



**THE Chartered Institute of Taxation of Nigeria**

*(Chartered by Act No. 76 of 1992)*

**MEMORANDUM TO THE ASSOCIATION OF  
PROFESSIONAL BODIES OF NIGERIA (APBN) ON  
LEGISLATIVE ISSUES AFFECTING PROFESSIONALS IN  
NIGERIA**

**ON TUESDAY, JULY 16, 2013**

## **INTRODUCTION**

The Chartered Institute of Taxation of Nigeria (CITN) was established in 1982 and Chartered by Act No. 76 of 1992 to regulate Tax Practice and Administration in the country.

The Chartered Institute of Taxation of Nigeria has over the years always been an advocate for reforms in the Nigerian tax system. The Institute was part of the 2002/2003 Study Group on the Review of the Nigerian Tax System which was inaugurated by the then Federal Minister of Finance on 6th August, 2002. Further to the report of the Group, a private-sector driven Working Group was constituted in 2004 to review the recommendations of the 2002/2003 Study Group which invariably gave birth to eight tax reform bills, some of which had been passed into law while the remaining are still going through the legislative processes at the National Assembly. It also led to the formulation of the National Tax Policy document which was approved by the Federal Executive Council and National Economic Council in January 2009 and March 2010 respectively.

Furthermore, in order to have a forum for technical and educational development, information sharing and enhancement of tax practice and administration, The Chartered Institute of Taxation of Nigeria (CITN) and The Chartered Institute of Taxation of Ghana (CITG) in collaboration with Revenue Agencies in the West African Region have formed the West African Union of Tax Institutes (WAUTI) which was a platform for the formation of the Association of African Tax Institutes (AATI).

It is against this background and in compliance with the directives of the Board of the APBN given at its meeting hosted by the Pharmaceutical Society of Nigeria (PSN) on Tuesday, June 25, 2013 that APBN member bodies should submit their position papers on some legislative issues that the CITN makes its submissions on each of the issues as follows:

### **1. SPECIAL CONTROL UNIT AGAINST MONEY LAUNDERING (SCULM) - EFCC**

Notification was by a reference circular to all banks and other financial institutions on the 2<sup>nd</sup> of August 2012 (dated 11<sup>th</sup> January, 2012) to obtain evidence of registration (e.g. registration certificates/numbers) with SCULM of the Federal Ministry of Trade and Investments. This captured audit firms, tax consultants, dealers

in jewellery, chartered accountants, legal practitioners, other professional firms etc.

The following are constraints/challenges which professionals will face in complying with this new requirement:

- Most clients prefer privacy, and might be uncomfortable with answering the questions that would enable the professional comply with the KYC/due diligence required by the Act;
- Also, because of market competition, most clients do not like the idea of exposing their activities or releasing too many details about their companies;
- The clerical work involved where professionals are expected to give a weekly report on the activities of clients that pay ₦150,000 or above as professional fees would become burdensome; and
- The ₦250,000.00 fine imposed on defaulting professionals who fail to make returns on a weekly basis is very stiff.

## 2). **FINANCIAL REPORTING COUNCIL: MULTIPLICITY OF REPORTING OBLIGATIONS**

The Act does not define "Professional". It however defines "Public entities" to mean:

"Government, Government organizations, quoted and unquoted companies and all other organizations which are required by law to file returns with regulatory authorities and this excludes private companies that routinely file returns only with Corporate Affairs Commission and the Federal Inland Revenue Service"

And "Professional Accountant" to mean a person who is a member of a body of Professional Accountancy body established by an Act of National Assembly and registered with the Council.

It would appear from the provisions of the Act that it is mandatory for professional accountants and all professionals, who represents or is engaged with public entities, to register with the Council regardless of how remote the engagement might be.

1. **IRREGULARITY OF OMNIBUS BODY:** The Act seeks to empower the Council to assume the role of various professional bodies who is empowered by their enacting Act to determine the condition for admittance. It would now seem that every professional is expected to register with two different bodies to be

able to practice only one profession instead of the professional bodies being a member of the Professional Association of Nigeria including the Financial Reporting Council of Nigeria. This is an unnecessary DOUBLE registration with its dire financial consequences on each member of the professions.

It looks as if the intention of the drafter was to extinguish all professionals and consolidate them to only one professional body in Nigeria. This looks extremely absurd for quality purposes. However, if that is what all the professional bodies seek to achieve on the long run, then all annual subscriptions payable to them should be suspended with immediate effect and the provisions of the FRCN should take immediate effect. On the contrary, if it was an error on the side of drafter and no professional bodies assented to such an omnibus body, the clause "and other professionals engaged in the financial reporting process" must be deleted from the provision of the Act.

