

Interim Project Report

TRACKING BENEFICIAL OWNERSHIP AND THE PROCEEDS OF CORRUPTION: EVIDENCE FROM NIGERIA

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Executive Summary

On 12 May 2016, Prime Minister David Cameron hosted a 'landmark' international anti-corruption summit in London at which invited countries made pledges about future anti-corruption efforts. Nigeria declared it would undertake twelve actions to combat corruption, four of which related to money laundering. In detail, Nigeria pledged to: introduce a public central register of company beneficial ownership information; deploy public-private information sharing partnerships to bring together governments, law enforcement, regulators and the financial sector to detect, prevent and disrupt money laundering linked to corruption; and to strengthen asset recovery legislation, including through non-conviction based confiscation powers and the introduction of unexplained wealth orders. In furtherance of these objectives, Nigeria implemented two main strategies: the Nigeria Anti-Money Laundering and Combating the Financing of Terrorism National Strategy 2018 – 2020 and the National Anti-Corruption Strategy for 2017-20.

In December, 2018, our project '**PREVENTION, RECOVERY AND RETURN OF THE PROCEEDS OF CORRUPTION: practical interventions for uncovering and identifying 'Beneficial Ownership' (BO) as a mechanism to recover the proceeds of corruption – A Nigerian case study**' received funding from the UK Department for International Development (now Foreign, Commonwealth and Development Office). The primary focus of this anti-corruption project is on beneficial ownership (BO). BO refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement. The project explores whether the identification and tracking of the BO can help to recover the proceeds of corruption and discourage the willingness of individuals to accept bribes.

The project employed a collaborative inter-disciplinary mixed methods approach to the research. The content of this report is based on a quantitative analysis of data available from international sources (looking at evidence of funds being moved from Nigeria to the UK (specifically into company and property assets) and other jurisdictions; normative narrative and analysis of anti-corruption efforts in Nigeria, including relevant legislation and structures, as well as inter-agency collaboration and coordination; desk analysis of investigated cases of grand corruption in Nigeria; data collected from our visit in July, 2019, (meetings with 13 key agencies and a two day stakeholder workshop attended by representatives from these agencies and from other related organisations); interviews with Washington based international organisations and civil society groups in January 2020; and interviews with other UK based knowledgeable practitioners, in spring 2020.

This report highlights a number of challenges but also makes suggestions.

- 1) The Nigerian authorities face challenges in minimising opportunity for Illicit financial flows (IFFs) arising from the structural characteristics of the economy. Most obvious are: the size of the informal economy and the prevalence of cash transactions; the reliance on the oil and allied industries sector of the economy for both export earnings and government revenue; and the low tax base of the formal economy. These cannot be eliminated in the short term, although areas to be addressed in the medium term include improving transparency and accountability in public procurement, tax compliance and supporting the Nigerian Extractive Industries Transparency Initiative's (NEITI) efforts to increase transparency in the dominant oil sector.
- 2) The apparent problem in identifying taxpayers (natural and legal persons) and thus in assessing the business activities within the country. Curbing illegal activity also relies on an ability to monitor legitimate economic activity. If little is known of taxable activity there is less reason to enter into elaborate schemes to disguise funds of illegal origin through laundering.

- 3) The UK has significant commercial and other benefits to and links with Nigeria. For example, the UK is the most important financial counterparty country providing a home for over half of bank investments, deposits and funds owned by legal entities in Nigeria. The UK also features as one of the main destinations for declared cash exports. The UK is also an important commercial and property counterparty country. Such relationships are beneficial to both countries; however, they can also provide opportunity for abuse.
 - a) There are 26,303 UK registered companies having Nigerian affiliations. 735 companies are associated with a group of only 68 individuals. Significantly, three individuals are associated with more than 30 companies. This may be reflective of highly entrepreneurial individuals, of using a small number of company formation agents and professional nominees, or, alternatively, of 'professional straw persons'.
 - b) There are 152 properties on the UK land registry that are held by companies registered in Nigeria. The majority of purchase registrations for these properties took place in the period 2012 -2015. For the 68 properties where price information is available, the lowest price paid was £35,000 and the highest £3.5 million. Purchase activity has reduced from 2016. It is possible that this trend may be explained by different factors for example, the election that took place in Nigeria in 2015; the tightening up of the UK Government in response to criticism by Transparency International and others or the introduction of Unexplained Wealth Orders in relation to PEPs.
- 4) Consistent with the findings of others, we observe the absence of collaboration and coordination, and information-sharing, between various anti-corruption agencies to be longstanding, structural and cultural in organisational terms. This has diluted agencies' effectiveness in relation to the investigation, prosecution and recovery of the proceeds of corruption. For example:
 - a) Anti-corruption agencies tend to only interact with those necessary to their specific work inhibiting the sharing of wider intelligence. For example, we understand that the Special Control Unit against Money Laundering (SCUML) has no direct dealings with financial institutions or with the Nigerian Customs Service whilst their cooperation with the Federal Inland Revenue Service and with the Corporate Affairs Commission (CAC) is limited to information verification.
 - b) It is clear from prosecuted cases that both the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) address the same corruption pool e.g. a PEP charged with money laundering would fall within the mandate of both the ICPC and the EFCC and thus those agencies can end up competing rather than collaborating. It is noted that the EFCC has access to the largest resource envelope and does second its staff to support SCUML (and, until 2019, the NFIU). Despite several attempts, the EFCC was the only main agency that did not respond to our formal requests for collaboration on this project.
- 5) The AC framework is complex with overlapping mandates and duplication in effort. This shows little change from the situation reported on in earlier studies. Further, our review of the legislative landscape indicated complex and overlapping legislation with new agencies being created in response to on-going problems rather than addressing outstanding resourcing issues.
- 6) The most frequently occurring themes that emerged from our meetings and from the workshop were: data deficiency; international cooperation; intelligence and information; beneficial ownership and delays in courts.
- 7) As observed by others, there is a general lack of transparency and tendency towards secrecy that compound a systematic data deficiency, and an elaborate institutional landscape cannot compensate for the impact on overall effectiveness caused by a lack of cooperation.
- 8) A major challenge in evaluating Nigeria's performance against the FATF criteria, or indeed at all, lies in the lack of availability of reliable statistics.
 - a) There are doubts both over the quality and accessibility of information of anti-corruption agencies, both in terms of data that they collect and in terms of the data supplied to them. Basic data is either not collected, not kept up to date and/or not published. AML relevant data is hard to locate, if published it is

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- out of date and can be inconsistent (eg Currency Declaration Reports or assets recovered by EFCC) with misplaced emphasis on 'accuracy' through inclusion of cents or written in full words. This in turn affects sharing of information as AC agencies fear the information they can provide may expose some type of internal deficiency.
- b) There appears to be a lack of feedback on shared intelligence such as STRs, and lack of support for a unifying POCA from certain AC agencies over concerns of loss of autonomy and power. This reluctance to pursue closer working relationships is compounded by highly formal hierarchical structures that slow down decision-making and reduce opportunities for operational collaboration as requests and permissions must be sought in writing.
- 9) Agencies face difficulty in medium term planning because of unreliable budget allocations.
- a) Applicable to all ACAs but the example shared with us was the ICPC who have an internal multi-year strategic action plan supported by an annual budget allocation, however, as funds are released via instalments they are not always released as and when due or may be reduced if Federal Government revenues are lower than expected. SCUML has the mandate to monitor, supervise and regulate the activities of Designated Non-Financial Institutions (DNFIs) in Nigeria and is totally reliant on EFCC for its funding rather than receiving a direct allocation from the federal government as its own line item.
- 10) There would appear to be a high level of apparent compliance capturing a lot of data without that data being useful in a way that would provide insight into the effectiveness of the anti-corruption regime in the absence of criteria data. For example:
- a) Financial Institutions face stringent reporting requirements that generate a great deal of information but with a misdirected focus. In 2015, there were 3.2m cash transaction reports (CTRs) but only 1,978 Suspicious Transaction Reports (STRs). Banks must report transactions above 5m Naira (approximately \$13k) for individuals and 10m Naira for companies.
 - b) Banks are required to generate monthly reports on all PEP transactions. We have no indication of scale; however, PEP identification is difficult and given the size of government sector, many fall into this category which may lead to 'false positives'.
 - c) Asset declaration forms to the Code of Conduct Bureau (CCB) for public officials are very detailed yet IMF data indicates that of the 4-4.5m 'public officers' in 2018, only 17,000 declarations were received and that these records are made and retained manually.
 - d) Given the small number of reports, there can only be limited use of STRs for investigation but we noted the significance of petitioning to prompt investigation.
 - e) Currency Declaration Reports (CDRs) require all sums leaving the country above \$10k to be declared: in 2014, a total of \$807.6m was declared by 26,300 persons, with most cash moving to China. Except for British Virgin Islands, no Offshore Finance Centres were mentioned in the data. As they are declared, it is assumed these flows are licit, yet in contrast only \$1.9m illicit cash was seized during the same year. We are thus uncertain of the purpose served by Currency Declaration Reports and whether they actually meet the requirements of FATF Recommendation R32 in prevention of cross border cash-based laundering.
- 11) Reporting requirements placed upon banks result in large numbers of CTRs and PEP transactions being reported, with very few STRs being generated. We note, albeit from old data, three banks were responsible for the majority of STRs made. Given the size of the non-bank financial sector that tends to be dominated by bureaux de change, it is probable that the Central Bank of Nigeria (CBN) lacks supervisory resource and hence capacity to properly monitor the activity of this sector. Similarly, SCUML is struggling to cope with the scale of the DNFIs.
- 12) At a practical level, greater attention could also be paid to the providers of company creation services, including bringing them within the supervisory mandate of SCUML to reduce opportunity for the creation of shell

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companies with nominee or fictitious directors. An obvious red flag would be multiple companies created within a short period of time and the associated speed of creation of bank accounts. We would encourage the maintenance of channels of communication both between the NFIU and the banks to share information on trends including case studies on how systems have been circumvented, enabling the CBN to guide banks in updating their red flags.

- 13) The issue of Beneficial Ownership (BO) is undermined by a lack of or poor corporate registry data. The main reasons for suggesting this are:
 - a) The passing of the Companies and Allied Matters Act (CAMA) 2020 is welcome, however, the Corporate Affairs Commission (CAC) faces the monumental task of automating what is still a largely manual records system.
 - b) NEITI has launched its register, a search of which reveals information on linked companies but not on who owns what, in other words its focus is on legal rather than on BO as a natural person. Our observation here is that information can be open but unless it is accurate, it is of little use. In this regard verification methodologies will be critical particularly where information is to be submitted or maintained through annual confirmation statements. Given the concerns over the oil sector, we would support the integration of data from NEITI with that of CAC. It would also be beneficial to see further collaboration with open contracting, particularly with the transparency of contracting at state level that is being supported by the World Bank.
 - c) The authorities are hampered by poor land registry records in Nigeria. Registers are held at state level and systems remain largely paper based although there have been moves to digitise some of the registries, for example in the Federal Capital Territory and in Lagos. The data is compromised as transfers of property are not always formally recorded, either to avoid payment of registration fees, or to deliberately obscure ownership.
- 14) Critical to the usefulness of the BO register will be the scope and reliability of the data. The challenge faced with the register of BO will not so much be around its creation but with the verification of supplied information and with the policing of compliance. The only enforcement tool available to the CAC under CAMA 2020 remains imposition of a fine.
- 15) Thought should be given to the institutional and procedural arrangements for BO information. This will include tracking the administrative and other arrangements to collect, collate, verify and provide access to BO information.
- 16) Sustainability of the register will be enhanced through identification of those agencies most likely to benefit from the use of BO information and any added value in use of shared intelligence or powers between agencies on an inter-agency basis.
- 17) Effective case prosecution is hampered by delays within the criminal justice system.
 - a) Delaying tactics are employed by defence counsel in courts through extensive use of appeals. Where cases have been dismissed for lack of evidence, there may be issues with evidence management.
 - b) From EFCC/ICPC data on 20 'high profile cases' that had dates of first filing between 2007 -2018: securing a conviction takes between 1-12 years (mean 4.75); from this group there have been six acquittals (taking an average of 6.3 years to process); with six cases still ongoing.
 - c) Judges appear reluctant to use their powers under the Administration of Criminal Justice Act, 2015 to restrict the number of adjournments. Further, prosecutors can face delays in obtaining restraint orders from the courts resulting in asset dissipation.
- 18) In absence of the Proceeds of Crime legislation, assets recovery remains a major problem. Historic lack of transparency over assets recovered compromises assessment of the effectiveness of the agencies. Despite the interim 2019 regulations, it is not clear if data on assets recovered under them is being shared either within

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the government agencies or (better) in the public domain, or if there are plans for the sharing of this information.

- 19) Our review of corruption cases showed that the majority relate to the diversion of public funds and involve a large number of state governors pointing to vulnerability of government budgeting procedures for this part of the government system.
 - a) The main observed pattern is of extracting funds initially via phantom contracts to a shell company account (usually owned by a friend/family member), from which cash is then withdrawn from the account or transferred to several other accounts (sometimes abroad) to either retain or invest (material purchase, property, gifting family/friends).
 - b) Corruption networks tend to be close and trusted social contacts (including professionals) or family as in the case of Diezani Alison-Madueke or through a work related network of collaborators where all share the proceeds as with Jolly Tevoru Nyame, former Governor of Taraba State.

Our research suggests receptivity to operational level working groups that would build relationships and engender trust. The agencies we met were very clear about their role and what they could achieve with the right resources and support. We argue it would be helpful to reframe the need for collaboration to focus information sharing around beneficial ownership disclosure as an investigative resource in a way that would add value to agencies and make such arrangements more likely to take place. This proposal is much wider than the created register of BO as it concerns transparent data collection and record management across all agencies. This would concern what is collected, by whom, in what format and to what end. To be useful, records must be accessible (on-line if possible), accurate, shared in a timely manner and in a format that is usable. Improvements in records management would include creation of a single unique identifier to individual records, ensuring that records once established, could not be altered or amended without authorisation.

We extend our thanks to all those agencies and individuals that have helped us with this work.

Professor Jackie Harvey, for and on behalf of the Project Team
Newcastle
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1. Project Overview

The project has framed its overarching objectives as being to develop a near ‘cradle to grave’ approach to identify current processes and system weaknesses for successfully identifying BO; for prevention of laundering of the proceeds of corruption and for their recovery. The project explores whether a better identification and tracking of the beneficial owner (the natural person who ultimately has ownership or control of funds or assets) can help the authorities in their attempts to recover the proceeds of corruption.

Project Definition of Grand Corruption:
 Serious or large-scale perversion of a person’s integrity in the performance of duty or work by inducement, where ‘grand’ refers to either the financial or person’s scale of the seriousness of the activity, which may include the harm it inflicts.

It has investigated the following research question: *Can improvements be made to the identification and tracking of Beneficial Ownership to increase the likelihood of recovering the proceeds of corruption?*

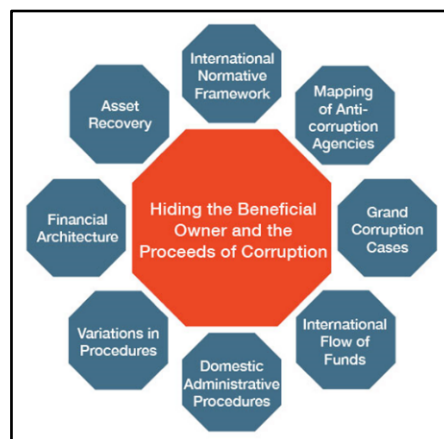
1.1 Area of Focus

The focus of the study has been on grand corruption. While there is no simple, straightforward or agreed definition of grand corruption, a synthesis of the literature would suggest the following relevant components - the corruption offence/activity;

the person carrying on the activity; the scale of the activity; the harm caused; and the benefit gained.

2. Methodology

The project has employed a collaborative inter-disciplinary mixed methods approach to the research set across a series of eight discrete work packages, further details are available at <https://ace.globalintegrity.org/projects/benowner/>. The content of this report is based on the use of several methods, these include: a quantitative analysis of data available from international sources (looking at patterns of funds being moved from Nigeria to the UK (specifically into company and property assets) and other jurisdictions; normative narrative and analysis of anti-corruption efforts in Nigeria, including relevant legislation and structures, as well as inter-agency collaboration and coordination; desk analysis of investigated cases of grand corruption in Nigeria; data collected from our visit in July, 2019, (meetings with 13 key agencies¹ and a two day stakeholders’ workshop attended by representatives from these agencies and from other related organisations); interviews with Washington based international organisations and civil society groups in January 2020; and interviews with other UK based knowledgeable practitioners, in spring 2020². A list of [contacted and responding agencies](#) is available in the appendix. To date the project has:



- Collated statistical information from Nigeria relevant to the study including on the structure of the economy and the dominance of the oil sector and the scale of the grey economy (section [3.1](#), [3.2](#) and [3.3](#)).
- Undertaken a macro-level analysis of international financial flows into and out of the country to reveal what can be explained by the legitimate claims and liabilities of legal trade and arrangements (section [3.5](#)).

¹ We note here that the project team were not able to gain access to EFCC, the Nigerian Customs Service or the Federal Inland Revenue Service. This is a gap in our work to date.

² We record our thanks to all those agencies and individuals who willingly gave up their time to help our work.

- Analysed information from both the UK Land Registry and the UK Companies House to look at general patterns of UK asset acquisition by Nigerians to understand the volume and complexity of the corporate landscape (section [3.6](#) and [3.7](#)).
- Reviewed how the international legal and regulatory anti-corruption frameworks operate in Nigeria and how the various anti-corruption agencies interact with one another (section [4.1](#) and [4.2](#)).
- Mapped the inter-agency linkages and examined how operational level working relationship may be enhanced (section [4.3](#) and [4.4](#)).
- Located the limited AML data that we could find (STRs, CTRs, prosecutions, convictions and assets recovered) (section [4.5](#), [4.6](#), [4.7](#) and [7.5](#)).
- Examined the existing framework for BO and how the register can be successfully implemented (section [5](#)).
- Examined cases included in the Compendia of High Profile Corruption Cases, produced by the Human and Environmental Development Agenda (HEDA)³, for evidence of how the financial system has been used to move the proceeds of corruption to understand if and how BO was disguised (section [6](#)).
- Explored the existing criminal and civil framework for asset recovery (section [7](#)).

2.1 Report Organisation

The report is structured as follows: section 3 [The international dimension and the structural economic challenges](#); section 4 [Nigeria's framework for AML and anti-corruption](#); section 5 [Beneficial Ownership](#); section 6 [Grand corruption case analysis](#); section 7 [Asset recovery](#); and section 8 [Conclusions and recommendations](#). Each section summarises the findings from longer underpinning research documents. The report also contains a series of questions to elicit further feedback on our proposals, set out in section 9 [Questions](#).

3. The International Dimension and the Structural Economic Challenges

3.1 Overview

This section includes a review of literature on the nature and source of Illicit Financial Flows (IFFs), including different estimates of their scale. It goes on to briefly consider the oil sector (in light of its economic dominance) and the scale of the cash-based economy together with the other structural economic challenges faced by the Nigerian Government. We also include our analysis of the data from the Bank for International Settlements, from UK Companies House and from the UK Land Registry before setting out some overall observations.

3.2 The Nature of International Flow of Funds

Illicit financial flow refers to “*money that is illegally earned, transferred or utilized*” (AU, 2015:114). As such it can encompass: (a) money originated from (any) crime (including the transfer of the proceeds of corruption); and, (b) illicit movement of legally earned money. Evidence suggests that Africa has been seriously affected by illicit financial flows. The data show that Africa is a net global creditor because illicit financial flows from the continent over the 30-year period 1980 – 2009 grew much faster than recorded incoming transfers, while the net drain is

³ HEDA is ‘a non-governmental organisation and non-partisan human rights and development league’ that focuses on the areas of good governance and human rights and of environmental justice and sustainable development. Available at <https://hedang.org/>. We had access to the second and third editions of their ‘Compendium of 100 high profile corruption cases in Nigeria’ published by HEDA and supported by the MacArthur Foundation. As stated in the introduction to the third edition the objective of the Compendium is: (1) *To investigate and collate otherwise isolated high-profile cases of corruption and financial crimes in governments at all levels, beginning from 2005.* (2) *To examine the pattern of the management of the cases by officers (Prosecutors, defense counsels, judges, court officials etc) in the temple of Justice.* (3) *To investigate and document the amounts involved in relation to the official status of each suspect.*

⁴ AU (2015) *Illicit Financial Flows - Report of the High-Level Panel on IFF from Africa*.

about four times its total external debt (AfDB & GFI, 2013: 51⁵). Authors have noted one of the principal sources of such flows to be the proceeds of corruption and theft by government officials (Shehu, 2014⁶). In Nigeria, corruption generates the highest proceeds for money laundering (GIABA, 2010⁷). It is suggested that close to \$400 billion has been stolen from public accounts in Nigeria between 1960 and 1999⁸; and, about \$182 billion was lost through illicit financial flows from Nigeria between 2005 and 2014 (Chatham House, 2017⁹).

The destination of these transfers is mainly to (and through) tax havens taking advantage of the secrecy and complex legal structures in place to disguise the illegal origin of funds (AU/ECA, 2011¹⁰) and, ultimately, to developed countries (Imani Countess, 2019¹¹) to benefit from advanced structures of legal protection. Just as legitimate financial flows rely on the assurance of the integrity of the system, these same qualities are appealing for illegitimate financial transactions. Those laundering funds want to know that their transactions will take place whilst at the same time, remain unrecognised as 'deviant'. As legitimate transactions can be multi-faceted and complex, the financial system can create gaps and opportunities for illegitimate finance to co-mingle (Shehu, 2011:16¹²). Whilst the suppliers of 'wealth movement services' (Seabrooke and Wigan, 2017¹³) deliberately act to conceal the identity of their customers or BOs from the regulator, others within the international architecture may well be unwitting facilitators, ranging from legal services creating trust structures to brokers matching wholesale counterparties in financial market deals.

3.3 Illicit Flows and Nigeria

Obtaining a consistent set of data is difficult. A report by Partnership for African Social and Governance Research (2018: 6¹⁴) indicated that Nigeria lost \$217.7 billion siphoned to illicit financial flows during the period 1970–2008. Similarly, Global Financial Integrity (2019)¹⁵ estimated Nigeria to have lost \$8.3 billion in 2015 alone through illicit outflows. Nigeria Extractive Industries Transparency Initiative (NEITI) and Trust Africa set this estimate higher at between \$15 billion and \$18 billion *per annum*¹⁶. These are, of course, estimates, but it is apparent that the outflows

⁵ AfDB & GFI (2013) *Illicit Financial Flows and the Problem of Net Resource Transfers from Africa: 1980-2009*, Dev Kar, Sarah Freitas, Jennifer Mbabszi Moyo, Guirane Samba Ndiaye, May 29.

⁶ Shehu, AY (2014) "Bolstering Corporate Sector Partnership in the Fight against Financial Crimes in the Developing World: The Experience of West Africa", *Journal of Social Sciences Research*, Vol. 5, No 1, Council for Innovative Research, pp 694-703.

⁷ GIABA, (2010) "*Corruption-Money Laundering Nexus: An Analysis of Risks and Control Measures in West Africa*".

⁸ These statistics come from UN Office on Drugs and Crime (2007), '*Anti-Corruption Climate Change: it started in Nigeria*', speech by Antonio Maria Costa at 6th National Seminar on Economic Crime, Abuja, 13 November 2007.

⁹ Chatham House suggests that 'this figure represents some 15 per cent of the total value of Nigeria's trade over the period 2005–14, at \$1.21 trillion. In 2014 alone illicit financial flows from Nigeria were estimated at \$12.5 billion, representing 9 per cent of the total trade value of \$139.6 billion in that year. See Global Financial Integrity (2017), *Illicit Financial Flows to and from Developing Countries: 2005–2014*, April 2017, <https://gfinegrity.org/report/illicit-financial-flows-to-and-from-developing-countries-2005-2014/>, pp. 30–34.

¹⁰ AU/ECA, (2011). *Illicit financial flows. Better Policies for Development*. <https://doi.org/10.1787/9789264115958-11-en>.

¹¹ Imani Countess. (2019). *Illicit financial flows thwart human rights and development in Africa*. Retrieved March 31, 2019, from http://www.cadtm.org/spip.php?page=imprimer&id_article=17090.

¹² Shehu, AY (2011) "Illicit Financial Flows and Implications for Anti-Money Laundering/Counter Financing of Terrorism and Development", A paper presented at a Policy Seminar organised by UNIDEP, Dakar, Senegal.

¹³ Seabrooke, L. and Wigan. D. (2017) The governance of global wealth chains. *Review of International Political Economy* 24:1, pages 1-29.

¹⁴ Partnership for African Social and Governance Research (PASGR) (2018) *Illicit Transfers and Tax Reforms in Nigeria: Mapping of the Literature and Synthesis of the Evidence*, By Christiana Okojie, May <https://www.pasgr.org/wp-content/uploads/2018/09/Nigeria-Illicit-Financial-Flows-Report.pdf>.

¹⁵ Global Financial Integrity (2019) *Illicit Financial Flows to and from 148 Developing Countries: 2006-2015*, January.

¹⁶ The Guardian 28 February and 9 June 2019.

are on a huge scale. There is agreement that trade mis-invoicing through the oil sector is highly probable as the major conduit of IFFs (Revised UNCTAD 2016:17-20¹⁷; UNCTAD 2020¹⁸).

Studies have identified three sources of IFFs within the extractive sector: Bribery and Corruption; Illegal Resource Exploitation; and Tax Evasion (NEITI, 2019:5)¹⁹. Focus on the extractive sector is not surprising given its dominance of the Nigerian economy. For example, in 2018 oil and gas accounted for more than 90% of total export earnings (chart below) and about 83% of the federal government revenue²⁰. The 2018 Partnership for Africa Report²¹ specifically stated that illegal oil bunkering and oil theft were the major source of IFFs.²² The oil industry itself reports that theft of oil in 2019 was some \$1.35 billion due to a lack of effective prosecution and sanction.²³ In contrast, however, statistics that we could find from the Economic and Financial Crimes Commission (EFCC)²⁴ indicate only one recorded conviction for illegal bunkering in 2013.²⁵ Convictions were secured in 11 such cases in 2014, however, sentences appear to indicate those apprehended to be operating on a relatively small scale. The most recently available report for 2016 lists just two cases. It remains unclear where in the production process the thefts mentioned by the oil industry are taking place that generate the sums indicated.²⁶

3.4 The Role of the Oil Sector

If we consider the oil companies²⁷ themselves rather than those stealing from them, many oil transactions will be intercompany. As these are between related parties, transparency checks and balances will be missing. While multinational companies organise their affairs for tax efficiency purposes such arrangements can facilitate mis-invoicing²⁸ as well as tax avoidance. Looking at trade data for Nigeria, we observe a balance of trade surplus and large remittances recorded on the balance of trade with a positive inflow that has grown since 2016 (albeit falling in 2020). Rather than funds being moved offshore and staying there, funds are also flowing into the country. A possible explanation may be 'round tripping' where funds are moved offshore eg via intercompany 'loans' to shell companies or through payment of management fees and returned onshore either as remittances or as direct foreign investment as a way of tax evasion. Illicit flows may be finding their way into investments in, for example, the UK or the USA, however, misappropriated funds may also be flowing back into Nigeria.

¹⁷ UNCTAD (2016) *Trade Mis-invoicing in Primary Commodities in Developing Countries: The cases of Chile, Côte d'Ivoire, Nigeria, South Africa and Zambia*, Revised 23rd December.

¹⁸ UNCTAD, (2020) *Economic Development in Africa Report 2020: Tackling Illicit Financial Flows for Sustainable Development in Africa*. https://unctad.org/system/files/official-document/aldcafrica2020_en.pdf (accessed 09/10/20).

¹⁹ NEITI (2019), *Averting Illicit Financial Flows in Nigeria's Extractive Industry*, March, NEITI-OPS4, available from <https://www.neiti.gov.ng/index.php/2017-07-27-13-55-55/occasional-papers>.

²⁰ IMF (2019) *Nigeria Selected Issues* IMF Country Report No 19/93 April.

²¹ Op.cit footnote 14.

²² Also see blog Nigeria haemorrhaging from organised illicit financial flows, <https://www.pasgr.org/nigeria-haemorrhaging-from-organised-illicit-financial-flows/>.

