1. **Introduction**

The development of a nation is largely predicated on the successful creation of an enabling economic environment. An enabling economic environment flows naturally from good governance. Good governance in turn is a product of honesty, integrity, objectivity, observance of the rule of law, transparency and accountability.[[1]](#footnote-1) Strictly speaking, the Nigerian political institution seems to have been bedevilled with disconnect between democracy and good governance.[[2]](#footnote-2)

Nigeria for instance, has been more noted ‘in the international circle for shameful dealings in trafficking in narcotics, human beings, ingenious international criminal activities and none the least, the local equivalent called ‘419’ which refers to fraudulent practices, apart from other behavioural tradition.’[[3]](#footnote-3) She is at the moment ‘stigmatized by an odious listing by Financial Action Task Force,[[4]](#footnote-4) as a non-compliant country to international money laundering regulations. The contagion of Advance Fee Fraud has ravaged the nation since the mid 80’s.[[5]](#footnote-5) At present, advance fee fraud has possessed the psyche of the youth population, which vastly subscribed to it as the fast-track to wealth actualization. The race is on among Nigerian youths across gender divides to acquire acumen in the art of intelligence crime. This shame is exacerbated at the moment by majority of the youths honing their skills in cybernetics.

It is the need to demolish this kind of negative and unenviable image that the government inaugurated among other bodies, the Economic and Financial Crimes Commission, charged with the responsibility to investigate, arrest and prosecute financial and economic crimes offenders.[[6]](#footnote-6)

Consequent on the above, the paper is divided into 6 parts: part one is the introduction, part two deals with the meaning, nature and scope of financial crimes. The part three dwells on subsisting legal and institutional frameworks. The part four examines the challenges and prospects in checking financial crimes in Nigeria. The part five is the conclusion.

1. **Meaning, Nature and Scope of Financial Crimes**

What is Financial Crime?

Economic and Financial Crimes Commission Act[[7]](#footnote-7) did not give an isolated definition to the term financial crime but rather jointly defined it with economic crime as:

A non-violent 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 fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, 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.

One is not easily able to understand why the drafters of this piece of legislation choose to adopt this joint definition. But suffice it to say that this pattern of joint definition was followed by Tony[[8]](#footnote-8) while defining the two terms. According to him:

Financial and economic crimes in Nigeria find expression in advanced fee fraud, referred to as 419 for short, money laundering, currency trafficking, fake cheques, fake currency running, counterfeiting of travel documents, illegal immigration syndication illegal oil bunkering, identity fraud, credit card fraud, expatriate quota trafficking round tripping in banks and stock exchange and sundry sharp practices with the intent to defraud.

These definitions failed ‘to draw a line of distinction between financial crime and economic crime.’ The reason behind this argument is that economic crimes and financial crimes are kindred offences with extremely thin line separating them. All economic crimes are financial crimes but not all financial crimes are economic crimes.[[9]](#footnote-9) Economic crimes are those crimes that have a damaging effect on the economic and political system of the country.[[10]](#footnote-10) Their damage to the international image of the country is more injurious than the direct financial loss. These include corruption, embezzlement of public funds, fake currency running, smuggling, drug trafficking, and etcetera.[[11]](#footnote-11)

Financial crimes on the other hand are those committed not only with the intention of getting financial benefit but they are targeted directly at funds and financial instruments. The objective is to make money directly. Financial crimes include advance fee fraud, money laundering, currency trafficking, issuing of dud cheques, offences involving insider abuse, and etcetera.[[12]](#footnote-12) Most financial crimes are also fraudulent in nature. Financial crimes such as trade malpractices, money laundering and cyber-crime are the serious enemies not only of the manufacturing sector but also the Nigeria business environment. In countries transitioning to industrialization such as Nigeria, the criminal influence on the financial system could undermine the transition to industrial and technological revolution and subsequently keep the country under perpetual imports slavery. Hence money laundering, trade malpractices and cyber-crime are the basic financial crimes cases that this paper shall dwell on.

