BANWO & IGHODALO

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BANKING UPDATES: RECENT LANDMARK REGULATIONS, LEGISLATION AND CASE LAW AFFECTING THE BANKING AND FINANCE SECTORS

This newsletter brings to readers monthly, a synopsis of regulations, and directives as issued by the Central Bank of Nigeria (CBN) and the FMDQ OTC Securities Exchange (FMDQ), as well as case law and legislation affecting the banking and loan segments of the Nigerian financial sector.

In this edition, focus is placed on regulations that encourage participation by Small and Medium Scale Enterprises (SMEs) in the foreign exchange (FX) market; the establishment of a special FX window for investors and end-users; and a reduction in documentary requirements for import and export transactions in Nigeria. Also featured in this edition is the revised guide to charges by banks and other financial institutions as well as updates on the CBN's cashless policy initiative. Notably, there are no industry-specific legislative and case-law updates for the period under review.

- **FOREGN EXCHANGE PAYMENT FOR SMALL SCALE IMPORTATION**

In a bid to accommodate all stakeholders in the FX market, the CBN has via a Circular dated April 10, 2017 (referenced **TED/FEM/FPC/GEN/01/002**) and addressed to all Authorised Dealers and the general public, created a special FX window for Small and Medium Enterprises (SMEs). The establishment of this special FX window became necessary after the CBN realized that SMEs were being crowded out from the FX market by larger firms. This special FX window allows payments for eligible imports valued at a maximum of $20,0000.00 (Twenty Thousand United States Dollars), per customer and per quarter, to be effected by telegraphic transfer. These payments are, however, subject to the completion of a Form 'M' supported with a Proforma Invoice (PFI) and the importer's BVN.

The CBN has instructed that all processing banks ensure that importers submit all relevant documents by no later than 60 days from the date of the transfer. Processing banks are also required to render monthly returns upon submission of final shipping documents to the Director, Trade and Exchange Department.

Further to the above referenced Circular, the CBN pursuant to a subsequent Circular dated April 18, 2017 (referenced **TED/FEM/FPC/GEN/01/003)**, introduced a new Form 'Q' to be used by SMEs. The Form Q has been designed to ease documentation requirements by SMEs, and is to be obtained from the Authorised Dealers and completed by all SME applicants subject to the following conditions:

a) applicants must be account holders with the processing Authorised Dealers and must have operated an account for at least 6 (six) months;

[1] **Please note that the period under review is April 2017 and these banking updates reflect guidelines, circulars issued in the month of April, 2017.**

b) applicants must submit a written application letter; and

c) PFI from the supplier, as well as the suppliers' or beneficiary's account details are to be provided.

- **REVISED IMPORT AND EXPORT DOCUMENTATION AND TIMELINE FOR PROCESSING FORM "NXP"**

As part of the Federal Government's strategies for creating an enabling environment for doing business in Nigeria, it has approved the reduction of documentation requirements and timeline for import and export transactions in the country. Consequently, the CBN issued a Circular dated April 19, 2017 (and referenced **TED/FEM/FPC/GEN/01/004**) to all Authorised Dealers and the general public on the above subject matter.

The revised documentation requirements for import and export transactions and the timeline for processing the Nigerian Export Proceeds (NXP) Form[2] are now as follows:

Revised Import Documentation

The revised import documentation is listed below:

a) bill of lading;

b) certificate of origin (formerly combined certificate of value and origin (CCVO));

c) commercial invoice;

d) exit note (formerly exit gate);

e) Form "M";

f) packing list;

g) single goods declaration (SGD); and

h) product certificate.

Revised Export Documentation

The revised export documentation is as follows:

a) bill of lading;

[2] Export proceeds refer to income received from export activities. Pursuant to Memorandum 11(4) of the foreign exchange manual, all export proceeds are required to be repatriated to an export proceeds domiciliary account within 90 days from the date of shipment. On this basis, pursuant to paragraph 6 of the Nigerian Export Promotion Council (NEPC) Export Guidelines, exporters shall open a domiciliary account with any bank in Nigeria and such bank will issue the exporter with a Nigerian Export Proceeds Form (NXP Form) for completion in respect of each export transaction. The completed NXP Form (and reference number) is used for commercial exports and acts a tracking device to ensure that the exporter repatriates the export proceeds to the export proceeds domiciliary account.

b) certificate of origin;

c) commercial invoice;

d) single goods declaration (SGD);

e) Nigerian Export Proceeds (NXP) Form;

f) Clean certificate of inspection (CCI); and

g) Packing list.

