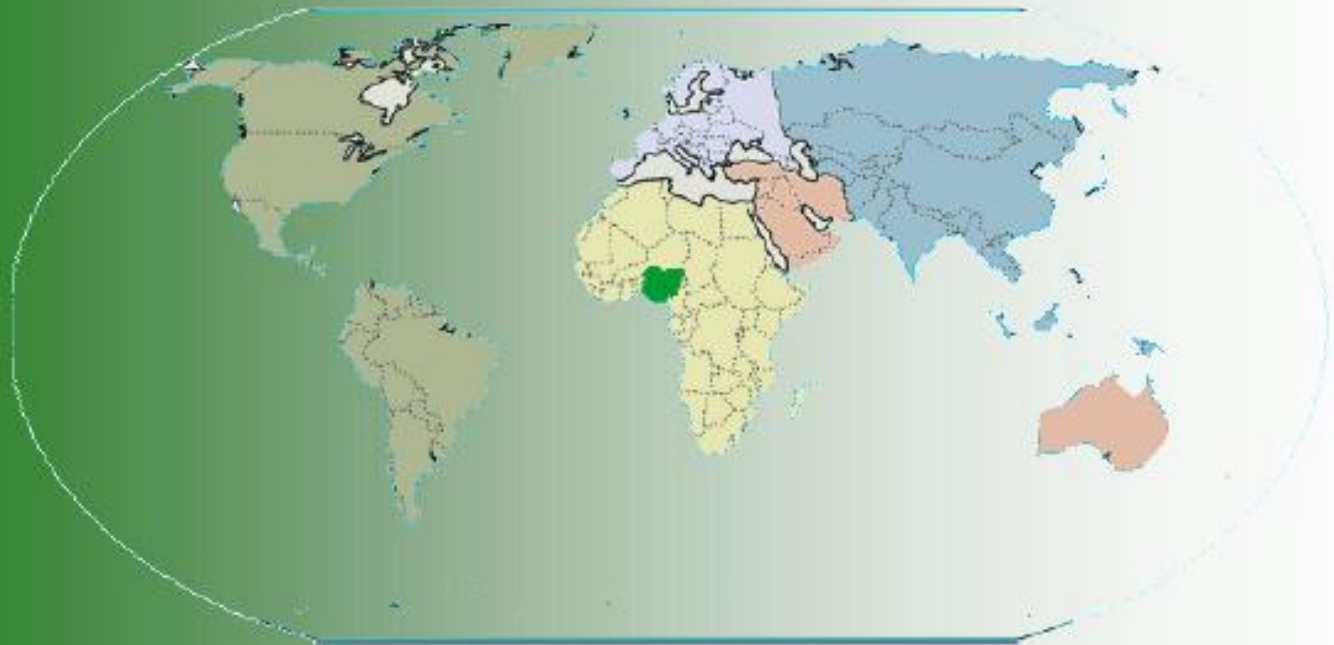




NFIU

NIGERIAN FINANCIAL INTELLIGENCE UNIT



GUIDANCE UPDATE ON TERRORISM FINANCING INDICATORS IN RELATION TO MONEY LAUNDERING

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

Terrorism is one of the main contemporary threats to international peace and security. Perpetrators of terrorist acts undermine human rights, fundamental freedoms and the rule of law, which are the pillars of national and international stability.

In Nigeria, legal and regulatory efforts aimed at curbing terrorism and terrorist financing can be located within the Terrorism (Prevention) Act (TPA), 2011 as amended in 2013

The TPA defines the act of financing of terrorism as:-

“A person who, directly or indirectly, provides or collects funds with the intention or knowledge that they will be used, in full or in part, in order to –“

(a) Commit an offence in breach of an enactment specified in the Schedule to this Act; or

(b) Do any other act intended to cause death or serious bodily injury to a civilian or any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a group of people or to compel a government or an international organization to do or abstain from doing any act,

Commits an offence under this Act and shall on conviction be liable to imprisonment for a maximum term of 10 years.

