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EFCCALERT!

The New Order

New legislations to tackle money laundering, illegal acquisition of wealth, and terrorism, come into effect - a look at how it affects lawyers, bankers, real estate agents, bureaux de change operators, car dealers, shopping malls, and other professionals





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The New Order

New legislations to tackle money laundering, illegal acquisition of wealth, and terrorism, come into effect - a look at how it affects lawyers, bankers, real estate agents, bureaux de change operators, car dealers, shopping malls, and other professionals

By Segun Adeoye

It is one of those auspicious and history-making events, when members of the Executive, the Legislature, and the Judiciary, put aside their differences, by literally sheathing their swords of discord and ego, to openly show solidarity and unity of purpose, under the watchful eyes of members of the Fourth Estate of the Realm.

In the midst of a kaleidoscope of lightning flashes from the prying cameras of photojournalists, President Muhammadu Buhari, flanked by the Secretary to the Government of the Federation, Boss Mustapha; the Senate President, Ahmad Lawan; the Chairman, Senate Committee on Judiciary, Opeyemi Bamidele; Chief of Staff to the President, Prof. Ibrahim Gambari; Attorney General of the Federation, Abubakar Malami, SAN; Chairman, Economic and Financial Crimes Commission, EFCC, Abdulrasheed Bawa, and Chairman, Independent Corrupt Practices and other Related Offences Commission,

Prof. Bolaji Owasanoye, put pen to paper, as he signed into Law, the Money Laundering (Prevention and Prohibition) Bills, 2022; the Terrorism (Prevention and Prohibition) Bill, 2022, and the Proceeds of Crime (Recovery and Management) Bill, 2022.

An elated Buhari, who was beside himself with great joy, described the signing, which took place on Thursday, May 12, 2022 at the Council Chamber, State House, Abuja, as pointer to his administration's resolve and commitment to fight corruption and tainted financial transactions.

"We will not rest until we rid the nation of the menace of money laundering, terrorism, and other financial crimes," he said, as he touted the new laws, which are a repeal of the Money Laundering (Prohibition) Act, 2011, the Terrorism (Prevention) Act, 2011 as amended in 2013, and the enactment of the Proceeds of Crime (Recovery and Management) Act, 2022, as ones that will provide "enough punitive measures and containment strategies against abuses and compromises".

Commendations were showered on members of the ninth National Assembly by Buhari for expediting action on the bills, which were sent to the Legislature back in January 2022.

"The 9th National Assembly has proven to be patriotic, responsive, resourceful and industrious in its legislative assignments, and they have certainly carved out a worthy legacy for themselves," he said.

The President also commended members of the National Action Task Force, which include Ministries, Departments and Agencies of government, for their roles in making the new laws a reality.

The fight against corruption, he noted, requires an inclusive approach that places huge responsibilities on every Nigerian to play an active role, in order to rid the country of the vice.

The Executive, he stressed, will continue to put in place machineries to check corrupt practices, adding that in reviewing the repealed bills, his administration "carefully avoided creating another asset recovery and





“I charge all relevant agencies to ensure effective implementation of these new laws,” he said. “The robust frameworks diligently enshrined in the Acts can only serve useful purposes when every bit of them is enforced.”

management agency with its cost implications in deference to government's sensitivity to the rising cost of governance”.

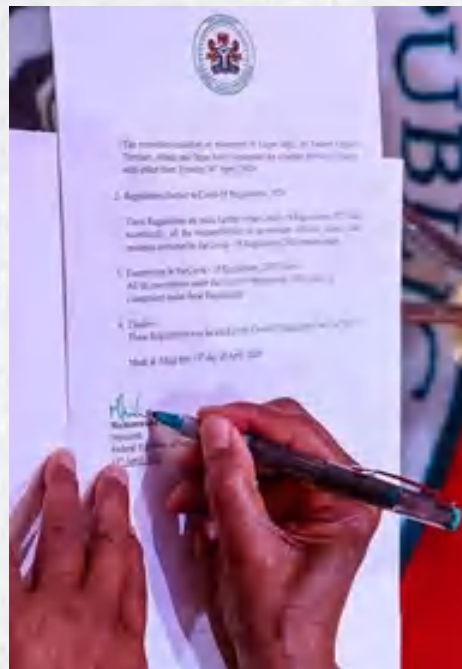
Calling law enforcement agencies to action, the president, ordered them to enforce the laws to the letter.

