

Economic & Financial Crimes

Nigeria is through legislation and some enforcement, trying to stem and follow the current global behaviour of combating economic and financial crimes, which are more sophisticated and difficult to detect, than other forms of crimes.

One of such legislation is the Economic and Financial Crimes Commission (Establishment) Act, 2002. This legislation created the Economic & Financial Crimes Commission (?the Economic Crimes Commission?).

One of the principal functions of the Economic Crimes Commission is ?the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfer, futures market fraud, fraudulent encashment of negotiable instruments, computer credit fraud, contract scam, etc.? See Section 5 (1) (b).

Another function of the Economic Crimes Commission is the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities. In consonance with present international behaviour, a conviction under this leg attracts life imprisonment and confiscation of the concerned properties to the Federal Government of Nigeria.

The legislation establishing the Economic Crimes Commission requires the latter to establish and maintain ?? a system of monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved?. This it does in cooperation with other similar agencies in other countries of the world.

Finally, for harmony and proper coordination, the Economic Crimes Commission is charged with the responsibility of enforcing the provisions of the following existing Laws in Nigeria :

- The Money Laundering Act, 1995;
- The Advance Fee Fraud and other fraud related offences Act, 1995;
- The Failed Banks (Recovery of Debts) and financial malpractices in Banks Act, 1994, as amended;
- The Banks & other Financial Institutions Act 1991, as amended;
- The Miscellaneous Offences Act, Cap 410, LFN, 1990;

- Any other Law or regulation relating to economic and financial crimes.

Various offences relating to financial crimes/malpractices attract their corresponding penalties on conviction and these are stated in Part IV of the Economic & Financial Crimes Act (?the Act?).

They include:

- Failure of an Officer of a Bank or other financial Institution to secure compliance with the provisions of the Act attracts on conviction, imprisonment for a term not exceeding 5 years or to a fine of N50,000, or to both such imprisonment and fine. See Section 13.
- Any person who commits or attempts to commits a terrorist act or participate in or facilitates a terrorist act, commits an offence, and is liable on conviction to life imprisonment. See Section 14.

As a further deterrent, any individual convicted of an offence under this Act forfeits all his/her assets relating to the offence, to the Federal Government of Nigeria. This also applies to illegally acquired assets in a foreign country subject to any treaty or arrangement between Nigeria and such other foreign country.

The Act gives the Economic Crimes Commission wide powers to apply to a Federal High Court for an order freezing the accounts, in any Bank or other financial institution, of any arrested person, without notice to such a person.

In conclusion, this Act has not attracted much enthusiastic commendation either locally or from the international community. This is because the deficiency in tackling economic and financial crimes in developing economies is more a matter of lack of political will and discipline in its enforcement than in the legislations.

As a result of the above, Nigeria is among 17 countries blacklisted for financial crimes by the United Nations and the International Monetary Fund (?IMF?) Financial Action Task Forces. These organisations with others have warned direct foreign investors to be cautious of transacting business in Nigeria .

In response to the above, the Nigerian government has, in addition to increased enforcement of the existing Laws on financial crimes, sent an Amended Bill on Financial Crimes to its National Assembly. Only time will tell whether this will bring the required all round ?comfort? to the investing public.

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