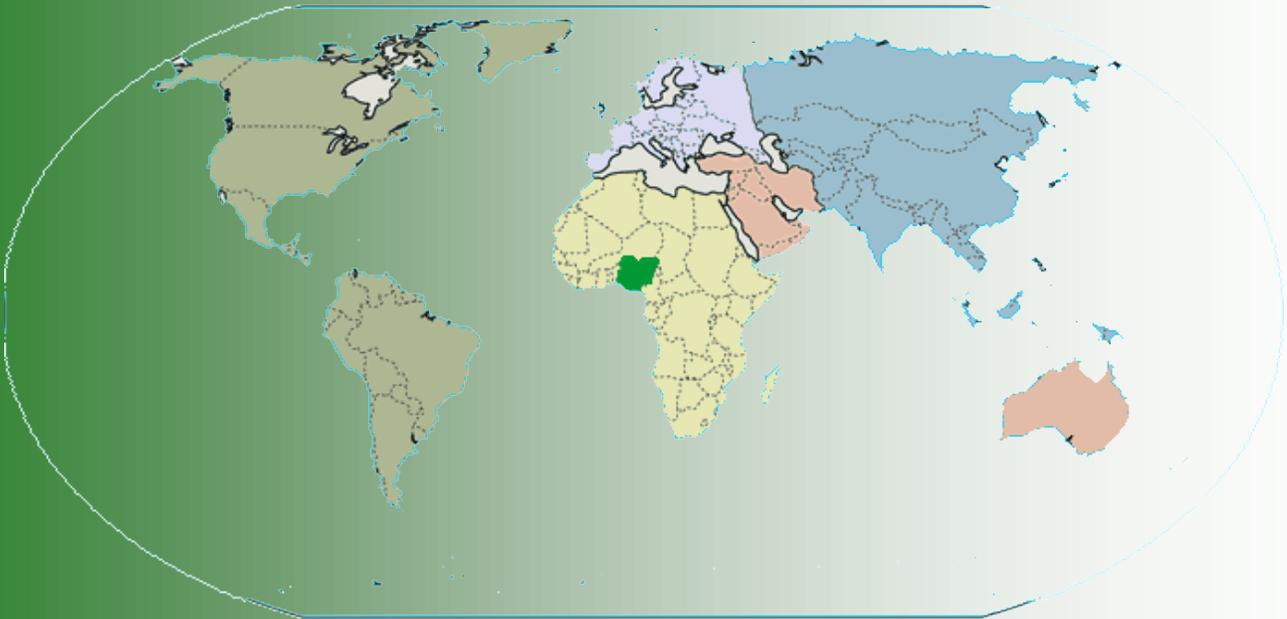




# NFIU

## NIGERIAN FINANCIAL INTELLIGENCE UNIT



### **GUIDANCE ON TAX EVASION INDICATORS IN RELATION TO MONEY LAUNDERING AND TERRORISM FINANCING**

The Nigerian Financial Intelligence Unit (NFIU) in fulfillment of its obligations on the timely provision of guidance to reporting entities, publishes indicators on crimes of money laundering and terrorism financing in an effort to guide reporting entities on observable patterns.

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## Introduction

In response to the global requirement for greater transparency & exchange of information for tax purposes as well as the **revised Financial Action Task Force (FATF) Recommendations of February 2012** which called on countries to designate tax crimes as a predicate offence to Money Laundering (ML); Nigeria responded accordingly and amended the relevant legislation (**the Money Laundering Prohibition Act -MLPA**) in **2011** by expanding the scope of offences to include **tax evasion** as a predicate offence to the money laundering.

By virtue of this inclusion, financial and designated non - financial institutions as well as competent authorities in Nigeria while reporting and investigating incidences of tax crimes are required to consider tax evasion as a predicate offence to money laundering.

Consequently, all **Financial Institutions (FIs)** and **Designated Non-Financial Institutions (DNFIs)** operating in Nigeria must establish measures to guard against the misuse of their Institutions for the purposes of money laundering through the evasion of tax. All FIs and DNFIs must therefore review their existing Anti-Money Laundering (AML) and Customer Due Diligence (CDD) policies and procedures to address the vulnerabilities associated with tax evasion by ensuring:

- ❖ In the absence of any; the development, implementation and enforcement of internal policies, controls and procedures that effectively detect and deter the laundering of proceeds from willful or fraudulent tax evasion through the financial or Non-financial system.
- ❖ That their staff do not knowingly aid or abet their clients in committing tax crimes.
- ❖ Continuous assessment and adoption of measures to manage and mitigate the tax related risk exposures arising from the conduct of their business, including any unfavorable reputational fallout.
- ❖ The assessment of client's assets to ensure that they do not emanate from serious offences which includes fraudulent or willful tax evasion;
- ❖ Filing suspicious transactions report where required
- ❖ Applying appropriate risk mitigation and control measures.

## **Purpose of the guidance**

The purpose of this document is to guide the reporting entities, financial sector regulators, law enforcement officers, and the general public in identifying indicators to tax evasion as well as aid the government in formulating policies relating to the mitigation of tax evasion in Nigeria.

Accordingly, there are numerous indicators that may assist reporting entities and law enforcement officers to identify potential tax evasion transactions. Although the existence of a single indicator does not necessarily indicate illicit activity but it should encourage further monitoring and examination. In most cases it is the existence of multiple indicators that raises suspicion of potential criminal activity, and informs further response to the any given situation.

In particular, compliance officers are encouraged to monitor these indicators when describing suspicious behaviors for inclusion in suspicious transaction reports as well as ensuring that institutional training materials and KYC policies and procedures take these indicators into consideration.

### **Most Commonly Identifiable Tax evasion Indicators**

Recognizing the need for a broader understanding of tax crimes and related money laundering offences, the following indicators have been identified as some of the most commonly identifiable tax evasion indicators;

- ❖ Non-remittance of tax proceeds by authorized tax collectors.
- ❖ Sudden increase in volume of transactions evidenced by large income inflows without corresponding increase in tax payments.

- ❖ Overstatement of expenses in financial records of corporate entities with high turnover.
- ❖ Re-investment of substantial amount from profits before tax where there are tax incentives in such investments
- ❖ Under invoicing of goods and services from source country (exporting) to enable under or nonpayment of appropriate taxes in the destination (importing) country.
- ❖ Concealing or disguising the real owner of funds, assets or properties involved in a transaction
- ❖ Constant preference huge cash transactions and rampant use of alternative remittance system
- ❖ Acquiring loans and other credit facilities from an offshore company (especially from a parent company) to a subsidiary company
- ❖ frequent financial transactions via special purpose vehicles (SPVs) or special purpose entities by companies and individuals
- ❖ Evidence of investments in interrelated companies
- ❖ Frequent amendment and rejection of letters of credit (LCs) by entities
- ❖ Non-submission of Single Goods Declaration (SGD) by Importers
- ❖ Company or individual known to be currently under investigation for any money laundering predicate offence.

It is pertinent to note that, **it is not the responsibility of FIs and DNFI to assess client's compliance with their tax obligations as this requirement is the exclusive preserve of the relevant tax authority (RTA).**

However, **FIs and DNFI**s are expected to determine whether or not there are reasonable grounds to suspect that a client's account contain the proceeds from tax evasion.

FIs are therefore encouraged to undertake a critical review for all existing accounts to assess any suspicion of proceeds from tax evasion crimes of assets booked and identify high-risk accounts in that respect.

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