



INTER-GOVERNMENTAL ACTION GROUP
AGAINST MONEY LAUNDERING IN WEST
AFRICA

First Follow Up Report

Mutual Evaluation



NIGERIA

MAY 2009

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I. INTRODUCTION

1. Anti-money laundering and combating the financing of terrorism (AML/CFT) mutual evaluation exercise was carried out on Nigeria by Inter Governmental Action Group Against Money Laundering in West Africa (GIABA) between September and October 2007. Consequently, a Mutual Evaluation Report (MER) was produced and eventually discussed and adopted at the GIABA Plenary in Accra, Ghana in May 2008. The Nigerian Government accepted the report and has since committed to the implementation of the recommendations contained therein.

2. While acknowledging the significant progress made by Nigeria in the implementation of AML/CFT requirements, certain deficiencies were observed and recommendations made by the experts in line with the Financial Action Task Force (FATF) principles.

3. This report provides an update on the progress made since the mutual evaluation was conducted. In line with GIABA standards, the update focuses on efforts that have been made to address the shortcomings or underlying issues, which gave rise to the various compliance ratings, particularly, the ratings where the country was scored *Non Compliant (NC)*, *Partially Compliant (PC)* and *Largely Compliant (LC)*. A summary of the overall ratings as they fall into these three categories is provided in table 1 below for ease of reference.

Table 1: Ratings of Compliance with the FATF Recommendations

LARGELY COMPLIANT (LC)	PARTIALLY COMPLIANT (PC)	NON COMPLIANT (NC)
R1. ML offences	R2. ML offence – Mental element and corporate liability	R5. Customer Due Diligence
R11. Unusual Transactions	R3. Confiscation and provisional measures	R6. Politically Exposed Persons
R19. Other forms of reporting	R9. Third Parties and Introducers	R7. Correspondent banking
R27. Law Enforcement Authorities	R10. Record Keeping	R8. New Technologies & Non face-to-face business
R33. Legal Persons – Beneficial Owners	R13. Suspicious Transaction	R12. DNFBP – R. 5, 6 , 8-11
R39. Extradition	R14. Protection and no tipping off	R16. DNFBP R. 13-15 & 21
R40. Other forms of Cooperation	R15. Internal Controls, Compliance & Audit	R18. Shell Banks
	R17. Sanctions	R21. Special attention for higher risk countries
	R20. Other DNFBPs & Secure Transaction Techniques	R22. Foreign Branches & Subsidiaries
	R24. DNFBPs - Regulation, Supervision and Monitoring	R23. Regulation, Supervision and Monitoring
	R26. The FIU	R25. Guidelines & Feedback
	R29. Supervisors	SRI. Implement UN Instruments

LARGELY COMPLIANT (LC)	PARTIALLY COMPLIANT (PC)	NON COMPLIANT (NC)
	R30. Resources, Integrity and Training	SRII. Criminalize Terrorist Financing
	R31. National Cooperation	SRIII. Freeze & Confiscate Terrorist Assets
	R32. Statistics	SRIV. Suspicious Transaction Reporting
	R34. Legal Arrangements – Beneficial Owners	SRV. International Cooperation
	R35. Conventions	SRVI. AML Requirements for Money / Value Transfer Services
	R36. Mutual Legal Assistance (MLA)	SRVII. Wire Transfer Rules
	R37. Dual Criminality	SRVIII. Non Profit Organizations
	R38. MLA on Confiscation & Freezing	SRIX: Cross Border Declaration & Disclosure

SUMMARY OF PROGRESS MADE BY NIGERIA SINCE JUNE 2008

4. In July 2008, Nigeria established and inaugurated the AML/CFT Inter Ministerial Committee. Membership of the Committee was drawn from all relevant AML/CFT stakeholders involved in the management of the AML regime in the country. The Committee was established primarily to provide a platform for a coordinated national approach as well as enhance cooperation, especially in the exchange of information to effectively combat money laundering and terrorism financing in the country. The Committee meets quarterly to review progress on AML/CFT activities as well as address other fundamental issues necessary for the sustenance of the AML/CFT regime in the country. In March 2009, the AML/CFT Inter Ministerial Committee submitted a memorandum to the Hon Minister and Attorney General of the Federation. The memorandum took cognizance of the observations and concerns raised in the MER. The memorandum is expected to be reviewed and transmitted to the Inter Ministerial Committee on the amendment of the MLPA 2004 as inputs from the AML/CFT Inter Ministerial Committee.

5. Furthermore, in 2008, Nigeria set up a Joint Committee comprising relevant regulators, law enforcement and security agencies to identify challenges and / or shortcomings in the administration and enforcement of the provisions of the Money laundering Prohibition Act (MLPA), 2004 with a view to amending the Act. The Committee undertook to collect memoranda from stakeholders including reporting institutions in arriving at its submission to the Government. The Committee report will also take into cognizance the observations and recommendations raised in the MER and other similar reports. The report of the Committee will form part of government’s submissions to the National Assembly for the amendment of the existing MLPA. Consequently, all observed legal weaknesses raised in the MER as they relate to the MLPA 2004, are being adequately addressed. Topical in this proposed amendment are: the redefinition of predicate offences from the existing “all illegal acts or crime” approach to specifically cover all acquisitive and terrorism-related crimes; proportionality and dissuasiveness of sanctions; and protection for reporting entities, among others things.

6. Similarly, the Central Bank of Nigeria (CBN) is establishing a full fledged AML/CFT Unit to be charged with the sole responsibility of AML/CFT matters. The Unit will enhance cooperation and collaboration between the CBN and other stakeholders in the management of the AML regime in the country and particularly, in the areas of AML/CFT compliance examination and application of sanctions within the financial sector. Also, in March 2009, the CBN undertook a comprehensive review of its KYC Manual to bring it in line with international standards. The reviewed Manual now known as CBN AML/CFT Compliance Manual has adequately addressed all the concerns raised in the MER.

RECOMMENDATION 13: SUSPICIOUS TRANSACTION REPORTING

7. The NFIU in the past one year has trained over four reporting institutions across various sectors as well as some AML/CFT stakeholders. It has equally provided facilitators to key seminars and conferences with focus on awareness creation on AML/CFT, particularly in relation to suspicious transactions. These efforts have resulted in significant improvement in the comprehension and subsequent reporting of suspicious transactions. Currently, quality and quantity of STRs have improved significantly. Similarly, the NFIU has set up a dedicated Compliance Help Desk that interfaces with reporting entities to provide appropriate guidance to help enhance quality of renditions and other AML/CFT compliance matters.

RECOMMENDATION 25: GUIDELINES & FEEDBACK

8. The scope of the quarterly Newsletters of the NFIU has witnessed significant improvement to include issues on CDD, high risk businesses & statistics on renditions. Efforts are being constantly made to enhance feedback between the NFIU and reporting institutions through official fora like the Chief Compliance Officers Forum, DNFBP Advisory Council etc. In this process, all renditions that meet the required standards are received and acknowledged while outcomes of STRs are sometimes communicated to the reporting entities. It is important to state that feedback mechanisms have also been enhanced with other regulatory agencies including the Central Bank of Nigeria (CBN), Securities and Exchange Commission (SEC), National Insurance Commission (NAICOM) etc.

RECOMMENDATION 29: SUPERVISORS

9. In line with international best practices, AML/CFT compliance inspections are done on a risk basis, particularly considering the share number of reporting entities. Regulatory authorities including NFIU, SEC, CBN and NAICOM have stepped up efforts in 2008 to cover some of the institutions that were hitherto not covered by the previous AML/CFT compliance inspections / spot checks. For instance, 160 joint AML/CFT inspections were carried out by the NFIU and SEC, while 6 joint inspections were carried out between NFIU and NAICOM. Similarly, sanctions worth N32 Million were applied by SEC as a result of AML/CFT infractions by reporting entities within the capital market sector.