Authorised Dealers are required to process the NXP Form within a maximum of forty-eight (48) hours from the receipt of the application, subject to appropriate documentation. Authorised Dealers are also required to submit returns to the CBN in compliance with the forty-eight (48) hour timeline.

- **IMPLEMENTATION OF INTERCHANGE FEE**

The CBN has, via a Circular dated April 20, 2017 (and referenced **BPS/DIR/GEN/CIR/04/003**) announced the suspension of the implementation of an interchange fee regime, for the benefit of merchant acquirers[3], card issuers[4], card schemes[5], mobile money operators[6], Payment Terminal Service Provider's (PTSPs)[7] and Payment Terminal Service Aggregator (PTSA)[8].

The CBN had in its Circular of November 1, 2016, (referenced **BPS/DIR/GEN/CIR/03/004**) (the "**November Circular**") stated that with effect from May 1, 2017, it would no longer regulate the Merchant Service Charge (MSC)[9] which the CBN noted had enhanced the issuance and utilisation of card transactions in the country and brought structure to the compensatory mechanism for parties involved in such transactions.

In the November Circular, the CBN mentioned that in consultation with industry stakeholders it had decided to migrate to a superior pricing mechanism – the interchange fee regime. The CBN also noted in the November Circular that following the implementation of the interchange fee regime, merchants and

[3] A merchant acquirer is a CBN licensed financial or non-financial institution that has an agreement with the relevant card scheme to contract with merchants to accept payment cards as means of payment for goods and services.

[4] Card issuers are licensed deposit taking banks approved by CBN to serve as the issuers of payment cards

[5] Card schemes define the rules of the card system (e.g. interchanges, licenses, fraud responsibilities), and choices of technical functionalities (e.g. standards, protocols, security requirements)

[6] Mobile money operators provide the infrastructure for the mobile payment systems for the use of participants that are signed on to their scheme

[7] CBN licensed Payments Terminal Service Providers deploy, maintain and provide support for POS terminals in Nigeria

[8] Nigeria Interbank Settlement Systems (NIBSS) - owned by all Nigerian banks and the CBN acts as the Payments Terminal Service Aggregator for the financial system.

[9] We understand that the Merchant Service Charge (MSC) is a charge payable by the merchant to the merchant acquirer, for on-ward transfer to the card issuer, for the risk that the merchant acquirers and card issuers assume on payments made by customers through Point of Sale (PoS) terminals.

acquirers would negotiate the MSC, while the CBN would control the interchange fee regime.

According to the CBN, the interchange fee regime was expected to yield even greater payment card issuance and utilisation, investment in loyalty programs and the expansion of acquirer network infrastructure across the country.

By this new Circular, CBN notifies all stakeholders that the implementation of the interchange fee regime has been suspended until further notice.

- **IMPLEMENTATION OF CASHLESS POLICY**

As part of its efforts to reduce the amount of physical cash circulating in the economy, and encourage more e-transactions, the CBN had earlier in the year, issued directives on the nationwide implementation of the cashless policy vide its circulars referenced (**BPS/DIR/GEN/CIR/04/001** and **BPS/DIR/GEN/CIR/04/002**) on February 21, 2017 and March 16, 2017 respectively (the "**Directives**"). The Directives which took effect from April 1, 2017,[10] purported to review the cashless policy charges on deposits and withdrawals by individuals and corporates on the basis of specified thresholds. This review was expected to result in an overall reduction in charges on withdrawals of smaller sums and increase in charges on withdrawals of larger sums. Furthermore, deposits above certain thresholds were to incur charges as highlighted below:

	Amount	**Deposit**	**Withdrawals**
Individual	Less than ₦500,000	No Charges	No Charges
	₦500,000- ₦1M[11]	1.5%	2%
	Above ₦1M- ₦5M	2%	3%
	Above ₦5M	3%	7.5%
Corporate	Less than ₦3,000,000	No Charges	No Charges
	₦3M- ₦10M	2%	5%
	Above ₦10M-₦40M	3%	7.5%
	Above 40M	5%	10%

[10] The Directives specified timelines for the implementation of the cashless policy charges in various states. The new charges took effect from April 1, 2017 in existing cashless states which are Lagos, Ogun, Kano, Abia, Anambra, Rivers and the FCT.
[11] M refers to a million.

