STREN & BLAN PARTNERS' UPDATE

Financial Services Sector: Key Regulatory Updates

(APRIL 2024, EDITION)

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INTRODUCTION

In March 2024, there was a significant improvement in Nigerian Naira as against the US Dollar. The last day of trade in March being Friday 29, 2024, the dollars closed at $1309/USD against that of February which was at $1595/USD which represents a 21.8% gain. This is majorly attributed to several policies, strategies, and interventions by the Central Bank of Nigeria (CBN) to stabilize the economy. We have provided a summary and implication of the policies below:

1. LATE AND NON-RENDITION OF STATUTORY MONTHLY RETURNS TO THE CENTRAL BANK OF NIGERIA THROUGH THE FinA APPLICATION PUBLISHED ON MARCH 05, 2024

In three (3) circulars dated March 05, 2024, directed to Micro-Finance Banks (MFB), Primary Mortgage Banks (PMBs), and Development Finance Institutions (DFIs) respectively, the CBN emphasized the need for prompt and timely submission of statutory monthly returns through the FinA application as statutorily provided under section 24 of Banks and Other Financial Institutions Act (BOFIA) 2020. They noted that banks are reminded to submit their monthly FinA returns on or before the 5th day after the month's end and where the 5th day falls on a weekend or public holiday, the returns are to be made the previous workday. Additionally, CBN warns that failure to render consequent monthly regulatory returns timely may attract penalties.

2. THE REVISED GUIDELINES FOR BLACKLISTING FOR BANKS AND OTHER FINANCIAL INSTITUTIONS IN NIGERIA PUBLISHED ON MARCH 08, 2024.

The guideline revised the 'Review of Operational Guidelines for Blacklisting of Banks and Other Financial Institutions in Nigeria' which was published on June 28, 2016. The guideline was reviewed to take into the account, modifications to the business environment as well as legal and regulatory requirements, and to provide a guide and procedure to blacklisting individuals in Banks and Other Financial Institutions in Nigeria in line with section 47 of Banks and Other Financial Institutions Act 2020.

The revised guideline redefines and expands the scope of offenses covered by the Blacklist. Additionally, it established an Independent Review Panel (IRP) that conducts a second-level review and validation of the decisions of the Financial Institutions to ensure fairness, transparency, and accountability. These efforts by the CBN are designed to guarantee a fair and transparent process, enhancing risk management practices within financial institutions.

3. SUPERSEDED CIRCULARS/ GUIDELINES (REVIEWED) PUBLISHED ON MARCH 12, 2024.

This circular is addressed to Deposit Money Banks, Licensed Non-interest Banks, and Other Authorized Dealers. The CBN places a strong emphasis on compliance and adherence to circulars that supersede previous ones issued by the bank. This circular was on the backdrop of compliance with the directives of the obsolete circulars despite their nullification.

The superseding circulars include:

a. **Circular to All Authorized Dealers: Access to the Discount Window dated October 07**, 2022, which supersedes the under-listed:

   I. Access to the CBN Discount Window on Auction Days dated August 08, 2016.

   II. Review of the Revised Guidelines for Accessing CBN Lending Window and Repo Transaction dated August 01, 2012.

b. **Revised Guidelines for the Operation of Non-Interest Financial Institutions' Instruments by the Central Bank of Nigeria dated June 09, 2022,** supersedes the under-listed:

   I. Introduction of Two New Instruments for Non-Interest Banks dated August 24, 2017.

   II. Guidelines for the Operation of Non-Interest Financial Instruments by the Central Bank of Nigeria dated December 12, 2012.

c. **The Guidelines on Accessing the CBN Standing Deposit Facility dated July 10, 2019,** and reviewed on October 25, 2023, removed the cap on remunerable deposits.

4. RE: IMPACT OF RECENT FX POLICY REFORMS: PRUDENTIAL GUIDANCE TO THE BANKING SECTOR PUBLISHED ON MARCH 14, 2024.

This letter was addressed to all Banks on the impact of recent foreign exchange policy reforms refers to an earlier correspondence published on September 11, 2023. Banks are urged to exercise utmost prudence with Foreign Exchange (FX) revaluation gains. It also provides specific and precautionary measures to be taken, which is to set aside foreign currency as a counter-cyclical buffer to cushion any adverse movements in the FX rate. Additionally, banks are also prohibited from utilizing FX evaluation gains to pay dividends or meet operating expenses.

