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REPORT OF PUBLIC HEARING HELD BY HOUSE COMMITTEE ON FINANCIAL CRIME ON A BILL TO AMEND THE ECONOMIC AND FINANCIAL CRIME (ESTABLISHMENT) ACT,2004.

1.0 INTRODUCTION

The House of Representatives at its sitting on Wednesday, 15th March 2017 conducted debate on the general principles of the Bills and assigned same to the Committee for further legislative action. This includes Four (4) consolidated Bills namely: A Bill for an act to amend the Economic and Financial Crime Commission Act Cap E1 Laws of the Federation of Nigeria, 2004 to provide for quick recovery procedures for stolen Assets, implement Active pursuit of cases, Build capacity and improve trust and Cooperation with foreign counter parts, Ensure Adequate funding of the commission, Establish the Economic and Financial Crimes Court, A Bill for an act to amend the Economic and Financial crime Commission Act to make the Commission more independent and effective in the enforcement of Economic and Financial Crimes, A Bill for an Act to amend the Economic and Financial Crime Commission Act, A Bill for an Act to amend the Economic and Financial Crimes Commission Act CAP E1 laws of the Federation of Nigeria, 2004 to Enhance Effectiveness of the Act and for other Related matters (HBs 393, 326, 617 AND 871)

1.1 PROCEDURES

The Committee held several meetings to establish the administrative and operational framework for the conduct of a Public Hearing. The Committee conducted a Public Hearing on the above mentioned Bill on 14th of November, 2017. The Stakeholders who attended the Public Hearing and also submitted memoranda were:

1. Ministry of Justice
2. Nigerian Law Reform Commission
3. Nigerian Institute of Advance Legal Studies

4. Economic and Financial Crimes Commission (EFCC)
5. Nigerian Law School
6. Directorate of State Security (DSS)
7. Nigerian Governors Forum
8. Independent Corrupt Practices Commission (ICPC)
9. Umar Yakubu of CCFA
10. Shehu A. Bashir Legal practitioner
11. Civil Society Organization

2.0 CONCLUSSIONS AND RECOMMENDATION

Based on the input of the Stakeholders and contributions of Honorable Members during the Public Hearing the House Committee on Financial Crimes hereby recommends that the House do consider this Amendment Bill and approve the Clauses as contain herein.

Hon. Kayode Oladele
Chairman
House Committee on Financial Crimes

Ovoh Benson Onyeme
Committee Clerk
House Committee on Financial Crimes

A Bill for an Act to Amend the Economic and Financial Crimes Commission Act, Cap. E1, Laws of the Federation of Nigeria, 2004 to provide for quick recovery procedures for Stolen Assets, Implement Active pursuit of Cases, Build Capacity and improve trust and Cooperation with foreign counter parts, Ensure Adequate Funding of the Commission, Establish the Economic and Financial Crimes Courts, Make the Commission more Independent and Effective in the Enforcement of Economic and Financial Crimes and to Enhance Effectiveness of the Act; and for Related matters (HBs 393, 326, 617 and 871)

PROVISIONS OF PRINCIPAL ACT.	PROVISIONS OF THE BILL	COMMITTEE RECOMMENDATIONS	REMARKS
Economic And Financial Crimes Commission (Establishment Act) 2004	A Bill for an Act to Amend the Economic and Financial Crimes Commission Act, Cap. E1, Laws of the Federation of Nigeria, 2004 to provide for quick recovery procedures for Stolen Assets, Implement Active pursuit of Cases, Build Capacity and Improve Trust and Cooperation with Foreign counter parts, Ensure Adequate Funding of the Commission, Establish the Economic and Financial Crimes Courts, Make the Commission more Independent and Effective in the Enforcement of Economic and Financial Crimes and to Enhance Effectiveness of the Act and for Related matters (HBs 393, 326, 617 and 871)	**Retained**	
Commencement ENACTED by the National Assembly of the Federal Republic of Nigeria	**Commencement.** Enacted by the National Assembly of the Federal Republic of Nigeria.	**Retained**	

