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Ufuoma Eferha **Kenechukwu Chibueze**

AN UPDATE ON THE REVIEW OF THE NIGERIAN FOREIGN EXCHANGE (FX) CODE[1]

1. INTRODUCTION

1.1 Like every other Foreign Exchange ("FX") market in the world, the Nigerian FX market is as volatile as it is dynamic. To further maintain stability in this dynamic FX market, the Central Bank of Nigeria ("CBN") published the Nigerian Foreign Exchange Code Exposure Draft.[2] Following the release of the Exposure Draft,[3] the CBN, on 28th January 2025, launched the Nigerian FX Code ("FX Code"),[4] modelled after the FX Global Code.

1.2 On 23rd October 2024, we reviewed the Exposure Draft 2024 of the FX Code,[5] highlighting its essential components and attributes. In this follow-up article, we update our initial review to reflect more recent changes and point out the differences between the Exposure Draft and the launched FX Code. The Nigerian FX Code was developed to set standards for transactions and market operations in the Nigerian ("FX") market.

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1 **Ufuoma Eferha, Senior Associate & Kenechukwu Chibueze, NYSC Associate, Corporate Finance & Capital Markets, S.P.A. Ajibade & Co., Lagos, Nigeria.**

2 An Exposure Draft is a preliminary or proposed version of an official document such as a regulation, code, guideline, or policy. An Exposure Draft is often released for review by industry experts, stakeholders, or the general public before its official launch.

3 The Nigerian Foreign Exchange Code Book: Exposure Draft was released by the CBN vide Circular No. FMD/DIR/PUB/CIR/001/020 dated 2nd October 2024

4 See, 'Cardoso Launches Nigeria FX Code', available at https://www.cbn.gov.ng/FeaturedArticles/2025/FX_Code_Launch.html#:~:text=Abuja%20 accessed on 25th February 2025.

5 See, Magnus Ejelonu and Damilola Akinsanya, "A Review of the Nigerian Foreign Exchange Code" SPA Ajibade & Co. Insights, available at https://spaajibade.com/wp-content/uploads/2024/10/A-review-of-the-nigeria-foreign-exchange-code.pdf accessed on 6th March 2024.

In this article, we juxtapose the FX Code and the Exposure Draft, highlighting differences and proffering recommendations.

2. DIFFERENCES IN THE EXPOSURE DRAFT AND THE FX CODE

2.1 Provisions on Electronic FX Matching System for FX Trading

Notably, in the interval between the release of the Exposure Draft and the approved FX Code, the CBN launched the Electronic Foreign Exchange Matching System ("EFEMS") on 25th November 2024. In light of the introduction of the EFEMS, the FX Code makes comprehensive provisions for electronic FX trading. To ensure transparent trading, the FX Code requires Market Participants operating FX E-Trading Platforms to conduct regular internal audits of their trading practices.[6]

2.2 Provision of a Glossary of Terms

Unlike the Exposure Draft, the FX Code provides a glossary of terms. This glossary defines terms such as Agent, Algorithmic Execution, Applicable Law, Axe, Client, Electronic Trading Activities, Firm, FX, FX Code, FX Market, Interdealer Brokers (IDBs), Markup, Market Colour, Market Participants, Personal Dealing, Prime Brokers, Principal, SSI and Third-Party Payments. This glossary which serves as an interpretation section will aid the proper understanding of the provisions of the FX Code.

2.3 Definition and Scope of Market Participants

While the Exposure Draft, in paragraph 3 of its executive summary, simply identified Market Participants as "banks licensed by the CBN under the *CBN Act 2007* and *BOFIA*, the FX Code provides a more elaborate definition of *Market Participants* to include banks licensed by the CBN and *Authorised Dealers* and other participants that engage in the wholesale foreign exchange business in Nigeria as part of their licensed business.[7] Contrasting the definition in the Exposure Draft with the definitions in the FX Code, it is clear that the definitions in the FX Code do not limit FX Market Participants to just banks but to other entities and participants who have been properly licensed to deal in the FX market.