SPECIAL RECOMMENDATION 1: CRIMINALIZATION OF TERRORIST FINANCING

10. Nigeria's National Focal Point on Counter-Terrorism (an inter agency Group of 24 Agencies established to coordinate efforts for combating terrorism and terrorism financing) in 2008, worked closely with both the Counter-Terrorism Implementation Task Force (CTITF) in the Office of the UN Secretary General and the Terrorism Prevention Branch (TPB) of the

United Nations Office on Drugs and Crimes (UNODC) to review the draft Prevention of Terrorism Bill to bring it in line with relevant UN Conventions. The TPB organized a two-day workshop in Abuja on 28-29 October 2008 involving all the Agencies of Government and members of the National Assembly to review and redraft the Bill. Recommendations arising from this review have been harmonized or incorporated in the new draft Prevention of Terrorism Bill, which has been represented to the National Assembly. When passed, the bill will meet both UN and FATF standards and would address all concerns raised in the MER on this and other related subjects.

CONCLUSION

11. Nigeria has made significant efforts to address observations as well as implement recommendations raised in the MER since June 2008. The government is determined to attend to all outstanding issues with a view to building a robust AML/CFT regime in the country.

Forty Recommendations	Rating	Summary of Factors Underlying Rating	Whether Identified Deficiency has been Resolved	Description of Action Taken or Being Taken to Resolve Deficiency
1. ML offence	LC	<input type="checkbox"/> <input type="checkbox"/> The reference to predicate offence as constituting “all illegal acts or crimes” is too broad and requires further definition in order to make it less ambiguous	No	<ul style="list-style-type: none"> An Inter Ministerial Committee was established in 2008 to review the Money Laundering Prohibition Act (MLPA), 2004 with a view to amending the Act. The existing all-crime approach has been redefined in the proposed amended version of the MLPA 2004. This addresses the ambiguity in the existing MLPA. Also, the Nigeria’s AML/CFT Inter Ministerial Committee forwarded a proposal to the Minister of Justice and Attorney General of the Federation as inputs into the proposed amendment to the MLPA. This proposal took into cognizance observations raised in the MER. The amended MLPA would, therefore, address fully all the observed legal loopholes in the existing Act. See Appendix I
2. ML offence – Mental element & Corporate Liability	PC	<input type="checkbox"/> <input type="checkbox"/> The Sanctions regimes are not proportionate and dissuasive	No	<ul style="list-style-type: none"> Besides the application of administrative / financial sanctions by CBN, financial institutions are now under obligation to publish all breaches and the attendant penalties in their annual financial reports. This is a recent initiative by the CBN to give full effect to the dissuasive component of the sanction regime.

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		<p><input type="checkbox"/><input type="checkbox"/>The law on plea bargaining which allows the EFCC to compound any offence by accepting such sum of money as they think fit can significantly undermine the entire AML sanctions regime, because in theory and in practice they have the potential of whittling down the deterrent effect of the sanctions</p>		<ul style="list-style-type: none"> All other issues with regards to the sanction regime have been covered in the proposed amendemnet to the MLPA 2004.
3. Confiscation & Provisional Measures	PC	<p><input type="checkbox"/><input type="checkbox"/>Significant legal gaps exist in the confiscation regime in terms of:</p> <p><input type="checkbox"/><input type="checkbox"/>Property of corresponding value and instrumentalities intended for use in TF are not covered and it may be difficult to obtain confiscation orders in relation to those properties.</p>	No	<ul style="list-style-type: none"> The DSS has confiscated / seized properties belonging to suspected terrorists. The extant laws in the country such as penal and criminal codes provided for the confiscation and seizure of properties of suspected criminals. The EFCC has also confiscated

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		<p><input type="checkbox"/> Lack of definition of important concepts such as freezing, seizure, forfeiture and confiscation as well as inconsistency in the laws relating to freezing of assets makes the regime ambiguous.</p> <p><input type="checkbox"/> <input type="checkbox"/> Insufficient legal protection for bona fide third parties.</p> <p><input type="checkbox"/> <input type="checkbox"/> Absence of rules to manage and dispose of confiscated properties.</p>		<p>assets of suspected terrorists in compliance with the UN Resolution.</p> <ul style="list-style-type: none"> • Government has submitted to the National Assembly, Proceeds of Crime Bill, a non conviction-based/civil forfeiture of proceeds and instrumentalities of unlawful conducts/activities. When enacted, the law will complement the existing conviction-based confiscation regime. This Bill will address some of the current loop-holes

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		<input type="checkbox"/> <input type="checkbox"/> Absence of comprehensive FT legislation <input type="checkbox"/> <input type="checkbox"/> Weak co-ordination in the AML/CFT regime. <input type="checkbox"/> <input type="checkbox"/> No centralized statistical data on ML and FT investigations, freezing, seizure, forfeiture and confiscation.		<ul style="list-style-type: none"> • The EFCC Establishment Act of 2004 criminalizes terrorism financing in the country. Efforts are being intensified to pass the Prevention of Terrorism Bill (PTB) before the National Assembly. Also, the proposed PTB currently awaiting passage at the national assembly, provides for the freezing / confiscation, seizure, investigation and forfeiture of assets of terrorist suspects • In 2008, an AML/CFT Inter Ministerial Committee was established comprising all stakeholders, with the Finance Ministry as the Co-ordinating Ministry. This has completely eliminated the hitherto seeming lack of coordination among AML/CFT stakeholders. There is now proper coordination both at the policy and operational levels on account of the activities of the Inter Ministerial Committee. • Being addressed at the AML/CFT Inter Ministerial Committee level

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		<input type="checkbox"/> <input type="checkbox"/> Absence of statutory provisions to void or pre-empt actions that render confiscation nugatory.		
R-5 Customer Due Diligence (CDD)	NC	<ul style="list-style-type: none"> There is no statement in the law (MLP Act 2004) that explicitly prohibits the opening or maintaining of numbered or anonymous accounts. 	YES	<ul style="list-style-type: none"> In March 2009, the CBN reviewed all its AML Regulatory Circulars and produced CBN new AML/CFT Compliance Manual (See Appendix III), which is now in force. Paragraph 1.3 of CBN AML/CFT Compliance Manual of 2009 states that “financial institutions are not permitted to keep anonymous accounts or accounts in fictitious names”. A draft copy of suggested provisions to the Committee on Review of BOFIA (paragraph B) is hereby attached as Appendix II. By the authority of S. 55 of BOFIA, 1991 (as amended), the Governor of CBN has power to make rules & regulations for the operations and control of institutions under the supervision of the CBN. It states that <i>“the Governor may make regulations, published in the Gazette, to give full effect to the objects and objectives of this Act. Without prejudice to the above provisions, the Governor may make rules and regulations for the operation</i>

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				<i>and control of all institutions under the supervision of the bank”.</i>
		<ul style="list-style-type: none"> The requirement by law to conduct CDD is not extended to all of the situations required by the FATF Recommendations, particularly where doubts arise as to previously obtained CDD information for occasional transactions above USD 5,000 that are not cash, when there is a suspicion of terrorist financing, and for occasional transactions that are wire transfers. 	YES	<ul style="list-style-type: none"> This observation has also been addressed in Paragraphs 1.3.1 to 1.3.5 of the new CBN AML/CFT Compliance Manual of 2009. A draft copy of suggested provisions to the Committee on Review of BOFIA (paragraph C) is hereby attached as Appendix II.
		<ul style="list-style-type: none"> There is no legal requirement to conduct risk assessment in order to determine the risks posed by existing customers. 	YES	<ul style="list-style-type: none"> This observation has been addressed in paragraph 1.9.1 of the CBN AML/CFT Compliance Manual of 2009. A draft copy of suggested provisions to the Committee on Review of BOFIA (paragraph D) is hereby attached as Appendix II.
			YES	

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		<ul style="list-style-type: none"> The reporting requirement for occasional transactions that are wire transfers is USD 5,000, which exceeds the FATF standard of USD 1,000. 		<ul style="list-style-type: none"> The reporting requirement for occasional transactions that are wire transfers is now reduced to USD 1,000, in line with FATF standard as provided for in paragraph 1.26 of the new CBN AML/CFT Compliance Manual of 2009.
		<ul style="list-style-type: none"> BDCs do not currently take steps to verify the identification information obtained from their customers, which does not comply with CDD requirements in the MLP Act and FATF Recommendations. 	YES	<ul style="list-style-type: none"> The CBN had issued Circular Ref CBN/DIR/GEN/AML/03/009/2 dated March 19, 2009 reminding the BDCs to verify the identification information obtained from their customers and to comply with CDD requirements as contained in the MLP Act and FATF Recommendations. A copy of the Circular is attached as Appendix IV.
		<ul style="list-style-type: none"> There is no clear obligation to identify and take reasonable measures to verify the beneficial owner for all customers, including determining whether the customer is acting on his/her own behalf, understanding the ownership/control structure of the legal entity, and determine the natural persons who exercise 	YES	<ul style="list-style-type: none"> This observation has been fully addressed in paragraphs 1.4.3 and 1.4.4 of the CBN AML/CFT Compliance Manual of 2009:

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		ultimate control over the entity.		
		<ul style="list-style-type: none"> Paragraph 9 of the KYCM allows for some full exemptions from CDD, rather than merely simplified or reduced due diligence. 	YES	<ul style="list-style-type: none"> This observation has been fully addressed in Paragraph 1.5.2 of the CBN AML/CFT Compliance Manual of 2009 to allow for only simplified or reduced due diligence on low risk customers, transactions or products. No full exemptions from CDD were provided for in paragraph 9 of the old KYCM (2003).
		<ul style="list-style-type: none"> The quality of FIs' regular reviews of their customer accounts is questionable since sufficient guidance to help distinguish among the various levels of risk is lacking. Clear guidance has not been provided to FIs to help them correctly identify and monitor high risk customers. 	YES	<ul style="list-style-type: none"> Clear guidance on how FIs can identify and monitor high risk customers is provided for in paragraph 1.5.1 of the CBN AML/CFT Compliance Manual of 2009.
		<ul style="list-style-type: none"> There is no requirement to conduct ongoing due diligence on the business relationship. 	YES	<ul style="list-style-type: none"> FIs are required to conduct on-going due diligence on the business relationship as contained in paragraphs 1.4.6 to 1.4.7 of the CBN AML/CFT Compliance Manual of 2009
R-6	NC		YES	<ul style="list-style-type: none"> A comprehensive guidance on PEPS which took cognizance of FATF standards had been

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Politically Exposed Persons (PEPs)		There is no requirement in Nigerian law that relates to PEPs, and no statement that clearly defines PEPs according to FATF standards.		provided for FIs in Paragraphs 1.10.1 to 1.10.6 of the CBN AML/CFT Compliance Manual (2009) <ul style="list-style-type: none"> • A draft copy of suggested provisions to the Committee on Review of BOFIA (paragraph E) is hereby attached as Appendix II.
		<ul style="list-style-type: none"> • There is no clear guidance that states what enhanced CDD measures FIs must take for those customers or beneficial owners who become PEPs subsequent to establishing a business relationship. 	YES	<ul style="list-style-type: none"> • This observation is specifically addressed in paragraphs 1.10.4 to 1.10.6 of the CBN AML/CFT Compliance Manual (2009).
R-7 Correspondent Banking	NC	<ul style="list-style-type: none"> • There is no clear definition of correspondent banking either in law or regulation. 	YES	<ul style="list-style-type: none"> • Correspondent banking had now been clearly defined in paragraph 1.11 of the CBN AML/CFT Compliance Manual (2009) as “the provision of banking services by one bank, (the correspondent bank), to another bank (the respondent bank). Large international banks typically act as correspondents for thousands of other banks around the world. Respondent banks may be provided with a wide range of services, including cash management (e.g. interest-bearing accounts in a variety of currencies), international wire transfers

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				of funds, cheque clearing, payable-through-accounts and foreign exchange services.”
		<ul style="list-style-type: none"> The current guidance on correspondent banking does not provide how to determine the suitability of correspondent banks before FIs establish such a relationship. 	YES	<ul style="list-style-type: none"> This observation has been addressed in paragraphs 1.11.1 to 1.11.2 of the CBN AML/CFT Compliance Manual (2009).
		<ul style="list-style-type: none"> There is no obligation that requires senior management approval before FIs establish a correspondent relationship, or document the respective AML/CFT responsibilities of each institution. 	YES	<ul style="list-style-type: none"> This observation is addressed in paragraph 1.11.1 (bullet point 3) of CBN AML/CFT Compliance Manual (2009) as follows: “Obtain approval from senior management before establishing correspondent relationships.”
		<ul style="list-style-type: none"> There is no guidance provided to FIs for monitoring and maintaining a correspondent banking relationship. 	YES	<ul style="list-style-type: none"> FIs are guided to monitor and maintain a correspondent banking relationship in paragraphs 1.11.1, 1.11.2 (stated above) and 2.7.9.1-6 of the CBN AML/CFT Compliance Manual (2009).
R-8 New Technologies and Non Face-to-Face Business	NC	<ul style="list-style-type: none"> The measures for mitigating risks in technology and for establishing non face-to-face businesses are not fully developed. 	YES	<ul style="list-style-type: none"> Full guidance on measures for mitigating risks in technology and for establishing non face-to-face businesses is provided for FIs in paragraphs 1.12.1 to 1.12.4 of the CBN AML/CFT Compliance Manual (2009).

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		<ul style="list-style-type: none"> The guidance for enhanced CDD and ongoing due diligence procedures for non face-to-face customers is not effectively applied by FIs (particularly the banking and securities sector). 	YES	<ul style="list-style-type: none"> The CBN had issued Circular Ref CBN/DIR/GEN/AML/03/009/2, dated March 19, 2009 reminding financial institutions of the need to effectively apply the guidance in respect of enhanced CDD and ongoing due diligence procedures for non face-to-face customers (attached as Appendix IV). Full guidance on enhanced CDD and ongoing due diligence procedures for non face-to-face customers has been provided for FIs in paragraphs 1.12.2 of CBN AML/CFT Compliance Manual (2009).
R-9 Third Parties and Introducers	PC	<ul style="list-style-type: none"> Nigeria does not have a prohibition against the usage of third parties or intermediaries by its FIs for obtaining and verifying customer information. 	YES	<ul style="list-style-type: none"> The CBN AML/CFT Compliance Manual (2009) requires FIs to take certain measures when using third parties or intermediaries for obtaining and verifying customer information (in line with FATF Recommendation 9) rather than prohibiting it altogether. These measures are contained in paragraph 1.13.1 of the CBN AML/CFT Compliance Manual (2009).

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				However, the ultimate responsibility for customer identification and verification remains with the financial institution relying on the third party.
		<ul style="list-style-type: none"> BDCs rely on their agents to obtain and verify CDD information, but do not conduct any verification measures themselves as required in the KYC Manual. 	YES	<ul style="list-style-type: none"> CBN Circular Ref CBN/DIR/GEN/AML/03/009/2, dated March 19, 2009 reminds BDCs to always conduct verification measures themselves on CDD information obtained by their agents.
		<ul style="list-style-type: none"> FIs have not demonstrated that proper due diligence is conducted to satisfy themselves that a third party which is a foreign country effectively applies the FATF standards for CDD requirements. 	YES	<ul style="list-style-type: none"> CBN Circular Ref BSD/3/2009/002, dated March 19, 2009 reminds FIs on the requirement of paragraph 1.18.4.1 of the CBN AML/CFT Compliance Manual (2009) to conduct proper due diligence to satisfy themselves that a third party which is a foreign country effectively applies the FATF standards for CDD requirements.
R-10 Record Keeping	PC	<ul style="list-style-type: none"> The manner of preservation of information by some FIs does not meet required industry standard. There is concern that some sectors are not meeting record keeping requirements. 	YES	<ul style="list-style-type: none"> CBN Circular Ref CBN/DIR/GEN/AML/03/009/2, dated March 19, 2009 reminds FIs on the requirement to comply with statutory requirements in respect of record keeping.