The Financial Action Task Force (FATF) that is the international standard setter on measures to combat Money Laundering and Terrorist Financing defines terrorist financing as:



***“Extending to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part: (a) to carry out a terrorists act(s); (b) by a terrorist organization; or (c) by an individual terrorist¹.*”**

The FATF further describes the act of terrorist financing to include the financing of terrorist acts, and of terrorists and terrorist organizations. The offence of financing of terrorism is further defined in Section 2 of the United Nations Convention on the Suppression of Financing of Terrorism.

PURPOSE OF THE GUIDANCE

The purpose of this document is to guide the financial sector regulators, law enforcement officers, and the general public in identifying terrorism financing trends & patterns as well as aid the government in formulating policies relating to combating the financing of terrorism in Nigeria.

¹ See generally FATF Special Recommendation II (2004 Methodology for the assessment of countries), www.fatf-gafi.org. The criteria for assessment of country’s compliance with FATF standards are listed below:

I.1 Terrorist financing should be criminalized consistent with Article 2 of the Terrorist Financing Convention, and should have the following characteristics: 11

(a) Terrorist financing offences should extend to any person who willfully provides or collects funds by any Means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that They are to be used, in full or in part:

- (i) To carry out a terrorist act(s);
- (ii) By a terrorist organization; or
- (iii) By an individual terrorist.

(b) Terrorist financing offences should extend to any *funds* as that term is defined in the TF Convention. This includes funds whether from a legitimate or illegitimate source.

The Terrorist Financing Convention defines *funds* as:

“Assets of every kind, whether tangible or intangible, movable or immovable, however, acquired, and legal Documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such Assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, Shares, securities, bonds, drafts, letters of credit.”

(c) Terrorist financing offences should not require that the funds: (i) were actually used to carry out or Attempt a terrorist act(s); or (ii) be linked to a specific terrorist act(s).

(d) It should also be an offence to attempt to commit the offence of terrorist financing.

(e) It should also be an offence to engage in any of the types of conduct set out in Article 2(5) of the Terrorist Financing Convention.



Terrorist financing provides funds for terrorist activity, which may involve funds raised from legitimate sources, such as personal donations and profits from businesses and charitable organizations, as well as from criminal sources, such as illicit drug trade, smuggling of weapons, armed robbery, fraud, kidnapping and extortion.

Terrorists use techniques like those of money launderers to evade law enforcement attention and to protect the identity of their sponsors and of the ultimate beneficiaries of the funds. However, financial transactions associated with terrorist financing is often smaller than is the case with money laundering, and when terrorists raise funds from legitimate sources, the detection and tracking of these funds becomes more difficult.

Terrorist financiers rely mostly on the attempt to misuse the services provided by Financial Institutions (FIs) and the Designated Non Financial Businesses & Professions (DNFBPs) to conduct their operations as well as through informal value-transfer systems such as, Hawalas and Hundis (the oldest method of money transfer), physical transportation of cash, gold and other valuables through smuggling routes.

This variety in services provided by FIs and DNFBPs increases the opportunity for development of terrorist financing techniques, which in turn calls for the urgent need for regulators and relevant law enforcement officers to recognize the TF Indicators and methods used by terrorists. Such methods may include:

1. **Mechanism:** It may include the use of financial institutions, the DNFBPs and legal arrangements such as trusts and corporate bodies.
2. **Instrument:** It may include the use of cash, cheques (bank and travelers' cheques), letters of credit, jewelry, precious stones, real estates, securities and so on. It may also include money deposit in bank accounts, money transfer, currency exchange and over- and- under invoicing as part of an import /export transaction.



Accordingly, there are numerous indicators that may assist reporting entities and law enforcement officers to identify potential terrorism financing activity. 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 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 reports as well as ensuring that institutional training materials and KYC policies and procedures take these indicators into consideration.

