

Introduction

Instability of the Nigerian Legal Tender, which is known as the Naira, has led to governments, individuals and Corporations using Foreign Currencies, especially the United States Dollars (?USD\$?), as the preferred medium for pricing and paying for goods and services in Nigeria.

As a result of the above inimical business practice on the Nigerian economy, and with dwindling revenues from its crude oil sales, the Central Bank of Nigeria (?CBN?) has issued a Press Release in which the attention of the members of the Public are drawn to the provisions of the Central Bank of Nigeria (Establishment) Act, 2007 (?CBN Act?) which, subject to some exceptions, makes the Naira the only Legal Tender, i.e. the medium of exchange, for goods and services in Nigeria.

Fines and terms of imprisonment apply to the Pricing and Payment for goods and services in any Foreign Currency other than as exempted under the CBN Act.

The Press Release by the CBN has naturally drawn a lot of disquiet as to what the Laws and Regulations in this area are. The following are some legal elucidation on the use of foreign currency as a medium of exchange in Nigeria.

Legal Tender in Nigeria

The Legal Tender or Currency of exchange for goods and services in Nigeria is the Nigerian Naira, which is divided into One Hundred Kobo for each Naira.

By Section 20(5) of the CBN Act, any person who refuses to accept the Naira as a means of payment is guilty of an offence and liable on conviction to a fine of N50,000 (Fifty Thousand Naira) or to Six Months Imprisonment.

Exception to Naira as Legal Tender/Medium of Exchange

The Central Bank of Nigeria is empowered to prescribe the circumstances and the conditions under which Foreign Currencies may be used as a medium of exchange in Nigeria.

It is in furtherance of the above empowerment that the Central Bank of Nigeria issued its Monetary, Credit, Foreign Trade and Exchange Policy Guidelines for each fiscal year (?CBN Fiscal Guidelines?).

The CBN Fiscal Guidelines for the 2014/2015 fiscal years reiterates the general principle that any person who is paying for any goods and services in Nigeria has the absolute discretion of electing whether to pay for such

goods and services with Naira or with a Foreign easily convertible Currency. Where payment with a Foreign Currency is voluntarily undertaken, the person making such payment must source for the Foreign Currency from his or her or its domestic domiciliary account or from his or her or its offshore sources. Sourcing for foreign exchange from the foreign exchange market (?Forex Market?) for ordinary commercial transactions that are not eligible for trade on the foreign exchange market is absolutely prohibited.

Tourists, Hospitality Establishments and Foreign Exchange Regulations

Foreign visitors and tourists to Nigeria are allowed to use their foreign credit or debit cards to pay for goods and services in Nigeria. Foreign visitors and tourists can also exchange their foreign currency notes for their Naira equivalent amount but only from an Authorised Foreign Exchange Dealer.

Also, all Hotels and other Hospitality Establishments in Nigeria are required to obtain Authorised Buyers Licences from the Central Bank of Nigeria before they can charge their Foreign Guests in any Foreign Currency, receive payment for goods and services in Foreign Currency and exchange any Naira originally exchanged for a Foreign Currency back to the same Foreign Currency when the Foreign Guest is departing the Hotel or the Hospitality Establishment.

Conclusion

As commendable as the strict application of the relevant Law and Regulations on the acceptable medium of exchange in Nigeria is, history has shown that a draconian foreign exchange control regime for a country with a very weak Balance of payments and foreign exchange reserve situation, only promotes a clandestine foreign exchange market which further undermines such country?s economy.

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