



ECONOMIC AND FINANCIAL CRIMES COMMISSION

Paper Presentation

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INTRODUCTION

Economic and financial crimes are grievous offences that plunder a nation, enrich a few, pauperise millions, undermine public service and retard national progress. These dreadful crimes also discourage honesty and hard work, spread social misery, generate social conflicts and produce political instability. If care is not taken, economic and financial crimes have the potential of precipitating wars that may claim the lives of millions and facilitate the collapse of any nation. Beyond doubt, these crimes pose clear threat to the existence of our nation. Hence, they should be boldly and courageously confronted, opposed and defeated without fear or favour. That is the only way we can ensure the survival, peace and progress of our nation in the 21st century.

Besides, confronting and defeating economic and financial crimes is a constitutional duty that must be fulfilled. This is because Section 16 (5) of the Nigerian Constitution states that: “The State shall eradicate all corrupt practices and abuse of power.” As a result of this and other factors, the Federal Government of Nigeria (FGN) established the following anti-corruption agencies:

- a) Code of Conduct Bureau.
- b) Independent Corrupt Practices Commission.
- c) Economic and Financial Crimes Commission.

These three agencies have been fighting corruption and the abuse of due process since their foundation.

There are two main ways through which we can confront and defeat economic and financial crimes. One is through prevention; the other is through prosecution of suspects. The EFCC, as the primary agency that fights economic and financial crimes, adopts both approaches. Therefore, this Induction Programme, conceived and organised as a preventive intervention in the fight against economic and financial crimes, falls under our mandate. The EFCC welcomes this intervention and commends the Bureau of Public Service Reforms for organizing it. However, before we go into our discussion on what constitutes economic and financial crimes, it is necessary to give a brief account on the origin and mandate of the EFCC.

ORIGIN AND MANDATE OF EFCC

The EFCC was established in 2003 as a result of the combination of many factors. One was the long history of corruption in Nigeria that inflicted so much damage on the society, transforming the

country into a haven of money laundering and 419 syndicates. The second was the need to curb massive corruption and lack of accountability in the private and public sectors. The third was the blacklisting of Nigeria, along with 22 other countries, as a Non-Cooperating Territory by the Financial Action Task Force (FATF), which threatened to shut down the inflow of direct foreign investment. The FATF is an inter-governmental organization mandated to fight money laundering internationally. Consequently, the government of President Olusegun Obasanjo forwarded the Bill for the establishment of the EFCC to the National Assembly in 2002 after which the Commission was established in 2003. The 2002 EFCC Act was amended in 2004; and since then, the Commission remains the lead anti-corruption agency in Nigeria and in the African continent.

Our vision in the EFCC is to be:

an agency leading the fight against economic and financial crimes in Nigeria in conformity with the best international practices.

Our mission is:

to rid Nigeria of economic and financial crimes and to effectively coordinate the domestic effort of the global fight against money laundering and terrorist financing.

The Economic and Financial Crimes Commission (Establishment) Act, 2004 empowers the commission to :a) investigate all financial crimes; b) prevent and eradicate economic and financial crimes; c) examine and investigate all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies or groups involved; d) identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes; e) collect all reports relating to suspicious financial transactions, analyse and disseminate to all relevant government agencies; f) cause investigation to be conducted as to whether any person, corporate body or organization has committed an offence under the Establishment Act or other law relating to economic and financial crimes; g) cause investigation to be conducted into the properties of any person if it appears to the Commission that the person's life style and extent of the properties are not justified by his source of income; h) collaborate with government bodies both within and outside Nigeria; i) exchange scientific and technical information and conduct joint operations geared towards the eradication of economic and financial crimes; j) undertake research, maintain data, statistics, records and reports on economic and financial crimes; k) deal with matters connected with the extradition, deportation and mutual legal or other assistance between Nigeria and other countries; l)

carry out and sustain rigorous public enlightenment campaigns against economic and financial crimes and; m) carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it in this Act.

As can be seen, the jurisdiction of the EFCC is extensive and designed to comprehensively address the problem of a wide spectrum of economic and financial crimes in the country.

MEANING OF ECONOMIC AND FINANCIAL CRIMES

There are different types of economic and financial crimes committed at various levels of society across the nation. These are perpetrated by individuals or groups in public or private organisations on a daily basis. At the level of the public service in state and federal government agencies, economic and financial crimes are committed through:

- a) inflation of prices of items for purchase;
- b) misappropriation;
- c) embezzlement;
- d) over-estimation of cost of projects;
- e) contract splitting;
- f) insertion of ghost workers in payroll;

g) deliberate award and abandonment of contracts;

h) outright payment of huge sums of money to political godfathers, etc.

There are many other malpractices that constitute economic and financial crimes that cannot be mentioned because of the want of space and time. Nonetheless, in order to provide a clear and concise definition of economic and financial crimes, the 2004 EFCC Act distinguishes between financial and non-financial institutions. Section 46 of the Act states that:

Non-financial institution means dealers in jewelry, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets or such other businesses as the Federal Ministry of Commerce or appropriate regulatory authorities may from time to time designate.

The above is different from financial institutions which the Act designates as:

banks, body, association or group of persons, whether corporate or incorporate which carries on the business of investment and securities, a discount house, insurance institutions, debt factorization and conversion firms, bureau de change, finance company, money brokerage firms whose principal business includes factoring, project financing, equipment leasing, debt administration, fund management, private ledger services, investment services, local purchase order financing, export finance, project consultancy, pension fund

management and other businesses as the Central Bank or other appropriate regulatory authorities may from time to time designate.

Consequently, the Act describes economic and financial crime as:

the nonviolent criminal and illicit activity committed with the objectives of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc.