This policy aims to mitigate the impact of adverse movements in the FX rate, reduce the risk of exacerbating inflationary pressures, and overall stabilize the FX market and enhance economic resilience.

5. REVIEW OF MINIMUM CAPITAL REQUIREMENTS FOR COMMERCIAL, MERCHANT, AND NON-INTEREST BANKS IN NIGERIA PUBLISHED ON MARCH 28, 2024.

One of the statutory responsibilities of the CBN is to foster a safe, sound, and stable banking system as provided in section 9 of BOFIA 2020. In line with that mandate, the CBN aligning itself with the USD 1 trillion economy of the current administration increased the minimum paid-up share capital of Commercial banks, Merchant banks, and non-interest banks in Nigeria as follows:

Type of Bank	Authorization	Old Minimum Capital	New Minimum Capital
Commercial	International	50,000,000,000	500,000,000,000
	National	25,000,000,000	200,000,000,000
	Regional	10,000,000,000	50,000,000,000
Merchant	National	15,000,000,000	50,000,000,000
Non-Interest	National	25,000,000,000	200,000,000,000
	Regional	10,000,000,000	50,000,000,000

For existing banks, the minimum capital comprises of paid- up capital and share premium only and not based on shareholder's funds. They are expected to meet the minimum capital requirement within twenty (24) months commencing from April 01, 2024 and ending March 31, 2026. However, the new requirement does not apply to Additional Tier 1 Capital. All banks must ensure compliance with the minimum Capital Adequacy Ratio (CAR) which applies to their license authorization as failure to do so will lead to injection of fresh capital to regularize their position.

For stated banks, the minimum capital requirement is paid-up capital only and all new applications for banking licenses after April 01, 2024 must comply with the recapitalization requirements. These requirements can be fulfilled through avenues such as injecting fresh equity, engaging in mergers and acquisitions, or adjusting their license authorization. The CBN emphasizes that only fresh funds, not retained earnings or shareholder funds, should be used for recapitalization. It will enforce anti-money laundering measures to prevent illicit funds from being utilized and ensure Fit and Proper checks for significant shareholders and management personnel.

Consequentially, the banks are to submit an implementation plan clearly indicating the chosen option for meeting the new requirement to the director, Banking Supervision Department, Central Bank of Nigeria not later than April 30, 2024.

This move by the CBN is made to ensure that banks are equipped with sufficient resources to facilitate large-scale transactions, navigate economic challenges effectively and at fair competition with reputable large foreign financial institutions. This adjustment reflects current economic realities and aligns to foster a robust and resilient banking sector.

6. THE CENTRAL BANK OF NIGERIA (CBN) RELEASE A LETTER TO ALL BANKS PROHIBITING THE USE OF FOREIGN-CURRENCY-DENOMINATED COLLATERALS FOR NAIRA LOANS.

On April 8th, 2024, the Central Bank of Nigeria ("CBN") issued a circular **("The Circular") (BSD/DIR/PUB/LAB/017/004)** prohibiting the use of foreign currency-denominated collaterals for Naira loans.

The Central Bank of Nigeria has observed the prevailing situation where bank customers use Foreign Currency (FCY) as collaterals for obtaining Naira loans. Consequently, it has released this circular to prohibit the same except where the foreign currency collateral is Eurobonds issued by the Federal Government of Nigeria or guarantees of foreign banks, including standby letters of credit. As regards the letter of credit, subsequent one after the implementation of this directives will not fall under the exception.

In this regard, the CBN further stated that all loans currently secured with dollar-denominated collaterals other than as mentioned above should be wound down within ninety (90) days, failing which such exposures shall be risk-weighted to 150% for Capital Adequacy Ratio computation. This implies that these loans will be considered riskier and require banks to hold or set aside more capital as a safety net to cover any potential losses from these riskier loans. This act is a measure to ensure that banks have enough financial cushion to handle any adverse loss that may affect these types of loans including default by the borrower, economic downturns or fluctuations in exchange rates.