MOST COMMONLY IDENTIFIABLE TERRORIST FINANCING INDICATORS/TRENDS

- Wire transfers to or from high risk jurisdictions or jurisdictions of specific concerns
- Multiple deposits (small or large) into a single account followed by cash large withdrawals or transfer to another account(s); domestic and (or) foreign.
- Frequent daily cash withdrawals below reporting threshold.
- Transactions on accounts of community or charitable organizations not consistent with the account profile.
- Constantly accessing offshore funded accounts via local debit or credit cards.
- Under priced international trade transactions.
- Unusual concern for secrecy by a customer, particularly with respect to their identity, type of business, or property held



- Possesses vague knowledge of the amount and details of a transaction or offers inconsistent or confusing details about the transaction.
- Unwilling to provide explanation of financial activity.
- Corporate layering: transfers between bank accounts of related or unrelated entities or charities for no apparent reason.

Dormant Accounts should raise suspicions where:

- Sudden reactivation of a dormant account followed by relevant periodic deposits that are used to create transactions which appear legitimate in the first instance but through which additional fraudulent activities may be carried out.
- Sudden deposit or series of deposits followed by daily cash withdrawals that continue until the transferred sum has been removed.
- When opening an account, the customer refuses to provide information required by the financial institution, or attempts to reduce the level of information provided to the minimum or provides information that is misleading or difficult to verify.
- An account for which several persons have signature authority, yet these persons appear to have no relation among each other (either family ties or business relationship).
- An account opened by a legal entity or an organization that has the same address as other legal entities or organizations but for which the same person or persons have signature authority, when there is no apparent economic or legal reason for such an arrangement (for example, individuals serving as company directors for multiple companies headquartered at the same location, etc.).
- An account opened in the name of a recently formed legal entity and in which a higher than expected level of deposits are made in comparison with the income of the founders of the entity.



- Opening of multiple accounts by the same person into which, numerous small deposits are made that in aggregate are not commensurate with the expected income of the customer.
- An account opened in the name of a legal entity that is involved in the activities of an association or foundation whose aims are related to the claims or demands of a terrorist organization.
- Large cash deposits made to the account of an individual or legal entity when the apparent business activity of the individual or entity would normally be conducted in cheques or other payment instruments.
- Large cash withdrawals made from a business account not normally associated with cash transactions.
- Mixing of cash deposits and monetary instruments in an account in which such transactions do not appear to have any relation to the normal use of the account.
- Multiple transactions carried out on the same day at the same branch of a financial institution but with an apparent attempt to use different tellers.
- The structuring of deposits through multiple branches of the same financial institution or by groups of individuals who enter a single branch at the same time.
- The presentation of uncounted funds for a transaction. Upon counting, the transaction is reduced to an amount just below that which would trigger reporting or identification requirements.
- The deposit or withdrawal of multiple monetary instruments at amounts which fall consistently just below identification or Reporting thresholds, particularly if the instruments are sequentially numbered.
- Wire transfers ordered in small amounts in an apparent effort to avoid triggering identification or reporting requirements particularly in locations and areas under monitoring.



- Wire transfers to or for an individual where information on the originator, or the person on whose behalf the transaction is conducted, is not provided with the wire transfer, when the inclusion of such information would be expected.
- Foreign exchange transactions that are performed on behalf of a customer by a third party followed by wire transfers of the funds to locations having no apparent business connection with the customer or to countries of specific concern.
- Where parties to a transaction (owner, beneficiary, etc.) are from countries known to support terrorist activities and organizations.
- Where the individual is included in the United Nations Resolution Council Sanctions list or where they designated under a third country's terrorist list or under a Nigerian terrorists' designated list.
- Use of multiple personal and business accounts or the accounts of non-profit organizations or charities to collect and then funnel funds immediately or after a short time to a small number of foreign beneficiaries.
- Use of multiple accounts at a single bank for no apparent legitimate purpose.
- Significant and even dollar deposits to personal accounts over a short period.
- Signs of confusion and nervousness appear on the suspect or his representative during the execution of the operation;
- The clients who transfer several amounts overseas along with instructions to pay in cash or in case of non-resident clients receive amounts transferred from abroad along with instructions to pay in cash;
- Purchase of high value goods (e.g. precious stones and metals);
- The opening by the same person of multiple accounts into which numerous small deposits are made;



