiscated and Forfeited Properties Account
- 75. Return of income generated from controlled property
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- 78. Establishment of the Confiscated and Forfeited Properties Account
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- 82. Authorisation of expenditures for approved programmes of Relevant Organisation, etc.

PART X - JURISDICTION

- 83. Jurisdiction

PART XI - GENERAL PROVISIONS RELATING TO LEGAL PROCEEDINGS

- 84. Burden of proof
- 85. Stay of proceedings
- 86. Publication of notice, etc.
- 87. Relationship with relevant laws
- 88. Pre-action notice
- 89. Indemnity of officers of the Relevant Organisation

PART XII - MISCELLANEOUS

- 90. Regulations and guidelines
- 91. Interpretation
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A BILL

FOR

AN ACT TO MAKE COMPREHENSIVE PROVISIONS FOR SEIZURE,
CONFISCATION, FORFEITURE, AND MANAGEMENT OF PROPERTIES
REASONABLY SUSPECTED TO HAVE BEEN DERIVED FROM UNLAWFUL
ACTIVITIES AND FOR RELATED MATTERS

Sponsored by Senator Abdu Suleiman Kwari

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria, as follows:

1 PART I - OBJECTIVES AND APPLICATION

2 1. The objectives of this Act are to- Objectives

3 (a) Provide for an effective legal and institutional framework for
4 the recovery and management of the proceeds of crime, benefits derived
5 therein, instrumentality of unlawful activities, and unclaimed properties;

6 (b) Make provisions for the restraint, seizure, confiscation and
7 forfeiture of property derived from unlawful activities and any
8 instrumentalities used or intended to be used in the commission of such
9 unlawful activities;

10 (c) Make provisions for non-conviction based procedure for the
11 recovery of proceeds of crime;

12 (d) Strengthen the criminal confiscation procedure by ensuring
13 that the total benefit from a person's criminal activity is calculated and an
14 equivalent amount, where recoverable, is confiscated on behalf of the
15 Federal Government;

16 (e) Ensure that the Relevant Organisation establish the Proceeds of
17 Crime (Management) Directorate to carry out the functions conferred on it
18 under this Act;

19 (f) Strengthen collaboration among the relevant organisation to

	1	implement confiscation proceedings against a convicted person;
	2	(g) Strengthen collaboration among the Relevant Organisation in
	3	tracing and forfeiting properties reasonably suspected to be proceeds of
	4	unlawful activity through non-conviction based forfeiture proceedings; and
	5	(h) Make provisions for the handover, management and disposal of
	6	properties forfeited to the Federal Republic of Nigeria.
Application	7	2. The provisions of this Act apply to-
	8	(a) Detection, identification, investigation, and recovery of realisable
	9	assets and the proceeds and instrumentalities of unlawful activity by relevant
	10	organisation;
	11	(b) Orders and directives by the Court to support the detection,
	12	recovery and preservation of the proceeds and instrumentalities of unlawful
	13	activity and realisable properties by relevant organisation;
	14	(c) Confiscation orders to recover a sum equivalent to the amount a
	15	convicted person has acquired from the offences charged and related offences,
	16	including accrued benefits;
	17	(d) Management of the recovered assets and property by the relevant
	18	Organisation under this Act;
	19	(e) Training and certification of asset recovery officers, asset
	20	recovery agents, auctioneers, bankers, consultants and judicial officers.
	21	PART II - PROCEEDS OF CRIME (MANAGEMENT) DIRECTORATE
Establishment and Functions of the Proceeds of Crime (Management) Directorate in the relevant Organisation	22	3. The Relevant Organisation shall-
	23	(a) enforce and administer the provisions of this Act;
	24	(b) establish Proceeds of Crime Management Directorate whose
	25	function shall:
	26	(i) take over and assume responsibility for the proper and effective
	27	management of properties forfeited to the Federal Government of Nigeria
	28	(ii) set standards to be applied in the handling of properties referred to
	29	in paragraph (b) of this section;
	30	(iii) ensure accountability in the management of all properties

- 1 forfeited to the Federal Government of Nigeria;
- 2 (iv) ensure the effective administration of properties forfeited to
- 3 the Federal Government of Nigeria;
- 4 (v) recommend training on the management of the proceeds of
- 5 crime and related matters;
- 6 (vi) appoint private asset managers and ensure that the assets
- 7 managers are properly bonded and insured;
- 8 (c) establish and maintain-
- 9 (i) assets management and disposal systems, and
- 10 (ii) lists of approved auctioneers and valuers, and issue instructions
- 11 for the realization or security of assets whilst ensuring fair process;
- 12 (d) establish and maintain a central database of-
- 13 (i) all seized and recovered assets by the relevant Organisation, and
- 14 (ii) asset managers, auctioneers, insurers, and other necessary
- 15 support services;
- 16 (e) Through the direction of the Relevant Organisation and the
- 17 Attorney-General of the Federation, work with the Federal Ministry of
- 18 Justice to negotiate the return and management of all assets seized from
- 19 foreign countries on behalf of the Federal or State Governments, or any
- 20 other victim or for the benefit of Nigerians;
- 21 (f) recommend that a portion not exceeding two percent of the
- 22 recovered proceeds of crime be allocated to the relevant organisation
- 23 responsible for the recovery of the proceeds, for operational and training
- 24 expenses;
- 25 (g) maintain statistics as to amounts recovered and managed;
- 26 (h) Through the direction of the Relevant Organisation, collaborate
- 27 with other government bodies outside Nigeria that are carrying on functions,
- 28 wholly or in part similar to it;
- 29 (i) maintain an accurate inventory of all assets, with records of their
- 30 location, value, condition, and description of their status in relation to any

	1	proceedings before the Court;
	2	(j) recommend reparations to victims of crime, where proceeds have
	3	been recovered; and
	4	(k) carry out such other necessary or expedient functions as may be
	5	assigned to it by the Head of the Relevant Organisation to ensure the efficient
	6	performance of its functions under this Act.
Powers of the Relevant Organisation	7	4.-(1) The Relevant Organisation through the Directorate may subject
	8	to the provisions of this Act, execute such contracts or other arrangements, as it
	9	considers necessary and, in particular-
	10	(a) engage contractors, asset managers, auctioneers, accountants,
	11	consultants, brokerage companies, investment advisers, financial investigators
	12	and other experts for the effective performance of its functions under this Act;
	13	(b) dispose assets subject of forfeiture order of a Court that-
	14	(i) are perishable or susceptible to deterioration, or
	15	(ii) may be excessively burdensome or expensive to maintain or
	16	administer, leading to a reduction of the recoverable amount;
	17	(c) do anything it considers appropriate for facilitating, or which is
	18	incidental to the performance of its functions.
Role of the Directorate in the process of management of Forfeited Properties	19	5.-(1) The Directorate of the Relevant Organisation shall by virtue of
	20	section 2 of this Act, have exclusive power in the management of forfeited
	21	properties.
	22	(2) Subject to the provisions of this Act-
	23	(a) the Directorate of the Relevant Organisation shall be informed of
	24	any property seized in the course of investigation, within 7 days;
	25	(b) The Directorate shall take possession of property subject of
	26	forfeiture Order from any person or entity in possession or entitled to
	27	possession of the property, and may appoint a receiver for that purpose;
	28	(3) Properties forfeited shall be vested in the relevant organization
	29	through the Directorate of the Relevant Organisation for and on behalf of the
	30	Federal Government of Nigeria.

1 PART III - RELATIONSHIP BETWEEN THE RELEVANT ORGANISATION

2 AND OTHER ENTITIES

3 **6.-(1)** In the performance of their functions and exercise of their
4 powers under this Act, the Relevant Organisation shall cooperate with other
5 relevant entities. Co-operation
between Relevant
Organisation and
other entities

6 (2) In this section, "other relevant entities" includes any other
7 institution or authority not listed as Relevant Organisation.

8 PART IV - NON-CONVICTION BASED RECOVERY OF THE

9 PROCEEDS OF CRIME

10 **7.** This Part applies to the recovery and forfeiture of proceeds of
11 crime, instrumentality of unlawful activity, abandoned properties or
12 properties reasonably suspected to be proceeds of unlawful activity, without
13 conviction Application of
this Part

14 **8.-(1)** Subject to the provisions of this Act-

15 (a) proceedings under this Part shall be civil proceedings;

16 (b) the standard of proof required in proceedings under this Part
17 shall be on a balance of probabilities. Nature of
proceedings under
this Part

18 (2) Proceeding under this part shall be in-rem and may be instituted
19 against the property.

20 **9.-(1)** A preservation order shall be granted by the Court to
21 preserve property reasonably suspected to have been derived from unlawful
22 activities; represents instrumentality of unlawful activity or unclaimed. Preservation
order

23 (2) The Relevant Organisation may, by an ex parte application,
24 apply to the Court for a preservation order restraining a person from dealing
25 in any manner with any property, subject to such conditions and exceptions
26 as may be specified in the order.

27 (3) The Court shall make an order under subsection (2) of this
28 section, where there are reasonable grounds to believe that the property
29 concerned-

30 (a) represents the proceeds of unlawful activity, whether they are-

1 (i) in the hands of the person who unlawfully acquired the property in
2 the first instance, or

3 (ii) traced to any person to whom the property that represents the
4 proceeds have been passed;

5 (b) is involved in the facilitation of unlawful activity;

6 (c) is intended to be used to facilitate unlawful activity; or

7 (d) Is an abandoned or unclaimed property.

8 (4) Where further property has been acquired as a result or profits
9 accruing from the proceeds of unlawful activity, that further property shall be
10 treated as the proceeds of unlawful activity.

11 (5) Where property referred to in subsection (3) of this section is
12 coming led with other property, this section applies to the portion of the
13 property, resulting from unlawful activity.

14 (6) The Court may make an ancillary order if-

15 (a) a person disposes of any property mentioned in subsection (3) of
16 this section; and

17 (b) the person, who obtains the property disposed of, does so in good
18 faith, for value and without notice that it was property mentioned in subsection
19 (3) of this section.

20 (7) A Court making a preservation order may at the same time make
21 any other ancillary orders that it considers appropriate for the proper, fair and
22 effective execution of the preservation order.

23 (8) On a preservation order taking effect, the Directorate of the
24 Relevant Organisation shall take possession of the property from any person in
25 possession or entitled to possession of the property and may appoint a receiver
26 in order to do so.

Notice of
preservation
order

27 **10.-(1)** The Court in making a preservation order, shall direct the
28 Relevant Organisation to within 14 days after the making of the order notify
29 any interested party of the preservation Order by publishing same in any
30 widely circulating national newspaper.

1 (2) A person, who has an interest in any property that is subject to a
2 preservation order may give notice of his intention to-

3 (a) Apply to set aside the preservation order; or

4 (b) apply for an order excluding his interest in the property
5 concerned from the operation of the preservation order.

6 (3) A notice under subsection (2) of this section shall be filed and
7 served on the Relevant Organisation within 14 days of the publication of
8 preservation order.

9 (4) A notice given under subsection (2) of this section shall contain
10 full particulars of the address for the service of documents concerning
11 further proceedings under this Part, and shall be accompanied by an
12 affidavit stating the-

13 (a) full particulars of the identity of a person entering appearance;

14 (b) nature and extent of his interest in the property concerned; and

15 (c) reasons which the person intends to rely on in opposing the
16 preservation order or applying for the exclusion of his interest from the
17 operation of the preservation order.

18 **11.** A preservation order shall, subject to section 24 of this Act, Duration of a
Preservation
Order
19 expire 60 days after the date on which it was made, unless-

20 (a) there is an application for a forfeiture order pending before the
21 Court in respect of the property subject to the preservation order;

22 (b) there is an unsatisfied forfeiture order in force, in relation to the
23 property subject to the preservation order; or

24 (c) the preservation order is rescinded before the expiration of that
25 period.

26 **12.-(1)** The Relevant Organisation may apply to the Court that Renewal of a
preservation order
27 granted a preservation order under this Act for a renewal of the order, where-

28 (a) the preservation order has not been set aside; and

29 (b) there are reasonable grounds to grant the renewal.