2. **COMPLICATED DISCIPLINE PROCEDURE.** The Act also is suggestive that the FRCN could discipline any professional member apart from the discipline of members contained in the primary Act of each profession. The discipline is stated in Section 43 of the Act as follows:

"No registered professional shall employ a person who has been suspended from practice, unless the Council has consented to such employment".

The function of the Technical and Oversight Committee also includes the review of sanctions to be meted out to any professional accountant, professional or public interest entity.

It is obvious that the power granted to the Council was materially faulty and inappropriate as it was not the primary body or institute that issued the practicing license to such alleged erring professional in the first instance and therefore could not have power to discipline it. This is an overlap of procedure. What would then be the role of the primary professional bodies? Which procedure has to be followed now by any erring members? CITN or FRCN for tax practitioners? More so, the Chartered Institute of Taxation of Nigeria Act also contained the circumstances, procedure to be taken in the discipline of any of its

members. It is only appropriate that the FRCN regulates only the “external auditors firms” who are the professional accountant bodies” and nobody else because they are the only reporting professional bodies who are accountable for and sign financial statements and nobody else. Any unnecessary co-option of other professionals possibly for subscription purposes only is totally irrelevant and unnecessary.

### 3. **UNDUE FINANCIAL BURDEN ON PROFESSIONAL MEMBERS.**

The requirement of registration of each professional member with FRCN is considered as unnecessary financial burden on professionals and the public entities that are compelled to incur unnecessary costs of registering. These same sets of professionals pay dues to their respective professional bodies for holding practicing licenses. A pertinent question is 'what would be the relevance of those licenses'? If the professional bodies would survive on the long run, the provision of the Act in this respect must be cancelled and no individual should be a member of the FRCN.

It is imperative to align the provisions of the Act in such a way that professionals are made answerable to their respective professional bodies which has the capacity to pay closer attention in the monitoring the activities of their members.

All professional bodies should belong to the Professional Association of Nigeria including the FRCN (if it chooses to be). No individual member should have a direct dealing with the FRCN either by way of registration, subscription or discipline.

FRCN is supposed to focus only on regulating the external auditors in ensuring that they produce quality Financial Reports. No other professional has any responsibility for signing financial statements and therefore should not be accountable to the FRCN. If made accountable, it would be a useless exercise as it has no financial reporting attestation capacity.

Accordingly, all aspects of “and other professionals engaged in the financial reporting process” in the Act should be deleted. All powers relating to discipline of individual members of other professions should be deleted.

### **3). STAFF PENSION FUND**

The proposed bill to repeal the Pension Reform Act 2004 and enact the Pension Reform Act 2013 seeks to increase the total pension contribution from the current 15% of basic, housing and transport to 20% of total emolument. Also the employers liable to the contribution will be expanded to include those with minimum of 3 employees (previously 5 employees).

The above proposals will increase the cost of employment significantly for practitioners' especially small and medium size practitioners.

We therefore recommend that the proposed amendments should focus on the following sensitive issues:

- a. Pension Scam and Prevention
- b. Sensitising employers on compliance with the existing provisions of the law rather than make compliance more difficult and costly
- c. Providing clarity for coverage of Expatriate Staff; and
- d. How best to channel the pool of fund for productive investments in key areas.

### **4). TAXATION**

This has little effect on professionals as it equally affects all and sundry, individual and organisations and even the ordinary man on the street. It is a statutory obligation that must be discharged by all.

### **5). MINISTERIAL CONTROL ON GOVERNING COUNCIL AND COUNCIL AUTONOMY**

Professional Bodies should be allowed to elect members of their respective Governing Councils. The supervisory role played by the Government enables the Government to have nominated Members representing her on the Governing Council which to all intents and purposes is fair enough.

### **6). CONSTITUTION AND DISSOLUTION OF GOVERNING COUNCIL OF PROFESSIONAL BODIES**

Government interference should only be limited to case(s) where there is a breakdown of order or governing structures. The constitution, re-constitution or dissolution of the Governing Council of any professional body should be allowed to operate in accordance with the law/Act establishing such a body.

## **7). USE OF EXPERTISE AND LOCAL CONTENT**

Foreign “experts” are still being brought in from outside the country to take over jobs meant for Nigerians. Many professionals in Nigeria are not engaged, while the foreigners that may not be a better material than we have on ground are given priority consideration.

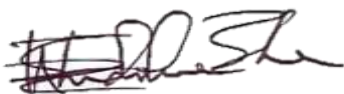
Policies of this nature will not:

- Encourage the use of made in Nigeria goods;
- Encourage value addition;
- Appropriate knowledge base/technology transfer plan;
- Promote adequate utilisation of Nigerian manpower resources; and
- Promote the utilisation of Nigerian financial institutions.

While we give the assurance of the Institute’s readiness to serve the nation in its efforts to reform the country’s tax system, we remain,

Yours faithfully

The Chartered Institute of Taxation of Nigeria



Mark Anthony Dike, FCTI  
President/Chairman of Council