

Review of the Guidelines and Rules on Anti-Money Laundering and Combating the Finance of Terrorism for Legal Practitioners

The *Guidelines and Rules on Anti-Money Laundering and Combating the Finance of Terrorism for Legal Practitioners* is provided as **Chapter 2 of the Rules of Professional Conduct for Legal Practitioners, 2023 (RPC)**.

Chapter 2 RPC establishes a comprehensive framework to combat money laundering (ML) and the financing of terrorism (FT) within the legal profession in Nigeria. These provisions aim to align legal practice with international Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) standards while preserving the ethical principles fundamental to the legal profession. This review provides a detailed exploration of the rules, obligations, and implications for Nigerian lawyers, tailored for training and awareness programmes.

Key Objectives of Chapter 2

The primary goal of Chapter 2 is to prevent the misuse of legal services for illegal financial activities while maintaining ethical standards. Specific objectives include:

1. **Ensuring Compliance with Global AML/CFT Standards:** Aligning Nigerian legal practices with international frameworks, such as the Financial Action Task Force (FATF) recommendations.
2. **Promoting a Risk-Based Approach:** Encouraging lawyers to assess, identify, and mitigate risks associated with client transactions and relationships.
3. **Protecting the Integrity of the Legal Profession:** Ensuring that legal practitioners are not complicit in money laundering or terrorism financing activities.
4. **Balancing Confidentiality with Transparency:** Providing guidelines to maintain client privilege while fulfilling AML/CFT reporting obligations.

Scope of Application

Chapter 2 applies to all Nigerian legal practitioners, particularly those engaging in services susceptible to financial crimes, such as:

- i. Managing client funds or assets.
- ii. Providing services related to the creation of legal entities or trusts.
- iii. Conducting transactions involving large sums of money or complex financial arrangements.

Core Obligations for Legal Practitioners

1. Client Due Diligence (CDD)

Legal practitioners must verify the identity of clients before providing services. CDD requirements include:

- a. Obtaining and maintaining records of clients' identities, addresses, occupations, and sources of funds.
- b. Verifying beneficial ownership for corporate clients and trusts.
- c. Documenting the purpose of the legal service or transaction.

2. Enhanced Due Diligence (EDD)

EDD is mandatory for high-risk clients, such as:

- a. Politically Exposed Persons (PEPs).
- b. Clients from high-risk jurisdictions or industries.
- c. Transactions involving large, unusual, or unexplained sums of money.

EDD requires additional measures, including:

- a. Detailed investigation of clients' backgrounds and sources of funds.
- b. Monitoring ongoing client relationships and transactions for red flags.

3. Record-Keeping and Reporting

Practitioners must maintain detailed and secure records for a minimum of five years. These records include:

- i. Identity documents of clients.
- ii. Documentation of CDD and EDD procedures.
- iii. Records of any suspicious activity or transaction reports (SARs or STRs).

4. Targeted Financial Sanctions Compliance

Lawyers must screen clients against sanctions lists, including:

- i. Nigerian Sanction Lists.
- ii. United Nations Consolidated Sanctions List.

Positive matches must be reported to the Nigerian Bar Association Anti-Money Laundering Committee (NBA-AMLC) and relevant authorities.

Supervisory Framework: Role of NBA-AMLC

The *Nigerian Bar Association Anti-Money Laundering Committee (NBA-AMLC)* serves as the supervisory body to enforce Chapter 2. Its responsibilities include:

1. **Conducting Compliance Examinations:**
 - a. Risk-based assessments of law firms and individual practitioners.
 - b. On-site inspections to verify compliance with AML/CFT obligations.
2. **Receiving and Acting on Reports:**
 - a. Reviewing Suspicious Transaction Reports (STRs) and forwarding them to the Nigerian Financial Intelligence Unit (NFIU).
 - b. Reporting non-compliant practitioners to the Legal Practitioners Disciplinary Committee (LPDC).
3. **Providing Guidance and Training:**
 - a. Developing compliance templates for legal practitioners.
 - b. Conducting training sessions on AML/CFT risks and procedures.

Penalties for Non-Compliance

Non-compliance with Chapter 2 constitutes professional misconduct under the RPC. Penalties include:

- a. Referral to the LPDC for disciplinary action.
- b. Sanctions ranging from fines to suspension or disbarment.
- c. Public notification of non-compliance, affecting the practitioner's standing within the NBA.

Balancing AML/CFT Compliance with Client Confidentiality

One of the most challenging aspects of Chapter 2 is balancing AML/CFT obligations with client confidentiality. Lawyers must navigate these competing priorities by:

- a. Reporting only when required by law and ensuring reports are submitted securely to authorized bodies.
- b. Documenting all due diligence efforts to demonstrate compliance while maintaining confidentiality safeguards.

Key Benefits of Chapter 2

1. **Strengthened Integrity:** Ensures the legal profession's credibility by preventing misuse of legal services for criminal purposes.
2. **Alignment with International Standards:** Enhances Nigeria's reputation in the global fight against money laundering and terrorism financing.
3. **Enhanced Risk Management:** Encourages lawyers to adopt proactive measures to identify and mitigate risks.
4. **Protection from Liability:** Compliance protects practitioners from potential legal consequences of unintentional involvement in financial crimes.

Challenges and Recommendations

Challenges

1. **Awareness and Understanding:** Many practitioners may lack adequate knowledge of AML/CFT requirements.
2. **Resource Constraints:** Smaller law firms may face difficulties implementing the required policies and procedures.
3. **Balancing Confidentiality and Reporting:** Striking the right balance can be complex and requires clear guidance.

Recommendations

1. **Comprehensive Training Programs:** Regular workshops and training sessions for lawyers on AML/CFT compliance.
2. **Support for Small Firms:** NBA should provide templates, tools, and financial assistance to smaller practices.
3. **Enhanced Guidance:** Issue clear and practical guidelines for reporting suspicious activities while maintaining client confidentiality.

Conclusion

Chapter 2 of the *Rules of Professional Conduct for Legal Practitioners, 2023* is a transformative framework designed to safeguard the legal profession against the risks of money laundering and terrorism financing. By embedding AML/CFT obligations into legal practice, it not only protects the integrity of the profession but also aligns Nigerian legal practitioners with global standards. Lawyers must take proactive steps to understand and implement these rules, ensuring that their practices remain compliant while maintaining the highest ethical standards. Through continued training and guidance, the NBA and its AMLC can foster a culture of transparency and accountability within the legal community.

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