1. **Establishment of the Economic and Financial Crimes Commission** 1:(1) there is established a body to be known as the Economic and Financial Crimes Commission (in this Act referred to as "the Commission") which shall be constituted in accordance with and shall have such functions as are conferred on it by this Act. (2) the Commission- a. shall be a body with perpetual succession and a common seal b. may sue or be sued in its corporate name and may, for the purpose of its function Commission acquire, hold or dispose of property (whether movable or immovable); c. is the designated Financial Intelligence Unit (FIU) In Nigeria, which is charge with the responsibility of coordinating the various institutions involved in the fight against money laundering and financial crimes in Nigeria.	**1. The Economic and Financial Crimes (Establishment) Act, 2004 (in this Act referred to as "the Principal Act") is Amended as set out in this Act.** **Deletion of section 1 (2) (c)** **2. Section 1(2) (c) of the Principal Act is hereby deleted** **Insertion of Sub-Sections 3, 4, 5,& 6.** **3. Section 1 of the principal Act is amended by inserting a new subsections (3) (4)(5) and(6) as follows:** "(3). There shall be a unit domiciled in the Commission to be known as the Nigerian Financial Intelligence Unit (Hereinafter referred to as the "NFIU"), Which shall be the Central Authority in Nigeria responsible for requesting,	**Retained** Retained Deleted	

	receiving, analyzing and disseminating of Financial information to law enforcement Agencies, supervisory and regulatory Authorities. (4). The NFIU shall carryout such other functions as maybe prescribed in a regulation made by the Attorney General of the Federation pursuant to section 43 of this Act and section 23 of the Money Laundering (prohibition) Act. 2011 (as amended). (5). In carrying out its functions the NFIU shall be operationally autonomous and independent, and shall not be subject to the direction or control of any other authority accept on matters of administration or policy oversight function of the commission. (6). The NFIU shall have power to (a) conduct analysis into any suspected cases of Money Laundering, terrorist Financing, financing of the proliferation of weapons of mass destruction, and non compliance with the provisions of the Money Laundering (prohibition) Act, the terrorism (prevention) Act, the Terrorist prevention (freezing of International Terrorist funds and other related measures) Regulation 2013; (b) Serve as the secretariat to the Nigerian Sanction Committee and the Inter-Ministerial Committee on Anti-Money Laundering/ Countering the Financing of Terrorism Matter in Nigeria; (c) without hindrance, share information or intelligence with other Financial Intelligence Units ("FIUs") either in response to a request		

	made to it or in a spontaneous manner; (d) Receive request for information directly from other FIUs and domestic stakeholders Agencies and process the same in a confidential and secure manner; (e) demand for and obtain additional information from any entity within or outside Nigeria where it consider such additional information expedient to the effective performance of its duties; (f) enter into Memorandum Of Understanding or such other arrangement with domestic stakeholder agencies, other FIUs or Institutions worldwide as will enable it to carry out its functions effectively; and combating the financing of terrorism focused examination of financial Institutions and designated non-financial institutions".		
2. **Composition of the Commission** (1) the Commission shall consist of the following members (a) a chairman, who shall- (i) Be the Chief Executive and Financial Officer of the Commission. (ii) be a serving or retired member of any government security or law enforcement agency not below the rank of Assistant Commissioner of police or equivalent; and (iii) possess not less than 15 years cognate experience (b) the Governor of the Central Bank or his Representative; and	**AMENDMENT OF SECTION 2.** **4. Section 2(1) of the Principal Act is amended by deleting Section 2(1); and substituting it with a new Section 2 (a),(i),(ii), and inserting a new sub-paragraph (iii)** (a) a Chairman, who shall- (i) Be a retired or Serving member of any government security or law enforcement agency not below the rank of Assistant Inspector General (AIG) of police or an equivalent and possessing not less than 20years cognate experience. (ii) a legal practitioner with at least 20years post call experience; and renumbering Section 2(1)(o) and (p) to	Retained	

(c) a representative each of the following Federal Ministry (i) Foreign Affairs, (ii)Finance, (iii)Justice, (d) the Chairman National Drug Law Enforcement Agency or his representative; (c) the Director General of- (i) the National Intelligence Agency, (ii) the Department of state Security Services or his representative; (f) the Registrar-General of the Corporate Affairs Commission or his Representative; (g) the Director-General, Security and Exchange Commission or his representative; (h) the Managing-Director, Nigeria-Deposit Insurance Corporation or his representative; (I) the Commissioner for Insurance or his representative; (j) the Postmaster-General of the Nigerian Postal Services or his representative; (k) the Chairman, Nigerian Communications Commission or his representative; (l) the Comptroller-General, Nigeria Custom Services or his representative; (m) the Comptroller-General, Nigeria Immigration Services or his	read Section 2(1)(p) and 2(1)(q) respectively.		