It is therefore imperative to examine the regimes of money laundering and its effect on the manufacturing sector: particularly, trade malpractices and the manufacturing sector as well as cyber-crime on the Nigeria economic environment.

1. **Money Laundering and the Manufacturing Sector**

Money laundering is a process by which criminals attempt to hide and disguise the true origin and ownership of the proceeds of their criminal activities thereby avoiding prosecution, conviction and confiscation of criminal funds. As a derivative, it flows from the following crimes among others, ‘illegal arms sales, smuggling, activities of organized crime, including for example, drug trafficking and prostitution rings, embezzlement, insider trading bribery and computer fraud schemes.[[13]](#footnote-13) Funds acquired from these sources which ordinarily, cannot be pushed through banks and other financial institutions by eluding financial regulators and law enforcement agencies around the world are laundered through trade malpractices such as; massive importation of all kinds of goods like spare parts, pharmaceutical products, chemicals, automobiles etcetera. Since the motive of importing the goods is ‘not profit making but to legitimize the criminal proceeds’ invariably, the imported items are quickly sold at give-away prices in Nigeria. Consequently, the effect of money laundered through imports is usually aimed at undermining the genuine efforts of local manufacturers who share, compete and operate in the same business environment with the launderers. The imported goods which most of the time are produced at cheap cost and higher quality abroad cannot compete favourably with local goods produced at perhaps high cost and lower quality in Nigeria, with the effect of causing prices to crash as well as occasioned losses by large stock of unsold products for lack of patronage. According to Nuhu Ribadu, the then Chairman of the EFCC, figures released recently indicate that Nigeria’s foreign exchange figures of import from China stood at about USD 797 million in 2003 while figures from other international sources for the same year puts it at USD 1.787 billion. This disparity is associated with trade malpractices wherein goods which are most probably sub-standard, and for which appropriate import duty may not have been paid were brought into the country.[[14]](#footnote-14)

1. **Trade Malpractices and the Manufacturing Sector**

Trade malpractices constitute a dent on Nigeria’s image. The nature of trade malpractices in Nigeria has multivariate dimensions. The following trade malpractices are obviously substantial and prevalent.

1. Direct copying of local brands by manufacturers
2. Importation of fake/counterfeit and substandard products
3. Diversion of ‘trans-shipped’ goods
4. False declaration of goods
5. Recycling of CR1 and Custom Duty Receipts
6. Smuggling.

The overall consequences of these stated trade malpractices have damaging effects on the industrial sector. Apart from excessive revenue losses to government, they contribute to low capacity utilization, unemployment, pressure on the naira and general mass poverty. They diminish the respect and regard Nigeria commands internationally and loss of confidence in the nation by foreign investors and international development partners.

1. **Impact of Cyber-crimes on the Nigerian Business Environment**

Cyber-crimes are those committed through the cyber space, that is to say, the internet or on-line and include computer frauds, e-mail bombing, and etcetera. In emerging economies such as Malaysia, Singapore and Indonesia that are advancing the frontiers of the cyber-world among developing economies, have reported cases of cyber-crimes to be very common. [[15]](#footnote-15) In Nigeria, the present state of the Law is deficient. The banking sector is the most sophisticated ICT compliant sector and therefore more vulnerable. The cases of CBN, Union Bank, Gulf Bank and Broad Bank are good examples whose websites have been cloned. Although the economy is still underdeveloped in cyber technology, it is on record that the EFCC is presently handling over 200 cases of cyber-crimes involving either individuals or financial institutions in Nigeria within the past one year.[[16]](#footnote-16) These cases include but are not restricted to, credit card fraud, web site cloning, web hacking, master card fraud, spasm, fraudulent web advertising, network interception etc.