²³ Summary Report on the NEITI High-Level Policy Dialogue on "Stemming the Increasing Cost of Oil Theft to Nigeria" – 10 December 2019.

²⁴ Available from https://efccnigeria.org/efcc/images/2014_Convictions.pdf; <https://efccnigeria.org/efcc/images/CONVICTIONS%202015.pdf>; and <https://efccnigeria.org/efcc/images/CONVICTIONS2016.pdf>.

²⁵ In 2013 there was also one case each of 'illegal dealing in petroleum', 'Conspiracy to tamper with oil pipeline for transportation of petroleum' and 'Illegal operation of premium motor spirit'.

²⁶ Although we also acknowledge that the cases may not have been accurately reported by the EFCC.

²⁷ The Nigeria Department of Petroleum Resources (DPR) annual report 2018 includes 164 different oil and gas companies listed as operating in Nigeria.

²⁸ Trade mis-invoicing involves the falsification of the value, volume and/or type of commodity in international transactions. Trade mis-invoicing is undertaken to avoid import taxes, obtain export subsidies or as a way of laundering money. It is a common method of illicitly moving money into or out of countries and contributes to loss of tax revenue developing countries (Global Financial Integrity).

3.5 Structural Economic Challenges

The FATF Recommendation 2 enjoins countries and agencies to cooperate, coordinate and share information. It is equally important to recognise the context within which these norms are applied. The Nigerian authorities face specific challenges in minimising opportunity for IFFs that arise from the structural characteristics of the economy. These structural characteristics also create a financial landscape in which the BO can hide without too great an effort to launder their illegal proceeds. These characteristics are summarised below:

- *GDP is highly dependent on oil prices and thus susceptible to oil price shocks.* The most recent collapse in oil price in 2014,²⁹ pushed the economy into recession in 2016, the Central Bank was no longer able to defend the currency peg resulting in a substantial 40% devaluation of the Naira. It is evident that there was significant capital flight in the run up to the elections in 2015.³⁰ The political and economic events in 2015 and 2016 had a significant impact on cross-border claims and liabilities. The more recent impact of the oil price collapse associated with COVID-19 will also have had a strong negative impact on the economy.
- *Trade is dominated by oil and its related industry.* Nigeria exports crude oil and, due to lack of domestic refineries and technology, imports refined oil. In 2019, total exports were \$70.1 billion of which 92% was accounted for by crude petroleum, petroleum products and natural gas with the main destination countries being India, the Netherlands and China.³¹ In the same year, the country imported \$57.6 billion of which 29% comprised refined petroleum products. Other significant import sectors include ships and floating structures (9%), vehicles (2.8%) and wheat (3.1%). Major import trading countries are China, the Netherlands and the Republic of Korea³². UNCTAD (2016)³³ indicates five of the 17 major trading partners exhibit export under-invoicing while the others show export over-invoicing. The largest amount of under-invoicing is in trade with the United States and Germany. Trade with Netherlands and Italy exhibits a very high level of export over-invoicing.³⁴ A substantial amount of oil exports to Switzerland are not recorded in Nigeria. Fraudulent manipulation of the price, quantity, or quality of a good or service on an invoice allows criminals, corrupt government officials, and commercial tax evaders to shift large amounts of money across international borders quickly, easily, and nearly always undetected (GFI, 2015:1).³⁵
- *Only 40% of adult Nigerians have bank accounts and the shadow economy is estimated to account for some 46-48% of GDP.* In 2017, the Central Bank (CBN) estimated nearly 2 trillion Naira in circulation despite the policy, introduced in 2005, to move to cashless banking. It was suggested to us that a large amount of the cash in circulation is coming out of cash withdrawals by state governors (and spent locally through retainers etc. see [section 6.3.3](#)) and that banks in some of the states depend on the cash based activity of state governors for their own liquidity, although we have no evidence to support this.
- *Total tax to GDP ratio is only 5.9%, one of the lowest tax-to-GDP ratios of any nation.*³⁶ Nigeria's National Bureau of Statistics (NBS) indicates the country has a taxable workforce of around 77 million, but government

²⁹ No work has been undertaken by the project to assess the impact of the oil price fall associated with COVID-19.

³⁰ Also see UNCTAD, (2020) *Economic Development in Africa Report 2020: Tackling Illicit Financial Flows for Sustainable Development in Africa*. https://unctad.org/system/files/official-document/aldcafrica2020_en.pdf (accessed 09/10/20).

³¹ Across Africa as a whole, China is the single largest bilateral trading partner and supplier of trade finance (Prof Benedict Oramah, President of Afreximbank, presentation at IFTI Global Symposium 2020 "Fostering Economic Development in a World of Change" on 16 and 17 September 2020).

³² <https://comtrade.un.org/labs/data-explorer/#>.

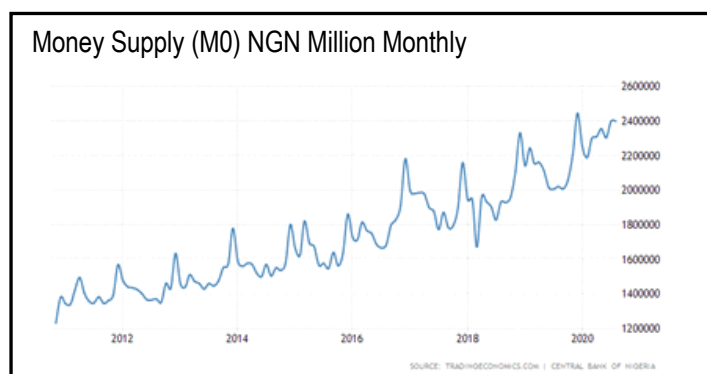
³³ Report UNCTAD December 2016.

³⁴ Crude oil export under-invoicing combined with refined oil import over-invoicing implies net capital outflows. This may be tax related but may also arise from foreign exchange market restrictions and hard currency shortages (a premium value in informal exchange markets placed on hard currency compared with the official exchange rate). Exporters can boost their profits by under-invoicing and subsequently selling the currency corresponding to the under-invoiced amount on the black market, thereby obtaining a greater amount of local money for the same transaction.

³⁵ GFI (2015) *Illicit Financial Flows from Developing Countries: 2004-2013* Dev Kar and Joseph Spanjers December.

³⁶ The personal income tax rate is 24% and corporate tax rate 30%.

figures show just 14 million pay income tax. Tax evasion is particularly rampant among the country's wealthiest



citizens: According to Nigeria's Finance Minister,³⁷ only 214 people in all of Nigeria pay more than 20 million naira (\$55,600) in tax. More recently The Executive Chair of the Federal Inland Revenue Service (FIRS) was reported to have stated that the country loses about \$15 billion to tax evasion annually.³⁸ Only 9% of Nigerian companies pay corporate tax, while only 12% of registered businesses comply

with VAT obligations. Some estimates found as many as 99% of small businesses are, however, unregistered. Nigeria has introduced the Voluntary Assets and Income Declaration Scheme (VAIDS), which offered temporary amnesty for those who had missed or evaded previous tax payments.³⁹ The scheme produced a small improvement in compliance and the government collected \$47 million in back taxes in the last six months of 2017.⁴⁰ They also established a Voluntary Offshore Assets Regularization Scheme (2018) that gave offshore asset holders an opportunity to disclose and resolve unpaid tax liabilities through a single 35% tax, although, we could not find data on how effective this has been.⁴¹ Nigeria demonstrated its commitment to improve transparency around tax matters, when it signed a declaration and joined the Multilateral Competent Authority Agreement (MCAA) on Automatic Exchange of Financial Account Information (AEOI) in August, 2017. The FIRS had planned to implement the first automatic exchange of information standard by 2020. It is not clear if this has yet occurred. The IMF (2019),⁴² notes that the informal sector of Nigeria's economy remains too great (and cash in circulation indicates this continues -Chart Money Supply-M0) and tax enforcement remains too lax to harness the country's full taxable potential. To contextualise, they note that South Africa has a population three times smaller than Nigeria, but a tax-to-GDP ratio that is four times greater. Tax evasion is an important contributor to IFFs. This has significant implications for the country if the adjustment to lower oil prices is structural and thus likely to be long standing. Tax compliance will have to rise to diversify the taxable base. A gap in our data to date is a breakdown of VAT and corporate income tax receipts.

3.6 The Role of Cash

Cash circulation in the economy and cash movements offshore are clearly a source of concern to the authorities. The NFIU (2014:19, 20)⁴³ notes that Currency Declaration Reports (CDRs) were introduced to comply with FATF Recommendation R32 to deter the activities of terrorists and criminals by ensuring they do not finance activities or launder the proceeds of crimes through the physical cross-border transportation of currency. All sums of more than

³⁷ June 17, 2017.

³⁸ October 24, 2019 James Emejo <https://www.thisdaylive.com>.

³⁹ Closing Africa's Tax Revenue Gap, Jonathan Fiawoo, ex president of the Togo Chamber of Commerce, July 12, 2018, <https://www.theglobalist.com/africa-tax-evasion-nigeria-togo-technology/>.

⁴⁰ UNCTAD (2020:174) note that following conclusion of the scheme, the EFCC established a dedicated tax investigation team to work with the Federal Inland Revenue Services, through sharing information they were able to arrest and prosecute tax defaulters in the country.

⁴¹ Page, M. (2020) *Dubai Property: An Oasis for Nigeria's Corrupt Political Elites*, March, Carnegie Endowment for International Peace, Working Paper citing KPMG, "Executive Order 008 on Voluntary Offshore Assets Regularization Scheme," Issue 10.5, October 2018 <https://assets.kpmg/content/dam/kpmg/ng/pdf/tax/ng-KPMG-Newsletter-on-VOARS.PDF>.

⁴² IMF, (2019), *Nigeria: Selected Issues*, IMF Country Report No 19/93, April.

⁴³ NFIU Activity Report 2014.

\$10,000 leaving the country must be declared.⁴⁴ Available data indicates there are substantial movements of cash out of the country (legally declared) although illegal or undeclared sums intercepted are tiny in comparison. From a law enforcement perspective, it makes little sense to report licit flows where the general concern are the illicit ones. For example, in 2014, passengers through Lagos Airport collectively declared legally taking \$565m⁴⁵ out of the country. It is extraordinary that, by comparison, only \$1.9m was seized.⁴⁶ This volume of illegal seizure does not seem to correlate well with the billions of IFF indicated in external reports. Though the number of cash declarations have declined since 2011, the time series is too small and too old to extrapolate to recent years. The most recent data shows 75% of cash leaving Nigeria had Asia as the region of destination with half declared as going to China. In Europe, the UK and Germany were the largest recipients. In North America the lion's share went to the USA (5% of total). Except for the British Virgin Islands (BVI) no offshore centres were mentioned.⁴⁷ We were informed⁴⁸ that funds are physically carried by individuals e.g. to Dubai and that banks are also responsible for a large amount of hard currency (US dollars, Sterling and Euro) movements out of the country.⁴⁹ We have not yet obtained a copy of one of these forms to find out what details the declarant is required to state. For example, are the movements to China (as a major trading counterparty) being made in connection with goods purchased for import?

3.7 Data from the Bank for International Settlements (BIS)⁵⁰

Funds flow freely around the globe, thus whilst the focus of the study is Nigeria, it is important to consider the counterpart countries where illegal funds may ultimately be invested. In Nicholls *et al.*'s⁵¹ Nigerian case studies (2017), the key jurisdictions appear to include the UK, the USA, BVI, Cyprus, Denmark, the Seychelles and Switzerland. We also know the main trade country counterparts in connection with legal flows⁵² are China and the Netherlands (for both exports and imports); India for exports and South Korea for imports. From the cash declarations, funds are being moved to China, The US, the UK and Germany. It might be expected that Nigerian entities would have claims and liabilities against some of these named countries.

BIS data provides a reliable and current indication of cross-border bank deposits from and to Nigeria. However, this data only concerns bank balances at the end of a period and on a direct basis, we cannot see movements taking place through intermediate countries. Nor does it provide insight into the total assets of legal persons or of the money flows taking place. Despite such limitations the figures may provide a first indication of the potential existence of undeclared assets if the volumes recorded by the banks are significantly different from those explainable by trade and legal financial flows. Unfortunately, Nigeria is not one of the 47 reporting countries,

⁴⁴ It is not known if fees are payable in connection with cash movements.

⁴⁵ January – December 2014 declarations listed by the Nigerian Custom Service and the EFCC at border points equalled USD 807,585,061.71 declared by 26,296 people.

⁴⁶ Data from the NRA 2016 pp 53-54.

⁴⁷ Additional information from the Dutch FIU shared with the project team: total for the period 2017-2019: Incoming cash flow from Nigeria to the Netherlands: 11.7 million euros. (including cash brought in by persons who gave statements about making business purchases with the money); Outgoing money flow to Nigeria from the Netherlands: 5.7 million euros. (mainly money transfers). The 11.7 million euros in income in the Netherlands was made in 345 transactions. Average size Euro 33.9k. The 5.7 million euros outgoing to Nigeria were made in 8,262 transactions. Average size Euro 690. Although UK information would be more pertinent, we were told that the UK FIU would not supply similar information for the project team.

⁴⁸ The issue was also raised at our workshop.

⁴⁹ In this case, the Central Bank authorises the transfer and inspects and seals the cash.

⁵⁰ Research based on Q1 2019 data.

⁵¹ Nicholls, C., Daniel, T., Bacarese, A., Maton, J and Hatchard, J. (2017) *Corruption and Misuse of Public Office* (3rd ed.) Oxford University Press.

⁵² Acknowledging that the data used is not from the same time periods.

however, we can look at the cross-border positions of Nigeria as recorded by the reporting countries, through the reporting banks' cross-border positions on residents of Nigeria.⁵³

The total cross-border claims⁵⁴ on residents of Nigeria have increased from \$18.9 billion in 2015 to \$28.7 billion in the first quarter of 2019, which corresponds to an increase of \$9.8 billion over four years. More significant for our project, over the same period, the cross-border liabilities (assets owned by Nigerian entities) have risen from \$25.5 billion in 2015 to \$44.1 billion in Quarter 1, 2019. This is an increase of \$20.6 billion in just four years. The three most important countries where the legal entities from Nigeria have their bank investments/deposits/funds are United Kingdom, USA and Hong Kong (Table 1).⁵⁵

Nr	Country	Total liabilities	% total
	All reporting countries	44,070	100
1	United Kingdom	23,347	53.0
2	United States	6,911.0	15.7
3	Hong Kong SAR	3,211.7	7.3

The role of the United Kingdom for cross-border interactions of Nigerian based parties is striking (it also features as one of the main destinations for declared cash in [section 3.4](#)). About 57% of all claims (e.g. loans) are owned by the banks in

the UK and about 53% of all the liabilities against Nigerian entities (e.g. investments/deposits/funds) are held on banks incorporated in UK. It is significant that such high percentages are accounted solely by a single country and is indicative of the extensive financial links between Nigeria and UK. It may also equally reflect the position of the UK as a major banking centre.⁵⁶ Looking more widely at the position against banks located in offshore jurisdictions⁵⁷ (Table 2): in total, the direct claims of banks located in OFCs on the (legal) parties in Nigeria are approximately \$1.6 billion. The investments/deposits/funds held on the same OFCs (by Nigerian counterparties) are much higher at \$11.1 billion. Among these OFCs Hong Kong and the USA, by far, dominate all the other OFCs. In terms of the claims, the role of the Isle of Man, Switzerland and the USA are noteworthy. It should be noted that in compiling this table we have only been able to access those offshore countries that we have designated offshore that report to BIS and have included all of the USA whereas only certain states (for example Delaware) meet the criteria.

⁵³ The data reported are the Locational Banking Statistics - LBS measure the claims and liabilities, including intra group office positions, of banking offices resident in 47 reporting countries against counterparties residing in more than 200 countries. Currently, banking offices located in 44 countries report the LBS, which capture around 95% of all the cross-border interbank business. According to the BIS the LBS are the best suited for country level analysis.

⁵⁴ Claims refers to assets of the bank eg through loans made; Liabilities means deposits and other monetary instruments that the banks hold that are owned by others.

⁵⁵ Data Source for tables on Nigeria BIS Table A6.2. <https://stats.bis.org/statx/srs/table/a6.2?c=NG>

⁵⁶ We know that there is substantial business between the UK and Nigeria but we don't know if that is with UK registered banks or with other banks with branches in the UK (London). We can look at the Consolidated Banking Statistics data (BIS table B4) <https://stats.bis.org/statx/srs/table/b4?c=NG> to see that the major banks seem to be in UK and in the US. This would suggest that US bank branches in London account for some of that activity. This would appear consistent with the oil industry finance activity in London.

⁵⁷ There is no objective international definition of offshore financial countries. According to the BIS there are 19 countries, while the IMF marks 46 countries as an OFC. So, we use the definition and number of OFC countries from the Phd of Dr. T.J van Koningsveld (2015). According to his study there are 40 OFC in the world. See also the report Offshore activities and money laundering: recent findings and challenges PANA Committee, 2017 [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/595371/IPOL_STU\(2017\)595371_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/595371/IPOL_STU(2017)595371_EN.pdf)

OFC country:	Total claims	% total	Total liabilities	% total
Guernsey	11	0.04	5	0.01
Hong Kong SAR	93	0.32	3212	7.29
Isle of Man	386	1.34	137	0.31
Jersey	155	0.54	202	0.46
Luxembourg	15	0.05	18	0.04
Switzerland	400	1.39	581	1.32
Ireland	61	0.21	78	0.18
United States	447	1.56	6911	15.68
Total	1,568	5.46	11,144	25.29
All reporting countries	28,703.2		44,070.3	

As already commented, the political and economic events of 2015 and 2016 in Nigeria had a substantial impact on their total cross-border claims and liabilities. The drop in Nigerian deposits in Switzerland (Table 3) is particularly interesting, during a period when deposits were rapidly increasing elsewhere. It seems possible (even likely) that this is connected to the international pressure on Switzerland as a banking secrecy centre to increase its transparency but could also have been linked to the oil sector and the cessation of the activity of the Swiss oil traders.⁵⁸ The Swiss trader report noted that oil contracts were not set through open auction to determine market price as with other instruments and commodities but simply allocated to a favoured intermediary and that mis-invoicing may have been occurring through Switzerland. We note this is an old document and hopefully some of the problems have been addressed as Switzerland no longer features as a significant counterparty for Nigeria according to the BIS data.⁵⁹

Total liabilities	2015	2016	2017	2018
Switzerland	1,094.6	1,103.7	811.9	632.7
United Kingdom	11,924.0	11,171.8	15,667.3	23,088.3
All reporting countries	23,553.4	21,457.0	29,356.4	42,781.3

To understand if the patterns for claims and liabilities for Nigeria are unusual, we analysed the BIS data for Angola, a comparator African oil producing country. The purpose of this analysis is to grasp a better understanding on the current state and the historical development of the Locational Banking Statistics in Nigeria through a comparison with a similar case from the same region. Similar to Nigeria, Angola is not one of the 47 reporting countries to BIS. So, analogous to Nigeria, the only information that is accessible on BIS relates to the reporting banks' cross-border positions on residents of Angola. Like Nigeria, the UK is also a significant counterparty country for Angola (Table 4). As already stated, this may be due to the position of London as an international banking centre and/or arising from its role in

Nr	Country	Total liabilities	% total
	All reporting countries	21,498	100
1	United Kingdom	6,153	28.6
2	Hong Kong SAR	2,971	13.8
3	Germany	1,222	5.7

⁵⁸ *Swiss traders' opaque deals*, Bern Declaration – now Public Eye- 2013.

⁵⁹ For comparison in Q1 2011 Switzerland was USD1,174m (out of a total of USD21,895m).

the oil sector. The UK is the second biggest extractive industry listing (for raising finance) jurisdiction in the world. Another resemblance between Nigeria and Angola is the role of Hong Kong. The claims against Angolan (legal) entities by banks resident in Hong Kong are only \$48.4 million but the liabilities of these banks to Angolan counterparties are disproportionately high at \$2.9 billion. As with Nigerian entities, Angolans appear to prefer Hong Kong resident banks as a home for their cross-border monies. In total, the direct claims of OFC banks on the (legal) parties in Angola are approximately \$109 million (Table 5) which makes up a much smaller percentage of the total claims with respect to that seen for Nigeria (1.07% vs. 5.46%). Of significance for this project is that the investments/deposits/funds held on the same OFCs (by Angolan counterparties) are some \$5.0 billion and constitute a similar ratio to total liabilities when compared against Nigeria (23.11% against 25.29%). Among these OFCs, for the liabilities, Hong Kong, Switzerland and the USA, by far, dominate all the other OFCs.

OFC country:	Total claims	% total	Total liabilities	% total
Guernsey	0.0	0.00	0.2	0.00
Hong Kong SAR	48.4	0.47	2970.6	13.82
Isle of Man	17.3	0.17	17.2	0.08
Jersey	2.0	0.02	21.0	0.10
Luxembourg	9.3	0.09	68.3	0.32
Switzerland	32.2	0.31	1096.5	5.10
Ireland	0.0	0.00	1.9	0.01
United States	0.0	0.00	793.0	3.69
Total	109.2	1.07	4968.7	23.11
All reporting countries	10,245.3		21,498.2	

This would appear to indicate that the activity evidenced for Nigeria is not atypical. However, we have not yet looked further into this data to contextualise it against GDP and balance of trade information. Given the significant commercial and financial relationship between Nigeria and the UK, it was considered informative to consider holdings of Nigerian liabilities in the UK. We, therefore, investigated the two main assets registers in the UK looking at both Companies House and the UK Land Registry.

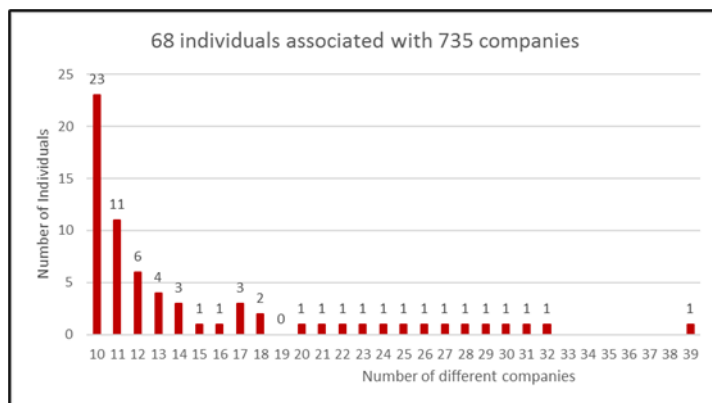
3.8 UK Companies House Companies Registered in the UK with Nigerian Affiliations⁶⁰

We were provided with a download of all companies registered in the UK with Nigerian affiliations whether directors or owners, comprising 26,303 distinct companies.⁶¹ Affiliated personnel are recorded in one of the four roles within the registered company: Director, Individual PSC (Person of Significant Control), LLP Member (Limited Liability Partnership Member) or Secretary. Nigerian persons recorded as secretaries and LLP members constitute a very small percentage of the data, 2.2%. All the remaining (97.8%) are either directors or individual PSCs. The large number of companies owned by Nigerian persons, is evidence of the significant, long standing, commercial links between Nigeria and the UK. Hypothesising that multiple company ownership may be used as a way of removing or disguising criminal proceeds, we focused on individuals associated with 10 or more companies. Of course, this might equally be reflective of using a small number of company formation agents and professional nominees, of 'professional straw persons' or, of highly entrepreneurial individuals. The chart below indicates that some 68

⁶⁰ Companies House data was obtained 4/12/19. It should be noted that none of this work implies or infers that any individuals or companies identified through the analysis have in any way broken the law.

⁶¹ Defined as companies registered with distinct company codes and names.

individuals are associated with 735 companies. These range from 23 each associated with 10 companies through to one individual associated with 39 separate companies. Of note, three individuals are associated with more than 30 companies and relationship mapping reveals multiple cross-over of company interests. The single individual



associated with 39 companies lists their normal place of residence variously as the UK, South Africa, and the UAE. Some of the persons listed against multiple companies are quite young, two with birth dates in 1992 (one with 13 companies and the other with 10) and one in 1995 (11 companies).

This work was extended to consider companies registered within the UK with Nigerian affiliations operating in the real

estate industry and extractive and petroleum product industry. The focus on real estate was to link the work on company ownership⁶² with that of the land registry.⁶³ Among the companies in the UK Real Estate Industry with Nigerian affiliations, the most striking pattern is the family based organisational structure. Many of these companies are owned and managed by persons sharing the same surname who are, thus, believed to belong to the same extended families. In these companies, family members take multiple roles fulfilling the responsibilities of beneficial owners, directors as well as secretaries. In terms of age, those holding responsibilities in these family run businesses include senior citizens (ages >80)⁶⁴ together with many junior family members (ages <25).⁶⁵

Companies registered within the UK with Nigerian affiliations, operating in the extractive and petroleum products industry were also investigated. The purpose of this analysis is to relate this data (provided by Companies House) to other sources of data on the Nigerian extractive and petroleum industries to have a complementary perspective, against other information on the oil sector. Through this analysis, the potential connections of these UK registered Nigerian affiliated companies to the large Nigerian oil/petroleum corporations may also be investigated. There appears to be lower family name density in the petroleum sector than in real estate and companies are not, largely, connected to one another through ownership or management (although, there are exceptions) which is consistent with companies operating within the UK Extractive and Petroleum Products Industry.

Investigative journalists have exposed the ultimate disposition of illicit flows into the London property market (Transparency International, 2017 a, b, c; 2013).⁶⁶ This is hardly surprising, as the UK authorities have long recognised the country as one of the more attractive destinations for laundering the proceeds of corruption,

⁶² Companies House Data (a database of companies registered within UK) with Nigerian affiliations which provides a list of companies with Nigerian links who trade properties/titles in England and Wales.

⁶³ Land Registry Overseas Companies Ownership Data (a database of all freehold or leasehold properties/titles in England and Wales where the legal owner is a company incorporated in Nigeria).

⁶⁴ The most senior family member that is registered to still act as a director is 87 years old (Date of Birth: June 1933).

⁶⁵ The youngest one registered to act as a director is 19 years old (Date of Birth: March 2001).

⁶⁶ Transparency International (2017a) *Doors Wide Open: Corruption and Real Estate in Four Key Markets*, March.

Transparency International (2017b) *Faulty Towers, Understanding the Impact of Overseas Corruption on the London Property Market*, January. Transparency International (2017c) *Hiding in Plain Sight, How UK companies are used to Launder the Proceeds of Corruption*, November.

Transparency International (2013) *Closing Down the Safe Havens: Ending Impunity for Corrupt Individuals by Seizing and Recovering their Assets in the UK*, December.

particularly with respect to grand corruption (NCA, 2018; 2016).⁶⁷ We also analysed data from the UK Land Registry specifically with respect to Nigerian Ownership.

3.9 UK Land Registry Overseas Companies Ownership Data⁶⁸

We were provided with UK Land Registry Overseas Companies Ownership Data (OCOD) as at December, 2018. As of this date, there were 97,076 properties registered (between 1959 -2018) in the UK owned by an overseas company. Out of all these registered properties, only 152 of them are owned by companies registered in Nigeria making up 0.16% of the whole data. An immediate limitation of this work is that we can only see the directly declared relationship between the UK property and a Nigerian based legal entity. We have no way of identifying indirect ownership where a company owned by a Nigerian entity is located in a third country nor if ownership is held within a trust. If there are extensive Nigerian investments in the UK property market, they may be making use of companies incorporated in the UK, or companies and other structures located within a third country, statistically most likely to be an OFC.

Most noticeable from this data is the rise in purchase registrations over the period 2012 -2015 (74 of the 152 occurred during that period). Purchases are concentrated in London and the Southeast with most taking place from 2012-16. For the 68 properties where price information is available, the lowest price paid was £35,000 and the highest £3.5 million. Purchase activity has reduced from 2016. We propose this trend may be explained by different factors for example, the election that took place in Nigeria in 2015; the tightening up of the UK Government in response to criticism by Transparency International or the introduction of Unexplained Wealth Orders in relation to PEPs and others. Three companies together account for ownership of 18 properties. Where entities own more than one company, the UK proprietor address often reflects the use of agents. We did notice a single address in London listed as the proprietor's address for four⁶⁹ different buyers (also see, TI, 2019).⁷⁰

3.10 Observations

Information on IFFs points to large scale movements of funds out of Nigeria. We have provided additional information around what flows might have legitimate explanation and what might warrant further investigation. The Nigerian authorities face challenges in minimising opportunity for IFFs arising from the structural characteristics of the economy. Most obvious are the size of the informal economy and the dependence on cash, the reliance on the oil and allied industries sector of the economy for both export earnings and government revenue and the low tax base for the formal economy. Given the low tax base, it is apparent that the Nigerian tax authorities have a major problem in identifying their taxpayers (natural and legal persons) and thus in assessing the business activities within the country. We observe that if little is known of taxable activity there is less reason to enter into elaborate schemes to disguise funds of illegal origin through laundering, indeed until the authorities are able to fully monitor legal activity they will be unable to prevent illegal activity.

