Finance Regulatory Updates

November 2024

In this edition, we discuss important updates issued by key regulators in the financial services sector.

In the month of November, the Central Bank of Nigeria (the "CBN") issued several guidelines aimed at promoting financial stability and strengthening the Nigerian foreign exchange market.

We take a cursory look at the key points from these regulations and their impact on the relevant stakeholders.

Guidelines On the Implementation of The Foreign Currency Disclosure, Deposit, Repatriation, And Investment Scheme, 2024

In a circular dated 5 November 2024, the CBN issued the Implementation Guidelines on the Foreign Currency Disclosure, Repatriation, and Investment Scheme (the "Guidelines") to Commercial, Merchant, and Non-Interest Banks (CMNIBs).

For context, on 19 October 2023, the Federal Government of Nigeria issued the Presidential Order No. 15. Subsequently, the Foreign Currency Disclosure, Deposit, Repatriation, and Investment Scheme Guidelines, 2024, were issued by the Minister of Finance and Coordinating Minister of the Economy. These pieces of legislation aim to boost Nigeria's economic resilience and national development by facilitating the voluntary disclosure, deposit, and repatriation of Internationally Tradable Foreign Currencies (ITFCs) held by Nigerians within and outside the country (the "Scheme").

The Guidelines complement the provisions of the earlier issued regulations (stated above), by providing the modalities for operations of CMNIBs and other participants as it relates to the Scheme.

Parties' Responsibilities

The Scheme involves three key stakeholders; the CMNIBs, Participants (being potential Nigerian investors in these financial instruments), and the CBN. Each party plays a critical role in its implementation and operation.

a. CMNIBs: Among other functions, these parties are responsible for the general operation of the Scheme. CMNIBs are required to open domiciliary accounts for intending Participants, process applications, accept deposits of disclosed ITFCs, and provide monthly returns of their operations in the form and manner acceptable to the CBN. Please note that the CBN may request information on these deposits on an "as-needed" basis, where this is requested, CMNIBs must comply with these requests within a forty-eight (48) hour window.

In addition, CMNIBs are required to adhere to applicable regulations including anti-money laundering, data protection, and consumer protection guidelines with respect to transactions carried out under the Scheme.

b. Participants: To participate in the Scheme, these persons must voluntarily open designated domiciliary accounts with CMNIBs and invest their funds exclusively in permissible investment instruments (being foreign currency financial instruments or instruments granted liquid asset status) or permissible investment sectors (being debt, equity, or hybrid instruments).

c. CBN: The CBN has general regulatory oversight and regulates the activities of these CMNIBs in relation to the Scheme. The CBN is also responsible for sharing information received from the CMNIBs with the Ministry of Finance to monitor the Scheme's progress and ensure its alignment with national objectives.

Operation of The Scheme

CMNIBs are required to gather key information relating to personal data from participants under the Scheme.

There are no restrictions on Participants withdrawing funds from their designated domiciliary accounts or terminating investments, except where stated under law. Participants also have the option to convert ITFCs to Naira at the prevailing exchange rates. All conversions must be disclosed and reported by CMNIBs in their foreign exchange returns to ensure transparency.

Circular On Mystery Shopping & Spot Checks on Cash Disbursement Activities of Deposit Money Banks

In a circular dated 13 November 2024, the CBN issued a new directive aimed at improving cash disbursement practices among Deposit Money Banks (DMBs), and curbing activities disrupting the seamless circulation of the Naira.

In 2023, the CBN issued a press release cautioning banks and point of sale operators from capping and hoarding the Naira. In line with this and particularly, in view of the festive season, the circular reinforces ongoing measures, including mystery shopping exercises and spot checks, to ensure compliance with cash distribution regulations and prevent abuse of the Naira.

The circular provides that:

a. DMBs linked to Naira notes seized from unauthorised hawkers will be subject to a fine of 10% of the total value of cash withdrawn from the CBN on the date the seized cash was withdrawn. Repeat offenses will attract incremental penalties of 5% for each subsequent violation; and

b. DMBs engaging in cash hoarding or diversion activities impeding efficient cash distribution will face appropriate sanctions.

Guidelines for the Electronic Foreign Exchange Matching System (EFEMS), 2024

On 2 October 2024, the CBN announced the introduction of EFEMS for foreign exchange transactions in the Nigerian Foreign Exchange Market, to be implemented not later than 1 December 2024. The purpose of the EFEMS is to enhance governance, transparency, and facilitate a market-driven exchange rate accessible to the public thereby reducing speculative activities and eliminating market distortions.

In a circular dated 25 November 2024, the CBN issued the Guidelines for the Electronic Foreign Exchange Matching System (EFEMS). These guidelines regulate the operation of the interbank foreign exchange (FX) transactions in Nigeria carried out on the EFEMS.