The CBN has, however, vide a new Circular dated April 20, 2017 (and referenced **BPS/DIR/GEN/CIR/04/004**) suspended the implementation of the new withdrawal and deposit processing fee charges as contained in the Directives, and announced the reversion to the old charges previously in place.

The old fee charges to be reverted to are as follows:

Account type	**Withdrawals/lodgment limits**	**Processing fees for withdrawals**	**Processing fees for lodgments**
Individual	₦500,000	3%	Nil
Corporate	₦3,000,000	5%	Nil

The new Circular further states that the policy on third party cheques would remain in force[12], and notes that all necessary refunds should be made accordingly.

- **GUIDE TO CHARGES BY BANKS AND OTHER FINANCIAL INSTITUTIONS 2017**

The CBN has via a circular dated April 21, 2017 and (referenced **FDR/DIR/GEN/CIR/07/017**) issued a Guide to Charges by Banks and Other Financial Institutions ("**OFIs**") 2017 (the "**Guide**") which replaces the previous Guide to Bank Charges issued in 2013 (the "**2013 Guide**").

The Guide, which took effect on May 1, 2017, is intended to enhance flexibility, transparency and competition in the Nigerian banking industry and align the provisions in 2013 Guide with current realities.

Unlike the 2013 Guide, which only provided for charges on various products and services offered by banks, the Guide now provides a tariff regime in respect of fees, interest, and charges on various products offered by OFIs and mobile payment operators. It should be noted that banks, OFIs, and mobile payment operators are required to present any product, services, and/or charge not covered by the Guide to the CBN for prior written approval.

The table below highlights the key changes introduced by the Guide as applicable to fees and charges by banks. We have also highlighted key changes relating to minimum disclosure requirements in offer letters for credit facilities/loans.

[12] 3rd party cheques above ₦150, 000 (One Hundred and Fifty Thousand Naira) remain ineligible for payment over the counter, and banks are still prohibited from imposing charges in respect of payments of 3rd party cheques below ₦150,000, on the basis of a CBN Circular (referenced **BPS/DIR/GEN/CIR/01/001**)

Description	Rate under the 2013 Guide	Rate under the Guide
Interest Rate		
(i) Local Currency Loans	Negotiable (the rate should reflect the risk-based pricing model). Also, when there is a change in agreed rate, the customer must be notified within 5 business days in advance of the application of the new rate.	Negotiable (the rate should anchor Monetary Policy Rate (MPR), reflecting the risk-based pricing model). Also, when the bank intends to introduce a new rate different from the agreed rate, the bank should notify the customer of the new rate at least 10 business days in advance of the application of the new rate.
(ii) Unauthorized Overdraft (OD)/Credit	Not permissible. The bank should sanction the officer and forward the name to the Director of Financial Policy and Regulation Department, CBN	Not permissible except as a result of facility repayment (where it occurs, penal rate as provided shall apply)
(iii) Interest on authorized OD	Negotiable (the rate should reflect the risk-based pricing model). The customer must be notified within 5 business days in advance of the application of the new rate.	Negotiable (the rate should anchor MPR, reflecting the risk-based pricing model). Also, when the bank intends to introduce a new rate different from the agreed rate, the bank should notify the customer of the new rate at least 10 business days in advance of the application of the new rate
(iv) Penal Rate[13]	1% flat on unpaid installment per month in addition to charging current rate of interest on outstanding debt (without prejudice to the provisions of the Prudential Guidelines on the	Naira loans and advances: Maximum of 1% flat per month of unpaid amount in addition to charging current rate of interest on outstanding debt (without prejudice to the provisions of the

[13] For Late Repayment of Loans/Advances (Default Interest)

	limitation of accruals)	Prudential Guidelines on the limitation of accruals) Foreign currency loans and advances: Maximum of 0.25% flat per month of unpaid amount in addition to charging current rate of interest on outstanding debt (without prejudice to the provisions of the Prudential Guidelines on the limitation of accruals).
Lending Fees		
Advisory/Consultancy Fee	Negotiable	Negotiable (only applies where there is a written advisory/consultancy agreement between the bank and the customer)
Charges for Consortium Lending		
(i) Management Fee	Negotiable	Negotiable subject to a maximum of 1% of principal amount (one-off charge)
(ii) Commitment/Non Drawing Fee	Negotiable subject to a maximum of 1% of the amount	Negotiable subject to a maximum of 0.5% of the amount.
Foreign Exchange Commission		
Purchases from CBN	1% of the value involved- flat (or as may be reviewed from time to time by CBN)	As may be advised by CBN
Interbank purchases	Negotiable subject to a maximum spread of 50k per	As may be advised by CBN