“I charge all relevant agencies to ensure effective implementation of these new laws,” he said. “The robust frameworks diligently enshrined in the Acts can only serve useful purposes when every bit of them is enforced.”

Laying emphasis on the need for “collaboration, synergy and unification of strategies and measures to combat the scourge” of corruption, he added that, the “primary objectives of these measures are to ensure effective, unified and comprehensive legal, regulatory and institutional framework for the implementation of the Acts”.

Attaching great importance to the day's event, he said: “The signing of these Bills into law today strengthens the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) framework in the Country.

“It also addresses the deficiencies identified in Nigeria's 2nd round of Mutual Evaluation as assessed by Inter-Governmental Action Group Against Money Laundering in West Africa on



compliance with the Financial Action Task Force global standards.

“Accordingly, the repeal of the Money Laundering (Prohibition) Act, 2011 as amended and enactment of Money Laundering (Prevention and Prohibition) Act, 2022 provides comprehensive legal and Institutional Framework for the prevention and prohibition of money

laundering in Nigeria and confers on the Economic and Financial Crimes Commission, the legal status of the Special Control Unit against Money Laundering (SCUML).

“The repeal of the Terrorism (Prevention) Act, 2011 as amended in 2013, and enactment of the Terrorism (Prevention and Prohibition) Act, 2022 provides for the effective implementation of international instruments on the prevention and combating of terrorism and suppression of the financing of terrorism.

“The enactment of the Proceeds of Crime (recovery and Management) Act, 2022 makes comprehensive provisions for the seizure, confiscation, forfeiture and management of properties derived from unlawful activity.”

Indeed, it was worth noting, according to the President, that with the new Money Laundering Act, the legal status of SCUML is now officially recognized to be conferred on the EFCC.

The recognition, for Bawa, is quite significant, as the legal status of SCUML, which was created by the Federal Government in September 2005, has now been effectively resolved.

Expressing delight at the provision that domiciles the SCUML within the EFCC, a delighted Bawa, warns that Non-Designated Financial Businesses and Professionals, DNFBPs, now have to submit currency transaction and suspicious transaction reports to the EFCC based on their activities.

“So, with the new legal framework, we



are going to be everywhere to enforce the law, and to ensure that we keenly watch those avenues that the gatekeepers use to assist the corrupt elements in the society to launder proceeds of crime,” he said.

Breaking the Chain

Indeed, it is a long and intertwining chain that binds money laundering to terrorist financing, through illicit financial flows/transactions, thus requiring a conscientious effort by all for it to be broken. It's long term effect is devastating on any society. It is as much as the deadly relationship that exists between the evil trio of hypertension, diabetes and kidney-related diseases, which require discipline, commitment and grit to combat.

It is on record that Africa loses more than \$50 billion every year as a result of illicit financial outflows.

But, what exactly is money laundering? Money laundering in its literal explanation implies laundering (washing) “dirty money” in public with the aim of making it look clean.

Dirty money in this sense, implies proceeds of criminal activities (stealing from state coffers, tax evasion, internet fraud, contract inflation, bribery, property purchase, and drug trafficking), and making them appear legal – clean.

It is the concealment of the origin of illegally obtained money, typically by means of transfers involving foreign banks or seeming legitimate businesses.

