CBN Issues Guidelines on the Implementation of the Foreign Currency Disclosure, Deposit, Repatriation and Investment Scheme 2024

Introduction

The CBN on 5 November 2024, issued the Guidelines on Implementation of the Foreign Currency Disclosure, Deposit, Repatriation, and Investment Scheme, 2024 (the "**CBN Disclosure Guidelines**"). Prior to this, the Federal Government of Nigeria (FGN) had, on 19 October 2023, launched the Foreign Currency Voluntary Disclosure, Deposit, Repatriation, and Investment Scheme (the "**DDRI Scheme**") pursuant to Executive Order No. 15 of 2023 ("**EO 15**")[1]. Further to this, the Honourable Minister of Finance and Coordinating Minister of the Economy, on 8 April 2024, issued the Foreign Currency Voluntary Disclosure, Deposit, Repatriation, and Investment Scheme Guidelines, 2024 (the "**Scheme Guidelines**"), to operationalise EO 15.

EO 15 and the Scheme Guidelines were issued to facilitate the voluntary disclosure, deposit and repatriation of internationally tradable foreign currencies ("**ITFCs**") held by Nigerians with a view to integrating these legitimate foreign currency assets into the formal economy.

Further to these regulations, the CBN Disclosure Guidelines were issued to implement the DDRI Scheme. Among other things, the CBN Disclosure Guidelines set out the role of commercial, merchant and non-interest banks (CMNIBS) in the operation of the DDRI Scheme.

In this flash note, we highlight the key features of the DDRI Scheme and the role that the relevant stakeholders are expected to play in its operation. We also spotlight similar schemes that have been deployed in other jurisdictions as well as their outcomes.

Key Features of the DDRI Scheme

According to the Scheme Guidelines and the CBN Disclosure Guidelines, some of the key features of the DDRI Scheme include:

a. voluntary participation: the DDRI Scheme is open to willing participants. Thus, Nigerians resident in the country and in diaspora are not under compulsion to participate in the DDRI Scheme or repatriate their foreign currencies.

b. designated accounts: Participants in the DDRI Scheme are to maintain a domiciliary account with participating financial institutions, with the repatriated funds held in a sub-account designated specifically for the purpose of participating in the scheme.

c. tax incentives: Participants will not be subjected to tax audits or liability with respect to the disclosed foreign currencies. Additionally, interest earned on balances maintained in the designated domiciliary sub-account will be exempted from tax.

The DDRI Scheme will be open for participation for a period not exceeding nine (9) months from the date of commencement.

[1] A Presidential Executive Order No. 15, Modification Notice was issued by the FGN on 25 October 2024 but is not publicly available. We will provide an update once we review the notice.

Role of Relevant Stakeholders

Under the CBN Disclosure Guidelines, CMNIBS are responsible for, among other things, opening domiciliary accounts and processing the applications of participants in the DDRI Scheme, receiving and processing applications from intending participants in the scheme, and accepting deposits of the disclosed ITFCs.

The CBN Disclosure Guidelines require CMNIBs to render monthly returns to the CBN providing among other things, information on the number of participants in the scheme and the value of ITFCs received under the scheme. The CBN Disclosure Guidelines also stipulate that the Money Laundering (Prevention & Prohibition) Act, 2022 and the various CBN anti-money laundering regulations will apply to transactions conducted under the scheme.

A participant in the DDRI Scheme is required to open a designated domiciliary account with a CMNIB and may invest funds in permissible investment instruments and/or permissible investment sectors as set out in EO 15. A participant is also required to confirm that funds deposited under the scheme were not generated from illegal or criminal sources, that its involvement in the scheme is voluntary, and that complete and verifiable information have been provided.

The CBN, on the other hand, will regulate the participation of the CMNIBs in the implementation of the scheme, receive monthly returns from the CMNIBs participating in the scheme, and provide the Ministry of Finance with such data/information received from the CMNIBs on the operation of the scheme.

Operation of the DDRI Scheme

To participate in the DDRI Scheme, applicants must provide participating CMNIBs with required details, including their full name, Bank Verification Number (BVN), National Identification Number (for natural persons), or Tax Identification Number (for legal entities). Once a CMNIB confirms that an applicant has complied with these requirements, the CMNIB shall receive the ITFC into the designated domiciliary account and forward a report to the CBN.

A CMNIB cannot impose any restriction on withdrawal from the designated domiciliary account of the participant; or termination of any investment made in a permissible investment instrument or permissible investment sector with any such ITFC, except as provided under the Scheme Guidelines. The CMNIB is also required to permit a participant to exchange part or the whole of the ITFC in the participant’s designated domiciliary account for Naira at the prevailing exchange rate, provided that such conversions are properly disclosed and reported in the CMNIB’s foreign exchange returns.

A CMNIB may utilise uninvested foreign currencies deposited under the scheme for trading purposes, provided the funds would remain available to the participant whenever required.

Similar Amnesty Programmes in Other Jurisdictions

Finance related amnesty programmes have been utilised in a number of jurisdictions. In 2016, South Africa introduced the Special Voluntary Disclosure Programme (SVDP), which encouraged individuals and companies to voluntarily disclose offshore assets and income. The aim was to repatriate funds to support the country's economy and comply with international tax standards. Ghana also introduced tax amnesty programmes that encouraged individuals and businesses to disclose undeclared assets, including foreign currency assets, in exchange for reduced penalties or immunity from prosecution. This policy was made further to the Ghanaian Standard for Automatic Exchange of Financial Account Information in Tax Matters Act, 2018 (Act 967). The amnesty programmes in South Africa and Ghana were specifically focused on tax remittance and encouraged taxpayers to voluntarily disclose their offshore income and assets to the revenue authorities. The South African and Ghanaian governments have reported that these schemes were successful, and the objectives were met. One of the critical success factors of amnesty programmes is the ability of the government to inspire trust that the government will adhere to the stated amnesties and not utilise information obtained for any other purposes.

Conclusion

The DDRI Scheme is a laudable initiative of the FGN's overall drive towards encouraging foreign currency remittance into the country. The CBN Disclosure Guidelines provide a formal framework to implement this initiative and increase foreign currency liquidity in Nigeria.

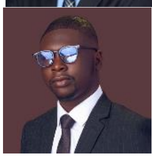
Contact Details

Funmilayo Otsemobor
Partner

M +234 706 417 4613
E Funmilayo.Otsemobor@aluko-oyebode.com

Zacheaus Akanni
Senior Associate

M +234 916 984 1226
E Zacheaus.Akanni@aluko-oyebode.com



Ayomide Awoyemi
Associate

M +234 916 862 8645
E Ayomide. Awoyemi@aluko-oyebode.com

Further information about the firm, its practice areas, client briefing notes and details of seminars/events are available at www.aluko-oyebode.com. This is a publication of ALN Nigeria | Aluko & Oyebode and is for general information only. It should not be construed as legal advice under any circumstances. For further information, please contact us at ao@aluko-oyebode.com.

1 Murtala Muhammed Drive
Ikoyi, Lagos, Nigeria
P.O. Box 2293, Marina, Lagos

T +234 1 462 8360
E ao@aluko-oyebode.com