

A BRIEF ON THE CENTRAL BANK OF
NIGERIA {CBN} ACT, 2007

BY

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INTRODUCTION

The CBN Act was promulgated in 1991 as Decree No. 24. The enactment of this law and Banks and Other Financial Institutions Act 1991 which largely regulate the banking sub-sector of the financial services industry was considered a landmark development as they conferred on the Central Bank of Nigeria a measure of instrument autonomy for the effective discharge of its core mandate. But the law and its subsequent amendments could not meet the challenges thrown up by the rapid reform programmes of Government.

For instance, the financial system continues to witness several important developments which call to question the Bank's legal framework in its 1991 formulation. These developments included:-

- the transfer of supervision of specialized banks, {Primary Mortgage Institutions, Community banks and Development Financial Institutions} and other non-bank Financial Institutions to the Bank. This has expanded the regulatory and supervisory responsibility of the Bank beyond the scope envisaged by the existing legislations.
- the global war on economic crime and the increasing wave of money laundering in particular, which underscores the need for a proactive and effective anti money laundering regime;
- a refocusing of the CBN itself and the strengthening of regulatory capacity for effective service delivery;
- the adoption of universal banking {UB} in Nigeria;

- Unprecedented bank failures associated with weak internal controls and corporate governance in banks;
- reform of the banking industry and indeed, the entire economy.

At the inception of the present administration in the Bank's Management, the CBN itself announced a number of reforms aimed at strengthening the banking sector. These reforms were intended to complement the economic reform programme embarked upon by the Federal Government.

These developments necessitated a comprehensive review of the existing legal framework in order to strengthen monetary policy formulation and implementation, ensure their effective transmission and generally enhance supervisory capacity.

In this regard, the Bank proposed a number of measures for strengthening both the CBN and BOFI Acts. The Bills embodying the proposals were extensively deliberated upon by the Federal Executive Council and following their approval were forwarded to the National Assembly (NASS) as executive bills by the President. The intention was that both Bills would be considered together by the NASS but unfortunately, due to inexplicable reasons, only the CBN Bill was promulgated into law at the tail end of the tenure of the immediate past legislative assembly. The Act was thereafter assented to by the immediate past President.

A highlight of the salient provisions of the newly promulgated Act is presented below:

1. AUTONOMY OF THE BANK (SECTION 1(3))

The operational autonomy of the Bank is now clearly expressed in line with international best practice. This will not only facilitate the achievement of its mandate but will also engender stakeholder confidence.

2. OBJECTS OF THE BANK (SECTION 2)

The objective of price stability has now been distinctly included in the core mandate of the Bank.

This is informed by the fact that the core function of every Central Bank is the maintenance of price stability. It should be noted that macro economic stability is essential for growth and development in any economy. Macro economic stability is itself a function of price stability which is the ability of a Central Bank to moderate inflation, attain stable interest and exchange rates and create a conducive investment climate for long term growth and development. In order to achieve and maintain this objective however, it is imperative to keep a close watch on government spending as persistently huge budget deficits tend to lead to volatility in prices which in turn negatively impacts the standard of living. The price stability objective will therefore enable the CBN to adopt the necessary measures, in collaboration with the fiscal authorities, to control the rate of inflation.

3. AUTHORISED SHARE CAPITAL {SECTION 4(3)}

In consonance with the ongoing reforms in the banking industry and in order for the Bank to effectively discharge its increasing responsibilities, the authorized capital of the Bank has been increased to 100 billion Naira.

4. GENERAL RESERVE FUND {SECTION 5 (2)}

As with the capital, the allocation to the reserve fund has been increased from one sixth to one quarter of the operating surplus. This would act as a buffer for the capital in day to day operations, prevent recourse to government for funding and generally improve the Bank's cash flow.

5. COMPOSITION OF THE BOARD { SECTION 6}

The membership of the Board has been expanded to include the Accountant-General of the Federation.

6. APPOINTMENT AND QUALIFICATION OF THE MEMBERS OF THE BOARD (SECTIONS 8, 10 & 11)

In order to facilitate the achievement of its mandate, the appointment of the Governor, the Deputy Governors and non-executive directors is now subject to confirmation by the **Senate while the removal of the Governor is also subject to Senate confirmation.**

The Governor is also required to appear before the National Assembly periodically to present a report on the activities of the Bank.

7. ESTABLISHMENT OF MONETARY POLICY COMMITTEE (MPC)
(SECTION 12)

The MPC is established to facilitate the attainment of the Bank's objective of price stability. In order to improve the process for monetary policy formulation and implementation, the MPC has been formally constituted with membership drawn from within and outside the Bank. This is intended to enhance the quality of Monetary Policy, introduce transparency into the process as well as facilitate its transmission mechanism.

8. ABUSE OF THE NAIRA (SECTIONS 20 & 21)

In order to stem the abuse that the Naira is constantly subjected to, increase the active life of Naira notes and coins and promote confidence in their usage as medium of exchange, refusal to accept the Naira, trading in Naira notes and coins, spraying of the Naira and all such abuses have been criminalized and appropriate sanctions imposed.

9. EXTERNAL RESERVES MANAGEMENT {SECTION 24}

The Act now gives the Bank greater flexibility in the selection of instruments and assets in which to invest external reserves.

While the existing restrictions are based on considerations of safety and security of the reserves, the dynamics of modern day reserve management makes it necessary for the CBN to retain some flexibility in determining the choice of instruments. The vast improvements in information and communication technology and their under-lying infrastructure have not only introduced more efficient and effective ways of conducting business but have continued to open up vast opportunities in the international business environment which the Bank is very well placed to leverage on for the benefit of the Nigerian economy.

The Bank has also been empowered to invest part of the external reserves by way of loan or debenture in any suitable development financial institution subject to appropriate limitations.

10. INFORMATION SHARING {SECTION 33}

The provision empowers the Bank to enter into arrangements for the sharing and exchange of information with other regulatory bodies particularly those out-side Nigeria for supervisory purposes. This will be particularly useful in relation to the supervision of conglomerates and off-shore banking entities.

The section also provides for the confidential treatment of such information. The assurance of confidentiality will make it easy to enlist the cooperation of foreign supervisory authorities while its absence could hamper the CBN in obtaining relevant

information which it needs for supervisory purposes from counterparts in other countries.

Sanctions for mis-reporting have also been strengthened.

11. DEFICIT FINANCING [SECTION 38]

Deficit Financing by a Central Bank is a major source of inflation and a negation of the objective of price stability which is a core function of the Bank. The provision on the reduction in the limit of the amount that may be advanced to the government is therefore in line with the macroeconomic policy objective of sustainable growth and development.

12. SETTLEMENT AND PAYMENT SYSTEM DEVELOPMENT {SECTION 47}

In furtherance of the objective of promoting a sound financial system and in addition to facilitating a cheque clearing system, the Bank now has the power to develop efficient and robust systems of transactions settlement including electronic payment systems.

13. FURNISHING OF ANNUAL ACCOUNTS AND RETURNS TO THE NATIONAL ASSEMBLY {SECTION 50}

The Bank is now required to furnish the National Assembly with its annual accounts and financial statements.

14. POWERS TO REGULATE CREDIT BUREAUX {SECTION 57}

The Bank now has power to licence and regulate the activities of credit bureaux. This will enhance transparency in credit transactions of banks by making it mandatory for them to obtain credit information about prospective borrowers. It will also enhance the operations of the Credit Bureaux.

LEGAL SERVICES

MEMORANDUM