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The ALP Review

BANKING AND FINANCE

Q1 2024

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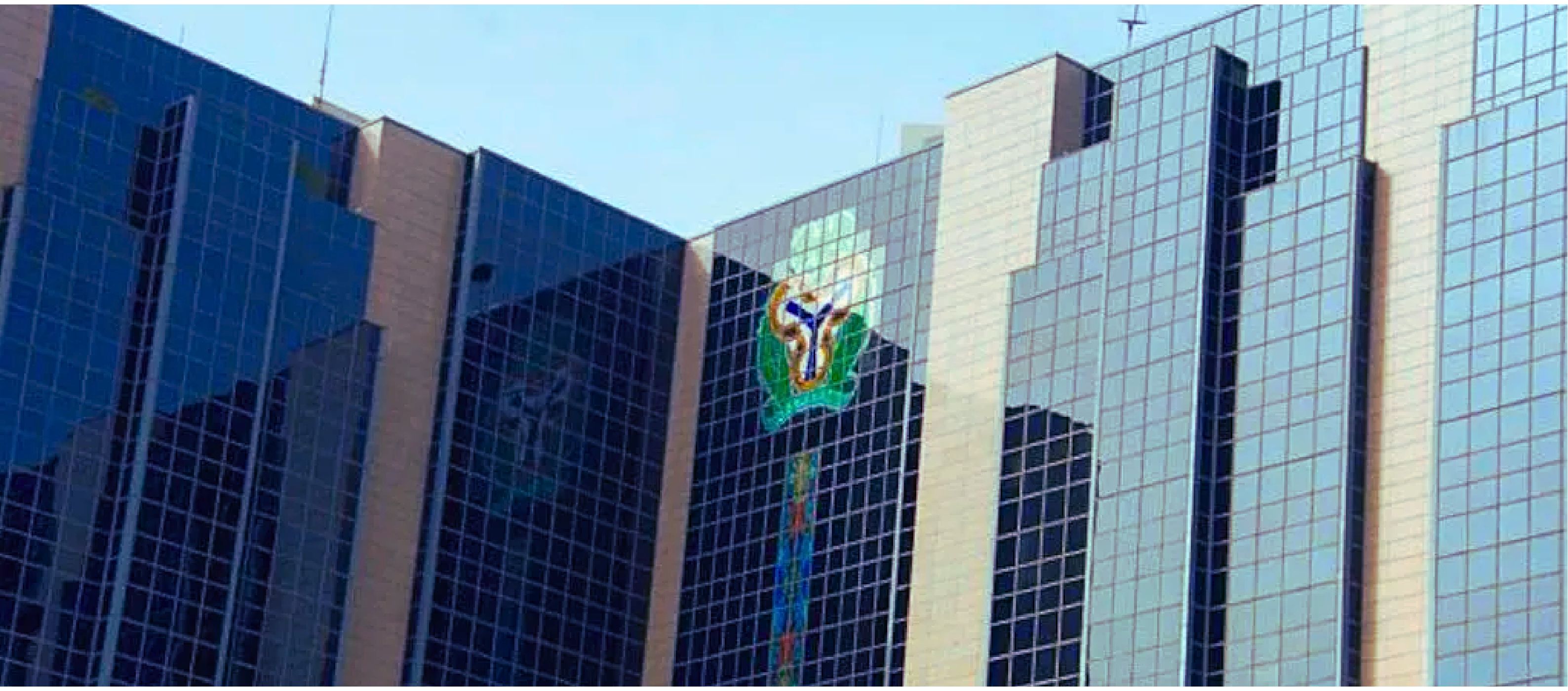

(1) Central Bank of Nigeria Urges Financial Market Transparency

On 29 January 2024, the Central Bank of Nigeria (CBN) released a circular addressed to all Authorised Dealers. In the circular, the CBN, among other things; stipulates that transactions are to be conducted on a "willing buyer willing seller" basis, emphasises the importance of transparency in financial market transactions, and raised concerns about the practice of reporting inaccurate and misleading information by Authorised Dealers and their customers, particularly regarding foreign exchange and fixed income transactions.