The UK is the most important financial counterparty country providing a home for over half of bank investments, deposits and funds owned by legal entities in Nigeria. It also features as one of the main destinations for declared cash exports. The UK is also an important commercial and property counterparty country and Nigerians own 26,303 UK registered companies. 735 companies are associated with a group of only 68 individuals. Significantly, three

⁶⁷ National Crime Agency (2018) *National Strategic Assessment of Serious and Organised Crime*. National Crime Agency (2016) *National Strategic Assessment of Serious and Organised Crime*.

⁶⁸ As with the Companies House data, we do not infer that any of the companies or individuals have engaged in any criminality.

⁶⁹ Apart from one transaction in 1981, updates to the register all occurred in 2012.

⁷⁰ Transparency International (2019) *At Your Service: Investigating how UK businesses and institutions help corrupt individuals and regimes launder their money and reputations*, October.

individuals are associated with more than 30 companies. This may be reflective of using a small number of company formation agents and professional nominees, of 'professional straw persons' or, of highly entrepreneurial individuals. 152 properties on the UK land registry are held by companies registered in Nigeria. For the 68 properties where price information is available, the lowest price paid was £35,000 and the highest £3.5 million. In addition to the UK, the US continues as an attractive destination country, however, UAE is also emerging as important due to limited reporting requirements placed on the real estate sector.⁷¹ Others have drawn attention to the oil sector and understanding more about the beneficial owners of these companies is valuable, as is greater transparency over oil production data at the wellhead.⁷²

4 Nigeria's Framework for AML and Anti-Corruption

4.1 Overview

This section of the report sets out our understanding of the way in which Nigeria's framework for AML and anti-corruption has been operationalised with a particular focus on those agencies relevant for the BO. In addition to setting out the legal responsibilities for the agencies, we review the analysis published by others about their operational efficiency. We have incorporated the information collected from our visit with respect to inter-agency cooperation with a focus on data integrity. This emerged as one of the main themes from our qualitative analysis. Other major themes included: international cooperation; intelligence and information; beneficial ownership and delays in courts which are discussed in other areas of the report. We also consider the statutory reporting requirements placed upon the financial institutions and the designated non-financial sector before concluding with our observations.

4.2 Mutual Evaluation

Nigeria's mutual evaluation report of 2008,⁷³ which awarded compliance ratings against the forty recommendations and nine special recommendations, rated Nigeria compliant against only two of the criteria, largely compliant against seven, partially compliant against 22 and non-compliant against 18.

Observations from the 2008 MER
<ul style="list-style-type: none"> • Nigeria has a comprehensive AML framework; • Several anti-corruptions laws are in place; • Corruption (particularly grand corruption) is one of the most common predicate offences; • Certain public officials are immune from prosecution; • AML legislation is not effectively implemented; • There is a lack of statistics on AML investigations, prosecutions and convictions; • There is no comprehensive framework against terrorist financing;⁷⁴ • There is a lack of data/information relating to STRs; • Further resource is needed generally, and in particular for large and complex cases; • There is a framework for, but deficiencies within, financial institution procedures; • Weak controls within DNFPBs (Designated Non-Financial Businesses or Professions);⁷⁵ • There is no company or central register of BOs.⁷⁶

⁷¹ Former FBI Agent, meeting in Washington, January 2020.

⁷² IMF meeting in Washington, January, 2020.

⁷³ The most recent MER took place at the end of 2019, at the time of writing, there is no information in the public domain.

⁷⁴ We note the passage on the Terrorism Prevention Act, 2011 and the Terrorism (Prevention) (Amendment) Act, 2013.

⁷⁵ Designated Non-Financial Businesses or Professions are also referred to as the Designated Non-Financial Institutions (DNFIs).

⁷⁶ We note the passage of the Companies and Allied Matters Act, 2020.

It also contained an action plan for improvement (the “Action Plan”). Nigeria was the subject of seven follow up reports to the initial evaluation with the last report in May 2015. There was no statement of removal from that process.

Conclusions from the Follow-up Reports
<ul style="list-style-type: none"> • The MER identified significant gaps and failings in Nigeria’s AML/CTF capability. • Following the 6th follow up report, in May 2013, Nigeria was delisted from FATF’s high risk and non-cooperative jurisdictions list. • The follow up reports demonstrate the development of frameworks and agencies, which have responded to MER, in particular within the first two years. • Co-operation seems to be taking place among agencies within Nigeria and across the region and the globe. • Steps have been taken to identify and achieve best practice. • There is no particular mention of corruption beyond that contained within the original MER. • Concerns regarding identification of beneficial ownership appear to have been adequately resolved. • As the AML/CTF regime develops and becomes more sophisticated, there is evidence that attempts are being made to consider effectiveness rather than simply identify measures.

From this perspective, the anti-money laundering framework has developed (albeit slowly at times) in a manner acceptable to the FATF, thus avoiding in recent years designation as a non-co-operative jurisdiction or a country with strategic deficiencies in its framework and related international sanctions. From our review of these documents, we anticipate that the emphasis of the 2019 mutual evaluation is likely to be on: data and statistics, controls within the Designated Non-Financial Businesses or Professions; transparency and BO and international FIU cooperation.

There are two main documents that have responded to the MER, these are the Nigeria Anti Money Laundering and Combating the Financing of Terrorism National Strategy 2018 – 2020 and the National Anti-Corruption Strategy for 2017 - 2020. However, the effective operation of the system warrants scrutiny on the ground, which reveals a complex picture.

4.3 Relevant Officers and Agencies

The typologies of agencies, institutional arrangements and structures, as well as coordination mechanisms is not claimed to be exhaustive; they are those identified at the start of the project that were considered relevant in terms of BO.

4.3.1 *The Attorney General of the Federation (AGF) and Minister of Justice:*⁷⁷ the Attorney General of the Federation (AGF) and Minister of Justice oversees prosecution of criminal cases. Section 174 of the Constitution provides that the AG of the Federation shall have power to: “*institute, commence and undertake criminal proceedings against any person before any court of law in Nigeria in respect of any offence created under any Act of the National Assembly; to take over and continue any such criminal proceedings that may have been instituted by any other authority or person; to discontinue at any stage before judgment is delivered, any such criminal proceedings instituted or undertaken by him or any other authority or person*”. A number of agencies may prosecute offences with the fiat of the AGF and the AGF does not interfere in the day-to-day activities of these agencies but can take over the exercise of this power when the need arises in the interest of justice. The AG may also issue guidelines to the agencies to guide them in the exercise of the conferred powers. Law enforcement agencies, such

⁷⁷ The Attorney General also serves as the Minister of Justice.

as the Police, Economic and Financial Crimes Commission (EFCC), the Independent and Corrupt Practices Commission (ICPC), Nigerian Drug Law Enforcement Agency (NDLEA), Legal Aid Council, Human Rights Commission, and National Agency against Trafficking in Person (NAPTIP), can prosecute corruption, money laundering, and other organised crime offences.

4.3.2 *The Nigeria Police*: the Police are the highest investigative organ and have the traditional role of investigating all forms of crimes, including fraud and corruption under the Nigerian Police Act, 2004 (as amended, 2020), although in practice the investigation of these offences is left to the specialised agencies of the ICPC and the EFCC (UNODC, 2014:8).⁷⁸

4.3.3 *The Nigeria Financial Intelligence Unit (NFIU)*: the NFIU was established under the NFIU Act (2018)⁷⁹ in fulfilment of the FATF Recommendation R29 which requires countries to establish a central authority for the receipt and analysis of suspicious transactions (STRs) and dissemination of financial intelligence to law enforcement and other relevant agencies. It is key to the monitoring of transparency and beneficial ownership of legal persons and arrangements in Nigeria.

4.3.4 *The Code of Conduct Bureau*: the Bureau was established in 1989 under the *Code of Conduct and Tribunal Act* (Cap.56, Laws of the Federal Republic of Nigeria). The Code of Conduct Bureau (CCB) was created with the aim of establishing and maintaining a high standard of morality in the conduct of government business and ensuring that the actions and conduct of public officers conform to the highest standards of public morality and accountability. A tribunal was simultaneously established alongside the Bureau to ensure speedy trial of officials that may be referred to the tribunal by the Bureau.⁸⁰ The Bureau (CCB) administers the Code of Conduct for Public Officers and its functions include: (i) receiving asset declarations by public officers; (ii) examining the assets declarations and ensuring that they comply with the requirements of the Act and of any law for the time being in force; (iii) taking and retaining custody of such assets declarations; and (iv) receiving complaints about non-compliance with or breach of the Act and where the Bureau considers it necessary to do so, referring such complaints to the Code of Conduct Tribunal.

The most important and powerful aspect of this Act is s.15 with respect to the prevention of corruption has to do with assets declaration by public officers which is a tool to track illicit enrichment. Statistics on the enforcement of this code of conduct are hard to obtain so that it is difficult to assess effectiveness. Nevertheless, a progress report from the CCB in 2014 showed that it issued 303,911 asset declaration forms (ADFs) and received (from returns) 167,241 completed forms (55%). The CCB also received 79 petitions/complaints on non-declaration, investigated 18 and closed six for lack of merit in the petitions. 39 cases were referred to the Code of Conduct Tribunal (CCT), increasing the pending cases before the CCT to 371 for that year without a single reported conviction. According to Shehu (2017: 5-7),⁸¹ most of the cases of breach of the Code of Conduct by Politically Exposed Persons (PEPs) were either struck out or have been inconclusive at the Code of Conduct Tribunal.

⁷⁸ UNODC. 2014. Country Review Report of the Federal Republic of Nigeria: implementation by Nigeria of articles 15 – 42 of Chapter III. “Criminalization and law enforcement” and articles 44 – 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the review cycle 2010 - 2015. Vienna: UNODC.

⁷⁹ The NFIU was formally established in 2004 and became operational in 2005 as a unit of the EFCC. In 2018, the Nigerian Financial Intelligence Unit (Establishment) Act transformed the Unit into an autonomous and independent agency located within the Central Bank of Nigeria.

⁸⁰ For details, see Shehu, AY (2015) *NIGERIA: The Way Through Corruption to the well-being of a People*, National Open University press, Lagos, pp.278-281.

⁸¹ Shehu, AY (2017) *Imperative of Effective Ethics Framework in Combating Corruption in Nigeria*.

The CCB, which has responsibility for enforcing the provisions of the Act, faces many challenges (which include lack of resources, staffing, technical ability, and so on) that meant it has been unable to verify most of the asset declarations made by public officials. Page (2020)⁸² notes that Nigerian law also exempts these documents from public scrutiny, including via Freedom of Information Act requests. More recent data from the IMF indicated that in 2018, of the 4-4.5m 'public officers' only 17,000 declarations had been received arguing that compliance was hampered due to manual record keeping. That is not to say the code of conduct is in some way deficient, rather, the main problem has to do with enforcement. One of the ways of ensuring adherence and enforcement is to have specific guidelines on elements of the Code, such as Conflict of Interest Rules and Gifts and allowable circumstances thresholds. That will clarify the blurred lines on these issues for both public officers and the public. Had the code of conduct been effectively enforced, several corruption cases could have been prevented or exposed at an earlier stage, including the classic case of James Ibori, a former Governor of oil rich Delta State who was eventually convicted in the UK.⁸³

4.3.5 *The Independent Corrupt Practices and other Related Offences Commission (ICPC)*: the ICPC was established under the *Corrupt Practices and Other Related Offences Act* that came into force in June 2000 and the ICPC was inaugurated in September of the same year to enforce the law (ss.3–7).⁸⁴ This Act criminalises just about every imaginable act of corruption in sections 8–19.⁸⁵ The ICPC is responsible for enforcement of the Act, which focuses on public sector corruption.

4.3.6 *The Economic and Financial Crimes Commission (EFCC)*: the EFCC was established under the EFCC Act 2003, the EFCC is mandated to enforce all economic and financial crimes laws in Nigeria and is the coordinating agency for the prevention and control of money laundering. Like the ICPC, the EFCC has sweeping powers including for the arrest, investigation and prosecution of offenders under the EFCC Act,⁸⁶ the Money Laundering (Prohibition) Act, the Advance Fee Fraud Act, the Failed Banks and Financial Malpractice in Banks Act, etc.

4.3.7 *The Central Bank of Nigeria (CBN)*: the CBN was established under the BOFID (Banks and other Financial Institutions) Act, 1991. The CBN is the main regulator for the financial sector. It has oversight function over all financial institutions on the enforcement of anti-money laundering and due diligence measures with respect to beneficial ownership. The most remarkable policy introduced by the CBN in this regard was the issuance of a circular on Administrative Sanctions for violation of various anti-money laundering laws and regulations.⁸⁷

⁸² Page, M. (2020) *Dubai Property: An Oasis for Nigeria's Corrupt Political Elites*, March, Carnegie Endowment for International Peace, Working Paper.

⁸³ Even then, performance will remain veiled as long as there is no transparent data management and statistics in the public domain.

⁸⁴ A comprehensive governance and corruption survey was conducted and the results indicated that corruption was widespread. Fundamentally, the highlights of the survey findings include: households see corruption as a serious problem and that it is getting worse; enterprises are generally dissatisfied with public services; enterprises often have to pay gratification to obtain even unsatisfactory services.

⁸⁵ The Act defines corruption to include bribery, fraud, embezzlement and gratification, criminalizes these practices, and prescribes appropriate penalties under s.8. It gives ICPC the necessary powers to investigate reported cases of corruption. It also vests on the Chair of the Commission the authority to make rules and regulations for the efficient and effective performance of the duties of the Commission. A unique feature of the Act is the provision for non-disclosure of parties in proceedings under this Act. It obliges any public officer to whom gratification is given or promised to report to ICPC. Similarly, any non-public officer is also required to report any solicitation or acceptance of gratification to the Commission (s.23). S.44(2) enables the Chair to require a sworn statement to explain how an individual has acquired property deemed excessive relative to his emoluments and circumstances. Where it is not supplied or not deemed adequate 'he shall be presumed to have used his office to corruptly enrich or gratify himself and charged accordingly.

⁸⁶ Including (s. 6.2) the power to "cause investigations to be conducted into the properties of any person if it appears to the Commission that the person's lifestyle and extent of the properties are not justified by his source of income".

⁸⁷ Central Bank of Nigeria, FPR/DIR/GEN/CIR/07/001, April 9th 2018.

4.3.8 *The Special Control Unit Against Money Laundering (SCUML)*: SCUML was established under the Money Laundering (Prohibition) Act, 2004, and 2011(as amended). It has the mandate to monitor, supervise and regulate the activities of DNFI in Nigeria in support of the AML/CFT regime. It is statutorily under the Federal Ministry of Industry, Trade and Investment but operationally domiciled within the EFCC.

4.3.9 *The Corporate Affairs Commission (CAC)*: the CAC was established under the Companies and Allied Matters Act, 1990 and is responsible for registration of company names and other legal processes about the establishment of beneficial ownership. The CAC is developing a comprehensive company register and a data base for BO facilitated by the recent passing of the CAMA 2020.

4.3.10 *Nigerian Extractive Industries Transparency Initiative (NEITI)*: Nigeria signed up to the global Extractive Industries Transparency Initiative (EITI) in 2003, to promote prudent management of revenues from its extensive natural resources to reduce poverty and ensure sustainable development.

4.3.9 *The Securities and Exchange Commission (SEC)*: the SEC has oversight functions on the capital market and is responsible for the regulation of BO in the sector.

4.3.10 *The National Insurance Commission (NAICOM)*: the NAICOM has similar oversight function as the above mentioned, but on the insurance sector. Transparency of beneficial ownership is a key concern for insurance premium and other related products.

All ACAs are required by law to present an annual report to the National Assembly and to publish such reports. Most of the published reports that are in the public domain are not up to date.

4.4 A Complex and Overlapping Landscape

There is information on the number of agencies working in the area of corruption (the police, the CCB, the EFCC, the Bureau of Public Procurement (BPP), the NFIU, NEITI and SCUML; the number of agencies with asset recovery powers; and, the number tasked with inter-agency collaboration and coordination. Those with asset recovery powers include the police, CCB, ICPC, Federal Inland Revenue Services (FIRS) and the EFCC. Those with a collaboration mandate include the CCB, EFCC, FIRS, BPP, NFIU and SCUML. Only the EFCC has a legal coordination mandate. In terms of mandated information-sharing the NFIU now and when it was operationally part of the EFCC, disseminates intelligence reports to the EFCC, ICPC, the National Drug Law Enforcement Agency, the Special Fraud Unit under the NPF, the CCB, FIRS, and the Department of State Security.

[Table 1 'The main agencies'](#) at the end of this report lists relevant agencies identified with an anti-corruption role and responsibility including or specifically relating to the proceeds of corruption. The focus of that table is on the main agencies with operational investigative responsibilities: the EFCC; SCUML and the ICPC. The EFCC's responsibilities relate to investigating and prosecuting financial crimes (money laundering, embezzlement, bribery, looting and any form of child labour, illegal oil bunkering, illegal mining, tax evasion, foreign exchange and privacy, open market abuse, dumping of toxic waste, and prohibited goods) and confiscation. It is also mandated to conduct joint operations geared towards the eradication of economic and financial crimes and collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission. The ICPC focusses on bribery, fraud, concealed financial interests in public contracts, misappropriation and illicit gift-giving. While it has the right to access financial information relating to a suspected

offence its area of responsibility is theoretically different to that of the EFCC, in practice they overlap in the investigation of PEPs.

4.5 Who Interacts with Who?

4.5.1 General information

The inter-agency mapping undertaken by others is available in the Box below. It reveals great enthusiasm for agency creation within an increasingly congested AML and AC arena.

The EFCC's collaborative role is formally designated in terms of the membership of its Commission. These include: The Governor of the CBN; representatives of the Federal Ministries of Foreign Affairs, Finance and Justice; the Chair of the National Drug Law Enforcement Agency; the Directors General of the National Intelligence Agency and Department of State Security, the Registrar General of the Corporate Affairs Commission, the Director General of the Securities and Exchange Commission, the Managing Director of the Nigeria Deposit Insurance Corporation, the Commissioner of Insurance, the Post Master General of the Nigerian Postal Services, the Chair of the Nigerian Communications Commission, the Controller General of the Nigeria Customs Services, the Controller General of the Nigerian Immigration Services, the Inspector General of the Police and/or their respective representatives (see Onyema *et al* 2018).

It has also entered into oral and written understandings with other LEAs such as the Financial Reporting Council of Nigeria and the Nigerian Oil and Gas Local Content Management Board. Recently the EFCC embarked on enforcement campaigns in collaboration with FIRS (see Onyema *et al* 2018).

In terms of the two United Nations Convention Against Corruption (UNCAC) reviews (2104; 2019), collaboration activities were identified as follows:

General (2014): inter-agency coordination is addressed at two levels: through Heads of agencies' meetings and through trainings across agencies and operational synergies. By way of example, Nigerian authorities mentioned the following activities: Joint training hosted by the EFCC Academy involving staff from the ICPC, EFCC, CCB and DLEA, including weapons training with the military; joint investigations between ICPC, EFCC and the police, as well as other institutions and support from the police in investigations, especially in the regions; cross-checking complaints with other anti-corruption bodies to avoid duplication of investigations; training conducted by ICPC as part of corruption risk assessments of government departments; inter-agency task team comprising 21 agencies that meet regularly to discuss policy issues, including the development of the national anti-corruption strategy for Nigeria as well as the self-assessment for the UNCAC review; secondment of officers from the police and customs to the EFCC.

SCUML (2019): has been collaborating with relevant government agencies such as the EFCC (the majority of its staff are seconded from the EFCC), CBN, FIRS, and CCB etc. A result of this collaboration is the CBN circular to all commercial banks mandating DNFI to register with SCUML as a precondition for opening bank account and as part of Customer Due Diligence. SCUML is currently negotiating signing of memorandum of understanding (MOUs) with several other government agencies, which will cover information sharing, sensitization and public enlightenment, compliance and enforcement.

NFIU (2019): An Authorised Officers Forum has also been established to ensure collaboration and sharing of information.

NFIU (2019): The NFIU also plays a key role in advocacy and coordination of agencies responsible for taking steps to address deficiencies in Nigeria's AML/CFT regime. For instance, in 2016, Nigeria conducted her first National Risk Assessment (NRA) on Money Laundering and Terrorist Financing in line with FATF Recommendation 1. The Authorised Officers Forum involves 30 stakeholder agencies from the public and private sectors and the NFIU serves as the driver of the Forum, as well as the Secretariat of the Inter-Ministerial committee on AML/CFT.

Further to the provisions of other laws such as the Central Bank of Nigeria Act, and Bank and Other Financial Institutions Act (BOFIA), institutions such as the Nigeria Deposit Insurance Corporation (NDIC), in collaboration with the EFCC and the Nigerian Financial Intelligence Unit (NFIU), has adopted the Know Your Customer (KYC) Directive and Money Laundering Examination Procedure/Methodology Guidance Note issued by the CBN.

In addition, there is the Inter-Agency Task Team (IATT), the coordinating forum of agencies with anti-corruption and accountability mandates, established as a mechanism to address the challenge of location of accountability

and anti-corruption mandates in multiple and operationally diverse institutions and agencies which despite the overlapping mandates have very limited interface and co-operation. Located within NEITI, though not part of it, the IATTI 'has enabled a significant level of coordination and joint activities including joint assessments and reviews as well as a coordinated response to treaty obligations. The IATT has different working groups some of which align with the chapters of the UNCAC. This facilitates synergy among the agencies at the operational level and ensures building relationships which enhances collaboration and information flow' (UNODC 2019:16).

The IATT and its secretariat work to ensure collaboration and cooperation amongst the various agencies with varying mandates to fight corruption through its secretariat, the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR), which had noted that 'the Inter Agency Task Team of Anti-corruption Agencies had jointly developed a draft which was recently approved by the Federal Executive Council. A key pillar of the strategy is recovery and management of proceeds of crime' (TUGAR undated: 9; see also TUGAR 2012). It was, with EU and UNODC funding (as of 2015) in the process of delivering a workplan intended to coordinate the anticorruption agencies, including the members of the Inter Agency Task Team (IATT), to coordinate and enhance synergy in the work of member agencies and enabling other agencies to carry out activities in correlation with their mandates collaboratively and effectively.

Finally, there is a Presidential Advisory Committee Against Corruption (PACAC). Set up in 2015, it has the mandate to promote the reform agenda of the government on the anti-corruption effort, and to advise the government in the prosecution of the war against corruption and the implementation of required reforms in Nigeria's criminal justice system, including promoting 'cooperation between government agencies involved in anti-corruption, notably EFCC, ICPC, CCB and any other agency that can be considered relevant from time to time' (PACAC 2017:16). In July 2017 a National Anti-Corruption Strategy (NACS) was approved by the Federal Executive Council. One of the key objectives of the NACS is to 'ensure synergy and coordination'. A Ministerial Committee (headed by the Attorney General), was established for the development of sector-specific strategies and a Monitoring and Evaluation Committee on the Implementation of the National Anti-Corruption Strategy was set up in the Office of the Attorney General and Minister of Justice, with oversight responsibilities to 2021.

Notes:

The NACS guidelines make the Office of the Attorney-General the secretariat for the implementation of the Strategy. The AGF issued the Asset Tracing, Recovery and Management Regulations, 2019 which stated that the Office of the Attorney-General was taking over asset management, whether recovered in the interim or final forfeiture under powers conferred on him by law. By the regulation, the Attorney-General will also coordinate all inter-agencies investigation in recovery matters within and outside the country and would also co-ordinate tracing of proceeds of crimes within and outside Nigeria. Operationally the Asset Recovery and Management Unit (ARMU) in the Federal Ministry of Justice would act as the central coordinating unit for asset recovery and ensuring proper record keeping of assets recovered. In September 2020, a Central Database for Asset Recovery and Management was established in the Ministry of Justice, following which the AGF forwarded a revised Proceeds of Crime (POCA) Bill to the National Assembly. The Bill also seeks for the creation of an Asset Management Agency. See [section 7.3.1](#) of this report.

References:

Emilia Onyema, Simeon Obidairo, Seye Ayinla, Habeeb Oredola, Pallavi Roy (2018) *Anti-corruption agencies as debt recovery agents: the unintended consequences of anti-corruption efforts in Nigeria* SOAS ACE Working Paper 017.
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 Waziri-Azi, F. 2017. An Evaluation of the Nigerian National Anti Corruption Strategy. *European Journal of Research in Social Sciences*. 5(5): 1-9.

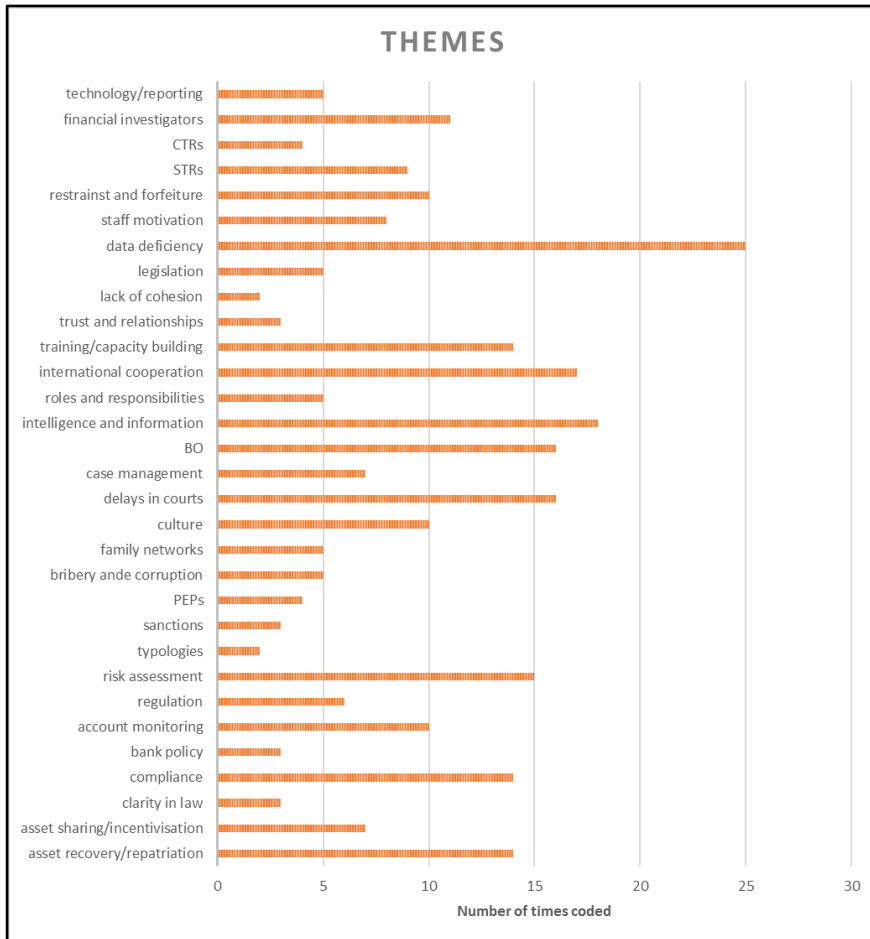
As the Inter-American Development Bank and the OECD noted in a report by the Secretariat of the Global Forum, at international level 'several international bodies and organisations focus on issues related to beneficial ownership, each with their own particular mission. An important development in recent years has been the G20's call for more integrated cooperation between organisations' (The Secretariat of the Global Forum 2019:6).⁸⁸ This issue is also relevant at national level in Nigeria, as the 2014 UNCAC review noted, the 'institutional framework creates a very

⁸⁸ The Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes *A Beneficial Ownership Implementation Toolkit*, Inter-American Development Bank and OECD, March, 2019.

real risk of overlap and duplication of efforts in the absence of coordinated cooperation mechanisms' (UNODC 2014:135). Thus, rather than sharpening focus on the BO, multiple layers have created opacity.