Key highlights of the Guidelines are:

a. all Authorised Dealer Banks (being banks licensed to deal in FX) are participants in the EFMS. Other persons must obtain the prior approval of the CBN to access the platform;

b. the CBN has approved Bloomberg's BMatch platform (discussed below), as the designated system to support the EFEMS for interbank FX trading. Parties who are not Authorised Dealers must also obtain the prior approval of the CBN to execute any agreement provided by Bloomberg;

c. the EFEMS is exclusively for spot FX transactions and shall on an initial basis, involve only the Naira (NGN) against the United States Dollars;

d. participants who intend to withdraw from the EFEMS platform must provide a thirty-day prior notice to the CBN and ensure all obligations are cleared prior to withdrawal;

e. quotes will remain anonymous until matched, and all consummated trades are binding unless canceled by the mutual agreement of the parties with the consent of the CBN received;

f. the minimum tradable amount is US$100,000.00 (One Hundred Thousand United States Dollars), with incremental clip sizes of US$50,000.00 (Fifty Thousand United States Dollars). Participants must set credit and settlement limits for counterparties in the system;

g. participants must submit daily transaction reports to the CBN, detailing trade volumes, counterparties, and settlement statuses;

h. trade data generated on the EFEMS is owned by the CBN and may be published for market analysis in specific circumstances;

i. in addition to these guidelines, parties are required to comply with the Nigerian Foreign Exchange Code and other applicable CBN regulations.

Implementation of the Bloomberg BMatch System for Foreign Exchange Trading

In a circular dated 25 November 2024, the CBN directed that effective 2 December 2024, Authorised Dealers in the Nigerian Foreign Exchange Market (NFEM) will commence live operations of the Bloomberg BMatch platform as the designated Electronic Foreign

Exchange Matching System (EFEMS). This directive aligns with the provisions of the Guidelines on the Operation of the EFEMS (discussed above).

The BMatch is a platform offering spot matching functionality to the interbank community, and allowing for anonymous orders to be placed into a central limit order book, to be displayed and then matched with counterparty orders (based on mutual trading limits and other parameters configured by each Authorised Dealer).

Authorised Dealers are expected to make adequate preparations to transition to this system by acquiring the necessary technological infrastructure to integrate to the platform, training personnel for effective operations, and adhering to the operational guidelines and standards provided by the CBN and Bloomberg.

Revised Guidelines for the Nigerian Foreign Exchange Market (NFEM)

In a circular dated 29 November 2024 and following the consolidation of all windows in the FX market, the CBN issued the Revised Guidelines for the Nigerian Foreign Exchange Market (the "NFEM Guidelines"). The NFEM Guidelines now supersede the Operational Changes to the Foreign Exchange Markets, the Establishment of the Investors' and Exporters' FX Window, and the Revised Guidelines for the Operation of the Nigerian Inter-Bank Foreign Exchange Market.

Amendments to the Existing FX Framework

a. All trade-backed transactions (visible and invisible) are now classified as eligible transactions, provided they meet the regulatory requirements. Under previous guidelines, this was limited to invisible transactions.

b. Daily transactional rates for qualifying transactions will be published on the CBN's website, replacing the FMDQ OTC Securities Exchange as the pricing source.

c. Authorised Dealers may trade foreign currency in the interbank market subject to credit limits, with market participation now restricted to Authorised Dealers.

d. Authorised Dealers must record all foreign currency transactions on their processing systems and report these to the CBN within ten minutes of completion. This marks a shift from the previous practice where all foreign currency transactions were reported to FMDQ via the FMDQ-advised FX Reporting System.

Other Key Provisions in the NFEM Guidelines

a. Authorised Dealers are required to facilitate FX transactions for all parties within the NFEM. They must ensure compliance with existing laws, guidelines, and circulars, conduct due diligence, provide transparent pricing to customers, and ensure convenient market access.

b. All legitimate FX transactions must be concluded with Authorised Dealers. Dealings with unlicensed intermediaries is strictly prohibited.

c. All transactions conducted by Authorised Dealers, Bureau de Change Operators, and International Money Transfer Operators must comply with the terms of their licences.

d. Pricing of FX transactions must occur on the EFEMS platform.

e. Transactions conducted outside EFEMS must follow the prevailing NFEM rate at the time of execution. Negotiating exchange rates with customers outside the NFEM is prohibited, and all customer transactions must involve licensed entities.

Operationalisation of the Standing Deposit Facility Asymmetric Corridor – Post 298th Monetary Policy Committee (MPC) Meeting

In a circular dated 29 November 2024, the CBN announced adjustments to the Standing Deposit Facility following decisions reached at the 298th meeting of the MPC.

The SDF is a monetary policy tool utilised to manage liquidity in the financial system. It allows banks with surplus funds to deposit these excess balances with the CBN. In return, the CBN pays interest on such deposits, thereby providing an incentive for financial institutions to park their excess liquidity securely while influencing overall money supply and interest rates.

At the meeting, the Committee retained the asymmetric corridor at +500/-100 basis points around the monetary policy rate. Significantly, the CBN also abolished the second-tier remuneration rate of 19% on SDF deposits exceeding ₦3 billion.

Henceforth, the SDF will function on a single-tier basis. All deposits, regardless of the amount, will be remunerated at the prevailing SDF rate, currently set at 26.50%. This represents a shift from the previous arrangement outlined in the directive of 26th August 2024, which operationalised a symmetric corridor and capped the SDF rate at 25.75%.

These changes reflect the CBN's ongoing efforts to streamline monetary policy tools and enhance the efficiency of its deposit facility framework.

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