This new directive is aimed at reducing currency risk, stabilizing the Naira, encouraging borrowing and lending in local currency, which could help to support the domestic economy and financial stability. Also, the directive will help protect local borrowers from potential currency fluctuations that could increase their repayment obligations. For example, where a local business in Nigeria borrows funds in naira from a commercial bank to expand its operations, if the loan were collateralized with foreign currency such as US dollars, and the value of naira depreciated significantly against the dollar, the business would face higher repayment obligations in naira terms. Government entities can also benefit from the intentions of this directives and by obtaining loans in naira, borrowers can better manage their debt repayment obligation without being subject to the uncertainties of foreign exchange markets.

7. THE CENTRAL BANK OF NIGERIA (CBN) ISSUES DIRECTIVE FOR SALES OF FX TO BDC's TO MEET RETAIL MARKET DEMAND FOR ELIGIBLE INVISIBLE TRANSACTIONS.

On April 22nd, 2024, the Central Bank of Nigeria ("CBN") issued a circular **("The Circular") (TED/FEM/PUB/FPC/001/013)** informing the President of the Association of Bureau De Change Operators of the sale of $10,000 by the Central Bank of Nigeria (CBN) to BDCs at the rate of N1,021/$1. The BDCs are in turn to sell to eligible end users at a spread of NOT MORE THAN 1.5 percent above the purchase price.

The CBN's directive implies that it aims to regulate the foreign exchange market and dictate the rate of foreign exchange instruments in the economy. By selling

FX directly to BDCs, the CBN can exert more control over the exchange rate and ensure that there's a sufficient supply of foreign currency for eligible transactions, such as invisible transactions. Additionally, by setting a spread limit for BDCs, the directive seeks to curb excessive profiteering and promote stability in the foreign exchange market. The directive may help to manage currency volatility and support the Nigerian economy by facilitating smoother transactions involving foreign currency.

8. THE CENTRAL BANK OF NIGERIA (CBN) RELEASES A LETTER TO ALL BANKS ON THE REGULATORY MEASURES TO IMPROVE LENDING TO THE REAL SECTOR OF THE NIGERIAN ECONOMY.

This directive implies that banks will need to review their lending systems and place more emphasis on loaning to clients within the real sector of the economy. The Lending ratio directive encourages banks to exercise great caution in their lending practices, which can help protect the institution from excessive risk exposure. Adjusting the LDR mitigates the risks associated with excessive lending and ensures that depositors' funds are used wisely, promoting a stronger banking sector and ultimately contributing to a more resilient economy.

CONCLUSION

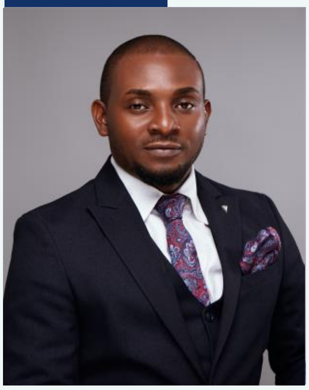
The CBN continues to demonstrate its commitment to its policy directions, ensuring enhanced transparency, accountability, and risk management practices within the banking system to support its monetary goals and the overarching goals of the government. This is evident in the myriads of circulars which is targeted towards ensuring price and financial stability within the Nigerian financial economy, which encourages synergy between macroeconomic policies and monetary policies.

Thus, these CBN circulars also encourage transparent and resilient financial system capable of supporting sustainable economic growth in Nigeria through short-term and long-term goals which will have positive effects on the Nigerian economy

ABOUT STREN & BLAN PARTNERS

Stren & Blan Partners is a full-service commercial Law Firm that provides legal services to diverse local and multinational corporations. We have developed a clear vision for anticipating our clients' business needs and surpassing their expectations, and we do this with an uncompromising commitment to Client service and legal excellence.

THE AUTHORS



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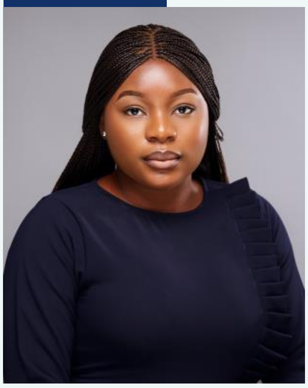

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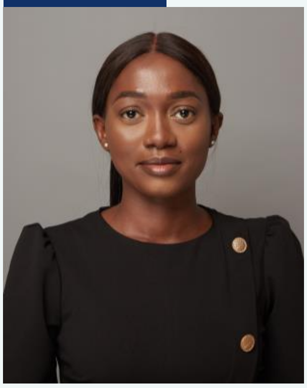

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