4.5.2 Project findings

We were interested in the relationships between those institutions with anti-corruption roles and responsibilities including or specifically relating to the proceeds of corruption. Our visit to Abuja took place in July, 2019 and we were able to meet with a range of ACAs and host a two-day workshop that was attended by nominated contacts



from these agencies. Meetings were arranged in terms of the 'cradle to grave' approach - prevention, detection, investigation and prosecution of corruption. We asked a range of questions at each of these meetings broadly covering: the role of the agency within the sector; methods of investigation and protocols followed; the information collected, methods of storing and sharing; the other agencies with whom they interact; examples of cases; resourcing; training; challenges faced in carrying out their roles; and what they would like to see changed. Notes were separately recorded and transcribed by two of the researchers and

organised and analysed using eye-ball and NVIVO software before the results were compared for consistency and agreement. The main themes that emerged are shown in the chart (Themes).

Focusing on the most frequent areas – data deficiency features prominently. For example, this from law enforcement:

Land Registry data is scarce. Data is updated very slowly or changes in ownership are made but without land registry being informed. Ownership of properties can change several times and the original owner is still recorded on the records. The system in some cases is a cultural method of changing ownership without having to pay the land registration fee, and the legal fees, in other more sinister cases it is to hide the beneficial owner of the property. Sometimes the latter can include paying another to retain the ownership to disguise the BO.

And from another law enforcement officer *the biggest problem is a disorganised system with no central database and those databases in existence are not up to date.* SCUML noted they have no base of BO, their only data is the legal owners registering the business. A representative from the organised real estate sector acknowledged the vulnerability of real estate to laundering:

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[we] do not know about the affairs of the developers such as the numbers of properties developed, or the stock held by them. Their organisation cannot even require prior registration with SCUML [there is] apparent lack of understanding over requirements or natural lack of compliance on behalf of Nigerians. Be aware that many of the developers are relatives of high-profile politicians so without knowledge of volume of activity we cannot keep track of potential illegal activity.

The police commented that *the problem locally is that nominee directors are hiding the beneficial owners*. Similarly, ICPC are very aware of such activity – citing an example from procurement:

Individuals ... sometimes set up their own companies and use fictitious names or family names and then they get this company to apply for a tender in the organisation and a bank account is also opened and they are the signatory to the account. So, the beneficial owner is the person who holds the funds and not the person applying for the tender by the company, thereby keeping their distance from the activity.

A bank internal auditor commented that *it still happens that two salaries still accrue from different sources [they are] retained on payroll of a company due to favouritism and this is still happening*. The auditor commented that they can see things happening in favour of those institutions but that in their opinion [the banks] did not want to share evidence (in apparent breach of the suspicious activity reporting requirement). Obtaining information on beneficial ownership is hard. The police noted that if they write to agencies such as the SEC or the CAC for information, they *never get the actual names only legal not beneficial owners*.

Data availability and inconsistency is apparent within Nigeria. As commented upon by others (see for example, AU/ECA, no date)⁸⁹ a general lack of transparency and tendency towards secrecy compound the difficulty in obtaining reliable data remain key challenges across the piece.⁹⁰ We concur with the observation made by the AU/ECA (p.35) that in Nigeria the institutional framework is 'elaborate and extensive', however, the 'lack of cooperation and coherent operations' between agencies inhibits their effectiveness. Where available, records are frequently out of date (an exception is the Central Bank) and the same data will be inconsistently reported by different agencies (e.g. currency transaction reports). Others have also commented upon this issue. For example, Keevill and Jarvis (2018)⁹¹ noted that there was 'weak government capacity to collect and publish data', together with 'misaligned incentives for disclosure' and that 'Some information remains only paper based,' and even digital data has its challenges. For example, information systems for different agencies (there are 14 different anti-corruption agencies alone) cannot directly communicate with one another' (p.7). Nigeria's AML efforts are further hindered by the fact that more than half of the economy is cash based and outside of the main urban areas, where if records are kept, they will be largely paper based. Thus, even where data is collected and held electronically within a specific agency data sharing with another agency appears to be paper-based, involving formal letters addressed to agency heads that are then delegated for response. Enquiries will elicit photocopied documents. There was reference to paper files being 'lost' on someone's desk and when followed up the location '*will be forgotten*'. It was also noted that courts required paper documents.

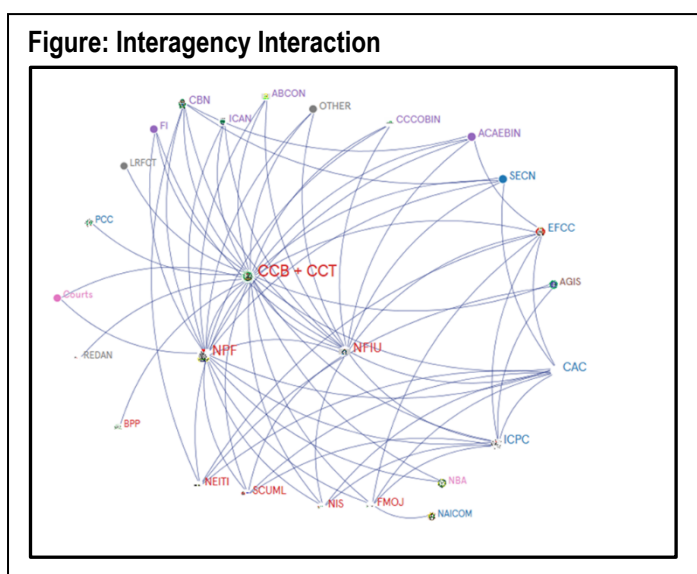
⁸⁹ Source: Illicit Financial Flow Report of the High Level Panel on Illicit Financial Flows from Africa Commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development, no date Available from https://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf

⁹⁰ Nigeria is evaluated as weak for transparency and accountability by Africa Integrity Indicators (<https://aii.globalintegrity.org>).

⁹¹ Keevill L, and Jarvis, M (2018) *Data vs Corruption exploring Barriers to Data use in Nigeria* Transparency and Accountability Initiative, available at <https://www.transparency-initiative.org/wp-content/uploads/2018/10/tai-data-vs-corruption-brief-1.pdf>.

4.6 Observation on Inter-agency Activity

From our inter-agency mapping project, we have produced a narrative of institutional management structure information that we have gathered from official sources and enhanced with the information that we collected during our workshop. Although the structure of all ACAs is set out in the agencies' enabling/establishment acts, it is not always clear that they receive the resourcing to enable them to operationalise these structures. It was not possible from public sources to be able to determine staffing resources within the agencies. Similarly, the annual budgets are not in the public domain.⁹² Therefore, we cannot comment on detailed workloads and resourcing specific to the agencies to help us understand the (in)adequacy and (in)ability to deliver their mandates, although there were comments on these issues shared with us during our visit. Very often, this related to an inability to undertake the full range of responsibilities, especially in the case of SCUML.



Our project mapped interagency 'interaction' (below) drawing from the data gathered at our workshop. The central agency to emerge from this (identified as the agency with which those at the workshop cooperate at an operational level with data collected prior to the commencement of the workshop) was the Code of Conduct Bureau and the Code of Conduct Tribunal. That may reflect the role of the CCB to both receive declarations from public officers (noting the already mentioned IMF report) and to cooperate with other agencies who need to verify those declarations. Also significant were the Nigerian Police Force, the NFIU and the Corporate Affairs Commission (CAC). In operational terms, the project workshop asked

participants: which organisations do you regularly communicate with in connection with your role? [Table 2](#) 'Who communicates with whom' at the end of this report maps the results in addition to the figure (interagency Interaction). We recognise that 'communication' does not provide any information on the form of this contact, for example, is it information-sharing, joint working, taskforces, case allocation teams, sharing staff *etc.*, information that would assist with identification of facilitators or inhibitors. The problem appears to be that no one, including Nigerian agencies, believes that collaboration and coordination has been, or is, in practice effective. Our findings concurred with the UNODC during their visit in 2014, that the institutional framework in Nigeria creates a very real risk of overlap and duplication of efforts in the absence of coordinated cooperation mechanisms (UNODC, 2014:140). Further, our review of the legislative landscape indicated complex and overlapping legislation with new agencies being created in response to on-going problems rather than addressing outstanding resourcing issues (our legislative timeline for Nigeria is still in preparation).

The project has been aware of the concerns over inter-agency relations from the outset and has sought to explore potential reasons:

- there is the issue of simply working with those necessary to the work of the specific agency: thus SCUML deals primarily with CTRs not STRs and they collaborate with the NFIU and other agencies in terms of their main focus on money laundering and terrorist financing for intelligence purposes only:

⁹² High-level allocations for some e.g. EFCC and NFIU is available as a line item within the annual Appropriation Act.

- there is the lack of reciprocity and thus reluctance to pursue closer working relationships - thus both banks and one public agency noted the absence of feedback on STRs and thus the value of, or outcome for, submissions.
- there is concern both over the value of information from other agencies and ease of access - several agencies have to access paper records and find it hard to establish verifiable information. For example, there is an acknowledged problem with data from the land registry where firstly records are largely manual⁹³ and secondly transactions may not always be recorded.

Noting that we do not have sufficient information to comment on effectiveness of the current AC structures we would still argue that a more obvious focus on the BO (bringing it to the fore) would provide a way in which collaboration could be enhanced in a way that is beneficial to all participating agencies, provided they share the required information. This conclusion is based on the following observations.

The first observation is that the absence of collaboration and coordination, and information sharing, between various agencies is longstanding, structural and cultural in organisational terms. They have diluted agencies' effectiveness in relation to the investigation, prosecution and recovery of the proceeds of corruption. None of the current issues – identified by Nigeria as requiring attention in the 2014 UNODC review - are likely to be amenable simple legislative fixes, sustained investment, and modest reforms. If part of the issue concerns what is to be shared, by whom, to what end, then part is to do with the simple but much-neglected topic of record management, held by who, in what format, and how accurate or robust (see Cain *et al.* 2001).⁹⁴

The second observation is that our respondents stated that inter-agency cooperation is needed, however, it is apparent that the reason for its non-existence is largely due to competition. We were told that the agencies attended regular workshops or meetings to discuss cases etc. but that those meetings had not happened for a while (or as regularly as they should). To promote collaboration, coordination and information sharing between various agencies emphasis should be on which of these arrangements is more likely to take place and which would add value to specific agencies. On the one hand it is clear from cases that both the EFCC and the ICPC address the same corruption pool thus compete in that pool while on the other, the EFCC does share its staff (it has access to the largest resource envelope) for example in seconding staff to work in SCUML.

The third is that the issue of BO may be as much about the first observation as the second; in other words, who is compiling, verifying and disseminating the information, and how. These questions are paramount if BO information is to be of value to the authorities.

Questions:

- (1) Which agencies are most likely to benefit from the use of BO information and any added-value in use of shared intelligence or powers between agencies on an inter-agency basis – would it be possible to form an affinity group around BOs and proceeds of corruption?
- (2) What empirical evidence on inhibitors/facilitators to the inter-agency work (specifically with respect to BO) would be useful to collect?
- (3) Would a focus on BO facilitate joint or joined-up working among agencies with an anti-corruption role and responsibility including or specifically relating to the proceeds of corruption?

⁹³ There is no national registry database with records held at state level. On-line the only registry for which information is available is that of Lagos State: <https://landsbureau.lagosstate.gov.ng/2017/05/16/directorate-of-land-registry-2/>

⁹⁴ Cain, P., Doig, A., Flanary, R. & Barata, K. (2001) Filing for corruption: Transparency, openness and record-keeping *Crime, Law & Social Change* 36: 409–425.

4.7 Data Integrity

Obtaining data is something with which this project has struggled. Fundamental to the operation of the international normative framework is the expectation that countries compile and maintain statistics (FATF Recommendation 33). Guidance from the FATF (2015:7)⁹⁵ is very clear in this regard, detailing the expected statistics that countries should compile and maintain to demonstrate 'effectiveness and efficiency of their AML/CF systems' including 'property frozen, seized and confiscated'. Although FATF went on to comment that country national statistics lack reliability, noting that data is incompatible between agencies (collected by different stakeholders for different uses) and are not consistent between countries. Therefore, Nigeria is not alone in its data deficiency. Nevertheless, a major challenge in evaluating Nigeria's performance against the FATF criteria, or indeed at all, lies in the lack of availability of reliable statistics. As noted in [section 4.2](#), lack of data was highlighted by GIABA evaluators in 2008, who, for example, noted the 'lack of comprehensive statistics' generally (MER,2008:7)⁹⁶ and pronounced statistics relating to anti-money laundering and counter-terrorist financing 'contradictory, not easily accessible and sometimes not available' (MER, 2008:15).

There is little sign that the availability of statistics has improved over recent years. We were told that compiling data for the National Risk Assessment had been a challenge when it was last completed and that data was difficult to get in the format that was (a) requested (b) could be used and (c) was consistent. This was explained to us a lack of trust – *agencies thought they were being scrutinised and thus did not want to share their information*. In criminal statistics there are at least three separate variables that are reviewed: (a) cases;(b) (legal) persons; and, (c) categories of offences, to which in this project must be added (d) the amount of money, gained or recorded as damage or illegally acquired and (e) the BO. These are the types of statistics that would normally contribute to the data required as part of a Mutual Evaluation. This can be a complicated matter as a case may have more than one suspect and a suspect may have committed many offences. It is evident from the data that we have accessed that there is little consistency from year to year as to what data is captured and details vary considerably between agencies as to what is recorded. Because of this, it has not been possible, with any degree of certainty to pull together collective statistics that describe how well the AML/CFT system operates. Obviously, to say anything about effective law enforcement is in its operations it would be necessary to be able to present information on the number of cases prosecuted each year and to be able to report on the number of successful convictions achieved each year related to the year of first reporting and prosecution. Even if it is not possible to tie the two data sets together, for example through a common unique case identifier, such information would provide some indication on effectiveness (in terms of successful convictions and associated penalty whether sentenced, suspended, assets forfeited etc.) and efficiency (in terms of time taken to complete cases (conviction or discharge)). We note that generation of empirical data to feed into policy framework is one of the objectives of TUGAR.⁹⁷

A respondent from outside of Nigeria confirmed our problems over statistics, they had asked for details of assets recovered, number of investigations, amounts seized, returned and retained, all with no success.⁹⁸ We also note that whistle-blowing and petitioning play an important part in triggering investigations by the EFCC and ICPC, appearing to work in place of STRs. This is significant, as it appears to be possible to establish a satisfactory STR reporting regime, whilst at the same time circumventing that system. The real teeth seem to be the public nature

⁹⁵ FATF (2015), Guidance: AML/CFT Related Data And Statistics, October. Available at <https://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-plenary-october-2015.html#data-statistics> (accessed 11/10/2020).

⁹⁶ This and follow up reports are available at: <https://www.giaba.org/reports/mutual-evaluation/Nigeria.html?lng=eng>.

⁹⁷ Thematic Compilation of Relevant Information Submitted By Nigeria, Article 6 UNCAC, Preventive Anti-Corruption Body Or Bodies, Nigeria (Fifth Meeting) 2014, https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/Nigeria.pdf.

⁹⁸ Former member of UK NCA, virtual meeting April, 2020.

of the whistle-blowers' reports and the action demanded by the Nigerian system in response. The use of petitioning was considered by Onyema et al. (2018).⁹⁹ They draw attention to the number of petitions received (between 4,900 to 7,700 *p.a.* over the period 2010 to 2015; the petitions investigated (approximately between one third and one half); numbers prosecuted (between 200 and 500 *p.a.*) and the convictions secured (between 67 and 126). What is not clear from their report is the seriousness of the cases, the time taken to conclude nor the decisions that were taken for not proceeding to prosecution. Indeed, data from the EFCC includes low-level cases such as passing counterfeit cheques.

4.8 Reporting – Banking Sector

Aside from deficient data, there are practical challenges that immediately present themselves within the context of AML in Nigeria. For example, there are extensive reporting requirements placed upon financial institutions within the country. These are set out in the 2011 CBN regulations. S.5.6 requires financial institutions to have 'appropriate policies, procedures and processes' to ensure that 'STR forms are filed in a timely manner as required by extant law and regulation, are complete and accurate, and that the narrative provides a sufficient description of the activity reported as well as the basis for filing'. The 2013 regulations, Part III, s.9 (1) sets out that financial institutions 'shall identify and file suspicious transaction reports to the NFIU, where funds, assets or property are suspected to have been derived from' a list of 23 predicate offences including corruption, bribery and tax crimes, and 'any other predicate offence' under the Money Laundering (Prohibition) Act, 2011 (as amended) and the Terrorism Prevention Act, 2011 (as amended).¹⁰⁰

S.5.7 of the 2011 regulations sets out the requirements for reporting to the NFIU the Currency Transaction Reports (CTRs) 'for each transaction in cash (deposit, withdrawal, exchange or other payment or transfer)' of and above N5,000,000 (approximately US\$13,000) for individuals and of and above N10,000,000 for companies.¹⁰¹ The regulations further state that 'all types of currency transactions are to be reported, there are no exempt persons'. This provision also enables multiple transactions within a single day to be aggregated. This reporting is irrespective of suspicion; reports are required even if the transaction is '*completely in line with business*'.¹⁰²

Prior to opening an account for a new corporate client, part of the client on-boarding process requires that the bank checks both CAC and SCUML registration certificates. Prior to receipt of this information, they are permitted to operate the account provided the initial deposit was cash based. A Bank Verification Number (BVN) that links biometric data to bank accounts has been operating since 2014. There would appear to be a high level of compliance: as at 4th October 2020, some 43.8 million account holders had obtained bank verification numbers.¹⁰³ Although we were informed at our workshop that it was possible to circumvent the controls (and separately that this would only be possible through a compromised bank officer), a former bank compliance officer stated that their introduction had brought about a reduction in fraud and that since then they had seen a number of dormant accounts where the owners have chosen not to come forward to update the account status.

⁹⁹ Onyema, E., Obidairo, S., Ayinla, S., Oredola, H., and Roy, P. (2018) *Anti-corruption agencies as debt recovery agents: the unintended consequences of anti-corruption efforts in Nigeria* SOAS ACE Working Paper 017.

¹⁰⁰ Failure to report is covered in s.15 (2) of the 2002 Money Laundering (Prohibition) Act, which states that: 'Any person or body corporate, in or outside Nigeria who directly or indirectly—(a) conceals or disguises the origin of, (b) converts or transfers, (c) removes from the jurisdiction; or (d) acquires, uses, retains, or takes possession or control of any fund or property, knowingly or reasonably ought to have known such fund or property is, or forms part of the proceeds of an unlawful act, commits an offence of money laundering under this Act.

¹⁰¹ We were told there was voluntary reporting for transactions above 1m Naira for individuals and 5m Naira for companies.

¹⁰² Former bank compliance officer, November, 2019.

¹⁰³ <https://nibss-plc.com.ng/bvn/>.

4.8.1 PEPs

Banks are also required to produce monthly reports of all transactions by those account holders who have been identified as politically exposed persons (PEPs). S.18 of the 2013 regulations sets out the definition of a PEP and includes at (4) the requirement to ‘render monthly returns on all transactions with PEPs to the CBN and NFIU’. CBN also require that financial institutions obtain senior management approval before establishing (or continuing) business relationships with PEPs.

We were informed that this was difficult for banks as the regulator does not maintain a list of PEPs¹⁰⁴ with one bank placing reliance on an international database¹⁰⁵ whilst others maintain their own internal databases for on-boarding and that this information is not shared between the banks.¹⁰⁶ Further, there is no time limit on PEPS, once on the list, they are retained on the list. We understand from the Central Bank, however, that they do circulate lists of high-risk PEPs to all banks. Banks operate EDD processes and file monthly returns on all transactions involving PEPs to both the CBN and NFIU as set out in the 2013 CBN AML/CTF Regulations (s.18(4)).¹⁰⁷ Given the importance of the government as a major employer within the formal sector together with the extensive family networks, there are, in practice, a very large number of PEPs.¹⁰⁸ That said, the Central Bank is clear that banks are required to ‘clarify’ each PEP under the Regulations (s.18(1) and (2)) so that monitoring requirements should be based on level of risk dictated by circumstances. Whilst the Central Bank believes it is operating a RBA,¹⁰⁹ this was not the view of the compliance officers with whom we spoke who noted ‘*the approach from the regulator was ‘very prescriptive’ as opposed to a risk based approach to the operational matters of the bank’.*

4.8.2 Numbers of Reports

Irrespective of interpretation of the RBA and its flexibility, banks very clearly generate huge volumes of Currency Transaction Reports (one bank mentioned 1000 per month). Relative numbers for both types of reports are shown in Table 6 and there is a sharp contrast between the relative scale of these two sets of numbers. The extremely low numbers of STRs is surprising in light of the scope of the regulations. The numbers of CTRs will probably

Report	2013	2014	2015
CTR	7,769,328	4,013,367	3,219,941
STR	3,180	2,180	1,978

overwhelm the resources of the NFIU to do anything with the information being submitted. For context, we were told that the NFIU have a staff of 160 to 170 employees and that they tend to focus on currency transaction reports due to the cash base of the economy. It may be that compliance with the CTR requirements is more easily achieved as simply hitting a *de*

minimus limit will trigger a report.¹¹¹ The former requires the bank to identify where funds, assets or property are suspected to have been derived from criminal activity. This is far more subjective and requires knowledge of

¹⁰⁴ IMF 2019 noted that banks make requests of the Central Bank for lists of PEPs but that the CBN do not see this as falling within their remit.

¹⁰⁵ Former bank compliance officer.

¹⁰⁶ Meeting with bank compliance officers in Abuja, July 2019.

¹⁰⁷ Central Bank of Nigeria (Anti-money Laundering and Combating the Financing of Terrorism in Banks and other Financial Institutions in Nigeria) Regulations, 2013.

¹⁰⁸ Meeting with the Central Bank.

¹⁰⁹ Central Bank of Nigeria’s Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) Risk Based Supervision (RBS) Framework, 2011.

¹¹⁰Source: NFIU 2015 Activity Report Most recent data available to the project. Separately we observe that annual reports of reporting activity by the NFIU are limited and outdated. Further, where the same information is reported in different documents the data often is different. For example, CTRs in the NRA do not match those reported in the FIU reports.

¹¹¹ It is worth noting that the IMF (2019) report commented on the small number of STRs passed from the FIU to the EFCC.

normal patterns of banking that might be expected by categories of clients, countries involved, etc. enabling the flagging of unusual account activity.¹¹²

The NFIU 2013 progress report provides a breakdown of STRs by reporting banks (Table 7), of the 1,064 received, the majority were generated by just three banks. Two of these have international licences (Access Bank and Fidelity Bank) and one a national licence (Standard Chartered Bank).

The FIU activity report for 2015 (p.5) noted 'The

Bank	Authorisation	No of STRs	No of STRs Treated	No of STRs Pending
Access Bank	international	501	94	30
Fidelity Bank	international	165	2	1
Unity bank	national	42	40	40
Zenith Bank	international	0	0	0
Standard Chartered Bank	national	309	16	4
Diamond Bank	N/A	44	16	3
Citibank	National	3	1	1
Stanbic Bank	national	0	0	0
Enterprise Bank	N/A	0	0	0
Heritage Bank	national	0	0	0
Wema Bank	national	0	0	0
First Bank	international	0	0	0
Total		1,064	169	79

cooperation of some banks and other financial institutions in filing necessary reports and in compliance with the appropriate templates for such reports is still far from satisfactory. The NFIU has constantly recorded poor or nil

Type of Financial Institution	CTRs filed	STRs filed
Banks	3,069,443	1,932
Non-Interest banks	-	-
Microfinance Banks	9,222	-
Capital market	20,593	33
Discount Houses	80,260	2
Bureau De Change	26,332	-
Insurance Brokers	4,295	11
Primary Mortgage Institutions	9,530	-
Finance Companies	259	-
Development Finance Institutions	7	-
Total	3,219,941	1,978

reporting from some banks. The worst results [in terms of STRs] are from the financial institutions other than the banks' (Table 8). Although in our meeting with the NFIU reference was made to 7000 STRs received over a five-month period and that 'Travelex sent in 3000 reports', but that reports lacked quality and 'numbers can be huge reflecting defensive reporting'. It is, however, evident that levels of cooperation (at least from banks) had improved and that the NFIU now attends the Compliance Officers Forum meetings, using this as a mechanism for feeding back on quality of

reports. The concern over lack of reports coming from the non-bank financial sector is probably ongoing (aside from the reporting from Travelex).¹¹³ The CBN December 2018 Stability Report provides a table of the number of regulated institutions by category (Table 9). The same report noted that during the year, one hundred Bureaux de

¹¹² The STR regime is too easily circumvented. For example, in the absence of open contracting, when contracts are awarded to companies with no track record to be able to deliver, this does not seem to have been a trigger for an STR.

¹¹³ We do not know but wonder if Travelex was one of the sanctioned Bureau de Change, hence the generation of so many 'defensive' reports.

Change were selected for targeted examination revealing regulatory lapses.¹¹⁴ These included poor AML/CFT compliance; failure to keep proper records of transactions; and late/non-remittance of periodic returns. For which they were sanctioned. From

our visit, the Central Bank informed us that they use a risk-based assessment tool (developed in conjunction with the IMF) to profile the banks that they regulate. They noted that their challenge was less with the bank supervision (mentioning that they supervise a total of 24 banks) but 'with approximately 4,000 Bureaux de change and Micro finance banks, [they] lack the resources to supervise these but that is a discussion for another day'.

Category	No. of licenses in operation in December 2018	No. listed on CBN website December 2019
Bureaux De Change	4,492	2,991
Micro Finance Banks and Institutions	885	1,023
Finance Companies	21	42
Merchant banks	5	0
Specialised Banks	1	0
Development Finance Institutions	7	6
Primary Mortgage Banks	35	35

4.9 Reporting - DNFIs

Outside of the formal banking sector, the designated non-financial institutions fall under the regulation of a single agency, the Special Control Unit Against Money Laundering (SCUML) which has a herculean task of monitoring a diverse and geographically dispersed range of some twenty two¹¹⁵ different regulated sectors with a limited number of staff. SCUML was established in 2005 to meet FATF Recommendation 28 to monitor, supervise and regulate these groups. They told us that they were challenged in explaining what the organisation is and what it does as, in their words, they 'are not popular.' Given lack of resources, SCUML are very reliant on companies registering with them and they work closely with the self-regulatory organisations on business sensitisation to raise awareness of requirements. New businesses have to register with SCUML who then provide certification of the registration. This certificate is needed to allow owners to withdraw funds from a newly established business banking account.¹¹⁶ SCUML confirmed that their data only records legal ownership of registered businesses. SCUML have no direct dealings with financial institutions or with Nigerian Customs but they do liaise with the Federal Inland Revenue to

Question:

(4) Would it be possible to combine the intelligence gained from CTRs/STRs by selective analysis of CTRs involving large sums that may be unexplained and thus point to ML/CFT

determine tax identification numbers for individuals. SCUML shared with us the problems they face at an operational level with inadequacy of funding in light of geographic spread of the entities for which they have responsibility. They also seem to have issues with staff turnover and the need to constantly retrain staff to raise awareness of global money laundering trends. While ability to be able to risk assess DFNIs was 'very much work in progress'. A

¹¹⁴ As a way to move funds out of the country, we were told of children studying in the UK being used to purchase property with funds transferred by bureaux de change.

¹¹⁵ Section 25 of the ML (P) Act defines DNFIs as dealers in Jewellery, Cars and Luxury Goods, Precious Stones and Metals, Real Estate, Estate Developers, Estate Surveyors and Valuers, Estate Agents, Chartered Accountants, Audit Firms, Tax Consultants, Clearing and Settlement Companies, Hotels, Casinos, Supermarkets, Dealers in Mechanized Farming Equipment and Machineries, Practitioners of Mechanized Farming, Non Governmental Organizations (NGOs) or such other businesses as the Federal Ministry of Trade and Investment or appropriate regulatory authorities may from time to time designate.

¹¹⁶ The former bank compliance officer, confirmed this certificate was required for account operation.

situation that is compounded by the low level of tax registration compliance by the business sector.

