

## **Review of the Nigerian Bar Association Anti-Money Laundering Committee (NBA-AMLC) Appointment and Examination Rules and Protocols, 2024**

The *Nigerian Bar Association Anti-Money Laundering Committee (NBA-AMLC) Appointment and Examination Rules and Protocols, 2024*, represents a critical regulatory framework designed to align the legal profession in Nigeria with global Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) standards. This document, approved by the National Executive Council (NEC) of the Nigerian Bar Association (NBA), operationalizes Chapter 2 of the *Rules of Professional Conduct (RPC), 2023*, which imposes obligations on legal practitioners to prevent the misuse of legal services for illicit financial activities.

Below is a comprehensive analysis of the key provisions of the Protocols, tailored to inform legal practitioners and enhance compliance awareness.

### **Objectives of the NBA-AMLC Rules and Protocols**

The Protocols aim to:

1. Facilitate effective compliance examinations of legal practitioners and law firms.
2. Promote fairness and justice in compliance review processes.
3. Provide actionable recommendations to the NBA.
4. Ensure secure management and coordination of transactions and compliance data.

By fulfilling these objectives, the NBA-AMLC enhances the integrity of the legal profession and protects practitioners from inadvertent involvement in financial crimes.

### **Structure and Functions of the NBA-AMLC**

#### **Appointment and Tenure of Members**

The NBA President appoints members of the NBA-AMLC, subject to NEC approval. Members serve a single three-year term, ensuring fresh perspectives in the Committee's operations. Independence and neutrality are central to the Committee's mandate, safeguarding it from undue influence.

#### **Duties and Responsibilities**

The Committee is charged with a broad spectrum of responsibilities, including:

- i. Conducting risk-based compliance examinations of law firms.
- ii. Identifying vulnerabilities in legal practice to money laundering and terrorism financing.
- iii. Recommending non-compliant legal practitioners to the Legal Practitioners Disciplinary Committee (LPDC).
- iv. Developing compliance templates and supervisory frameworks for legal practitioners.
- v. Reporting Suspicious Transaction Reports (STRs) and Suspicious Activity Reports (SARs) to the Nigerian Financial Intelligence Unit (NFIU).

- vi. Providing training on Client Due Diligence (CDD) and Enhanced Due Diligence (EDD) for legal practitioners.

## **Protocols for Law Firm Inspection**

### **1. Notice of Inspection**

The Committee may conduct on-site visits to inspect law firms' records, policies, and procedures for AML/CFT compliance. Notices of such inspections must be served at least **three working days in advance**, using registered mail, courier, WhatsApp, or other electronic means. This ensures that firms have adequate time to prepare.

### **2. Pre-Inspection Requirements**

Before an on-site visit, the Committee may request firms to submit the following within **14 days**:

- i. Internal AML/CFT policies and procedures.
- ii. Risk assessments and mitigation measures.
- iii. Records of client due diligence, including identification details and risk categorizations.
- iv. Training records for staff on AML/CFT compliance.
- v. A list of high-risk clients and ongoing monitoring measures.

### **3. On-Site Inspection**

During the on-site visit, the Committee is authorized to:

- i. Inspect client files and firm records to verify compliance with the RPC.
- ii. Evaluate internal policies and procedures for managing AML/CFT risks.
- iii. Confirm the existence of risk-based approaches and documentation of CDD/EDD processes.

### **4. Consequences of Non-Compliance During Inspections**

If a firm refuses to cooperate with the visiting team or denies access to required records, the Committee may:

- i. Refer the firm or legal practitioner to the LPDC for disciplinary action.
- ii. Impose a timeline for compliance before escalating the matter.

## **Compliance Requirements for Legal Practitioners**

### **Client Due Diligence (CDD)**

Practitioners must collect and maintain client identification details, including:

- a. Name, address, and contact information.
- b. Date of birth or incorporation.
- c. Nationality and occupation.
- d. Bank account details and sources of funds.

## **Enhanced Due Diligence (EDD)**

EDD is required for high-risk clients, such as Politically Exposed Persons (PEPs) or those operating in high-risk jurisdictions. Additional scrutiny includes:

- a. Detailed verification of beneficial ownership.
- b. Monitoring ongoing transactions for red flags.

## **Record-Keeping**

Practitioners must retain all records, including CDD and EDD documentation, for at least **five years**.

## **Suspicious Transaction Reporting (STR)**

Legal practitioners are required to monitor client transactions and report suspicious activities to the NBA-AMLC, which forwards the reports to the NFIU. Cases involving individuals or entities on the Nigerian Sanctions List or the United Nations Consolidated List must be reported within **24 hours**.

## **Support and Training for Legal Practitioners**

The NBA-AMLC provides training sessions and compliance templates to assist legal practitioners in fulfilling their AML/CFT obligations. This includes guidance on identifying risks, implementing mitigation strategies, and maintaining proper documentation.

## **Enforcement and Penalties**

Failure to comply with the Protocols constitutes professional misconduct. Non-compliant practitioners may face:

- a. Referral to the LPDC for sanctions, including suspension or disbarment.
- b. Public notification of their non-compliance status.

The Committee may also implement compliance improvement plans for partially compliant firms.

## **Strengths of the Protocols**

1. **Alignment with International Standards:** The Protocols align Nigerian legal practice with global AML/CFT frameworks, enhancing the country's regulatory credibility.
2. **Comprehensive Risk-Based Approach:** By emphasizing risk assessments and CDD/EDD processes, the Protocols equip practitioners to mitigate financial crime risks effectively.
3. **Support Mechanisms:** Training programs and compliance templates provide practical tools for law firms.

## Challenges and Recommendations

### Challenges

1. **Balancing Confidentiality and Compliance:** Practitioners must navigate the tension between client confidentiality and mandatory reporting obligations.
2. **Resource Constraints:** Smaller firms may struggle to implement the required compliance infrastructure.

### Recommendations

1. **Enhanced Training Programs:** Regular workshops on AML/CFT compliance tailored to firms of varying sizes.
2. **Support for Small Firms:** Financial and technical assistance to help smaller practices meet compliance standards.
3. **Clearer Guidelines:** Detailed guidance on managing conflicts between client privilege and reporting requirements.

### Conclusion

The *NBA-AMLC Appointment and Examination Rules and Protocols, 2024*, is a critical step towards fostering transparency, accountability, and professionalism within the Nigerian legal sector. By embedding AML/CFT obligations into practice, the Protocols not only protect the legal profession from misuse but also contribute to national and global efforts to combat financial crimes.

Legal practitioners are encouraged to familiarize themselves with these Protocols and take proactive steps to comply. Through collaboration, training, and adherence to the outlined standards, the legal profession can remain a bastion of integrity in the fight against money laundering and terrorism financing.

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