Recently, cyber-criminals were alleged to have cloned the EFCC website and impersonated the chairman of the commission. The site -was used to extort money from innocent and unsuspecting foreigners and Nigerians. The fraudsters were operating both in Nigeria and the US asking for an advance processing fee for enquiries made on any business information by either prospective investors or complainants. According to the former chairman of the commission, the gang has since been nabbed. [[17]](#footnote-17)

Cyber-crimes have, like other financial, crimes brought Nigeria’s image into disrepute. It is indeed difficult now to successfully transact commerce from Nigeria. It means that the manufacturers cannot place order for raw materials on the web because your orders will be suspect. Letters of credit from Nigeria are vigorously scrutinized causing delays and frustrations for manufacturers. Nigeria’s listing by the FATF as a Non-Cooperative Country and Territory (NCCT) has made matters even worse. It is an unfortunate situation but that is the truth. Government has however taken concrete steps to address the situation. Various legislation and regulation have been evolved to address the situations discussed above.

1. **Legal and Institutional Regulation on Financial Crimes in Nigeria**

Having done some analysis on the nature and scope of financial crime and the concomitant challenges associated there on, that negatively affects aspects of our economic life, it therefore becomes pertinent to consider legislative efforts aimed at curtailing the scourge of the criminals. Though not much has been achieved in terms of implementation, there is however, need to commend legislative efforts made by past governments in promulgating some of these legislations, including the following: Criminal Code Cap 77 LFN 1990, Penal Code Cap 89 LFN 1990, Failed Bank (Recovery of Debts) and Financial Malpractices in Banks Decree of 1994, Money Laundering Act of 1995, Advance Fee Fraud (otherwise known as 419) and other Fraud related Offences Act of 1995, The National Drug Law Enforcement Agency Act (NDLEA), Banks and other Financial Institutions Act of 1991, Miscellaneous Offences Act 1985, and Foreign Exchange Act of 1995. Apparently, there is plethora of legislations, but space constraint will limit our examination of some of these legislations.

1. Failed Bank (Recovery of Debts) and Financial Malpractices in Banks Decree of 1994

The military regime promulgated the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks, Decree 1994[[18]](#footnote-18) (as amended[[19]](#footnote-19)). The decree deals with both civil and criminal cases, and for clarity sake, is divided into parts. An examination of the decree is limited to only the criminal aspects of the Decree.

1. Offences and Penalties under Decree No. 18 of 1994 (as amended) xxxx

Part Ill of the Failed Banks Decree created a number of offences and sets out penalties for them. Under Section 19 (1) of the Decree five different offences are created. Firstly, it is provided that “any director, manager, officer or employee of a bank (all agents of a bank)” who:

(a) Knowingly, recklessly, negligently, wilfully or otherwise grants approves the grant, or is otherwise connected with the grant or approval of a loan, an advance, a guarantee or any other credit facility or financial accommodation to any person:

(i) Without adequate security or collateral, contrary to the accepted practice or the Bank’s regulations; or

(ii) With no security or collateral where such security or collateral is normally required in accordance with the Bank’s regulations; or

(iii) With a defective security or collateral; or

(iv) Without perfecting, through his negligence or otherwise, a security or collateral obtained,

is guilty of an offence under the decree.[[20]](#footnote-20)

Secondly, any of the above named agents of a bank who grants, approves the grant or is otherwise connected with the grant or approval of a loan, an advance, a guarantee or any other credit facility which is above his limit as laid down by law or any other regulatory authority or the bank’s regulations, is guilty of an offence under the Decree. [[21]](#footnote-21)

Thirdly, any director, manager, etc. who grants approves the grant or is otherwise connected with the grant or approval of a loan, an advance, a guarantee, or any other credit facility to a person in contravention of any law for the time being in force, any regulation, circular, or procedure as laid down from time to time by the regulatory authorities or by the bank, is guilty of an offence under Decree No. 18 of 1994. [[22]](#footnote-22)

Fourthly, any director, manager, etc. who receives or participates in sharing, for personal gratification, any money, profit, property or pecuniary benefit towards or after the procurement of a loan, an advance, a guarantee or any other credit facility from any person whether or not that person is a customer of the bank, is guilty of an offence under the Decree. [[23]](#footnote-23)