representative; (n) a Inspector General of Police or his representative; (o) four eminent Nigerian with cognate experience in any of the following, that is finance, banking or accounting; and (p) The Secretary to the commission who shall be the head of administration. (2) The members, of the Commission, other than the Chairman and the Secretary shall be part time members (3) The Chairman and the Members of the Commission other than ex-officio members shall be appointed by the President and the appointment shall be subject to confirmation of the Senate.			
Tenure of Office **3.** (1) the Chairman and members of the Commission other than ex-officio members shall hold office for a period of four years and may be re-appointed for a further term of four years and no more	**AMENDMENT OF SECTION 3** **5. Section 3(1) of the Principal Act is amended by inserting the words: "the secretary and" between the words "than" and "ex-officio" to read as follows:** "The Chairman and Members of the Commission other than the Secretary and Ex-officio members shall hold office for a period of four years and maybe re-appointed for a further term of four years and no more".	Retained	
3. (2) A member of the Commission may at any time be removed by the President for inability to discharge the	**AMENDMENT OF SECTION 3.** **6. Section 3(2) of the Principal Act is amended by deleting the whole of section 3(2)**		

functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct or if the President is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office. (3) A member of the Commission may resign his membership by notice in writing addressed to the President and that member shall, on the date of the term receipt of the notice by the President, cease to be member.	**and substituting it with a new section 3(2) as follows:** "a member of the commission may at any time be removed by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct of if the president is satisfied that it is not in the interest of the commission or the interest of the Public that the member should continue in the office, provided that the Chairman shall only be removed subject to the approval of simple majority of the Senate".	Retained	
6. **Functions of the Commission** The Commission shall be responsible for- (a) the informant and the due administration of the provisions of this Act;	**AMENDMENT OF SECTION 6.** **7.Section 6 of the Principal Act is amended by Substituting Section 6(a) with the following:** (a)"Monitoring, supervising and regulating the activities of designated Non-Financial Institutions to ensure compliance with anti-money laundering and combating the financing of terrorism regime".	Retained	
Special Power of the Commission **7:** (1) the Commission has power to- (a) cause investigations to be conducted as to whether any person, corporate body or organization has committed any offence under this Act or other law relating to economic and financial crimes (b) 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	**AMENDMENT OF SECTION 7:**		

the properties are not justified by his source of income; (2) the Commission is charged with the responsibility of enforcing the provisions of- (a) the money laundering Act 2004; 2003 No. 1 1995 No. 13 (b) the Advance Fee Fraud and Other Fraud Related Offences Act 1995; (c) the Failed Banks (Recovery of Debts) and Financial Malpractices in Bank Act 1994, as amended; (d) the Bank and other Financial Institutions Act 1991, as amended; and (e) Miscellaneous Offences Act (f) Any other law or regulations relating to economic and financial crimes, including the Criminal code of penal code	Section 7(2)(a) and (b) of the Principal Act is amended to read as follows: "(a) the Money Laundering (Prohibition) Act 2011(as amended);2004; 2003 No.7; 1995 No. 13; (b) the Advance Fee Fraud and Other Related Offences Act 2006; 1995 (as amended)".		
8. **Appointment of the Secretary and other staff of the Commission** **8:** (1) there shall be established for the Commission a Secretariat that shall be headed by Secretary who shall be appointed by the President. (2) the Secretary shall be- (a) the head of the Secretariat of the Commission; (b) responsible for the administration of the Secretariat and the keeping of the books and records of the Commission; (c) appointed for a term of five years in the first instance and may be	**AMENDMENT OF SECTION 8:** **9. Section 8 of the Principal Act is amended by inserting a new sub-paragraph (e):**		

re-appointed for a further term of five years subject to satisfactory performance ; and (d) subject to the supervision and control of the Chairman and the Commission (3) the Commission may, from time to time, appoint such other staff or second officers from government security or law enforcement agencies or such other private or public services as it may deem necessary, to assist the Commission in the performance of its functions under this Act. (4) The staff of the Commission appointed under Section, shall be appointed upon such terms and conditions as the Commission may, after consultation with the Federal Civil Commission, determine. (5) for the purpose of carrying out or enforcing the provisions of this Act, all officers of the Commission involved in the enforcement of the provisions of this Act shall have the same powers, authority, privileges (including power to bear arms) as are given by law to members of the Nigerian Police.	"(e) a person who is qualify to practice as a legal practitioner in Nigeria and has been so qualified for not less than 10years."		
9. **Staff Regulations** **9:** (1) the Commission may, subject to the provision of this Act, make staff regulations relating generally to the conditions of service of the employees	10. **AMENDMENT OF SECTION 9(1)(b):** Section 9(1)(b) of the Principal Act is amended by substituting with the following:		