	dollar	
Foreign currency purchases from customers	At the banks spot rate	Interbank foreign exchange bid rate
Outward Telegraphic/ SWIFT and other transfers	SWIFT cost recovery only	Swift cost recovery, 0.5% commission on transfer plus associated offshore bank charges (where applicable)
Foreign currency sales to customers	At the banks spot rate	As may be advised by the CBN
Commission on Bonds Guarantees & Indemnities		
(i) Performance Bond	Negotiable subject to a maximum of 2% of the Bond Value per half year	Negotiable subject to a maximum of 1% of the Bond Value (one-off charge)
(ii) Bank Guarantee	Negotiable subject to a maximum of 2% (one-off charge)	Negotiable subject to a maximum of 1% (one-off charge)
(iii) Other Bonds, Guarantees and Indemnities	Negotiable subject to a maximum of 2%, minimum of N5,000 (one-off)	Negotiable subject to a maximum of 1% (one-off charge)
Inward Letters of Credit (Export)		
(i) Advising Commission		
Where a Nigerian bank simply verifies authenticity of the Credit and delivers same	N2000 flat	N5000 flat
Where a Nigerian bank has to rewrite the Credit at the instance of the customer	N0.5 per mille, subject to a minimum of $25 or its equivalent	0.05% of the value, subject to a minimum of Naira equivalent of US $25
(ii) Commission on Confirmation of LC	Minimum of N5,000 subject to a maximum of 1% of the face	Minimum of N5,000 subject to a maximum of 0.5% of the face

	value.	value.
Outward Letters of Credit		
Form M: Processing	Negotiable subject to a maximum of N5,000	N3,000 in addition to maintenance fee on e-Form platform in line with CBN directive
Minimum Disclosure Requirements in Offer Letters for Credit Facilities/Loans		
Description	**Position under the 2013 Guide**	**Position under the Guide**
General Requirements		
Variable rate information	It is required that this clearly states the possibility of changes in rates in line with money market conditions. This should include notification and timelines for concurrence by customers. The new rates can only apply 48 hours after notification, the variable information should also outline the bank's responsibilities in the event of such movements in the rates	The position is essentially the same as the 2013 Guide. <u>However, new rates can now only apply 10 days after notification.</u>
Mortgage Loan		
Repayment Terms	Only requires that this spells out the approved duration for the facility.	This should now include all information the borrower needs to know before the consummation of the facility, which includes information such as the bank's right to call in the facility (in the event of certain occurrences), etc.
Loan Tenure/Condition Precedent to Drawdown	Under the 2013 Guide, the requirements as it relate to conditions precedent was	This error has been corrected and the requirement is now as follows:

	placed in the column for loan tenure.	Loan Tenure: this spells out the approved duration for the facility. Condition Precedent to drawdown: this details all requirements which must be fulfilled by the borrower before drawdown on the facility. Such information includes the submission of Insurance documents, perfection of collateral documentation, etc.
Overdraft		
Repayment Terms/Loan Tenure	The column for loan tenure contains conditions precedent to drawdown requirements, while the repayment terms column appears to contain requirements that relate to loan tenure.	This error has been corrected under the Guide as follows: Repayment Terms: This should include all information the borrower needs to know before the consummation of the facility, which includes information such as the bank's right to call in the facility (in the event of certain occurrences), etc. Loan Tenure: This should spell out the approved duration for the facility.

- **ESTABLISHMENT OF INVESTORS' & EXPORTERS' FX WINDOW**

The CBN, in its continuing efforts to deepen the foreign exchange (FX) market, and accommodate all FX obligations, has announced a special window for investors, exporters & end-users (the "**Window"**) via a Circular dated April 21, 2017 (and referenced **FMD/DIR/CIR/GEN/08/007**). The Window is aimed at boosting liquidity in the FX Market and ensuring timely execution and settlement for eligible transactions.

Some of the key provisions of the Circular are highlighted below.

Permitted Transactions

Transactions eligible to access the Window include:

a) invisible transactions: including loan repayments, loan interest payments, dividends or income remittances, capital repatriation, management service fees, consultancy fees, software subscription fees, technology transfer agreements and such other eligible transactions as detailed under Memorandum 15 of the CBN Foreign Exchange Manual. It is worth noting that invisible transactions for the purpose of the Window do not include international airline ticket sales' remittances;

b) bills for collection; and

c) any other trade-related payment obligation (at the instance of the customer).