Lastly, any agent of a bank who recklessly grants or approves a loan or an interest waiver where the borrower is not known to have the ability to repay the loan and interest is guilty of an offence under the Decree.[[24]](#footnote-24)

In line with the provisions of the Decree, any person who commits any of the first three offences stated above is liable on conviction to imprisonment for a term not exceeding 5 years without an option of a fine.[[25]](#footnote-25) In the case of the last two offences stated above, a person who is found guilty of them may be sentenced to imprisonment for a term not exceeding 3 years without an option of a fine.[[26]](#footnote-26)

It is obvious that the foregoing offences can only be committed by the agents of a bank, that is, a director, manager, and etcetera. Notwithstanding, the forgoing, financial malpractices in banks can also be perpetrated by non-agents or customers of a bank. For instance, section 19 (2) of the Failed Banks Decree makes it an offence for a person who, ‘being indebted to or being a customer of a bank, negligently, wilfully or recklessly-

(a) Makes a statement, whether written or oral, or gives any information, or

(b) Fills any form to a bank, knowing it to be false, fake, non-existent or fictitious,

 with the intention of concealing his identity from the bank so as to avoid the

 repayment of a loan, an advance, a guarantee or any other credit facility

 granted him by the bank.

Any person who contravenes the provision of Section 19 (2) above, is liable upon conviction to imprisonment for a term of exceeding 3 years without an option of a fine.[[27]](#footnote-27) Where the convict is a body corporate, any of its directors, managers, officers, employees or partners who is responsible or is in any way connected with the doing of any of the acts stated in the said sub-section is guilty of the same offence and liable on conviction to the same penalty.[[28]](#footnote-28) It must be noted that under the Decree, it is an offence which carries the same punishment as attempt to commit any of the above offences.[[29]](#footnote-29)

The amendment of the principal decree, operated to extend the categories of offences. For instance, a person who fails to, comply with an order of the Tribunal under section 13(2) of Decree No. 18 of 1994 for the payment of the loan and interest within the time specified in an order under that section is guilty of an offence.[[30]](#footnote-30) It must be mentioned that a person convicted of an offence under the Failed Banks Decree may voluntarily surrender property, movable or immovable of the value equal to the amount involved in the offence or such other value as he may decide.[[31]](#footnote-31) In this case, the Failed Banks Tribunal may, if it deems it equitable, reduce or decline to impose the penalty specified in the relevant section of the law. [[32]](#footnote-32) Hence, it may be argued that the main object of the Failed Banks Decree is the recovery of debts owed a failed bank and not the punishment of offenders. The essence of the legislation was to check the economy from being collapsed.

1. Money Laundering Act 2003

The offences created by the provisions of the legislation included money laundering and other offences related to the retention of proceeds from criminal activities. The provision is thus made for the prevention of money laundering among other things, inclusive of:

1. Limiting the amount of cash payments that can be made or accepted.
2. Regulating over the counter exchange transactions.
3. Providing for the proper identification of customers; and
4. Empowering the National Drug Law Enforcement Agency to place surveillance on certain bank accounts.

Space constraints will only permit a brief analysis of the provisions of this Act. It should however be noted that one of the striking provisions of this legislation is the one that limits the amount of cash payment that can be made or accepted under S. 1 (a) (b) by both individual and corporate bodies, respectively, except through financial institution.[[33]](#footnote-33)

The above section provides that:

1. Except in a transaction through a financial institution, no person shall make or accept cash payment of a sum greater than.

(a) N500, 000 or its equivalent, in the case of an individual;

(b) 2 million or its equivalent, in the case of a body corporate

The intendment of this provision is to afford the appropriate institution or agency, monitoring especially, drug and psychotropic substance money or a better opportunity to carry out surveillance on the account of the respective customer in the financial institution concerned, as contained in section 12 (1) and (2) of the Law.[[34]](#footnote-34) The provision is to the effect that in tracing drug and psychotropic substance and other monies, the agency shall have power to:

(a) Place any bank account and account comparable to a bank account under surveillance.

