

FINANCE UPDATE

FEBRUARY 2017



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Contains HIGHLIGHTS OF THE CIRCULARS AND GUIDELINES ISSUED BY THE CENTRAL BANK OF NIGERIA IN FEBRUARY, 2017

Dear Esteemed Clients,

Introduction

The Central Bank of Nigeria (“CBN”) issued the following Circulars/Guidelines in the month of February, 2017. We hope that you find some of the information useful in your operations.

- ✚ **BSD/DIR/GEN/LAB/10/006: APPLICATION OF INTERNATIONAL STANDARD ON AUDITING (ISA) 701 (COMMUNICATING KEY AUDIT MATTERS IN THE INDEPENDENT AUDITOR’S REPORT) IN THE BANKING SECTOR;**
- ✚ **FMD/DIR/GEN/CIR/08/001: AMENDMENT OF S4 BUSINESS RULES AND GUIDELINES;**
- ✚ **FPR/DIR/GEN/CIR/06/010: GUIDELINES FOR THE OPERATIONALISATION OF THE NEW POLICY ON PTA AND SCHOOL FEES; and**
- ✚ **BPS/PSV/GEN/CIR/01/003: EXPOSURE DRAFT OF THE GUIDELINES ON INSTANT (INTER-BANK) ELECTRONIC FUNDS TRANSFER SERVICES IN NIGERIA**

1. BSD/DIR/GEN/LAB/10/006: APPLICATION OF INTERNATIONAL STANDARD ON AUDITING (ISA) 701 (COMMUNICATING KEY AUDIT MATTERS IN THE INDEPENDENT AUDITOR’S REPORT) IN THE BANKING SECTOR

The above circular was issued by the CBN to all banks and their external auditors directing their attention to **Rule 9 (Application of International Standard on Auditing (ISA) 701)**, which issued by the Financial Reporting Council of Nigeria. **Rule 9** requires independent auditors of listed and unlisted companies to communicate key audit matters in their audited reports.¹

It is now mandatory that the auditor’s report accompanying the audited financial statements of all banks for the periods ending **on or after December 15, 2016 and June 30, 2017** comply with ISA 701.

2. FMD/DIR/GEN/CIR/08/001:AMENDMENT OF S4 BUSINESS RULES AND GUIDELINES

As part of its efforts to stabilize value of the Naira, the CBN has amended **Section 10.1 S4 Business Rules and Guidelines** with a view to tightening its operational guidelines on foreign exchange (forex) trading among banks and other authorised dealers. The amendment to Section 10.1 of the S4 Business Rules and Guidelines which deals with the settlement platform created by the CBN, are as follows:

- ***Any auction or two-way transaction quote with the CBN must be settled and where it is on a queue, it shall be given highest priority and when it fails to settle, the system will generate an automatic Intra-day Liquidity Facility (ILF) backed by collateral to settle the transaction; and***
- ***Where there are no securities, the allotment will be cancelled and the defaulter suspended from all auctions for eight (8) weeks effective from the date of default. Also it is expected that the ILF will be bought back or converted to Standing Lending Facility (SLF) by the participant by the close of business day, failing which it would be automatically converted to SLF at the prevailing SLF rate plus 500 basis points.***

¹<http://newtelegraphonline.com/business/isa-701-frc-releases-rule-9/>

Finally, the circular emphasized the need for all SLF to be bought back latest by 10:00am on the maturity date failing which the encumbered securities would be automatically rediscounted.

In effect, the amendment seeks to penalize any bank which fails to back up cash borrowed from other banks with adequate security.

3. FPR/DIR/GEN/CIR/06/010: GUIDELINES FOR THE OPERATIONALISATION OF THE NEW POLICY ON PTA AND SCHOOL FEES

The CBN has introduced the following measures to ease the intense difficulties encountered by Nigerians in obtaining foreign exchange for some invisible transactions:

Sales of Foreign Exchange by CBN	Conditions for Sale of Forex for PTA	Sale for School Fees	Report on Transaction
The CBN will commence sales of Forex on weekly basis (every Tuesday) to banks classified into merchant banks, small banks, medium banks and big banks who will in turn sell the purchased forex to individuals in need of Personal Travel Allowance (PTA) and school fees.	<ul style="list-style-type: none"> i. Applicants must be 18 years of age and above; ii. Applicants/beneficiaries must be holders of Nigerian passports; iii. Applicants must be account holder in the chosen bank; iv. The PTA will only apply to journeys of not less than five (5) hours flight time; v. The flight must originate from Nigeria; vi. The sale of PTA must be for travel to be undertaken not more than 14 days from the day of the purchase of PTA; vii. Applicants must present verifiable (Bank Verification Number)BVN to their bankers; and viii. The Applicant will be entitled to the sum of only \$4000 per quarter 	<ul style="list-style-type: none"> i. Remittances are to be made directly to the school's account; ii. Applications will be for not more than \$15,000 or its equivalent per term or semester; iii. Applicants must be recognized parents/guardians; iv. Applicants are to provide their BVN to their bankers; and v. The Applicants are to provide a duly completed Form A, Admission letter from the school and an invoice from the school. 	All banks involved in the above transaction are directed to provide CBN with a daily return in respect thereof and this report must reach the Director, Financial Markets Department on or before 4pm of each day both in soft and hard copies failure of which such defaulting bank would be sanctioned accordingly.