5 Beneficial Ownership

5.1 Overview

As noted in [section 4.1](#), the issue of BO was one of the most frequently raised themes from our visit and as it is central to our research it is discussed in detail within the report. This section reviews the international framework for BO identification before focussing specifically on the FATF Recommendations R24 and R25 that deal with transparency and BO of legal persons and arrangements. Still within the international context we set out what BO means together with the challenges faced in BO identification. From here we move to look at the specific interpretation of BO in Nigeria, including the CAMA legislation and the challenges that were identified during our visit. We briefly discuss our ongoing work on data capture forms prior to concluding with our overall observations.

5.2 International Framework

UNTOC¹¹⁷ (2000) addresses issues of laundering the proceeds of crime in the context of mutual legal assistance and other forms of international cooperation for identifying hidden BOs. Similarly, UNCAC 2003 includes asset recovery as one of its pillars and makes comprehensive provisions in articles 51-59. In 2005, the IMF developed a policy discussion paper titled “Deterring Abuse of the Financial System” which outlined a number of preconditions and principles relating to governance structures (including sound legal and accounting systems) and financial transparency (discussed in Shehu, 2001:16). In addition to the FATF, private sector professional organisations, including the Committee for Banking Supervisors, the International Association of Insurance Regulators and the Basel Committee have developed their own standards and interpretational guidance notes as a means of sharing good practice with respect to the identification of BO. For the banking industry, the Wolfsberg Group agreed a common set of principles including due diligence procedures for opening and monitoring accounts, especially those identified as belonging to the customer category of PEPs.

5.3 The FATF Recommendations

The FATF 40 Recommendations provide a set of countermeasures against money laundering, covering the criminal justice system and law enforcement; the financial system and its regulation; and international co-operation. The standards suggest that they allow countries a measure of flexibility in implementing these principles according to their unique circumstances and constitutional frameworks (FATF, 2012;¹¹⁸ Shehu, 2011¹¹⁹). However, others cogently argue this is far from the case (Van Duyne et al., 2018).¹²⁰ The FATF Recommendations deal with transparency and beneficial ownership of legal persons (R24) and arrangements (R25) together with Recommendation R38 that relates to mutual legal assistance: freezing and confiscation. Recommendation R24 states that ‘countries should ensure there is adequate, accurate and timely information on beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities’. The Recommendation is framed in furtherance of effective information exchange framework to ensure bilateral information sharing both between different jurisdictions and between different agencies within a jurisdiction. It should be noted that at the time of writing, FATF is currently reviewing this Recommendation.

¹¹⁷ United Nations Convention against Transnational Organized Crime and the Protocols Thereto.

¹¹⁸ FATF (2012) *International standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*, Paris, France.

¹¹⁹ Shehu, AY (2011) “*Illicit Financial Flows and Implications for Anti-Money Laundering/Counter Financing of Terrorism and Development*”, A paper presented at a Policy Seminar organised by UNIDEP, Dakar, Senegal.

¹²⁰ Van Duyne, P.C., Harvey, J., and Gelemerova, L., (2018) *The Critical Handbook of money laundering: Policy, analysis and myths*, Palgrave Macmillan.

Transparency of legal persons requires a country to maintain adequate, accurate, and up-to-date information of beneficial ownership and that such information can be provided to the authorities if required. Transparency of legal arrangements requires the same approach (Inter-American Development Bank, 2019).¹²¹ In their commentary, FATF-Egmont (2018)¹²² note that the determination of ultimate BO is often less than straight forward, particularly in the context of trusts. In consequence, the problem faced by the authorities is not so much the construction of the register but (a) how to ensure the accuracy of the data contained therein (avoiding opportunity for misidentification, and (b) how to police the non-compliant obliged entities and not-registered BO(s). As suggested by Thomas-James, (2020)¹²³ this implies some sort of regulated register (controlling data entry), combined with bilateral information sharing in furtherance of national and international investigations. Within the context of the UK Companies House, lack of verification has been highlighted as a shortcoming in AML controls (Ownership & Global Witness, 2017; Levi and Soudijn,2020).¹²⁴ Our own work found that the register at Companies House contains a number of 'free filled' data entry fields in which errors can be found though spelling mistakes. It is noted that in the UK, as elsewhere, information submitted and maintained via annual confirmation statements is not independently verified. However, from the start of 2020 under The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 revised, the regulated sector is now required to report discrepancies between BO information available at Companies House and the information that they may obtain through their own independent checks. This approach may be one that is considered by the CAC.

5.4 The Meaning of Beneficial Ownership

The subject of BO has found its way into the international lexicon of money laundering. It is included within the regular plenary discussions of the FATF encouraging national governments to increase transparency. It has been the topic of FATF reports, most recently 'Concealment of Beneficial Ownership' July 2018.¹²⁵ BO is also the subject of the FATF 2014 guidance paper 'Transparency and Beneficial Ownership'¹²⁶ that had (p.8) supplied an initial working definition used for the purposes of this project (box). In practical terms, this generally refers to ownership or control of 25% of a company or trust. As noted by the Inter-American Development Bank (2019)¹²⁷ the 25% threshold is widely used, however, they also observe that lower thresholds do operate in some jurisdictions, as is the case in Nigeria.

Project Definition of BO

Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

regular plenary discussions of the FATF encouraging national governments to increase transparency. It has been the topic of FATF reports, most recently 'Concealment of Beneficial Ownership' July 2018.¹²⁵ BO is also the subject of the FATF 2014 guidance paper 'Transparency and Beneficial Ownership'¹²⁶ that had (p.8) supplied an initial working definition used for the purposes of this project (box). In practical terms, this generally refers to ownership or control of 25% of a company or trust. As noted by the Inter-American Development Bank (2019)¹²⁷ the 25% threshold is

¹²¹ Inter-American Development Bank (2019) *A Beneficial Ownership Implementation Toolkit* Prepared by: The Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes, March.

¹²² FATF-Egmont (2018) *Concealment of Beneficial Ownership*, July.

¹²³ Thomas- Jones, D., (2020) 'Reviewing international standards on beneficial ownership information of companies' *Company Lawyer*, 41(5), 129-131.

¹²⁴ Open Ownership & Global Witness, (2017) "Learning the lessons from the UK's public beneficial ownership register" available at <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/learning-lessons-uks-public-beneficial-ownership-register/> (accessed 16/6/20); Mike Levi and Melvin Soudijn (2020) *Understanding the Laundering of Organized Crime Money* pp 579-631 in *Organizing Crime: Mafias, Markets, and Networks* Edited by Michael Tonry and Peter Reuter Volume 49 The University of Chicago Press, Chicago and London. Available on line at <https://www.journals.uchicago.edu/doi/10.1086/710751>

¹²⁵ FATF – Egmont Group (2018), *Concealment of Beneficial Ownership*, FATF, Paris, France Avail-able at <http://www.fatf-gafi.org/publications/methodsandtrends/documents/concealment-beneficial-ownership.html> accessed 12/04/2019.

¹²⁶ FATF (2014) guidance 'Transparency and Beneficial Ownership October <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf> accessed 12/04/2019.

¹²⁷ Op.cit. footnote 121.

5.5 Beneficial Ownership – Some of the Challenges

Despite intensified attention, basic empirical information to inform policy-making remains lacking. At a practical level, this is due to the primary focus of the prosecution being directed at the predicate offences. This is the frequently stated complaint of the FATF in general within mutual evaluation reports: as soon as the predicate crime is solved and prosecuted, there is little left-over capacity to ‘follow the money’ (Van Duyne et al., 2018).¹²⁸ As funds are fluid, they can be moved globally across the ‘virtual sphere’ making it laborious to determine which countries funds have transited through or, indeed, where they end up. More significantly, it is difficult to identify the point at which the ‘disguise’ of BO actually occurs. For example, whether that takes place within the national jurisdiction of the predicate offence or within other transit countries through which funds may move or alternatively within destination countries where funds are ultimately invested. A circumstance that does not further the detection of a hidden BO is a basic shortcoming in the international framework related to BO: an asymmetry in standards (and associated costs) being applied to those countries in the OECD and other well-resourced non-OECD states (Stessens, 2001,¹²⁹ Gilmore and Levi, 2002,¹³⁰ Rosdol, 2007¹³¹) in comparison with less resourced countries. FATF do recognise the challenges of low-capacity countries¹³² and as in [section 5.2](#) above, allow for flexibility in interpretation it is, nevertheless, important to point out that better resourced countries have more experience with multiple agency cooperation and information sharing.

5.6 Beneficial Ownership and Nigeria

The IMF (2019)¹³³ made a number of recommendations in connection with transparency of BO, drawing attention to the relevant AML tools that should have been deployed, in particular, to prevent theft or diversion of funds from State Owned Enterprises (SOEs). The IMF report also suggested an amendment to the NFIU’s STR template to ‘include a field for BO information when the object of the report is a legal person’ (p.16) and ‘amend the NFIU’s STR template to include a field to indicate if the individual in question is a PEP’ (p.17). We do not know if these changes have been included in the templates.

5.6.1 Problems Identified from our Meetings

One of the major issues from the perspective of law enforcement was that where available, records captured by the registries (land and companies) only contained information on legal ownership; going further to state that ‘*most of the owners of companies are not the BOs*’. That, very often, land registry records would not be updated as discussed above in [section 4.5.2](#).¹³⁴ either to avoid fees or to deliberately disguise ownership. Currently, to comply with due diligence, banks appoint lawyers to undertake manual searches of the largely paper-based registry records maintained by The Corporate Affairs Commission (CAC). Although it is noted that the CAC is intending to automate the system (see [section 5.6.2](#)). The compliance officers noted that companies will supply certified copies

¹²⁸ Van Duyne, P.C., Harvey, J., and Gelemerova, L., (2018) *The Critical Handbook of money laundering: Policy, analysis and myths*, Palgrave Macmillan.

¹²⁹ Stessens, G. (2001). *The international fight against corruption*: General report. *Revue internationale de droit pénal*, vol. 72,(3), 891-937. doi:10.3917/ridp.723.0891.

¹³⁰ Gilmore, W., & Levi, M. (2002). Terrorist Finance, Money Laundering and the Rise and Rise of Mutual Evaluation: A New Paradigm for Crime Control? *European Journal of Law Reform*, Vol. 4, No. 2, 2002, p. 337-64.

¹³¹ Rosdol, A (2007) "Are OFCs leading the fight against money laundering?," *Journal of Money Laundering Control*, Vol. 10 Issue: 3, pp.337-351, <https://doi.org/10.1108/13685200710763498>.

¹³² "Low Capacity Countries" which may face particular problems and need specific aid in terms of the "effective prioritisation and implementation of the FATF standards on money laundering and terrorist financing". Are set out in FATF, 2008. They are characterised as facing:(i)Competing priorities for scarce government resources; (ii)Severe lack of resources and skilled workforce to implement Government programmes; (iii)Overall weakness in legal institutions; (iv)Dominant informal sector and cash-based economy;(v)Poor documentation and data retention systems; and (vi)Very small financial sector.

¹³³ IMF (2019) Nigeria – selected issues report (April).

¹³⁴ Also see ‘Digitisation Imperatives for Nigerian Real Estate Registries’, April 5, 2020 available at <https://www.lexology.com/library/detail.aspx?g=50ff73a7-63c3-498a-a74a-df215cc3528d>.

of documents to the banks but that these still have to be verified with the CAC. ICPC were also very keen on the assistance that they saw as forthcoming from a registry of BO. For example, they thought a BO register would provide them with greater ability to trace assets. In particular, this would *'help them challenge 'fraudulent resignation' of government officials from companies where the other owners are family members thereby not reducing their influence although this arrangement has been used successfully in the past to help people escape punishment'*. It is also interesting the ICPC noted that BO was a new concept (for judges) and that *'courts have to be brought on board'*. In this context they provided the following example:

'a public officer was not a member of a company or a signatory on their accounts but Naira 1m came in and naira 980k left their account as movements between them and the company - the court response was 'I do not see a connection between the person and these funds' – judges are still too conservative to believe these things are happening'.

From our workshop, the CAC pointed out that they were aware of consistent non-conformity with respect to BO disclosure, as it is not within their data capture form. CAMA 1994, s. 94 -98 covered disclosure of beneficial interest in shares and thus only required disclosure of substantial shareholders in a public company. S.95 (2) sets out the obligation of disclosure by a substantial shareholder whereby *'a person is a substantial shareholder in a public company if he holds himself or by his nominee, shares in the company which entitle him to exercise at least 10 per cent of the unrestricted voting rights at any general meeting of the company'*. Such obligation was enforceable through a small (50 Naira) daily accumulating fine. We were informed that the purpose of the 1994 Act had been to prevent the illegal acquisition of shares in a company. CAC further noted that it was only from 2012 that each director of a company has had to submit formal ID. They realise that data captured prior to 2012 may, therefore, not be correct but they cannot insist it is updated. Although it is noted that a recent paper by Tax Justice Network (2020: 26)¹³⁵ concluded that Nigeria had effective legal ownership registration requirements for companies but that this information did not have to be updated annually. With the support of Open Ownership, CAC disclosed they had been working on an appropriate framework: who is/are the BO(s); what threshold should be applied, and, what is the correct disclosure mechanism and who should be the lead agent. The focus is on those who *'exert control'*. The UK threshold of 25%,¹³⁶ had not been adopted because of concerns in relation to the extractive sector where a 5% block of shares in an oil company is significant, hence the choice of 5%.¹³⁷ Looking forward, CAC are *'committed to [an] open and transparent register of BO open to all with access to company data available free of charge extend[ed] to include BO information beyond that currently collected on legal ownership'*.

5.6.2 CAMA 2020

Disclosure of significant control and beneficial ownership is now included within Nigeria's Companies and Allied Matters Act (CAMA) 2020. A piece of legislation that has had a slow and tortuous journey through the legislative process. Relevant sections of the Act are s.119-123 (disclosure of persons with significant control) and s.791 (disclosure of significant control in a limited liability partnership); s.868 explains significant control.¹³⁸ Under the

¹³⁵ Etter-Phoya, R., Danzi, E. and Jalipa, R., (2020), *Beneficial Ownership Transparency in Africa: The State of Play in 2020*. Tax Justice Network, June 2020, Available at SSRN: <https://ssrn.com/abstract=3640402> or <http://dx.doi.org/10.2139/ssrn.3640402>

¹³⁶ In the UK Beneficial owner in respect of a body corporate (company or LLP) means: any individual who exercises ultimate control over management; any individual who ultimately owns or controls (directly or indirectly) ... more than 25% of the shares or voting rights; or an individual who controls the body corporate. (Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017/692 Regulation 5).

¹³⁷ In contrast, the compliance officers saw the level of disclosure of holdings for corporate on-boarding at 5% as being too low and that it should be moved to 10% or 15% in line with a number of other countries.

¹³⁸ A person with significant control means any person directly or indirectly holding at least 5% of the shares or interest in a company or limited liability partnership.

provisions of the Act, s. 119 (1) an individual who gains significant control over a company must, within seven days, disclose to the company details of the shareholding. On receipt of the information (s.119 (2)), the company is required to notify the CAC within a period of one month and also include the same information within the next annual return. S.119 (3) provides for the updating of the register by CAC. The provisions are enforceable by a fine (daily during the period of default) that is to be determined by the CAC under its regulations (s.119 (5)). The same provisions apply under s.791 to Limited Liability Partnerships. An obvious weakness in the legislation is that the penalty for non-compliance is limited to a fine which will restrict its overall effectiveness. Nevertheless, a strength may be that the reporting requirements apply to circumstances in which shares are acquired and subsequently sold within the 14 day notice period (s.120 (4)) if enforceable this could provide a potential flag for further investigation.

However, producing legislation to develop a register is just one of many hurdles that need to be overcome in Nigeria. For example, the CAC will now have to launch a website for the register, although at our workshop, they expressed confidence in being able to do that within three months of the passing of the legislation. That would be a tough task at the best of times, but the Commission also faces the monumental task of automating what is still a largely manual record system containing basic information about company ownership – such as registration number, company name, address and date of registration - gathered in accordance with legislation passed in 2004. A second hurdle is a fact the existing records need updating to allow for the inclusion of information on the beneficial owners of each company. Moreover, each of these pieces of information – old and new - should be verified by the Corporate Affairs Commission, otherwise, the information is likely to be both inaccurate and unreliable. Despite their clear enthusiasm for the register, it is questionable whether the CAC have the capacity to police the system.

Therefore, it is not going to be an easy task to construct an open, searchable register that meets the tests of accuracy and reliability. NEITI,¹³⁹ with assistance from OpenOwnership (working with NEITI under the Open Government Partnership), now has a searchable register available. However, a search of the NEITI register reveals certain information on companies with interest, but not yet the details of the direction of the ownership.¹⁴⁰ Unfortunately, this makes it impossible to identify the identity of the ultimate beneficial owner(s). NEITI is to be applauded for getting this far in obtaining and providing access to information about ownership in the extractive sector. However, NEITI remains reliant on the companies themselves providing accurate information as they presumably have neither the resources nor the mandate to authenticate its accuracy, with companies accepting liability and bearing the consequences of the law for any information found otherwise.¹⁴¹ We further understand that both Open Government Partnership and

Questions:

- (5) How can CAC be supported to maximise success of the register?
- (6) What other reforms or changes could be brought about to improve the chances of success of the register?
- (7) How can the information on the register be presented in a way that is of use to the private sector and not just to AC agencies?

¹³⁹ NEITI's Oil and Gas Industry Audit Report (2018) and associated appendices includes information for 71 companies with audited data, the NLNG and 12 companies with incomplete information (selected as above their materiality threshold – the report notes 33 companies account for 98.67% of total revenue – p16). From their website we identified some of the largest companies as being split between Joint Ventures (14) and Production Sharing Contracts (41). The 2018 annual report from the Department for Petroleum Resources (DPR) provides a list of 164 different oil and gas companies listed as operating in Nigeria.

¹⁴⁰ In addition, we tried to investigate the ownership structures for the 10 largest oil companies but found very little ownership information in the public domain.

¹⁴¹ Email exchange with NEITI.

the CAC are promoting the integration of the NEITI BO register within the overall CAC BO register.¹⁴² Given the concerns over the oil sector, we would support the integration of data from NEITI with that of CAC. It would also be beneficial to see further collaboration with open contracting, particularly with the transparency of contracting at state level that is being supported by the World Bank.¹⁴³

5.7 Data Capture Forms

A great deal of information (almost too much in some cases) is collected on beneficial ownership by different

Agency	Format of Form
FIU – STR submission form	Not available
CCB – asset declaration form	Word document with free form fields for use by government employees only available from 1 st Schedule, Form CCB1, Pg.10; Code of Conduct Bureau.
Land registry – title registration form	Fillable PDF for the Federal Capital Territory Administration, Department of Land Administration - Application for Grant/Regrant of a Statutory Right of Occupancy for an Individual and for an organisation. Available from https://agis.fcta.gov.ng/wp-content/uploads/2018/03/New_Application_Individual.pdf ; http://agis.fcta.gov.ng/wp-content/uploads/2018/03/New_Application_Organisation.pdf
SCUML – Business Registration form	Web based Business Registration form https://scuml.org/registration2/
Customs –CTR submission form	Not available
CAC registration form	Fillable PDF Form CAC 1.1 - Application For Registration of Company http://www.cac.gov.ng/forms/
FIRS – personal tax declaration form	Federal capital territory internal revenue service (individual states have their own forms) Personal Income Tax Return Form. Company income tax form is available: https://www.firs.gov.ng/TaxForms/CITForm

agencies, what is missing is the institutional capacity to bring it together in a timely and useable form for those who need to make use of the information. We were told of agencies finding it difficult to share data and that record keeping differs between agencies. We have begun to look at the content of registry and other data capture forms to see what information is requested and held by different agencies (Table 10). Of particular interest is the personal identification information (variables, fields and format) that is collected by multiple agencies. The reason for this work is to find out what information could usefully be shared between agencies in furtherance of both BO identification and prevention of corruption. This would concern what is collected, by whom, in

what format and to what end. To be useful, records have to be accessible (on-line if possible), accurate, shared in a timely manner and in a format that is usable. Improvements in records management would include creation of a single unique identifier to individual records, ensuring that records once established, could not be altered or amended without authorisation. This work is ongoing.

5.7.1 Inconsistencies

An immediate observation from this data is that some agencies separate fields for first, middle and family name (e.g. land and personal tax) some ask for ‘full name’ as a single field (company registration application and asset declaration). The asset declaration form does not ask for any identifying information beyond name. The taxpayer

¹⁴² Meeting on Deepening Understanding of CAMA 2020 Beneficial Ownership (BO) Provisions hosted by Transparency and Information Development initiative (September 2020).

¹⁴³ Discussions with Open-contracting, Washington, January 2020.

ID number (TIN) is used across the tax data forms and by SCUML. Personal identification numbers (passport, driver's license or national ID) are requested for the individual taxpayer information form (to register for tax) and for application for company registration and by the NFIU.¹⁴⁴ Data that would be useful – tax information, asset declaration forms are rendered less useful because of the limited compliance already discussed. Court cases do not use a single unique identifier that would enable cases to be followed through the different courts and assets recovered to be tied back to those cases.

Questions:

- (8) Would there be support for measures such as improved records management?
- (9) Where might resources be focussed to maximise success of register of beneficial ownership for example in improving records management?
- (10) Is it feasible to consider sharing of a unique identifier of natural persons across different agencies?

5.8 Observations

Critical to the usefulness of the BO register will be the scope and reliability of the data. Key will be data identification and verification and who polices its accuracy when provided. In addition, thought should be given to creation of the best environment for ensuring the success of the register of BO by focusing on the institutional and procedural arrangements for BO information. This will include tracking the administrative and other arrangements to collect, collate, verify and provide access to BO information. It is helpful at this early stage to reflect on other changes that would improve chances of success of the register – how useful would it be to private sector and how would it be deployed? How helpful could it be to prosecutors? Value can be added through potential links to other information sources. For example, could BO information be matched to tax authority records, extractive industries data or to Code of Conduct Bureau records. Sustainability of the register will be enhanced through identification of those agencies most likely to benefit from the use of BO information and the added value arising from shared intelligence between agencies. We would ask that agencies think about which other agencies they would benefit from working alongside and why. Is it possible to create an operational level 'affinity' working group on intelligence sharing in connection with ownership disclosure?

6 Grand Corruption Case Analysis

6.1 Overview

We have commented upon the complex AC landscape (section [4.4,4.5](#) and [4.6](#)) in which problems have been addressed through creation of additional agencies and the lack of available data to permit meaningful review of effectiveness (section [4.7](#)). The purpose of this section is to consider whether BO information would have helped in case investigation of grand corruption. We briefly review the historical situation before considering the issues that were identified from our meetings, in particular the deficiencies within the court process. We provide our overview of the cases that were shared with us by HEDA together with detailed analysis of two cases prior to presenting our observations.

6.2 The Historic Situation

Nigeria has been referred to as the economic "power house" of West Africa contributing nearly 50% of the regional GDP (MER, 2008:9), and it is the 8th largest producer and the 6th largest exporter of petroleum in the world.

¹⁴⁴ Under section 27 of the Economic and Financial Crimes Commission (Establishment) Act, 2004, where a person is arrested for committing an offence, he or she must make a full disclosure of his or her assets and property by completing the declaration of assets form as specified in Form A of the Schedule to the Act. The completed form shall then be investigated by the EFCC. It is an offence to make a false declaration or refuse to make full disclosure or any disclosure at all. This form https://www.imolin.org/doc/amlid/Nigeria_EFCC_Act.pdf requires an extraordinary amount of information.

Nigeria also has one of the world's highest natural gas and petroleum reserves and is a member of the Organization of Petroleum Exporting Countries (OPEC). Within the West African region, Nigeria is an active Member and contributes about 80% of the Economic Community of West African States' (ECOWAS) Fund. In 2002, Nigeria's per capita income was about one-quarter of its mid-1970s high, and lower than at independence. This situation led to massive growth of the "informal sector", which represents close to half of the total cash-based economy to-day.

It is against this background that systemic corruption has been identified as one of the greatest obstacles to the stability and overall development of Nigeria and a consequent constraint to growth (DFID Nigeria Operational Plan, 2014).¹⁴⁵ UNODC (2017)¹⁴⁶ states in its report, Corruption in Nigeria, Bribery Public Experience and Response, that bribery is 'clearly a significant issue in the lives of Nigerians' (p.13), which implies more than this general statement. It means a hidden parallel income and cost structure in which on each level one tries to remain at least even, but preferably having a net gain. At the bottom end of society, there is no net profit: those at the bottom only pay. The higher up one goes, the higher the net profits, with the connected criminal activity: money laundering.

In Nigeria, corruption generates the highest proceeds for money laundering (GIABA, 2010).¹⁴⁷ The FATF typology report (2011)¹⁴⁸ mapped the mechanisms of grand corruption and of PEPs that have employed the banking and legal infrastructure using examples from Nigeria (amongst others). It is suggested that close to \$400 billion were estimated to have been stolen from public accounts in Nigeria between 1960 and 1999.¹⁴⁹ As Nigeria has been described as 'one of the world's most complex corruption environments' (Page, 2018:2),¹⁵⁰ it was necessary to draw some boundaries around the scope of our research as described in [section 1.1](#).

6.2.1 Issues Identified from our Meetings

Not surprisingly, it was the police respondents who had the most to say in connection with prosecuting corruption cases. They pointed to the delays in trials, particularly for high profile PEPs which can 'see loss of witnesses and of investigators retiring or moving on'. We were informed of 'pressures from the political cycle', and other broader 'technical difficulties':

'There are efforts made to stifle the court systems, defendants throw money at the cases to stall through interlocutory injunctions such as challenges to jail location or to the independence of the Judge. If cases get to court defence counsel will apply for bail and lodge endless appeals. Funds for this process will not be in the name of defendant (as the defendant will have been subject to a restraint order prior to court) but from friends and associates. The complexities of the cases and overload of cases causes severe delays'.

A similar argument was made by the ICPC. They told us that chief judges in each state were to have designated at least one judge to deal with financial crime and corruption cases but that 'their dockets are congested' by other cases. The ICPC have argued the need for special courts¹⁵¹ although there is resistance to this from within the

¹⁴⁵ DFID (2014) Operational Plan 2011-2016 DFID Nigeria, Updated December 2014 available at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389311/Nigeria.pdf

¹⁴⁶ UNODC (2017) Corruption in Nigeria: Bribery: public experience and response, July published in collaboration with the Nigerian Bureau of Statistics. Available at: https://www.unodc.org/documents/data-and-analysis/Crime-statistics/Nigeria/Corruption_Nigeria_2017_07_31_web.pdf

¹⁴⁷ GIABA (2010) "Corruption-Money Laundering Nexus: An Analysis of Risks and Control Measures in West Africa".

¹⁴⁸ FATF (2011) Laundering the Proceeds of Corruption, July.

¹⁴⁹ These statistics come from UN Office on Drugs and Crime (2007), 'Anti-Corruption Climate Change: it started in Nigeria', speech by Antonio Maria Costa at 6th National Seminar on Economic Crime, Abuja, 13 November 2007.

¹⁵⁰ Page, M.T., (2018) *A New Taxonomy for Corruption in Nigeria* Carnegie Endowment for International Peace, July https://carnegieendowment.org/files/CP_338_Page_Nigeria_FINAL.pdf.

¹⁵¹ This same call was repeated at the meeting on Deepening Understanding of CAMA 2020 Beneficial Ownership (BO) Provisions hosted by Transparency and Information Development initiative (September 2020).

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judiciary.¹⁵² In the view of the ICPC, the judiciary would prefer that rather than special courts, more judges are appointed however *'if they are used to the old ways it will not improve their productivity'*. The ICPC noted the apparent reluctance of the judiciary to invoke powers under the Criminal Justice Act 2015 to restrict the number of adjournments. From our meetings in Washington we were informed of several issues in relation to court processes including: (a) a lack of functionality in court procedures such that defendants can pursue *'impunity through delay'*; (b) that judges record proceedings in long hand (there is no court stenographer or recording/transcription of court records) so it is difficult to obtain a record of such court proceedings; (c) the existence of a system of rotation in place for judges that also causes problems - if a new judge is appointed trials are re-started. It was noted that *'things are possibly stronger at the federal rather than at the state level'* (also see IMF 2019:20).¹⁵³

A different area of discussion emerging from the stakeholder workshop was in relation to the existence of a feedback loop following an investigation in which a bank is involved. The CBN confirmed that the bank would be subject to sanctions by the CBN. The information arising from the analysis of STRs is sent by the NFIU to the relevant agency e.g. the EFCC or NDLEA for further action and then may (but not always) be sent to the Central Bank for sanction.¹⁵⁴ It is important that the CBN helps facilitate the wider sharing of intelligence with the regulated sector so that they can update their red flags.

