

Perchstone & Graeys **Tech Regulatory** Report for Q4 2023.

By: ICT Team of Perchstone and Graeys



PERCHSTONE & GRAEYS TECH REGULATORY REPORT FOR Q4 2023

The year 2023 marked another historic period for Nigeria, serving not only as an election year but also witnessing a surge in regulatory activities within the fintech sub-sectors. Notable among these initiatives is the CBN Circular dated June 22, 2023, titled "Guidance Note on Politically Exposed Persons (PEPs)," which introduces measures to mitigate potential money laundering. Additionally, the CBN issued a Press Release to Authorized Dealers and the public in June 2023, announcing operational changes to the Nigerian Foreign Exchange Market. These changes resulted in the consolidation of all segments in the foreign exchange market in Nigeria into the Investors' and Exporters' Window (I&E Window). Other significant developments include the enactment of the Nigerian Data Protection Act, 2023, the formalization of the Copyright Act 2022, and the launch of the Licensing, Approvals, and Other Requests Portal (LARP) for Micro-Finance Bank Licenses by the CBN.

As we embark on 2024, we conduct a retrospective analysis of 2023, with a particular focus on the last quarter, presenting a summary of fintech-related laws, frameworks, circulars, and draft instruments issued by regulators.

With that context, we hereby present the Perchstone & Graeys ICT Regulatory Report for Q4 2023.

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A. NIGERIAN BANKING SYSTEMS

1. CBN's Circular on Designated Banks for Nigerian Export Supervision Scheme (NESS) Fees (TED/FEM/PUB/FPC/001/010)

On October 6, 2023, the CBN issued Circular TED/FEM/PUB/FPC/001/010, notifying Authorized Dealers, Service Providers, and the General Public that the Honourable Minister of Finance, Budget, and National Planning has approved the appointment of Coronation Merchant Bank Limited, Parallelex Bank Limited, and Lotus Bank for the collection of Nigerian Export Supervision Scheme (NESS) fees. All Authorized Dealers were consequently urged to inform their exporting customers about this development.

To access this Circular, click [here](#).

2. CBN's Circular to all Deposit Money Banks (DMBs) on Revised Nigeria Cheque Standard (NCS) and Nigeria Cheque Printers Accreditation Scheme (NICPAS): MICR Rejects (BKS/DIR/CIR/GEN/001/003)

On October 9, 2023, the CBN issued Circular BKS/DIR/CIR/GEN/001/003 informing all Deposit Money Banks (DMBs) about the necessity to revalidate Magnetic Ink Character Recognition (MICR) codeline details for accuracy. This revalidation aligns with the Nigerian Cheque Standards (NCS) and the Nigerian Cheque Printers Accreditation Scheme (NICPAS) version 2.0, issued on September 18, 2012, aimed at enhancing the efficiency and security of the Nigeria Clearing System.

The issuance of this Circular was prompted by an increase in MICR rejects. Consequently, both presenting and receiving banks were strongly advised to meticulously assess their in-house cheque processing equipment, ensuring proper calibration and supervision to eliminate any distortion of images and data during the cheque truncation process. The apex bank emphasized its commitment to monitoring compliance with the circular's provisions and starting from November 1, 2023, banks with MICR rejects would face penalties under the Sanctions Grid.

To access this Circular, click [here](#). To access CBN's initial circular on the implementation of the Nigerian Cheque Standards (NCS) and the Nigerian Cheque Printers Accreditation Scheme (NICPAS) version 2.0, click [here](#).

3. CBN's Circular to all Commercial, Merchant, Non-Interest, and Payment Service Banks; Other Financial Institutions; and Mobile Money Operators on Amendment to Know Your Customer (KYC) Procedures (FPR/DIR/PUB/CIR/001/053)

On December 1, 2023, the CBN issued a circular addressing all Commercial, Merchant, Non-Interest, and Payment Service Banks, as well as other Financial Institutions and Mobile Money Operators. This circular introduced amendments to Section 1.5.3. of the Regulatory Framework for Bank Verification Number (BVN) Operations and Watchlist for the Nigerian Banking Industry, to enhance KYC procedures.

As per the amendment, it is now mandatory for all Tier 1 bank accounts and wallets for individuals to possess a BVN and/or NIN. Similarly, Tier 2 and Tier 3 bank accounts and wallets for individuals are required to have BVNs and NINs. The Circular prohibits the opening of new Tier 1 accounts and wallets without a BVN or NIN. Furthermore, with immediate effect, all existing unfunded Tier 1 accounts/wallets without a BVN or NIN shall be placed on "Post No Debit or Credit" until compliance is achieved. Effective March 1, 2024, all existing funded Tier 1 accounts/wallets without a BVN or NIN will be placed on "Post No Debit or Credit," with no further transactions permitted. Additionally, BVNs or NINs associated with all accounts or wallets must undergo electronic revalidation by January 31, 2024.