2.4 Compliance and Implementation Requirements

The Exposure Draft, in its introduction, implied some urgency and rigidity in the implementation of the code, by giving a deadline of 31st December 2024, for full

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6 See, Principle 8 of the FX Code, 2025.

7 See, Paragraph 3 of the Executive Summary of the FX Code, 2025.

compliance of Market Participants as well as the submission by each Market Participant of a self-assessment report on the Market Participants level of compliance. While the FX Code only gave a deadline of 31st January 2025, for the submission by each Market Participant of a self-assessment report on its level of compliance.

The Exposure Draft provides that each Market Participant must submit a "detailed compliance implementation" plan signed and approved by their respective boards alongside extracts of each Market Participant's board meeting (where the plan was approved and signed).[8] However, the FX Code while requiring the same, does not expressly mandate the signing of the approved detailed compliance implementation.[9] The FX Code specifies the frequency of the review and assessment of compliance. Under the FX Code, the assessment of compliance is done weekly, which is more specific than the requirement under the Draft which simply states that review and assessment of compliance are to be done periodically, without defining the meaning of "periodically".

2.5 Quarterly Report Submission

In its reporting mechanism contained in its introduction, the Exposure Draft fixed the due date for submission of the first quarterly report on the level of compliance for 31st December 2024. However, the FX Code, in its reporting mechanism contained in its introduction, adjusted the due date for the submission of the first quarterly report on the level of compliance to 31st March 2025.

2.6 Approved Modes of Communication

Under the Exposure Draft, Market Participants were to communicate with other Market Participants through approved methods of communication that allow for traceability, auditing, record keeping, and access control.[10] However, the FX Code streamlined this mode of communication to electronic transmissions where it stated that Market Participants are to communicate electronically with other Market Participants.[11]

2.7 Timeline for Confirmation of Trades

Unlike the Exposure Draft, which only stipulates that Market Participants are to confirm trades as soon as practicable, the FX Code provides a specific timeline for the confirmation of trades.[12] Under the Code, Market Participants are required to confirm

8 See, 'Compliance with FX Code' in the Introduction of the Exposure Draft, 2024.
9 See, 'Compliance with FX Code' in the Introduction of the FX Code, 2025
10 See, Principle 21 of the Exposure Draft, 2024.
11 See, Principle 21 of the FX Code, 2025.
12 See, Principle 43 of the Exposure Draft, 2024 and FX Code, 2025.

trades, at the most, after 10 minutes of trading.

3. RECOMMENDATIONS

3.1 The CBN should provide clearer guidelines on compliance and enforcement to ensure that Market Participants understand their obligations under the FX Code.

3.2 Market Participants should prioritise education and training to ensure that they have the necessary skills and knowledge to comply with the FX Code.

3.3 The CBN should continue to monitor the implementation of the FX Code and make adjustments as necessary to ensure its effectiveness.

4. CONCLUSION

A thorough review of the FX Code reveals that it provides enhanced clarity and specificity compared to the Exposure Draft. While the core content of both documents remains largely consistent with our initial review, the FX Code incorporates valuable improvements. Building on our recommendations, we are confident that collaborative efforts between the CBN and Market Participants will ensure the FX Code achieves its objectives, fostering a transparent, fair, and stable foreign exchange market that benefits all Nigerians. With this in mind, the establishment of the 2025 FX Code is a step in the right direction towards ensuring that global best practices are observed in the Nigerian FX market.

For further information on this article and the area of law,
please contact Ufuoma Eferha
at S. P. A. Ajibade & Co., Lagos by
Telephone (+234.811.890.3060, +234.806.437.3384),
Fax (+234 1 4605092)
Mobile (+234.809.790.4768)
Email: ueferha@spaajibade.com
www.spaajibade.com