

1.



Resolving Erroneous Electronic Transfers Without Court Orders: Examining the Central Bank of Nigeria Regulation on Instant (Inter-Bank) Electronic Funds Transfer Services

2. Introduction

- 2.1. Erroneous electronic fund transfer has become an increasingly common problem in Nigeria's digital banking space. Such transfers often leave victims scrambling to recover their money; frequently through costly and time-consuming litigation. This trend persists despite the existence of a regulatory framework specifically designed to handle such disputes efficiently and without resort to the courts. The Central Bank of Nigeria's Regulation on Instant (Inter-Bank) Electronic Funds Transfer Services in Nigeria (the "**EFT Regulation**") was issued on September 13, 2018 to address this challenge. Among other things, the EFT Regulation outlines procedures for resolving disputes between customers and financial institutions involved in erroneous electronic funds transfers.
- 2.2. In this article, we examine the key provisions of the EFT Regulation as they relate to the resolution of disputes involving erroneous transfers and consider three categories of erroneous transfers covered by the EFT Regulation; that is, wrong transfers caused by bank error, fraud and customer error.

3. Wrong Transfer Due to Bank Error

- 3.1. Wrong transfers caused by bank error occur where contrary to the instruction given by the customer, the sending entity (customer's bank) erroneously sends an amount beyond or below the amount initiated by the customer. In other words, the sending entity sends value contrary to the customer's instruction. This kind of wrong transfer arises usually where the sending entity commits the error due to wrong account number, wrong amount or even duplication of transaction earlier made by the customer, *etc.* In addressing this challenge, the EFT Regulation outlines some steps to be followed by the sending entity to get refund of the wrongly transferred amount.
- 3.2. **First**, the sending entity is required to write to the receiving entity (beneficiary's bank) for reversal of the wrongly transferred amount within 14 (fourteen) working days of the transaction. **Second**, the receiving entity is obliged to reverse the wrongly transferred amount to the sending entity within 1 (one) business day of receiving such request.¹
- 3.3. It is noteworthy that by the EFT Regulation, the receiving entity is not required to seek for any authorization from the beneficiary of the wrong transfer before effecting such reversal caused by bank error. However, the EFT Regulation creates in the receiving entity's favour, an indemnity against the sending entity in such situations.² Thus, in the event that a sending entity wrongly makes such a request, and the receiving entity accedes to the request to the detriment of its customers, the receiving entity has a right to be indemnified by the sending entity for any losses or damages suffered by the customer.
- 3.4. Further, in cases where the beneficiary of the wrong credit already withdrew all funds in the wrongly credited account such that reversal becomes impracticable, the receiving entity is obliged to notify the beneficiary of such wrongful credit, and the proof of such notification is to be forwarded to the sending entity.³ Also, within 24 (twenty-four) hours, the receiving entity is required to notify the beneficiary of the consequences of not funding the wrongly credited account with the sum erroneously transferred; that is (i) being watch-listed in the banking

¹ EFT Regulation, s. 10.2.1

² EFT Regulation, s. 10.2.1

³ EFT Regulation, s. 10.2.2

industry and credit bureau and (ii) being reported to law enforcement agencies, within 7 (seven) days of the credit without refund.⁴

- 3.5. The EFT Regulations prohibits the receiving entity from using the wrongly credited funds to offset any obligations or liabilities owed to it by the beneficiary.⁵

4. Wrong Transfer due to Fraud

- 4.1. In cases of wrong transfers caused by fraud, the EFT Regulation applies the provisions of the Circular on the Establishment of Industry Fraud Desks, 2015 (the “**Fraud Desks Circular**”). By the Fraud Desks Circular, financial institutions are required to maintain a dedicated fraud desk responsible for receiving and responding to fraud alerts and carrying out services which include blocking and/or placing of no-debit restrictions on accounts upon receipt of fraud complaints.⁶
- 4.2. The implication of the Fraud Desk Circular is that financial institutions are empowered to block or restrict any account upon receipt of a complaint relating to fraud. This power is exercisable without seeking any order of the court. This point was emphasized in the case of *Kuda Microfinance Bank Ltd v. Mrs. Amarachi Kenneth Blessings*,⁷ where the Court of Appeal held that a bank can lawfully block/freeze a customer’s account without a court order where there is a valid law that authorized the bank to block/freeze such account in the circumstances identified in the law.⁸

5. Wrong Transfer due to Customer Error

- 5.1. Erroneous transfers may occur due to customer error which is very common with transactions initiated through digital banking platforms like internet banking, mobile transfers and USSD transfers. With the rise of digital banking, erroneous transfers have become more frequent. The EFT Regulation outlines some procedures to be followed by the complainant to recall such erroneous transfers. The procedures are as follows:
- 5.1.1. **First**, where the beneficiary of an erroneous transfer is known to the complainant, the EFT Regulation considers it expedient for the complainant to first contact the beneficiary for the refund.⁹ However, where the beneficiary of the erroneous transfer is unknown to the complainant, or known but declined to refund the erroneously transferred funds, the complainant is required to present a complaint to the sending entity (i.e., the sender’s bank).¹⁰
- 5.1.2. **Second**, the sending entity is required to immediately notify the receiving entity (i.e., the beneficiary’s bank) of the attempt to recall the transfer.¹¹

⁴ EFT Regulation, s. 10.2.3

⁵ EFT Regulation, s. 10.2.4

⁶ Fraud Desks Circular, page 1.

