June – August 2019 Edition[1]

BANKING & FINANCE UPDATES	**RECENT REGULATIONS, GUIDELINES AND POLICIES AFFECTING THE BANKING AND FINANCE SECTOR**

1.0 INTRODUCTION

In the last three (3) months, the Central Bank of Nigeria ("**CBN**") has played an active role in the Nigerian financial markets by issuing various circulars, guidelines (including draft guidelines), and reports that impact on, amongst others, the emerging mobile money market, efficient and transparent procedures for financial institutions and the creative industry, for the overall improvement of the Nigerian economy. In this newsletter, we highlight and review key regulatory publications issued by the CBN from **June – August 2019**.

1.1 REGULATORY UPDATES

This newsletter contains a review of the following regulatory publications:

- CBN Circular on the Commencement of the Export Facilitation Initiative (EFI) – **June 2019**;
- CBN Letter to Deposit Money Banks (DMBs) on Regulatory Measures to Improve Lending to the Real Sector – **July 2019**;
- CBN Circular on the Modalities for the Implementation of the Creative Industry Financing Initiative (CIFI) – **July 2019**;
- CBN Circular on the Operation of Mobile Money Wallets by Deposit Money Banks (DMBs) – **July 2019**;
- CBN Circular to all Banks Re the Guidelines on Accessing the CBN Standing Deposit Facility– **July 2019** ;
- CBN Consumer Protection Guidelines on Disclosure and Transparency– **August 2019**;
- CBN Draft Prudential Guidelines for Mortgage Refinance Companies in Nigeria– **August 2019**;
- CBN Prudential Draft Guidelines for Microfinance Banks–**August 2019**;
- CBN Draft Prudential Guidelines for Commercial, Merchant and Non-Interest Banks– **August 2019**; and

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[1] Please note that the period under review is June to August 2019

- Proposed CBN Policy on Loan Defaulters Losing Deposits in Other Banks– **August 2019**.

2.0 LETTER

2.1 CBN LETTER TO DEPOSIT MONEY BANKS ("DMBs") ON REGULATORY MEASURES TO IMPROVE LENDING TO THE REAL SECTOR

With the aim of increasing the levels of lending to the real sector of the economy, the CBN on July 03, 2019 issued a letter, adjusting the loan to deposit ratio (LDR)[2] requirements for DMBs. The aim of this revision is to encourage DMBs to adopt a sustainable increase in their levels of lending to the real sector (through the provision of consumer credit loans and mortgage loans), for economic growth.

Under the Prudential Guidelines for Deposit Money Banks in Nigeria 2010, a DMB's LDR must not exceed 80 per cent. However, the said Prudential Guidelines did not set a minimum LDR requirement.

By this CBN letter, the CBN has set a minimum loan to deposit ratio of 60 per cent, which is subject to quarterly reviews. Any DMB whose LDR falls below 60 per cent, will be required to increase its cash reserve requirement[3], by a sum equal to 50 per cent of its lending shortfall.

3.0 CIRCULARS

3.1 CBN CIRCULAR ON THE MODALITIES FOR THE IMPLEMENTATION OF THE CREATIVE INDUSTRY FINANCING INITIATIVE ("CIFI")

In a circular issued on July 01, 2019 to all Deposit Money Banks ("**DMBs**"), the CBN, in collaboration with the Bankers' Committee, outlined the modalities for the implementation of the Creative Industry Financing Initiative (**"CIFI"**). CIFI is aimed at improving access to long term low-cost financing for entrepreneurs and investors in the Nigerian creative and information technology sub-sectors.

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[2] The loan to deposit ratio (**LDR**) is a comparison of a bank's total loans to its total deposits for a fixed period, expressed as a percentage. This ratio shows a bank's ability to cover loan losses and withdrawals by its customers. Investors monitor the LDR of banks to make sure there's adequate liquidity to cover loans in the event of an economic downturn resulting in loan defaults. A high LDR, signals that the bank may not have enough liquidity to cover any unforeseen fund requirements. Low LDR signals that the bank has a small loan book and may not be earning as much as it could if it extended more credit.