Money launderers usually engage in three covert activities – keeping the stolen funds in financial institutions or converting them into negotiable instruments; transferring the stolen funds to foreign bank accounts, in an

“The 9th National Assembly has proven to be patriotic, responsive, resourceful and industrious in its legislative assignments, and they have certainly carved out a worthy legacy for themselves,”

attempt to conceal the origin of the funds; and eventually investing the money in business ventures in which case it is no longer traceable to its origin as it would have “mixed” with funds of legitimate sources.

In breaking this ignoble chain, the EFCC is currently prosecuting politically exposed persons in courts across the country for economic and financial crimes.

With the landmark event of May 12, 2022, money laundering remains an offence, now punishable under the Money Laundering (Prevention and Prohibition) Act 2022.

How it affects you

It is an offence for an individual or corporate organisation to make cash payment for any business deal, valued at N5million or more (for an individual) and N10 million or more (for a corporate organisation), or their equivalent in foreign currency, without carrying out the transaction through a financial institution.

In effect, if you buy a car (or procure any other services) worth N5million or more as an individual, and you pay in cash, you have committed an offence. Payment

must be made via a financial institution.

As an individual, it is prohibited for you to intentionally or unintentionally, conduct two or more transactions separately with one or more financial institutions or DNFBPs in order to evade being reported for engaging in funds beyond the allowed thresholds.

Legal professional privilege and the invocation of client confidentiality no longer applies when lawyers assist their clients in the purchase or sale of property, purchase or sale of any business, management of client's money, securities or other assets, opening or management of bank, savings or securities accounts, and creation, operation or management of trusts, companies or similar structures.

Cash transportation via flight is also highly discouraged and prohibited, as any traveller in possession of cash as much as \$10,000 (or its equivalent in naira or other currencies), must be report same to the Nigeria Customs Service, failure of which will result in forfeiture of the undeclared funds or negotiable instruments to the Federal Government, or two-year jail-term, or both.

The opening or maintenance of numbered or anonymous accounts by an individual, financial institution or corporate organisation is prohibited, and by extension, an individual shall not establish or operate a shell bank in Nigeria. Additionally, a financial institution cannot enter into, or continue correspondent banking relationships with shell banks.

Any person or organisation, in or outside Nigeria, who directly or indirectly conceals or disguises the origin of, converts or transfers, removes from the jurisdiction, or acquires, uses, retains or takes possession or control of any fund or

property, intentionally, knowingly or reasonably ought to have known that such fund or property is, or forms part of the proceeds of an unlawful act, is guilty of perpetrating money laundering.

Such a person on conviction is to be sentenced to a jail-term not less than four years, but not more than 14 years, or a fine not less than five times the value of the proceeds of the crime or both. A corporate organisation found guilty in this regard, is to be fined not less than five times the value of the funds or the properties acquired as a result of the offence committed.

Money laundering activities include, but is not limited to the following unlawful act: participation in an organised criminal group; racketeering, terrorism, terrorist financing; trafficking in persons, smuggling of migrants, sexual exploitation, sexual exploitation of children; illicit trafficking in narcotic drugs and psychotropic substances;

illicit arms trafficking, illicit trafficking in stolen goods; corruption, bribery, fraud, currency counterfeiting; counterfeiting and piracy of products, environmental crimes; murder, grievous bodily injury; kidnapping, hostage taking, robbery or

“The enactment of the Proceeds of Crime (recovery and Management) Act, 2022 makes comprehensive provisions for the seizure, confiscation, forfeiture and management of properties derived from unlawful activity.”

theft; smuggling (including in relation to customs and excise duties and taxes), tax crimes (related to direct taxes and indirect taxes); extortion, forgery, piracy; insider trading and market manipulation, and any other such vice.

If you are under investigation on suspicion of engaging in money laundering activities, and you obstruct detectives or attempt to pervert course of justice, you are liable to be convicted to a jail-term of at least two years and not more than three years. In the case of a financial institution or other body corporate, a fine of N1,000,000 is prescribed.