Dubai featured prominently in the 'money laundering schemes' practical exercise that formed part of our workshop. In particular, the purchase of property. Page (2020: 8-9)¹⁵⁵ sets out the four conditions under Nigerian law that would enable a PEP to purchase property in Dubai. *First*, a PEP must be able to explain the origin of funds used to buy the property (EFCC, 2003, s. 6.2; 2000 Corrupt Practices and Other Related Offenses Act, s.44(2)). *Second*, a PEP must be able to show that the funds were transferred abroad legally. Page notes the inherent complexity in this requirement citing the prohibition of overseas accounts by senior public officers;¹⁵⁶ and reporting requirements on financial institutions (CTRs for sums over N5m, STRs in case of suspicions and monthly PEP reports - see [section 4](#) of this report). *Third*, if the purchaser is a public office holder or civil servant, the property must be disclosed on their official asset declaration submitted to the Code of Conduct Bureau (see [section 4](#) of this report). *Fourth*, Nigerians holding assets abroad should declare them for tax purposes, even though many types of foreign income and assets are not taxed ([section 3](#) of this report). It was suggested to us by the former FBI agent that in 2014 some 60% of luxury properties purchased in Dubai were by Nigerians (many using cash) although we have not investigated this further.¹⁵⁷

¹⁵² Although we understand that, at the special court session held at the Supreme Court in Abuja to mark the commencement of the new 2017/2018 legal year, the then Chief Justice of Nigeria, Justice Walter Onnoghen, directed heads of various courts in the country to create special courts for corruption cases in order to ensure speedy determination of such cases.

¹⁵³ IMF (2019) Nigeria – selected issues report (April).

¹⁵⁴ We are not aware of individuals within banks being prosecuted for AML offenses, although we note the withdrawal of the \$153m Fraud Case Against Former Executive Director Of First Bank, in connection with the ongoing Alison-Madueke case <http://saharareporters.com/2020/10/07/new-efcc-chairman-orders-withdrawal-153m-fraud-case-against-former-executive-director> (accessed 11/10/2020)

¹⁵⁵ Page, M. (2020) *Dubai Property: An Oasis for Nigeria's Corrupt Political Elites*, March, Carnegie Endowment for International Peace, Working Paper.

¹⁵⁶ Citing Federal Republic of Nigeria, Constitution of the Federal Republic of Nigeria (1999), Fifth Schedule, Part I, Section 3.

¹⁵⁷ Although Dubai may now be less attractive as overbuilding has seen sale prices drop to 896 dirhams per square foot, 35% below the 10 year peak of 1,380 dirhams in 2014, Economist, Dubai – Old is gold' October 17th 2020.

6.2.2 The Administration of Criminal Justice Act (ACJA) 2015

The ACJA was enacted into the Nigerian law in 2015 to tackle the challenges facing the Nigerian Criminal Justice System, which over the years had been considered as ineffective and repressive. The ACJA unifies the main provisions of two principal pieces of legislation, Criminal Procedure Act (CPA) and Criminal Procedure Code (CPC), into a single Federal Act that is intended to apply uniformly in all federal courts across the Federation. Considerably, it preserved the existing criminal procedure systems whilst introducing provisions aimed at enhancing the efficiency of the justice system.

The key section of the ACJA 2015 dealing with delay is s. 396 'Time for raising certain objections, day-to-day trial and adjournments'. Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial (s.396(3)). However, where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournments from arraignment to final judgment provided that the interval between each adjournment shall not exceed 14 working days (s.396(4)). Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days inclusive of weekends (s.396(5)). It should be noted that in all circumstances, the court may award reasonable costs in order to discourage frivolous adjournments (s.396(6)).

A review of cases,¹⁵⁸ points to several factors such as frequent adjournment of cases due to incompetence of public prosecutors, congested dockets of the courts, and dilatory tactics of defence counsels. However, most frequent is the abuse of interlocutory appeals which has the effect of rendering *otiose* the summary jurisdiction of the Federal High Court. The implication of the provisions of section 396(3) and (4) of ACJA on the duration of a criminal trial is that, on the average, proceedings in a criminal trial, upon arraignment of the defendant, should be within ten months, inclusive of the constitutional 90 days allowed for delivery of judgment, after final addresses, under section 294(1) of the Constitution of the Federal Republic of Nigeria, 1999, as amended. Under ACJA, about 70 working days (five adjournments multiplied by 14 days allowed interval are permitted for the maximum number of adjournments, each, for the prosecution and the defendant. This means a total of 140 working days or seven months) for both the prosecution and the defendant. From the review, it is evident that the judges did not adhere to this section. The intervals between adjournments are over 14 days and some of the cases have already exhausted the initial five adjournments but continue, for example, the case of Joshua Dariye former Governor of Plateau State lasted for a total of 8 years (although it is noted that the case commenced prior to the passage of the law).¹⁵⁹

The LEAs have investigated and prosecuted several cases of corruption, including those involving PEPs and some assets have been recovered; yet, there are still deficiencies associated with the quality of investigation and prosecution, which may have led to some unsuccessful prosecutions. The Administration of Criminal Justice Act, 2015 introduced to address those challenges, as well as some recent case laws shifting the burden of proof on the accused provide recent additional powerful tools in Nigeria's anti-corruption arsenal. However, as noted, evidence suggests that judges fail to utilise the powers granted to them under the ACJA Act.

It is, therefore, of concern to learn of a recent judgment of the Supreme Court that appears to nullify s. 396(7) of the ACJA which allows the President of the Court of Appeal to allow a newly appointed Justice to the CA to conclude an on-going case before him at the High Court. In quashing the conviction of Orji Uzo Kalu, former

¹⁵⁸ Examples include: FRN v. Babalola Borisade, (2015) All FWLR (Pt. 785) 227; Joshua Dariye v. FRN (2015) 10 NWLR (Part 1467) 325; Nyame v. FRN, (SC.136/2009); EFCC v. Orji Uzor Kalu, Former Governor Abia State; EFCC V. Dele Belgore, Prof Abubakar Suleiman (on-going); FRN V. Ibrahim Shehu Shema; and ICPC V. Kawu Modibo.

¹⁵⁹ A Supreme Court ruling on this case has addressed the problem of interlocutory injunctions.

Governor of Abia state, it was held that a Justice of the Court of Appeal cannot operate as a judge of the Federal High Court, and thus the case should be reassigned for a fresh trial. The Supreme Court argued that the original decision by the president of the court of appeal to authorise the trial judge to return to the high court to conclude the trial was unconstitutional.

6.3 Cases of Grand Corruption

6.3.1 HEDA Documented Cases

Our work in this area followed two approaches. The first involved an analysis of 100 cases from HEDA 2018, updated by their report 2019.¹⁶⁰ We benefitted from a phone interview with HEDA¹⁶¹ in which we were able to clarify our questions regarding the search criteria they employed; their method of case selection; sources of information used and how the offence category was defined. The impetus for their work had been to raise public awareness of the court delays around cases involving high profile individuals. Their case selection had, therefore, been based upon high profile corruption cases brought to court during the last decade involving (1) public officers and (2) substantial sums¹⁶². From the 2018 report, we removed dismissed/acquitted cases, deaths before conviction, and cases with a serious lack of information. This left 48 cases from the compendium for which there was sufficient information to clarify method used. These were looked at in terms of the most usual methods of laundering the proceeds of illegal activity as described in Table 11.

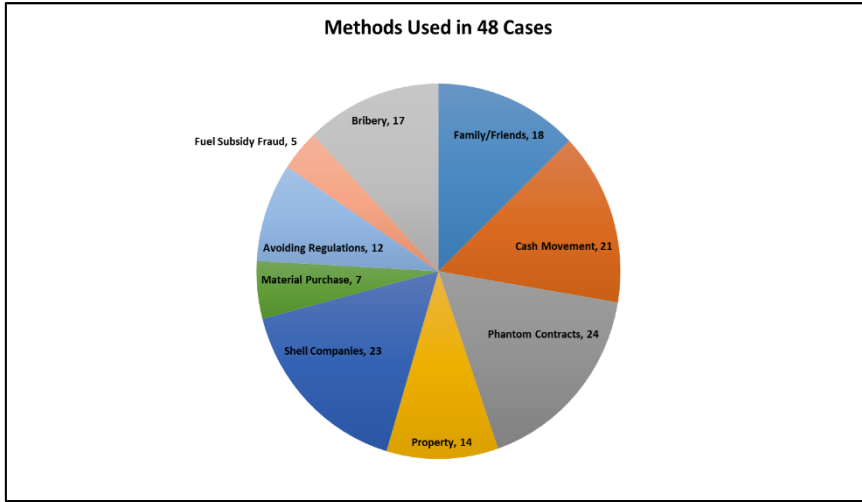
Table 11: Most usual methods of laundering	
Method	Our Explanation
Family/Friends	The use of Family/Friends to divert funds. (Can be a company owned, bank account, property purchase or cash withdrawal from bank)
Cash Movement	Withdrawal and or movement of large cash sums to disperse internationally or cash investing.
Phantom Contracts	Falsification of work contracts to initiate removal of funds.
Property	Investment/Purchase in property, usually through a family/friend to hide BO.
Shell Companies	A company created (or ceased trading old companies) used to hold funds which can be related to an unexecuted contract.
Material Purchase	Purchase of materialistic items (Gold, Diamonds, Cars, etc.), which can be sold on.
Gambling/Casinos	Mainly online gambling, this enables withdrawn funds to be passed back into bank accounts, cited as "winnings".
E-Money/E-wallet	Used to purchase goods or hold money, can be purchased by cash. Less regulated industry than banks
Avoiding Regulations	Purposely avoiding regulations (ie cash withdrawal declarations over certain amounts, falsified sign offs, tax avoidance).
Fuel Subsidy Fraud	Sending/Receiving Funds through Fuel Subsidy Scheme to divert public funds.
Bribery	Use of assets to coerce others into laundering activity, retain information, receive contracts, withdraw cash etc.

¹⁶⁰ <https://hedang.org/>.

¹⁶¹ April, 2020.

¹⁶² We note that we cannot say anything about the relationship between these selected 100 cases and the totality of all known cases. However, as these cases largely overlap with those reviewed in section 6.3.2 we are reasonably confident that they are a representative sample.

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As seen in the chart (methods used in 48 cases), the bulk of cases related to the diversion of public funds. These follow a pattern of extracting funds initially via phantom contracts to a shell company account (usually owned by a friend/family member), from which cash is then withdrawn from the account or transferred to several other accounts (sometimes abroad)

to either retain or invest (material purchase, property, gifting family/friends). In some cases, cash is withdrawn and hidden in property owned by the defendant/s. Bribery seems to be used in many cases to retain the loyalty of aides to high ranked officials conducting the fraud. Four of the cases of fuel subsidy retain links to Diezani Alison-Madueke and a PDP polling ramp, to which the funds were being diverted to spend on influencing elections in 2015. None of the cases mentioned the use of E-wallets/gambling to launder funds.

Of the PEPs involved in these cases, there are a large number of state governors: 39 of the 100¹⁶³ (of which 21 cases commenced after 2014) pointing to a particular vulnerability of this part of the government system. As discussed in section 6.2.1, a number of prosecuted cases were delayed in courts, and this is also evident from the HEDA case information. For the 65 cases marked as pending, 38 had reasons for delay or dismissal that can be improved or questioned. 45% were delayed or in process of being delayed by requests and appeals in court.

Breakdown of pending cases (65 in total)	
Convicted and Sentenced (file not updated)	3
Delayed by appeals	17
EFCC No case or lack of evidence	9
Absence of Defendant (abroad or medical grounds)	8
Absence or death of prosecution witness	4
Defendant deceased	3
Plea Bargain or Settlement	5
Lack of information on trial	7
Refusal to appear in court, gathering defence	9

Appeals included but are not limited to: "no case", requests to travel (medical grounds), bail, lack of faith in judge, forcing trial within trial, etc. A large proportion of the appeals are based on bereavement/medical grounds with a request for travel, with "no case" being the second most popular appeal lodged. 24% of cases were dismissed and acquitted without charge with the judge citing a lack of evidence from prosecution or witnesses. This suggests that EFCC should pay attention to evidence management, timing of its presentation in court and ensuring that the strongest evidence that clearly ties the charge to the defendant is presented. 21% saw cases being adjourned multiple times due to the defendant or defendants not appearing before

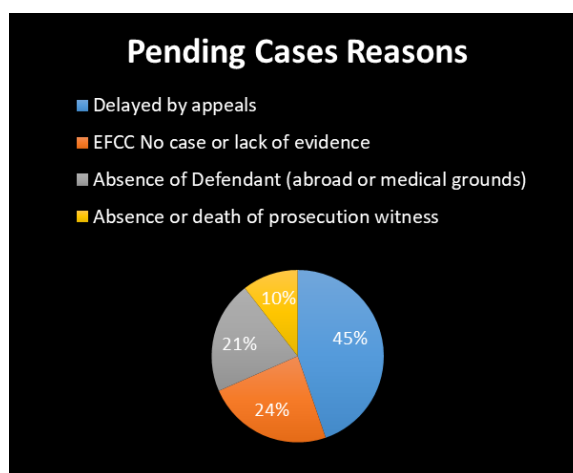
court, either due to medical grounds, bereavement, and in some cases, outright refusal. Lack of restraints on defendants is evident here, is it possible for the case to proceed in the absence of the defendant based on

¹⁶³ 2018 HEDA report.

prosecution evidence? 10% of cases saw trials being delayed due to prosecution witnesses failing to attend and in some cases the death of a witness.

6.3.2 EFCC ‘43 High Profile Cases’

A second source of information followed an analysis of a sub-set of 37 of the 43 ‘high profile cases’ (matching to the project definition of grand corruption) taken from the EFCC website and from the ICPC. Many of these matched cases from HEDA. Using this preliminary data list we reconfirmed the status of each noted case from different data sources such as EFCC routine publications, ICPC publications, TransparencIT data base, CLEEN Foundation data base and some national newspaper publications to identify concluded cases with judgment passed as at May 2020. At that time, convictions had been secured in 20 cases with time from first filing to conviction taking from between 1 and 12 years with a mean of 4.75 years. There were six acquittals taking an average of 6.3 years to process and six cases remain ongoing.



To gain understanding of how potentially complex a case can be when looked at from the perspective of Beneficial Ownership, we selected two cases for detailed analysis. We provide illustrations of these two cases, showing our understanding of the case together with the networks involved. All information is taken from public source documents and in presenting it here, we make no comment or inference about the actions of the companies or individuals named in the case information.

Mrs Diezani Alison-Madueke, (former Oil Minister; alleged embezzlement \$1.6bn) and associates, a case that is still ongoing. The former Minister for Petroleum Resources under Goodluck Jonathan oversaw Nigeria’s state-owned oil company. She is alleged to have used her influence to direct a subsidiary of the Nigerian National Petroleum Corporation (NNPC) to award contracts to shell companies (created in Nigeria) that were owned by existing business associates. From Nigeria, the proceeds of those illicitly awarded contracts were then ‘laundered’ through companies (and banks) in the BVI, Switzerland, the US and the UK. In the latter two countries the proceeds were used for the successful purchase of various assets, including extensive property in London, a \$50 million condominium located in one of Manhattan’s most expensive buildings – 157 W. 57th Street – and the Galactica Star, an \$80 million yacht that was built in the Netherlands. There would have been multiple points at which STRs/SARs could have been made – not only within Nigeria¹⁶⁴ but also within both the US and the UK, certainly from banks (the CEO of the Nigerian Bank was instrumental in this case) and also from estate agents. Companies were all formed between 2011 and 2014, some within a short time of each other. A search through the UK companies house shows companies still registered to the named business associates that feature in this case. Chart (Diezani Alison-Madueke \$1.6 bn Nigeria Oil Corruption) illustrates our understanding of the case, constructed from public source documents including information released by the EFCC, the US Federal Bureau of Investigation, the Swiss Trader ‘Opaque Deals in Nigeria’ report and news reports. To aid interpretation, purple lines indicate company subsidiary; green lines indicate allocated oil transactions; brown lines are fund transfers within subsidiaries; red lines are money laundering related transfers and blue indicate strategic agreement/partnerships. The next Chart (People involved: relationships and their companies) focuses specifically

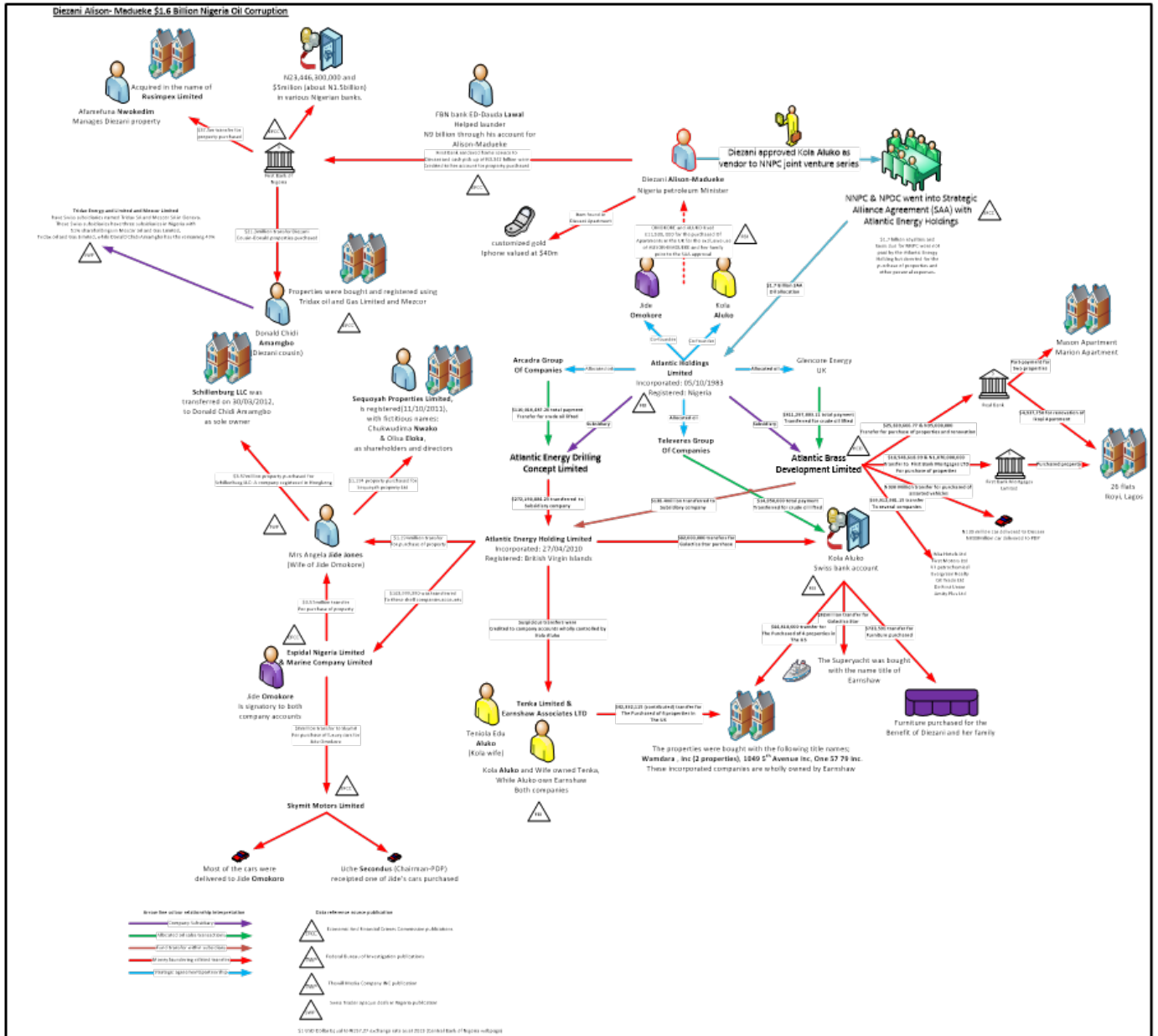
¹⁶⁴ We understand it was evidenced in the case of Mrs. Alison-Madueke that all transactions relating to her dealings and that of her associates were rendered to the appropriate authority.

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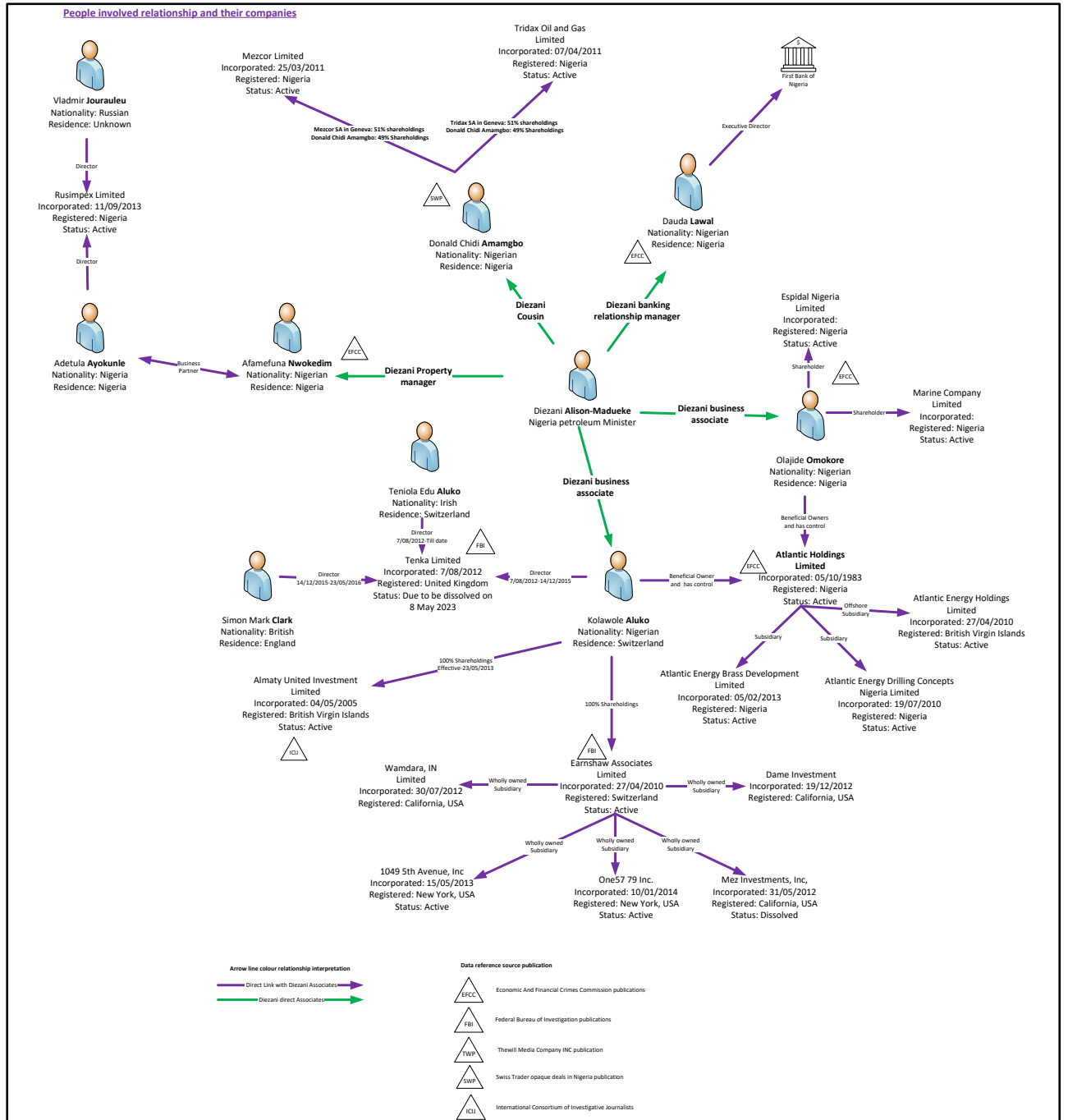
on the relationships and associations between various individuals. In addition to the sources cited we also used information from the International Consortium of Investigative Journalists. On this chart the green lines show the links from Diezani to the associates and the purple lines show the links from companies to the associates, we have included, where possible, the location of company registration and its current trading status.

Rev. Jolly Tevoru Nyame, (former Taraba State Governor, Criminal Breach of Trust) sentenced in 2018 to 14 years in prison. The former Governor of Taraba State was found guilty of using his influence to commit procurement fraud in connection with supplies and equipment attached to a range of projects and activity taking place between December 2004 and April 2007. These included stationery and office equipment, an ongoing contract for the Rehabilitation of the Ibi Wukari Water Project, purchase of grain and preparations for a Presidential state visit. Two domestic companies were used, Salman Global Ventures Nigeria Limited (incorporated in March 2003) and Alusab International Nigeria Limited (no date available). From the available details it is apparent that State Government cheques were paid into bank accounts held with a commercial bank (Zenith Bank plc) against which cash could be withdrawn, on at least one occasion over the CTR reporting limit. The Chart (Jolly Tevoru Nyame criminal breach of trust case) uses information primarily from the Federal Capital Territory (Abuja) high court judgment document for case charge No: FCT/HC/CR/82/07 to illustrate our understanding of the case. For this chart, the purple lines illustrate the cheque payments in favour of the Governor, green lines show the actual amounts spent from the approved sum for the correct purposes; the red lines indicate the money laundering related cash flows and the blue lines are the actual amounts approved for related expenses. The final Chart (standard process for stationery procurement) takes one area of the case to show the correct procedures to be followed according to the government financial regulations and how these were circumvented. In this Chart the dark blue line shows where correct process was followed, the green line shows the procedures that were circumvented and the red dotted lines show the funds diversion that took place.