For more details on this circular, please click here

(2) CBN Issues Prudential Requirements for Bank's Foreign Currency Exposures

On 31 January 2024, the Central Bank of Nigeria (CBN) addressed a letter to all banks regarding the harmonisation of reporting requirements on foreign currency exposures of banks. To manage the risks that may be occasioned by the growth in foreign currency exposures of banks, the CBN issued prudential requirements:

a. **Prudential Requirements:** Banks must adhere to Net Open Position (NOP) limits, ensuring that overall foreign currency assets and liabilities do not exceed 20% short or 0% long of shareholders' funds unimpaired by losses using the Gross Aggregate Method. Banks exceeding these limits are required to rectify their positions by 1 February 2024. In addition, banks must compute daily and monthly NOP and Foreign Currency Trading Position (FCTP) using provided templates and maintain adequate stock of high-quality liquid foreign assets to cover maturing foreign currency obligations.

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b. **Other Requirements:** Banks should adopt natural hedging strategies i.e. borrow and lend in the same currency, ensure consistency in interest rates for borrowing and lending, obtain CBN approval for any clause on early redemption with respect to Eurobonds, implement robust treasury and risk management systems to provide oversight of foreign exchange exposures, and bring all exposures within the set limits immediately.

The notice further provides sanctions for non-compliance with NOP limits.

Comment

By imposing NOP limits and other prudential requirements, the CBN aims to mitigate the risks associated with excessive foreign currency exposures, thus safeguarding financial stability.

For more information, please click here

(3) Afreximbank Announces Initial Disbursement of US$2.25 billion under a Syndicated US$3.3 billion Crude Oil Prepayment Facility Sponsored by NNPCL

On 12 January 2024, African Export-Import Bank (Afreximbank) announced that it has successfully arranged a syndicated US$3.3 billion crude oil prepayment facility sponsored by the Nigerian National Petroleum Company Limited (NNPCL) with an initial disbursement of US$2.25 billion made and a second tranche of US$1.05 billion to be disbursed subsequently.

This landmark financing, a 5-year facility which carries a margin of 6.0% per annum above the 3-month secured overnight financing rate (SOFR), qualifies as Nigeria's largest crude oil prepayment facility and one of the largest syndicated loans raised in Africa in 2023. The transaction structure has an embedded price balance mechanism where 90% of all excess cash from the sale of the committed barrels (after debt service) will be released while the balance 10% will be used to prepay the facility, effectively shortening the final maturity of the facility and freeing cashflow from future pledged cargoes for use by Nigeria.

The initial participating lenders in the transaction are Afreximbank, Africa's multilateral trade finance institution, Gunvor International BV, a Geneva-based multinational energy and commodities trading company, and Sahara Energy Resources Limited, an African-owned, leading international energy and infrastructure conglomerate. Afreximbank acted as Sole Mandated Lead Arranger, Technical and Modelling Bank, Bookrunner, Facility Agent, Offshore Account Bank, Intercreditor Agent, and Collateral Agent, while United Bank for Africa Plc (UBA) acted as the Local Arranger and Onshore Account Bank for the transaction.

Comment

Although the facility aims to stabilize the naira and fund fiscal reforms, securitising the nation's future crude oil production for immediate cash may not be in the best interest of the nation. The reason is because, when this happens, a large chunk of earnings from future crude oil productions would most likely be applied towards debt service at the expense of growth and development.

For more information, please click here

(4) Access Bank to Acquire Majority Stake in Finance Trust Bank Limited

On 17 January 2024, Access Holdings Plc announced that its flagship subsidiary, Access Bank Plc, has entered into a definitive agreement to acquire a majority equity stake in the Ugandan-based Finance Trust Bank Limited (FTB). Upon completion, the recapitalisation process which would see Access Bank acquire a majority stake from existing shareholders of FTB in addition to a capital injection to increase FTB's capital base would position Access Bank to owning an estimated 80% shareholding in FTB, subject to regulatory approvals.

Comment

This transaction signals Access Holding's strategic expansion into the Ugandan market which aligns with its vision to becoming Africa's Payment Gateway to the World.