⁷ (CA/EK/48/2024).

⁸ A further point raised in the *Kuda Microfinance Bank Ltd case* is that where a customer voluntarily signed terms and conditions put forward by the bank during the opening of bank account, and a clause is included which authorizes the bank to block/freeze the customer’s account in case of fraud, the bank can validly freeze/block the customer’s account without obtaining any court order.

⁹ EFT Regulation, s. 10.4.1

¹⁰ EFT Regulation, s. 10.4.2

¹¹ EFT Regulation, s. 10.4.2

- 5.1.3. **Third**, upon being notified, the receiving entity is required to place a lien, not lasting more than 2 (two) weeks, on the erroneously transferred amount in the account of the beneficiary and thereafter seek the consent of the beneficiary to execute the refund.¹²
- 5.1.4. **Fourth**, if the beneficiary fails to give consent for the refund, the EFT Regulation requires the internal auditors of both the sending and receiving entities to mediate between the complainant and the beneficiary within 2 (two) weeks. Whatever resolution reached by the internal auditors of the sending and receiving entities during the mediation is final.¹³ However, where the beneficiary (i) already withdrew all funds in the account such that a lien cannot be placed on the account, or (ii) refuses to fund his/her account to facilitate the refund, the receiving entity's internal auditors are required to watch-list the beneficiary's bank verification number (BVN) and the incident may be reported to law enforcements by the sending entity.¹⁴

6. Conclusion

- 6.1. Almost always, banks, perhaps for lack of knowledge of their powers and obligations under the EFT Regulations request for court orders to deal with reports of erroneous transfers and by so doing, subject victims of erroneous transfers to the rigours of costly and time-consuming litigation. Most times victims are forced to forgo the erroneously transferred funds since the cost of initiating litigation to obtain such court orders far exceeds the value of the erroneously transferred funds.
- 6.2. Thankfully, the EFT Regulation provides a structured and efficient framework for resolving erroneous electronic funds transfers without necessarily resorting to litigation. Accordingly, victims of erroneous transfer do not need to obtain court orders to recover funds mistakenly transferred to third parties.
- 6.3. To optimize the EFT Regulation's effectiveness, there is need for continuous legal and institutional reforms, including enhanced consumer education and stronger cooperation between financial institutions.

¹² EFT Regulation, s. 10.4.2

¹³ EFT Regulation, s. 10.4.3

¹⁴ EFT Regulation, s. 10.4.4

Authors



Chimezie Onuzulike
Senior Associate

chimezie.onuzulike@gelias.com

Chimezie Onuzulike is a Senior Associate in the firm. He is a Fellow of the Chartered Institute of Arbitrators (UK) and a key member of the firm's dispute team. Chimezie's practice focuses on disputes, insolvency, employment and maritime.

Chimezie has significant experience in Commercial Litigation and International Commercial Arbitration. He has represented local and international corporate entities, top financial institutions and government agencies in several high-end commercial litigation before superior courts. He has equally represented clients in significant international and domestic arbitration matters.



Larry Nkwor
Associate

larry.nkwor@gelias.com

Larry Nkwor is an associate in the firm's dispute resolution and new economy practice groups. He advises local and international clients on corporate transactions, finance and compliance and represents clients in high profile disputes. His major practices cover litigation, arbitration, technology law, fintech, data privacy, telecommunications and entertainment law.



Ridwan Sarumi-Dauda
Associate

ridwan.dauda@gelias.com

Ridwan Sarumi-Dauda is an Associate with the firm. He holds a Bachelor of Laws degree from the University of Ilorin with First Class Honours and emerged as best graduating student of the Faculty. His major practice areas cover litigation, arbitration, energy law, taxation, and project financing.

LOCATIONS

Lagos Office: 6 Broad Street, Lagos, Nigeria

| T: +234 (201) 460 7890

Abuja Office: 30 Mediterranean Street, Maitama, Abuja.

| T: +234 1 888 8881

Email: gelias@gelias.com

Practices

• Arbitration ADR • Capital Markets • Competition • Compliance ESG • Corporate • Data Protection • Derivatives • Employment • Environmental • Foreign Investment • Intellectual Property • Insolvency • Investigations • Lendings • Litigation • Mergers and Acquisitions • Tax • White Collar •

Sectors

• Agribusiness • Commercial Banking • Commodities • Construction • Development Finance • Electric Power • Entertainment • Fintech • Foreign Trade • Healthcare • Infrastructure • Insurance • Investment Banking • Manufacturing • Media • Mining • Oil and Gas • Pensions • Private Equity • Real Estate • Retail and Distributorship • Services • Technology • Telecommunications • Transport • Venture Capital •

www.gelias.com