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The Regulatory Framework of the eNaira

THE REGULATORY FRAMEWORK OF THE ENAIRA

BACKGROUND

The Central Bank of Nigeria (the “**CBN**”) recently issued the Regulatory Guidelines on the eNaira (the “**Guidelines**”). The Guidelines was issued pursuant to Section 19 of the Central Bank of Nigeria Act, 2007 (“**CBN Act**”) and the Banks and Other Financial Institutions Act, 2004 (the “**BOFIA**”). This Guidelines introduces the eNaira. The effective date of the Guidelines is October 25, 2021.

We have highlighted the major parts of the Guidelines below:

1. **eNAIRA**

The eNaira is basically the digital form of the Naira. It is put in place to deepen electronic payment systems in Nigeria. According to the Guidelines, eNaira shall be equivalent to the physical Naira in value, for all manners and purposes. The CBN believes the eNaira will be an effective, less costly, more efficient, generally acceptable, safe and trusted legal tender.

2. **The eNaira Platform**

2.1. The Digital Currency Management System (DCMS) shall be adopted by the CBN for the administration and issuance of eNaira and the Financial Institution Suits is the primary application used by Financial Institutions (“**FI**”) s to manage their eNaira with the CBN. eNaira shall be held in eNaira wallet (“**Wallet**”) and the Guidelines have delineated wallets for different stakeholders. The eNaira stock wallet belongs solely to the CBN as the virtual warehouse of all minted eNaira, the eNaira stock wallet is also for receiving (and making) payments for goods and services. Every Financial Institution shall maintain a treasury eNaira wallet and may create sub-treasury wallets for branches. There shall also be the eNaira Consumer wallets for end users to transact on the eNaira platform. FIs shall also integrate their systems to the DCMS to ensure efficient transfer of eNaira between bank accounts and wallets.

2.2. The two-factor authentication and other measures shall be adopted for security and privacy of eNaira wallets. Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) checks would apply on the eNaira platform for fraud detection and prevention.

3. **Participants and Roles**

The participants in eNaira are the CBN, FIs, Merchants, Ministries, Departments and Agencies (“**MDAs**”) and Consumers. Each of the participants have distinct roles. The CBN is charged with the responsibilities of minting, issuing, distributing, redeeming and destroying the eNaira; determining the standards for eNaira; regulating the eNaira; and managing emerging disputes. The FIs serve as intermediaries between the

CBN and customers, facilitate the onboarding of the wallet for Merchants and Customers, ensure a proper integration and management of the wallet in their banking systems, and nudge the CBN on supply of eNaira and periodic reports. MDAs also have the roles to encourage the use of eNaira by receiving revenues and making payments with it. The major roles of Merchants and Customers are to optimize their systems to include and facilitate the use of eNaira and adopt eNaira as a payment option respectively. The Merchants and Customers also have the mandate of ensuring the maintenance and protection of their wallets.

4. Onboarding processes and transaction

- 4.1. The onboarding of FIs and MDAs shall be handled by the CBN. The Merchants and Consumers shall be onboarded by the FIs after downloading the eNaira speed Wallet, providing the necessary information, accepting terms, conditions and privacy policy, and activating their preferred FI(s). During the onboarding process, users shall disclose whether the Wallet will be operated for self or as trustees. During the onboarding, unique identifiers shall be supplied by users, TIN for corporate entities, NIN and/or BVN for individuals and BVN for merchants that are not corporate entities.
- 4.2. There are different transaction types which are Consumer Transactions, Merchant Transactions, FI Transactions and MDA Transactions. The transactions may be with persons, businesses, FIs, government, or CBN (for FI and MDA transactions), bank accounts and any other entity or object as may be approved by the CBN from time to time.
- 4.3. The charges for the transactions that originate from the eNaira platform shall be free for the first 90 days from October 25, 2021 and shall subsequently be in line with the Guide to Charges by Banks, Other Financial and Non-Bank Financial Institutions, for instance, ₦10 for transaction below ₦5,000; ₦25 is charged for transactions over ₦5,000 but not more than ₦50,000; and any transaction above ₦50,000 attracts ₦50 charges. The Guideline does not stipulate the exact application of these charges, whether they relate to the funding of the wallet in the first place or the peer-to-peer transactions.
- 4.4. FIs must ensure compliance with the AML/CFT and CBN Circular on Tiered Know your Customer (T-KYC). To that extent there are daily transaction limit (DTL) and eNaira wallet limit (EWL) for the tiers. ₦20,000 DTL and ₦120,000 EWL for tier 0, ₦50,000 DTL and ₦300,000 EWL for tier 1, ₦200,000 DTL and ₦500,000 EWL for tier 2, ₦2,000,000 DTL and ₦5,000,000 EWL for tier 3. Remarkably, for tiers 1, 2 and 3 there is still the need to supply BVN or NIN as part of the T-KYC requirements

5. Risk management and Recovery

- 5.1. FIs shall put in place sound risk management practices to address any potential threat to their operations. Such as an enterprise risk management framework; appropriate governance structure; documented and approved policies and secured IT

infrastructure and any other additional risk management measures as may be prescribed by the CBN guidelines from time to time.

- 5.2. All stakeholders (Banks, Merchants and Users) have roles to play in ensuring that lost wallets are recovered. Banks shall: create proper channels (at least USSD, bank apps, Customer care services) to which users may report loss of device or compromise of the Wallet; develop complainants' identity validation systems; place prompt restriction on wallets that are reportedly lost or compromised; and report to the CBN on number of reports on loss, actions taken and timelines. Merchants shall provide channel for eNaira payment at outlets and users shall ensure protection of devices and Wallet login credentials, and promptly report to FIs or eNaira helpdesk where there is loss or compromise.
- 5.3. In the event of loss of Wallet, the user shall download a new "eNaira speed wallet", accept terms, conditions and privacy policy, create new login credentials and input two factor authentication credentials or contact FIs for assistance. While in the case of compromise, users shall request for change of password, create an appropriate password, input the login credentials and input the two factor authentication credentials or contact FIs for assistance.

6. **Reporting and Dispute Resolution**

FIs shall render returns to the CBN in line with the provisions of BOFIA and as may be specified from time to time. Complaints by consumers shall be referred to the FI Helpdesk or escalated to the eNaira Helpdesk via 080069362472 or helpdesk@enaira.com. Complaints from and between FIs shall be reported to the eNaira Helpdesk and resolved within two (2) working days. Where any disputes emanate and the resolution of the Helpdesk does not satisfy any party, such issue shall be referred to an arbitration panel as provided under the extant Arbitration and Conciliation Act.

7. **Conclusion**

The Guidelines have provided the framework for the eNaira. However, it is worthy to state the Guidelines did not provide for the specific laws that will govern eNaira. The commencement of the operation of the eNaira will accentuate how it will function within its existing framework in terms of banking, commerce, taxation and other relevant fields and determine if the existing framework suffices or there is need to present a more comprehensive and up-to-date legal framework.

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