

*Extraordinary*



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**PRESIDENTIAL EXECUTIVE ORDER NO. 008 OF 2018,  
AMENDMENT 2019**

ON THE VOLUNTARY OFFSHORE ASSETS REGULARIZATION SCHEME  
"VOARS"

[8th Day of October, 2019]

Commence-  
ment.

**PART I—PRELIMINARY**

These Amendments may be cited as the Voluntary Offshore Assets Regularization Scheme Amendments, 2019.

Citation.

In these Amendments, unless the context otherwise requires—

Interpretation.

"*Compliance process*" means the due diligence procedures to be performed on offshore assets before accepting them for declaration in the Scheme ;

"*Constitution*" means the Constitution of Federal Republic of Nigeria 1999 as Amended ;

"*Declarant or Declarants*" means relevant persons who voluntarily declare their offshore assets through the Scheme ;

"*Defaulters*" means relevant persons who own undeclared offshore assets, have concealed them including by refusal to embrace the opportunity provided by the Scheme to regularize such offshore assets ;

"*escrow agreement*" means an agreement between FGN and an escrow agent setting out terms under which the approved escrow agent shall oversee a VOARS Escrow Account (VEA) and make remittances to VOARFS Infrastructure Account (VIA) ;

"*facility access and working fee*" means the 2% of declared offshore assets payable by Declarants to VOARFS ;

"*facilities*" means approved voluntary offshore assets regularization facilities that VOARFS shall make available for convenience of declarants in Liechtenstein, Nigeria, United Arab Emirates, Switzerland, United Kingdom and elsewhere ;

"*FGN*" means Federal Government of Nigeria ;

"*financial institution*" has the meaning given to it in the Money Laundering (Prohibition) Act No. 11, 2011 as amended in 2012 ;

"*levy*" means the one-time 35% of declared offshore assets paid by Declarants to FGN as fine for concealment of undeclared offshore assets ; it is not a tax ;

“*levy lien*” means the interim encumbrance on illiquid offshore assets which can only be removed upon cash payment of the 35% levy on value of such assets to FGN ;

“*Minister*” means the Attorney General and Minister of Justice for Nigeria for purposes of VOARS, and Minister of Finance Budget and National Planning for purpose of VIA, VEA and NEIF ;

“*money laundering*” has the meaning given to it in the Money Laundering (Prohibition) Act No. 11, 2011 as amended in 2012 ;

“*NEIF*” means Nigeria Essential Infrastructure Fund, a private sector led infrastructure catalyst fund established as an outcome of the Scheme as a platform to support infrastructure development in Nigeria through discretionary investments by FGN, voluntary investments by Declarants from their residual regularized offshore assets, and investments by global private sector ;

“*NFIU*” means Nigerian Financial Intelligence Unit which draws its powers from NFIU Act 2018 and Money Laundering (Prohibition) Act No. 11, 2011 as amended in 2012 ;

“*NSIA*” means Nigeria Sovereign Investment Authority which draws its powers from NSIA Act 2011 ;

“*offshore assets*” means liquid assets, bank balances and currencies of foreign countries held anywhere in the world, stocks and bonds held in portfolios, insurance policies, shares in listed or unlisted offshore companies, precious metals, property assets and all manner of movable and immovable assets held directly or indirectly through corporate entities, trust structures and non-Nigerian resident companies and intermediaries ;

“*OARCC which stands for Offshore Assets Regularization Compliance Certificate*” means the proof of regularized offshore assets issued to Declarants after they have accessed the Scheme and met all conditions including submission to compliance procedures and payment of levy to FGN ;

“*property*” means assets of every kind, whether corporeal or incorporeal, moveable or immoveable, tangible or intangible and legal documents or instruments evidencing title to or interest in such assets ;

“*Regulations*” means all rules, orders and interpretations prescribed or issued pursuant to the Scheme ;