[3] The cash reserve requirement (**CRR**) is set by the CBN and represents the minimum amount of reserves that a DMB must hold. In determining a DMB's CRR, regard is usually given to the cash physically stored in its vault, and the amount of the DMB's balance in its account with the CBN. At the latest meeting of the Monetary Policy Committee of the CBN, on the 22nd and 23rd of July, 2019, the CRR was retained at 22.5%.

The eligible activities for the CIFI are: (i) existing enterprises in the creative industry; (ii) start-ups engaged in the creative industry; and (iii) students of higher institutions engaged in software development. The focal sub-sectors for financing under the eligible activities include fashion, information technology, movies, music and student software development loans. The Initiative is to be funded from the Agri-Business Small and Medium Enterprises Investment Scheme with a seed fund of ₦22,900,000,000 (Twenty-Two Billion Nine Hundred Million Naira only).

The Initiative provides that software engineering students will have access to a loan of ₦3,000,000 (Three Million Naira only), entrepreneurs in movie production business will have access to a loan of ₦50,000,000 (Fifty Million Naira only), entrepreneurs in the movie distribution business will have access to a loan of ₦500,000,000 (Five Hundred Million Naira only), entrepreneurs in the fashion and information technology business will have access to an amount enough to cover their rental/service fees and entrepreneurs in the music business will have access to an amount enough to cover their training fees, equipment fees and rental/service fees.

Prospective applicants can approach any bank of his/her choice with a business plan or statement detailing how much is needed. Once all requirements are met, the loan is disbursed in phases, in accordance with agreed milestones for specific tenors.

3.2 CBN CIRCULAR ON THE COMMENCEMENT OF THE EXPORT FACILITATION INITIATIVE ("EFI" or the "Initiative")

Pursuant to a circular dated June 13, 2019, the CBN has now issued a CBN Circular on the Commencement of the Export Facilitation Initiative. The EFI will serve as a complement to government efforts to engender growth in the non-oil sector of the economy as well as enhance foreign earnings and employment generation. The Initiative will focus on developing the value chains of cashew, cocoa, palm oil, sesame seed and shea to enhance foreign exchange earnings.

The commodities are to be funded under the approved guidelines of the Agri-Business small and Medium Enterprises Investment Scheme (AGSMEIS), the Non-Oil Export Stimulation Facility (NESF), and the Real Sector Support Facility-Differentiated Cash Reserves Requirement (RSSF-DCRR), in line with the approved limits in the EIF Funding Framework. This attracts an interest rate of 9 per cent across all categories of the commodities productions and exports.

However, the loan tenors will vary according to large and mid-sized players (Facility A) for land acquisition and cultivation, large and mid-sized players (Facility B) for milling and refining capacity and small holder farmers (Under Clusters Via Aggregation). Funds are advanced to the Facility A and C borrowers from the AGMEIS; while the Facility B borrowers are advanced funds from the NESF & DCCR.

3.3 CBN CIRCULAR ON THE OPERATION OF MOBILE MONEY WALLETS BY DEPOSIT MONEY BANKS

In furtherance of the CBN's commitment to deepen financial inclusion, the Bank in a circular dated July 04, 2019, has directed that all Deposit Money Banks (DMBs) shall no longer require prior approval to offer mobile money wallet services.

The CBN National Financial Inclusion Strategy (NFIS) was launched in October 2012 and revised in 2018 (NFIS 2.0), with the major objective of increasing the percentage of adult Nigerians who own bank accounts and use formal financial services, from the baseline figure of 46.3 per cent in 2010 to 80 per cent by 2020. Financial service providers are major stakeholders and key drivers of this national policy.

According to this circular, the policy is expected to complement recent growth in the agent banking services under the Super Agent and Shared Agent Network Expansion Facility (SANEF) initiative[4] and in recognition of the increasing demand for basic mobile money services.

Following this new policy on the operation of mobile money wallets, DMBs are only required to notify the CBN before the commencement of these services and are required to operate within the extant regulations on mobile money operations.