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		<ul style="list-style-type: none"> The on-site supervision by the competent authorities is inconsistent and covers only a small percentage of the financial sector. 	YES	<ul style="list-style-type: none"> Resident Examination concept took –off on 1/1/09 to enhance supervision of FIs by the CBN. RBS on special areas of banking operations are conducted on site. Spot checks are carried out based on observations made off-site.
11. Unusual Transactions	LC	<input type="checkbox"/> <input type="checkbox"/> No special attention are paid to monitoring of unusual transactions	Yes	<ul style="list-style-type: none"> During AML/CFT examinations, Compliance officers pay special attention to unusual transactions. Enforcement is also being applied to erring reporting entities resulting in significant improvement in compliance.
12. DNFBPs – R.5, 6, 8-11	NC	<input type="checkbox"/> <input type="checkbox"/> Beyond basic customer identification and record keeping requirements the DNFBP sector appear unclear as to their wider CDD obligations <input type="checkbox"/> <input type="checkbox"/> Limited practice of Casinos performing enhanced due diligence for higher risk customers, nor is there adequate procedures in place for verification of customer's identity	Yes	<ul style="list-style-type: none"> SCUML has conducted seminars and lectures in two regions of the country (Kano and Port-Harcourt) where the problem of understanding the CDD have been most prevalent. Appreciable improvement has been recorded. SCUML has issued specific instructions on wider CDD requirements for casinos, especially at the points of purchase of chips and at the redemption of winnings or unused chips. <u>See Appendix V</u>

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		<p><input type="checkbox"/><input type="checkbox"/>The same deficiencies and comments made previously for action by Nigeria with respect to Recommendations 5,6 to 8 - 11 are also applicable for the DNFBP</p>		<ul style="list-style-type: none"> • SCUML Officers have been assigned with responsibility for day to day supervision of each of the DNFIs in each sub-sector. This has helped greatly in improving the awareness of DNFIs' CDD obligations and their other statutory obligations.
13. Suspicious Transaction Reporting	PC	<p><input type="checkbox"/><input type="checkbox"/>Limited STR Reporting – lack of knowledge of suspicious transaction by reporting entities</p> <p><input type="checkbox"/>STRs are being substituted for CTRs</p>	Yes	<ul style="list-style-type: none"> • The NFIU in the past one year has trained some reporting entities including Finland bank, Unity Bank, Aso Savings and Loans Ltd and Kundila Finance Stockbrokers as well as facilitated in seminars & conferences where serious awareness were created. These have improved tremendously the knowledge of suspicious transactions. Currently, quality of STRs has improved significantly. See STR statistics for 2007 & 2008 in Appendix VI • The awareness in 1 above have reduced this incidence

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		<input type="checkbox"/> <input type="checkbox"/> Lack of definition of what is suspicious transaction <input type="checkbox"/> <input type="checkbox"/> No consistency in guidelines issued to all reporting institutions		<ul style="list-style-type: none"> • MLPA 2004 S 6 (1) clearly defines “suspicious transaction” • Guidelines issued to reporting institutions are based on sector peculiarity and consistent with international best practices
14. Protection & no tipping off	PC	No explicit legal protection of reporting institutions	No	<ul style="list-style-type: none"> • To be addressed in the proposed amendments to the MLPA, 2004.
R-15 Internal Controls, Compliance and Audit	PC	<ul style="list-style-type: none"> • There is no specific provision indicating that the compliance officer must have timely access to customer identification and other CDD information, transaction records, and other relevant information. 	YES	<ul style="list-style-type: none"> ▪ This observation is addressed in paragraph 1.17.2 of the CBN AML/CFT Compliance Manual (2009).
		<ul style="list-style-type: none"> • There is no broad requirement to have screening procedures to ensure high standards when hiring all employees. 	YES	<ul style="list-style-type: none"> • Paragraph 1.17.3 (a) of the CBN AML/CFT Compliance Manual (2009) requires FIs to have screening procedures to ensure high standards when hiring all employees.
		<ul style="list-style-type: none"> • There is no framework to establish the adequacy and appropriateness of the internal policies. 	YES	<ul style="list-style-type: none"> • Paragraph 1.17.3 (c) and 1.21 of the CBN AML Compliance Manual (2009) requires FIs to develop an adequately resourced and

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				independent audit function to test compliance with and adequacy of the procedures, policies and controls.
		<ul style="list-style-type: none"> Compliance officers are not independent. 	YES	<ul style="list-style-type: none"> Circular CBN/DIR/GEN/AML/03/009/2, Ref dated March 19, 2009 reminds FIs on the need to ensure the CCOs are operationally independent as possible. See also Paragraph 1.17.3 of the CBN AML/CFT Compliance Manual (2009)
16. DNFBPs – R.13-15 & 21	NC	<p><input type="checkbox"/> <input type="checkbox"/> There is no legislation explicitly protecting persons who report in good faith.</p> <p><input type="checkbox"/> <input type="checkbox"/> There is no provision in the law requiring DNFBPs to observe internal control, appoint compliance officer or develop training programmes</p>	Yes	<ul style="list-style-type: none"> Proposed amendments to the Money Laundering (Prohibition) Act would address this. Also, see item (a) on Appendix II (CBN Memo on the review of BOFIA). SCUML has issued regulatory guidance on observance of internal control procedures, development of training programmes in respect of AML\CFT and appointment of Compliance Officers, which are legally binding on the DNFBPs.

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		<input type="checkbox"/> <input type="checkbox"/> There is no effective supervision of DNFPBs yet in the prevention of ML/TF.		<ul style="list-style-type: none"> • SCUML has adopted a risk-based approach in determining its scope of supervisory coverage of the DNFI sector. This has also informed its opening of Zonal offices in the three Geopolitical zones rated to be most vulnerable in terms of volume and sophistication of economic activities. In pursuit of a holistic approach to regulating the DNFI, SCUML is collaborating with complementary Government agencies and departments such as the Federal Inland Revenue Service (FIRS), Vehicle Inspection Office (VIO), Federal Road Safety Commission (FRSC), Land Registry (AGIS & State registries), Corporate Affairs Commission (CAC), Nigerian Accounting Standard Board (NASB) etc. This is to facilitate a broader and more effective regulation of the DNFI.
17. Sanctions	PC	<input type="checkbox"/> <input type="checkbox"/> Low number of compliance monitoring carried out in some sectors. <input type="checkbox"/> <input type="checkbox"/> It is also unclear how the regime of	Yes	<ul style="list-style-type: none"> • The level of compliance monitoring is being stepped up with joint inspection by officials of NFIU and other regulators. • See paragraph 1.18.1 of the CBN AML/CFT Compliance Manual, 2009

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		<p>administrative and criminal sanction is articulated in practice.</p> <p><input type="checkbox"/> The range of available sanctions should be made more comprehensive in order to reflect the FATF requirements.</p> <p><input type="checkbox"/> <input type="checkbox"/> The number of the overall sanctions implemented to date is very low.</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/> Applied sanctions are not considered to be effective, proportionate or dissuasive.</p> <p><input type="checkbox"/> <input type="checkbox"/> No sanctions have been implemented in the capital market sectors</p>		<ul style="list-style-type: none"> • The range of sanctions in Nigeria are comprehensive, including withdrawal of operating licences, suspension, fines, winding up of companies etc • Sanctions are frequently imposed in cases of failure to ensure compliance with the requirements of the relevant laws and guidelines. For instance, in the capital market:

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				<ul style="list-style-type: none"> ✓ A total of twenty five operators were suspended while 57 were fined and over N32 Million was received as fines during the year for various infractions ✓ Over 81 major cases were forwarded for enforcement action during the period under review. ✓ Over 7119 complaints and suspected market abuse were investigated most of which were on registrars and stock brokers. Twenty two of the cases resulted in major investigations. ✓ The Commission requested for the collaboration of the following foreign agencies in the spirit of International Organization of Securities Commission of (IOSCO) multilateral Memorandum of Understanding (MMOU) to locate and bring to justice persons who have absconded from the country following breaches of the securities laws and rule. These organizations include the US Securities and Exchange Commission (SEC) and the Federal Bureau of Investigation (FBI), UK Financial Services Authority (FSA), the Metropolitan Police and Serious Fraud Office. Canadian Securities Regulators.

