GOVERNANCE AND COMPLIANCE DIGEST

GUIDELINES FOR REPORTING SUSPICIOUS TRANSACTIONS IN FINANCIAL INSTITUTIONS

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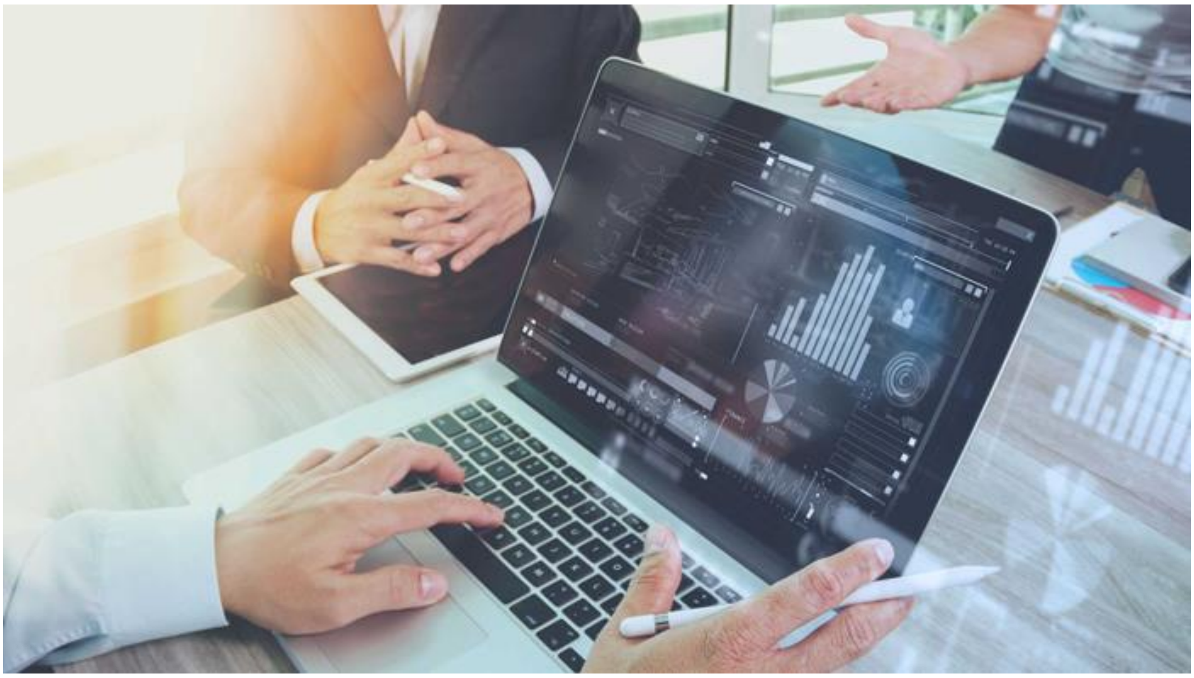
The Nigerian Financial Intelligence Unit (NFIU), the country's primary financial intelligence authority, has issued detailed guidelines for identifying, verifying, and reporting suspicious transactions to combat money laundering, terrorism financing, and proliferation of weapons of mass destruction. These guidelines aim to enhance control measures, ensure compliance with relevant laws, and maintain the integrity of the financial sector.

STATEMENT OF ISSUES AND CHALLENGES UNDERPINNING THE GUIDELINES

Reporting entities use transaction monitoring systems to identify suspicious transactions, triggered by specific criteria by the entities. These unusual alerts should not be automatically deemed suspicious.

The transaction monitoring systems can generate false positives based on the parameters used by these reporting entities, causing hundreds to thousands of daily alerts. The Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation of Weapons of Mass Destruction compliance department must meticulously filter these alerts, conduct internal reviews, and verify potential Suspicious Transaction Reports (STRs) for filing to the NFIU.



