ALP NG & Co.
AFRICA LAW PRACTICE NG & COMPANY
WWW.ALP.COMPANY

# The ALP Review

## BANKING AND FINANCE

## Q2 2024

For more information, please contact CorporateCommercial@alp.company

WWW.ALP.COMPANY

## (1) South African Reserve Bank Sanctions Centriq Life Insurance Company Limited

On 5 April 2024, the South African Reserve Bank (SARB) imposed administrative sanctions on Centriq Life Insurance Company Limited (Centriq) for non-compliance with Directive 4 of 2022 under the Financial Intelligence Centre Act 38 of 2001 (FIC Act).

This action follows Centriq's late submission of its biannual risk return for the fourth quarter of 2022. The Prudential Authority (PA), which supervises and enforces compliance by accountable institutions with the provisions of the FIC Act or any order determination, or directive made in terms thereof, issued the directive requiring periodic risk returns to ensure appropriate anti-money laundering and counter-financing of terrorism measures.

As a result of this non-compliance, Centriq received a caution and a financial penalty of R200,000, which is suspended for 36 months starting from 27 February 2024, provided Centriq remains compliant with the directive during the period of suspension.

Centriq has taken necessary remedial actions to address the compliance deficiencies and control weaknesses. SARB however reiterated that the sanctions are not related to any involvement in or facilitation of transactions involving money laundering or terrorism financing.

## Comment

*The "carrot and stick approach" adopted by SARB against Centriq is highly commendable.*

*It reflects a balanced approach, emphasising the need for ongoing compliance while allowing Centriq to correct its course without immediate financial burden.*

For more information, please click here

For more information, please contact CorporateCommercial@alp.company

## (2) CBN Prohibits Use of Foreign-Currency-Denominated Collaterals for Naira Loans

On 8 April 2024, the Central Bank of Nigeria (CBN) issued a directive to all banks, prohibiting the use of foreign currency (FCY)-denominated collaterals for securing Naira loans.

The CBN however exempted Eurobonds issued by the Federal Government of Nigeria and Guarantees from foreign banks, including Standby Letters of Credit from this prohibition. By this directive, the CBN has now mandated that all existing loans secured with dollar-denominated collaterals, with the above exceptions, be wound down within 90 days.

Failure to comply with this directive will result in regulatory sanctions which include, but not limited to, such exposures being risk-weighted at 150% for Capital Adequacy Ratio computation.

### Comment

*This directive aims to reduce currency mismatch risks in the banking sector and ensure a more stable financial environment. Banks are therefore advised to review their loan portfolios to ensure compliance and mitigate potential regulatory penalties.*

For more information, please click here

## (3) CBN Adjusts Loan-to-Deposit Ratio to 50% Amid Contractionary Policy Shift

On 17 April 2024, the Central Bank of Nigeria (CBN) revised its regulatory measures to enhance lending to the real sector.

The updated directive reduces the Loan-to-Deposit Ratio (LDR) by 15 percentage points, lowering it to 50%. This adjustment aligns with the CBN's current contractionary monetary stance and the recent increase in the Cash Reserve Ratio (CRR).

The directive requires all Deposit Money Banks (DMBs) to maintain the new LDR level, with average daily figures being used to assess compliance.

### Comment

*This reduction in LDR reflects the CBN's efforts to tighten monetary conditions in response to prevailing economic challenges. Banks are to adjust their lending practices accordingly and maintain strong risk management frameworks.*

For more information, please click here

## (4) CBN Withdraws Cybersecurity Levy Amidst Public Outcry

On 6 May 2024, the Central Bank of Nigeria (CBN) issued a circular directing all Banks, other financial institutions, and payment service providers to implement a 0.5% (0.005) cybersecurity levy on electronic transactions, as mandated by the Cybercrimes (Prohibition, Prevention, etc.) (Amendment) Act 2024.

The levy was to be deducted at the point of electronic transfer origination and remitted to the National Cybersecurity Fund (NCF) administered by the Office of the National Security Adviser (ONSA).

However, following widespread public outcry, the CBN released a follow-up circular on 17 May 2024, announcing the suspension of the cybersecurity levy.