of the Commission and without prejudice to the generality of the foregoing, the regulations may provide for- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Commission; and (b) Appeals by such employees against dismissal or other disciplinary measures, and until the regulations are made; any instrument relating to the conditions of service of officers in the Civil Service of the Federation shall be applicable, with such modifications as may be necessary, to the employees of the Commission. (2) staff regulations made under subsection (1) of this section shall not have effect until approved by the Commission, and so approved the regulation may not be published in the *Gazette* but the Commission shall cause them to be brought to the notice of all affected persons in such manner as it may, from to time, determine.	(b)"appeals by such employees against dismissal or other disciplinary measures." And deleting the rest of the sentence. **11. Section 9 of the Principal Act is amended by inserting a new subsection 9(3) to read as follows:** "where no provision is made in the Staff regulations regarding any issue the public Service Rules shall apply".	Retained Retained	
12. **Establishment of Special Units etc** **12:** (1) for the effective conduct of the functions of the Commission, there may be established for the Commission the following units- (a) the General and Assets	**12. AMENDMENT OF SECTION 12:** Section 12 of the Principal Act is amended by deleting the words "and Assets" in Section 12(1)(a); 13 (1), and 13(2)(b) of the Principal Act.	Retained	

Investigation Units; (b) the Legal and Prosecution Unit; (c) the Research Unit; (d) the Administration Unit; and (e) the Training Unit. (2) Notwithstanding the provision of subsection (1) of this section, the Commission has power to set up any committee as may be necessary to assist the Commission in the performance of its duties and functions under this Act.	**13. Section 12 is amended by inserting a new sub-paragraph (f) to Section 12(1)** **(f)**"Special Control Units against Money Laundering".		
13. **Special Duties of the Units** **13:** (1) the General and Assets Units shall be charge with responsibilities for- (a) the prevention and detection of offences in violation of the provisions of this Act; (b) the arrest and apprehension of economic and financial crime perpetrators; (c) the investigations of assets and properties of persons arrested for committing any offence under this Act; (d) the identification and tracing of proceeds and properties involved in any offence under this Act and the forfeiture of such proceeds and properties to the Federal Government; and (e) Dealing with matters connected with extradition and mutual assistance in criminal matters involving economic	**AMENDMENT OF SECTION 13:** Section 13(3) of the Principal Act is amended by renumbering Section 13(3) as 13(5) and inserting new sub-sections 13**(3)** and **(4) as** follows: The Special Control Unit against Money Laundering ("SCUML") shall: (a) monitor and supervise the activities of all designated non-financial institutions to ensure compliance with the provisions of this Act, the Money Laundering (Prohibition) Act. 2011 (as amended), provisions of the Terrorism (Prevention) Act. 2011 relating to terrorism financing, and any rules or regulations made thereto; (b) advise all designated non-financial institutions on their obligations and responsibilities under this Act; The Money Laundering (Prohibition) Act, 2011 (as amended), the Terrorism (Prevention)Act, 2011 (as amended) and any rules or regulations	Retained	

and financial offences. (2) the Legal and Prosecution Unit shall be charged with responsibility for- (a) prosecuting offenders under this Act; (b) supporting the general and assets investigation unit by providing the unit with legal advice and assistance whenever it is require; (c) conducting such proceedings as may be necessary towards the recovery of any assets or property forfeited under this Act; (d) Performing such other legal duties as the Commission may refer to it from time to time. (3) There shall be appointed for each of the Units a principal officer who shall be known by such designated as the Commission may determine.	made thereto; (c) take necessary measures to ensure compliance by all designated non-financial institutions regarding their obligations and responsibilities under this Act; the Money Laundering (Prohibition) Act, 2011 (as amended). The Terrorism (Prevention) Act, 2011 (as amended) and any rules or regulations made thereto. 4. Notwithstanding the provisions of Section 5(1)(c) and (2) of the Money Laundering (Prohibition) Act 2011 (as amended): (a) all Designated Non-Financial Institutions shall forward all reports required from them under the said Money Laundering (Prohibition) Act, 2011(as amended) to the Commission. (b) any reference to the "Minister" under the Money Laundering (Prohibition) Act, 2011 and reference to the Federal Ministry of Industry, Trade and Investment under Section 25 of the Money Laundering (Prohibition) Act 2011 (as amended) shall be deemed to be a reference to the "Attorney General of the Federation", and any regulations made by the "Minister" in exercise of the powers conferred on him under the said Money Laundering (Prohibition) Act, 2011 (as amended) shall continue to have effect as if they were made by the Attorney-General of the Federation."		