THE GUIDELINES AIM TO:

1. Assist reporting entities, including financial institutions and designated non-financial businesses and professions (DNFBPs), in identifying and reporting suspicious transactions related to money laundering, terrorism financing, and proliferation of weapons of mass destruction.
2. Ensure that STRs filed with the NFIU are of high quality, accurate, and contain relevant information.
3. Minimize false positives and defensive filings, which can lead to unnecessary investigations and waste of resources.
4. Prevent criminals from using the financial system for illicit activities.
5. Establish effective anti-money laundering (AML), combating the financing of terrorism (CFT), and countering the proliferation of weapons of mass destruction (CPF) policies and procedures.

The guidelines, outlined in the Money Laundering Prevention & Prohibition Act 2022 and Terrorism Prevention & Prohibition Act 2022, are not a substitute for the regulatory authority under the Investments and Securities Act, Banking and Other Financial Institutions Act, and Insurance Act. The guidelines are subjected to periodic review by the Nigerian Financial Intelligence Unit (NFIU).

KEY REQUIREMENTS

Reporting entities are required to:

1. Submit STRs to the NFIU within 24 hours of identifying a suspicious transaction.
2. Ensure that STRs contain valid identity documents, proof of address, and transaction records.
3. Provide predicate offense documentation that clearly indicates the specific offense.
4. Periodically review their transaction monitoring systems to ensure efficiency and effectiveness.
5. Establish effective AML/CFT/CPF risk assessment and management procedures.

When filing a suspicious transaction report to the NFIU, the reporting entity must establish reasonable grounds to suspect the transaction is related to an ML/TF/PF offense. This involves screening and reviewing transaction alerts, assessing the facts and contexts surrounding the transaction, linking ML/TF/PF indicators or red flags to the assessment, and explaining the grounds for suspicion in an STR. Red flags are indicators that initiate suspicious transactions and indicate unusual irregularities related to a client's transactions. The Reporting Entity must demonstrate and articulate their suspicion so that others with similar knowledge, experience, or training would likely reach the same conclusion.

SANCTIONS AND PENALTIES

Money Laundering (Prevention & Prohibition) Act, 2022:

1. Section 7(10) mandates financial institutions and non-financial businesses to report suspicious transactions to the NFIU, failure to do so is considered an offense.
2. Section 19(4) allows for additional disciplinary action against a reporting entity for serious oversight or flaws in internal control procedures which fails to meet the obligations of the Act.
3. Section 27(1) allows supervisory and regulatory authorities to impose administrative sanctions on reporting entities or officers for violating Act requirements, taking precedence over other sanctions imposed under other regulations, as prescribed by the Attorney-General of the Federation.
4. Section 19(2) imposes criminal penalties including a minimum jail term of two (2) years and a fine of at least ten million (N10,000,000.00) naira for financial institution employees or directors who inform the subject of an STR of the disclosure or imminent disclosure to the NFIU.

Terrorism (Prevention & Prohibition) Act, 2022

1. Section 84(1) requires financial institutions and non-financial businesses to report suspicious transactions to the National Financial Institutions (NFIU) within 24 hours.
2. Section 84(3) imposes penalties, fines, or license withdrawal for non-compliance with reporting requirements, threatening entities with substantial fines and imprisonment for suspicious terrorism financing transactions.

Nigerian Financial Intelligence Unit (NFIU) Act, 2018

1. Section 25(2): empowers the NFIU to impose penalties on entities that fail to comply with reporting requirements, including the failure to submit STRs.
2. Section 25(5): stipulates that the penalty imposed shall be paid within two working days from the date of imposition otherwise an interest of 10% shall accrue for each day of the default.

Nothing in the Guidelines shall be construed or interpreted as exempting or exonerating any financial institutions from taking responsibilities and liabilities for acts spelt out in the Guidelines and under any other laws in Nigeria.

Conclusion

By rigorously applying these guidelines, financial institutions in Nigeria can play a decisive role in deterring and disrupting illicit financial activities. Upholding transparency and accountability not only ensure compliance but also strengthens the integrity of the financial sector.

Reporting Entities must consider high-risk predicate offences, sectoral risk assessments, and their own AML/CFT/CPF risk assessment when determining suspicious transactions. They should also identify red flags, indicators, and methodologies in typology reports and other strategic products. They should prioritize transactions with high-risk jurisdictions, following Nigeria's National AML/CFT/CPF Risk Assessment.

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