The Circular concludes by announcing a forthcoming comprehensive BVN and NIN audit. In case of identified breaches, the appropriate sanctions will be applied.

To access this Circular and obtain more information, click [here](#). To access CBN's Regulatory Framework for Bank Verification Number (BVN) Operations and Watchlist for the Nigerian Banking Industry, click [here](#).

4. NIBSS' Directive to Disconnect Switches, Payment Solution Service Providers (PSSPs), and Super Agents from NIBSS Instant Payment (NIP) Outwards System.

On December 5, 2023, the Nigeria Interbank Settlement System (NIBSS) issued a directive to all Deposit Money Banks, Merchant Banks, Switches, Mobile Money Operators, Payment Service Banks, Microfinance Banks, Mortgage Banks, Payment Solution Service Providers, Super Agents, and others. The directive emphasizes that the inclusion of non-deposit-taking financial institutions, such as Switching Companies (Switches), Payment Solution Service Providers (PSSPs), and Super Agents (SA), as beneficiary institutions on their NIP funds transfer channels violates the CBN Guidelines on Electronic Payment of Salaries, Pensions, Suppliers, and Taxes in Nigeria, dated February 2014.

To clarify, Switches, PSSPs, and SAs may process outward transfers as inflows to Banks but are not permitted to receive inflows, as their licenses do not allow them to hold customers' funds. In response to this, all Financial Institutions on the NIBSS Instant Payment Platform were directed to delist Switches, PSSPs, and SAs from their NIP Outward Transfer channels only (not inwards). Instead, they are instructed to list only licensed deposit-taking Financial Institutions as Beneficiary Institutions on Instant Payment Channels, in compliance with the CBN Guidelines on Electronic Payment of Salaries, Pensions, Suppliers, and Taxes in Nigeria, dated February 2014.

To access this Directive, click [here](#). To access the CBN Guidelines on Electronic Payment of Salaries, Pensions, Suppliers, and Taxes in Nigeria, dated February 2014, click [here](#).

5. CBN's Circular to Banks, Other Financial Institutions, Payment Service Providers, and International Money Transfer Operators on the Requirement to Display Corporate Names on Websites, Portals, Applications, and Other Online Business Platforms (FPR/PRD/CIR/INT/001/003).

On December 7, 2023, the CBN issued a Circular directed to all Banks, Other Financial Institutions, Payment Service Providers, and International Money Transfer Operators. This circular outlines the mandatory requirement for these entities to prominently display their corporate names on websites, portals, applications, and other online business platforms. The Circular emphasizes that licensed entities failing to conspicuously present their corporate names risk exposing consumers to potential hazards, such as misinformation and difficulties in seeking redress when necessary.

Under the Circular, all licensed financial institutions are obligated to prominently showcase their corporate names, accompanied by ‘Licensed by the Central Bank of Nigeria,’ either beside or under their names, on all websites, portals, and online applications. Consequently, all financial institutions must ensure full compliance with this directive by January 31, 2024. Failure to adhere to this requirement will result in appropriate sanctions imposed by the CBN.

To access this circular, click [here](#).

6. CBN’s Circular to Banks and Other Financial Institutions on Additional Know Your Customer (KYC) Requirements in Respect of Non-Profit Organizations (NPOs) (FPR/DIR/PUB/CIR/002/002)

Aligned with existing Anti-Money Laundering, Combating the Financing of Terrorism, and Countering Proliferation Financing (AML/CFT/CPF) laws, guidelines, and the CBN circular issued on August 2, 2012 (FPR/CIR/GEN/VOL.1/028), the CBN issued a supplementary Circular on December 8, 2023. This circular outlines additional KYC requirements to be adhered to by Non-Profit Organizations (NPOs). It directs financial institutions to continue obtaining evidence of registration with the Special Control Unit against Money Laundering (SCUML) of the Economic and Financial Crimes Commission (EFCC) from NPOs before establishing a business relationship with them.

All banks and other financial institutions are mandated to ensure strict compliance with the aforementioned requirement and promptly update their customer account information accordingly.

To access this Circular, click [here](#). To access the CBN Guidelines on Anti-Money Laundering, Combating the Financing of Terrorism, and Countering Proliferation Financing (AML/CFT/CPF) issued in November 2022, click [here](#).

To access the CBN circular issued on August 2, 2012 (FPR/CIR/GEN/VOL.1/028), click [here](#).

7. CBN’s Circular to Banks and Other Financial Institutions: Guidelines on Operations of Bank Accounts for Virtual Assets Service Providers (VASPs).