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				<ul style="list-style-type: none"> ✓ Notices and names of the fugitives are posted on the Commission's website—www.sec.gov.ng .Their pictures and other details were forwarded to these agencies.
R-18 Shell Banks	NC	<ul style="list-style-type: none"> • There is no requirement by law that prohibits the establishment or operation of shell banks in Nigeria. 	YES	<ul style="list-style-type: none"> • Paragraph 1.18.2 of the CBN AML/CFT Compliance Manual (2009) prohibits the operation of shell banks in Nigeria.
		<ul style="list-style-type: none"> • There is no legal requirement for FIs to ensure that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. 	YES	<ul style="list-style-type: none"> • This has been addressed in Paragraph 1.18.2 of the CBN AML/CFT Compliance Manual (2009)
19. Other Forms of Reporting	LC	<p><input type="checkbox"/><input type="checkbox"/>A sizeable informal sector not covered in the reporting requirement (large informal exchange bureau - unlicensed by CBN) and DNFBPs</p> <p><input type="checkbox"/><input type="checkbox"/>Nigeria's reporting threshold for corporate entities is N5 million (equivalent to USD 43,000), which exceeds the FATF threshold of USD 15,000.</p>	No	<ul style="list-style-type: none"> • Efforts are being made to identify informal sectors within the DNFI's vulnerable to ML/TF and to organize them to SROs in order to bring them under the ambit of the AML/CFT regime • Nigeria operates a free system of foreign exchange regime. This makes it difficult to stick to the FATF threshold of USD \$15,000. Also, any threshold lower than the

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				present will put a high burden on the NFIU attending to CTRs
20. Other DNFBPs & Secure Transaction Techniques	PC	□□Nigeria has not implemented modern secure transaction techniques for use by non-financial businesses and professions	Yes	<ul style="list-style-type: none"> Nigeria currently operates an e-payment system. Under this system, all payments for government businesses are done through the financial system. This mode of payment promotes transparency, allows for easy monitoring and reporting which curtails incidences of corruption and other financial crimes. See Appendix VII
R-21 Special Attention for Higher Risk Countries	NC	<ul style="list-style-type: none"> No provision for special attention on countries not applying FATF recommendations. 	YES	<ul style="list-style-type: none"> The CBN AML Compliance Manual (2009) in paragraph 1.18.4.1 requires FIs to give special attention to countries not applying FATF recommendations.
		<ul style="list-style-type: none"> There are no counter measures being applied to countries that do not apply FATF recommendations. 	YES	<ul style="list-style-type: none"> The CBN AML/CFT Compliance Manual (2009) paragraphs 1.18.4.2 to 1.18.4.3 provide full guidance to FIs on countries not applying FATF recommendations.
R-22 Foreign Branches and Subsidiaries	NC	<ul style="list-style-type: none"> There is no requirement on the part of FIs to inform the home country supervisor about their inability to observe appropriate AML/CFT measures 	YES	<ul style="list-style-type: none"> Paragraph 1.18.5.3 of the CBN AML Compliance Manual (2009) requires FIs to inform the CBN about their inability to observe appropriate AML/CFT measures because the host country's laws do not permit its application.

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		because the host country's laws do not permit its application.		
R-23 Regulation, Supervision and monitoring	NC	<ul style="list-style-type: none"> There are significant numbers of informal currency exchange providers operating in an open and unregulated manner. 	YES	<ul style="list-style-type: none"> The so called informal FX providers are members of staff of licensed BDCs which are sufficiently supervised by the CBN. Circular Ref CBN/DIR/GEN/AML/03/009/2, dated March 19, 2009 reminds BDCs on the need to stop allowing their members operating in an unorthodox manner.
		<ul style="list-style-type: none"> CBN/SEC: the number of inspections specifically focused on AML/CFT is very low, and a significant number of sectors seemed to have escaped supervision of compliance with its AML/CFT obligations. 	YES	<ul style="list-style-type: none"> The CBN is at advanced stage of developing special annual schedule/programme for AML/CFT inspection of institutions under its purview. The inspection is to be undertaken by a newly created AML Unit. This is in addition to the routine examinations jointly carried out with NFIU. The CBN is also at an advanced stage of developing a detailed methodology (that covers all aspects of FIs operations) of conducting AML/CFT examinations of the FIs under its supervisory purview. These additional inspections are scheduled to commence within the first half of the year 2009. Joint inspection of reporting entities between the SEC / NFIU and NAICOM / NFIU improved tremendously in 2008. For

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				instance, SEC and NFIU jointly inspected 160 capital market operators in 2008 as against a total of 140 inspected in 2006 and 2007.
		<ul style="list-style-type: none"> • CBN/SEC: there appears to be an over reliance on the NFIU for delivery of ongoing onsite AML/CFT supervisory programmes, a factor which may be negatively influencing the effectiveness of the overall AML/CFT framework. 	YES	<ul style="list-style-type: none"> • The recently created special AML/CFT Unit in the CBN intends to reduce this over reliance. • SEC has a dedicated Unit for AML / CFT that has been actively collaborating with the NFIU On AML/CFT examination and other related issues. See statistics as specified above.
		<ul style="list-style-type: none"> • CBN/ABCON: the current supervisory programme for BDCs raises serious doubts in terms of the number of inspections carried out for AML/CFT purposes and overall effectiveness. 	YES	<ul style="list-style-type: none"> • The CBN has stepped up efforts within the last two years to improve the supervision of the BDCs. More staff have been deployed to the OFID (the department in charge of the supervision of the BDCs in the CBN).
		<ul style="list-style-type: none"> • CBN: the determination of supervisory oversight beyond the commercial banks does not adequately take into account AML/CFT risks, and therefore there are serious concerns about the adequacy of supervisory 	YES	<ul style="list-style-type: none"> • The CBN developed special annual schedule/programme for AML/CFT inspection of institutions under its purview in addition to the routine examination jointly carried out with NFIU. • The CBN uses the same schedule/programme to enhance the scope of its inspections of

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		arrangements for community banks and other financial institutions such as PMIs and BDCs.		AML/CFT in Microfinance banks (community banks).
		<ul style="list-style-type: none"> □ NAICOM: due to recapitalization an consolidation within the insurance sector there have been no AML/CFT specific inspections since 2006. Uncertainty over a timetable for future inspections remain and therefore the effectiveness of current and future measures cannot yet be assessed 	YES	<ul style="list-style-type: none"> • NAICOM now has a comprehensive inspection timetable on money laundering and terrorism financing. See Appendix A
24. DNFBPs- Regulation, Supervision and Monitoring	PC	□□The number of compliance inspections for the DNFBP sector is extremely low and the current focus appears to be on publicity visits on AML/CFT awareness programs. Therefore, for the moment, there are no effective systems in place for the oversight and supervision of compliance with AML/CFT obligations in most of the non-financial sector.	Yes	<ul style="list-style-type: none"> • Based on risk-based approach, SCUML has opened zonal offices in three geopolitical zones. AML/CFT inspections have improved significantly with the coming on board of these offices. Recent compliance inspections have emphasized critical compliance issues such as Customer Due Diligence, record keeping and statutory reporting. • Inauguration of the national DNFI Advisory Council has been fixed for second quarter of

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		<p><input type="checkbox"/><input type="checkbox"/> There is need to enhance the SRO sector which would in turn raise the level of compliance in all sectors</p> <p><input type="checkbox"/><input type="checkbox"/> The sanctions regime has yet to be implemented and therefore remains untested in relation to effectiveness and operational independence.</p>		<p>2009. DNFI Contact groups have also been constituted in two zones (Kano and Port-Harcourt), with the ultimate aim of constituting local/state chapters of DNFI Advisory Councils. This will raise the level compliance.</p> <ul style="list-style-type: none"> • SCUML has embarked on intensive mentoring of the DNFI Compliance Officers to enhance better understanding of the AML\CFT regime and consequently propagate compliance culture before the sanction regimes could be pursued at full length.
25. Guidelines & Feedback	NC	<p><input type="checkbox"/><input type="checkbox"/> The guidelines in place are limited in scope and do not address some essential areas of the FATF Recommendations</p> <p><input type="checkbox"/><input type="checkbox"/> Consideration could be given to further utilizing the NFIU Newsletter to include more system</p>	Yes	<ul style="list-style-type: none"> • <input type="checkbox"/> The scope of Newsletters issued by the NFIU has been enhanced to include issues on CDD, high risk businesses & statistics on renditions (see Appendix VIII). Efforts are being constantly made to enhance feedback between regulators and reporting institutions through official fora like the Chief Compliance Officers Forum etc. <input type="checkbox"/>