For more information, please click here

(5) CBN Removes Allowable Limit on Exchange Rate Quotes by IMTOs

On 31 January 2024, the Central Bank of Nigeria (CBN) issued a circular addressed to all Authorised Dealers, International Money Transfer Operators (IMTOs), and the general public regarding the removal of the allowable limit on exchange rate quotes. Previously, IMTOs were required to quote rates within an allowable limit of -2.5% +2.5% around the previous day's closing rate of the Nigerian Foreign Exchange Market. However, in line with the CBN's commitment to liberalise the Nigerian Foreign Exchange Market, IMTOs are now permitted to quote exchange rates for Naira payout based on the prevailing market rates, following a willing seller, willing buyer approach.

This circular supersedes the previous directive and removes the cap on allowable limits, granting IMTOs more flexibility in quoting exchange rates. Authorised Dealers, IMTOs, and the general public are advised to take note of this update and comply accordingly.

Comment

By allowing IMTOs to quote rates based on prevailing market conditions, the CBN aims to promote a more flexible and market-driven exchange rate regime. This move provides IMTOs with greater autonomy in pricing, facilitating smoother transactions and enhancing efficiency in the foreign exchange market.

For more information, please click here

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(6) CBN Releases Revised Guidelines on International Money Transfer Services

On 31 January 2024, the Central Bank of Nigeria (CBN) announced the release of revised guidelines for International Money Transfer Services in Nigeria. These guidelines, amongst others, aim to liberalise the foreign exchange market, promote transparency in foreign exchange market transactions, boost diaspora remittances, promote efficient price discovery mechanisms, and enhance the ease of doing business for International Money Transfer Operators (IMTOs) and money transfer recipients.

The updated guidelines introduce significant changes, including a two-step licensing procedure for IMTOs, with a minimum share capital requirement of $1 million for foreign companies and the equivalent in Naira for indigenous companies. IMTO services are now limited to inbound money transfer services, expanding the scope to include transfers on a "person to person", "business to person", and "business to business" basis. In addition, IMTOs are prohibited from purchasing foreign exchange from the domestic market for settlement purposes, and financial technology companies are explicitly barred from obtaining IMTO licenses.

Comment

The introduction of a two-step licensing procedure and minimum capital requirements for IMTOs aims to strengthen regulatory oversight and ensure the stability of the sector. By expanding the scope of IMTO services to include various transfer categories, such as person to person and business to business, the guidelines seek to facilitate smoother transactions and promote greater financial inclusion.

For more information on the revised guidelines and their implications, please click here

(7) CBN Removes Spread on Foreign Exchange Transactions

On 8 February 2024, the Central Bank of Nigeria (CBN) released a circular addressed to all Authorised Dealers where it announced the removal of the cap on the spread on interbank foreign exchange transactions. This decision aligns with the ongoing foreign exchange market reforms aimed at promoting a market-based price discovery system.

Authorised Dealers are instructed to conduct foreign exchange transactions on a "Willing Buyer and Willing Seller" basis, without any restrictions on the sale of interbank proceeds. It is emphasised that high ethical standards must be maintained in all dealings in the foreign exchange markets, including transparent price disclosures.

Furthermore, all executed transactions must be promptly recorded on relevant treasury systems and reported to market authorities as required.

For more information on this directive, please click here

(8) CBN Mandates Electronic Channels for PTA/BTA Payouts

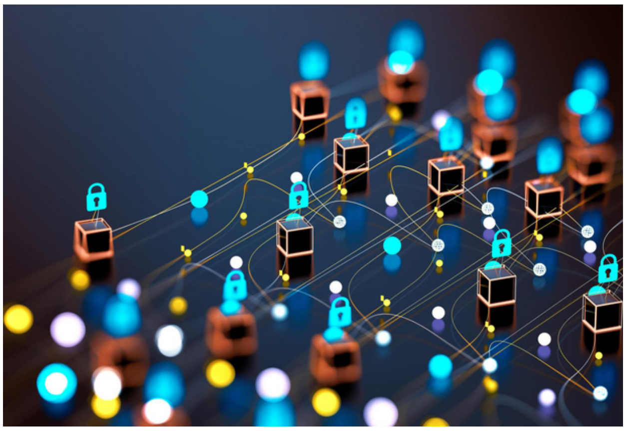
In a directive dated 14 February 2024, addressed to all Authorised Dealer Banks, the Central Bank of Nigeria (CBN) announced changes regarding the payout of Personal Travel Allowance (PTA) and Business Travel Allowance (BTA). Previously, cash payments were permitted for these allowances; however, the CBN now mandates that all PTA/BTA payouts must be conducted exclusively through electronic channels, including debit or credit cards.