“*relevant persons*” means physical persons or moral persons or legal entities such as corporations, trusts, resident or non-resident companies and intermediaries who have obligations to declare and regularize offshore assets and income thereon to authorities in Nigeria ;

*“residual regularized offshore assets”* means the 63% of declared offshore assets remaining in the hands of Declarants after paying the 35% levy and 2% facility access and working fee ;

*“Scheme or VOARS”* means the Voluntary Offshore Assets Regularization Scheme launched through Executive Order 008 of 8 October 2018 and Executive Order Amendment 8A effective 8 October 2019 ;

*“success fee”* means 3% of the levy or fine due to VOARFS ;

*“tax evasion”* is the illegal non-payment or under payment of taxes on offshore assets, which is a predicate offence to money laundering ;

*“VEA”* means VOARFS Escrow Account established in Nigeria or offshore jurisdictions for purpose of holding funds accruing to FGn from the Scheme before their onward remittance to VIA ;

*“VIA”* means VOARFS Infrastructure Account in Central Bank of Nigeria which receives all recoveries accruing to FGn from the Scheme including from VEA ; and

*“VOARFS”* means the sovereign advisory consortium which operates Voluntary Offshore Assets Regularization Facilities for the Scheme in approved locations which may include Liechtenstein, Nigeria, United Arab Emirates, Switzerland, United Kingdom.

## PART II—PREAMBLE

WHEREAS the Constitution vests on the President of Nigeria executive powers to be exercised by him directly or indirectly through the Vice President and Ministers of Government ; and such powers extend to execution and maintenance of laws of Nigeria ;

AWARE that extant laws of Nigeria imposes a duty on all relevant persons to declare their transactions, income and assets including accounts in financial institutions, domestic and foreign, fully and honestly to appropriate and relevant lawful authorities in Nigeria ;

AWARE that there are significant offshore assets held by relevant persons who have defaulted in their obligations by concealing from relevant authorities such undeclared offshore assets and therefore income earned from them thereby failing to discharge their obligations in national economic interest ;

WHEREAS the Office of the Attorney-General of the Federation and Minister of Justice is Nigeria's Central Authority responsible for actions on offshore assets which are undeclared by relevant persons, including through offshore assets regularization schemes, recovery facilitation agreements and enforcement procedures ;

WHEREAS NFIU supervised by the Attorney-General of the Federation and Minister of Justice is responsible for analysis and provision of information relevant for detection of undeclared assets and enforcement of recoveries, money laundering and evasion offences, monitoring false and non-declaration of transactions and assets including accounts in financial institutions, domestic and foreign, all of which impact on economic wellbeing of Nigeria ;

AWARE that the Federal Government of Nigeria owe citizens the duty of harnessing resources to ensure economic security, welfare and development ; and

CONSEQUENT upon the determination of the Nigerian government to provide an opportunity for relevant persons who are in default under all relevant Statutes to voluntarily declare their offshore assets and income thereon in national economic interest.

NOW THEREFORE, PURSUANT TO THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AS THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA, I HEREBY ORDER AS FOLLOWS :

1. The Attorney-General of the Federation and Minister of Justice shall—

(a) Set up a Voluntary Offshore Assets Regularization' Scheme (hereinafter referred to as "the Scheme") for all relevant persons who have defaulted in declaration of their offshore assets and income thereon, subject to the fulfillment of the terms and conditions as may be stipulated in this Order and other subsequent regulations ;

(b) Direct and oversee the setting up of VOARS Office within NFIU and co-operation between NFIU and VOARFS towards success of the Scheme.

2. The Scheme shall provide thirty (30) months period commencing from 8th October, 2019 for relevant persons who are in default to declare their offshore assets acquired during the preceding thirty (30) years from 1987 to 2017.