4. BPS/PSV/GEN/CIR/01/003: EXPOSURE DRAFT OF THE GUIDELINES ON INSTANT (INTER-BANK) ELECTRONIC FUNDS TRANSFER SERVICES IN NIGERIA

The CBN released the Exposure draft of the Guidelines on Instant (Inter-bank) electronic funds transfer services in Nigeria (“the Exposure Draft Guidelines”) to deepen the electronic payment system in Nigeria.

The Exposure Draft Guidelines set out the procedure for operating Instant (inter-bank) Electronic Funds Transfer (EFT) services in Nigeria. It prescribes the rights and obligations of the parties to such services and provides the minimum standards for the operations of EFT services. The Instant EFT system is a payment system that ensures delivery to the Receiving Entity within 1 minute (60 seconds). However, where the delivery to the Receiving Entity occurs beyond 1 minute, such payment system will be categorized as an Automated Clearing House system.

Some of the salient provisions of the Exposure Draft Guidelines are discussed below:

A. Parties to Instant (Inter-Bank) EFT

The parties to the instant (inter-Bank) ETF services in Nigeria include:

- The CBN (as the regulator);
- Financial Institutions (such as the deposit money banks, other Financial Institutions; licensed Primary Mortgage banks, Micro-Finance Banks, and Mobile Money Operators and Development Financial Institutions.);
- Instant EFT Service Providers whose settlement obligations are guaranteed by deposit money banks. For this purpose, “Instant EFT Service Providers” refers to a Nigerian company or Financial Institution licensed by the CBN to carry on the business of facilitating Electronic Funds Transfer services in Nigeria and who initiates an Instant EFT on behalf of its customers.
- Customers (Originator and Beneficiary); and
- The Automated Clearing House (ACH), Cheque and Instant Payments Scheme Board.

B. Rights and Responsibilities of Parties to Instant EFT

Some of the rights and responsibilities of the parties to the instant (inter-Bank) electronic funds transfer services are itemised in the table below:

An Instant EFT service provider	Sending Entity	Receiving Entity in an Instant EFT transaction	Customer/Beneficiary
<p>An Instant EFT service provider shall:</p> <ul style="list-style-type: none"> • ensure compliance with the minimum standards issued by the CBN and as amended from 	<p>A Sending entity shall:</p> <ul style="list-style-type: none"> • comply with the approved Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) 	<p>A Receiving Entity shall:</p> <ul style="list-style-type: none"> • comply with the approved Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) directive, and transaction value limits as may be set from time to 	<p>A Customer/Beneficiary shall:</p> <ul style="list-style-type: none"> • provide accurate beneficiary account details for every EFT instruction; • report problems

<p>time to time;</p> <ul style="list-style-type: none"> • put in place on its platform operational guidelines specifying in clear terms the responsibilities of each party, operational rules and procedures (including dispute handling) and liabilities of parties in the event of loss of funds arising from negligence of any of the parties; • provide, in the minimum, quarterly trainings and feedback for the sending and receiving entities; • ensure that all notifications and information that its employees obtain in the course of discharging their responsibilities are treated as confidential; and • provide name Enquiry support to minimize instances of wrong credits. 	<p>directive, and transaction value limits as may be set from time to time by the relevant bodies;</p> <ul style="list-style-type: none"> • provide the BVN details of its clients in the instant EFT message for all transfers carried out on behalf of customers; • fully secure debit against client's account before initiating transfer; • notify customer of the status of instant EFT as agreed in the terms and conditions of its platform; and • provide funds transfer receipt to the customer as transaction evidence. 	<p>time by the relevant bodies;</p> <ul style="list-style-type: none"> • apply successful Instant EFT proceeds to client's account within 5 minutes; • where the security, system or other considerations make the above provision impracticable within 24 hours, the beneficiary shall be notified of the pending credit and when the credit will be applied; • notify customer of the Instant EFT receipt as agreed in the terms and conditions of its platform; and • ensure that bank statement of the beneficiary features, in the minimum, the Sender's name and the transaction narration Information as contained in the inward EFT message, to aid reconciliation by the beneficiary. 	<p>arising from EFT transactions promptly to the Sending/Receiving Entity;</p> <ul style="list-style-type: none"> • notify the Receiving Entity promptly whenever an unexpected credit is applied to his/her bank account; and • cooperate with the Receiving Entity to refund any amount that is wrongly credited to the customer account. Where the customer account is unfunded, the customer shall provide funds within 24 hours. The customer will be notified that the consequence of not funding the account within 24 hours includes watch-listing in the financial system, BVN system, Credit Bureau and reporting to law enforcement agencies.
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Please refer to the Exposure Draft for comprehensive details of the rights and responsibilities of the other parties to Instant EFT services at:

<https://www.cbn.gov.ng/Out/2017/BPSD/Exposure%20Draft%20Guidelines%20on%20Instant%20e-Funds%20Transfer.pdf>;

C. Types of Transaction

The categories of transactions that will be allowed for instant ETF include:

- One to one – single debit and single credit;
- One to many – single debit and multiple credits; and
- Many to one – Multiple debits and single credit.

D. Limitations On Instant EFT Amount

Under the Exposure Draft Guidelines, the limitations on Instant EFT values is to be set by the individual Sending and Receiving Entities based on individual entity's risk appetite. However, the desired limit is to be communicated to the EFT service provider who would then circulate platform limits to all Sending and Receiving entities to guide platform operations. In all cases, the single Instant EFT limit per transaction would apply as stipulated by the CBN.

The term **“Sending Entity”** referenced above is a Nigerian company or Financial Institution licensed by the CBN to carry on the business of facilitating Electronic Funds Transfer services in Nigeria and who initiates an Instant EFT on behalf of its customers.

Also, the term **“Receiving Entities”** refers to a Nigerian company or Financial Institution licensed by the CBN to carry on the business of facilitating Electronic Funds Transfer services in Nigeria and who receives the proceeds of Instant ETF on behalf of its customer.

E. Settlement Procedure

Instant EFT transactions are to be settled as agreed amongst its participants. However its settlement cycle must not be later than T+1 basis. Also, a minimum of least two settlement cycles per day are encouraged to minimize the settlement risks associated with deferred net settlement systems. It is important to note that parties to EFT transfers are required to provide adequate collaterals under the CBN approved collateral management system.

F. Fees and Charges

Applicable fees and charges to be levied by Instant EFT service providers and Sending entities should be in compliance with the approved Guide to Bank Charges whilst the Receiving entity are not entitled to earn income on funds transferred. However, statutory levies/charges will apply in respect thereof.

G. Dispute Resolution

The Dispute Resolution System (DRS) process should be properly documented and circulated among participants by the Instant EFT Service Provider. All Instant EFT disputes are expected to be concluded within two (2) working days. However, where the Sending and Receiving entities fail to agree, the aggrieved party is required to report to the Director, Banking and Payments System Department, of the CBN within one (1) week of arbitration. Disputes that may arise in EFT transactions may be dealt with in the following manner:

i. Wrong transfer due to banking error:

Where a Sending Entity sends a transaction with a wrong account number to a Receiving Entity and requests the reversal within 14 days of the transaction, the Receiving Entity is required to immediately oblige without recourse to the customer (beneficiary) of the Receiving Entity provided funds are available in the customer's account. An automatic indemnity will then be inferred against the Sending Entity making the reversal request. Where funds are not available, the Receiving Entity will immediately formally notify its customer that the account was wrongly credited with feedback to the Sending Entity. The customer is to be notified that the consequence of not funding the account within 24 hours includes watch-listing the customer's Bank Verification Number ("BVN") in the financial system, BVN system, Credit Bureau and reporting to law enforcement agencies. The Receiving Entity should reverse the transaction as soon as funds are either partially or fully available.

ii. Transfer Recall due to Customer Error

Where the beneficiary is known to the complainant, the Sending entity is to ensure that the complainant contacts the beneficiary for an amicable settlement. The Sending Entity having received a tenable claim from the customer will then notify the Receiving Entity who will place a lien on the amount in the account of the beneficiary and thereafter obtain the consent of the beneficiary to execute refund. Where the beneficiary does not give consent, the chief internal auditors of the Sending and Receiving Entities will adjudicate between the two customers, within 2 (two) weeks of the complaint to resolve the issue, and their decisions will be final. Accordingly, the lien will not last more than 2 (two) weeks. Where the supposed beneficiary has utilized the funds such that a lien could not be placed on such funds, and he/she refuses to fund the beneficiary account to facilitate a refund, the Receiving Entity's Chief Internal Auditor will place such customer/beneficiary's BVN on watch-list and the Sending Entity may in addition seek the assistance of any relevant Law Enforcement Agencies for recovery of the funds. The Receiving Entity is required provide assistance as may be needed in settling the issue.

Please refer to the Exposure Draft for comprehensive details of the provisions relating to Instant ETF services at:

<https://www.cbn.gov.ng/Out/2017/BPSD/Exposure%20Draft%20Guidelines%20on%20Instant%20e-Funds%20Transfer.pdf>;