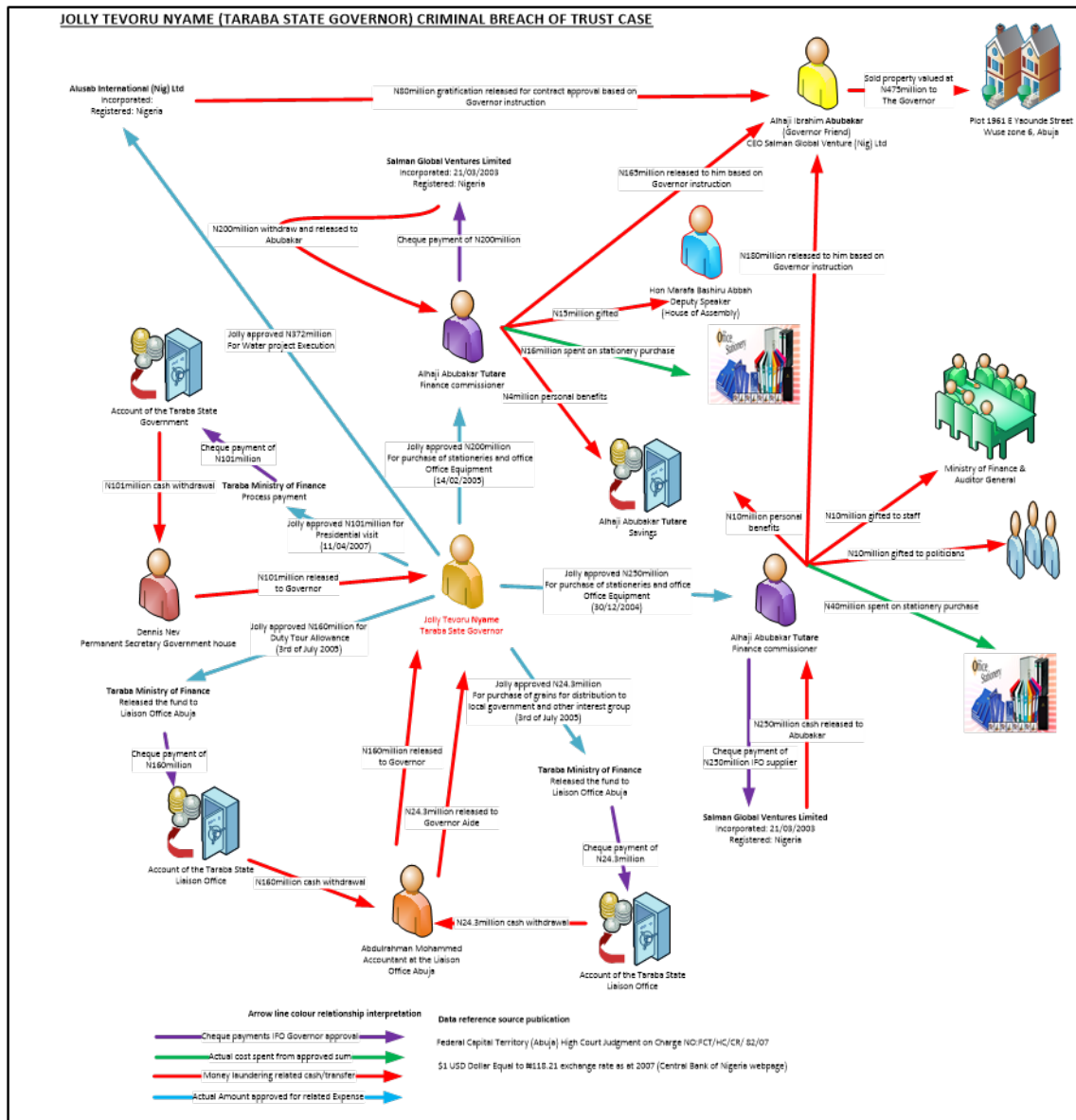
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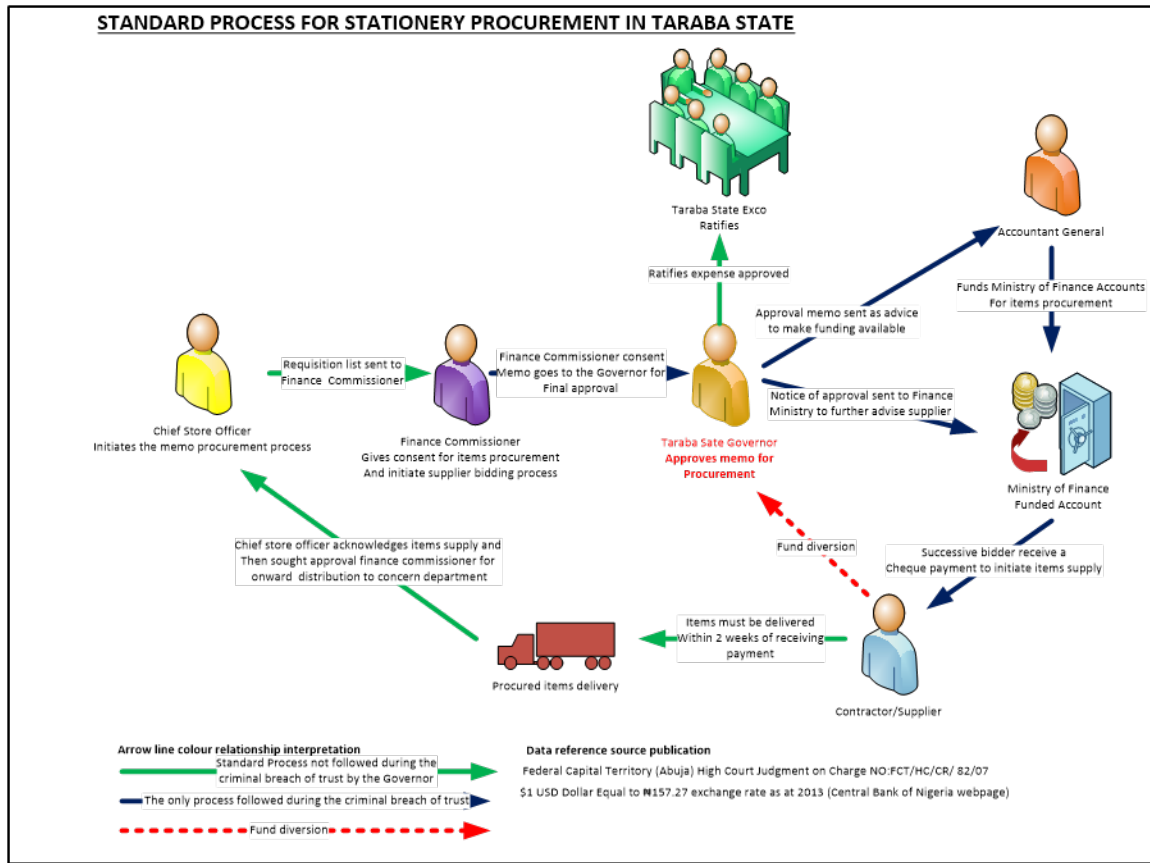
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AML literature has pointed to a lack of sophistication in AML schemes (van Duyne, et al., 2018; Levi and Soudijn, 2020).¹⁶⁵ That is not to say that complex schemes are fictitious but rather that they can distort the perception of the phenomenon. It is natural for individuals to work with a small group of trusted business associates thus the personal networks can be quite small. Analysis of networks in the case of Alison-Madueke reveals the use of professionals –a banking relationship manager and a property manager. Personal relationships involve a cousin as well as the two named business associates. The landscape is, however, more complex once companies are introduced. The companies involved are all associated with or connected to business associates (excluding the bank manager) but not directly to the alleged corrupt act. The case files identify eight companies registered in Nigeria; two in the BVI, one in Switzerland; five in the US (three in California and two in NY). Additionally, we noticed one in the UK linked to one of the business associates, although not part of the case. The case of Jolly Tevoru Nyame appears to have involved diversion of funds that relied on others within the state office to collaborate in the scheme. Some of the funds went to pay off collaborators and some to purchase property through a Nigerian registered company owned by an associate. In sum, networks tend to be close and trusted social contacts or family as in the case of Diezani Alison-Madueke including professionals – a bank manager and a property manager or through a work-related network of collaborators where all share the proceeds as with Jolly Tevoru Nyame former Governor of Taraba State.

¹⁶⁵ Van Duyne, P.C., Harvey, J., and Gelemerova, L., (2018) *The Critical Handbook of money laundering: Policy, analysis and myths*, Palgrave Macmillan; Levi, M. and Soudijn, M. (2020), *Understanding the laundering of organized crime money*, *Crime and Justice* 49, pp. 579-631.

6.3.3 Vulnerability of Government Budgeting Procedures

Transparency International (2018)¹⁶⁶ noted the vulnerability of the budget funds in relation to ‘security votes’ at State level. These create discretionary pots that appear to operate without need for accountability. Their paper notes (p.7) that ‘Although the exact process for disbursing security vote funds is shrouded in secrecy and differs between each MDA [Ministry Departments and Agencies], they are likely paid out by the chief finance officer to the chief executive upon request, in cash’. We had the process of cash withdrawal explained to us as follows. The money is budgeted for, but as line item(s). An aide of the chief executive, for example, usually raises a memo requesting for a certain amount to be approved for ‘security’ with or without any detail. The chief executive will then approve the expenditure. The money is usually collected in cash from the account of the government in a bank and given to a payee who signs for the money. So, there is a semblance of a process; a memo is raised, it is approved, the account department raises a voucher for the payment, the payee collects the money and signs for it. An auditor checks the voucher and supporting documents. The auditor would be satisfied once they see an approval by the authorised person (for example, a signed receipt from the person that collects the money, etc.). Although some of the money is actually spent on security, as described in the TI report these funds can easily be misappropriated and diverted for personal use. This would be possible, for example, where one of the authorised signatories (with the approval of the governor) authorises the voucher to raise the cheque to ‘pay cash’ which is then presented at the bank. There is no need for these funds to be laundered and some were distributed as local patronage.¹⁶⁷ In response to threats of isolation of the country’s financial system by international financial systems

due to deficiencies in AML/CFT implementation, in June, 2019, the NFIU implemented changes under penalty enforcement to address this deficiency in controls,¹⁶⁸ through new guidelines to ensure direct allocation of funds to local governments from the Federation Account. The guidelines impose a daily N500,000 cash transaction limit on all the 774 local governments, all other transactions are to be via bank transfer. We have no information if this arrangement is being complied with.

Questions:

- (11) Would further detailed analysis of cases provide useful Nigeria specific red flags?
- (12) What additional work would ensure red flags for banks are completely up to date?

6.3 Observations

From our review of cases and from our discussions there are problems arising from the prosecution of cases that are tied to court procedures. The ACJA 2015 was enacted to reform the criminal justice system and improve the administration of criminal justice but as it is, there is still a very long way to go in its implementation.¹⁶⁹ It is observed that appeals are commonly used as a delaying tactic. Defence counsel will take advantage of weaknesses within the judicial system to grant time to a trial. The more time they have, the more chance that evidence against them will be lost/outdated and witnesses could move abroad, or fail to attend for medical reasons etc. The EFCC and prosecution appear not always to have provided evidence or to be prepared for prosecution. This may point to procedures for evidence management. There is no need to present all evidence just a single piece that enables

¹⁶⁶ Transparency International (2018) Camouflaged Cash: how security votes fuel corruption in Nigeria, Matthew Page, May

¹⁶⁷ Allison F and Zibima T (2019) Bring Back Our Corruption: Nigeria’s Post-2015 Anti-corruption Campaign and Popular Resistance, *A Journal Publication of the Nigerian Political Science Association*
https://www.researchgate.net/publication/335541743_Bring_Back_Our_Corruption_Nigeria's_Post-2015_Anti-corruption_Campaign_and_Popular_Resistance.

¹⁶⁸ ‘NFIU enforcement and guidelines to reduce crime vulnerabilities created by cash withdrawal from Local Government funds throughout Nigeria’; accessed <https://www.scuml.org/wp-content/uploads/2019/09/ADVISORY-ON-NFIU-ENFORCEMENT-AND-GUIDELINES.pdf>

¹⁶⁹ We note the creation of a Corruption and Financial Crime Cases Trial Monitoring Committee (COTRIMCO) whose task is to monitor on-going cases with a view to advising the NJC on how to overcome challenges in the administration of criminal justice, especially trial of high profile corruption cases.

the charges to be absolutely linked to the defendant for a prosecution to be secured. Disorganisation can compromise trial and conviction, and the number of "no case" appeals suggests that inefficiency is also being exploited by defence teams. However, there may also be a problem of excessive workload and poor administration.¹⁷⁰

Corruption can involve different *modus operandi*. For example, some corruption involves (a) illegitimately obtained contracts (*i.e.*, a company is in collaboration with politicians and/or officials to secure contracts); or (b) contracts are legitimately obtained or awarded but to front companies with no capacity to deliver so work is sub-contracted out at either much lower prices or for sub-standard work. In scenario (a) disguise of BO is not essential to the crime but may be needed to remove connection between the official and the company; in (b) BO is integral to the *modus operandi* of the crime and may be needed to remove connection between the BO and the company and chain of subcontracting firms. The former points to the importance of transparent procurement processes; the latter to regulation of company creation service providers.

Our review of cases of grand corruption confirmed the vulnerability of the mechanism for budget control and compliance with financial regulations at the state level, it simply being too easy to divert funds for personal gain. The IMF (2019) highlighted the need to strengthen transparency over the financial affairs of the NNPC and in the mechanism for awarding of oil exploration contracts as illustrated in the case above. Both cases that we mapped, made use of locally incorporated companies. When setting up the on-line register of BO we would encourage the inclusion of company sectoral information, financial information including initial share capital and annual financial statement submissions.

At a practical level, greater attention could also be paid to the providers of company creation services, including bringing them within the supervisory mandate of SCUML to reduce opportunity for the creation of 'shelf' companies with nominee or fictitious directors. An obvious red flag would be multiple companies created within a short period of time and the associated speed of creation of bank accounts. We would encourage the maintenance of channels of communication both between the NFIU and the banks to share information on trends including case studies on how systems have been circumvented. Further, as suggested at our workshop, NFIU should have a focal point in the central bank (within the compliance department within the governor's office) to achieve the same. Critical for investigators is the ability to access company accounts (CAMA will help in this regard) – legitimate company activity would match to their bank statements, unlike shell companies that are created for a single activity that then lapse into dormancy.

In light of the tiny size of the tax base, the finding of the large number of persons and companies without a tax registration number could lead to the formulation of a counter hypothesis: there may be less reason to launder unrecorded/criminal monies, let alone to invoke complex schemes to move proceeds offshore. With so little activity formally recorded by individuals or companies there is little need to instigate elaborate schemes to disguise BO. Further, if a representative of the state has actually authorised a transaction (albeit acting *ultra vires*) those funds are perceived to become 'legitimate' by their recipients without need for laundering. It may also be useful, therefore, to consider the financial flows to the BO. Working on the basis that there is little real need to 'hide' BO; investigators could data mine social media for evidence of potentially unaccountable wealth as is practice in other jurisdictions.¹⁷¹

¹⁷⁰ <https://thenationonline.ng.net/are-judges-lawyers-undermining-acja-provisions/>

¹⁷¹ Interview with former FBI agent (January 2020).

7 Asset Recovery

7.1 Overview

This section of the report addresses asset recovery, although this area of our work is still on-going. It considers the current arrangements for asset recovery associated with criminal conviction together with the arrangements for non-conviction based recovery. We highlight some of the issues raised during our visit and discuss the Proceeds of Crime Bill and the Asset Tracing, Recovery and Management Regulations, 2019 before briefly considering mutual legal assistance and the limited information we have on assets recovered. We conclude with our observations.

7.2 Legislative Framework

The recovery of the proceeds of corruption and their return to the country of origin is a fundamental principle of UNCAC, 2003. However, despite intensified international attention in recent years with global initiatives to counter corruption and money laundering, the recovery of the corruption proceeds remains difficult. This is due to the various channels through which corrupt transactions occur, including the concealing of the proceeds, and also of the identity of the real or beneficial owner of the proceeds. Asset recovery forms part of the deterrent activity for law enforcement and in a study of the UK, fear of loss of assets through confiscation following sentencing was found to be a more powerful deterrent than sentencing alone (Sittlington and Harvey, 2018).¹⁷² However, asset recovery should be the last part of a package of policies that place emphasis on preventing opportunity for corruption from occurring in the first place and, in the event that it occurs, on making it more difficult for proceeds to either enter the financial system within Nigeria or be physically moved out of the country.

Currently AML and asset recovery powers lie primarily with agencies established under the 2000 Independent Corrupt Practices Commission Act and the 2004 the Economic and Financial Crimes Commission) Act. Section 48 of the 2000 Independent Corrupt Practices Commission Act deals with property that has been seized by the Independent Corrupt Practices Commission during an investigation, where that investigation does not result in prosecution or conviction. If the Chair of the Commission is satisfied that the property has been obtained in connection with, or as a result of, an offence under the Act, s/he may apply to the High Court for an order of forfeiture. The court is then required to publish an announcement calling upon anyone claiming to have an interest in the property to show cause why it should not be forfeit to the government.¹⁷³ The EFCC under Section 6(j)(ii) of the 2004 Act is empowered to collaborate with and coordinate government agencies, both local and international in the matters concerning the movement of proceeds or properties derived from the commission of unlawful activities.

Nigerian Laws Providing For Non-Conviction Based Forfeiture (NCB)¹⁷⁴ Although in general the standard of proof in Nigerian civil proceedings is the balance of probabilities, the Evidence Act s.135(1) provides that 'If the

¹⁷² Sittlington, S and Harvey, J (2018) 'Prevention of money laundering and the role of asset recovery' *Crime Law Soc Change*, 70:421–441 <https://doi.org/10.1007/s10611-018-9773-z>

¹⁷³ Under the Evidence Act 2011, s. 135(2), the burden of proving that a person has committed an offence always lies on the person who asserts it, whether in civil or criminal proceedings. It is unclear whether this applies only where it is alleged that a specific person is guilty of the offence, but it is unlikely that the necessary connection between the property and an offence could be proved without proving that a specific person was involved in the offence. The use of the word satisfied also appears to indicate that the burden of proof lies on the Commission. In some circumstances, however, the burden will shift to the defence(s.136): for example in *FRN v Obah*, once the court was satisfied that Obah had acquired property using the proceeds of fraud, the onus was on him to prove that a particular property should be exempt from forfeiture as he had purchased it from his legitimate earnings. He failed to discharge this burden of proof. (*FRN v Obah* Motion No: M/9397/16, as reported in the ICPC's Press Release, <https://icpc.gov.ng/2019/04/15/icpc-civil-servant-loses-properties-worth-n124-5m-to-fg/>(accessed 6 July 2020)).

¹⁷⁴ <https://www.lexology.com/library/detail.aspx?g=5c881cd1-26a1-4b8d-a498-a8cbff185545>. Provides a description of asset recovery in Nigeria.

commission of a crime by a party to any proceeding is directly in issue in any proceeding civil or criminal, it must be proved beyond reasonable doubt'. Usually, it will be alleged that the crime in question was committed by the person claiming the property. Thus although s.48 of the ICPC 2000 is a form of NCB forfeiture, when read in conjunction with the Evidence Act it seems clear that it requires proof of guilt to the criminal standard. Presumably this makes it a difficult provision to use. Information from the ICPC indicates that it has been used successfully against at least three defendants, two of whom were civil servants allegedly involved in the same conspiracy to defraud the Ministry of Niger Delta Affairs.¹⁷⁵ Possibly bringing a civil rather than a criminal action, even with a high standard of proof, incurs a lesser risk of delaying tactics by the defence. According to 'Lexology', most civil claims in Nigeria reach trial within a week of being filed.¹⁷⁶ If the Commission does not bring an application under s.48 within 12 months of seizing the property, the property has to be returned under s.48(4).

Section 47(1)(b) of the same Act might also be classed as a type of NCB forfeiture. It allows a court trying an offence to order the confiscation of property where an accused is acquitted of an offence but the court is satisfied that the accused is not the true and lawful owner of the property, and no-one else is entitled to the property as a *bona fide* purchaser. The section applies only to property 'which is proved to be the subject matter of the offence or to have been used in the commission of the offence'. These matters clearly cannot be proved without proof that an offence has been committed. This provision therefore allows for the forfeiture of property where the offence is proved, but the accused is not proved to have participated in it. For example, if A is convicted of fraudulently receiving property (s.13) but has put the property in B's name, and B is tried for the same offence and acquitted, the property can be confiscated under this section. It may therefore be more appropriate to consider this narrowly defined power as an extended form of conviction-based forfeiture.

There are non-conviction based forfeiture powers within Advance Fee Fraud And Other Fraud Related Offences Act 2006 (AFF Act). Section 17 is the most important provision for NCB forfeiture.

Where ... any property in the possession of any person, body corporate or financial institution is reasonably suspected to be proceeds of some unlawful activity under this Act, the Money Laundering Act of 2004, the Economic and Financial Crimes Commission Act of 2004 or any other law enforceable under the Economic and Financial Crime Commission Act of 2004, the High Court shall upon application made by the Commission...upon being reasonably satisfied that such property is ...the proceeds of unlawful activity ... make an order that the property or the proceeds from the sale of such property be forfeited to the Federal Government of Nigeria.

As under the Corrupt Practices Act, the court has to give notice inviting anyone with a claim to the property to come forward. Section 17(6) expressly provides that forfeiture under the section shall not be based on conviction. There are some significant differences between this power and those under the Corrupt Practices Act, which appear to make the AFF Act easier to use as a means of asset recovery. It applies to a wider range of offences and it applies to any property that is the *proceeds* of *unlawful activity*, rather than being the subject matter of, or used in, a specific offence. Rather than requiring the court to be 'satisfied' of the criminal connections of the property, it requires only that it be *reasonably* satisfied. 'Reasonably satisfied' here presumably has the same meaning as in the Evidence Act 2011 s.133(2), namely that the party bearing the burden of proof has adduced sufficient evidence to satisfy the court on the balance of probabilities in the absence of any contrary evidence.

¹⁷⁵ Daniel Obah (n 118 above) and his alleged accomplice Mangset Longyl Dickson: FRN v. Dickson Motion No: M/9398/16 (information provided to project team by ICPC). The third case mentioned by the ICPC is that of Edike Daniel Mboutdem Akpanm and others (FHC/ABJ/CS/ 1418/2019) about which we have no further information.

¹⁷⁶ Lexology, 'Asset Recovery in Nigeria' <https://www.lexology.com/library/detail.aspx?q=5c881cd1-26a1-4b8d-a498-a8cbff185545> (accessed 6 July 2020)

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A difficult issue is whether this low standard of proof is compatible with the Evidence Act 2011 s.135(1), which requires a court to apply the criminal standard of proof where the commission of a crime by a party to civil proceedings is 'directly in issue'. Under s.135(2), the burden of proving that any person has been guilty of a crime generally lies on the person who asserts it, but where the person concerned is not a party or their guilt is not 'directly in issue', the civil standard of proof applies.

The application of the criminal standard of proof to allegations of unlawful activity under the AFF Act can be avoided if s.135(1) is interpreted as applying only to an allegation that a party has committed a *specific* offence. The possession of unexplained wealth by a politically exposed person might be sufficient to make a court 'reasonably satisfied' that the wealth was the product of *some* unlawful activity. The burden of proof would then shift to that person to produce an innocent explanation of their acquisition of the assets in question. Because there is no need to prove that the defendant committed a *specific* criminal act, it is at least arguable that s.135(1) does apply. This view appears to have been accepted by the Nigerian courts.

In *Ogungbeje v EFCC*, the EFCC¹⁷⁷ had applied for forfeiture of a large sum of money found in abandoned premises. No specific criminal activity appears to have been alleged. The Court of Appeal emphasised that proceedings under s.17 are not criminal in nature and are distinct from provisions for interim forfeiture pending prosecution. The purpose of s.17, according to the Court of Appeal, was to comply with the UNCAC provisions on NCB forfeiture. While the UNCAC permits NCB forfeiture, however, it does not require it.¹⁷⁸

In *Dame Patience Jonathan v FRN*¹⁷⁹, the Court of Appeal held that neither the Evidence Act nor the constitutional presumption of innocence require that an offence be proved beyond reasonable doubt in proceedings under s.17. The effect of s.17 was to place the burden on the Appellant (the wife of former President Jonathan) to prove that the funds were *not* the proceeds of unlawful activities, 'since it is the Appellant who is asserting that the funds came from legitimate source or origin'. The court classified proceedings under s.17 as an action *in rem*, that is, an action in which the government lays claim to a particular piece of property, rather than making a claim against a specified individual.¹⁸⁰

It appears, therefore, that the AFF 2006 Act creates a wide-ranging power of civil forfeiture wherever the EFCC can make out a *prima facie* case that assets are the proceeds of corruption or financial crime. This makes it difficult to understand why GIABA's mutual evaluation report on Nigeria,¹⁸¹ and several follow-up reports, describe the system of forfeiture as a purely criminal one, despite listing the AFF Act as one of the pieces of legislation they examined.¹⁸²

¹⁷⁷ (2018) LPELR-45317(CA). We rely on the summary of the case in Tope Adebayo n 118 above.

¹⁷⁸ UNCAC art 54(1)(c) requires states to consider NCB forfeiture 'in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.' Since 'offender' in this context obviously refers to an unconvicted suspect, it may also have the same meaning in art. 31(8): 'States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation'. On the interpretation of art 54 see R Ivory *Corruption, Asset Recovery and the Protection of Property in Public International Law* (Cambridge UP 2014), 109.

¹⁷⁹ (2018)LPELR-43505(CA).

¹⁸⁰ *Ibid* (quoted by Tope Adebayo); see also *La Wari Furniture and Baths v FRN*, (2018)LPELR-43507(CA) and the EFCC's argument in *Ogungbeje*, above

¹⁸¹ GIABA, *Mutual Evaluation Report. Anti- Money Laundering and Combatting the Financing of Terrorism*. Nigeria (2008) paras. 177, 613.

¹⁸² *Ibid*, paras. 177, 186.

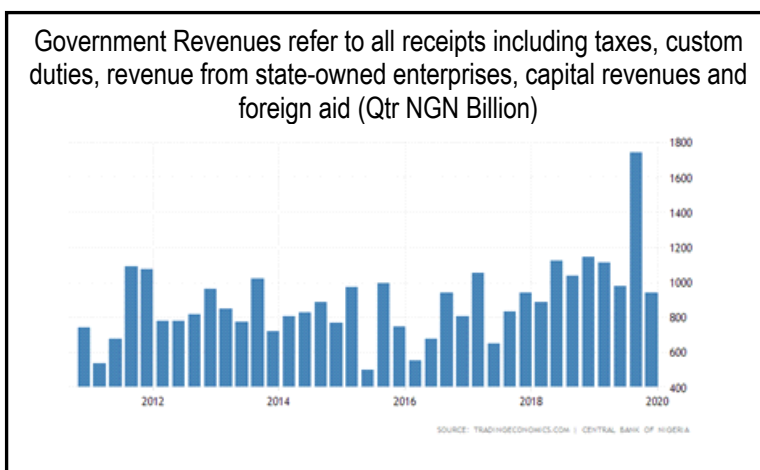
7.3 Issues Identified from our Meetings

The police identified problems faced in identifying assets that can be restrained. They noted that ‘*success in profiling assets of a suspect is disorganised*’ and ‘*it is difficult to find out what assets an individual owns*’. Because of delays, they suspected dissipation of assets through family members and shell companies. The ICPC commented that they have difficulty in fulfilling magistrate’s requirements¹⁸³ which can be time consuming. The result is that the money will have been dissipated before they can get the order to the bank.

Both the police and ICPC expressed concerns over the lack of guidelines over asset recovery and management of any frozen assets.¹⁸⁴ There is at present no management of assets organisation or entity in Nigeria which is contributing to the difficulties around restraint orders and the management of assets. When cash is seized, it is deposited in an interest-bearing account as would be in any normal law enforcement circumstance; once a forfeiture order is granted it is moved into the consolidated fund. Recovered proceeds are shared across Government departments *etc.* as set out by the Federation Account Allocation Committee (FAAC). We were informed that there is no asset incentivisation scheme and that a proposal had been ‘*killed at the national assembly*’ our respondent suggested they may not have understood the concept. We discussed the passage of the Proceeds of Crime Bill (an outstanding FATF condition) and were informed that whilst the lower house had passed the bill, its scope was ‘*severely reduced at the senate to embrace management of recovered assets only*’. It appears that some agencies had argued against the bill as it was duplicating powers already contained within other legislation.¹⁸⁵ We also heard about an attempt in 2015 to establish a Civil Asset Recovery Taskforce comprising the main AC agencies but that due to ‘*lack of interoperability*’ the taskforce failed to off the ground.¹⁸⁶

7.3.1 The Consolidated Revenue Fund

The 1999 Constitution of the Federal Republic of Nigeria provides that “All revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under this Constitution or any other Act of the National Assembly into any other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund of the Federation”. Accordingly, the Finance (Control and Management) Act, provides that the Minister of Finance is responsible for the management of the Consolidated Revenue Fund. Section



5 provides that the management of the Consolidated Revenue Fund shall be conducted in accordance with the financial provisions of the Constitution and the Finance (Control and Management) Act. While section 16 of the same Act provides that any money not expended by MDAs at the expiration of the financial year shall accrue or

¹⁸³ The police also noted that they find it difficult to obtain restraint orders.

¹⁸⁴ The police noted that estate agents are engaged to manage recovered property.

¹⁸⁵ This same point being made by Open Government Partnership which states ‘Support for the Proceeds of Crime Bill in civil society is split; some believe it will more clearly define the roles and powers of relevant institutions, and others maintain that the existing laws must simply be strengthened and establishing an additional agency was not warranted’ (<https://www.opengovpartnership.org/members/nigeria/commitments/NG0008/>).

¹⁸⁶ Former NCA Officer.

be returned to the Consolidated Revenue Fund. Funds from asset confiscation are paid into the Treasury Single Account (TSA), operated by the Accountant General (section 7.4.1). Prior to the introduction of the TSA in 2015, agencies had been able to maintain accounts at commercial banks.

The legislative framework establishing the law enforcement agencies give them wide powers to identify, track, seize and seek orders from the court to freeze, confiscate and forfeit proceeds of crime. While significant efforts have been made in this direction and some assets have been seized, confiscated or forfeited to government, there are problems arising from the management of seized assets both while under interim forfeiture and when finally forfeited. Over the years, there has been concern over the management of such assets due to the dissipation,¹⁸⁷ as well as the lack of transparency.¹⁸⁸ 'Lack of transparency has been exacerbated by a fragmented and inefficient legal and institutional framework for asset recovery that has failed to provide a harmonized legal and institutional framework for the confiscation, seizure, recovery, and management of assets and property derived from illegal activities'.¹⁸⁹ The law enforcement agencies seem to agree on the need for a strategy/mechanism for the management of such assets.

