

# INTEGRATION OF NATIONAL AGENCY FOR FOOD AND DRUG ADMINISTRATION AND CONTROL (“NAFDAC”) E-PERMIT WITH E-FORM M ON THE NIGERIAN TRADE PORTAL



## Background

The Presidential Enabling Business Environment Council (“PEBEC”) (under the Enabling Business Environment Secretariat) was established as a means to facilitate the ease of doing business within the Nigerian economy. Based on the above, most ministries, departments and agencies across all sectors of the economy have developed reforms to enable ease in business operations in Nigeria.

## E-Permits and E-Licenses

NAFDAC issued a public notice on November 16, 2018 titled **Notification: Digitization of NAFDAC Registration Certificates and Notifications**. The crux of this notice was to publish the recent requirement to **enroll and digitize** all Registration and Listing Certificates and Notifications on the Single Window for Trade ([www.trade.gov.ng](http://www.trade.gov.ng))<sup>1</sup> before they are presented in trade for Pre-Arrival Assessment Report (PAAR), Form M, Customs Clearance and other trade-related transactions.

Following from this, the Central Bank of Nigeria (“CBN”) issued a circular dated Friday, August 30, 2019<sup>2</sup> on the **“Integration of NAFDAC e-Permit with e-Form ‘M’ on the Nigerian Trade Portal”**, as a means to notify the general public on the notification of NAFDAC e-permit for NAFDAC related products with e-Form M on the Nigeria Trade Portal (the **“Portal”**) for products with non-overlapping Harmonized System (HS) codes with the Standards Organisation of Nigeria.

Further to the above stated CBN notice, NAFDAC, on **September 1, 2019**, issued a public announcement<sup>3</sup> confirming the integration of electronic NAFDAC permits and licenses for the processing of import transactions on the Single Trade Window.

## Practical Implication

The directives of both NAFDAC and CBN have implications on the mode by which businesses in the food and drug sector operate within the Nigerian economy. By virtue of this, NAFDAC will no longer accept scanned or photocopies for the processing of Form M on the Portal. Therefore, applicants are henceforth required to input the Approval Reference Code stated on their NAFDAC e-licenses for the processing of e-Form M, following which, verification would be done on the Form-M platform.

The directive affects all classes of goods under the general ‘food and drug’ umbrella. For context, NAFDAC Act<sup>4</sup> defines a drug as *“including any substance of vegetable, animal or mineral origin or any preparation or admixture thereof manufactured, sold or advertised for use in (a) the diagnosis, treatment, mitigation or prevention of any disease, disorder, abnormal physical state or the symptom thereof, in man or animal; (b) restoring, correcting or modifying organic functions in man or in animal; (c) disinfection or the control of vermin, insects or pests; or (d) contraception; and ‘food’ as any article manufactured, sold or advertised for use as food or drink for man, chewing gum, and any ingredient that may be mixed with food for any purpose whatever, but does not include live animals, birds or fish, fodder or feeding stuff for animals, birds or fish other than supplements produced for addition to animal and poultry food stuff.*

By this classification, any trade in food or drink (specifically to be imported into Nigeria), would require compliance with the above directives, in accordance with the requirements of the e-Form M. It is not far-fetched to assume that this reform by the regulatory bodies could signal a wider spread reform of the procedure for importation of goods generally into Nigeria.

<sup>1</sup> *The Single Window for Trade is an online platform through which members of the public can access services from several agencies of the Federal Government of Nigeria. The aim of the Single Trade Window is to facilitate trade by increasing efficiency in the dealings between traders and the Federal Government of Nigeria.*

<sup>2</sup> <https://www.cbn.gov.ng/Out/2019/CCD/Integration%20of%20NAFDAC%20e-Permit.pdf>

<sup>3</sup> <https://www.nafdac.gov.ng/public-announcement-nafdac-eligence-go-live-on-national-single-window-for-trade/>

<sup>4</sup> *Cap N1, Laws of the Federation of Nigeria, 2004.*

- 5 <https://placng.org/wp/wp-content/uploads/2019/05/Nigeria-Police-Trust-Fund-Establishment-etc-Bill-2019.pdf>
- 6 <https://www.cbn.gov.ng/Out/2019/PSM-D/Re%20Implementa-tion%20of%20Cash-Less%20Policy.pdf>
- 7 <https://www.cbn.gov.ng/Out/2019/PSM-D/Review%20of%20Pro-cess%20for%20Merchants%20Collection%20on%20Electronic%20Transactions.pdf>

To this end, where a company seeks to engage in the importation of food, drugs and related products, it is pertinent to ensure compliance with the above.