Other offences which the EFCC classifies and investigates as economic and financial crimes include: counterfeiting, illegal charge transfers, stock market fraud, fraudulent encashment of negotiable instruments, computer credit fraud, contract scam, land scam, terrorism financing, and every form of advanced fee fraud and money laundering-related offenses. The committal of any of these offences constitute economic and financial crime, punishable under the 2004 EFCC Act. Furthermore, the Act empowers the EFCC to investigate and prosecute offences committed under:

a) Miscellaneous Offences Act;

- b) Banks and Other Financial Institutions Act 1991 (as amended);
- c) Failed Banks (Recovery of Debts) and Financial Malpractices Act No. 18 of 1994;
- d) Dishonoured Cheques Offences Act 1977;
- e) Advance Fee Fraud and other Related Offences Act No. 13 of 1995;
- f) Money Laundering (Prohibition) Act, 2011 (as amended);
- g) Recovery of Public Property (Special Provisions) Act, Cap 389;
- h) Public Procurement Act No. 14, 2007;
- i) The Criminal Code Act Cap 77;
- j) The Penal Code - Northern States Federal Provisions Act - Cap 345;
- k) any other law or regulation relating to economic and financial crimes.

The provisions of the above Acts extend the definition of economic and financial crimes even further, making it clearer and more encompassing. For example, the Money Laundering (Prohibition) Act, 2011, stipulates that committing any of the following constitutes an offence:

- 1) making or accepting cash payment in excess of N5,000,000 or its equivalent (for individuals) and N10,000,000 or its equivalent (for corporate bodies) outside of banking transaction;
- 2) transferring to or from a foreign country funds or securities by a person or a corporate body of a sum exceeding \$10,000 or its equivalent without reporting in writing to the Central Bank or Securities and Exchange Commission within 7 days from the date of transaction;
- 3) transportation of cash or negotiable instruments in excess of \$10,000 or its equivalent by individuals in or out of the country without declaration to the Nigerian Customs Service;
- 4) wire transfer of a sum exceeding \$1,000 or its equivalent without complying with Section 2 (a and b) of the Act.

For all government officials and appointees the Public Procurement Act is one of the most important laws to pay close attention to in order to avoid committing economic and financial crimes. The Act contains clear guidelines on how to implement the following without violating due process:

- a) submission of contract bids;
- b) rejection of bids;
- c) bid opening;
- d) examination of bids;

- e) evaluation and acceptance of bids;
- f) payment of mobilisation fees;
- g) contract performance guarantee;
- h) record of procurement proceedings;
- i) request for quotations;
- j) direct procurement;
- k) disposal of public property;
- l) code of conduct for public procurement, etc.

Non-compliance with the above, and other provisions of the Act, amounts to economic and financial crimes that are punishable under the EFCC Act. Therefore, the first duty of all government officials and appointees is to study this and other relevant laws for the purpose of full compliance. This is necessary because ignorance is not an excuse for breaking the law.

The various economic and financial crimes taking place within governmental and non-governmental agencies are perpetrated by individuals or groups. In some cases, such groups commit the offences in collaboration with other criminal groups or individuals in other agencies in the form of a criminal syndicate. They often devise numerous sinister methods of operation that include lies, misinformation, deceit, financial secrecy,

bureaucratic manipulation, identity theft, threats and blackmail of all those opposed to their nefarious activities. This practice is also well entrenched among officials and employees of federal government agencies.

Some of these corrupt elements spread their nefarious activities to the larger society through various means. For example, they collaborate with some banking officials to insert ghost workers into the payroll or siphon money from government accounts directly through forgery and other means. They instigate contractors and suppliers to submit inflated bids or propose variation of approved contracts for the sole purpose of getting a slice of the payment. In recent years, they have created syndicates that have perfected devilish means of siphoning pension funds.

In spite of the nefarious activities of such unpatriotic elements, the EFCC has succeeded in investigating and prosecuting thousands of public officials in government agencies for corrupt practices. In the process, the Commission has made huge recoveries and seized assets worth trillions of naira since its creation in 2003. It is necessary for all public servants to be transparent and accountable in the discharge of their official duties. That is why one of the primary areas of focus of the EFCC is on restoring accountability, transparency and integrity in the

management of public property and public affairs. This is the only way we can enhance social justice and ensure the survival and progress of Nigeria.

Likewise, the Constitution of Nigeria and Public Service Rules make it mandatory for all public officers to declare all personal interests before assuming public office. Where such interests impinge on the discharge of one's official functions, one is expected to divest from them or excuse oneself from the discharge of the official function. Of equal significance is the need for all public servants to report or raise alarm when they notice financial crime or abuse of due process in the work place. This must be done because failure to report crime is also a crime. Every public servant will be held liable for his or her action (or inaction), and even if one is not called to account today, he will be summoned to answer questions even after retirement from service. The plain truth is that time does not run out on criminal investigation and prosecution.

Conclusion

The culture of deep rooted economic and financial crimes in the public service is one of the most fundamental problems posing an existential threat to the Nigerian nation. These crimes have negative impact on economic development, increase social

inequality and aggravate political instability. Hence, the mandate of our Commission to fight economic and financial crimes has become even more urgent and critical, and the EFCC is committed to deliver on this. However, the EFCC cannot fight corruption alone. Therefore, we call on all Nigerians to join us in this war in the interest of our collective survival. We call on officials and employees of all government agencies to support our efforts and stay away from committing economic and financial crimes. We must remember that public service exists solely to serve the interest of the Nigerian public. Therefore, all government officials and appointees are expected to comply with all the rules and regulations of public service. I conclude this presentation by emphatically stating that the EFCC will not condone corruption at any level of government. We will confront it frontally and we will defeat it surely.

May God bless and protect the Federal Republic of Nigeria.

Thank you all.