7.4 Proceeds of Crime Bill (2019)

The promised Proceeds of Crime Bill (2019) had sought to address the deficiencies identified above. This Bill has been revised and recently represented to the National Assembly but with the same provisions. The aim of this important piece of legislation is to strengthen Nigeria's asset recovery legislation including non-conviction-based confiscation powers and the introduction of unexplained wealth orders. In terms of this project, its objectives include the provision for an effective legal and institutional framework for the recovery and management of the proceeds of crime or benefits derived from unlawful activities and to harmonize and consolidate existing legislative provisions on the recovery of proceeds of crime. At its core is a new agency – the Proceeds of Crime Recovery and Management Agency. This agency will have the power to implement, enforce and duly administer the provisions of the Bill, and co-ordinate and enforce all other laws on the investigation, identification, tracing and recovery of the proceeds of unlawful activities. We note the recent approval of the Proceeds of Crime Recovery and Management Bill (2020) by the Federal Executive Agency in September.

7.4.1 Asset Tracing, Recovery and Management Regulations, 2019

In October, 2019, the Nigerian Government gazetted the new Asset Tracing, Recovery and Management Regulations, 2019¹⁹⁰ providing a framework for asset management. The regulations empower the Attorney General to take charge of the custody and management of all final forfeited assets, approve and appoint asset managers and operate and maintain a centralised database for the storage of records of all recovered asset within and outside Nigeria, including for non-conviction based forfeiture. Under these regulations (Part 3, s.11(1-3)), all proceeds from the disposal of the final forfeited assets shall be paid into the 'Federal Government of Nigeria Asset Recovery Account', a designated account to be held at the Central Bank of Nigeria. All funds forfeited to other tiers of government, or that are proceeds from perishable seized and confiscated assets, are paid into an interim forfeiture recovery account at the CBN. s.11(4-6) sets out the time periods for firstly the AG informing the Minister for Finance of funds being paid into the account (15 days); and for the Minister to transfer such proceeds into the Consolidated

¹⁸⁷ See for example Transparency International Blog Returning Nigerians' stolen millions August 3rd 2018:

https://www.transparency.org/news/feature/returning_nigerians_stolen_millions

¹⁸⁸ Also see current investigation into the suspended acting Chairman of the EFCC

<https://nairametrics.com/2020/07/11/magu-probe-new-facts-suggest-case-is-about-re-looting-of-previously-stolen-funds/>

¹⁸⁹ <https://www.opengovpartnership.org/members/nigeria/commitments/NG0008/>.

¹⁹⁰ Replacing the Proceeds of Crimes Regulation, 2012.

Revenue Account (30 days); or to other tiers of government (45 days). S.1(7) provides for the Federal Government to receive at least 30% of the proceeds of asset recovered for these other State and Local Governments.

The explanatory note to the regulations notes the provisions to be in line with international best practice and of managing and disposing of assets a transparent manner. It is not clear if data on assets recovered as set out in part 2 s. 3 (c), (d) and (e) is being shared either within the government agencies or (better) in the public domain, or if there are plans for the sharing of this information and we were not aware of the availability of any statistics. As an issue of rivalry, we were informed that enforcement agencies were ignoring the regulations.

7.5 Mutual Legal Assistance

The Attorney General of the Federation (AGF) and Minister of Justice who has the responsibility for prosecuting all criminal cases has given his fiat to the law enforcement agencies to prosecute offenders. The Office of the AGF remains, in principle, the central coordinator for law enforcement and it is where the national central authority for mutual legal assistance and other matters is located. From our workshop discussions, it is apparent that experience of MLAs is that the process is cumbersome. Although it is not clear if that relates to the internal procedures to be followed for an extraction request to be made or because of a lack of cooperation internationally. Most recent data available to the project indicates that in 2014 the NFIU made 51 requests for information – although these do not appear to have been formal MLAs, the largest number being to the US and UK.¹⁹¹ Harvey (2020)¹⁹² noted that submission of MLAs to the UK is difficult due to the requirement that they meet its evidential standards and that ‘submission of MLAs is something of an ‘art form’ and ‘tricky’ in a number of countries’.¹⁹³ One respondent, external to Nigeria¹⁹⁴ commented on their time-consuming nature. In our discussions with the police, it was noted that informal relationships with different police forces helped to ensure MLAs were correctly drafted (police to police discussion) prior to formal submission through correct channels. We were also informed that in the case of Nigeria, MLAs are easier in the framework of the Commonwealth MLA.

7.6 Assets Recovered

The project is still trying to understand what limited data we have obtained on assets recovered by either the EFCC or the ICPC as few reported figures seem to reconcile, amounts recovered differ depending on which report you look at, as do the number of cases concluded. Apart from disclosure to the newspapers (particularly by the EFCC), we conclude there is no public record of assets recovered. The success of these asset recovery efforts is difficult to measure given a substantial lack of transparency in data, which causes concern that recovered assets are being re-looted (Open Government Partnership citing CIFAR).¹⁹⁵

7.7 Observations

Our work in this area of the project remains ongoing. However, lack of data on asset recovery activity will affect any attempt to assess effectiveness of the regime. Agencies appear to struggle with asset recovery due to court delays and the lack of progress with the Proceeds of Crime Bill is not helpful to their activity. It is recommended that agencies might re-visit the provisions contained with existing legislation for non-conviction based asset

¹⁹¹ Nigerian FIU Activity Report, 2015.

¹⁹² Harvey, J (2020) Tracking the international proceeds of corruption and the challenges of national boundaries and national agencies: the UK example, *Public Money and Public Management* Volume 40, Issue 5, 3 July, pp 360-368.

¹⁹³ See for example, Requests for Mutual Legal Assistance in Criminal Matters, Guidelines for Authorities Outside of the United Kingdom, Published by the Home Office.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415038/MLA_Guidelines_2015.pdf.

¹⁹⁴ Former UK NCA officer.

¹⁹⁵ <https://www.opengovpartnership.org/members/nigeria/commitments/NG0008/>.

recovery as a possible way forward in the interim. Elsewhere in this report we have highlighted sources of information that might trigger red flags and encourage more meaningful STRs about unexplained assets.

8 Conclusions and Recommendations

The current administration has made progress against the anti-corruption pledges made in 2016. However, observations made in earlier studies remain valid. These drew attention to complexity in the Nigerian AC field, including overlapping mandates and lack of cooperation (UNODC, 2014,¹⁹⁶ Onyema et al., 2018,¹⁹⁷ UNDOC 2019,¹⁹⁸ Bamidele et al., 2015¹⁹⁹), others to lack of clarity and overlap in the framework for asset recovery (CiFAR, 2018).²⁰⁰ The Nigerian Report of AC Institution submitted to UNCAC (2014:12-13)²⁰¹ listed a number of challenges. These included, ‘resistance to reforms’; ‘Implementation challenges with regard to the mandate of preventive bodies due to the interference of other branches of government’ ‘Institutional resistance, political interference at MDAs, ignorance and unwillingness of officials to comply with the provisions of the law’. None of the current issues are likely to be amenable to further legislative fixes, indeed there is already a complex array of AC legislation that has been brought in on a piecemeal basis to respond to international pressure. In addition to the problems with lack of statistics and data collection caused by reliance on paper-based systems and the overlapping mandates of different investigatory agencies such as the EFCC and the ICPC, the observed ‘culture of secrecy’ (Keevill and Jarvis, 2018)²⁰² within the government has resulted in an absence of official collaboration and coordination between various agencies that is long-standing and structural. All of which have diluted agencies’ operational effectiveness in relation to the investigation, prosecution and recovery of the proceeds of corruption. None of this is surprising or indeed, unknown as shared with us in our meetings and workshop. The 2017-2021 National Corruption National Strategy and Action Plan include extensive details about what changes were required to achieve its vision of a ‘Nigeria free of corruption for sustainable development’. We have no knowledge about progress of this plan.

Our project is focused on whether identification of the beneficial owner can assist the authorities in their anti-corruption efforts. This interim report has drawn attention to the following:

- Structural challenges that cannot be modified in the short term, although areas to be addressed in the medium term include improving tax compliance, transparency in public procurement and supporting NEITI’s efforts to increase transparency in the dominant oil sector.
- The apparent problem in identifying taxpayers (natural and legal persons) and thus in assessing the business activities within the country. Curbing illegal activity also relies on an ability to monitor legitimate economic

¹⁹⁶UNODC. (2014). Country Review Report of the Federal Republic of Nigeria: implementation by Nigeria of articles 15 – 42 of Chapter III. “Criminalization and law enforcement” and articles 44 – 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the review cycle 2010 – 2015. Vienna

¹⁹⁷ Onyema, E., Obidairo, S., Ayinla, S., Oredola, H., and Roy, P.(2018) Anti-corruption agencies as debt recovery agents: the unintended consequences of anti-corruption efforts in Nigeria SOAS ACE Working Paper 017.

¹⁹⁸ UNODC. (2019). Country Review Report of the Federal Republic of Nigeria: implementation by Nigeria of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021. Vienna

¹⁹⁹ Bamidele, O, Olaniyan, A, and Ayodele, B (2016), ‘Culture, Corruption, and Anticorruption Struggles in Nigeria, *Journal of Developing Societies*, Volume: 32 issue: 2, page(s): 103-129

²⁰⁰ CiFAR (2018) Country Profile for Nigeria. Available at <https://cifar.eu/country-profiles/nigeria-2018/>.

²⁰¹ Thematic Compilation of Relevant Information Submitted By Nigeria, Article 6 UNCAC, Preventive Anti-Corruption Body Or Bodies, Nigeria (Fifth Meeting) 2014. https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/Nigeria.pdf.

²⁰² Keevill L, and Jarvis, M (2018) Data vs Corruption exploring Barriers to Data use in Nigeria Transparency and Accountability Initiative, available at <https://www.transparency-initiative.org/wp-content/uploads/2018/10/tai-data-vs-corruption-brief-1.pdf> (accessed 15/6/20).

activity. If little is known of taxable activity there is less reason to enter into elaborate schemes to disguise funds of illegal origin through laundering.

- The purpose served by Currency Declaration Reports and whether they actually meet the requirements of R32 in prevention of cross border cash-based laundering
- The UK has significant commercial and other benefits to and links with Nigeria. For example, the UK is the most important financial counterparty country providing a home for over half of bank investments, deposits and funds owned by legal entities in Nigeria. The UK also features as one of the main destinations for declared cash exports. The UK is also an important commercial and property counterparty country. Such relationships are beneficial to both countries; however, they can also provide opportunity for abuse.
 - There are 26,303 UK registered companies having Nigerian affiliations. 735 companies are associated with a group of only 68 individuals. Significantly, three individuals are associated with more than 30 companies. This may be reflective of highly entrepreneurial individuals, of using a small number of company formation agents and professional nominees, or, alternatively, of 'professional straw persons'.
 - There are 152 properties on the UK land registry that are held by companies registered in Nigeria. The majority of purchase registrations for these properties took place in the period 2012 -2015. For the 68 properties where price information is available, the lowest price paid was £35,000 and the highest £3.5 million. Purchase activity has reduced from 2016. It is possible that this trend may be explained by different factors for example, the election that took place in Nigeria in 2015; the tightening up of the UK Government in response to criticism by Transparency International and others or the introduction of Unexplained Wealth Orders in relation to PEPs.
- Complexity in the AC framework with overlapping mandates and duplication in effort. This shows little change from the situation reported in other studies. The problem appears to be that no one, including Nigerian agencies, believes that collaboration and coordination has been, or is, in practice effective. Further, our review of the legislative landscape indicated complex and overlapping legislation with new agencies being created in response to on-going problems rather than addressing outstanding resourcing issues.
- Most frequently occurring themes emerging from our meetings and from the workshop were: data deficiency; international cooperation; intelligence and information; beneficial ownership and delays in courts.
- As observed by others, there is a general lack of transparency and tendency towards secrecy that compound the difficulty in obtaining reliable data and that an elaborate institutional landscape cannot compensate for the impact on overall effectiveness caused by a lack of cooperation.
- A major challenge in evaluating Nigeria's performance against the FATF criteria, or indeed at all, lies in the lack of availability of reliable statistics.
- Reporting requirements placed upon banks result in large numbers of CTRs and PEP transactions being reported, with very few STRs being generated, three banks are responsible for the majority of reports made. The CBN probably lacks supervisory capacity to properly monitor the activity of the non-bank financial sector which tends to be dominated by bureaux de change. Similarly, SCUML is struggling to cope with the scale of the DNFIs.
- Critical to the usefulness of the BO register will be the scope and reliability of the data. The challenge faced with the register of BO will not so much be around its creation but with the verification of supplied information and with the policing of compliance. The only enforcement tool available to the CAC under CAMA 2020 remains imposition of a fine.
- Thought should be given to the institutional and procedural arrangements for BO information. This will include tracking the administrative and other arrangements to collect, collate, verify and provide access to BO information.

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- Sustainability of the register will be enhanced through identification of those agencies most likely to benefit from the use of BO information and any added value in use of shared intelligence or powers between agencies on an inter-agency basis.
- Given the concerns over the oil sector, we would support the integration of data from NEITI with that of CAC. It would also be beneficial to see further collaboration with open contracting, particularly with the transparency of contracting at state level that is being supported by the World Bank.
- At a practical level, greater attention could also be paid to the providers of company creation services, including bringing them within the supervisory mandate of SCUML to reduce opportunity for the creation of 'shelf' companies with nominee or fictitious directors. An obvious red flag would be multiple companies created within a short period of time and the associated speed of creation of bank accounts. We would encourage the maintenance of channels of communication both between the NFIU and the banks to share information on trends including case studies on how systems have been circumvented, enabling the CBN to guide banks in updating their red flags.
- Our review of corruption cases showed that the majority relate to the diversion of public funds and the high numbers of state governors pointing to vulnerability of government budgeting procedures for this part of the government system.
- The main observed pattern is of extracting funds initially via phantom contracts to a shell company account (usually owned by a friend/family member), from which cash is then withdrawn from the account or transferred to several other accounts (sometimes abroad) to either retain or invest (material purchase, property, gifting family/friends).
- Corruption networks tend to be close and trusted social contacts or family as in the case of Diezani Alison-Madueke including professionals – a bank manager and a property manager or through a work related network of collaborators where all share the proceeds as with Jolly Tevoru Nyame former Governor of Taraba State.
- Our review of cases and our discussions point to problems arising from the prosecution of cases that are tied to court procedures. There is an apparent reluctance of the judiciary to invoke powers under the Criminal Justice Act 2015 to restrict the number of adjournments. Defence counsel will take advantage of weaknesses within the judicial system to grant time to a trial. The more time they have, the more chance that evidence against their client will be lost/outdated, witnesses could move abroad, or fail to attend for medical reasons and police investigators could retire.
- The EFCC/ICPC should pay attention to evidence management, timing of its presentation in court and ensuring that the strongest evidence that clearly ties the charge to the defendant is presented.
- In absence of the Proceeds of Crime legislation, assets recovery remains a major problem. Historic lack of transparency over assets recovered compromises assessment of the effectiveness of the agencies. Despite the interim 2019 regulations, it is not clear if data on assets recovered under them is being shared either within the government agencies or (better) in the public domain, or if there are plans for the sharing of this information.

Overall, we find a somewhat opaque public administration in which proper data-management or 'bookkeeping' is rather the exception than the rule and in which budgets are unreliable. In consequence, intelligence does not always flow in the manner assumed by FATF. This has certainly diluted agencies' effectiveness in relation to the investigation, prosecution and recovery of the proceeds of corruption. Effective case prosecution is hampered by delays within the criminal justice system. Judiciary are hampered by case load, manual systems and long hand recording. We were told of *'poor compliance with what are considered normal standards of governance'* and of the use of both formal power of attorney (and informal agreements) to move property and obfuscate its ownership.

It is certainly not unusual for agencies, once created, to ensure that their long-term survival is guaranteed through continued demand for their services. However, in creating such a complex multi-agency system there is a bias towards maintaining the *status quo* which is not necessarily efficient as already limited resources are over-stretched. Equally important is public trust in these agencies and in their officials (Igbinedion, 2018)²⁰³ underpinned by a strong political mandate (Bamidele et al., 2016).²⁰⁴

The FATF set out criteria for determining a country to be 'low capacity': (i)Competing priorities for scarce government resources; (ii)Severe lack of resources and skilled workforce to implement Government programmes; (iii)Overall weakness in legal institutions; (iv)Dominant informal sector and cash-based economy;(v)Poor documentation and data retention systems; and (vi)Very small financial sector. Our research did not set out to test these criteria for Nigeria but our project has produced evidence to support (i); (iii), (iv) and (v). Nigeria's progress in meeting the FATF recommendations should be contextualised against these challenges.

Our research suggests receptivity to operational level working groups that would build relationships and engender trust. The agencies we met were very clear about their role and what they could achieve with the right resources and support. We argue it would be helpful to reframe the need for collaboration to focus information sharing around beneficial ownership disclosure as an investigative resource in a way that would add value to agencies and make such arrangements more likely to take place. This proposal is much wider than the created register of BO as it concerns transparent data collection and record management across all agencies. This would concern what is collected, by whom, in what format and to what end. To be useful, records must be accessible (on-line if possible), accurate, shared in a timely manner and in a format that is usable. Improvements in records management would include creation of a single unique identifier to individual records, ensuring that records once established, could not be altered or amended without authorisation.

9 Questions

- (1) Which agencies are most likely to benefit from the use of BO information and any added-value in use of shared intelligence or powers between agencies on an inter-agency basis – would it be possible to form an affinity group around BOs and proceeds of corruption?
- (2) What empirical evidence on inhibitors/facilitators to the inter-agency work (specifically with respect to BO) would be useful to collect?
- (3) Would a focus on BO facilitate joint or joined-up working among agencies with an anti-corruption role and responsibility including or specifically relating to the proceeds of corruption?
- (4) Would it be possible to combine the intelligence gained from CTRs/STRs by selective analysis of CTRs involving large sums that may be unexplained and thus point to ML/CFT
- (5) How can CAC be supported to maximise success of the register?
- (6) What other reforms or changes could be brought about to improve the chances of success of the register?
- (7) How can the information on the register be presented in a way that is of use to the private sector and not just to AC agencies?
- (8) Would there be support for measures such as improved records management?

²⁰³ Igbinedion, S (2018) Human rights as a basis for recovering the proceeds of grand corruption *African Journal of International and Comparative Law*, 26(4), 483-506.

²⁰⁴ *Op.cit* footnote 189.

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- (9) Where might resources be focussed to maximise success of register of beneficial ownership for example in improving records management?
- (10) Is it feasible to consider sharing of a unique identifier of natural persons across different agencies?

Annexes to Interim Report

Table 1 The relevant agencies identified with an anti-corruption role and responsibility including or specifically relating to the proceeds of corruption.

Table 2 Who communicates with whom?

Most Recent Annual Reports Obtained (as at March 2019)

List of Responding Agencies and Organisations

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Table 1: The Main Agencies	OPERATING UNDER WHICH LAWS	INFORMATION SOURCES	PROSECUTORIAL O’SIGHT
<p>The Economic and Financial Crimes Commission (EFCC): mandated to enforce all economic and financial crimes laws in Nigeria and is the coordinating agency for the prevention and control of money laundering.</p> <p>Special Control Unit Against Money Laundering, the collection of intelligence and implementation of AML/CFT measures within the Designated Non-Financial Institutions (DNFIs) Sector in Nigeria.</p> <p>The Nigeria Police: the Police are the highest investigative organ, but the above mentioned have the statutory mandate and responsibility for investigating and prosecuting cases of corruption, economic and financial crimes through Special Fraud Unit (SFU) and the Financial Malpractices Investigation Unit (FMIU).</p> <p>The Independent Corrupt Practices and Other Related Offences Commission (ICPC): set up under the Corrupt Practices and Other Related Offences Act 2000. It encompasses enforcement, prevention and educational measures, including investigating and prosecuting allegations of corrupt practices, examine the practices, systems and procedures of public bodies and educate the public on and against bribery, corruption and related offences.</p> <p>The Code of Conduct Bureau (CCB). Set up by the Code of Conduct Bureau and Tribunal Act 1979. Responsible for receipt and assessment of asset declarations by public officials. enforce the provisions of the code of conduct, and investigate complaints about non-compliance with or breach of the provision of the code of conduct and refer cases to the Code of Conduct tribunal. The Tribunal under 23(c) may order the seizure and forfeiture to the State of any property acquired in abuse or corruption of office.</p>	<p><u>Specific</u> Economic and Financial Crimes Commission Act 2004 Corrupt Practices and Other Related Offences Act 2000 Code of Conduct Bureau and Tribunal Act 1979</p> <p><u>Generic</u> The Advance Fee Fraud and Other Fraud Related Offences Act 2006 The Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994 The Banks and other Financial Institutions Act 1991 Miscellaneous Offences Act 2004 Money Laundering (Prohibition) Act, 2011 Terrorism (Prevention) (Amendment) Act, 2013 The Constitution of the Federal Republic of Nigeria 1999 (as amended) Criminal Code Act Penal Code Nigerian Extractive Industries Transparency Initiative Act 2004 Freedom of Information Act 201124 Fiscal Responsibilities Act 201025 Banks and Other Financial Institutions (Amendment) Act 1991 Failed Banks (Recovery of Debts) and Financial Malpractices in Banks (Amendment) Act 1994</p> <p><u>Sharing</u> Money Laundering (Prohibition) Act, 2011 Economic and Financial Crimes Commission Act 2004 Nigerian Financial Intelligence Unit Act, 2018 Public Procurement Act 2007</p>	<p>The Code of Conduct Bureau (CCB). Set up by the Code of Conduct Bureau and Tribunal Act 1979. Responsible for receipt and assessment of asset declarations by public officials. enforce the provisions of the code of conduct, and investigate complaints about non-compliance with or breach of the provision of the code of conduct and refer cases to the Code of Conduct tribunal. The Tribunal under 23(c) may order the seizure and forfeiture to the State of any property acquired in abuse or corruption of office</p> <p>The Central Bank of Nigeria (CBN): the CBN was established under the BOFID (Banks and other Financial Institutions) Act, 1991. The CBN is the main regulator for the financial sector. It has oversight function over the all financial institutions on the enforcement of anti-money laundering and due diligence measures with respect to beneficial ownership.</p> <p>The Nigeria Financial Intelligence Unit (NFIU): the NFIU was established under the NFIU Act (2018) in fulfilment of the FATF Recommendation 29 which requires countries to establish a central authority for the receipt and analysis of suspicious transactions (STRs) and dissemination of financial intelligence to law enforcement and other relevant agencies</p> <p>The Bureau of Public Procurement (BPP): set up by the Public Procurement Act to prevent fraudulent and unfair procurement monitor the public procurement process, set standards for public procurement and harmonise existing government policies and practices in public procurement. Under s.53 can ask a ‘relevant’ agency to undertake investigations</p> <p>The Nigeria Extractive Industry Transparency Initiative (NEITI): set up under the Nigeria Extractive Industry Transparency Initiative Act 2007 to promote and ensure transparency and accountability and eliminate corrupt practices in payments and receipts within the extractive sector. requires reporting from related government bodies and from all extractive industry companies.</p> <p>Federal Inland Revenue Service (FIRS): set up by 1961 Companies and Income Tax Act 9and subsequently amended. Has powers to confiscate proceeds of tax fraud and evasion, and liaise with all government security and law enforcement agencies and such other financial supervisory institutions in the enforcement and eradication of tax related offences.</p>	<p>The Attorney General of the Federation (AGF) and Minister of Justice: the Attorney General of the Federation (AGF) and Minister of Justice oversees prosecution of criminal cases. A number of agencies may prosecute offences and the AGF does not interfere in the day to day activities of these agencies but can take over the exercise of this power when the need arises in the interest of justice. The AG may also issue guidelines to the agencies to guide them in the exercise of the conferred powers.</p>

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Table 2: Who Communicates with Whom?																	
	EFCC	FIU	SCUML	ICPC	CCB	Police	NEITI	BPP	FMJ	PCC	CBN	SEC	CAC	ONSA	GIABA	NDLEA	Other
EFCC																	
FIU	✓			✓	✓								✓	✓			✓
Special Control Unit Against Money Laundering (SCUML)		✓		✓		✓							✓			✓	
ICPC	✓	✓			✓	✓							✓				
Code of Conduct Bureau (CCB)		✓							✓				✓				✓
Police	✓	✓							✓		✓	✓					✓
Extractive Industries Transparency Initiative (NEITI)	✓										✓		✓				✓
Bureau of Public Procurement (BPP)																	
The Federal Ministry of Justice (FMJ)	✓	✓		✓											✓		
Public Complaint Commission (PCC)																	
Central Bank of Nigeria (CBN)	✓	✓		✓								✓	✓				
Securities and Exchange Commission (SEC)		✓					✓				✓		✓				
Corporate Affairs Commission (CAC)	✓						✓		✓								✓
Office of the National Security Adviser (ONSA)																	
The Intergovernmental Action Group against Money Laundering in West Africa (GIABA)																	
Nigeria Drugs Law Enforcement Agency (NDLEA)																	

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Most Recent Annual Reports Obtained (as at March 2019)

Institution	Most Recent Available	Availability of previous years
EFCC convictions contains all economic crimes.	2016	2013, 2014, 2015
ICPC Also strategic Action Plan 2013-2017	2015	2006, 2009, 2010, 2011, 2012, 2013, 2014
NFIU	2015	2011, 2013, 2014
SCUML	2018	
Customs		
Directorate of Public Prosecution	Concluded cases up to 2017	2016
Code of Conduct Bureau and related Tribunal	2012	
Office for Public Procurement	2017	2016, 2015
Public Complaints Commission	2017	1975-2017 (stats only)
Land Registry - no central registry, most accessible is from Lagos State https://landsbureau.lagosstate.gov.ng/2017/05/16/directorate-of-land-registry-2/	none	
Central Bank of Nigeria	2018	2017 (bi-annual economic reports 1999 - 2011)
National Bureau of Statistics	2017	2016, 2007-2012
Corporate Affairs Commission	2017	

List of Agencies and Organisations

In Abuja, Nigeria

Association of Chief Audit Executives of Banks in Nigeria (ACAEBIN)
Central Bank of Nigeria (CBN)
Code of Conduct Bureau (CCB)
Corporate Affairs Commission (CAC)
Federal Ministry of Justice (MoJ)
Independent Corrupt Practices and other Related Offences Commission (ICPC)
Nigerian Bar Association
Nigeria Extractive Industries Transparency Initiative (NEITI)
Nigerian Financial Intelligence Unit (NFIU)
Nigerian Police Force (NPF)
Ministry of Justice (MoJ)
Real Estate Developers Association of Nigeria (REDAN)
Representatives of the group of chief compliance officers
Special Control Unit Against Money Laundering (SCUML)
Securities and Exchange Commission (SEC)

In Washington, USA

Former FBI agent
Global Financial Integrity
Global Integrity
International Monetary Fund
Open Contracting

On-line, UK

Former Nigerian bank compliance officer
Former National Crime Agency, Head of International AC projects
Human and Environmental Development Agenda
International Corruption Unit, National Crime Agency
OpenOwnership

List of contacted agencies

Association of Bureau De Change Operators of Nigeria (ABCON)
Association of Chief Audit Executives of Banks in Nigeria (ACAEBIN)
Abuja Geographic Information Systems (AGIS)
Corporate Affairs Commission
Central Bank of Nigeria,
Code of Conduct Bureau
The Committee of Chief Compliance Officers of Banks in Nigeria (CCCOBIN)
Economic and Financial Crimes Commission (EFCC) (twice)

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Federal Inland revenue Service (FIRS)
Nigerian Financial Intelligence Agency (NFIU)
Institute of Chartered Accountants of Nigeria (ICAN)
Independent Corrupt Practice and Other related Offences Commission, (ICPC)
Ministry of Justice (MoJ)
Nigeria Customs Service
Nigeria Extractive Industries Transparency Initiative (NEITI)
National Insurance Commission (NIC)
Nigerian Bar Association
Nigerian Police Force (NPF)
Real Developers Associates of Nigeria (REDAN)
Special Control Unit Against Money Laundering (SCUML)
Securities and Exchange Commission (SEC)
Police Special Fraud Unit