	14. AMENDMENT OF SECTION 13: **Section 13 of the Principal Act is amended by renumbering of Section 13(3) as 13(5) and inserting the following as Section 13(3)(4):**		

	"The Special Control Unit against Money Laundering ("SCUML") shall: (a) Monitor and supervise the activity of all designated non-Financial institutions to ensure compliance with the provisions of this Act, the money laundering (prohibition) Act. 2011 (as amended), provisions of Terrorism (prevention) Act. 2011 relating to Terrorism financing, and any rules and regulations made thereto; (b) Advised all designated non-financial institutions on their obligations and responsibilities under this Act; the money laundering (prohibition) Act, 2011 (as amended), the Terrorism (prevention) Act, 2011 (as amended) and any rules or regulations made thereto; (c) Take necessary measure to ensure compliance by all designated non-Financial institutions regarding their obligations and responsibilities under this Act: the Money Laundering (prohibition) Act, 2011 (as amended) the Terrorism (prevention) Act, 2011 (as amended) and any rules or regulations made thereto. 4. Notwithstanding the provisions of Section 5(1)(c) and (2) of the Money Laundering (prohibition) Act, 2011 (as amended): (a) All Designated Non-Financial institutions shall forward all report required from them under the said money laundering (prohibition) Act, 2011 (as amended) to the Commission. (b) Any reference to the "Minister" under the money laundering (prohibition) Act, 2011 (as amended) shall be deemed to be a reference to		

	the "Attorney General of the Federation", and any regulations made by the "Minister" in exercise of the powers conferred on him under the said money laundering (prohibition)Act, 2011 (as amended) shall continue to have effect as if they were made by the Attorney General of the Federation".		
14. **Offences relating to financial malpractices** **14:** (1) A person who, being an officer of a bank or other financial institution or designated non-financial institution- (a) fails or neglects to secure compliance with the provision of this Act; or (b) Fails or neglects to secure authenticity the authenticity of any statement submitted pursuant to the provision of this Act, commits an offence and is liable on conviction to imprisonment for a term not exceeding 5years or to a fine of Five Hundred Thousand Naira (N 500,000.00) or to both such imprisonment and fine. (2) subject to the provision of Section 174 of the Constitution of the Federal Republic of Nigeria 1999 (which relates to the power of the Attorney-General of the Federation to the institute, continue or discontinue criminal proceedings against any persons in any court of law), the Commission may	**15.AMENDMENT OF SECTION 14:** **Section 14 (1)(a) of the Principal Act is amended by Inserting the words "** any rules or regulations made pursuant to this Act" after the word "Act" in Section 14(1)(a)of the principal Act. **16. Section 14(2) of the Principal Act is amended by deleting the whole of Section 14(2) of the Principal Act and substituting it with the following:** "Subject to the provisions of Section 174 of the	Retained	

compound any offence punishable under this Act by accepting such sum of money as it thinks fit, not exceeding the amount of the maximum fine to which that person would have been convicted of that offence. (3) All money received by the Commission under the provision of subsection (2) of this section shall be paid into the Consolidated Revenue Fund of the Federation.	Constitution of the Federal Republic of Nigeria 1999 (as amended)(which relates to the power of the Attorney- General of the Federation to institute, continue, takeover or discontinue criminal proceedings against any person in any court of law), the commission may: (a) subject to full recovery of any proceeds, assets or property derived or involve in the commission of the offence compound any offence punishable under this Act by accepting such sums of money as it thinks fit, exceeding the maximum amount to which that person would have been liable if he had been convicted of that offence; or (b) enter into any plea bargain arrangement with any person who is charged for an offence under this Act in accordance with the Administration of Criminal Justice Act 2015 or any other applicable law regulating plea bargain Arrangement. **17. Section 14 is amended by inserting a new subsection 14(4) to read as follows:** "Notwithstanding the provisions of Section 14(3); 20; 21; 22; and Section 31(2) and (3), or any other provision in this Act where the property, assets or money recovered belongs to: (a) the Government of a State it shall be paid or transferred to the Government of the State; (b) a person whether body corporate or not it shall be paid or transferred to the person;		

	(c) an unidentifiable victims; and in any other case, the money or the proceeds from the sale of the property or assets when disposed of shall be paid into the Consolidated Revenue Fund of the Federation."		
Seizure of Property 26(1) Any property subject to forfeiture under this Act may be seizure by the Commission in the following circumstance- (a) the seizure incidental to an arrest or search ; or (b) in the case of property liable to forfeiture upon process issued by the Court following an application made by the Commission in accordance with the prescribed rules. 26(2) Whenever property is seized under any of the provisions of this Act, the Commission- (a) place the property in seal; or (b) remove the property to a place designed by the Commission.	**18. AMENDMENT OF SECTION 26:** **SECTION 26(1)(a) of the Principal Act is amended by inserting the word "investigation "** between the words **"an"** and **"arrest"** to read as follows; (a) the seizure is incidental to an investigation, arrest or search". **19. Section 26(2) is amended by inserting two new sub- Section 26(2)(c) and (d), to read as follows:** "(c) manage or administer such property by itself or appoint any person or firm with reasonable or cognate knowledge in the management or administration of such property to do so and shall pay all monies realized from it to a designated account after settlement of all necessary costs incidental to the management or administration of such property including professional fees of the person or firm appointed; (d) where any movable property seized is liable to decay or deterioration, or is property which cannot be maintained without difficulty or		