(b) Place under surveillance or tap any, telephone line;

(c) Have access to any computer system …[[35]](#footnote-35)

It should also be noted that even the rule of banking secrecy relating to the account of customer shall not prevent the agency from carrying out such surveillance.[[36]](#footnote-36)

Consequently, financial institutions are required to do the following:[[37]](#footnote-37)

(a) Submit a declaration of activities, ‘before the commencement of business to the Central Bank,

(b) Require a customer to furnish photographic identification and to complete a standard data form prior to any transaction involving the sum of US $5,000 or its equivalent; and

(c) Record transactions to which the section applies in a register ‘numbered and initiated by an officer authorized by the Central Bank for that purpose’ which register must be preserved for at least ten years after the last transaction recorded therein.

Failure to comply with the foregoing provisions render persons convicted to, in the case of individuals a fine of N25000:00 for each day during which the offence continues and, in the case of a financial institution, a fine of N1,000,000:00 for each day during which the offence continues.[[38]](#footnote-38) In other jurisdiction like Germany, similar provisions or regulations are applicable. Banks and other financial institutions are required to know, record and report the identity of customers engaging in significant, large currency transactions. They are required to mention necessary records to reconstruct significant transactions through financial institutions in order to respond to information requests from appropriate government authorities in narcotics-related cases. Germany requires that financial institutions report transactions of more than Dm. 20,000 (approx. US $ 14,300) to state central authorities. The banking community cooperates with enforcement efforts. Bankers are protected by law with respect to cooperation with law enforcement entities.[[39]](#footnote-39)

By the money laundering Act financial institutions are required to verify the identity and address of customers before ‘entering into a fiduciary transaction’ with the customer.[[40]](#footnote-40) There are also provisions requiring financial institutions to ‘seek information’ from a customer as to the origin and destination’ of funds, the ‘aim of the transaction and the identity’ of beneficiaries of funds.[[41]](#footnote-41) Financial institutions are required to ‘develop programmes’ to combat the laundering of proceeds of crime and other illegal acts, and such programmes are to include the designation of compliance officers, regular training for employers, the centralization of information collected and the establishment of an internal audit unit to ensure compliance with the legislation.[[42]](#footnote-42) Money laundering offences carry penalty ranging from a minimum sum of N250,000:00 and a maximum of N 1,000,000:00. Persons convicted of’ money laundering offences may also be banned indefinitely or for a period of 5 years from exercising the profession, which provided the opportunity for the offences committed.[[43]](#footnote-43)

S. 4 of the Money Laundering Act contains provisions on the operation of the Casino. It provides that:

(i) A Casino shall-

(a) Verify the identity of a gambler, who buys, brings into or exchanges chips or tokens, by requiring the gambler to present an authentic document bearing his name address;

(b) Record all transactions under this section in chronological order, indicating

(c) The nature and amount involved in each transaction, and

(d) Each gambler’s name surname and address in a register numbered and initialled by an officer authorized by the Federal Ministry of Trade and Tourism for that purpose.

There is also a requirement under subsection (2) for the preservation of such register of a transaction for a minimum period of 10 years.

Following this provisions, it becomes the law that every transaction relating to gambling and the persons carrying out gambling must have a register of such transaction kept by the casino managers for proper surveillance purpose to forestall the chances of money laundering activities.

**7. Challenges and Prospects**

There is need to demonstrate the challenges and prospects in checking financial crimes.

1. Challenges

Despite the fundamental success recorded so far by the Economic and Financial Crimes Commission, it has been facing some serious constraints, some of which will be discussed below:

The most serious problem facing the Commission is the judicial system or process. Despite the large haul of fraud suspects in EFCC’s dragnet, the commission has been unable to secure a court conviction on the catch. The EFCC in reaction to the above blames the judicial system, with its institutionalized culture of crawling legal processes.[[44]](#footnote-44) It was alleged that following the arrest of host of suspects, the courts have been busy over technical issue of procedure and the rest leaving the substance to be suffering. However, it has been argued further that the major drag according to Nwaja is an alleged determined effort of the suspects and their counsel to frustrate attempts at expedited trials of the cases, by buying precious time with sundry trumped up pleas, asking for adjournment and taking the trial process through more tiring and serpentine routes.