### Timeline

The commencement date for the use of NAFDAC e-permits and e-licenses on the Portal for processing of e-Form M is **September 9, 2019**.

## CHANGES TO NIGERIA'S TAX REGIME

### 1. THE NIGERIAN POLICE TRUST FUND ACT

The Nigerian Police Trust Fund Act (the "Act") was passed by the National Assembly in April, 2019<sup>5</sup> and signed into law by the President in June 2019.

The Act establishes the Nigeria Police Trust Fund (the "Fund"), which covers all personnel of the Nigeria Police Force (the "NPF"), including its auxiliary staff in Nigeria and abroad. A summary of the Act is set out below.

#### Purpose of the Fund

The Fund is to be utilized for several purposes, including the training of personnel and auxiliary staff of the NPF, purchase of equipment and vehicles, construction of police stations and living quarters, procurement of books and other training materials, and for the discharge of the duties of the NPF.

#### Sources of Funds

The Fund is to comprise of monies obtained from 0.5% of the total revenue accruing to the Federation Account and 0.005% of the net profit of companies operating business in Nigeria, among other sources, such as gifts and grants from state and local governments, international organizations and the private sector.

The Act however, does not define 'net profit', and is silent on the method for collection of the levy from companies carrying on business in Nigeria.

It is also noteworthy that the Fund is exempted from payment of income tax on any income accruing from its investments.

#### Establishment of a Board and Project Implementation Committee

The Act establishes a board (the "Board") to administer the Fund. The chief functions of the Board are to (i) create policies and programs for the training and retraining of personnel of the NPF; (ii) approve projects which qualify for financing; (iii) exercise control over the management of the Fund; (iv) issue guidelines on the disbursement of the Fund; and (v) regulate the administration and disbursement of the Fund.

The Board also has powers to award contracts and invest the monies accruing to the Fund.

The Act also establishes the Police Trust Fund Project Implementation Committee, the function of which is to implement projects approved by the Board.

#### Duration of the Fund

The Fund is to be wound up at the expiration of six (6) years, and shall have six (6) months within which to wind up its activities. Thereafter, all assets of the Fund will be transferred to the NPF.

### 2. VALUE ADDED TAX ("VAT") INCREASE

The Federal Executive Council, presided over by the President, on September 12, 2019, approved a 2% increase in the rate of VAT from 5% to 7.2%.

The Minister of Finance, Budget and National Planning, Zainab Ahmed, has stated that the implementation of the increased VAT is expected to take effect in 2020, following an amendment of the extant VAT Act, 2003 (as amended), by the National Assembly.

## CBN UPDATES

### 1. IMPOSITION OF CHARGES ON DEPOSITS

In furtherance of its cashless policy, the CBN issued a circular dated September 17, 2019<sup>6</sup> to all deposit money banks in Nigeria to the effect that, in addition to already existing charges on withdrawals, banks will be required to impose a charge on deposits.

Cash withdrawals and deposits above Five Hundred Thousand Naira (N500,000) by individuals attract a charge of 3% and 2% respectively, while cash withdrawals and deposits above Three Million Naira (N3,000,000) by corporates will attract a fee of 5% and 3% respectively.

It is our understanding that microfinance banks, who are customers of deposit money banks in Nigeria, are to be exempted from this circular and CBN would be issuing a clarification circular in this regard, shortly.

The above stated charges take effect in Lagos, Ogun, Kano, Abia, Anambra, Rivers and FCT Abuja from **September 18, 2019**.

Furthermore, the nationwide implementation of the cashless policy in other states of the Federation will commence from **March 31, 2020**.