3. The Scheme shall encourage all relevant persons and provide an opportunity for eligible declarants to—

(a) regularize their offshore assets held anywhere in the world by voluntarily paying FGN a 35% one-time fine, also known as levy on the declared offshore assets ;

(b) voluntarily elect to access any of the offshore assets regularizations facilities in Liechtenstein, Nigeria, United Arab Emirates, Switzerland, United Kingdom or elsewhere by paying the 2% facility access fees and submitting to compliance process in order to declare offshore assets through the Scheme ;

(c) establish for their offshore assets held anywhere in the world, a management or custodial nexus with the financial systems or institutions of the country hosting the facility they have chosen for declaration of their offshore assets through the Scheme ;

(d) stop offshore assets concealment and resulting tax evasion which is a predicate offence for money laundering ; and

(e) embrace compliance after accessing the Scheme and ensure that they will subsequently pay taxes on income earned on their regularized residual offshore assets to relevant authority.

4. From the effective date of this Executive Order 008 Amendment 2019 for the Scheme, any domestic or foreign bank, asset manager or intermediary that co-operates with defaulters, enabling them to conceal offshore

assets and obligations pertaining to them shall, upon discovery, be liable to pay to FGN a penalty of 10% per annum levied on the total of such offshore assets, in addition to other penalties provided for under Nigerian laws or laws of foreign countries from which Nigeria can benefit. However, upon application, FGN may enter into non prosecution agreements with any banks, asset manager or intermediary, who among other conditions, undertakes not to cooperate with defaulters to conceal offshore assets; and undertakes to exit the business of relevant persons who refuse to declare their offshore assets to the Scheme or any other subsequent platform provided by FGN.

#### ELIGIBILITY TO PARTICIPATE

5. The Scheme is open to all relevant persons, entities and their intermediaries who are holding offshore assets including those who—

(a) are not already under investigation by law enforcement agencies in Nigeria or any other country and have not been charged with any crimes including theft of public funds or obtaining offshore assets through corrupt practices ;

(b) own offshore assets but are yet to declare them with the relevant authorities ;

(c) have applied for and received FGN Special Clearance to access the Scheme ; and

(d) have been determined to be innocent after investigations or legal proceedings

#### REQUIREMENTS FOR VALID DECLARATION

6. In order for an offshore assets disclosure pursuant to the Scheme to be valid, the following requirements must be met—

(a) the disclosure by the declarant should be made voluntarily ;

(b) the disclosure must be full, honest, complete and verifiable in all material respects ;

(c) the disclosure shall be made through any of the voluntary offshore assets regularization facilities of VOARFS ;

(d) the disclosure must be made in accordance with procedures established by FGN and VOARFS or in any other form or manner as may be prescribed by Regulations governing the Scheme ; and

(e) consent that a one-time levy of 35% of offshore assets will be paid to FGN in the manner prescribed by regulations and guidelines governing the Scheme.

RELIEFS/BENEFITS

**7.1.** Any declarant who truthfully and voluntarily declares his/her offshore assets, complies with the laid out procedures, Regulations and guidelines governing the Scheme, pays to FGN the one-time fine levy of 35% on the declared offshore assets and undertakes to pay future taxes where applicable on subsequent income earned on the residual regularized offshore assets shall obtain the following benefits—

(a) permanent waiver from criminal prosecution for offences related to the offshore assets, penalties and interests concerning such declared and regularized offshore assets listed on a OARCC ;

(b) immunity ..... from further investigations on the declared and regularized offshore assets ;

(c) waiver of further interest and penalties on declared and regularized offshore assets after the 35% levy has been paid ;

(d) receive an Offshore Assets Regularization Compliance Certificate on the declared and regularized offshore assets ; and

(e) be free to use or invest their duly regularized residual offshore assets in any manner in Nigeria or overseas.

**7.2.** Provided however that the above mentioned reliefs are obtained only if the remission or waiver granted under the Regulations governing the Scheme shall not prejudicially affect or invalidate any court order or judgment already obtained.