30 (2) The cumulative period of renewals mentioned in subsection (1)

	1	of this section shall not exceed 180 days.
Disposal of property subject to preservation order	2	13. -(1) Where there are reasonable grounds to believe that a property,
	3	which is subject to a preservation order, may have its value diminished, or be
	4	disposed of, destroyed, or damaged, removed contrary to the Order or may
	5	deteriorate in terms of quality or utility, the Relevant Organisation shall
	6	promptly apply to the Court ex-parte for an order to sell the property at the
	7	prevailing market value.
	8	(2) The proceeds from the sale of any property under Subsection 1 of
	9	this Section shall be paid into a designated interest yielding account pending
	10	the determination of the proceedings.
	11	(3) Where a preservation Order is set aside or the sales revoked by
	12	order of Court the Relevant Organisation shall after exercising its right of
	13	appeal pays to the owner of the property the proceeds of sales together with
	14	accrued interest where applicable.
Appointment of asset manager for property subject to a preservation order	15	14. -(1) Where the Court has made a preservation order, it may either
	16	by itself, or at the request of the Relevant Organisation at the time of the making
	17	of the order or at a later time direct the relevant Organisation to-
	18	(a) appoint an asset manager to-
	19	(i) assume control of the property,
	20	(ii) administer the property and do any act necessary for that purpose,
	21	(iii) carry on the business or undertaking, where the property is an on-
	22	going business or undertaking, with due regard to any applicable law,
	23	(iv) sell or otherwise dispose of the property, in the case of property
	24	that is perishable, or liable to deterioration, decay or injury by being detained in
	25	custody, and
	26	(v) sell or otherwise dispose of the property where it is not
	27	economically viable to maintain; and
	28	(b) order a person holding any property subject to a preservation order
	29	to surrender the property into the custody of the asset manager, immediately or
	30	within such period as the Court may determine.

1 (c) to serve the preservation order on the Relevant Organisation for
2 the purpose of document and accurate data management.

3 (2) Where any property subject to a preservation order is not
4 surrendered within the period that has been determined under subsection 1

5 (b) of this section, an authorised officer of the Relevant
6 Organisation may enter by force, if necessary, any premises, where he
7 reasonably believes the property is situate, in order to search for and seize
8 the property.

9 (3) The authorised officer of the Relevant Organisation or
10 appointed asset manager may be accompanied by such persons or law
11 enforcement officers as are reasonably required in order to effect entry into
12 premises.

13 (4) The Court that made an order under subsection (1) of this
14 section, may make an order for the payment of the fees of the asset manager.

15 **15.-(1)** The Court making a preservation order may, direct the
16 appropriate land registration authority to place a restriction on the land
17 register, in respect of the immovable property.

Orders in respect
of immovable
property subject
to a preservation
order

18 (2) An order of restriction made under subsection (1) of this section
19 may specify that the immovable property shall not, without the consent of
20 the Court:

21 (a) be mortgaged or otherwise encumbered;

22 (b) be attached or sold in execution;

23 (c) vest in the official receiver concerned, when the estate of the
24 owner of that immovable property is sequestrated; and

25 (d) form part of the assets of any company or body corporate,
26 where the owner of the immovable property is a company or other body
27 corporate, which is being wound up.

28 (3) Subject to subsection (1) of this section, the registration
29 authority shall-

30 (a) enter the restriction in its register and endorse the office copy of

1 the title deed to that effect; and

2 (b) endorse on the original of the title deed, when it is produced.

3 (4) The restriction referred to in subsection (3) (a) of this section shall-

4 (a) be effective against any person, in whose favour a mortgage or
5 other charge was registered, prior to the endorsement of the restriction on the
6 title deed of the immovable property; and

7 (b) lapse on the lawful transfer of ownership of the immovable
8 property concerned.

9 (5) A person affected by an order specified in subsection (1) of this
10 section may, at any time, upon showing good cause, apply for the rescission of
11 the order

Variation and
rescission of
order

12 **16.** The Court that makes a preservation order-

13 may, on application by the person affected by the order, vary the preservation
14 order, authorise the seizure of the property concerned, or any other ancillary
15 order, as it may deem appropriate.

Application for
forfeiture order

16 **17.**-(1) Where a preservation order is in force and before the
17 expiration of the stipulated time, the Relevant Organisation may apply to the
18 Court for a forfeiture order against all or any part of the property that is subject
19 to the preservation order.

20 (2) The Relevant Organisation shall give 14 days notice of an
21 application under subsection (1) of this section to every person who pursuant to
22 the notice given under section 10 (1) of this Act had shown interest in the
23 property sought to be forfeited.

24 (3) A person who pursuant to the notice given under section 10 (1) of
25 this Act may, subject to compliance with section 10(2) and (3), appear at the
26 hearing of the application under subsection (1) of this section to-

27 (a) oppose the making of the order; or

28 (b) apply for an order-

29 (i) excluding his interest in the property from the operation of the
30 order, or

1 (ii) varying the operation of the order in respect of the property, and
2 may adduce evidence at the hearing of the application.

3 (4) Where the Court grants the forfeiture order, the property
4 referred to in subsection (1) of this section shall be forfeited to the Federal
5 Government.

6 **18.**-(1) Where a person for any reason, failed to serve notice under Service of notice
7 section 10 (2) of this Act, he may apply to the Court for leave to serve the out of time
8 notice out of time.

9 (2) An application under subsection (1) of this section shall be
10 made before the application for a final forfeiture is heard by the Court.

11 (3) The Court may grant leave to an applicant referred to in
12 subsection (1) of this section, to serve notice under section 10 (2) of this Act
13 within the period which the Court deems appropriate, where the Court is
14 satisfied on good cause shown that the applicant has-

15 (a) sufficient reason for failing to serve notice under that section 10
16 (2); and

17 (b) an interest in the property that is subject to the preservation
18 order.

19 (4) A notice served after leave has been obtained under this section
20 shall-

21 (a) contain full particulars of the address of the person who served
22 the notice for the delivery of documents concerning further proceedings
23 under this Part; and

24 (b) be accompanied by the affidavit referred to in section 10 (3) of
25 this Act.

26 (5) Where the Court has granted leave for notice under section 10
27 (2) of this Act to be served out of time under this section, it may direct the
28 applicant to pay any or all of the costs that have arisen or may arise as a result
29 of the notice being served out of time.

Making of a
forfeiture order

- 1 **19.**-(1) The Court shall make an order applied for under section 18 (1)
2 of this Act where it finds on a balance of probabilities that the property
3 concerned is reasonably suspected to be-
- 4 (a) proceeds of unlawful activity;
5 (b) represents directly or indirectly the proceeds of unlawful activity;
6 (c) involved in the facilitation of unlawful activity; or
7 (d) intended to be used or used for unlawful activity.
- 8 (2) The Court may-
- 9 (i) where it makes a forfeiture order, or
10 (ii) at any time after making the order, make any ancillary order that it
11 considers appropriate, including orders for and with respect to facilitating the
12 transfer of property forfeited to the Relevant Organisation, on behalf of the
13 Federal Government of Nigeria.
- 14 (3) The absence of a person whose interest in property may be
15 affected by a forfeiture order shall not prevent the Court from making the order.
- 16 (4) The validity of an order under subsection (1) of this section shall
17 not be affected by the outcome of criminal proceedings or of an investigation
18 with a view to instituting those proceedings, in respect of an offence with
19 which the property concerned is in some way associated.

Protection of
third parties

- 20 **20.**-(1) Where a forfeiture order is granted, a person who claims to
21 have an interest in the property may apply to the Court that granted the order for
22 a relief protecting his interest in the forfeited property provided that such
23 application shall not be entertained by the Court except and until the person
24 interested show exceptional circumstances that he was not aware of the
25 proceedings leading to the forfeiture order.
- 26 (2) The Court before which an application is made under subsection
27 (1) of this section may, if satisfied that-
- 28 (a) the person was not aware of the proceedings that led to the
29 forfeiture order and not in any way involved in the unlawful activity or conduct
30 mentioned in section 19 (1) of this Act;

1 (b) the person had no knowledge of the unlawful activity
2 mentioned in section 19 (1) of this Act; or

3 (c) where the person acquired the interest during or after the
4 commission of the unlawful activity or conduct, he acquired the interest-

5 (i) for sufficient consideration, and

6 (ii) without knowing that the property was, at the time he acquired
7 it, a tainted property, make an order declaring the nature, extent and value of
8 the person's interest, at the time the order was made.

9 (3) A person, who makes an application under subsection (1) of this
10 section shall give not less than 14 days written notice of the making of the
11 application to the Relevant Organisation.

12 (4) An applicant, Relevant Organisation may appeal against an
13 order made under subsection (1) of this section.

14 (5) The Directorate of the Relevant Organisation shall-

15 (a) on application by any person who has obtained an order under
16 subsection (1) of this section, direct the asset manager or receiver that-

17 (i) the property or part of it to which the interest of the applicant
18 relates, be returned to the applicant; or

19 (ii) an amount equal to the value of the interest of the applicant, as
20 declared in the order, be paid to the applicant.

21 (6) Where the period allowed by the rules of Court with respect to
22 appeals has expired and any appeal against forfeiture order has been
23 determined in favour of the applicant, the Relevant Organisation shall, on an
24 application by any person, who obtained an order under subsection (1) of
25 this section, direct that-

26 (a) the property or part of it to which the interest of the applicant
27 relates, be returned to the applicant; or

28 (b) an amount equal to the value of the interest of the applicant, as
29 declared in the order, be paid to the applicant.

Effect of appeals
on preservation
or other ancillary
orders

1 **21.** A preservation order and any order authorizing the seizure of the
2 property concerned or other ancillary order that is in force at the time of any
3 decision regarding the making of a forfeiture order under this Act shall remain
4 in force pending the outcome of any appeal against the decision concerned.

Effect of
forfeiture order

5 **22.**-(1) With effect from the date when the Court makes a forfeiture
6 order, the property subject to the order is forfeited to Federal Government of
7 Nigeria.

8 (2) On a forfeiture order taking effect, the relevant organisation shall
9 promptly handover to the Directorate the forfeited property.

Fulfillment of
forfeiture order

10 **23.**-(1) The Directorate of the Relevant Organisation shall, subject to
11 any order made in favour of a third party interest under sections 20 (2) (a) of
12 this Act and in accordance with the directions of the Court-

13 (a) deposit any monies forfeited under this Act into the Confiscated
14 and Forfeited Properties Account established under section 78 of this Act; or

15 (b) dispose of the property forfeited by sale or any other means and
16 deposit the proceeds of the sale or disposition into the said account.

17 (2) Subject to the provisions of this Act, any right or interest in
18 forfeited property not exercisable by or transferable to the Relevant
19 Organisation, shall expire and shall not revert to the person, who had
20 possession, or was entitled to possession of the property immediately before
21 the forfeiture order took effect.

22 (3) A person referred to in subsection (2) of this section or any other
23 person, who acts with or on behalf of the person-

24 (a) commits an offence, if he purchases or attempts to purchase the
25 forfeited property; and

26 (b) is liable on conviction to a fine of at least twice the value of the
27 property sold.

28 (4) The expenses incurred in connection with the forfeiture and the
29 sale, including expenses of seizure, maintenance and custody of the property
30 pending its disposition, advertisement, and the Court costs shall be defrayed

1 out of the Confiscated and Forfeited Properties Account.

2 **24.** The fact that a preservation order or a forfeiture order has been
3 made on the basis of unlawful activity or conduct in which a specific person
4 has been involved shall not prevent the making of another or other
5 preservation orders or forfeiture orders on the basis of the same unlawful
6 activity or conduct.

Unlawful activities
or conduct forming
the basis of
multiply orders

7 **25.**-(1) A notice authorized or required to be given to a person
8 under this Part shall, in the case of a deceased person, be sufficiently given to
9 the administrator or executor of the deceased person's estate, or to a person
10 acting in that capacity.

Application of
this Part to
deceased estates

11 (2) A reference in this section to the property of a person shall, in
12 the case of a deceased person, be a reference to property that the deceased
13 person held immediately before his death.

14 (3) An order may be applied for and made under this section-

15 (a) in respect of property, which forms part of a deceased person's
16 estate; and

17 (b) on evidence adduced concerning the activities of a deceased
18 person.

19 **26.**-(1) Where a person has an interest in property, as a joint owner,
20 his death after a preservation order is made in respect of the interest does not,
21 while the order is in force, operate to vest the interest in the surviving joint
22 owner or owners, and the preservation order shall continue to apply to the
23 interest, as if the person had not died.

Effect of death
of joint owner of
property under a
preservation order

24 (2) A forfeiture order made in respect of the interest referred to in
25 subsection (1) of this section shall apply, as if the order took effect in relation
26 to the interest immediately before the person died.

27 (3) Subsection (1) of this section does not apply to the interest in
28 property where a preservation order ceases to apply to that interest without a
29 forfeiture order being made in respect of that interest.

Seizure and
detention of
imported and
exported cash

1 PART V - RECOVERY OF IMPORTED OR EXPORTED CASH

2 27.-(1) A designated officer may seize and detain any cash in the
3 process of being imported into or exported from Nigeria, where he has
4 reasonable grounds to suspect that it-

5 (a) directly or indirectly represents proceeds of unlawful activity or is
6 intended to be an instrumentality of an offence; or

7 (b) is above the prescribed amount under the law and has not be
8 declared to the appropriate authorities or a false declaration was made in
9 respect of the Cash.