It has also been alleged that the EFCC is not adequately financed by the government, for instance, an institution that is established to fight financial criminals who have amassed, so much ill-gotten wealth is not properly financed, one wonders the expectation from such commission in the long run in the face of a near permanent tempting offers from financial criminals in their bid to buy themselves out of detention.

Another problem confronting the EFCC is the inadequate manpower needed to carry out its job. If the EFCC must work to eliminate or significantly reduce financial criminals therefore, it must be adequately staffed with large numbers of quality personnel and this unavailability of needed personnel seriously slow- down the pace of the EFCC in the race against financial criminals.

Finally, the national assembly has been most uncooperative in the fight against financial crime. This is discernable from their attitude to the request of the EFCC, through various bills initiated for an amendment of some of the sections of the legislations on financial crime that have been hindering the successful accomplishment of the task before them. It has thus being painfully difficult for the EFCC to be able to realize some of its set objectives.

1. Prospects.

For emphasis sake, the EFFC has been the major institution responsible for the enforcement of the law against financial crimes and this task in ensuring the check has exposed the commission in stepping on so many toes. In so doing, the commission has earned a fearsome mystique of no nonsense giant killer. Some of the achievements the commission has so far recorded include the following:

1. Checking the menace of Advance Fee Fraud.[[45]](#footnote-45) In pursuit of its functions as laid down by the law, some notable fraudsters were arrested, investigated and arraigned.

The single case against Nwude and Anajemba involves a stunning N36 billion. It has also triggered off a chain of overseas trial in United Kingdom, Switzerland, Brazil and the United States. Apart from these major cases above, more than 200 (419) culprits are presently languishing in custody waiting for their trials and possible conviction.

1. Investigative efforts in cleansing the Banking Sector.

Apart from several failed banks issues, the crime of fraud has been accommodated within the jurisdictional powers of the EFCC. Consequently, the EFCC has constituted a special squad on bank fraud, money laundering and theft. Many bank directors/chief executives are presently facing trial. Many banks are still under the close watch of EFCC.

1. Federal Inland Revenue Service.

The chairman of EFCC has argued that he has been able to recover to the coffer of the government over N463 Million and another $3.2 million.[[46]](#footnote-46) One significant case that is currently under investigation by the EFCC is the arrest of 50 Federal Inland Revenue Service officials who pay government money into their private accounts. According to the then Chairman of the EFCC Ribadu, the 13 banks in which the suspects, currently being detained by the EFCC, paid in the diverted funds are being investigated. These officials opened illegal accounts, collected taxes and paid the revenue to those private accounts. Ribadu further said that they are investigating 13 banks currently for the ‘diversion and misappropriation’ of government revenue. The affected banks ought to pay revenue collected to the consolidated accounts within seven days but instead held on to the money for upward of six months to one year.[[47]](#footnote-47) He added further that ‘the banks must pay accruing interests on the withheld money and these (according to him) run into billions of naira.’[[48]](#footnote-48)

1. Smuggling

There is now a more concerted effort at combating smuggling in Nigeria. More than $200 million dollars has been, reportedly realized from various penalties for non-payment of import duties. There have been many multimillion naira reported seizures of goods and services.[[49]](#footnote-49) On the 18th October, 2004, it was recorded a phenomenal seizure and detention of a 59 truck-loads of contraband goods worth more than N3 billion naira.[[50]](#footnote-50)

1. The EFCC in collaboration with the immigration have deported some major financial crime perpetrators in the Nigeria economy.[[51]](#footnote-51)
2. The EFFC also extended the jurisdictional powers to the Nigerian Custom Service.
3. The commission has also been cracking down on operators of illegal oil bunks.
4. The EFCC has investigated and arrested certain officials of the African petroleum for allegedly frittering away N2 Billion.
5. The commission also boosted surveillance on banks and banking operations in Nigeria with the constitution of a financial intelligence unit. Working in league with the Central Bank of Nigeria the primary beats of the units are the banks.
6. Cyber-crime.