- Establishing shell companies and institutions, or using their accounts to conduct suspicious transfers;
- Use of nominees, trusts, family member or third party accounts in an attempt to hide identity
- Movement of funds through FATF designated non-cooperative countries or territories (NCCTS);
- Transactions on accounts of community or charitable organizations not consistent with the account profile;
- Raising donations in an unofficial or unlicensed manner;
- Large cross-border movement of cash;
- Frequent and localized bank robberies in remote areas;
- Dealing through intermediaries by delegating/authorizing them to conduct transactions through the accounts of the suspects or deposits done through them in the accounts of the suspects or issuing cheques on their behalf or using their accounts in conducting transactions;
- Not presenting the declaration/disclosure form on cash possession;
- Presenting a false declaration/disclosure of information related to transaction or personal or entity profile;
- The purchase or sale of securities under unusual circumstances or conditions such as the purchase of shares in a losing company;
- Non-matching between the type of goods in transit and the nature of the client's activity;
- The clients who request loans against assets of unknown source;
- Transfers in equal or close values for several persons in different countries, or to one beneficiary in several accounts;



Further Indicators on the Attitude of the Suspect

- Avoids direct contact with the bank employees such as constantly dealing through ATMs and avoiding the bank officials whenever they try to contact him;
- Signs of confusion and nervousness appear on the suspect or his representative during the execution of the operation.
- The suspect or his representative inquires a lot about the AML details;
- The suspect or his representative requests the cancellation of the transaction as soon as the bank employees try to obtain missing important information.

The analysis of these indicators suggests that cash (small or large amount often deposited or withdrawn) from financial institutions is the most commonly used **instrument** while cross-border physical transportation of funds is the most used **technique** for financing terrorism. It can be said that the prevalent trend in terrorist financing relies on the misuse of border crossings through physical transportation of currency or other financial instruments and abuse of the financial services that are available through the financial system.

The terrorist financiers usually resort to different techniques for several reasons among which is the length of time it will take to detect the transaction or the difficulty of detecting the techniques.

It is hoped that these indicators would assist the reporting entities and law enforcement agencies consider the high-risk associated with terrorists' activities and ensure prompt and diligent reporting of suspicious transactions related to such cases.



Identifying terrorist funds would require comprehensive implementation of the risk-based approach and the continuous application of due diligence measures (including detailed policies on identification and verification) based on the types of clients, geographical location of customers and products or services of their customers.

TERMINOLOGIES

“Designated Non- Financial Institutions (DNFIs) or Designated Businesses and Professions (DNFBPs)” means Dealers in jewelry, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels casein ors, supermarkets or such other business undertakings as the Federal Ministry of trade and Investment or other appropriate regulatory authority may from time to time designate.

“Financial Institutions” means banks, body, association or group of persons whether corporate or incorporate which carries the business of investments and securities, a discount house, insurance institutions, debt factorization and conversion firms, bureau de change, finance company, money brokerage firms whose principal business includes factoring, project financing, equipment leasing, debt administration, debt management, private ledger services, investment services, local purchase order financing, export finance, project consultancy, pension funds management and other business as the central bank or other appropriate regulatory authorities may from time to time designate.

“Freeze” means to prohibit the transfer, conversion, disposition, alteration, use of or dealing with funds in any way that would result in charge of volume. Amount or location, ownership or possession, character, destination or movement of funds or other assets on the basis of, and for the duration of or



the validity of an action initiated by a competent or a court under a freezing mechanism.

“Funds” means financial assets, property of every kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in, such funds or other assets, including, but not limited to bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds drafts or letters of credits and any interest, dividends or other income on or value accruing from or generated by such funds or other assets.

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For further reading, please go to the NFIU's website for the following documents:

Procedure for the freezing of terrorist funds in Nigeria, refer to:

- 1. "Federal Republic of Nigeria Official Gazette on Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations, 2011"**
- 2. Terrorist Prevention Act, 2011 as amended in 2013**
- 3. Money Laundering (Prohibition) Act, 2011 as amended in 2012**

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