10 (2) In this Part,

11 (a) "cash" includes-

12 (i) notes and coins in any currency,

13 (ii) cheques of any kind, including travelers' cheques,

14 (iii) bankers' draft,

15 (iv) bearer bonds and bearer shares,

16 (v) jewelries and gold, or

17 (vi) any kind of monetary instrument, where the instrument is so
18 specified by the Central Bank of Nigeria;

19 (b) "designated officer" means an officer of Nigeria Customs Service,
20 National Drug Law Enforcement Agency, Economic and Financial Crimes
21 Commission, Nigeria Police Force, Nigeria Immigration Service and officers
22 of other Relevant Organisation.

23 (3) The "prescribed amount" in this Part, means the equivalent
24 amount in United States Dollar specified in the Money Laundering Prohibition
25 Act, the Customs and Excise Act or in an order or regulations issued by the
26 Attorney-General, in consultation with the Central Bank of Nigeria. (Forex
27 Act).

28 (4) For the purpose of subsection (3) of this section, any amount of
29 cash imported or exported in a currency other than United States dollars shall
30 be taken to be its United States dollar equivalent, calculated in accordance with

1 the prevailing exchange rate.

2 (5) The Court shall adopt summary proceedings under this Part.

3 **28.**-(1) Where the designated officer continues to have reasonable
4 grounds for his suspicion, cash seized under section 30 of this Act may be
5 detained initially for a period of 7 days to enable the designated officer apply
6 to the Court for an order to detain the cash.

Detention of
seized cash

7 (2) The period referred to in subsection (1) of this section shall not
8 include Saturdays and Sundays or any day which is a public holiday in
9 Nigeria.

10 (3) The period for which the cash, or any part of it, may be detained
11 may be extended by an order of the Court, but the order shall not authorize
12 the detention of the cash, or any part of it, beyond three months,
13 commencing from the date of the order.

14 (4) Subsequent orders for the continued detention of the cash may
15 be made by the Court but no order shall authorize the further detention of the
16 cash beyond a cumulative period of twelve months commencing from the
17 date of the first order.

18 (5) An application for an order under subsections (3) and (4) of this
19 section may be made by a designated officer, and the Court may make the
20 order, where satisfied, in relation to any cash to be further detained, that
21 there are reasonable grounds to believe that the cash is-

22 (a) the proceeds of unlawful activity; or

23 (b) intended to be an instrumentality of an offence and that-

24 (i) its continued detention is justified while its derivation is further
25 investigated or consideration is given to bringing, in Nigeria or elsewhere,
26 proceedings against any person for an offence with which the cash is
27 connected, or

28 (ii) proceedings against a person for an offence with which the cash
29 is connected have started and have not been concluded.

30 (6) Where cash is detained by virtue of subsection (5) of this

Interest to be
paid on seized
cash

1 section, the Court may direct its release if satisfied, on an application made by
2 the person from whom it was seized that-

3 (a) there are no justifiable grounds for the detention of the cash; or

4 (b) the grounds for the continued detention of the cash, as specified in
5 subsection (5) of this section, cease to exist.

6 **29.-(1)** Where cash under section 28 of this Act-

7 (a) is detained, by officers of other relevant organisation, the
8 Directorate shall be immediately notified within 7 days, for purpose of
9 documentation and the cash paid into the designated interest yielding account
10 of the Relevant Organisation;

11 (b) was seized under section 27 (1) of this Act, the Relevant
12 Organisation shall, subject to subsection (2) of this section, release on an
13 application made by the person from whom the cash was seized, the part of the
14 cash to which the suspicion does not relate.

15 (2) Where-

16 (a) part of the cash, referred to in subsection (1) of this section to
17 which suspicion does not relate, may still be subject to a confiscation order,
18 under Part VI of this Act; and

19 (b) an application for a restraint order, under Part VI of this Act in
20 respect of a person, who has an interest in the cash has been made and refused,
21 the relevant organisation may retain the cash in the designated interest yielding
22 account, until such time as a confiscation order is made in respect of the cash, or
23 until an application made under this Act is granted by the Court.

Release of
detained cash

24 **30.-(1)** This section applies where cash is detained under section 28 of
25 this Act.

26 (2) The Court may direct the release of the whole or any part of
27 detained cash, where satisfied on application by the person from whom the
28 cash is seized, that the conditions in section 33 of this Act no longer exist in
29 relation to the cash to be released.

30 (3) The Relevant Organisation may on the receipt of the Order of the

1 Court, under whose order the cash is detained, release the whole or part of
2 the cash, where satisfied that its detention is no longer justified.

3 (4) Where the Relevant Organisation is dissatisfied with the order
4 of release, it shall timeously lodge an Appeal against the Order.

5 31.-(1) Where cash is detained under section 28 of this Act, an
6 application for forfeiture of the whole or part of the cash may be made to the
7 Court by the Relevant Organisation.

Application for
forfeiture of seized
or detained cash

8 (2) The Court may order forfeiture of cash or any part of the cash,
9 where it is satisfied that the cash is proceeds of unlawful activity, is intended
10 to be an instrumentality of an unlawful activity or undeclared as required by
11 law.

12 (3) Where an application for forfeiture of cash has been refused, the
13 cash shall not be released until all proceedings, including proceedings on
14 appeal are concluded.

15 32.-(1) Where the Court refuses an application under section 28 of
16 this Act for forfeiture of cash detained under section 25 of this Act, the
17 Relevant Organisation may appeal to the Court of Appeal.

Appeals

18 (2) Appeals under this section shall be in accordance with
19 applicable Rules of Court and shall be determined within the prescribed time
20 provided in this Act.

21 33.-(1) A third party, who has interest in the cash detained under
22 section 31 of this Act or any part of it, may apply to the Court for the release
23 of the cash or any part of it.

Other owners or
claimants

24 (2) An application under subsection (1) of this section may be made
25 in the course of proceedings under sections 25 or 28 of this Act within 21
26 days of the cash being detained.

27 (3) Where it appears to the Court that-

28 (a) the applicant was deprived of the cash to which an application
29 relates; and

30 (b) the cash belongs to the applicant, the Court may order the cash

	1	to which the application relates to be released to the applicant and may make
	2	any other orders as it deems fit.
	3	PART VI - CONFISCATION OF PROCEEDS OF CRIME
Objectives of this Part	4	34. The objectives of this Part are to-
	5	(a) demonstrate that a convicted person should not be allowed to
	6	benefit from the proceeds of his criminal activity;
	7	(b) provide an effective process by which the total benefit from a
	8	person's criminal activity is calculated and an equivalent amount, where
	9	recoverable, is confiscated on behalf of the Federal Government of Nigeria;
	10	(c) enable the Relevant Organisation implement confiscation
	11	proceedings against a convicted person;
	12	(d) ensure the preservation of all realizable properties; as defined
	13	under section 54 of this Act; and
	14	(e) ensure that the realizable properties are preserved and available to
	15	satisfy a confiscation order.
Application of this Part	16	35. The provisions of this Part apply to-
	17	(a) restraint orders designed to prevent a defendant from dealing with
	18	realisable assets held under his custody or control;
	19	(b) confiscation orders that aim to secure payment of a sum of money
	20	up to the amount that a convicted person has acquired from the offences for
	21	which he was convicted; and
	22	(c) management of realisable property by the Directorate of the
	23	Relevant Organisation once a restraint order is granted by the Court
Application for restraint order	24	36. The Court may, on the application of the Relevant Organisation,
	25	make an order that realizable property shall not, except in the manner as may be
	26	specified in the order, be disposed of or otherwise dealt with by any person,
	27	where-
	28	(a) a defendant-
	29	(i) has been convicted of an offence or has been charged with an
	30	offence and a confiscation order has been made against the defendant, or it

1 appears to the Court that there are reasonable grounds for believing that a
2 confiscation order may be made against the defendant, or

3 (ii) is to be charged with an offence and the Court is satisfied that
4 the defendant is to be charged, and it appears to the Court that there are
5 reasonable grounds for believing that a confiscation order may be made
6 against the defendant; and

7 (b) an affidavit under section 39 of this Act has been filed in support
8 of the application.

9 37.-(1) The relevant Organisation may apply to the Court for a Purposes of
10 restraint order for the purposes specified under this Part. restraint order

11 (2) A restraint order may specify that it applies to-

12 (a) all realizable property held by the specified person, whether the
13 property is described in the order; or

14 (b) realizable property transferred to the specified person after the
15 order is made.

16 (3) An application for a restraint order may-

17 (a) be made ex-parte; and

18 (b) provide for the period of the notice referred to in section 40 of
19 this Act to be given to persons affected by the order.

20 (4) The Court making a restraint order may also make further
21 orders in respect of the discovery or disclosure of any facts, including facts
22 relating to any property over which the defendant may have effective control
23 and the location of the property, as the Court may consider necessary or
24 expedient with a view to achieving the objectives of the restraint order.

25 (5) The Court making a restraint order shall, at the same time, make
26 an order-

27 (a) authorizing the Relevant Organisation or an authorized person
28 acting on its behalf, to take custody or control of any property specified in
29 the order;

30 (b) for entering premises, where necessary; and

1 (c) any other ancillary orders that the Court considers appropriate for
2 the proper, fair and effective execution of the order.

3 (6) The Court that made a restraint order-

4 (a) may, on application by a person affected by the order, vary or
5 rescind the restraint order or an order authorizing the seizure of the property
6 specified in the order, or other ancillary order, if it is satisfied that-

7 (i) the operation of the order will deprive the applicant of the means to
8 provide for his reasonable living expenses and cause undue hardship to the
9 applicant or close dependent relatives, and

10 (ii) the hardship that the applicant will suffer as a result of the order
11 outweighs the risk that the property may be destroyed, lost, damaged,
12 concealed, transferred or otherwise disposed of; and

13 (b) shall rescind or vary the restraint order when the proceedings
14 against the defendant concerned are concluded.

15 (7) Where the Court orders the rescission of an order authorizing the
16 seizure of property in accordance with subsection (6) (a) of this section, the
17 Court shall make such other order as it considers appropriate for the proper, fair
18 and effective execution of the restraint order.

Property subject
to a restraint order

19 **38.** A restraint order may be made in respect of-

20 (a) such realizable property as may be specified in the restraint order
21 and held by the person against whom the order is made;

22 (b) all realizable property held by the person against whom the
23 restraint order is made, whether specified in the order or not;

24 (c) specified property of another person that is subject to the effective
25 control of the relevant person, whether that other person's identity is known;

26 (d) specified property of the relevant person that is in the custody of
27 another person which are proceeds of the offence or an instrumentality of the
28 offence, whether that other person's identity is known;

29 (e) all property which, when it is transferred to a person referred to in
30 paragraph (d) of this subsection after the making of the restraint order, would

1 be a realizable property; and

2 (f) affected gifts, within the meaning of section 53(3) of this Act,
3 made by the relevant person.

4 **39.-(1)** The application for a restraint order shall be supported by Affidavit in
5 an affidavit made by the Relevant Organisation stating the belief that the support of a
6 property is of a type mentioned in section 38 of this Act. restraint order

7 (2) An affidavit shall contain-

8 (a) a summary of the evidence on which the relevant Organisation
9 based its belief under subsection (1) of this section;

10 (b) the grounds on which the relevant Organisation holds its belief,
11 but the grounds need not be based on a finding as to the commission of an
12 offence;

13 (c) where the relevant person has been convicted, a copy of the
14 judgment;

15 (d) where the relevant person has been charged, a copy of the
16 charge sheet properly filed in a Court of competent jurisdiction;

17 (e) where a person is about to be charged, a copy of the charge sheet
18 or charges that will be laid; and

19 (f) where the application is to restrain property of a person, other
20 than the relevant person, a declaration that the Relevant Organisation
21 reasonably believes that the property is-

22 (i) realizable property, and

23 (ii) subject to the effective control of the relevant person.

24 (4) The Court shall not make a restraint order unless it is satisfied
25 that the facts disclosed in the affidavit supports the reasonable belief
26 expressed by the Relevant Organisation.

27 (5) The Court may request the Relevant Organisation to provide
28 additional information in support of the affidavit.

29 **40.-(1)** Where the Court makes a restraint order, Relevant Notice of restraint
30 Organisation where practicable shall give notice to- order

1 (a) all persons affected by the restraint order; and
2 (b) any other person who may be affected by an order to seize any
3 property in furtherance of the restraint order.

4 (2) The notice referred to in subsection (1) of this section, where
5 practicable shall-

6 (a) be served before or at the time of any seizure and in any other case
7 after the order is obtained; and

8 (b) contain-

9 (i) a copy of the restraint order,

10 (ii) the details of the issuing Court, and

11 (iii) the name and address of the applicant or other person to whom
12 inquiries regarding the restraint order may be made.

