

**ADVANCE FEE FRAUD AND OTHER FRAUD RELATED
OFFENCES (AMENDMENT) ACT, 2005**

EXPLANATORY MEMORANDUM

This Act further amends the Advance Fee Fraud and Other Fraud Related Offences Act 1995 as amended to provide, among other things, for-

- (a) effective monitoring and supervision of internet service providers, cyber-cafes etc and
- (b) to prescribe penalties for non-compliance.

ADVANCE FEE FRAUD AND OTHER FRAUD RELATED OFFENCES (AMENDMENT) ACT, 2005

ARRANGEMENTS OF SECTIONS

Section:

1. Amendment of 1995 No 13, 1999 No. 13, 1999 No 62
2. Insertion of a new Part 1A
3. Insertion of a new subsection 2A
4. Substitution for section 12 of the principal Act
5. Short Title

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ADVANCE FEE FRAUD AND OTHER FRAUD RELATED OFFENCES (AMENDMENT) ACT, 2005

A BILL

FOR

AN ACT TO AMEND THE ADVANCE FEE FRAUD AND OTHER FRAUD RELATED OFFENCES ACT, 1995 AS AMENDED; AND FOR RELATED PURPOSES

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria-

- 1. The Advance Fee Fraud and Other Fraud Related Offences Act, 1995 (in this Act referred to as "the principal Act") as amended, is further amended as set out in this Act. Amendment of 1995 No. 13, 1999 No. 13, 1999 No 62
- 2. Insert a new Part 1A immediately after the existing Part 1 of the principal Act- Insertion of Part 1A

"PART IA – ELECTRONIC TELECOMMUNICATIONS OFFENCES, ETC.

11A – (1). Any person or entity providing an electronic communication service or remote computing service either by e-mail or any other form shall be required to obtain from the customer or subscriber-

- (a) full names;
- (b) residential address, in the case of an individual; and
- (c) corporate address, in the case of corporate bodies.

(2) Any customer or subscriber who-

- (a) fails to furnish the information specified in subsection (1) of this section; or
- (b) with the intent to deceive, supplies false information or conceals or disguises the information required under this section.

commits an offence and is liable on conviction to imprisonment for a term of not less than three years or a fine of N100,000.

(3) Any person or entity providing the electronic communication service or remote computing service either by e-mail or any other form, who fails to comply with the provisions of subsection (1) of this section, commits an offence and is liable on conviction to a fine of N100,000 and forfeiture of the equipment or facility used in providing the service.

11B – (1) Notwithstanding the provisions of the Nigerian Communications Commission Act, 2003 or the provisions of any other law or enactment, any person or entity who in the normal course of business provides telecommunications or internet services or is the owner or person in the management of any premises being used as a telephone or internet café or by whatever name called shall -

Duties of Telecommunications and Internet Service Providers and Internet Cafes
2003 No. 19

- (a) be registered with the Economic and Financial Crimes Commission (in this Act referred to as "the Commission");
- (b) maintain a register of all fixed line customers which shall be liable to inspection by any authorized officer of the Commission; and
- (c) submit returns to the Commission on demand on the use of its facilities.

(2) Any person whose normal course of business involves the provision of non-fixed line or Global System of Mobile Communications (GSM) or is in the management of any such services, shall submit on demand to the Commission such data and information as are necessary or expedient for giving full effect to the performance of the functions of the Commission under this Act.

(3) Any person specified under subsections (1) and (2) of this section shall exercise the duty of care to ensure that his services and facilities are not utilized for unlawful activities.

(4) No cause of action shall lie in court against any provider of wire or electronic communication service, its officers, employees or agents or other specified persons for providing information or facilities to the Commission.

(5) Any person or entity who by virtue of subsections (1) and (2) of this section knows or ought to know that he should –

- (a) be registered with the Commission; or
- (b) furnish the Commission on demand, with returns on the use of his service and facilities; or
- (c) facilitate access to data and information by authorized employees or staff of the Commission, and fail to do so with intent to conceal or disguise the nature of his activities or the use of his services and facilities,

commits an offence and is liable on conviction to imprisonment for a term of not less than 3 years without an option of fine and in the case of a continuing offence, to a fine of N50, 000 for each day the offence persists.

