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The Nigerian Financial Intelligence Unit (NFIU) and the Domiciliation Debate in the National Assembly

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Overview

- In view of the threat by the Egmont Group, a 152-nation network of national financial intelligence units, to suspend Nigeria in 2018, the bill to grant financial and operational autonomy to the Nigerian Financial Intelligence Unit (NFIU) has been passed by both legislative chambers of the Nigerian National Assembly and is now before the conference committee of the National Assembly for harmonization. Deliberations at this committee, however, indicates that the domiciliation of the NFIU is of concern.
- While the Senate committee favours the position that the NFIU be moved from the Economic and Financial Crimes Commission (EFCC) to the Central Bank of Nigeria (CBN), the House committee seeks a situation where the autonomous unit should be retained within the EFCC. Holding different positions on the domiciliation of NFIU would delay the harmonization process of the bill thus, delaying its transmission to President for assent.
- This brief provides cross country evidence on the operation and domiciliation of the NFIU in countries comparable with Nigeria. Contrary the positions held by the Senate and House Committee, evidence from these countries favours a situation where the NFIU is domiciled with the Ministry of Finance.

II. Background

1. Although Nigeria has a Financial Intelligence Unit as an autonomous department in the Economic and Financial Crimes Commission (EFCC), reports by the inter-government action group against money laundering has observed that the financial intelligence unit in Nigeria, among other countries in West Africa, has been operating sub-optimally. The ineffectiveness of the unit in Nigeria was attributed to among other things, the limited operation capacity of the unit within the EFCC and the modus operandi of the EFCC that have high degree of political interference, unlike the financial intelligence centre that requires full independence and autonomy.
2. Creating a financial intelligence unit under the EFCC have also led

the unit to submit its report to the EFCC rather than to law enforcement agencies for further investigation and to intelligently handle such matters. This have led to hastiness of the EFCC in handling cases involving such issues thus, leading to hasty conclusions and unfair media trials. Establishing the Nigeria Financial Intelligence Centre as an independent and autonomous Centre that submit its report to law enforcement agencies will therefore, help address such operational inefficiencies of the unit and also bring some sanctity to the modus operandi of the EFCC.

National Financial Intelligence agencies, Nigeria does not have one. This has made it difficult for the nation to harness the huge data base in financial intelligence by requesting this data and analyzing same for dissemination to law enforcement and security agencies for further action.

3. The suspension of Nigerian Financial Intelligence Unit (NFIU) from the Egmont Group of Financial Intelligence, on the 5th of July 2017 is another factor motivating the need to establish an independent Financial Intelligence Unit for Nigeria. The NFIU, an arm of the Economic and Financial Crimes Commission, EFCC, was suspended from the group at a plenary of the Heads of FIUs in Macao on July 5, 2017. Nigeria was fully admitted into the Egmont Group in 2007, after operational admittance in 2005. In July 2017, the group suspended Nigeria as a result of the interference of the Economic and Financial Crimes Commission (EFCC) in the workings of the NFIU. It asked the country to amend its law establishing the NFIU to make it autonomous or get expelled by January 2018.
4. Financial intelligence play a significant role in curbing the spread of terrorist activities and other vices such as kidnapping and illicit drug related activities. While other countries have invested decades to strengthen their

IV. Cross Country Experiences

Countries	Membership of FATF	Membership of Egmont Group	FIU Law	Issues	Comments
Bangladesh	Yes	Yes (July 3 rd , 2013)	Yes/ BFIU works under the provisions of Money Laundering Prevention Act, 2012 and Anti-Terrorism Act, 2009 (including amendments in 2013).	BFIU was established in June 2002, in Bangladesh Bank (Central bank of Bangladesh) named as 'Anti Money Laundering Department'. To enforce and ensure the operational independence of FIU, Anti Money Laundering Department has been transformed as the Bangladesh Financial Intelligence Unit (BFIU) in 25 January, 2012 under the provision of Money Laundering Prevention Act, 2012 and has been bestowed with operational independence. BFIU has also achieved the membership of Egmont Group in July, 2013.	The Financial Intelligence Unit has operational independence and commits to the Egmont membership
Tanzania	Yes	Yes (June 13, 2014)	Yes/ Anti-Money Laundering Act, Cap. 423 of 2006 - for Tanzania Mainland (AMLA)	FIU offices are located within the premises of the Ministry of Finance and Planning.	Situated in the Ministry of Finance and Planning but has operational and financial autonomy