### Comment

*The swift withdrawal of the cybersecurity levy highlights the government's responsiveness to stakeholders' concerns. Financial institutions should remain vigilant to future regulatory changes and engage in proactive dialogue with regulatory bodies to balance cybersecurity funding needs with economic impact considerations.*

For more information, please click here

## (5) CBN Issues Further Clarifications on Cash Pooling of Repatriated Oil and Gas Export Proceeds

On 14 February 2024, the Central Bank of Nigeria (CBN) released a circular addressing the practice of "cash pooling" by International Oil Companies (IOCs) operating in Nigeria.[1]

The circular which aims to mitigate the impact of such transactions on the liquidity of the domestic foreign exchange market generated numerous enquiries to the CBN by banks and other stakeholders. On 6 May 2024, in response to these enquiries, the CBN released a circular providing additional guidance on the cash pooling of repatriated oil and gas export proceeds by IOCs.

1 Please read our report of this circular in our Q1 Newsletter here; On 6 May 2024, the Central Bank of Nigeria (CBN) issued a circular directing all Banks, ot

## Key Clarifications:

- **Initial 50% Pooling:** Banks may pool 50% of the repatriated proceeds immediately or as needed and can request approval from the CBN for cash pooling in advance of the expected receipt date.

- **Use of Balance 50%:** The remaining 50% of the repatriated proceeds could be used to settle financial obligations within Nigeria during the prescribed 90-day period.

- **Eligible Expenses:** The eligible expenses for settlement from the balance 50% include:

    - Petroleum Profit Tax
    - Royalty
    - Domestic Contractor Invoices
    - Cash Call
    - Domestic Loan Principal & Interest Payment
    - Transaction Taxes (including Nigerian Content Development (NCD) Levy)
    - Education Tax
    - Forex Sales at the Nigerian Foreign Exchange Market

### Comment

*This further clarification from the CBN is highly commendable as it helps to clear all ambiguities attached to the earlier circular. Banks and other stakeholders can now effect CBN's instructions without hesitation*

For more information, please click here

## (6) CBN Extends Suspension of Processing Fees on Cash Deposits

On 6 May 2024, the Central Bank of Nigeria (CBN) issued a circular extending the suspension of processing fees on cash deposits. This decision prolongs the relief originally provided in December 2023, which halted the imposition of processing charges on cash deposits exceeding NGN 500,000 for individuals and NGN 3,000,000 for corporate entities.

The suspension of processing fees of 2% for individuals and 3% for corporate entities on cash deposits above the stated thresholds has now been extended until 30 September 2024. All financial institutions regulated by the CBN are therefore required to continue to accept cash deposits from the public without any charges until the specified date.

### Comment

*The extension of the suspension of these processing fees highlights CBN's efforts to ease the financial burden on individuals and businesses, particularly in challenging economic times.*

For more information, please click here

## (7) New Regulatory Guidelines for Bureau De Change Operations in Nigeria

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

On 22 May 2024, following the conclusion of the stakeholders' consultation, the Central Bank of Nigeria (CBN) released the Regulatory and Supervisory Guidelines for Bureau De Change Operations in Nigeria 2024 (the Guidelines). This new directive is part of the broader reforms aimed at repositioning the BDC sub-sector to effectively contribute to the foreign exchange market in Nigeria.

# Key Highlights:

- **Licensing Requirements:** The Guidelines introduce new licensing requirements and categories for BDCs. All existing BDCs must re-apply for a new licence under one of the newly defined tiers or licence category.

- **Minimum Capital Requirements:** All existing BDCs must meet the revised minimum capital requirements associated with their chosen licence category within six (6) months from the effective date of the Guidelines.

- **Permissible Activities, Corporate Governance, etc:** The Guidelines revise the permissible activities, financial requirements, corporate governance requirements, and AML/CFT/CPF provisions for BDC operations.

- **Application Process for New BDCs:** Prospective BDC operators must meet the conditions for the grant of licence under their chosen licence category

- **Receipt and Processing of Application:** All applications for licence are to be submitted electronically starting from the Guidelines' effective date of 3 June 2024.

- **Supremacy of the Guidelines:** The Guidelines supersedes:

    - the Revised Operational Guidelines for Bureau De Change in Nigeria issued in November 2015; and

    - all related circulars and directives.