The CBN is also empowering telecommunication companies ("**telcos**") as super agents to provide financial services to unbanked Nigerians. In July 2019, MTN Nigeria, Africa's largest telco with over sixty million subscribers was issued a Super Agent license, under its subsidiary, Yello Digital Financial Services Limited (YDFSL). By August 29, MTN officially launched its mobile money (MoMo) operations in Nigeria.

The above shows the deliberate and laudable efforts of the CBN, with multiple sectors expanding their services towards improving financial inclusion.

3.4 CBN CIRCULAR TO ALL BANKS RE THE GUIDELINES ON ACCESSING THE CBN STANDING DEPOSIT FACILITY

This circular dated July 10, 2019, is addressed to all banks and discount houses licensed and regulated by the CBN and makes reference to an earlier CBN circular of November 6, 2014, titled "Re: Guidelines on Accessing the CBN Standing Deposit Facility". The CBN, as part of its strategy to encourage banks to increase lending to the productive sectors of the economy, reduced the level of remunerable daily placement that banks can deposit into the Standing Deposit Facility[5] (SDF) from N7.5 billion to N2 billion. Any deposits by a bank in excess of N2 billion, will not be remunerated, that is, without interest.

Lastly, deposits made by banks into the SDF, will no longer be remunerated at the rate of 10 per cent, per annum but at an interest rate prescribed by the Monetary Policy Committee (MPC), from time to time.

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[4] The SANEF initiative was set up in March 2018 and entails a deliberate roll-out of 500, 000 agent network to offer basic financial services such as, cash deposits and withdrawals, funds transfer, bill payments, airtime purchase, government disbursements to an estimated 50 million Nigerians that are currently under-banked.

[5] The Standing Deposit Facility (SDF) allows the banks to deposit its excess liquidity and get remunerated for it. Prior to November 2014, banks could deposit as much liquidity at their disposal with the CBN. By November 2014, the CBN capped the minimum remunerated deposit through this window at N7.5 billion and by virtue of this circular, a further reduction of N2 billion.

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4.0 GUIDELINES

4.1 CBN CONSUMER PROTECTION GUIDELINES ON DISCLOSURE AND TRANSPARENCY

On August 01, 2019, the CBN issued the Draft Consumer Protection Guidelines on Disclosure and Transparency, with the main objective of providing protection to consumers against inadequate, misleading or undisclosed material and relevant information, and generally guard against lack of transparency by Financial Institutions in their dealings with consumers. The Guidelines shall apply to all transactions by financial institutions (which are licensed and regulated by the CBN) and their agents, subsidiaries and associates. These include Commercial Banks, Merchant Banks, Specialized Banks et al.

The key provisions of the Guidelines are highlighted below:

- **General Provisions:**
  Contracts, offer letters, statements of account, notices and other documents provided or made available to consumers shall: (i) be written in clear, legible and simple English language and in a minimum font size of 10; (ii) state the name, contact details of the Financial Institution and the consumer; (iii) conspicuously display in their banking halls and publish on their websites and internet banking platforms, accurate and up to date information on all their products; (iv) bear all costs associated with disclosures to customers required by the Guidelines except for deposits and withdrawals by or on behalf of the customer.
- **Advertisement:**
  The content of advertisements shall be factual and unambiguous, expressed in clear and simple language and shall not be offensive, misleading, deceptive, injurious, or exaggerate the benefits of the products or services being advertised. The overall impression of advertisements shall not emphasize benefits of a product or service while de-emphasizing its associated risks or important disclosure of information.
- **Pre-contractual and Contractual Disclosures:**
  Financial institutions shall disclose to consumers: (i) all terms and conditions of a product or service on offer, as well as the features, inherent risks, benefits, fees and other associated charges; (ii) disclose in contract documents, the possibility of variations in rate of interest or foreign exchange due to changes in market conditions. These institutions are also expected to notify consumers of any transaction on their account, immediately it is made with adequate transaction narrations.