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Senegal	Yes	Yes (July 31 st , 2009)	Uniform law n° 2004-09 of February 6th, 2004 on the fight against money laundering, Decree n° 2004-1150 of August 18th, 2004 instituting the creation, organisation and operation of a National Financial Intelligence Processing Unit	An administrative type financial intelligence unit, placed under the authority of the Ministry of Economy of Finances. Endowed with decision-making and financial autonomy (own budget)	Situated in the Ministry of Economy but has operational and financial autonomy. Commits to Egmont Group
Canada	Yes	Yes, June 7, 2002	Originally created in July 2000 to counter suspected <u>money laundering</u> , Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) was established under the Proceeds of Crime (Money Laundering) Act, which was amended in December, 2001 to become the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA).	FINTRAC's mandate was further amended in 2006 under Bill C-25 to expand the scope and require more detailed reporting by entities and individuals when certain risks thresholds were exceeded or identified. The Director of FINTRAC reports to the Minister of Finance.	Has Financial autonomy but no operational autonomy as the Director reports to the Minister of Finance. Commits to Egmont Group

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Israel	Yes	Yes, June 5, 2002	Israel Money Laundering and Terror Financing Prohibition Authority (IMPA), 2002	IMPA was established in 2002 as a financial intelligence unit acting in accordance with the international rules concerned with the combat against money laundering prescribed by the FATF and is overseen in Israel by MONEYVAL. IMPA is an independent Intelligence Authority. As such, IMPA is an administrative unit that does not have investigative powers.	Has Financial autonomy and operational autonomy but does not have investigate powers (not a spy agency). Commits to Egmont Group
Nigeria	Yes	June 1, 2007	No separate law; but under the EFCC Act (precisely section 1(2)(c) of the EFCC Act)	Nigeria was fully admitted into the Egmont Group in 2007, after operational admittance in 2005. In July 5 th 2017, the group suspended Nigeria as a result of the interference of the Economic and Financial Crimes Commission (EFCC) in the workings of the NFIU. It asked the country to amend its law establishing the NFIU to make it autonomous or get expelled by January 2018.	Suspended from Egmont Group. Have no Operational and Financial autonomy. Can stay under the EFCC but not under the current leadership style and operation of the EFCC. Hence, best if established as a separate entity.

Source: Analyst Compilation

V. Conclusion and Recommendation

5. Nigeria risk expulsion from the Egmont Group by 2018 if a legislative action is not taken to provide the Nigerian Financial Intelligence Unit (NFIU). While evidence from other countries shows that the Financial Intelligence Units in such countries is situated within a government agency and still retain its operational and financial independence, the case is not so for the NFIU. The modus operandi of the EFCC as observed in recent times have not helped matters. As such, to save Nigeria's membership in the Egmont Group and position the country to effectively tackle insecurity, it is pertinent for Nigeria to establish the Nigerian Financial Intelligence Centre. The passage of Bill in both chambers of the National Assembly is therefore a welcome development.
6. Countries like Tanzania, Senegal and Canada, have the equivalent of the NFIU operating under the Ministry of Finance and Planning. Thus, rather than establish a separate Centre for the NFIU,

section 1(2)(c) of the EFCC Act could be amended to provide for the NFIU as an autonomous unit under EFCC. Better still, the NFIU could be situated within the Ministry of Finance. However, the argument that the NFIU should be domiciled in the Central Bank of Nigeria is not supported by empirical evidence.

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¹ Groupe Intergouvernemental d'Action contre le Blanchiment d'Argent et le Financement

Link to National Dailies:

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