

Legal Alert May 2008 **Legality of Bank Interest Rates In Nigeria**

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Legal News

The accolades that the Lagos State Government has received in the introduction of the 30 day rule in the transfer of legal interest in landed property would ultimately wane and evaporate if the promise of the rule is not adhered to strictly. It for example takes days to pay for fees and obtain the relevant receipts from the treasury. The practice of privately facilitating the consent without which the process would be stalled is most unfortunate. It is hoped that the Lagos State Government would develop checks and balances in order for it to encourage private investments in real estate businesses in Lagos State.

Legal Alert for May 2008 ? Legality of Bank Interest Rates & Charges in Nigeria.

Differences between banks and their customers over interest rates and other bank charges have reintroduced the distrust that customers have for banks. Some Nigerian banks are now charging a fee of N105 as maintenance fees on the savings account of their customers without any explanation or notice to the customers. Others have imposed some of their consolidation costs on their customers. The number of litigations on this subject has in turn increased.

This Alert is intended to very briefly provide some general information on what the Nigerian Law and Nigerian Courts have decided as the rules governing the imposition of bank charges and interest rates on customers in Nigeria. Suggestions are also made on a more transparent method of charging these fees.

Legality of Bank Charges & Interest Rates

The primary rule in all banking transactions is that the relationship between a bank and its customer is regulated by the written contract between the bank and the customer at the time of the opening of the bank account or accounts and such subsequently arrangements that may be agreed upon in the cause of their normal day-to-day banking business.

Nigerian Law and Courts jealously adhere to the terms and conditions of a written contract except where fraud, misrepresentation or other intervening circumstances is shown to exist.

Nigerian case law acknowledges that where there is no express provision in the contract between a bank and its customer - which is very rarely the case these days - Nigerian Law follows the

universal practice which acknowledges that a bank is only entitled to charge simple interest. Nigerian Law also recognises that subject to contract, interest rates and bank charges are not static and immutable.

The above stated universal practice and custom can however be varied by a written agreement between the bank and the customer with the customer authorising the bank to charge interest or other charges at rates above the ones recognised to be simple interest. Unfortunately, many customers do not pay close attention to the documents that they execute in favour of their banks and this leads to conflicts when an alleged debit is shown in the account of the customer.

Protection for Bank Customers

The principal protection for a bank's customer is to always ensure that he or she pays very close attention to the terms and conditions of any document that he or she receives from his or her bank with a demand for the customer to execute it. Whilst most of the terms and conditions of these documents are claimed to be standard and non-negotiable, their implications are permanent.

The Nigerian Consumer Protection Council is by law required to protect the interest of all consumers in all areas of products and services by providing speedy redress to consumer complaints, etc. See the web site ? www.cpcnigeria.org - of this Council for more details.

Unfortunately, institutional regulation in Nigeria remains weak and would only be enthroned when pressure groups and more consumers file petitions to the Consumer Protection Council. In the United Kingdom, the Office of Fair Trading ? www.oft.gov.uk ? has successfully won a high court decision which authorises the Office of Fair Trading to assess for fairness the standard form contracts between banks and their customers in relation to the charges that are imposed on customers of banks. Other private customers have equally succeeded in this regard and obtained compensation in the form of refunds for unauthorised charges.

Conclusion

Continuing distrust between banks and their customers over bank charges and interest rates are inimical to the development of the banking culture in Nigeria. Full disclosure and good faith would in the long run be more profitable to the banks, their customers and the country. Banks disclosing the full components of special or extraneous charges could be a beginning.

Consumer protection laws in Nigeria require further improvements in the areas of empowering the Nigerian Consumer Protection Council in the discharge of its statutory functions as its contemporary in the United Kingdom, the Office for Fair Trading, is doing.

Consumer protection pressure groups need to develop in Nigeria with the sole responsibility of protecting all consumers of goods and services.

The Nigerian consumer needs to pay closer attention to his or her business activities. Many

Nigerians do not receive bank statements and when they do, they do not read it closely and raise objections to charges that do not form part of their contract with their bank. Failure to raise any objections to any disputed entry to your bank statement is an implied consent to abide by the entry.

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