Eyes on financial institutions, DNFBPs

All eyes are now on financial institutions and DNFBPs, as they are expected to play their roles effectively as gatekeepers in the “command chain” of combating money laundering.

They are now to ensure prompt and accurate reporting of financial



transactions to the SCUML and by extension to the EFCC, failure of which will attract hefty fines and punishment stipulated in the new law.

Captured in the Money Laundering (Prevention and Prohibition) Act 2022 as DNFBPs include: automotive dealers; businesses involved in the hospitality industry; casinos (betting companies); clearing and settlement companies; consultants and consulting companies; dealers in jewellery; dealers in mechanised farming

body corporates, associations or group of persons, whether corporate or incorporate which carries on the business of investment and securities, virtual asset service providers, a discount house, insurance institution, debt factorisation and conversion firm, bureau de change, finance company, money brokerage firm whose principal business includes factoring, project financing, equipment leasing, debt administration, fund management, private ledger service, investment management, local

who are or have been entrusted with prominent public functions by a foreign country, including, Heads of State or Government; senior politicians, senior government, judicial or military officials, senior executives of State owned corporations and important political party officials; individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of Government, senior politicians, senior government, judicial or military officials, senior executives of State owned corporations and important political party



equipment, farming equipment and machineries; dealers in precious metals and precious stones; dealers in real estate, estate developers, estate agents and brokers; high value dealers; hotels; legal practitioners and notaries; licensed professional accountants; mortgage brokers; practitioners of mechanised farming; supermarkets; tax consultants; trust and company service providers; pools betting, or such other businesses and professions as may be designated by the Minister responsible for Trade and Investment. Financial institutions include: banks,

purchase order financing, export finance, project consultancy, financial consultancy, pension funds management and such other business as the Central Bank or other appropriate regulatory authorities may designate.

The new law, also categorises Politically Exposed Persons, PEPs as: individuals

officials, and persons who are or have been entrusted with a prominent function by an international organisation and includes members of senior management such as directors, deputy directors and members of the board or equivalent functions and their family members and close associates, other than middle ranking or more junior individuals.



How We Helped Crack Money Laundering Cases Involving Nigeria's Big Men

Ex-UK Met Police Officer

Investigating politically exposed persons for money laundering was not in his purview when he joined the United Kingdom, UK Metropolitan Police in 1987. His role majorly involved confiscation of assets traced to convicted criminals such as drug traffickers.

But, for Peter Clark, his 28 years in the service of the UK Met Police can, perhaps, best be defined in the light of the jaw-dropping money laundering cases he cracked involving some of Nigeria's big men - the untouchables, which got global attention.

Who are these big men? How was their money laundering activities exposed? What were the difficulties faced in their investigation, and how were they surmounted?

In this interview with Segun Adeoye, reminiscing on his sojourn as an investigative police officer, Clark provides answers, even as he marks seven years in retirement.

Excerpts:

How has life been in retirement?

I have always had an interest in wildlife and was very fortunate soon after leaving the Met, to join a great team of people within the local authority's animal health team. We effectively 'police' the farming industry and protect the food chain and animal welfare concerns. Having been in such a pressurised environment at the Met with all the daily stress and tolls, it was a huge lifestyle change for me. However, my experience as a Detective has come in handy. It is really surprising how seven years have 'disappeared' that quickly, but I have a new life now.

Do you miss investigating money laundering cases, credit card fraud and the likes?

I haven't missed it to be honest, because my current role is still within the investigating arena, although very different from financial crime. One thing I don't miss is the endless hours or preparatory work to gain access to suspect's financial accounts. The paperwork is far less for me now, and



the investigation work is very different.

What are highpoints of your 28-year service at the UK Met?

The highpoints were the 12 years when I was working on the Joshua Dariye, DSP Alamieyeseigha and James Ibori cases. I never ever dreamt that I would achieve anything like that.