4.2 DRAFT PRUDENTIAL GUIDELINES

The Draft Prudential Guidelines ("**Guidelines**") set out below were circulated by the CBN on August 23, 2019. The Guidelines are currently undergoing review, and as such, the clauses highlighted below may change before the effective date of January 01, 2020. Nevertheless, the Guidelines are being highlighted so that the public has regard to same, mindful that they could potentially become effective and therefore impact relevant transactions.

4.2.1 DRAFT PRUDENTIAL GUIDELINES FOR MORTGAGE REFINANCE COMPANIES IN NIGERIA

The Nigeria Mortgage Refinance Company Plc ("**NMRC**") was established to bridge the funding cost gap of residential mortgages and promote the availability as well as the affordability of good housing to Nigerians. This expected reality is dependent on the provision of increased liquidity in the mortgage market through the mortgage and commercial banks. On August 23, 2019, the Central Bank of Nigeria ("**CBN**") issued the Draft Prudential Guidelines for Mortgage Refinance Companies (MRCs) in Nigeria FPR/DIR/GEN/PAR/02/013.

Some key highlights of the regulation are mentioned below:

- **Minimum Paid-up Capital:** An MRC shall commence operations with, and maintain at all times, a minimum paid-up capital as may be prescribed by the CBN. The Regulatory and Supervisory Framework for the Operations of a Mortgage Refinance Company (the "**MRC Regulation**") however provides in Section 7.1.1 that the MRC shall commence operations with, and maintain at all times, a minimum paid-up capital of ₦5,000,000,000 (Five Billion Naira only).
- **Payment of Dividends:** No dividend shall be paid until after: (i) all accumulated losses have been fully absorbed and written off; (ii) all preliminary and pre-operational expenses have been written off (iii) capital Adequacy ratio has been met; and (iv) all matured obligations have been met.
- **Maximum ratios:** The maximum ratio of non-performing loans to total gross loans for MRCs shall not at any point in time exceed 10 per cent, or such other level as may be prescribed by the CBN, from time to time.
- **Investment of Shareholders' Funds:** An MRC shall not invest more than 10 per cent of its shareholders' funds unimpaired by losses in the equity of any venture or undertakings without the prior approval of the CBN.
- **Foreign Borrowing:** MRCs shall borrow and lend in the same currency (natural hedging) to avoid currency mismatch associated with foreign currency risk.

4.2.2 CBN DRAFT PRUDENTIAL GUIDELINES FOR MICROFINANCE BANKS ("MFBs")

As part of its efforts at enhancing the quality of banks' assets, the CBN in June 2010 issued the Prudential Guidelines for Deposit Money Banks (DMBs) in Nigeria. These 2010 Guidelines had provisions that covered microfinance loans. However, given the developments which have had specific impact on different classes of financial institutions over the years, the need for sector-specific Guidelines has arisen. On August 23, 2019, the CBN circulated the draft guidelines for MFBs, for any observations and comments.

Below are some highlights in the Guidelines:

- **Lending Limits**: The maximum loan to any individual borrower shall not exceed 1 per cent and to any group of borrowers, co-operative or corporate body, it shall not exceed 5 per cent of the MFB's shareholder's fund unimpaired by losses or as may be prescribed by the CBN.

- **Increase in the Credit Print-out Minimum Requirements**: Borrowers credit print-out requirements have been extended to include the following: (i) Interest rate; (ii) Restructure date (if any); (iii) Type and value of security pledged; (iv) Bank Verification Number (BVN); and (v) Evidence of registration with the National Collateral Registry (NCR).

- **Co-signers as Borrowers**: Members in a group lending arrangement shall now be allowed to co-sign as borrowers or issue cross-guarantees for one another to the same MFB.

- **Restrictions on Financing**: MFBs shall not be allowed to finance any of the following, other than from the shareholders' funds unimpaired by losses: (i) Acquisition of fixed assets; (ii) Equity investments in permissible activities and investments in long-term debentures, subject to CBN's approval in writing; and (iii) Branch expansion.

- Compliance with provisions of the Code of Corporate Governance for MFBs as issued by the CBN circular FPR/DIR/CIR/GEN/07/017 dated October 26, 2018 or any other relevant circular(s) issued by the CBN.