13 (3) If the Court varies its decision, a notice of such decision shall be
14 served on the relevant organisation who shall promptly notify the Directorate
15 for the purpose of documentation, if-

16 (a) the property is no longer covered by the restraint order because it is
17 varied or excluded from the restraint order under section 45 of this Act; or

18 (b) a condition to which a restraint order is subject to is varied.

Registration of
restraint orders

19 **41.**-(1) A registration authority that keeps a register of properties of a
20 particular kind shall, on application by the Relevant Organisation, register the
21 particulars of a restraint order, as it affects the property in that register.

22 (2) A person, who subsequently deals with the registered property
23 shall be deemed-

24 (a) not to be acting in good faith for the purposes of section 39 of this
25 Act; and

26 (b) to have notice of the restraint order for the purposes of section 37
27 of this Act.

28 (3) Where the Relevant Organisation has previously applied to a
29 registration authority under subsection (1) of this section, the Relevant
30 Organisation shall promptly notify the registration authority, where-

1 (a) the property is no longer covered by the restraint order because
2 it is varied or excluded from the restraint order under section 45 of this Act;

3 (b) a condition to which a restraint order is subject to is varied
4 under section 42 of this Act.

5 **42.**-(1) The Relevant Organisation may apply to the Court to set
6 aside a disposition or dealing with a property that contravenes a restraint
7 order, where that disposition or dealing was not-

Setting aside a
disposition
contravening a
restraint order

8 (a) for sufficient consideration; or

9 (b) in favour of a person, who acted in good faith.

10 (2) The Relevant Organisation shall give to each party to the
11 disposition or dealing, written notice of both the application and the grounds
12 on which it seeks the setting aside of the disposition or dealing.

13 (3) The Court may set aside the disposition or dealing and declare
14 the rights of any person, who acquired interest in the property void.

15 **43.** A person, who knowingly disposes of or otherwise deals with a
16 property subject of a restraint order, commits an offence and is liable on
17 conviction to imprisonment for a term of two years or an option of fine of not
18 less than Five Million Naira (N5,000,000) or both.

Contravening
restraint orders

19 **44.** The Relevant Organisation may, in order to prevent any
20 realizable property from being disposed of or removed contrary to a restraint
21 order, enter into any premises and seize the property if he has reasonable
22 grounds to believe that the property will be disposed of or removed.

Seizure of
property covered
by a restraint order

23 **45.**-(1) The Court that made a restraint order, on an application by a
24 person, who is not a relevant person may, subject to conditions referred to in
25 subsection (2) of this section, vary that order and exclude certain property
26 from the order.

Exclusion of
specific property
under a restraint
order

27 (2) The conditions for varying the order referred to in subsection
28 (2) of this section are that the person making the application in subsection
29 (1) of this section-

1 (a) does so in writing within 28 days of the making of the restraint
2 order; and

3 (b) gives written notice to the Relevant Organisation of the
4 application and the grounds on which the exclusion is sought.

5 (3) The Relevant Organisation may adduce additional evidence to the
6 Court relating to the application for exclusion under the restraint order.

7 (4) The Court shall not exclude property that is subject to a restraint
8 order under this Act, unless it is satisfied that a confiscation order cannot be
9 made against-

10 (a) the person, who has the interest; or

11 (b) the defendant, where the interest is not held by the defendant but is
12 under his effective control.

13 (5) The Court shall not hear an application to exclude specified
14 property from a restraint order where the Relevant Organisation has not been
15 given a reasonable opportunity to conduct examinations in relation to the
16 application.

17 (6) The Relevant Organisation shall give the person notice of any
18 grounds on which it proposes to contest the application, after it has conducted
19 enquiry in relation to the application.

20 (7) The Relevant Organisation may appear and adduce evidence at the
21 hearing of the application.

Application for
distress order
subject to leave
of Court

22 **46.**-(1) If a Court makes a restraint order, an application for an order
23 of distress shall not be made in respect of any realizable property to which the
24 restraint order applies, except with leave of the Court.

25 (2) The Court may determine an application in respect of a distress
26 order mentioned in subsection (1) of this section.

27 (3) Notice of an application under subsection (2) of this section shall
28 be served on the relevant organisation, at least fourteen days before the
29 application is to be heard.

1	47.-(1) A restraint order, in relation to one or more offences, ceases	Cessation of restraint orders
2	to be in force, if-	
3	(a) within 28 days after-	
4	(i) the charge or all the charges that relate to the restraint order are	
5	withdrawn;	
6	(ii) the defendant is acquitted of the offence or all the offences with	
7	which he was charged, or	
8	(iii) the defendant's conviction for the offence, or all the offences,	
9	of which he was convicted are quashed;	
10	(b) the Court has made a restraint order under section 36 (1) (a) of	
11	this Act, and the defendant is not charged to Court within such period, as the	
12	Court may consider reasonable;	
13	(c) a restraint order covers property that is not realizable property	
14	including gifts within the meaning of section 59 (3) of this Act;	
15	(d) the Court is satisfied that the order was obtained by material	
16	suppression or misrepresentation of fact or by fraud; and	
17	(e) a confiscation order relates to that offence, those offences or	
18	related criminal activity and-	
19	(i) the confiscation order is satisfied, or	
20	(ii) the confiscation order is discharged.	
21	(2) The period referred to in subsection (1) (b) of this section shall	
22	not exceed ten days, starting on the day on which the restraint order is made.	
23	(3) Restraint orders remain in force until rescinded by the Court.	
24	48.-(1) The Court may make a confiscation order requiring a	Making of confiscation orders
25	person to pay to the Relevant Organisation for deposit into the Confiscated	
26	and Forfeited Properties Account (in this Act referred to as "the	
27	Confiscated and Forfeiture Account") as provided under this Act, an amount	
28	equal to the total proceeds of a person's criminal activities, where available	
29	if-	
30	(a) the person has been convicted of an offence;	

- 1 (b) the Relevant Organisation applies for the confiscation order; and
2 (c) the Court is satisfied that the person has benefited from-
3 (i) that offence,
4 (ii) any other offence of which the person has been convicted at the
5 same trial, and
6 (iii) any criminal activity which the Court finds to be sufficiently
7 related to those offences.
- 8 (2) Where a person has been convicted of an offence and the Relevant
9 Organisation fails to apply for a confiscation order under subsection (1) (b) of
10 this section, the Court may, if it-
11 (a) considers that it is in the public interest to do so; and
12 (b) is satisfied as specified under subsection (1) (c) of this subsection,
13 direct the relevant organisation to apply for the confiscation order.
- 14 (3) An order made under this section against the person is-
15 (a) an order to make a payment to the Relevant Organisation of any
16 amount that the Court considers appropriate; and
17 (b) in addition to any punishment that the Court may impose in
18 respect of the offence or offences that the person has been found guilty of.
- 19 (4) The Court may make any further orders as it may deem fit to
20 ensure the effectiveness and fairness of the confiscation order.
- 21 (5) The amount that the Court may order a convicted person to pay to
22 the Relevant Organisation under subsection (1) shall not exceed -
23 (a) the value of the convicted person's proceeds from the offences or
24 criminal activity, as determined by the Court, in accordance with the provisions
25 of this Act; or
26 (b) an amount, which in the Court's opinion may be realized, if the
27 Court is satisfied that the amount which might be realized as contemplated in
28 section 50(1) of this Act is less than the value referred to in paragraph (a) of this
29 subsection.
- 30 (6) The Court convicting a person may, when passing sentence,

- 1 indicate that it will conduct an inquiry at a later date where-
- 2 (a) it is satisfied that the inquiry will not unreasonably delay the
- 3 proceedings in sentencing the person; or
- 4 (b) the Relevant Organisation applies to the Court to first sentence
- 5 the convicted person and the Court is satisfied that it is reasonable and
- 6 justifiable to do so in the circumstances.
- 7 (7) The Relevant Organisation may apply for a confiscation order-
- 8 (a) within six months after the date of conviction; or
- 9 (b) where there is an order extending the period specified in
- 10 paragraph (a) of this subsection, three months after the end of the period
- 11 extended by an order.
- 12 (8) The Court hearing an application under subsection (7) of this
- 13 section may grant leave for extension of time for the application to be made,
- 14 if it is satisfied that it may be in the interest of justice to allow the application.
- 15 (9) The Court before which proceedings under this section are
- 16 pending may-
- 17 (a) in considering an application under subsection (1) of this
- 18 section-
- 19 (i) refer to the evidence and proceedings at the trial,
- 20 (ii) hear such further evidence, as the Court may deem fit,
- 21 (iii) direct the Relevant Organisation to tender to the Court a
- 22 statement referred to in section 54 (1) of this Act, and
- 23 (iv) direct a convicted person to tender to the Court the statement
- 24 referred to in section 54 (5) and (6) of this Act;
- 25 (b) adjourn proceedings under this section, subject to section 57(2)
- 26 and (8) of this Act;
- 27 (c) set the date of the adjournment in paragraph (b) of this
- 28 subsection not later than three months from the date at which the hearing
- 29 was adjourned; and
- 30 (d) in exceptional circumstances, extend the period referred to in

Value of proceeds
of criminal
activities

1 paragraph (c) of this subsection.

2 **49.**-(1) Subject to the provisions of subsection (2) of this section, the
3 value of a defendant's proceeds of criminal activity is the sum of the values of
4 the property, services, advantages, benefits and rewards received, retained or
5 derived by him at any time, whether before or after the commencement of this
6 Act, in connection with the criminal activity carried on by him or any other
7 person connected with the criminal activity.

8 (2) In determining the value of a convicted person's proceeds of
9 criminal activities, the Court shall-

10 (a) leave out of account, any property, where the Court has previously
11 made a forfeiture order in respect of the property, which is proved to the
12 satisfaction of the Court to have been the property, which the convicted person
13 received in connection with the criminal activity carried on by him or any other
14 person connected with the criminal activity;

15 (b) where a confiscation order has previously been made against the
16 convicted person, leave out of account those proceeds of criminal activities
17 which are proved to the satisfaction of the Court to have been taken into
18 account in determining the amount to be recovered under that confiscation
19 order; and

20 (c) ensure that the following are deducted-

21 (i) expenses or outgoings that the person incurred in relation to the
22 criminal activity, or

23 (ii) the value of any benefit that the convicted person derives as agent
24 for, or otherwise on behalf of, another person, whether the other person
25 receives any of the benefits.

Amounts that
may be realized

26 **50.**-(1) The amount realizable at the time of the making of a
27 confiscation order against a convicted person shall be the amount equal to the
28 sum of the values, at that time, of all-

29 (a) realizable property held by the convicted person; and

30 (b) affected gifts made by the convicted person, less the sum of all

1 priority obligations, where any, and which the Court may recognize for this
2 purpose.

3 (2) Notwithstanding the provisions of section 52 (1) of this Act but
4 subject to the provisions of section 52 (2) of this Act, the value of an affected
5 gift at the time of the making of the relevant confiscation order shall be-

6 (a) the value of the affected gift, at the time when the recipient
7 received it, taking into account subsequent fluctuations in the value of
8 money; or

9 (b) where subsection (3) of this section applies, the value
10 mentioned in that subsection, whichever is the greater value.

11 (3) Where at the time of the making of the relevant confiscation
12 order, the recipient holds the property-

13 (a) other than cash, which he received, the value concerned shall be
14 the value of the property at that time; and

15 (b) which directly or indirectly represents the property which he
16 received, the value concerned is the value of the property in his custody, in so
17 far as it represents the property, which he received at the time.

18 (4) For the purposes of subsection (1) of this section, an obligation
19 has priority, at the time of the making of the relevant confiscation order, if-

20 (a) it is an obligation of the convicted person, where he has been
21 convicted by a Court of any offence to pay-

22 (i) a fine imposed before that time by the Court, or

23 (ii) any other amount under any resultant order made before that
24 time by the Court;

25 (b) it is an obligation, where-

26 (i) the insolvent estate of the convicted person had at that time been
27 made subject to any Court order; or

28 (ii) the convicted person is a company or other juristic person,
29 where the company or juristic person is at that time being wound up, would
30 be payable in pursuance of any secured or preferred claim against the

1 insolvent estate or against such company or juristic person.

2 (5) The Court shall not determine the amounts realizable as
3 contemplated in subsection (1) of this section, unless it has afforded all persons
4 holding any interest in the property concerned an opportunity to make
5 representations to it, in connection with the realization of that property.

6 (6) Where there is no amount that may be realized, the Court may
7 make an order for a nominal amount.

Realizable
Property

8 **51.**-(1) Subject to the provisions of subsection (2) of this section,
9 property is realisable under this Part, if the property is-

10 (a) held by the defendant concerned;

11 (b) held by a person to whom that defendant has directly or indirectly
12 made any affected gift; and

13 (c) subject to the effective control of the defendant as provided in
14 section 60 of this Act.

