

Introduction

A common global money laundering preventative measure is for Banks and other Designated Non-Financial Institutions (?DNFIs?) like Professional Practice Firms, Hotels, Casinos and the like, who perform **fiduciary duties** to always ensure that before and during the period of rendering these fiduciary services, they obtain and retain updated verifiable identification and location documentation on their customers or clients.

One of the know-your-customer (?KYC?) requirement is for the Institution concerned to request and obtain from all its customers, a third-party reference indicative of the good standing of the Customer to enjoy the fiduciary services of the Institution, Firm or Corporation concerned.

Unfortunately, many third parties who sign Reference Forms are not aware, and where they are aware, they are not mindful of the money laundering risks, which are **criminal in nature**, of signing **Reference Forms** in favour of persons whose character they are not very familiar with and cannot therefore vouch for.

Some of the money laundering risks of signing a Reference Form or forms is considered in the following paragraphs.

Money Laundering and KYC

The Money Laundering (Prohibition) Act as amended in 2012, requires all Financial and DNFIs to always ensure that they undertake due diligence investigation when establishing and maintaining a business relationship with a customer.

Such due diligence investigation must authenticate the identity of the customer, the nature of the customer's business, sources of funds and ascertain a money laundering risk profile for each customer or client.

Some of the verifiable means of identifying a customer includes obtaining the customer's proof of identification ? i.e. international passport or national identity card or driver's license, etc; and proof of residence ? i.e. utility bills; and third-party recommendation ? i.e. signed Reference Form by an individual or Institution, Anti-Money Laundering EFCC/SCUML Registration Certificate; Tax Identification Number (?TIN?); etc.

As a result of a Credit Bureau System that is still at its elementary stage of development, cases of the identity of a customer of a financial Institution or a DNFI, when a **financial crime** is committed, usually exposes the Referee(s) to criminal investigation, with possible police detention and avoidable Attorney fees.

Anti-Money Laundering/Combating Financing of Terrorism Regulation

The Anti-Money Laundering/Combating Financing of Terrorism Regulations (?AML/CFT Regulations?) provides some guidance to financial institutions under the regulatory purview of the Central Bank of Nigeria (?CBN?) regarding compliance with the Laws on money laundering, terrorism, trafficking in human beings and the sexual exploitation of children, etc.

Thus, financial institutions should not establish any business relationship with a customer until all the relevant parties to the transaction are independently identifiable, and the nature of the business that the customer intends to conduct are ascertainable. The AML/CFT Regulations requires financial institutions to regularly conduct customer due diligence, which for individuals will include confirming the Customer or Client correct legal names, permanent physical and or residential address, telephone numbers

and email address, nationality, etc. The customer providing the Bank with his or her or its personal and other Bank References is also a legal requirement.

Some of the sanctions for non-compliance with the above due-diligence requirements include the imposition of a penalty not exceeding N2,000,000 (Two Million Naira) for each infringement, from the first to the fifth infringement. On the sixth infringement, the CBN shall set up an investigation panel to forensically examine the infringements and recommend more punitive punishment for the offenders.

Conclusion

It is strongly recommended that you heed the warning in the Reference Form provided by financial institutions and DFNI's which warning usually states that ?

CAUTION: it is dangerous to introduce any individual not well known to you?.

DISCLAIMER NOTICE

This is a free educational material which does not create a Client/Attorney relationship. Readers are advised to always seek professional legal advice to their specific situations from qualified Legal Practitioners. Questions, comments, criticisms, suggestions, new ideas, contributions, etc. are always welcomed. You can also visit our website www.oseroghoassociates.com for more legal materials.

INTELLECTUAL PROPERTY PROTECTED.

This material is protected by International Intellectual Property Laws and Regulations. This material can only be re-distributed for non-profit educational purposes only on the strict condition that our authorship is acknowledged, and the Disclaimer Notice is prominently displayed.