	unreasonable expenses, or which is not practicable to maintain, the Commission may: (i) by an order of court made pursuant to an ex-parte application sell or cause such property to be sold at the prevailing market value and shall keep in its custody the proceeds of the sale subject to the settlement of all incidental costs in the property; (ii) direct that the property be released on bond to the owner or person from whose custody or control if was seized subject to security being furnished in an amount not less than the market value of such property on the date on which it is released or such other security as the Commission may deem appropriate or reasonable pending the outcome or conclusion of investigation or any proceedings under this Act."		
(3) Properties taken or detained under this section shall be deemed to be in the custody of the Commission, subject only to an order of a Court.	**20. Section 26(3) is amended by renumbering section 26(3) of the Principal Act as Section 26(4) and a new sub-section (3) to read as follows:** "where a person to whom property is released on bond pursuant to Section 26(2)(d)(ii) above fails or neglects to surrender that property on demand or to comply with any term or condition for the release of the property, the security furnished in respect of such property shall be forfeited and that person shall be guilty of an offence and shall on conviction be liable to a fine of not less than twice the amount of the security furnished or to imprisonment for a term not less than two years or to both."		

27. Disclosure of Assets and Properties by an arrested person etc 27: (1) Where a person is arrested for committing an offence under this Act, such a person shall make full disclosure of all his assets and properties by completing the declaration of Assets form as specified in form A of the Schedule to this Act. (2) The completed Declaration of assets form shall be investigated by the Commission. (3) Any Person who- (a) knowingly fails to make full disclosure of his assets and liabilities; or (b) knowingly makes a declaration that is false; or (c) Fails, neglects or refuse to make a declaration or furnishes any information required, in the Declaration of Assets Form; commits an offence under this Act and is liable on conviction to imprisonment for a term of five years.	**21. AMENDMENT OF SECTION 27:**		
(4) Subject to the provisions of section 24 of this Act, whenever the assets and properties of any person arrested under this Act are attached, the General and Assets Investigation Unit shall apply to the Court for an interim forfeiture order under the provision of this Act.	**Section 27(4) of the Principal Act is amended to read as follows:** "Subject to the provisions of section 24 of this Act, whenever the assets and properties of any person under investigation or arrested for an offence under this Act are attached, the Commission shall apply ex-parte to the Court for an interim attachment Order under the		

(5) the Chairman of the Commission shall have powers to make changes or modifications to the Declaration of Assets Form specified in form A of the Schedule to this Act as may become necessary in order to give effect to the provisions of this Act.	provision of this Act".		
28. **Investigation of Assets and properties of a person arrested of an offence under this Act etc** 28: Where a person is arrested for an offence under this Act, the Commission shall immediately trace and attach all the assets and properties of the person acquired as a result of such economic and financial crime and shall thereafter cause to be obtained an interim attachment order from the Court.	**22.AMENDMENT OF SECTION 28:** **Section 28 of the Principal Act is amended as follows:** "where a person is under investigation or arrested for an offence under this Act, the Commission shall immediately trace and attach all the assets and the properties of the person acquired as a result of such Economic and Financial Crimes and shall thereafter by an ex-parte application cause to be obtained an interim attachment order from the Court".		
29. **interim forfeiture order** **29:** Where: (a) the assets or properties of any person arrested for an offence under this Act has been seized; or (b) any assets or properties been seized by the Commission under this Act, the Commission shall cause an application to be made to the Court for an interim order forfeiting the property concerned to the Federal Government and the Court shall, if satisfied that there is *Prima Facie* evidence that the property concerned is liable to	**23. AMENDMENT OF SECTION 29:** **Section 29 of the Principal Act is amended substituting Section 29 of the Principal Act as follows:** (1) Where: (a) any property has come into possession of an officer of the Commission as unclaimed property; (b) any unclaimed property is found by an officer of the Commission to be in the possession of any other person, body corporate or Financial Institution; (c) any property whether or not in the possession of any person, body corporate or		