This decision aligns with the CBN's commitment towards ensuring transparency and stability in the foreign exchange market while mitigating foreign exchange malpractices. Authorised Dealer Banks and the general public are instructed to adhere to this new directive promptly.

Comment

Relevant stakeholders are to take note that, henceforth, all PTA/BTA payouts are to be conducted electronically.

For more information on the updated guidelines for PTA/BTA payouts, please click here



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(9) CBN Adjusts Allowable Deviation Limits on Price Verification System

In a circular dated 14 February 2024, addressed to all Authorised Dealer Banks, the Central Bank of Nigeria (CBN) announced adjustments to the allowable deviation limits on the Price Verification System (PVS). The PVS was implemented to combat over-invoicing of imports and under-invoicing of exports.

Previously, declared prices of import items exceeding 2.5 percent above the global average prices were queried. However, in response to global inflation and related challenges, the CBN has revised the allowable deviation limits. The new limits permit deviations of up to -15% for exports and +15% for imports from the global average prices.

Authorised Dealer Banks and the general public are advised to adhere to these revised limits.

The PVS aims to prevent excessive outflow of foreign exchange through over-invoicing and price manipulation, rather than determining prices of item for tariffs or duties charged by the government.

Comment

Relevant stakeholders are to consider these limits in their dealings going forward.

For more information, please click here

(10) CBN Issues Directives on Foreign Currency Cash Pooling for IOCs

In a circular dated 14 February 2024, directed to all Authorised Dealer Banks, the Central Bank of Nigeria (CBN) addressed the practice of "cash pooling" by International Oil Companies (IOCs) operating in Nigeria, which involves transferring proceeds of crude oil exports offshore to fund parent company accounts. This practice has been observed to impact liquidity in the domestic foreign exchange market.

While acknowledging the importance of IOCs accessing their export proceeds to fulfill offshore obligations, the CBN emphasises the need to minimise negative effects on liquidity in the Nigerian foreign exchange market. To address this, the CBN issued the following directives:

i. Banks are permitted to pool cash on behalf of IOCs, with a maximum of 50% of the repatriated export proceeds initially.

ii. The remaining 50% may be repatriated after 90 days from the date of inflow of the export proceeds.

These directives are subject to documentation requirements, including prior approval from the CBN for fund repatriation, a cash pooling agreement with the parent entity of the IOCs, statements of expenditure, evidence of the source of foreign exchange inflows, and completion of relevant Forex forms as per regulations.

Comment

This directive underscores the importance of balancing IOCs offshore obligations with maintaining liquidity in Nigeria's foreign exchange market. By permitting banks to pool cash on behalf of IOCs with defined limits and documentation requirements, the CBN aims to mitigate the negative impact of large-scale fund transfers on domestic liquidity. These directives promote transparency and accountability in financial transactions while ensuring IOCs have access to their export proceeds for offshore commitments.

For more information on the directives and documentation requirements, please click here

(11) South African Reserve Bank Imposes Administrative Sanctions on Authorised Dealer

By a circular dated 29 February 2024, the South African Reserve Bank (SARB) announced the imposition of administrative sanction on Sasai Fintech (Pty) Limited (Sasai Fintech), an Authorised Dealer in foreign exchange with limited authority (ADLA). The sanction was due to Sasai Fintech's non-compliance with the Financial Intelligence Centre Act 38 of 2001 (FIC Act) including certain weaknesses that were detected in the ADLA's control measures which prevent it from conducting ongoing due diligence and account monitoring in respect of business relationships. Sasai Fintech has therefore been cautioned to avoid future non-compliance with section 21C of the FIC Act.

Comment

This action attests to the strict regulatory oversight enforced by the South African Reserve Bank (SARB) to ensure compliance with anti-money laundering and counter-terrorism financing measures. Investors considering ventures in South Africa can take comfort in this robust regulatory framework.