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		<p>feedback in the form of statistics and typologies as they relate to Nigeria</p> <p><input type="checkbox"/> <input type="checkbox"/> The sector specific feedback is weak and ineffective</p> <p><input type="checkbox"/> There is insufficient feedback on STR received and regular information on typologies provided to reporting entities</p>		<ul style="list-style-type: none"> Furthermore, all renditions are acknowledged while outcomes of STRs are sometimes communicated to the reporting entities as a way of feedback. <input type="checkbox"/> Feed-back mechanisms have also been improved with other regulatory agencies including CBN, SEC, NAICOM etc
26. The NFIU	PC	<p><input type="checkbox"/> The law is unclear regarding the operational autonomy of the NFIU</p> <p><input type="checkbox"/> The extend of the Director's powers under the EFCC and its Board is ambiguous</p>	Yes	<ul style="list-style-type: none"> <input type="checkbox"/> In practice, the NFIU is operationally autonomous and only domiciled in the EFCC. It has a reporting obligation to the EFCC Board which is made of representatives of the core stakeholders institutions of Nigeria's AML/CFT regime. <input type="checkbox"/> The Director assumes ultimate responsibility for operational and administrative matters of the NFIU while the EFCC Board performs an oversight function purely on policy matters.

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		<p><input type="checkbox"/> There is no legal provisions that requires the NFIU to ensure that the information it holds is securely protected and disseminated only in accordance with the law</p> <p><input type="checkbox"/> FIU statistics on CTRS / STRs received, analyzed and disseminated were either not provided or inconsistent and could not be accurately verified</p> <p><input type="checkbox"/> Public reports issued by the FIU do not contain all required information and statistics on STRs / CTRs, trends and typologies on ML/TF</p>		<ul style="list-style-type: none"> • <input type="checkbox"/> The NFIU is guided by international best practices in the management of information at its disposal. As a member of the Egmont Group, all guidelines on confidentiality of information are binding on it. The oath of secrecy taken by all staff has legal force if bridged. • The NFIU maintains a comprehensive database of all renditions it receives (both soft and hard copies). This information is available for verification. Equally, there are records of intelligence disseminated to competent authorities. see Appendix VIII • The scope of the NFIU quarterly Newsletters and other public documents have been enhanced to significantly include all required information and statistics on STRs, CTRs etc (see Appendix VIII)
27. Law Enforcement	LC	<input type="checkbox"/> <input type="checkbox"/> The law does not clearly state whether the EFCC, DSS or the	Yes	<ul style="list-style-type: none"> • The passage of ATB would address this.

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Authorities		<p>Attorney General is the proper authority responsible for prosecuting terrorist financing cases.</p> <p><input type="checkbox"/><input type="checkbox"/> Specialized training is not available across all the LEAs and judicial bodies on ML/TF issues.</p>		<ul style="list-style-type: none"> • In 2008, AML/CFT trainings were extended to LEAS and Judicial bodies including the Nigeria Customs Service, the Nigeria Police Force by the EFCC / NFIU, as well as joint training programmes with members of the intelligence and security services on AML/CFT.
29. Supervisors	PC	<p><input type="checkbox"/><input type="checkbox"/> Supervisory bodies have the powers to conduct compliance inspections; however AML/CFT compliance inspections for a number of sectors are rarely conducted thus the existing powers remain untested and ineffective</p> <p><input type="checkbox"/> The number of AML/CFT inspections conducted and the number of sanctions detected are very low considering the size and vulnerability of covered institutions to money laundering</p>	Yes	<ul style="list-style-type: none"> • <input type="checkbox"/> Efforts have since been stepped up to cover several of the institutions and sectors not covered in previous exercises leading to several sanctions on erring entities and re-enforcement of the AML/CFT culture. For instance, a total number of 166 entities were inspected (as at December 2008) covering capital and the insurance sectors. Administration sanctions totaling over N32 million was recorded as fine in the capital market.

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30. Resources, Integrity & Training	PC	<p><input type="checkbox"/><input type="checkbox"/>The structure of law enforcement agencies in Nigeria allows for operational independence in the investigation of ML/TF and other organized crime. However, the legal framework is often ambiguous with regards to supervisory line of authority</p> <p><input type="checkbox"/><input type="checkbox"/>The AG's power over criminal prosecution is too broad. As a political appointee and also the Minister for Justice, there are concerns that this power may be used to hinder effective administration of justice in the country.</p> <p><input type="checkbox"/><input type="checkbox"/>With the exception of EFCC, the other agencies are not adequately funded. Resource – human and material resources are</p>	Yes	<ul style="list-style-type: none"> • The establishment and inauguration of the AML/CFT Inter Ministerial Committee (of which membership was drawn from all relevant AML/CFT stakeholders involved in the management of the AML regime in the country) will further enhance this coordination. • However, the EFCC by its Establishment Act, 2004, is the coordinating agency for all economic and financial crimes matters. • The AG's powers are Constitutional but he is under legal and professional obligation to exercise them judiciously. The powers are also subject to judicial review in cases where they were improperly exercised to defeat justice • Funding for most agencies improved in 2008 and 2009 while some agencies have recruited more officers to strengthen their human resources.

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		<p>limited across all the other enforcement agencies.</p> <p><input type="checkbox"/><input type="checkbox"/> Training opportunities are not evenly distributed despite the presence of specialized training Units in EFCC and NDLEA.</p> <p><input type="checkbox"/><input type="checkbox"/> ICPC is not aware of best practices notes on PEPs and have not developed any risk analysis strategy.</p> <p><input type="checkbox"/><input type="checkbox"/> There is a lack of information sharing between the ICPC and the NFIU.</p>		<ul style="list-style-type: none"> • Training needs are not equal. Training needs of core AML/CFT agencies are not the same for other auxiliary ones. Therefore, training opportunities cannot be evenly distributed. • There is a free flow of information exchange between the ICPC and NFIU though, strictly on needs basis. See appendix VIII for evidence of intelligence disseminated by the NFIU to the ICPC

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		<input type="checkbox"/> There is no legal requirement defining the maximum length of time that a case may remain open		<ul style="list-style-type: none"> It is difficult to put timelines because cases differ and some are prone to complexities which may not be tagged to time lines.
31. National Cooperation	PC	<input type="checkbox"/> <input type="checkbox"/> While there is a framework in place for cooperation, the committee does not meet regularly <input type="checkbox"/> <input type="checkbox"/> The LEAs and FIs committees seems to be working well but the LEAs lack considerable cooperation and thus both lack the synergy required to combat ML and TF <input type="checkbox"/> The EFCC have not institutionalized the inter agency committee to enable it meet more frequently to develop policies and issue guidelines as the need arises	Yes	<ul style="list-style-type: none"> The formation and formal inauguration of the National Inter Ministerial Committee on AML/CFT (comprising of AML/CFT stakeholders in Nigeria) in July 2008 provided a platform for an enhanced cooperation amongst stakeholders. The Committee meets quarterly to address fundamental AML/CFT issues. Specifically, it serves as a forum for exchange of information and provides the needed synergy needed to combat money laundering and terrorism financing. For instance, in fulfillment of its quarterly meeting, the Committee has met three times since its inauguration – July 2008, December 2008 and January 2009 where fundamental issues were discussed and solutions proffered. (see Appendix IX)

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		<input type="checkbox"/> AML/CFT intelligence is not widely shared across relevant LEAs. EFCC is not often willing to share information on intelligence when requested to do so		<ul style="list-style-type: none"> • AML/CFT intelligence are widely shared. See intelligence disseminated by the NFIU in Appendix VIII. Also, the EFCC exchanges intelligence frequently with all competent authorities on need basis.
32. Statistics	PC	<input type="checkbox"/> <input type="checkbox"/> Statistics on ML/TF prosecution and investigation, including asset forfeited or confiscated are not centrally coordinated. <input type="checkbox"/> <input type="checkbox"/> It is difficult to determine who is responsible for collating data on ML/TF. Though the EFCC Act empowers the EFCC and the NFIU to maintain statistics on money laundering, this is not the case in practice, as each agency involved in the formulation of ML/TF policy maintains separate records.	No	<ul style="list-style-type: none"> • These issues are being addressed at the level of the Inter Ministerial Committee and affected agencies have committed to aggregate the otherwise disparate statistics into the national data base on AML/CFT. • The current NETLAW initiative is also geared towards facilitating the process of data collation and centralization