forfeiture, make an interim order forfeiting the property to the Federal Government.	Financial institution is reasonably suspected to be proceeds of Crime under this Act; or (d) Where any person whether or not under investigation voluntarily surrenders any property as proceeds of Crime; the High Court shall upon application made by the Commission, its officers , or any other person authorized by it, and upon being reasonably satisfied that such property is an unclaimed property; or reasonably suspected to be proceeds of Crime; or has been voluntarily surrendered to the Commission make an order that the property or the proceeds from the sale of such property be forfeited to the Federal Government of Nigeria. (2) Notwithstanding the provision of sub-section 1 of this section the High Court shall not make an order of forfeiture of property of the proceeds from the sale of such property to the Federal Government of Nigeria until such notice or publication as the High Court may direct has been giving or made for any person, body corporate or Financial institution in whose possession the property is found or who may have a claim or interest in the property to show cause why the property should not be forfeited to the Federal Government of Nigeria. (3) Application under sub-section (1) above shall first be made by a motion ex-parte for interim attachment order of the property concerned and the giving of the requisite notice or publication as required in sub-section (2) of this section (4) At the expiration of fourteen days or such		

	other period of the High Court may consider reasonable from the date of the notice or making of the publication stated in sub-section (2) and (3) of this section, and application shall be made by an Ex-parte originating summons for the final forfeiture of the property concerned to the Federal Government of Nigeria where there is no claimant, by a motion on notice to the claimant or interested person where there is a claimant or interested person. (5) An order of forfeiture under this section shall not be based on a conviction for an offence under this Act or any other law".		
34. Freezing order on banks or other financial institutions (1) Notwithstanding anything contained in any other enactment or law, the Chairman of the Commission or any officer authorized by him may, if satisfied that the money in the account of a person is made through the commission of an offence under this Act or any enactments specified under section 6 (2) (a)-(f)of this Act, apply to the Court ex-parte for power to issue or instruct a bank examiner or such other appropriate regulatory authority to issue an order as specified in Form B of the schedule to this Act, addressed to the manager of the bank or any person in control of the financial institution where the account is or	**24.AMENDMENT OF SECTION 34:** **Section 34 of the Principal Act is amended by Deleting the whole of Section 34(1)of the Act and substituting it with the following:** "Notwithstanding anything in any other enactment or law, the Chairman of the Commission or any officer authorized by him may, if satisfied that the money in the account. of the person is made through the commission of an offence under this Act: "(a) by a letter or any other recognized mode of communication to the manager of a bank, or the person in control of the financial institution or designated non-financial institution directing him to post no debit or stop all outward payment, operations, transactions(including any bill of exchange) in respect of the account; and (b) shall within 14days apply to the Court ex-		

believed by him to be or the head office of the bank or other financial institution to freeze the account. (2) The Chairman of the Commission, or any officer authorized by him may by an order issued under subsection (1) of this section, or by any subsequent order, direct the bank or other financial institution to supply any information and produce books and document relating to the account and to stop all outward payments, operations or transactions (including any bill of exchange) in respect of the account of the arrested person. (3) The manager or any other person in control of the financial institution shall take necessary steps to comply with the requirements of the order made pursuant to subsection (2) of this section. (4) In this section- (a) "bank" has the meaning given to it in the bank and other Financial Institution Act 1999 as amend; 1991 No.25 (b) The reference to an order issued includes a reference to any order, direction or requirement addressed to the manager of a bank or any other officer of a bank which directs the manager or such officer to stop all outward payments, operations or transactions in respect of any	parte for an order as specified in FORM B of the schedule to this Act, addressed to the manager of the bank or any person in control of the financial institution or designated non-financial institution where the account is or believe by him to be or the head office of the bank, other financial institution or designated non-financial institution to freeze the account".		

account with that bank.			
35. Funds of the Commission (1) The Commission shall establish and maintain a fund from which shall defrayed all expenditure reasonably incurred by the Commission for the execution of its functions under this Act. (2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section, such monies as may in each year be approved by the Federal Government for the purpose of the Commission. (3) The Commission may accept gifts of land, money or other property (whether within or outside Nigeria) upon such terms and conditions, if any, as may be specified by the person or organization making the gift provided that the terms and conditions are not contrary to the objectives and functions of the Commission under this Act.	**25. AMENDMENT OF SECTION 35:** **Section 35 of the Principal Act is amended by adding a new sub-section to Section 35 as Section 35(4) to read as follows:** "The Commission shall: (a) retain and use two and half ($2\frac{1}{2}$) percent of all proceeds of crime recovered by it for its operational activities irrespective of whether the recovery is made for the Government of the Federation or state or any of their agencies;		