(6) Any person or entity convicted more than once under this Act shall have his operational licence revoked or cancelled."

3. Section 7 of the principal Act is amended by inserting immediately after the existing subsection (2) a new subsection (2A) -

Amendment of section 7 of the principal Act

"(2A) When, as a result of negligence, or regulation in the internal control procedures, a financial institution or a bureau de change, fails to exercise due diligence as specified in the Banks and other Financial Institutions Act, 1991 as amended or the Money Laundering (Prohibition) Act, 2003 in relation to the conduct of financial transactions which in fact involve the proceeds of unlawful activity –

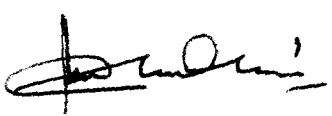
1991 No. 25,
2003 No. 7

- (a) the financial institution or bureau de change commits an offence and is liable on conviction to refund the total amount involved in the financial transaction and not less than N100,000 Naira sanction by the appropriate financial regulatory authority;
- (b) a Director, Secretary, employee or other staff of the financial institution or bureau de change who facilitates, contributes or otherwise is involved in the failure to exercise due diligence as stipulated under this section, commits an offence and is

liable on conviction to imprisonment for a term not less than 3 years and may also be liable to be banned indefinitely or for a period of 3 years from exercising the profession which provided the opportunity for the offence to be committed.”

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| <p>4. Substitute for section 12 of the principal Act a new section 12 -</p> <p>“12- The Federal High Court shall have jurisdiction to try offences and impose Penalties under this Act”</p> | <p>Substitution for section 12 of the principal Act</p> <p>Jurisdiction to try offences, etc.</p> |
| <p>5. This Act may be cited as the Advance Fee Fraud and Other Fraud Related Offences (Amendment) Act, 2005.</p> | <p>Short title</p> |

**I CERTIFY, IN ACCORDANCE WITH SECTION 2(1)
OF THE ACTS AUTHENTICATION ACT, CAP. A2,
LAWS OF THE FEDERATION OF NIGERIA 1990,
THAT THIS IS A TRUE COPY OF THE BILL PASSED
BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.**



**NASIRU IBRAHIM ARAB
CLERK TO THE NATIONAL ASSEMBLY**

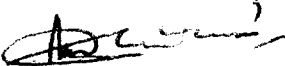
16th AUGUST, 2005

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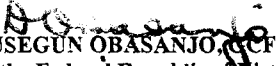
Schedule to Advance Fee Fraud and Other Fraud Related Offences (Amendment) Bill, 2005

(1) SHORT TITLE OF THE BILL	(2) LONG TITLE OF THE BILL	(3) SUMMARY OF THE CONTENTS OF THE BILL	(4) DATE PASSED BY THE SENATE	(5) DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Advance Fee Fraud and Other Related Offences (Amendment) Bill, 2005	An Act to amend the Advance Fee Fraud and Other Fraud Related Offences Act, 1995 as amended; and for related purposes	This Bill seeks to further amend the Advance Fee Fraud and Other Fraud Related Offences Act 1995 as amended to provide, among other things, for – (a) effective monitoring and supervision of internet service providers, cyber-cafes etc.; and (b) to prescribe penalties for non-compliance	28 th July 2005	20 th July, 2005

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, the Laws of the Federation of Nigeria, 2004.


NASIRU IBRAHIM ARAB
Clerk to the National Assembly
16th Day of August, 2005

I ASSENT.


CHIEF OLUSEGUN OBASANJO, CFR
President of the Federal Republic of Nigeria
17th Day of August, 2005

ALLOCATION OF REVENUE (ABOLITION OF DICHOTOMY IN THE APPLICATION OF THE PRINCIPLE OF DERIVATION) ACT, 2004.

EXPLANATORY MEMORANDUM

This Act abolishes any dichotomy between resources derived onshore and those derived offshore in the application of the Principle of Derivation for the purposes of revenue allocation.