## Comment

*The Guidelines aim to enhance the regulatory framework governing BDC operations in Nigeria by ensuring effective compliance and risk management. We envisage that the re-licencing requirement and tiered structure will streamline the sub-sector, promote transparency, and strengthen the overall integrity of Nigeria's foreign exchange market. Stakeholders in the financial services industry should closely review these Guidelines to ensure compliance and leverage potential opportunities.*

For more information, please click here

## (8) CBN Revokes the Banking Licence of Heritage Bank Plc

On 3 June 2024, the Central Bank of Nigeria (CBN), announced the revocation of the banking licence of Heritage Bank Plc (Heritage Bank).

This decisive action was taken in line with the CBN's mandate to promote a sound financial system in Nigeria and in exercise of its powers under Section 12 of the Banks and Other Financial Institutions Act (BOFIA) 2020.

This measure has become imperative due to Heritage Bank's violation of Section 12 (1) of BOFIA, 2020. The Bank's financial performance remained poor, posing a serious threat to financial stability.

The CBN had engage with Heritage Bank's Board and Management, prescribing various steps to halt the financial decline. However, Heritage Bank's continued underperformance and lack of recovery prospects necessitated the licence revocation.

In accordance with Section 12 (2) of BOFIA, 2020, the Nigeria Deposit Insurance Corporation (NDIC) has been appointed liquidator of Heritage Bank.

NDIC in a press release dated 4 June 2024, stated that the Corporation has begun Heritage Bank's liquidation process, and outlined how depositors will be compensated, and the procedures involved:

- **Insurance Coverage:** NDIC insures deposits up to N5,000,000 (Five Million Naira) per depositor in Heritage Bank.
- **Depositors with Alternate Bank Accounts:** Depositors with alternate bank accounts will be compensated up to the insured sum upon providing their Bank Verification Number (BVN).
- **Depositors without Alternate Bank Accounts:** Depositors without alternate bank accounts must either visit the nearest bank branch with proof of account ownership, valid identification, alternate bank account details, and BVN, or file an online claim on the NDIC website with necessary document uploads.
- **Excess Balances:** Depositors with balances exceeding N5,000,000 (Five Million Naira) will receive liquidation dividends after the realisation of all Heritage Bank's assets. Liquidation dividends represent the proceeds from the sale of assets and recovery of debts owed to Heritage Bank.


## Comment

*The revocation of Heritage Bank licence emphasises the CBN's commitment to safeguarding the integrity of the Nigerian financial system. It is our believe that this bold step taken by the apex bank will give the general public every confidence in the reliability of the Nigerian financial system.*

For more information, please click here

You can read our Client Alert on this update here

## (9) South African Reserve Bank Imposes Sanctions on Bank of China Limited, Johannesburg Branch

On 7 June 2024, the South African Reserve Bank (SARB) announced administrative sanctions against the Johannesburg branch of Bank of China Limited (BOC Jhb) for non-compliance with the Financial Intelligence Centre Act 38 of 2001 (FIC Act).

Following an inspection conducted in 2021, the Prudential Authority (PA) found several breaches related to customer due diligence, suspicious transaction reporting, and transaction monitoring.

BOC Jhb has been penalised with a total financial penalty of R30.5 million, of which R15.25 million is conditionally suspended for 36 months.

The sanctions include four cautions, a reprimand, and a substantial financial penalty. Despite these penalties, SARB emphasised that BOC Jhb was not involved in money laundering or terrorism financing.

## Comment

*SARB's enforcement actions against BOC Jhb highlight the critical importance of strict adherence to financial regulations and the ongoing efforts to uphold the integrity of the financial system. This serves as a reminder for all financial institutions to maintain rigorous compliance programmes and to promptly address any deficiencies.*

For more information, please click here

# CONTACT US:

**Lagos**

15 Military Street,
Onikan,
Lagos.

T: +234 201 700 2570-9

**Abuja**

3 Lobito Crescent,
Wuse 2,
Abuja.

T: +234 209 700 2570-9

## DISCLAIMER



ALP NG & Co. is an Africa-focused law firm with member law firms across Africa.