	any person whether body corporate or not or any foreign or international body or authority; (b) charge and retain for its use reasonable fees as may be prescribed by the Commission for training, certification of relevant of documents or report which the Commission may in its discretion issue to Members of the public upon application".		
39. Protecting informants and information, etc and penalty for false information (1) Officers of the Commission cannot be compelled to disclose the source of information or identity of their informants except by the order of the Court. (2) Any person who makes or causes any other person to make to an officer of the Commission or to any other public Officer, in the course of the exercise by such public officer of the duties of his office, any statement which to the knowledge of the person making the statement, or causing the statement to be made. (a) is false, or intended to mislead or is untrue in any material particular; or (b) is not consistent with any other statement previously made by such person to any other person having authority or power under any law to receive, or require to be made such other statement notwithstanding that the person making the statement is not	**26. AMENDMENT OF SECTION 39:** **Section 39 of the Principal Act is amended by altering the words** "exceeding One Hundred Thousand" between the words "not" and "naira" in Section 39(2)(b) to read "less than Two Hundred Thousand".		

under any legal or other obligation to tell the truth, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand naira or to imprisonment for a term not exceeding two (2) years or to both such fine and imprisonment. (c) Where any person who has made a statement to an officer of the Commission or to the Attorney-General, in the course of such officer or Attorney-General exercising any power conferred by this Act, subsequently thereto makes any other statement to any person having authority or power under any law to receive or require to be made such other statement regardless of whether or not the person making the statement is under a legal or other obligation to tell the truth, he shall, if such other statement is inconsistent with any statement previously made to an officer, be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand naira or to an imprisonment for a term not exceeding two years or both. (d) for the purpose of sub-section (1) and (2), any statement made in the course of any legal proceedings before any court, whether civil or criminal, or any statement made by any person in	**27. Section 39(2)(c) is amended by altering the words "exceeding Ten Thousand" between the words "not" and the "naira" in Section39(2)(c) to read "less than One Hundred Thousand"**		

the course of any disciplinary proceedings, whether such legal proceedings or disciplinary proceedings are against the person making the statement or against any other person, shall be deemed to be a statement made to a person having authority or power under the law to receive the statement so made.			
46. **Interpretation** **46:** In this Act- "Commission" means the Economic and Financial Crimes Commission established by section 1 of this Act; "Court" means the Federal High Court or the High Court of the Federal Capital Territory or the High Court of a State ; "Designated non-financial institutions means dealers in "jewellery, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets or such other business as the Federal Ministry of Commerce or appropriate regulatory authority may from time to time designate" "Economic and Financial Crimes" means the non-violent criminal and illicit activity committed with the objectives of earning wealth illegal either individual or in a group or organized manner thereby violating existing legislation governing the	**28.AMENDMENT OF SECTION 46:** **Section 46 of the Principal Act is amended by inserting a new Section 46 of the Principal Act:** "proceeds" or "proceeds of crime" shall mean any property derived from or obtained directly or indirectly through the Commission for an offence under this Act: "property" or "assets" shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible and legal documents or instruments evidencing title or interest in such assets ; "post no debit" shall mean to block an account, stop all transactions where money will go out of the account.		

economic activities of government and its administration and includes any form of fraud, narcotic drugs trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, oil bunkering and illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, dumping of toxic wastes and prohibited goods, etc.; "Financial Institution" means bank, body, association or group of person whether corporate or incorporate which carries the business of investment and securities, a discount house, insurance institutions, debt factorization and conversion firms, bureau de Change, financial 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 funds management and other business as the Central Bank or other appropriate regulatory authorities may from time to time designate. "other appropriate regulatory authorities" includes the securities and			

Exchange Commission, National Insurance Commission and the Federal ministry of Commerce; "Terrorism" means (a) any act which is a violation of the Criminal Code or the Penal Code and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or cause damage to public property, natural resources, environmental or cultural heritage and is calculated or intended to (i) intimidate, put in fear, coerce, or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act or to adopt or abandon a particular standpoint, or to act according to certain principles, or (ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency, or (iii) create general insurrection in a state; (b) any promotion, sponsorship of, contribution to, command, aid incitement, encouragement, attend threat, conspiracy, organization or procurement of any person, with the intent to commit any act to in paragraph (a)(i), (ii) and (iii).			

47. **Short Title** **47:** This Act may be cited as the Economic and Financial Crimes Commission (Establishment, Etc) Act, 2004.	This Bill may be cited as the Economic and Financial Crimes Commission (Establishment) (Amendment) Bill, 2016. EXPLANATORY MEMORANDUM This Bill seeks to Amend the Economic and Financial Crimes Commission (Establishment) Act 2004 in order to make the Commission more efficient in carrying out its duties under the law.		