4.2.3 DRAFT PRUDENTIAL GUIDELINES FOR COMMERCIAL, MERCHANT AND NON-INTEREST BANKS

Following the developments which have had specific impact on different classes of financial institutions over the years, the need for sector-specific Guidelines has arisen. On August 23, 2019, the Draft Prudential Guidelines for Commercial, Merchant and Non-Interest Banks was circulated by the CBN, with the aim of reducing the likelihood of any financial institution having an excessive reliance on one sector of the Nigerian economy.

Below are key features of the Draft Guidelines:

- **Limits on Exposure to a Single Obligor/ Connected Lending**:
  50 per cent of a bank's off-balance sheet engagements shall be applied in determining whether the bank has exceeded the exposure limit to a single obligor. This is a marked increase from paragraph the Prudential Guidelines for Deposit Money Banks in Nigeria 2010, which requires 33.5 per cent of the bank's off-balance sheet engagements be applied.
- **Basic Information on Borrowers and Minimum Requirements of Credit Files:**
  As part of the basic information on borrowers, banks are to obtain the Bank Verification Number (the "**BVN**") of individual borrowers or the BVNs of directors of corporate borrowers, and the Tax Identification Number ("**TIN**") of every corporate borrower.

- **Restriction on Lending:**
  Banks are now prohibited from lending to: (i) Corporate entities that don't have tax identification numbers (TIN); (ii) Individuals without bank verification numbers; and (iii)Individuals without bank verification numbers, who are also not resident in Nigeria. Banks who continue to lend to the three categories of people set out above after the effective date of the guidelines, or who fail to wind down their exposures to such entities within the permitted deadline, will be subject to

sanctions from the CBN and the bank will have the amount of such exposure deducted from its capital in computing its capital adequacy ratio (CAR).

- **<u>Credit Portfolio Classification for Facilities other than Specialized Loans:</u>**
  The Guidelines amend the classification system for facilities other than specialized loans, into three categories: (i) Performing facilities – if all due principal and interest payments have either been settled or are not past due by more than 30 days; (ii) Watch-list facilities – if the principal and/or interest payments are past due by 31 to 90 days; and (iii) Non-performing facilities – if the principal and/or interest is past due for more than 90 days; or if interest payments past due for 91 days or more have been rescheduled or rolled over into a new loan; or an off balance sheet obligation has been crystalized.

The CBN is also considering new policies on credit scoring and reporting of bank customers, as alternatives to the requirement of collaterals to secure loans.

5.0 PROPOSED CBN POLICY

Loan Defaulters' Deposits in Other Banks to be used to Service Unpaid Loans[6]:

At the 345th Bankers' Committee meeting on Monday, August 26th, 2019, a new policy was proposed by the CBN and other financial institutions. The proposed policy suggests that, where a customer defaults in the repayment of a loan, the total amount of deposits owned by that customer across the banking industry would be applied by the lender, towards servicing the loan.

Vital information will also be demanded from bank borrowers such as Bank Verification Number (BVN), Tax Identification Number (TIN), amongst others. Some have said that this policy is necessary to assist the Deposit Money Banks (DMBs) to maintain a minimum lending and deposit ratio of 60 per cent per day by

[6] https://punchng.com/loan-defaulters-to-lose-deposits-in-other-banks/
https://www.vanguardngr.com/2019/09/experts-commend-cbns-proposed-policy-for-loan-defaulters-to-forfeit-deposits-in-other-banks/
http://venturesafrica.com/nigerian-companies-to-get-tax-credits-under-government-infrastructure-scheme/

September 30, 2019. This is also in a bid to increase the lending capacity of DMBs to the retail, and even creative sector, which has been seemingly stifled by some customers' unwilling nature to repay loans. Others also believe that this policy will boost lenders' confidence, knowing that repayment is not tied to only accounts operated by them. However, the success of this policy will largely be dependent on the level of co-operation amongst banks given the high level of competition for customer patronage.

Given that this policy is still being developed, it is pertinent that the full provisions of the policy be made known, to avoid any circumventions. Suggestions have also been made with respect to the inclusion of sanctions which will apply in the event of non-compliance.

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