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(12) CBN Releases Draft Guidelines for Bureau de Change Operations

On 23 February 2024, the Central Bank of Nigeria (CBN), via a circular issued to all Bureau de Change operators and stakeholders in the financial services industry, issued an exposure draft of revised Regulatory and Supervisory Guidelines for Bureau de Change (BDC) Operations in Nigeria. The circular invited stakeholders to provide comments and inputs on the exposure draft within the stated deadline.

The draft guidelines aim to enhance the regulatory framework for BDC operations as part of ongoing reforms in the Nigerian foreign exchange market. Some notable changes outlined in the draft guidelines include restrictions on ownership, expansion of permissible activities, introduction of tiered licensing, and operational limitations. In addition, the draft guidelines introduce provisions for prepaid card issuance to non-residents for FX (Foreign Exchange) transactions exceeding specified limits.

Stakeholders are encouraged to review the draft guidelines and provide feedback to the CBN.

Comment

The window for receiving comments and input of stakeholders on the exposure draft has lapsed. We therefore anticipate the consequent release of the Guidelines by the apex bank.

For more information and to review the full draft guidelines, please click here

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(13) CBN Sets FX Rate for Import Duty Assessment

On 23 February 2024, the Central Bank of Nigeria (CBN) issued a circular addressed to all Authorised Dealers, the Nigeria Customs Service, and the general public. In this circular, the CBN addressed concerns about irregular changes in Import Duty Assessment levies by the Nigeria Customs Service due to fluctuations in foreign exchange rates.

In response, the CBN advised that the closing foreign exchange rate on the date of opening Form M for importation of goods should henceforth be adopted for Import Duty Assessment by the Nigeria Customs Service and other related parties. This rate will remain valid until the termination of the importation and clearance of goods. The aim is to provide stability and certainty for importers and the Nigeria Customs Service, helping them plan effectively and reduce uncertainties around fluctuating exchange rates.

Effective 26 February 2024, this new directive supersedes previous requirements outlined in the Central Bank of Nigeria Foreign Exchange Manual (Revised Edition), 2018. While acknowledging initial volatility, the CBN expressed confidence that these reforms will promote market stability and confidence, attracting investment capital for Nigeria's economic growth and development.

Comment

By this circular, Nigeria Customs Service now have an identified rate to adopt for Import Duty Assessment. It is expected that this will bring an end to the instability in Import Duty Assessment levies in Nigeria.

For more information and to review the full circular, please click here

(14) CBN Authorises Foreign Exchange Sale to BDCs for Retail Demand

As part of its attempts to address exchange rate distortions and enhance market stability, the Central Bank of Nigeria (CBN) has sanctioned the sale of foreign exchange to eligible Bureau De Change (BDC) operators to meet retail demand for invisible transactions. Effective immediately, each BDC will be allocated $20,000 at a rate of N1,301 per dollar, representing the lower band rate of executed spot transactions at the Nigerian Autonomous Foreign Exchange Market (NAFEM) for the previous trading day.

To ensure transparency and compliance, BDCs are mandated to sell to end-users at a margin not exceeding one percent (1%) above the purchase rate from the CBN. Stringent guidelines have been outlined, including but not restricted to restrictions on individual transaction limits, spread margins, and street hawking prohibition. BDCs must also submit daily reports of foreign exchange sales to end-users and adhere to designated office/outlet addresses for transactions. Any violation of these guidelines will result in immediate license revocation. The CBN emphasises the importance of professionalism and transparency in all BDC operations, signaling a commitment to market integrity and stability.

For more information, please click here

(15) CBN issues Revised Regulatory Guidelines for Mortgage Refinance Companies

The Central Bank of Nigeria (CBN) has issued an exposure draft of revised regulatory and supervisory guidelines for the operations of Mortgage Refinance Companies (MRCs) in Nigeria. The aim is to bolster the regulatory framework and align operations with international best practices. The proposed guidelines emphasise prudential requirements, mandating MRCs to primarily engage in refinancing residential mortgage loans while adhering to specified capital adequacy standards, collateral acceptance, and liquidity requirements. Licensing procedures mirror those for banks under the Banks and Other Financial Institutions Act, 2020 (BOFIA), with applicants required to submit comprehensive feasibility reports detailing financial projections and expansion plans

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In terms of operational activities, the guidelines delineate permissible actions for MRCs, including refinancing mortgage loans, investing in government debt obligations, and issuing guarantees for mortgage loans. However, certain activities such as granting consumer or commercial loans and financing real estate construction are prohibited. Notably, MRCs must adhere to stringent capital requirements, with a minimum capital threshold of N5 billion and additional financial obligations including application and licensing fees. Funding sources for MRCs encompass various avenues such as equity, long-term loans, bonds, and donations, ensuring financial stability and sustainability.