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		<p><input type="checkbox"/><input type="checkbox"/>No statistics were provided by the Police regarding investigations on money laundering and terrorist financing, workforce training, or fiscal year financial statements.</p> <p><input type="checkbox"/><input type="checkbox"/>Statistics concerning the total number of money laundering and terrorism and terrorist financing cases under investigation or prosecution in Nigeria are not centralized and not readily available for use.</p>		
33. Legal Persons – Beneficial Owners	LC	<p><input type="checkbox"/><input type="checkbox"/>While the investigative powers are sound, there are limited measures in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities.</p> <p><input type="checkbox"/><input type="checkbox"/>Information on the company registrar pertains only to legal</p>	Yes	<ul style="list-style-type: none"> • Section 94 CAMA empowers public companies to require any member by notice in writing to indicate in what capacity he / she is holding shares in the company and if he / she hold them otherwise then the beneficial owners must be disclosed. • The Corporate Affairs Commission has recommended an amendment to the

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		ownership/control (as opposed to beneficial ownership), is not verified, and is not necessarily reliable.		provision of Section 94 by extending it to private companies and such information disclosed to the Commission and to the company at the time of incorporation or within 14 days of the acquisition of the shares. Such information will also be verified by the Commission from time to time. See Appendix X.
34. Legal Arrangement – Beneficial Owners	PC	<input type="checkbox"/> <input type="checkbox"/> Nigeria does not have a comprehensive trust law, thus inhibiting the level of information available in respect of trusts. <input type="checkbox"/> <input type="checkbox"/> Information regarding BOs is not always available in a timely and accurate manner. <input type="checkbox"/> <input type="checkbox"/> There are no guidelines regarding the management of trusts and beneficial owners.	No	<ul style="list-style-type: none"> • Efforts are being made to enact a trust law
35. Conventions	PC	<input type="checkbox"/> <input type="checkbox"/> The FT Convention has not been fully implemented, as it requires a comprehensive legislation, regulation or guidance	No	<ul style="list-style-type: none"> • Adequately addressed in the ATB pending passage

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		that complies with the provisions of FT Convention and FATF Special Recommendations on terrorist financing		
36. Mutual Legal Assistance (MLA)	PC	<input type="checkbox"/> <input type="checkbox"/> There is no comprehensive MLA legislation <input type="checkbox"/> <input type="checkbox"/> Lack of comprehensive TF legislation does not permit effective international cooperation for terrorist financing cases. <input type="checkbox"/> <input type="checkbox"/> Due to lack of comprehensive legislation, guidance and policy on MLA, requests may be delayed. <input type="checkbox"/> <input type="checkbox"/> Lack of statistics on MLA requests. <input type="checkbox"/> <input type="checkbox"/> Lack of effective implementation of international cooperation mechanisms available in the country.	No	<ul style="list-style-type: none"> ▪ Nigeria has a Legislation on Mutual Legal Assistance within the Commonwealth which domesticated Mutual Legal Assistance (within the Commonwealth) Treaty. ▪ The issue of MLA and extradition is based on treaty and reciprocity which is regulated by principles of international law. ▪ Nigeria has both the MLA and Extradition Treaties with a number of countries which are binding and operational on the basis of which the country is cooperating with a number of countries like the USA, UK, and other European and Western countries on AML and other organized crimes. (Statistics to be supplied by Federal Ministry of Justice).
37. Dual Criminality	PC	<input type="checkbox"/> <input type="checkbox"/> Nigeria's Constitution and criminal legal principles does not	Yes	<ul style="list-style-type: none"> • MLA is not a Constitutional matter and the Constitution does not spell out exceptions in

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		<p>permit granting of MLA request in all cases where dual criminality is required.</p> <p><input type="checkbox"/><input type="checkbox"/>In the absence of MLA legislation and guidance, it was not possible to determine if Nigeria would grant MLA requests for extradition and other matters if it was related to less intrusive and non-compulsory measures.</p>		<p>granting MLA in cases of dual criminality. MLAs are governed by law in the case of the Commonwealth States and by Treaty or MOU with other countries.</p> <ul style="list-style-type: none"> • This is dependent on reciprocity. Nigeria will oblige an MLA request to a country if such a country will oblige her in similar circumstances
38. MLA on Confiscation and Freezing	PC	<p><input type="checkbox"/><input type="checkbox"/>The Nigerian legislation on freezing, seizure and confiscation is applicable to the requests for international cooperation.</p> <p><input type="checkbox"/><input type="checkbox"/>This power are limited with regard to SR.V because there is no legislation or guideline specifying that international cooperation may be granted to TF related freezing and confiscation requests.</p>	No	<ul style="list-style-type: none"> • Nigeria is a signatory to all relevant UN Conventions on Terrorism and Terrorist Financing. She has granted international cooperation on terrorist activities and took steps to freeze assets of suspected terrorists.

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		<input type="checkbox"/> <input type="checkbox"/> The existing law is not clear on time limits for execution of MLA and extradition requests when there is need to freeze assets. <input type="checkbox"/> <input type="checkbox"/> There is no legal requirement to share assets which are proceeds of joint confiscation actions <input type="checkbox"/> <input type="checkbox"/> The law does not permit the establishment of asset recovery funds		<ul style="list-style-type: none"> • This is being taken care of by the proposed Bill on non Conviction-based asset recovery
39. Extradition	LC	<input type="checkbox"/> <input type="checkbox"/> Extradition cannot be applied to terrorist financing offences.	No	
40. Other Forms of Cooperation	LC	<input type="checkbox"/> <input type="checkbox"/> There is limited statistics and information on the types of international cooperation granted.	No	
SR I. Implement UN Instruments	NC	<input type="checkbox"/> <input type="checkbox"/> Section 15 of the EFCC Act which seeks to criminalize terrorist financing in Nigeria is not comprehensive and does not meet the requirements of 1999 FT Convention and FATF SR 1, and	No	<ul style="list-style-type: none"> • To be addressed when the ATB is passed by the National Assembly.

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		<p>the UN Security Council Resolutions.</p> <p><input type="checkbox"/><input type="checkbox"/>A comprehensive terrorist financing bill is yet to be passed into law.</p>		
SR II. Criminalize Terrorist Financing	NC	<p><input type="checkbox"/><input type="checkbox"/>The existing provision under Section 15 of the terrorist financing EFCC Act does not criminalize TF as required under Article 2 of the UN Convention on the Suppression of Terrorist Financing and the FATF SR. II in relation to provision/collection of funds to be used for terrorist acts or by terrorist organizations or individual terrorists.</p> <p><input type="checkbox"/><input type="checkbox"/>The existing law does not state that TF is a predicate offence for money laundering.</p> <p><input type="checkbox"/><input type="checkbox"/>There are significant gaps in the existing law in terms of its scope and implementation.</p>	No	<ul style="list-style-type: none"> To be addressed when the ATB is passed by the National Assembly.