On December 22, 2023, the CBN issued the Guidelines on the Operation of Bank Accounts for Virtual Assets Service Providers (VASPs). With the issuance of these Guidelines, the CBN has removed restrictions on banks and other financial institutions from operating accounts for cryptocurrency transactions.

As per the Guidelines, banks and other financial institutions are now authorized to engage in the following activities: facilitating the opening and operation of designated accounts for eligible stakeholders to conduct virtual asset transactions (in line with the Guidelines);

facilitating the opening and operation of designated settlement accounts for VASPs; and serving as channels for FX flows and trade.

Before the issuance of the Guidelines, VASPs were recognized in Nigeria through the Securities and Exchange Commission's (SEC) New Rules on Issuance, Offering, and Custody of Digital Assets in 2022, which aimed to regulate digital and virtual assets, including cryptocurrencies. Additionally, the Money Laundering (Prevention and Prohibition) Act 2022, in its definition of "financial institutions," acknowledges VASPs.

These Guidelines supersede the CBN's previous circulars referenced as FPR/DIR/GEN/CIR/06/010 of January 12, 2017, and BSD/DIR/PUB/LAB/014/001 of February 5, 2021, on the subject. However, it is essential to note that, under the Guidelines, banks and other financial institutions are still restricted from holding, trading, and/or transacting in virtual currencies on their own account.

To access these Guidelines, click [here](#). To access the SEC's New Rules on Issuance, Offering, and Custody of Digital Assets in 2022 to regulate digital and virtual assets, including cryptocurrencies, click [here](#).

B. TELECOMMUNICATION

NCC Restores Regulatory Services to Globacom after the Latter Clears its Debt and Resumes Compliance with Regulations

The Nigerian Communications Commission (NCC) has officially reinstated regulatory services for the telecommunications operator, Globacom. This decision follows the successful settlement of the company's outstanding debt obligations related to unpaid spectrum and numbering fees, along with the annual operating levy. The NCC has additionally suspended previously planned enforcement actions against Globacom, which were initiated due to the company's breach of regulations by failing to meet its financial obligations despite receiving multiple demand notices.

To access this press release, click [here](#).

C. SECURITIES AND INVESTMENTS

SEC's Advertisement on the Design, Supply, and Installation of Securities Market Surveillance System and Related Goods and Services.

The Securities and Exchange Commission (SEC) has secured financing from the Capital Markets Development Trust Fund (CMDTF), administered by the African Development Bank Group, to fund the Securities Market Surveillance System. The SEC intends to allocate a portion of the funds to cover expenses related to the contract for the Securities Market Surveillance System and its associated goods and services.

The SEC invites eligible bidders to participate in the supply, installation, and deployment of an automated real-time surveillance system for the securities markets. This surveillance solution aims to encompass market monitoring across all existing and future trading platforms, covering all tradable securities and products. Aligned with the ongoing SEC IT digital transformation initiative, the system will enhance overall market surveillance efficiency.

For more information about this initiative, click [here](#).

D. EXPOSURE DRAFT INSTRUMENTS

Exposure of Proposed Amendments to Rule 33 of the SEC’s Rules and Regulations

The Securities and Exchange Commission (SEC) has issued a proposed amendment to Rule 33 of the Commission’s Rules and Regulations, outlining the rules for the withdrawal of registration as a market operator. The proposed amendment introduces a new sub-rule 6, allowing market operators to undertake a transfer of their registered functions/licenses under the Act, subject to the approval of the Commission.

To review the proposal, click [here](#).

CONCLUSION

The regulatory landscape for the fintech industry in Nigeria has undergone significant developments, marked by key directives from regulatory bodies such as the CBN, NCC, and SEC. The CBN's issuance of guidelines on the operation of bank accounts for Virtual Assets Service Providers, wherein it lifted restrictions on banks and other financial institutions from engaging in financial intermediation for cryptocurrency transactions, showcases the regulator's commitment to aligning with current global trends in the banking and finance sector, particularly in recognizing and regulating virtual assets. This initiative by the CBN is commendable.

As we enter 2024, it becomes paramount for companies and institutions to adopt a proactive approach to compliance. Embracing these regulatory initiatives as integral components of the strategic vision for 2024 will undoubtedly position companies for sustainable growth and success within the dynamic regulatory environment.

Lagos: 1, Perchstone & Graeys Close, off Remi Olowude, Lekki Epe Expressway, Lagos; Tel: +234 - 1-3429131, 7611051

Abuja: D3, Jima Plaza, 1627 Ahmadu Bello Way, Area 11, Garki Abuja; Tel: +234 92919191, 07045984792

Benin City: 40, Adesogbe Road, Benin City, Edo State; Tel: +234 7068518650, 07045984776

Email: editor@perchstoneandgraeys.com;
counsel@perchstoneandgraeys.com

Website: www.perchstoneandgraeys.com

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