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NIGERIA: IN THE FACE OF EXPULSION FROM THE EGMONT GROUP

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Nigeria, through the Nigerian Financial Intelligence Unit ("NFIU"), is a member of the Egmont Group of Financial Intelligence Units ("the Egmont Group"). The Egmont Group is an international anti-corruption body consisting of the Financial Intelligence Units (FIUs) of the countries who are signatories to its charter. The Group serves as the operational arm of the International Anti Money Laundering and Counter Finance Terrorism apparatus. The primary purpose of the Egmont Group is to provide a platform for the secure exchange of financial intelligence among its member FIUs.

The NFIU was established in 2004 as a unit under the control of the Economic and Financial Crimes Commission (EFCC) to serve as the Nigerian equivalent of FIUs in the Egmont Group. The creation of the NFIU was in line with Section 1(2)(c) of the EFCC Establishment Act 2004 which designates the EFCC as the Financial Intelligence Unit in Nigeria. This establishment of the NFIU as a unit under the EFCC was initially accepted by the Group, although sometime in 2013, the Group had expressed concerns regarding the operational autonomy of the NFIU.

In July 2017, the Egmont Group suspended the NFIU from the Group and further threatened to expel the NFIU by January 2018 if Nigeria did not comply with some of the Group's requirements. The suspension was due to Nigeria's non-compliance with a regulation of the Group which mandates that FIUs of member countries should be autonomous and have independent control over their funds, operations and staffing needs. In other words, the NFIU should be a distinct and autonomous entity.

Another ground given for the NFIU's suspension was the allegation that Nigeria was leaking confidential information obtained from the Group (specifically information relating to the status of suspicious transaction report details and information derived from international exchanges) to

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the media, and was using the confidential information obtained from the Egmont Group to blackmail individuals.

The Egmont Group has, in previous times, suspended other FIUs such as the German FIU. This suspension was however lifted in 2017 after Germany reorganised its FIU as an administrative unit under the jurisdiction of the German Central Customs Authority. Although the German FIU was not re-established as an autonomous body, the Group was satisfied that the re-organisation of the German FIU was sufficient to ensure its autonomy.

Impact of the NFIU Suspension

The Group constitutes the highest inter-governmental association of financial intelligence agencies in the world and suspension from the Group could have adverse implications for any country.

For instance, as a result of Nigeria's suspension from the Group, the NFIU may no longer exchange and receive sensitive financial information from other member countries. Consequently, Nigeria may be denied access to vital intelligence and information on money laundering, financing of terrorism, the proliferation of arms, financial crimes and related offences aimed at supporting local and international investigations, prosecutions and asset recovery.

Expulsion- What does it mean for Nigeria and its people?

The Egmont Group will be deliberating on the expulsion of Nigeria from the Group at its Head of FIU and Working Groups Meeting scheduled to hold from 12 - 15 March 2018 in Argentina. Expulsion from the Group means that Nigeria loses the image of transparency it enjoyed in relation to anti-money laundering and terrorist financing due to the NFIU being a member of the Group. Consequently, upon expulsion Nigeria would also lose the reliance members, observers of the Group and international financial institutions have in the NFIU as these institutions would become wary and cautious of conducting business in Nigeria and with Nigerians. Such institutions include the International Monetary Fund, World Bank, Basel Institute on Governance- International Centre for Asset Recovery (ICAR), Council of Europe and the Organisation for Economic Cooperation and Development are some of the international stakeholders and partners of the Group. The foundation of the Group is based on a mutual trust and NFIU losing its membership means we also lose this trust. The 2013 Charter of the Egmont Group states that members who have been suspended or expelled lose their good standing for non-compliance with the Charter and its principles

A potential consequence of this wariness resulting from expulsion from the Group is that Nigerians may be denied access to foreign card schemes used by Nigerian Banks such as MasterCard and Visa. Nigerian financial institutions may be restricted to issuing payment cards under local card schemes limited to Nigeria, which in turn may limit Nigerians to only internal card transactions. Furthermore, Nigerians may be unable to fulfil any domestic or international transactions using MasterCard or Visa cards issued by their banks.