There have been reported cases of several arrest and prosecution of cyber-criminals.[[52]](#footnote-52)

**8. Conclusion and Recommendations**

Together with the remarkable achievements recorded in the drive to eradicate financial crimes in Nigeria, it is pertinent to make the following suggestions and/or proposals as a catalyst to a more positive achievement as well as constituting sufficient teeth for more effective control of financial crimes in Nigeria.

 A. The national assembly should expedite action on the amendment of the various provisions of law relating to Advance Fee Fraud, Money Laundering, Miscellaneous Offences, Failed Banks and related offences in others to make them more meaningful, and effective in the fight against financial crime. For instance,

(i) The provision in S. 40 of the EFCC Act[[53]](#footnote-53) in respect of any criminal matters before the commission which prelude the chances of application for stay of execution which is in conflict with the provision of 1999 constitution should either be totally expunged from the act or a proper amendment should be done to the section.

(ii) Some of the provisions of the Failed Banks (Recovery of Debts) and Financial Malpractice in Banks Decree[[54]](#footnote-54) need some amendment also specially S. 3 (3), S. 9, S. 22 (1) and S. 29 of the law as it is already noted.

(iii) The provision of S. 12 (3) and (4) of the Advance Fee Fraud and other fraud Related offences Act that seems to undermine the supremacy of the provision of the 1999 constitution need immediate amendment to enable it function more properly.[[55]](#footnote-55)

 B. The EFCC should be encouraged more by the federal government through proper funding to enable the commission to continue its war against financial criminals.

 C. A complete overhaul of the entire judicial system to create room for more expedited trials of suspects in financial crime related cases currently in detention. The almost institutionalized culture of crawling legal processes has not helped in quick trial of several detained suspects.

 D. The removal or waiver of the immunity being presently enjoyed by public officers who have been found to be involved in financial crimes through the amendment of the law establishing it. Immunity Clause has been making it difficult for corrupt officers to be successfully tried.

 E. Constant investigation of banks funding fakes, counterfeits and smuggling and recommend the strengthening of CBN inspection system to detect dubious fund transfers and sanction offenders.[[56]](#footnote-56)

 F. Reform existing procedures, port-charges anti-tariff structure in Nigeria to encourage importers to use Nigeria ports instead of Cotonou through land borders.