15 (2) Property shall not be realisable property where a forfeiture order is
16 in force in respect of the property.

Value of property

17 **52.**-(1) For the purpose of this Part, the value of property, other than
18 money, in relation to a person holding the property of a convicted person is,
19 where-

20 (a) any other person holds an interest in the property, the market value
21 of the property less the amount required to discharge any encumbrance on the
22 property; and

23 (b) no other person holds an interest in the property, the market value
24 of the property.

25 (2) Notwithstanding the provisions of subsection (1) of this section, a
26 reference in this Part to the value at the time of payment or reward, is construed
27 as a reference to-

28 (a) the value of the payment or reward at the time when the recipient
29 received it, as adjusted to take into account subsequent fluctuations in the value
30 of money; or

1 (b) where subsection (3) of this section applies, the value
2 mentioned in that subsection, whichever is greater in value.

3 (3) Where, at the time referred to in subsection (2), the recipient
4 holds-

5 (a) property, other than cash, which he received, the value
6 concerned is the value of the property at that time; or

7 (b) property which directly or indirectly represents the property
8 which he received, the value concerned is the value of the property in his
9 custody, if it represents the property which he received, at the relevant time.

10 **53.-(1)** For the purposes of this Act, a convicted person shall be
11 deemed to have made a gift, where he has transferred any property to any
12 other person directly or indirectly for a consideration, the value of which is
13 significantly less than the value of the consideration supplied by the
14 convicted person.

Gifts made by a
convicted person

15 (2) For the purposes of section 50 (2) of this Act, the gift which a
16 convicted person is deemed to have made shall consist of that share in the
17 property transferred by the convicted person that is equal to the difference
18 between the value of that property as a whole and the consideration received
19 by the convicted person in return.

20 (3) For the purpose of this Part, "affected gift" means any gift made
21 by the convicted person concerned-

22 (a) not more than six years before the prescribed date; or

23 (b) at any time, where it was a gift of property-

24 (i) received by that convicted person in connection with an offence
25 committed, or

26 (ii) any part which directly or indirectly represented in that
27 convicted person's hands property received by him in connection with an
28 offence committed by him or any other person, whether the gift was made
29 before or after the commencement of this Act.

30 (4) For the purpose of this Part, 'prescribed date' in relation to a

1 convicted person means, where-

2 (a) a prosecution for an offence has been instituted against the
3 convicted person, the date on which the prosecution was instituted; or

4 (b) a restraint order has been made against the convicted person, the
5 date of the restraint order, whichever is earlier.

Statements relating
to proceeds of
criminal activity

6 **54.**-(1) The Relevant Organisation, may, or where directed by the
7 Court, tender to the Court a statement in writing under oath or affirmation by a
8 person authorized by it in connection with any matter which is being inquired
9 into by the Court which relates to the determination of the value of a
10 convicted person's proceeds of criminal activities.

11 (2) A copy of the statement referred to in subsection (1) of this section
12 shall be served on the convicted person or his representative, at least 14 days
13 before the date on which the statement is to be tendered before the Court.

14 (3) A convicted person may dispute the correctness of an allegation
15 contained in a statement referred to in subsection (1) of this section, and where
16 the convicted person disputes the correctness of the allegation, he shall state the
17 grounds on which here lies.

18 (4) Where a convicted person does not dispute the correctness of any
19 allegation contained in the statement, the allegation is deemed to be conclusive
20 proof of the matter to which it relates.

21 (5) A convicted person may tender before the Court a statement in
22 writing under oath or affirmation by him or by any other person in connection
23 with any matter that relates to the determination of the amount that might be
24 realised as specified in section 50 (1) of this Act.

25 (6) For the purpose of obtaining information to assist the Court, the
26 Court may, at any time, order the convicted person to give it information
27 specified in the order.

28 (7) An order under subsection (6) of this section may require all or a
29 specified part of the information to be given in a specified manner and before a
30 specified date.

1 (8) A copy of the statement or information referred to in subsection
2 (5) or (6) of this section shall be served on the relevant organisation , at least
3 fourteen days before the date on which that statement is to be tendered
4 before the Court.

5 (9) The Relevant Organisation , may admit the correctness of any
6 allegation contained in a statement or information referred to in subsection
7 (5) or (6) of this section, and where the relevant organisation , admits the
8 correctness of any allegation contained in such statement, that allegation is
9 deemed to be conclusive proof of the matter to which it relates.

10 (10) Section 55 (1) of this Act does not affect any power of the
11 Court to deal with the convicted person, in respect of a failure to comply
12 with an order under this section.

13 (11) An information given under this section that amounts to an
14 admission by the convicted person that he has benefited from criminal
15 conduct is not admissible in evidence in proceedings for any other offence.

16 **55.-(1)** For the purposes of determining whether a convicted
17 person has derived a benefit under section 48 (1) of this Act, where it is
18 found that the defendant did not at the prescribed date, or since the beginning
19 of a period of six years before the prescribed date, have legitimate sources of
20 income sufficient to justify the interests in any property that the convicted
21 person holds, the Court shall accept this fact as prima facie evidence that the
22 interests form part of the benefit.

Evidence relating
to proceeds of
criminal activity

23 (2) For the purposes of section 48 (1) of this Act, where it is found
24 that the Court had ordered the convicted person to disclose any facts under
25 section 37 (5) or 54 (6) of this Act and that the convicted person had, without
26 sufficient cause, failed to disclose the facts or had, after being so ordered,
27 furnished false information, knowing the information to be false, the Court
28 shall accept those facts as prima facie evidence that any property to which
29 the information relates-

30 (a) forms part of the convicted person's benefit, in determining

1 whether he has derived a benefit from an offence; or

2 (b) is held by the convicted person as an advantage, payment, service
3 or reward in connection with the offences or related criminal activity.

4 (3) For the purpose of determining the value of a convicted person's
5 proceeds of criminal activities in an enquiry under section 52 (1) of this Act, if
6 the Court finds that he-

7 (a) has benefited from an offence and that-

8 (i) he held property at any time at, or since, his conviction, or

9 (ii) the property was transferred to him at any time since the beginning
10 of a period of six years before the prescribed date, the Court shall accept these
11 facts as prima facie evidence that the property was received by him at the
12 earliest time at which he held it, as an advantage, payment, service or reward in
13 connection with the offences or related criminal activities referred to in section
14 49(1) of this Act; or

15 (b) has benefited from an offence and that expenditure had been
16 incurred by him since the beginning of the period specified in paragraph (a) of
17 this subsection, the Court shall accept the facts as prima facie evidence that the
18 expenditure was met out of the advantages, payments, services or rewards,
19 including any property received by him in connection with the offences or
20 related criminal activities referred to in section 48 (1) of this Act.

21 (4) For the purpose of determining the value of any property under
22 section 49 (1) of this Act, where the Court finds out that the convicted person
23 received property at any time as an advantage, payment, service, or reward in
24 connection with the offences or related criminal activities referred to in that
25 section, whether committed by him or by any other person, the Court shall
26 accept this fact as prima facie evidence that he received that property free of
27 any other person's interest in it.

28 (5) Where, at the hearing of an application for a confiscation order in
29 relation to an offence concerning a narcotic substance, the value of the narcotic
30 substance is brought into question, an investigating officer from the relevant

1 organisation, who is experienced in the investigation of the specified
2 offence, may testify to the best of his knowledge, information and belief,
3 with respect to-

4 (a) the market value, at the time of the offence, of similar or
5 substantially similar narcotic substances; and

6 (b) the amount that was, or the range of amounts that were,
7 ordinarily paid for the doing of a similar or substantially similar act or thing.

8 (6) Evidence given in subsection (5) of this section is prima facie
9 evidence of the matters testified.

10 **56.**-(1) The Court may, on the application by the Relevant
11 Organisation, inquire into any benefit that a person may have derived from
12 an offence, where it is satisfied that-

13 (a) the person-

14 (i) had been charged with an offence,

15 (ii) had been convicted of any offence,

16 (iii) has had a restraint order made against him, or

17 (iv) can be tried for an offence on the grounds that sufficient
18 evidence exists against him;

19 (b) a warrant for arrest of the person had been issued and that the
20 attendance of that person in Court cannot be secured after all reasonable
21 steps were taken to execute that warrant;

22 (c) the proceedings against the person cannot be resumed within a
23 period of six months due to his continued absence; and

24 (d) there are reasonable grounds to believe that a confiscation order
25 may have been made against him but for his continued absence.

26 (2) Where a defendant, who has been convicted of an offence, dies
27 before a confiscation order is made, the Court may, on the application by the
28 relevant organisation, enquire into any benefit the person may have derived
29 from that offence if the Court is satisfied that there are reasonable grounds

Procedure where
a person absconds
or dies

1 for believing that a confiscation order would have been made against him, but
2 for his death.

3 (3) The executor of the estate of the deceased is entitled to appear
4 before the Court and make representations for purposes of the enquiry referred
5 to in subsection (2) of this section.

6 (4) The Court in conducting an inquiry under this section may, where-

7 (a) the Court finds that the defendant or deceased referred to in
8 subsections (1) or (2) of this section has so benefited, make a confiscation
9 order, and the provisions of this Part shall, with necessary modifications, apply
10 to the making of the order;

11 (b) an asset manager has not been appointed, in respect of any of the
12 property concerned, direct the relevant organisation to appoint an asset
13 manager in respect of realisable property; and

14 (c) authorise the realisation of the property concerned.

15 (5) The Court shall not exercise its powers under subsection (4) (a)
16 and (c) of this section, except it has afforded a person having any interest in the
17 property concerned an opportunity to make representations to it in connection
18 with the making of any order.

19 (6) The Court in conducting an enquiry under this section shall not
20 apply the provisions of sections 54 and 55 of this Act.

21 (7) Where a person, excluding a person specified in subsection (1) (a)
22 (ii) of this section, against whom a confiscation order had been made under
23 subsection(4) of this section is subsequently tried and-

24 (a) convicted of one or more of the offences in respect of which the
25 order had been made, the Court convicting him may conduct an inquiry under
26 section 49 and make an appropriate order; or

27 (b) acquitted of an offence in respect of which the order had been
28 made, the Court acquitting him may make an appropriate order.

29 (8) The Court may make a determination under section 48 of this Act
30 against a person specified under subsections (1) (a) and (b) of this section who

1 absconded prior to an inquiry under section 49 of this Act, and who is subject
2 to a confiscation order made under subsection (4) of this section where that
3 person is subsequently brought before the Court.

4 (9) The Court making a determination contemplated in subsection
5 (8) of this section shall take into account any order made under subsection
6 (4) of this section.

7 **57.-(1)** This section applies, where-

Reconsideration
of the confiscation
order

8 (a) the Court has made a confiscation order;

9 (b) there is evidence, which was not available to the Relevant
10 Organisation, at the time of the original confiscation hearing;

11 (c) the relevant organisation, believes that if the Court were to
12 determine the amount of the convicted person's benefit in pursuance of this
13 section, it may exceed the amount determined as the defendant's benefit in
14 the original confiscation hearing;

15 (d) notwithstanding the provisions of subsection (1) (c) of this
16 section, the relevant organisation believes that-

17 (i) the amount determined as the convicted person's benefit in the
18 original confiscation hearing is greater than the amount of the confiscation
19 order, and

20 (ii) if the Court were to determine the amount of the convicted
21 person's realisable assets in pursuance of this section, it would exceed the
22 amount determined, as the convicted person's realisable assets in the
23 original confiscation hearing;

24 (e) before the end of the period of six years commencing from the
25 date of conviction, the relevant organisation may on its own, apply to the
26 Court to reconsider the evidence and

27 (f) after considering the evidence, the Court believes it is
28 appropriate for it to proceed under this section.

29 (2) Where the Court is proceeding under subsection (1) (c) of this
30 section, it shall make a new calculation of the amount in respect of the

1 convicted person's activities mentioned in section 48(1)(c) of this Act.

2 (3) Where the amount found under the new calculation mentioned in
3 subsection (2) of this section exceeds the amount originally determined, as the
4 convicted person's benefit, the Court-

5 (a) shall make a new calculation of the convicted person's realisable
6 assets for the purposes of section 48 of this Act; and

7 (b) if it exceeds the amount required to be paid under the original
8 confiscation order, may vary the order by substituting for the amount required
9 to be paid by such amount as it deemed fit and proper.

10 (4) Where the Court is proceeding under subsection (1)(d) of this
11 section-

12 (a) it shall make a new calculation of the convicted person's realisable
13 assets for the purposes of section 51 of this Act; and

14 (b) if it exceeds the amount required to be paid under the confiscation
15 order, may vary the order by substituting for the amount required to be paid an
16 amount, not exceeding the amount as originally determined within the
17 provisions of section 48 of this Act, as it deemed fit and proper.