The limitation to the usage of only local bank cards may also hurt the ability of Nigerians and Nigerian bodies to enter into offshore contracts, and businesses would have to find alternative ways of fulfilling such transactions. This may affect manufacturers who source raw materials internationally as well as importers. An effect could be a drastic increase in the cost of goods and services within the country.

Another likely consequence of Nigeria's expulsion from the group is that Nigerian banks may have to access foreign trade lines and loans at a premium, making such facilities more expensive for them. This added cost will, in turn, be passed on to businesses and customers. Nigerians travelling outside the country may have to rely on only cash for their transactions, which in turn will push them to the parallel market since the official forex market is limited to specific transactions.

The resultant pressure on the demand for forex at the parallel market could lead to a depreciation in the value of the Naira and a reduction in the purchasing power of the average Nigerian. It will be recalled that at the peak of the foreign exchange crisis in 2016, many Nigerians were forced to rely on the parallel market to meet their personal and commercial forex needs.

An expulsion may also hinder the activities of various Nigerian government ministries, departments and agencies which utilise information received from the NFIU from carrying out their respective criminal investigatory and prosecutorial duties. The expulsion may have a negative impact on the activities of banking sector regulators such as the Central Bank of Nigeria (CBN), Securities and Exchange Commission, and National Insurance Commission. These bodies use information received from the NFIU to carry out their oversight functions.

Compliance: What Steps Have Been Taken?

In a bid to comply with the directive of the Group, the Nigerian Senate fast-tracked the passing of the Nigerian Financial Intelligence Agency (Establishment, etc.) Bill, 2017 (the "Bill") which seeks to establish the Nigerian Financial Intelligence Agency (the Agency) as an independent entity. The Bill passed its third reading on 27 July 2017.

However, the Bill was not forwarded to the President for his assent because the Senate and House of Representative Committees on Financial Crimes and Anti-Corruption could not agree on if the NFIU should be domiciled with the CBN or the EFCC. However, as at 2 March 2018, it was reported that the Senate and House of Representatives had resolved that the NFIU should be domiciled with the CBN.

Key features of the Bill are:

The establishment of a legal, institutional and regulatory framework for the management and operation of the Agency. The Bill also proposes that the Director-General of the Agency shall be responsible for the administration and management of its staff, thus making the Agency an autonomous body. The Bill establishes a fund where budgetary allocations approved by the National Assembly should be paid to run the Agency. The Bill proposes a part-time governing board for the Agency, which shall include representatives from Federal Ministry of Justice, Federal Ministry of Finance, CBN and security agencies such as the EFCC.

The Bill also seeks to amend The EFCC Establishment Act by deleting sections 1 (2) (c) and 6(l) of the Act which designates the NFIU as the FIU for Nigeria. It also seeks to amend the Money Laundering (Prohibition) Act by substituting the word "Commission" in those sections with the words "Nigerian Financial Intelligence Agency".

Lastly, the Bill proposes that the Agency be domiciled with the CBN for institutional location and logistic support. This will meet the requirements of the Egmont Group regulation on the autonomy of FIUs, as the Group Charters permits the location of an FIU within the existing structure of another authority as long as the FIU maintains operational independence. For instance, Ghana's FIU is currently domiciled within the country's central bank.

Conclusion

Given the imminent threat of Nigeria's expulsion from the Group and the projected impact of such expulsion, there is the need to accelerate the enactment of the Bill. This will facilitate the reorganisation of the NFIU to ensure compliance with the Egmont Group's regulations, such that the NFIU will become a distinct and autonomous entity with full control over its funding, personnel recruitment and management, and operations.

Also, the NFIU (or other relevant bodies) should ensure that it complies with the Egmont Group's regulations, including ensuring that information received from other FIUs remain classified and are only disclosed to duly authorised persons.

If you would like to know more about what possible expulsion of Nigeria from the Egmont Group means for your business and what can be done to safeguard your business from the effects of expulsion, please do not hesitate to contact us.

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