Comment

The window for receiving comments and inputs of stakeholders on the exposure draft has lapsed. We therefore anticipate the consequent release of the Guidelines by the apex bank.

For more information and to access the draft guidelines, please click here

(16) CBN Issues Reminder on Timely Submission of Monthly Returns by Microfinance Banks

In a letter dated 5 March 2024 and addressed to all Microfinance Banks (MFBs), the Central Bank of Nigeria (CBN) expressed concern over the recurrent issue of late or non-submission of periodic returns through the FinA application. This failure to meet reporting deadlines violates Section 24 of the Banks and Other Financial Institutions Act (BOFIA) 2020, as well as other existing regulations governing regulatory reporting.

To address this issue, the CBN emphasises the importance of timely submission of monthly returns, stipulating that all MFBs must submit their FinA returns no later than the 5th day following the end of each month. In cases where the 5th day falls on a weekend or public holiday, returns should be submitted on the preceding work day.

MFBs are strongly urged to adhere to these deadlines to avoid sanctions for future breaches. Where any institution experiences technical difficulties preventing timely submission, they are required to notify the CBN via email prior to the deadline, providing evidence of the technical issue.

Comment

All MFBs are hereby required to submit their FinA returns latest by the 5th day of the month or the preceding work day where the 5th day of the month falls on a weekend or public holiday.

For more information, please click here

(17) CBN Raises Minimum Capital Requirements for Banks

On 28 March 2024, the Central Bank of Nigeria (CBN) in line with its mandate to promote a stable banking system in Nigeria issued a circular for the upward review of the minimum capital requirements for commercial, merchant, and non-interest banks. This action by the CBN is essentially an attempt to strengthen the sustainability of Nigerian banks.

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By this circular, the new minimum capital requirements for commercial banks with international, national, and regional authorisations are now N500 billion, N200 billion, and N50 billion, respectively. The CBN suggested options to be considered by banks in meeting the minimum capital requirement which include injecting fresh equity capital through private placement, rights issue and/or offer for subscription; mergers and acquisitions (M&A); and/or upgrade or downgrade of license authorisation.

A 24-month timeline commencing from 1 April 2024 and terminating on 31 March 2026 was set for banks to meet this minimum capital requirement.

The CBN further stated that only paid-up capital and share premium will be considered for the purpose of meeting the new requirement for existing banks; shareholders' funds, bonus shares, retained earnings, and additional tier 1 (AT1) capital will not be eligible. Banks are also instructed to ensure strict compliance with the minimum capital adequacy ratio (CAR) requirement applicable to their license authorisation. Any bank that breaches the CAR requirement will have to inject fresh capital to regularize its position, in line with extant regulations.

For proposed banks, their promoters must be aware that the minimum capital requirement shall be paid-up and applicable to all new applications for banking licenses submitted after 1 April 2024. The circular further states that although the CBN will continue to process all pending applications for banking licenses for which deposits have been made, and/or approval-in-principle granted, promoters of such proposed banks must bridge the gap between the capital deposited with the CBN and the new requirement on or before the above-stated deadline.

The circular further instructs all banks to submit an implementation plan (clearly indicating the chosen option(s) for meeting the new capital requirement and timelines for implementation) to the Director, Banking Supervision Department, Central Bank of Nigeria, on or before 30 April 2024.

Comment

The review is positioned to provide Nigerian banks with the much-needed resilience to withstand and absorb unexpected economic tremors and place them in a better position to contribute to the growth of the economy. However, the review may also present some shortcomings. For instance, the mergers of some banks, especially low-tier banks, that are unable to meet the new capital requirement and the acquisition of others by stronger banks could likely lead to monopolies in the Nigerian banking sector.

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