It should be noted that the permitted invisible transactions and bills for collection in (a) and (b) above are also eligible to purchase foreign currency, that is, US Dollars, sourced from the CBN FX window limited to Secondary Market Intervention Sales (SMIS) wholesale (Spot and Forwards) only. However, international airline ticket sales' remittances shall only be eligible to access the CBN FX window (that is, SMIS – retail and wholesale; spot and forwards).

Participants

FX is to be supplied to the Window through portfolio investors, exporters, Authorised Dealers and other parties with foreign currency to exchange to Naira. The CBN will also participate at this Window to promote liquidity and professional market conduct.

Price Discovery

The CBN noted that on-boarding to the FMDQ Thomson Reuters FX Trading & Auction Systems has been slow and has advised that trading at the Window shall be undertaken via telephone until appreciable progress is made with the FX trading systems on-boarding process. FMDQ OTC Securities Exchange (FMDQ) will provide price discovery (and indicative market depth) at the Window by polling buying and selling rates and other relevant information from the major participants in the market until the market migrates to the FX trading systems.

The FMDQ will develop and publish a new fixing, NAFEX (the Nigerian Autonomous Foreign Exchange Fixing)[14] in order to support appropriate benchmarking and facilitate derivatives activities in the Window.

Operational Requirements

Some of the operational requirements are as follows:

a) the exchange rates of the transactions in the Window will be determined by the Authorised Dealers and their counterparties on a willing buyer and willing seller basis;

b) the CBN may intervene as it deems fit in the Window as either a buyer or seller;

c) Authorised Dealers may hold positions subject to their respective Foreign Currency Trading Position Limits (FCTPL). Authorised Dealers must not exceed their respective FCTPL's unless they obtain approval from the CBN; and compliance with the FCTPL shall be strictly monitored by the CBN;

d) Where an Authorised Dealer's FCTPL exceeds its limit, such excess shall be defeased during trading hours. The Authorised Dealer shall be required to offer the funds to the CBN or to another Authorised Dealer, however, subject to the prior express approval of the CBN. Where such funds are sold to other Authorised Dealers, the purchased funds shall only be sold by the buying Authorised Dealer to its customers and an attestation of this compliance must be provided by the buying Authorised Dealer to the selling Authorised Dealer. Furthermore, the funds purchased cannot be held in position overnight by the buying Authorised Dealer or sold to another Authorised Dealer.

e) information on transactions between Authorised Dealers are required to be reported to the CBN on a daily basis; and

f) all documentation requirements for permitted transactions shall apply.

OTC FX Futures

Over the Counter (OTC) FX Futures were introduced as a hedging mechanism, further to the *Revised Guidelines for the Operation of the Nigerian Inter-bank Foreign Exchange Market* (the "**Revised FX Guidelines**") of June 2016, and are generally sold by Authorised Dealers to end-users in order to mitigate foreign exchange risk associated with trade transactions.[15]

[14] NAFEX is the FMDQ reference rate for FX activities in the Window and is designed to represent Spot FX market rates in the Window. NAFEX rates will be generated independently and objectively and published every business day at 12 noon or at a time advised by FMDQ.

[15] For more information on the OTC FX Futures, please review the Revised FX Guidelines at: https://www.cbn.gov.ng/out/2016/ccd/revised%20guidelines%20for%20flexible%20exchange%20rate%20marketjune%202016%20v1.pdf.

Pursuant to the Circular, market participants in the FX market have opportunities to hedge their foreign exchange exposures, and Authorised Dealers are therefore required to provide the market with hedging arrangements including forwards, swaps, futures or options. The CBN will bolster liquidity in the derivatives market with Naira-settled OTC FX Futures which shall, going forward, settle on NAFEX.

Outstanding Naira-settled OTC FX Futures contracts (that is, open contracts of April 2017 to March 2018 maturities as at April 18, 2017) (the "**Legacy OTC FX Futures Contracts**") may settle on the Nigerian Inter-bank Foreign Exchange Fixing (NIFEX) as stipulated below:

a) the CBN will offer holders of the Legacy OTC FX Futures Contracts, the choice between:

   - option A – settlement of their Legacy OTC FX Futures Contracts at the respective NIFEX rates at the maturity dates of the said contracts; and
   - option B – settlement of the Legacy OTC FX Futures at the respective NAFEX rates at the maturity dates of the said contracts.