18 (5) Section 55 of this Act shall not apply in making a determination
19 under this section.

20 (6) Where a Court applies subsection (2) or (3) of this section, it shall
21 have regard to-

22 (a) any fine imposed on the convicted person for the offence or any of
23 the offences concerned; and

24 (b) any other order made under this Act.

25 (7) In making a decision under this section, the Court shall, where one
26 amount exceeds another, take account of any variation in the value of money.

Enforcement
of confiscation
orders

27 **58.**-(1) An amount payable by a person to the relevant organisation
28 under a confiscation order is a civil debt due by the person to the Federal
29 Government.

30 (2) A confiscation order against a person may be enforced, as if it were

1 an order made in civil proceedings instituted by the Relevant Organisation
2 against a person to recover a debt due by that person to the Federal
3 Government.

4 (3) A debt arising from the order is deemed to be a judgement debt.

5 (4) Where a confiscation order is made against a person after his
6 death, this section shall have effect, as if the person had died on the day after
7 the order was made.

8 (5) Where a person fails to satisfy any or part of a confiscation
9 order made by the Court, the Court may order that the person against whom
10 the order was made be committed to prison in addition to any other sentence
11 prescribed under this Act.

12 (6) The period of imprisonment referred to under subsection (5) of
13 this section shall be as prescribed in the Schedule to this Act.

14 (7) An order to pay an amount under a confiscation order is due to
15 be paid on the day that the confiscation order is made.

16 (8) The Court making the order may, on the application by the
17 convicted person, grant a period of time to pay the amount under the
18 confiscation order.

19 (9) The period of time referred to in subsection (8) of this section
20 shall not exceed six (6) months from the date the order is made.

21 (10) The Court making the order may, having regard to the special
22 circumstances of the case, extend the period referred to in subsection (9) of
23 this section by a further six months.

24 (11) Where the convicted person intends to apply to the Court for
25 an extension of the type referred to in subsection (8) of this section, he shall
26 notify the Relevant Organisation, in writing, at least fourteen days prior to
27 the application.

28 (12) The relevant organisation may appear and adduce evidence at
29 a hearing under subsection (8) of this section.

30 (13) Any sentence of imprisonment imposed under subsection (5)

Variation of
confiscation
order

1 of this section shall be served consecutively with any other sentence of
2 imprisonment imposed, whether as a result of the proceedings in connection
3 with which the confiscation order was made or any other proceedings.

4 **59.**-(1) Where the Court has made a confiscation order, the Relevant
5 Organisation or the convicted person may apply to the Court to vary the order
6 under this section.

7 (2) In considering an application under subsection (1) of this section,
8 the Court shall calculate the available amount and in doing so shall apply the
9 provisions of section 50 of this Act, as if references to the-

10 (a) time the confiscation order is made were to the time of the
11 calculation; and

12 (b) date of the confiscation order was made to the date of the
13 calculation.

14 (3) Where the Court finds that the available amount calculated is
15 inadequate for the payment of any amount remaining to be paid under the
16 confiscation order, it may vary the order by substituting for the amount
17 required to be paid, a smaller amount, as the Court believes is just.

18 (4) Where a person has been adjudged bankrupt or his estate has been
19 sequestrated, or where an order for the winding up of a company has been
20 made, the Court shall take into account the extent to which the realisable
21 property held by that person or that company may be distributed amongst
22 creditors.

23 (5) The Court may disregard any inadequacy that it believes is
24 attributable, wholly or partly, to anything done by the defendant for the purpose
25 of preserving property held by the recipient of an affected gift from any risk of
26 realisation under this Part.

Property subject
to a person's
effective control

27 **60.**-(1) Where-

28 (a) a person's property is subject to a confiscation order;

29 (b) the Relevant Organisation, applies to the Court for an order under
30 this section; and

1 (c) the Court is satisfied that any particular property is subject to
2 the effective control of the person referred to in paragraph (a) of this
3 subsection, the Court may make an order declaring that the whole, or a
4 specified part of that property be made available to satisfy the confiscation
5 order.

6 (2) The order under subsection (1) of this section may be enforced
7 against the property, as if the property were the person's property.

8 (3) A restraint order may be made in respect of a property that is
9 under the effective control of a person, as if-

10 (a) the property was the person's property; and

11 (b) the person had committed an offence.

12 (4) Where the Relevant Organisation, applies for an order under
13 subsection (1) of this section relating to a particular property, it shall give
14 written notice of the application to-

15 (a) the person who is subject to the confiscation order; and

16 (b) any person whom the Relevant Organisation has reason to
17 believe may have an interest in the property.

18 (5) A person, who is subject to the confiscation order, and any
19 person who claims an interest in the property, may appear and adduce
20 evidence at the hearing of the application.

21 (6) Any person claiming an interest under subsection (5) of this
22 section shall give written notice to the Relevant Organisation of the claim
23 and the grounds on which the claim is based at least 72 hours before the date
24 of the hearing.

25 **61.**-(1) A confiscation order made in relation to a person's
26 conviction for an offence is discharged, where-

Discharge of
confiscation order
made in relation
to a conviction

27 (a) the person's conviction of the offence is subsequently quashed
28 on the merit; and

29 (b) the order does not relate to any other offence.

30 (2) Where the Relevant Organisation deposits money into the

	1	Account as provided under this Act, in satisfaction of a person's liability under
	2	a confiscation order, the person's liability under the confiscation order is, to the
	3	extent of the deposit, discharged.
	4	PART VII - INVESTIGATION, SEARCH AND SEIZURE
Objectives of this Part	5	62. The objectives of this Part are to provide Relevant Organisation
	6	with investigative tools, including tools relating to-
	7	(a) establishing the whereabouts and extent of a person's realisable
	8	assets,
	9	(b) identifying and recovery of property or instrumentalities that may
	10	be subject to civil forfeiture and confiscation, and
	11	(c) a detained cash investigation.
Application of this Part	12	63.-(1) This Part applies to all Relevant Organisation, in the conduct
	13	of investigations, searches, and seizures in connection with the recovery of
	14	proceeds of unlawful activities under this Act and the relevant laws.
	15	(2) Notwithstanding the provisions of any other relevant laws, a
	16	Relevant Organisation, shall comply with the provisions of this Part in the
	17	conduct of the matters referred to in subsection (1) of this section.
	18	(3) For the purpose of this Part-
	19	(a) "civil forfeiture investigation" is an investigation into whether
	20	property constitutes or is derived from the proceeds of unlawful activity or is
	21	the instrumentality of an offence;
	22	(b) "confiscation investigation" is an investigation into whether a
	23	person has benefited from a criminal activity;
	24	(c) "detained cash investigation" is an investigation contemplated in
	25	Part V of this Act; and
	26	(d) "civil recovery investigation" is an investigation under the Part IV
	27	of this Act.
Actions detrimental to an investigation	28	64.-(1) This section applies if a person knows or suspects that a
	29	relevant organisation or its authorised officer is acting or proposing to act, in
	30	connection with-

- 1 (a) a confiscation investigation;
2 (b) a forfeiture investigation;
3 (c) a civil recovery investigation; or
4 (d) a detained cash investigation.

5 (2) The person commits an offence if-

6 (a) he makes a disclosure which is likely to prejudice the
7 investigation, or

8 (b) he falsifies, conceals, destroys or otherwise disposes of, or
9 causes or permits the falsification, concealment, destruction or disposal of
10 documents which are relevant to the investigation.

11 (3) A person does not commit an offence under subsection (2) (a) of
12 this section if the Court is satisfied that-

13 (a) he does not know or suspect that the disclosure is likely to
14 prejudice the investigation,

15 (b) the disclosure is made in the exercise in compliance with a
16 requirement imposed under or by virtue of-

- 17 (i) this Act,
18 ii) the Money Laundering (Prohibition) Act,
19 (iii) the Terrorism (Prevention) Act; or
20 (iv) any other Law in force in Nigeria.

21 (4) A person who commits an offence under subsection (2) of this
22 section is liable on conviction a fine not less than two million Naira
23 (N2,000,000) or imprisonment for a term not exceeding two year or to both
24 the fine and imprisonment.

25 **65.** Where any property is seized under this Act, the seizure is
26 effected by removing the property from the custody or control of the person
27 from whom it is seized and placing it under the custody of the Relevant
28 Organisation.

Retention of
seized property

29 **66.** A person, who-

30 (a) refuses an authorised officer access to any premises, or fails to

Obstructing the
execution of a
search and seizure
warrant

- 1 submit to a search by a person authorised to search him under this Act;
- 2 (b) assaults or obstructs any authorised officer or any accompanying
- 3 person in the execution of search and seizure warrant under this Act;
- 4 (c) conceals or attempts to conceal from, an authorised officer or any
- 5 accompanying person, any book, document, or article, in relation to which the
- 6 officer has reasonable grounds for suspecting or believing that an offence
- 7 under an applicable Act has been or is being committed, or which is liable to
- 8 seizure under this Act;
- 9 (d) rescues, endeavours to rescue, or causes to be rescued any person,
- 10 who has been duly arrested or anything which has been duly seized under this
- 11 Act; or
- 12 (e) destroys anything to prevent its seizure or securing of the thing
- 13 under this Act, commits an offence and is liable on conviction to a fine of five
- 14 million Naira (N5,000,000) or a term of imprisonment of not less than two
- 15 years or to both the fine and imprisonment.

16 PART VIII - ADMINISTRATION

Powers and duties
of the Relevant
Organisation
in respect of
property seized

17 **67.** This Part sets out the powers and duties of relevant Organisation ,

18 in respect of property, (in this Part referred to as "controlled property"), seized

19 and placed under the control and custody of the relevant organisation by order

20 of the Court.

Preserving
controlled
property

21 **68.-(1)** The relevant organisation shall do everything that is

22 reasonably necessary for the purpose of preserving the controlled property,

23 including-

24 (a) becoming a party to any civil proceedings affecting the controlled

25 property;

26 (b) becoming a party to any proceedings arising out of criminal

27 proceedings, including the confiscation proceedings, affecting the controlled

28 property;

29 (c) ensuring that the controlled property is insured;

30 (d) realising or otherwise dealing with controlled property that is

1 securities or investments; and

2 (e) where a controlled property is a business-

3 (i) employing, or terminating the employment of persons in the
4 business, and

5 (ii) doing anything necessary or convenient to carry on the
6 business on a sound commercial basis.

7 (2) The Relevant Organisation shall for the purposes of performing
8 its functions under subsection (1) of this section, engage persons competent
9 and qualified in the relevant area of business.

10 **69.** The relevant organisation may exercise the rights attaching to
11 any of the controlled property that are shares, securities, stocks, bonds or
12 debentures as if the relevant organisation were the registered holder of the
13 shares, securities, stocks, bonds or debentures, to the exclusion of the
14 registered holder.

Rights attaching
to shares

15 **70.** The relevant Organisation may-

16 (a) destroy the controlled property or any part of it on the grounds
17 of public interest, health or safety; or

18 (b) dispose of the controlled property or any part of it, by sale or
19 other means to avoid deterioration or loss of value.

Destroying or
disposing of
property

20 **71.-(1)** The Relevant Organisation shall give written notice of the
21 proposed destruction or disposal of the controlled property to-

Notice of proposed
destruction or
disposal of
controlled property

22 (a) the owner of the controlled property; and

23 (b) any other person whom the Relevant Organisation has reason to
24 believe may have an interest in the controlled property.

25 (2) The notice referred to under subsection (1) of this section shall
26 state the date, venue, and time of the proposed destruction or disposal.

27 (3) A person who has been served with a notice under subsection
28 (1) of this section may object, in writing, to the Relevant Organisation
29 within 14 days of receiving the notice.

Procedure where
a person objects
to proposed
destruction or
disposal

1 72.-(1) Notwithstanding the written objection referred to in section
2 71(3) of this Act, where the Relevant Organisation wishes to continue with the
3 proposed destruction or disposal of the controlled property, it shall apply to the
4 Court that made the order for an order to destroy or dispose of the controlled
5 property.

6 (2) The Court shall make an order to destroy the controlled property
7 if-

8 (a) it is in the public interest to do so;

9 (b) the benefit of the disposal or sale of the property far outweighs the
10 retention; or

11 (c) it is required to protect the health or safety of the public.

12 (3) In making an order for the destruction of controlled property, the
13 Court shall-

14 (a) consider the overriding public interest in the sale or disposal of the
15 controlled property;

16 (b) assess the cost of restoring the property in a saleable marketable
17 condition, and whether this exceeds its realisable value;

18 (c) consider whether the cost of sale may exceed the realisable value
19 of the property; and

20 (d) ensure the legality of the sale of the property.