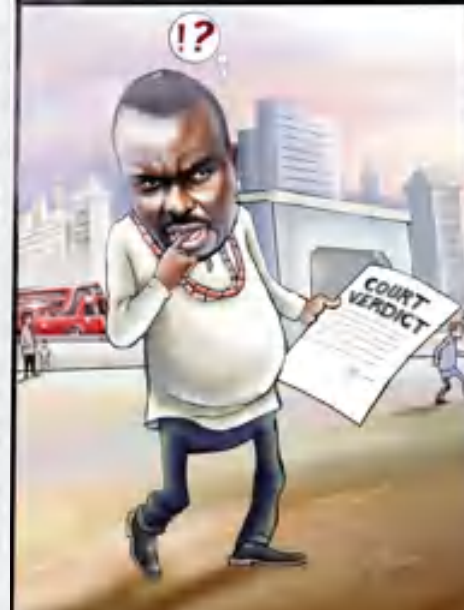
Tackling money laundering cases involving Politically Exposed Persons (PEPs) wasn't something I ever thought I would be doing. It really 'fell in my lap'. My role in 2004 was to deal with confiscation of assets from convicted criminals such as drug traffickers etc, not engaged in huge money laundering investigations.

I began the Dariye investigation in 2004 because I was a qualified Financial Investigator at that time accredited with the Serious Organised Crime Agency (SOCA), but I had quite an uphill battle convincing my bosses that it was the right thing to do. The breakthrough came after a couple of months once I had discovered huge

Meetings with Nuhu Ribadu [then EFCC Chairman] were frequent, and having been given names of those PEPs suspected to be laundering money into London, I decided to go for the 'top two' - Alamieyeseigha and Ibori.

amounts of money in Dariye's bank accounts. It was the unknown not only for me, but for the senior Crown Prosecutor of the Crown Prosecution Service. The arrest of Dariye in September 2004 and the recovery of a lot of cash from him convinced senior officers in London that this was worthwhile.

Working closely with officers initially from the SSS and then the EFCC was



incredibly rewarding. There were some barriers of trust to overcome in the early days which needed great diplomacy to achieve, but we got there, and I made great friends. The arrest of Dariye sent shockwaves across Nigeria and was the catalyst for further collaboration and assistance. It was really me being in Nigeria and listening and talking to people on the ground, establishing who was also doing something like Dariye that spurred me on.

Meetings with Nuhu Ribadu [then EFCC Chairman] were frequent, and having



been given names of those PEPs suspected to be laundering money into London, I decided to go for the 'top two' - Alamieyeseigha and Ibori. I thought at the time, 'why not try to take out the top two' as it could have huge results, but I knew it wasn't going to be easy and it was also going to be very time-consuming. I was 'up for it' as were my colleagues within the EFCC, spurred on by Ribadu and Ibrahim Lamorde [then Director of Operations].

What was the turning point in Ibori's case?

It was when Goodluck Jonathan took the presidency and the then Attorney General Kaase Aondoakaa was replaced, because [before then] we had 18 months of no assistance whatsoever. All of a sudden it changed and everything was

were really helpful and Ibori never thought he would get caught in Dubai. That was terrific, and we had a big party in our office.



I began both investigations myself in 2005. I soon became 'swamped' with work as these top two guys had been extremely 'busy'. Every day I was establishing new accounts, new assets, and new facilitators helping them. I needed help, especially after I arrested DSP at Heathrow airport and discovered £1million in cash hidden in his luxury London apartment!

It was the foresight and ingenuity of my senior officers and officials of the Department for International Development who effectively requested me to set up the 'Africa Desk' at New Scotland Yard. A new team was formed and the help I needed was available. They were a great team of Detectives, some of the best the Met had. I knew we would be successful, and we proved that to be right.

back on [track] again. The other big turning point was the assistance from the Dubai authorities, the United Arab Emirates. When Ibori ran to Dubai, he thought he was being clever and would get away with it. He didn't realise what we could do. We've never tested Dubai before with extradition, and it was a big learning curve. It turned out that they

The message sent out to all serving governors and PEPs was huge - that they would be found out if they did something similar.