   Holders of Legacy OTC FX Futures Contracts should therefore communicate their preferred settlement option to the FMDQ within 40 (forty) business days from the date of this Circular, so as to enable appropriate settlement at the times of maturity of the respective OTC FX Futures Contracts.

b) Options A and B above are to be made available under the following conditions:

   - holders of Legacy OTC FX Futures Contracts that opt for settlement at the NIFEX rates, may source for FX to settle their obligations on the Legacy OTC FX Futures Contracts' underlying eligible transactions from the CBN FX Window(i.e. SMIS), the Window or the inter-bank FX market;
   - holders of Legacy OTC FX Futures Contracts that opt for settlement at the NAFEX rates, shall not be eligible to source or purchase FX from the CBN FX Window, but may source FX through the Window or the inter-bank FX market to settle their attendant US Dollar liabilities; and
   - holders of Legacy OTC FX Futures Contracts have a minimum of forty (40) business days from the date of the Circular (i.e. commencing April 21, 2017), to advise the FMDQ of their preferred settlement option for all Legacy OTC FX Futures Contracts. Where a firm confirmation of the preferred settlement option is not received from a holder, the Legacy OTC FX Futures Contracts shall be settled at either NIFEX or NAFEX, depending on the type of the hedged eligible underlying transaction.

The FMDQ OTC FX Futures Market Operational Standards are also instructive on the operation of the OTC FX Futures and may be accessed here: https://www.fmdqotc.com/wp-content/uploads/2017/05/OTC-FX-Futures-Market-Operational-Standards-Revised-April-21-2017.pdf

c) any settlement option selected by a holder of Legacy OTC FX Futures Contracts will be applied across all Legacy OTC FX Futures Contracts held by that holder, that is, a holder of multiple Legacy OTC FX Futures will not be permitted to choose more than one settlement option for its Legacy OTC FX Futures Contracts; and

- Legacy OTC FX Futures Contracts and their attendant eligible underlying transactions shall be revalidated by the CBN and FMDQ where considered necessary; and

- all Naira-settled OTC FX Futures contracts offered by the CBN post the release of this Circular shall be settled at the NAFEX rate.[16]

It should be noted that pursuant to the above circular, the FMDQ issued a market notice dated April 21, 2017 and published the Nigerian Autonomous Foreign Exchange (NAFEX) Fixing Methodology (the "Methodology").[17] The Methodology provides that NAFEX Spot rates will be determined based on a polled rate received from the submissions of "professional spot quotes"[18] by ten (10) contributing banks and calculated using a trimmed arithmetic mean. Where a contributing bank submits an unprofessional quote, such a quote will automatically be disqualified from the NAFEX computation. Pursuant to the Methodology, contributing banks will be required to quote single rates for transaction sizes of US$5,000,000.00 and above or as advised by FMDQ, at the time of the poll.

In addition, the FMDQ also released the ***Operational Modalities for Legacy OTC FX Futures Contracts*** (the "**Operational Modalities**") (with reference number **FMDQ/MDG/250417/MN-11**) and dated April 25, 2017. Some of the Operational Modalities are as follows:

a) Dealing Member (Banks) ("DMBs") who are holders of the Legacy OTC FX Futures Contracts and clearly demonstrate the use of the Legacy OTC FX Futures Contracts to cover short positions in the FX market shall also have the option of which of the abovementioned fixings (i.e. NIFEX or NAFEX) would be preferred for the settlement of their Legacy OTC FX Futures Contracts. Where a DMB holds long positions on the Legacy OTC FX Futures Contracts without having applied same to cover short positions in the FX market, settlement will be based on NIFEX only;

b) Subject to the validation of the application of the Legacy OTC FX Futures by DMBs (that is, whether short or long positions are taken), the OTC Exchange may apply both fixings in the settlement of their respective Legacy OTC FX Futures contracts;

c) In the interest of clarity, market participants who have partially or fully covered their Spot FX obligations on the Legacy OTC FX Futures contracts by sourcing from the CBN FX Window (i.e. SMIS – retail or wholesale) will be selected based on NIFEX by default.

[16] This Circular took effect from April 24, 2017
[17] The Methodology was published on the FMDQ's website on April 21, 2017.
[18] The Methodology does not define this concept but from our engagement with the FMDQ we understand that professional spot quotes mean quotes that mirror market rates.