21 (4) The Court shall make an order to dispose of the controlled
22 property where-

23 (a) the property is likely to lose value; or

24 (b) the cost of managing the property until it is finally dealt with by the
25 Relevant Organisation is likely to exceed, or represent a significant proportion
26 of, the value of the property when it is finally disposed of.

27 (5) The Court may also make an order-

28 (a) requiring that a person authorized by the Relevant Organisation
29 should bear the cost of managing the controlled property while maintaining the
30 value of the property at the time of the application until it is finally disposed of

1 by the Relevant Organisation; or

2 (b) refusing an objection to a proposed destruction or disposal of
3 the controlled property.

4 **73.** Any amount realised from the disposal of the controlled
5 property under section 71 of this Act shall be deemed to be-? Proceeds from
sale of property

6 (a) covered by the restraint order related to the controlled property
7 being disposed of; and

8 (b) proceeds of that unlawful activity or its instrumentality, where
9 the restraint order covered the controlled property disposed of on the basis
10 that the controlled property was proceeds of unlawful activity or its
11 instrumentality.

12 **74.** Where the Relevant Organisation pay monies into the Discharge of
confiscation orders
by payment into
the Confiscated
and Forfeited
Properties Account
13 Confiscated and Forfeited Properties Account, as required by section 79 of
14 this Act in satisfaction of a person's liability under a confiscation order, the
15 person's liability under the order is, to the extent of the payment, discharged.

16 **75.** Where the restraint order relating to the controlled property Return of income
generated from
controlled property
17 ceases to be in force and the property shall be returned to its owner, the
18 Relevant Organisation shall pay to the owner the income generated from the
19 property less all reasonable expenses incurred by the Relevant Organisation
20 on the controlled property.

21 **76.-(1)** The Relevant Organisation in respect of property in its Immunity against
liability for loss,
etc.
22 custody shall not be liable for-

23 (a) any loss or damage, sustained by a person claiming an interest
24 in all or part of the controlled property, arising from the Relevant
25 Organisation taking custody and control of the property; and

26 (b) the cost of proceedings taken to establish an interest in the
27 property.

28 (2) In the management of controlled property, the Relevant
29 Organisation shall not pay any rates, land tax, municipal or statutory charges
30 imposed under any law pertaining to the controlled property, except out of

International
forfeiture
provisions

1 the rents or profits that had accrued from the controlled property.

2 77.-(1) Where the Court under this Act orders forfeiture of any
3 property, which was established to be the proceeds of unlawful activity or
4 instrumentality of an unlawful activity within Nigeria and the other
5 constituents of the instrumentality of the unlawful activity is situate in a foreign
6 country, the Relevant Organisation under the direction of the Attorney General
7 of the Federation shall initiate proceedings, including by way of mutual legal
8 assistance in that foreign country for the recovery of the forfeited property.

9 (2) Where it is established that a convicted person has any asset or
10 property in a foreign country, acquired as a result of an unlawful activity, the
11 Relevant Organisation under the direction of the Attorney General shall apply
12 for the asset or property, subject to any treaty or arrangement with that foreign
13 country, to be forfeited to the Federal Government of Nigeria.

14 (3) The forfeited property referred to in subsections (1) and (2) of this
15 section shall be transferred to the Relevant Organisation for management and
16 its proprietary interest vested in the Federal Government of Nigeria, as
17 provided under the provisions of this Act.

18 (4) Where a foreign country has forfeited or confiscated property
19 under the laws of its country-

20 (a) that relates to unlawful activity conducted in that country and
21 Nigeria; and

22 (b) repatriates the whole or part of that assets or a sum of money that
23 represents unlawful activity in Nigeria, the property shall be realised and the
24 proceeds or the sum of money is paid into the Confiscated and Forfeited
25 Properties Account established under Part IX of this Act.

26 (5) Any money paid into the Confiscated and Forfeited Properties
27 Account under subsection (4) of this section shall be utilised to finance any of
28 the purposes specified under this Act and as approved by the Federal Executive
29 Council.

1 PART IX - CONFISCATED AND FORFEITED PROPERTIES ACCOUNT

2 78.-(1) There is established, under this Act, the Confiscated and
3 Forfeiture Property Account, a special designated account opened and
4 maintained at the Central Bank of Nigeria.

Establishment
of the Confiscated
and Forfeited
Properties Account

5 (2) The Confiscated and Forfeited Properties Account shall be
6 managed by the Head of the Relevant Organisation who shall be responsible
7 for providing reports to the Minister of Finance.

8 79.-(1) There shall be paid into the Confiscated and Forfeited
9 Properties Account-

Payments into
the Confiscated
and Forfeited
Properties Account

10 (a) monies realised from the proceeds of sale, management or other
11 form of disposal of forfeited assets under this Act and other relevant laws;

12 (b) proceeds of any property forfeited under section 23 (2) (c) of
13 the Code of Conduct Bureau and Tribunal Act, which relates forfeiture to
14 the State of any property acquired in abuse or corruption of office;

15 (c) monies paid to Nigeria by a foreign country-

16 (i) under any treaty or arrangement providing for mutual assistance
17 in criminal matters,

18 (ii) as mentioned in section 77 (4) of this Act, or

19 (iii) through repatriation of proceeds of unlawful activity; and

20 (d) monies paid to the Relevant Organisation on behalf of the
21 Federal Government in settlement of proceedings connected with this Act
22 and other relevant laws.

23 (2) Confiscated or forfeited assets are-

24 (a) the remainder of the money and amounts referred to in section
25 31 (2) of this Act;

26 (b) the amount representing proceeds from a disposition authorised
27 under this Act or by regulations made under this Act or under any other
28 relevant law;

29 (c) the amount referred to in section 58 of this Act;

1 (d) remainder of the money and amounts referred to in section 73 of
2 this Act;

3 (e) proceeds of an unlawful activity and money confiscated or
4 forfeited under-

5 (i) the Customs and Excise Management Act,
6 (ii) the Terrorism (Prevention) Act,
7 (iii) the Money Laundering (Prohibition) Act,
8 (iv) the Economic and Financial Crimes Commission
9 (Establishment, etc.) Act,
10 (iv) the Corrupt Practices and Other Related Offences Act,
11 (v) the Advance Fee Fraud and Other Fraud Related Offences Act,
12 2006,
13 (vi) the National Drug Law Enforcement Agency Act,
14 (vii) the Code of Conduct Bureau and Tribunal Act,
15 (viii) the Administration of Criminal Justice Act 2015, and
16 (x) any other law dealing with confiscation and forfeiture of property
17 in force in Nigeria;

18 (f) instrumentalities of unlawful activity, including the proceeds of
19 their disposal or confiscation under-

20 (i) the Customs and Excise Management Act,
21 (ii) the Terrorism (Prevention) Act,
22 (iii) the Money Laundering (Prohibition) Act,
23 (iv) the Economic and Financial Crimes Commission
24 (Establishment, etc.) Act,
25 (v) the Corrupt Practices and Other Related Offences Act,
26 (vi) the National Drug Law Enforcement Agency Act,
27 (vii) the Code of Conduct Bureau and Tribunal Act,
28 (vii) the Administration of Criminal Justice Act 2015,
29 (ix) the Trafficking in Persons (Prohibition) Enforcement, and
30 Administration Act, 2003 as amended in 2015;

1 (x) any other law dealing with confiscation and forfeiture of
2 property in force in Nigeria; and

3 (x) cash forfeited under section 34 of this Act.

4 **80.** The President may, subject to the approval by Federal
5 Executive Council authorise the expenditure, from time to time, for moneys
6 in the Confiscated and Forfeited Properties Account to be used to-

Payments out
of the Confiscated
and Forfeited
Properties Account

7 (a) Permit the Relevant Organisation to invest in various
8 government portfolios to ensure that the funds can accrue interest that would
9 be applied for the implementation of development projects as approved by
10 the Federal Executive Council (FEC) or the National Assembly;

11 (b) Compensate any State which has suffered grave pecuniary loss
12 on account of the offence or conduct that gave rise to the confiscation or
13 forfeiture order;

14 (c) compensate any person who has suffered grave pecuniary loss
15 on account of the offence or conduct that gave rise to the confiscation or
16 forfeiture order;

17 (d) pay any foreign country or an agency under the provisions of
18 any treaty agreement or scheme for mutual legal assistance;

19 (e) make payments under any programme approved by the
20 President under section 82 of this Act;

21 (f) make any payment necessary to satisfy Nigeria's obligations in
22 respect of a registered foreign forfeiture order;

23 (g) make such other payments, on behalf of the Federal
24 Government, directed to be made under any relevant law; and

25 (h) pay, with the approval of the National Assembly, two percent
26 allocation to the Relevant Organisation for the recoveries made by the
27 relevant Organisation in any given year.

28 **81.** The Confiscated and Forfeited Properties Account shall be
29 audited in accordance with the guidelines supplied by the Auditor-General
30 for the Federation.

Audit of the
Confiscated and
Forfeited Properties
Account

29 (2) The Chief Justice of Nigeria shall designate special Courts at the
30 states where the proceedings under this Act may be determined from time to

1 time in order to reduce backlog of cases in the Federal High Court.

2 (3) The penalty imposed on a person who is suspected to have
3 committed an offence or convicted of an offence under this Act may be
4 reduced in such manner as the Court deems fit or following an application by
5 the Relevant Organisation where the person has-

6 (a) before the commencement of any proceedings, made possible
7 or facilitated the identification of other accused persons and their sponsors;

8 (b) after the commencement of the proceedings, made possible or
9 facilitated the arrest of other accused persons or recovery of other person's
10 proceeds of unlawful activity;

11 (c) cooperated with the Relevant organisation

12 (4) The Court shall, notwithstanding anything to the contrary in
13 any other enactment, rules, or regulations, have power to adopt all legitimate
14 measures it deems necessary to avoid unnecessary delays and abuse in the
15 conduct of proceedings.

16 PART XI - GENERAL PROVISIONS RELATING TO LEGAL PROCEEDINGS

17 **84.** Subject to the provisions of this Act, the defendant in any Burden of proof
18 proceedings under this Act bears the burden of proving that he is the
19 legitimate owner of the assets suspected to be proceeds of crime or derived
20 from unlawful activity or that the assets is of legitimate origin and is not
21 proceeds of unlawful activity.

22 **85.-(1)** An application for stay of proceedings, in respect of any Stay of proceedings
23 matter brought under this Act, shall not be entertained.

24 (2) The fact that criminal proceedings have been instituted or have
25 commenced, whether under this Act, shall not constitute a ground for stay of
26 proceedings under this Act.

27 (3) The Relevant Organisation has the same right of appeal, as any
28 other person under this section, in respect of the grant or refusal of an order
29 under this Act.

30 (4) This section does not affect any other right of appeal conferred

	1	on a person under the Constitution of the Federal Republic of Nigeria or any
	2	other law.
Publication of notice, etc.	3	86. Where in this Act, a notice or other document is required by any
	4	provision of this Act to be published, it is sufficient if the notice or other
	5	document is published in any widely circulating national newspapers.
Relationship with relevant laws	6	87. Subject to the provisions of the Constitution of the Federal
	7	Republic of Nigeria, where a provision of this Act is inconsistent with the
	8	provisions of any relevant law on the management of finally forfeited assets,
	9	the provisions of this Act shall prevail.
Pre-action notice	10	88.-(1) A civil action shall not be commenced against the Relevant
	11	Organisation before the expiration of a period of 30 days after written notice of
	12	intention to commence the suit shall have been served on the relevant
	13	Organisation by the intending plaintiff or his agent, and the notice shall clearly
	14	and explicitly state the-
	15	(a) cause of action;
	16	(b) particulars of the claim;
	17	(c) name and place of abode of the intending plaintiff; and
	18	(d) relief sought.
	19	(2) The notice referred to in subsection (1) of this section and any
	20	summons or other documents, required or authorised to be served on the
	21	relevant organisation as the case may be under this Act or other enactment or
	22	law, may be served by-
	23	(a) delivering it to the office of the relevant organisation; or
	24	(b) sending it by registered mail to the postal address of the relevant
	25	organisation.
Indemnity of officers of the relevant organisation	26	89. The Chairman, Member of the Board, officers or staff of the
	27	relevant organisation, or a seconded officer from any organisation or from any
	28	public office of the Federation, shall be indemnified out of the assets of the
	29	relevant organisation against any proceedings brought against him in his
	30	official capacity, where the act complained of is not beyond his powers.

1 PART XII - MISCELLANEOUS

2 **90.**-(1) The Attorney-General of the Federation may, in Regulations and
3 consultation with the relevant organisation make regulations as they guidelines
4 concerns management of forfeited assets necessary or expedient for the
5 efficient implementation of the provisions of this Act.