### 2. REVIEW OF PROCESS FOR MERCHANTS COLLECTION ON ELECTRONIC TRANSACTIONS

By a circular dated September 17, 2019<sup>7</sup> and addressed to all banks, processors and switches in Nigeria, the CBN has approved the unbundling of merchant settlement amounts and banks are to charge applicable taxes and duties on individual transactions as stipulated by regulations.

In addition, Merchant Service Charge (MSC) has been reviewed downwards from 0.75% capped at N1,200 to 0.5% capped at N1,000.

The above stated reviews, which are aimed at further deepening financial inclusion and enhance the efficiency of Nigerian payment systems, take effect from **September 17, 2019**.

### 3. GUIDELINES ON THE ISSUANCE AND TREATMENT OF BANKERS ACCEPTANCES AND COMMERCIAL PAPERS

In order to ensure uniform practice and correct treatment of Bankers Acceptances ("BAs") and Commercial Papers ("CPs") by banks and discount houses in Nigeria, and to deepen and facilitate the effective and efficient functioning of the Nigerian money market CBN issued the guidelines on **September 11, 2019**.

The scope of the guidelines includes:

- (a) General Conditions for Creating a BA or CP



8 <https://www.cbn.gov.ng/Out/2019/F-PRD/REMOVAL%20OF%20INTEREST%20RATE%20AND%20CAP.pdf>

- (b) Documentation Requirements for BAs or CPs
- (c) Rating Requirements
- (d) Tenor and Rollover of BAs and CPs
- (e) Underwriting of CPs
- (f) Procedure for Issuing BAs and CPs
- (g) Registration of BAs and CPs
- (h) Reporting Requirements
- (i) Penalty for Non-Compliance

Please refer to the CBN guidelines for more comprehensive details at

[https://www.cbn.gov.ng/Out/2019/BSD/GUIDE-LINES%20ON%20ISSUANCE%20AND%20TREATMENT%20OF%20BAs%20and%20CPs\\_September%202019%20\(002\).pdf](https://www.cbn.gov.ng/Out/2019/BSD/GUIDE-LINES%20ON%20ISSUANCE%20AND%20TREATMENT%20OF%20BAs%20and%20CPs_September%202019%20(002).pdf)

#### 4. REGULATION ON ELECTRONIC PAYMENTS AND COLLECTIONS FOR PUBLIC AND PRIVATE SECTORS IN NIGERIA

The objective of the Regulation is to fully align with the core objectives of the National Payments System Vision 2020 (PSV2020) to ensure the availability of safe, effective and efficient mechanisms for conveniently making and receiving all types of payments from any location and at any time, through multiple electronic channels. This will reduce the time and costs of transactions, minimize leakages in revenue receipts and at the same time provide reliable audit trails, thereby ensuring that the Nigerian Payments System aligns with international best practices.

The Regulation applies to all CBN regulated entities operating in Nigeria and mandates adoption, implementation and compliance with the directives on end-to-end electronic payments of all forms of salaries, pensions and other remittances, suppliers, revenue collections including but not limited to taxes, levies, penalties, recoveries, assessments,

and the disbursement of funds for social programs payments bills, honorarium, scholarships, allowances, etc. herein referred to collectively as 'payments and collections' more comprehensive details at:

<https://www.cbn.gov.ng/Out/2019/PSMD/Regulation%20on%20Electronic%20Payments%20and%20Collections.pdf>

#### 5. REMOVAL OF INTEREST RATE AND CAP IN RESPECT OF MORTGAGE FINANCE

By a circular dated September 5, 2019<sup>8</sup> and addressed to all Other Financial Institutions and Mortgage Sector Stakeholders in Nigeria, the CBN has amended the maximum cap for mortgage finance rates.

In 2017, the CBN issued a Guide to Charges by Banks and Other Financial Institutions to moderate charges on various products and services. In relation to mortgage finance rates, Part 2 (A & B): Interest Rate and Lending Fees – Subsection 2.1.3 (Mortgage Finance) of the aforesaid Guide set a maximum cap of MPR + 5%.

Following consultations with stakeholders, the CBN has amended, with effect from September 9, 2019, the mortgage finance rate in the Guide to read "NEGOTIABLE".

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