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		<input type="checkbox"/> <input type="checkbox"/> The draft Terrorist Prevention bill submitted to the National Assembly is not a law and therefore not enforceable.		
SRIII. Freeze and Confiscate Terrorist Assets	NC	<input type="checkbox"/> <input type="checkbox"/> The existing EFCC provision on the freezing of terrorist funds and assets does not cover terrorist organizations and entities <input type="checkbox"/> <input type="checkbox"/> No procedure or guideline has been issued to LEAs and FIs on the implementation of the SR III freezing mechanisms <input type="checkbox"/> <input type="checkbox"/> There is no mechanism in place for the enforcement of UN Security Council Resolutions 1267 and 1373. <input type="checkbox"/> <input type="checkbox"/> There is no central authority with the responsibility for the implementation of TF freezing and confiscation measures.	No	<ul style="list-style-type: none"> To be addressed when the ATB is passed by the National Assembly.
SRIV	NC	<ul style="list-style-type: none"> There is no explicit requirement in the laws for 	YES	<ul style="list-style-type: none"> A draft copy of suggested provisions to the Committee on Review of BOFIA

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Suspicious Transactions Reporting		reporting relating to terrorism financing or terrorist acts.		(paragraph H) is hereby attached as Appendix II. a) Paragraph 1.16.2.5 of the CBN AML/CFT Compliance Manual (2009) requires FIs to render STRs in respect of terrorist financing to the CBN and NFIU. See also CBN circular on same as Appendix XI.
		<ul style="list-style-type: none"> Other supervisory bodies have not issued any directives on terrorism financing or terrorism acts. 	NO	
SR V. International Cooperation	NC	<input type="checkbox"/> <input type="checkbox"/> In the absence of comprehensive legislation and a guideline on international cooperation requests on TF cases the authorities cannot provide MLA to other countries as required by SR V	No	<ul style="list-style-type: none"> To be addressed when the ATB is passed by the National Assembly. In the interim, Nigeria is already granting requests on TF
SRVI AML Requirements for money/value transfer services	PC	<ul style="list-style-type: none"> Legal requirement exists to ensure that FIs that offer money or value transfer services are registered with the CBN. However, how the CBN determines FIs' overall 	YES	<ul style="list-style-type: none"> The CBN AML/CFT Compliance Manual (2009) has provided requirements to be complied with by FIs on money or value transfer services in paragraphs 1.25.1 to 1.25.3 of the Manual.

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		<ul style="list-style-type: none"> level of compliance with the law is unclear. 		<ul style="list-style-type: none"> The level of compliance with these requirements is determined vide the returns rendered, on the spot checks conducted and during routine examination.
		<ul style="list-style-type: none"> Guidance on how to ensure compliance with the FATF standards for money or value transfer services is unclear. 	YES	<ul style="list-style-type: none"> The CBN AML/CFT Compliance Manual (2009) has provided full guidance on money or value transfer services as contained in paragraphs 1.25.1 to 1.25.3.
		<ul style="list-style-type: none"> It is unclear if any sanctions, penalties or fines have been enforced upon FIs for any instances of non compliance with the FATF standards. 	YES	<ul style="list-style-type: none"> The CBN had enforced penalties and sanctions on FIs for breaches of FATF standards (especially CDD requirements).
SRVII Wire Transfer Rules	NC	<ul style="list-style-type: none"> No explicit requirement in the laws for wire transfers. 	YES	<ul style="list-style-type: none"> A draft copy of suggested provisions to the Committee on Review of BOFIA (paragraph J) is hereby attached as Appendix II. Paragraph 1.26 of the AML/CFT provides for wire transfer.
		<ul style="list-style-type: none"> The provisions in the FX Act and Circular on e-banking do not adequately provide guidelines regarding the details of information in 	YES	<ul style="list-style-type: none"> The CBN AML/CFT Compliance Manual (2009) has provided full guidance on wire transfers as contained in paragraphs 1.26.1 to 1.26.11.

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		<p>wire transfers to be preserved.</p>		
		<ul style="list-style-type: none"> The threshold of US\$10,000 is too high compared to US\$1,000 set by FATF. 	YES	<ul style="list-style-type: none"> CBN had reviewed the amount to US\$1,000 in compliance with FATF's requirement in the CBN AML Compliance Manual (2009) as contained in paragraphs 1.26.1 to 1.26.11 of the Manual.
SR VIII. Non Profit Organizations	NC	<p><input type="checkbox"/><input type="checkbox"/> Few outreach programmes have been conducted to educate NPOs and religious organizations about threats from launderers and terrorists, thus they remain largely vulnerable.</p> <p><input type="checkbox"/><input type="checkbox"/> Information on financial transactions, ownership and management structure are limited and may be different from what is filed at CAC unless they are compelled by the court to provide further information on ownership.</p> <p><input type="checkbox"/><input type="checkbox"/> Since there is no monitoring, reporting or accounting mechanism in place, it is difficult</p>	No	<ul style="list-style-type: none"> SCUML has extensively covered NGOs in its past and on-going sensitization programmes. The Corporate Affairs Commission is reviewing its regulations to make it mandatory for non-profit organization to submit their Audited Financial Statements to the Commission every year. A comprehensive amendment has also been proposed in the on-going review of the Companies and Allied Matters Act initiated by the Law Reform Commission

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		<p>to determine who has the controlling power over finance and administration of NPOs in Nigeria</p> <p><input type="checkbox"/> <input type="checkbox"/> Transaction and accounting records are not available to anybody except the NPOs themselves. They are accountable to themselves and this can be abused by some of them who rely on donations from funding sources that may be illicit.</p> <p><input type="checkbox"/> <input type="checkbox"/> Court orders would be required to compel NPOs to provide information to law enforcement agencies.</p> <p><input type="checkbox"/> <input type="checkbox"/> Information available to the public and for international cooperation is limited as the NPO determines what information to share with other people nationally or internationally. At most, they are only answerable to those who provide fund to them.</p>		

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SR. IX Cross Border Declaration & Disclosure	PC	<p><input type="checkbox"/><input type="checkbox"/>The system does not specifically cover bearer negotiable instruments, (BNI) or currency and BNI transported through containerized cargo or by mail.</p> <p><input type="checkbox"/><input type="checkbox"/>NCS does not cover the country's port of entries and as such a significant amount of travelers are not covered under the declaration system.</p>	Yes	<ul style="list-style-type: none"> • Import Guidelines under the Destination Inspection Scheme mandates all importers and exporters of containerized goods to declare the contents on the prescribed SGD Form 2010. • Pursuant to sections 37, 71, 72 and 161 of the Customs Act, non-declaration of Bearer Negotiable Instruments (BNIs) on the prescribed Currency Declaration Form (CDF) is an offence. • The Common External Tariff (CET) covers the importation of bank notes, cheques, stocks certificates and other BNIs under the Harmonised System (HS) Code 4907.0000. • Nigeria Customs Service receives declaration reports from 108 entry and exit points grouped into 13 designated Area Commands out of the 25 Area Commands in the Federation. It is pertinent to note that the sea ports do not report cross border transportation of currency or Bearer Negotiable Instruments (BNIs) as no international or regional passenger Traffic is recorded, except the crew who remain on

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		<p>□□NCS staff members are not well spread out and still lack the requisite skills to manage the data base for the declaration system.</p>		<p>transit for a short period on their means of conveyance.</p> <ul style="list-style-type: none"> • Seizures of various sums of money and BNIs undeclared have been recorded at our airports and border stations, for example: • Seizures of 1,783 pieces of foreign cheques, money orders, etc, at M/M Lagos, February 2008. • In February, 2009, a seizure of 100 pcs of US Postal Service Money Order worth 500USD each, 2 100pcs money gram order worth 500USD each, 3 118HMS Host Cashier Cheque worth 2414.55 USD was recorded at the MM Airport, Lagos. • More officers have been deployed to cover new and existing entry /exit points, especially with the new boundary adjustment between Nigeria and Cameroon. The recent recruitment of 5,000 officers and men in the Service provided additional staff strength.

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		<p>□□NCS staff still lack the requisite skills to manage the database for the declaration system</p>		<ul style="list-style-type: none"> • In 2008, about 40 desk officers were trained on the Enhanced Currency Declaration Software application by the NFIU (30th June – 9th July 2008) and the installation of the software application at the designated areas has been effected. • AML/CFT training including Regional capacity enhancement programme for financial investigators 14-18 July 2008 Abuja-Nigeria. • In 2008 the Training and Research Institute of the EFFC trained two batches of twenty-five officers on General Investigation techniques, including financial investigation. • Bulk cash smuggling workshop 10th – 13th Nov. 2008 organized by US Dept. of Homeland Security, ICE and CBP were attended by officers of the Service.

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		<input type="checkbox"/> There are currently no specific sanctions for failure to disclose or for making a false declaration.		<ul style="list-style-type: none"> • Sanctions are provided under the provision of section 161 (1-4) (untrue declaration) of CEMA. However, the section is under review to explicitly criminalize the offences of non-declaration, under declaration and / or any form of misrepresentation for AML/CFT purposes. • Furthermore, a comprehensive sanctions regime is included in the new bill for the Customs Act (CEMA) before the National Assembly for amendment