6 (2) The relevant organisation shall issue guidelines, as may be
7 necessary for the exercise of any of the duties, functions, or powers of the
8 Directorate under this Act.

9 **91.** In this Act- Interpretation

10 "assets" includes "funds" or "property". Funds or property refers to assets of
11 every kind whether tangible or intangible, movable or immovable, however
12 acquired, and legal documents or instruments in any form, including
13 electronic or digital, evidencing title to or interest in such assets, including
14 but not limited to bank credits, travelers' cheques, bank cheques, money
15 orders, shares, securities, bonds, drafts or letters of credit;

16 "asset manager" means a person authorised by the relevant organisation to
17 fulfil the functions mentioned in section 14 (1)(a) of this Act;

18 "authorised officer" means a qualified person, who is -

19 (a) A member of staff of the relevant organisation or persons so
20 designated by the Head of the relevant organisation;

21 (b) any other person included in a class of persons declared by the
22 regulations to be within this definition;

23 "Attorney-General" means the Attorney-General of the Federation and
24 Minister of Justice;

25 "benefit" includes service or advantage;

26 "books" include any books of account, deed, paper, writing, or document,
27 and any record of information, however, compiled, recorded or stored,
28 whether in writing, on microfilm, by electronic process or otherwise;

29 "child" means a person under the age of eighteen years;

30 "civil proceedings" refers to proceedings that are civil proceedings and are

1 not criminal proceedings "close dependant relative" means-

2 (a) the person's spouse; or

3 (b) the person's child.

4 "Confiscation" which includes forfeiture where applicable means the
5 permanent deprivation of funds or other assets by order of a competent
6 authority or a Court. Confiscation or forfeiture takes place through a judicial or
7 administrative procedure or order of the Court that transfers the ownership of
8 the specified assets to the government;

9 "Confiscated and Forfeited Properties Account" means the account established
10 under section 94 of this Act;

11 "confiscation order" means, an order made under section 51 of this Act;

12 "controlled property" has the meaning given to it by section 84 of this Act

13 "conveyance" means, a mode of transportation, and includes an aircraft, a
14 vehicle, and a vessel; "convicted person" for the purpose of recovery of
15 proceeds of criminal activities means, the person-

16 (a) is convicted for the offence;

17 (b) is sentenced for the offence, notwithstanding that the Court in
18 passing sentence took into account an offence of which he has not been found
19 guilty; or

20 (c) absconds in connection with the offence; "Court" means the
21 Federal High Court or State High Court; "data" includes-

22 (a) information in any form; and

23 (b) any programme or part of a programme; "data held in a computer"
24 includes data held in-

25 (a) any removable data storage in electronic devices for the time being
26 held in a computer;

27 (b) data storage in electronic devices on a computer network of which
28 the computer forms a part; and

29 (c) data held in any remote storage in electronic devices to which data
30 has been sent from the computer.

- 1 "data storage device" means a thing containing, or designed to contain data;
- 2 "date of conviction" in relation to a person's conviction of an offence,
- 3 means, in the case of a person -
- 4 (a) charged with, and found guilty of the offence, the day on which
- 5 the person was found guilty of the offence; or
- 6 (b) who absconds, the day on which the person is taken to have
- 7 absconded in connection with the offence;
- 8 "deal" when used in relation to a person's property, includes-
- 9 (a) where a debt is owed to that person, making a payment to any
- 10 person in reduction of the amount of the debt;
- 11 (b) removing property from Nigeria;
- 12 (c) receiving or making a gift of property; and
- 13 (d) where property is covered by a restraint order, engaging in a
- 14 transaction that has the direct or indirect effect of reducing the value of the
- 15 person's interest in the property,
- 16 and "dealing" shall be construed, accordingly;
- 17 "derived", in relation to a person having derived proceeds, a benefit or
- 18 wealth, includes any other person who at the request or direction of the
- 19 person, having derived the proceeds, benefit, or wealth directly or
- 20 indirectly;
- 21 "designated non-financial institutions" means-
- 22 (a) businesses involved in the hospitality industry;
- 23 (b) casinos;
- 24 (c) clearing and settlement companies;
- 25 (d) company service providers, who provide services to third
- 26 parties;
- 27 (e) consultants and consulting companies;
- 28 (f) dealers in luxury items;
- 29 (g) dealers in precious metals and precious stones;

- 1 (h) dealers in real estate, estate developers, estate agents and brokers;
2 (i) high value dealers;
3 (j) law firms and notaries;
4 (k) licensed professional accountants
5 (l) mortgage brokers;
6 (m) non-profit organisations;
7 (n) practitioners of mechanized farming;
8 (o) religious and charitable organisations;
9 (p) supermarkets;
10 (q) tax consultants;
11 (r) trust and company service providers; or
12 (s) other businesses and professions as may be designated by the
13 Attorney-General in regulations;
14 "detained cash" means cash or items that have been seized and detained under
15 this Act;
16 "Directorate" means the Directorate of Proceeds of Crimes (Management) in
17 the Relevant Organisation;
18 "effective control" has the meaning given to it under section 60 of this Act;
19 "encumbrance", in relation to property, includes any interest, mortgage,
20 charge, right, claim, and demand in respect of the property;
21 "evidential material" means evidence relating to -
22 (a) property in respect of which action has been or could be taken
23 under this Act; or
24 (b) benefits derived from the commission of a relevant offence;
25 "financial institution" has the meaning given in the Money Laundering
26 (Prohibition, etc.) Act 2011 (as amended in 2012).
27 "forfeited property" means property finally forfeited to the federal
28 Government;
29 "Fund" Funds refers to assets of every kind whether tangible or intangible,
30 movable or immovable, however acquired, and legal documents or

1 instruments in any form, including electronic or digital, evidencing title to or
2 interest in such assets, including but not limited to bank credits, travellers
3 cheques, bank cheques, money orders, shares, securities, bonds, drafts or
4 letters of credit;

5 "interest", in relation to property or a thing, means-

6 (a) a legal or equitable estate, or interest in the property or thing; or

7 (b) a right, power or privilege in connection with the property or
8 thing, whether present or future, and whether vested or contingent;

9 "instrumentality of an offence" means property used or intended to be used
10 in or in connection with the commission of an offence, whether the property
11 is situated within or outside Nigeria;

12 "lawfully acquired", in relation to property or wealth, means that the
13 property or wealth, and the consideration for it, was lawfully acquired;

14 "legal practitioner" has the meaning given to it by the Legal Practitioners
15 Act;

16 "money laundering" has the same meaning as defined under the Money
17 Laundering (Prohibition) Act, 2011 (as amended in 2012).

18 "Non-conviction-?basedconfiscation" means confiscation through a judicial
19 procedure related to a criminal offence for which a criminal conviction is not
20 required.

21 "Nigeria Financial Intelligence Unit" means the Unit set up under the
22 Nigeria Financial Intelligence Unit Act, 2018.

23 "officer", in relation to a financial institution or a corporation, means a
24 director, secretary, executive officer, or employee of a financial institution;

25 "premises" means property and structures that are on the property, including
26 buildings, vessels, boats and vehicles, whether temporary or not and
27 whether designed for habitation or not;

28 "person's property" includes property in respect of which a person has a
29 beneficial interest; "proceedings are concluded" where-

30 (a) the defendant is acquitted on all counts in proceedings for an

1 offence, on the date he is acquitted;

2 (b) the defendant is convicted in proceedings for an offence and the
3 conviction is quashed or the defendant is pardoned before a confiscation order
4 is made, on the date the conviction is quashed, or the defendant is pardoned
5 before a confiscation order is made;

6 (c) a confiscation order is made against the defendant in proceedings
7 for an offence, whether the order is made by the Court or the Court of Appeal,
8 on the date the order is -

9 (i) satisfied or discharged, or

10 (ii) quashed and there is no further possibility of an appeal against the
11 decision to quash the order;

12 "proceeds" means property, whether-

13 (a) wholly or partly derived or realized, directly or indirectly, from an
14 unlawful activity,

15 (b) the property is situated within or outside Nigeria;

16 "property" includes funds and means assets of every kind, corporeal or
17 incorporeal, moveable or immoveable, tangible or intangible and legal
18 documents or instruments evidencing title to or interest such assets whether
19 situated within Nigeria or outside Nigeria.

20 "quashing a conviction for an offence" means-

21 (a) the quashing of a conviction of a person, who had been convicted;

22 (b) the quashing or setting aside of the finding of guilt, where a person
23 had been charged with and found guilty of an offence but discharged without
24 conviction; or

25 (c) the quashing or setting aside of the conviction of a person, who
26 absconded but was later brought before a Court and discharged;

27 "realizable property" means has the meaning assigned to it in section 51 of this
28 Act;

29 "registration authority", in relation to property of a kind means, an authority
30 responsible for registration of title to, or charges over property of that kind;

- 1 "related offence" means, an offence the physical elements of which are like
2 another offence;
- 3 "relevant laws" means laws of relevant Organisation, and any other law
4 relating to civil forfeiture, confiscation, and management of proceeds of
5 crime;
- 6 "relevant Organisation" means -
- 7 (a) the Economic and Financial Crimes Commission;
- 8 (b) the Independent Corrupt Practices and other Related Offences
9 Commission;
- 10 (c) the National Drug Law Enforcement Agency;
- 11 (d) The National Agency for Prohibition of Trafficking in Persons
- 12 (e) the National Agency for Food and Drug Administration and
13 Control;
- 14 (f) the Nigeria Customs Service;
- 15 (g) the Nigerian Financial Intelligence Unit;
- 16 (h) the Code of Conduct Bureau;
- 17 (i) the Nigeria Police Force;
- 18 (j) the Department of State Services;
- 19 (k) the Armed Forces;
- 20 (l) the Standard Organisation of Nigeria;
- 21 (m) the Nigeria Maritime and Safety Agency;
- 22 (n) the Nigeria Immigration Service;
- 23 (o) the Nigeria Ports Authority;
- 24 (p) the National Inland Waterways Authority;
- 25 (q) the Nigerian Security and Civil Defence Corps;
- 26 (r) the Federal Inland Revenue Service; and
- 27 (s) such other organisations as the Attorney-General may, from
28 time to time, designate;
- 29 "relevant person" means, a person who has been convicted of, or has been

1 charged with, an offence, or it is proposed that the person be charged with an
2 offence;
3 "restraint order" means an order under Part VI of this Act that is in force;
4 "seize" means to prohibit the transfer, conversion, disposition, or movement of
5 property based on an action initiated by a relevant Organisation, or based on a
6 Court order;
7 "sufficient consideration" in relation to an acquisition or disposal of property,
8 means a consideration that is sufficient and that reflects the value of the
9 property, having regard solely to commercial considerations; and
10 "unlawful activity" means an act, omission, or conduct, committed directly or
11 indirectly which constitutes an offence or which contravenes a law in force in
12 Nigeria, whether the act, omission or conduct occurred before or after the
13 commencement of this Act or where the offence is committed in a country
14 outside Nigeria, would also constitute an offence if it had been committed in
15 Nigeria;
16 "Terrorism Financing" has the same meaning as defined under the Terrorism
17 (Prevention Act) 2011 (as amended in 2013).

Short title

18 **92.** This Bill may be cited as Proceeds of Crime (Recovery and
19 Management) Bill, 2021.

1	SCHEDULE	
2		<i>Section 25 (6)</i>
3	Amount	Period
4	An amount not exceeding N50,000.00	7days
5	An amount exceeding N50,000.00 but not	
6	exceeding N150,000.00	14days
7	An amount exceeding N150,000.00 but not	
8	exceeding N250,000.00	28days
9	An amount exceeding N250,000.00 but not	
10	exceeding N700,000.00	45days
11	An amount exceeding N700,000.00 but not	
12	exceeding N1,400,000.00	3months
13	An amount exceeding N1,400,000.00 but not	
14	exceeding N2,800,000.00	6months
15	An amount exceeding N2,800,000.00 but not	
16	exceeding N5,600,000.00	12months
17	An amount exceeding N5,600,000.00 but not	
18	exceeding N14,000,000.00	18months
19	An amount exceeding N14,000,000.00 but not	
20	exceeding N28,000,000.00	2years
21	An amount exceeding N28,000,000.00 but not	
22	exceeding N70,000,000.00	3years
23	An amount exceeding N70,000,000.00 but not	
24	exceeding N140,000,000.00	5 years
25	An amount exceeding N140,000,000.00 but not	
26	exceeding N280,000,000.00	
27	An amount exceeding N280,000,000.00	10 years

EXPLANATORY MEMORANDUM

This Bill seeks to make comprehensive provisions for seizure, confiscation, forfeiture, and management of properties reasonably suspected to have been derived from unlawful activities.