The benefits referred to in paragraph six (6) above are granted to any declarant in full compliance with the following conditions—

(a) the declarant accesses and provides full co-operation to any voluntary offshore assets disclosure facility of VOARFS ;

(b) the declarant pays the prescribed 35% levy to FGN in accordance with procedures governing the Scheme ;

(c) the declarant embraces compliance after accessing the Scheme and ensure that they will subsequently pay taxes on income earned on their residual offshore assets.

CONSEQUENCES OF FAILURE TO COMPLY

**8.** Failure of any defaulting relevant person or declarant to truthfully and promptly take advantage of this Scheme shall at the expiration of the Scheme result in the following consequences—

(a) investigation for money laundering and other offences; charges and enforcement procedures concerning undeclared offshore assets held

anywhere in the world pursuant to information obtained through cooperation with financial intelligence units and automatic exchange of information between Nigeria and foreign countries ;

(b) loss of right to plea bargain ;

(c) withdrawal of any reliefs which may have been granted to any Declarant that has made a false or incomplete declaration ; and

Consequently any sum paid as 35% levy on declared offshore assets under the Scheme shall be counted only as part payment of obligations in respect of undisclosed offshore assets and income thereon.

#### CONFIDENTIALITY OF INFORMATION

**9.1.** All information provided by the declarant under the Scheme shall be treated with utmost confidentiality in accordance with the provisions of the relevant laws save where it is stated otherwise.

**9.2.** Any Nigerian official or persons duly authorized to receive information under the Scheme who breaches the confidentiality of information received or exchanged under the Scheme shall be liable to prosecution.

#### VOARS RECOVERIES FOR NIGERIA INFRASTRUCTURE DEVELOPMENT

**10.** All recoveries accruing to FGN from the Scheme shall be used for infrastructure development in Nigeria, and the Minister of Finance, Budget and National Planning shall—

(a) Direct and oversee the setting up of VOARS Infrastructure Account (VIA) in Central Bank of Nigeria to receive all recoveries accruing to FGN from the Scheme, including from escrow accounts set up under escrow agreements ratified by the Minister of Finance, Budget and National Planning ;

(b) Direct and oversee the setting up of VOARS Escrow Accounts (VEA) for purpose of holding the 35% levy net of 3% recovery success fee to VOARFS; and agreements with escrow agents concerning frequency of onward remittances to VIA ;

(c) Oversee VIA and be responsible for decisions concerning how and when funds held in it shall be deployed in infrastructure development in Nigeria ;

(d) Be responsible to determine the conditions for and quantum of FGN discretionary investment from VIA or NSIA in NEIF, the private sector led infrastructure catalyst fund to be established offshore by VOARFS as a platform to support infrastructure development in Nigeria with investments by foreign financial institutions, by Declarants from their residual regularized offshore assets and by global private sector.

GENERAL

**11.** This Executive Order is valid only for the period during which the Scheme shall subsist; and relates only to relevant persons who elect to regularize their offshore assets by making voluntary declarations through the Scheme.

**12.** Any rights and status properly acquired by any compliant declarant pursuant to the Scheme shall vest to the benefit of the declarant to the extent provided for by law.

**13.** This Executive Order shall be read in conjunction with relevant laws of Nigeria including the Nigeria Financial Intelligence Unit Act 2018, Money Laundering Prohibition Act 2011 as Amended 2012 and the Economic and Financial Crimes Commission Act 2004, and any other relevant laws, regulations and guidelines that may be issued for the Scheme.

**14.** The Attorney General of the Federation and Minister of Justice shall be the regulatory authority for the purpose Regulations, guidance concerning VOARS and issuing amendment Notices to this Executive Order.

**15.** The Minister of Finance, Budget and National Planning shall be responsible for purpose of issuing regulations, guidance and any agreements concerning VIA, VEA and NEIF.

**16.** This Executive Order 008 of 2018 (Amendment 2019) shall take effect from 8th October, 2018. -

DATED this 8th day of October, 2019.

MUHAMMADU BUHARI  
*President of the Federal Republic of Nigeria*