1. Mallam Nuhu Ribadu (Chairman EFCC), Curbing Economic and Financial Crimes and the Challenges of creating an Enabling Environment for the Manufacturing Sector in Nigeria, presented on the 10th June, 2004 at Airport Hotel Lagos. [↑](#footnote-ref-1)
2. A K Anya, The Constitutional Practice of Legislative and Executive Impeachment: Continuity Tool for Democracy, Democratization and Good Governance in Nigeria, University of Benin Law Journal (2013) vol. 14 No.1 Pp. 152-164; Journal of Constitutional and Parliamentary Studies, New Delhi India, vol. 44 Nos. 1-2 Nov 2011-July 2012, Pp. 117-197 [↑](#footnote-ref-2)
3. Punch Newspaper Monday, August, 30, 2004 at P. 69 [↑](#footnote-ref-3)
4. [Hereafter, The FATF] [↑](#footnote-ref-4)
5. Tony Egbulefu ‘Inside Business’ Magazine June 7, 2004 on the article ‘Financial Crime,’ P. 21 [↑](#footnote-ref-5)
6. It is certainly the need for better pragmatic commission capable of urgent result that actuated the National Assembly into passing Economic and Financial Crime Commission Act 2004 into law. [Hereafter, The EFCC] [↑](#footnote-ref-6)
7. 2004 at S. 46 [↑](#footnote-ref-7)
8. Tony Egbulefu, ‘Inside Business,’ Ibid, P. 21 [↑](#footnote-ref-8)
9. Tony Egbulefu, supra, at p. 4 [↑](#footnote-ref-9)
10. Supra [↑](#footnote-ref-10)
11. Supra [↑](#footnote-ref-11)
12. Supra [↑](#footnote-ref-12)
13. Supra [↑](#footnote-ref-13)
14. Nuhu Rihadu, Supra [↑](#footnote-ref-14)
15. Supra, at P. 6 [↑](#footnote-ref-15)
16. Supra [↑](#footnote-ref-16)
17. Supra [↑](#footnote-ref-17)
18. No. 18 of 1994 [↑](#footnote-ref-18)
19. Failed Banks (Recovery of Debts) and Financial Malpractices in Banks (Amendment ) Decree 1995, No. 18 (Hereafter, Decree No. 18 of 1995) [↑](#footnote-ref-19)
20. S. 19 (1) (a) [↑](#footnote-ref-20)
21. S. 19 (1) (b) [↑](#footnote-ref-21)
22. S. 19 (1) (b) [↑](#footnote-ref-22)
23. S. 19(1) (d) [↑](#footnote-ref-23)
24. 21 S. 19(1) (e) [↑](#footnote-ref-24)
25. S. 20(1) (a) [↑](#footnote-ref-25)
26. S. 20(1) (b) [↑](#footnote-ref-26)
27. S. 20 (1) (c) [↑](#footnote-ref-27)
28. S. 19(3) [↑](#footnote-ref-28)
29. S. 21(1) [↑](#footnote-ref-29)
30. S. 4 of the Decree No. 18 of 1995 [↑](#footnote-ref-30)
31. .S. 20 (3) [↑](#footnote-ref-31)
32. S. 5 (c) of Decree No. 18 of 1995 as amended [↑](#footnote-ref-32)
33. Money Laundering Act 2003 [↑](#footnote-ref-33)
34. Ibid [↑](#footnote-ref-34)
35. Ibid S. 12 (1) (a) (b) & (c) [↑](#footnote-ref-35)
36. Ibid. S. 12 (2) [↑](#footnote-ref-36)
37. Ibid. S. 3 [↑](#footnote-ref-37)
38. Ibid. S. 3 (3) [↑](#footnote-ref-38)
39. <http://www.hri.org/docs/nssd-INCSR/19/Financial/chapter05.html> [↑](#footnote-ref-39)
40. Ibid. S. 5 [↑](#footnote-ref-40)
41. Ibid. S. 6 [↑](#footnote-ref-41)
42. Ibid. S. 9 [↑](#footnote-ref-42)
43. Ibid. S. 14 and 15 [↑](#footnote-ref-43)
44. Nwaja as at the time of investigation was the EFCC Commission’s Media and Publicity Officer. [↑](#footnote-ref-44)
45. Locally referred to as 419 [↑](#footnote-ref-45)
46. Mallam Nuhu Ribadu Ibid p. 10 [↑](#footnote-ref-46)
47. Punch Newspaper November 5th 2003 Pp. 1, 7 [↑](#footnote-ref-47)
48. Supra [↑](#footnote-ref-48)
49. Ibid at p. 10 [↑](#footnote-ref-49)
50. The Nigerian NTA News, 9pm of 18 October 2004. [↑](#footnote-ref-50)
51. The Vaswani Brothers (the three Vaswani Brothers). These were once untouchable riding over Nigeria economy like unassailable colossus. But now, they are no more. [↑](#footnote-ref-51)
52. Supra, at p. 24 [↑](#footnote-ref-52)
53. 2004 [↑](#footnote-ref-53)
54. No. 18 1994 [↑](#footnote-ref-54)
55. 1995 [↑](#footnote-ref-55)
56. Seminar on Financial Crimes for CBN staff organization by the inter-departmental Committee on Money Laundering, Advance Fee Fraud and other Financial Crimes. P. 6. [↑](#footnote-ref-56)