He pleaded guilty and was convicted of serious criminality in 2012. In May 2012, spurious allegations of bribery and corruption were made against me and two of my colleagues by a solicitor who was representing him, Bhadrish Gohil, who helped him launder huge sums of money from Delta State. The allegations were outrageous and involved investigations by the MPS Department of Professional Affairs. The outcome of the investigation was that no wrongdoing could be established against any MPS officer and [so] no action was taken. However, Gohil was further charged with perverting the course of justice, but the case dramatically collapsed at the

beginning of his trial with the CPS offering no evidence.

To this day I am still perplexed as to that outcome as I wanted to get into the witness box at Crown Court and tell the whole world what had happened, but I wasn't afforded the opportunity. Ibori and Gohil appealed against their convictions to the High Court, Supreme Court and even the European Court of Human Rights, but all failed. This was a testament to the quality of the evidence we had established and something which couldn't be challenged.

Following the appeal process, a decision was made by the CPS that all the prosecution team and investigators should not be involved with the pending confiscation hearings. I had completed at least seven very lengthy witness statements and accumulated thousands of supporting documents from the investigation. It was a disappointing decision, but one I respected even

someone having to adopt my statements.

Do you think that a team of Detectives in London who had worked tirelessly to convict Ibori would be willing to accept a measly alleged bribe of £20,000? It is laughable especially when the DPS investigation discovered that £11,000 of it was never paid and the remainder was paid to an employee of a management company for his travelling expenses!

You investigated Dariye, but he was never prosecuted in the UK.

He would have been prosecuted in the UK if we had the evidence to proceed against him. He was given bail (he agreed to the terms and signed to that effect) to return to Belgravia Police Station in December 2004 as the investigation was still ongoing. The evidence of Ebenezer Retnan Ventures (the conduit pipe he used) and the truth of where he had stolen the money from weren't in our hands until a few months later as the SSS/EFCC hadn't uncovered it by that stage.

once the evidence of his wrongdoing surfaced, he was charged to court by the EFCC. As the EFCC was prosecuting him, we had to respect the decision, and that no extradition proceedings would be instigated as domestic proceedings take precedence.

What are your takeaways from Dariye's, demeanour in the courtroom?

I testified in Kaduna High Court and also in 2016 at the Abuja High Court. In 2016 Dariye looked extremely worried as I don't think he ever expected to see me again! During a short recess he came up to me in the foyer and shook my hand. I never had any malice against him as he was very courteous and polite to me. He tried to tell me that he had written to the MPS regarding his bail date. I explained to him that I hadn't seen a letter from him, and in any event bail wasn't negotiable. I reminded him that he had promised as a God-fearing man to return to London on the day we agreed. He believed that by writing to the MPS, it would be acceptable not to answer his bail which I might add is a legally binding statute. I pointed out to him that even if he had written to the MPS, why hadn't he made any attempt to return to London since December 2004 as it was now 2016? He just smiled.

When he was convicted, I was delighted that all the years of hard work had paid off. I was accused by Dariye's defence lawyer [G.S. Pwul, SAN] of wishing to testify as I had a grievance and a grudge against him. This was untrue as I explained that any good cop who starts an investigation would have a sense of duty to see it through to the end, and this was no different.



though I would be in a much better place to answer any questions than

As Dariye had fled back to Nigeria and

NUMBERS

Conviction Tracker

Fifty-four (54) convictions were recorded in the week of July 24-31, 2022 by the Economic and Financial Crimes Commission, EFCC, across its Zonal Command and the Headquarters. This brings to 2029, the number of convictions so far recorded as of July 29, 2022.



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