REGULATING THE INTERNATIONAL MONEY TRANSFER BUSINESS IN NIGERIA

According to the World Bank's Migration and Remittances Factbook 2016, more than 250 million people, or 3.4 percent of the world population, live outside their countries of birth. Members of the Nigerian diaspora are not lost in this trajectory as they remain closely connected to their home country, - a fact reflected in the widespread practice of remitting money to family still in Nigeria (inbound) or remitting money from Nigeria to other countries around the world (outbound). [1]

The international remittance markets have grown significantly in Nigeria, with major contributions to investments and commerce. Nigeria's diaspora annual remittance in the range of $21 billion is considered the largest in Africa and projected to hit $41 billion in 2016.

Even though the Nigerian money transfer business was liberalized since 2002, the international money transfer market in Nigeria before 2008 was largely controlled by Western Union[2] and MoneyGram[3], by the use of exclusivity agreements which gave them an almost monopolistic hold over the market.

In 2007 the World Bank published the General Principles for International Remittance Services, whereby the use of exclusivity as a condition for offering remittance services was discouraged. In 2008 the Central Bank of Nigeria (**CBN**), through its *Directive BSD/DIR/CIR/GEN/VOL 2/017* prohibited all banks from signing exclusivity clauses with international money transfer operators (**IMTO**) and ordered a review of all existing agreements to expunge such clauses on the basis that it restrains competition and increases the cost of money transfer services to end users. [4]

Since 2008 there has been a significant increase in the number of operators engaged in money transfer services, the market has opened up and competition is beginning to flourish. In 2014,

1 Migration and Remittances Recent Developments and Outlook – World Bank 2016. Pp 1.
2 Who controlled about 78% of the market share
3 https://www.worldremit.com/en/news/worldremit-calls-for-urgent-restoration-of-money-transfers-to-nigeria
4 *Inigo More, Fighting Exclusivity Clauses in Remittances, Pp. 4 Source: http://www.remesas.org/files/exclusivityWP9.pdf*

the CBN established a regulatory framework for international money transfers to and from Nigeria via the CBN 2014 Guidelines on International Money Transfer Services[5] (the "**CBN 2014 Guidelines**"). The CBN 2014 Guidelines sets out a detailed legal framework, requiring, among other things, IMTOs to obtain licences from the CBN prior to engaging in money transfer services or otherwise be sanctioned. Notwithstanding this robust regulatory framework, it is reported that there are over one hundred unlicensed money transfer service providers operating in Nigeria. On 02 August 2016, the CBN[6] suspended the activities of all money transfer operators in Nigeria, save for Western Union, Money Gram and Ria Money Transfer. With the reported prevalence in the operation of unlicensed operators, the outcry that followed the CBN's suspension was not surprising. Following CBN's suspension, some remittance service providers have accused the system discouraging new entrants and competition in the mobile remittance markets.

In as much as one sympathises with these operators, it should be borne in mind that liberalizing a sector of the economy does not amount to turning that sector into an "all comers" market. A liberalized sector of the economy would always be streamlined by the relevant regulators. Operators must understand that movement of money is regulated, beginning with registration and licensing.

Section 2 of the CBN 2014 Guidelines provides that "*No person or institution shall operate International Money Transfer Services unless such person/institution is licensed by the CBN*". The process of licensing starts with an application made to the CBN Director of Trade and Exchange Department.

The CBN 2014 Guidelines provides for four categories of money transfer providers, namely:

- International Money Transfer Operator (Foreign IMTO)
- Indigenous International Money Transfer Operator (Indigenous IMTO)
- Foreign Technical Partners (FTP)
- Local Agents (Agents)

Foreign IMTOs are foreign companies licensed in their home countries to conduct money transfer services but are desirous of expanding their business to Nigeria while its counterpart, the Indigenous IMTO is a company incorporated in Nigeria for the purpose of carrying out money transfer services. The Foreign IMTO and the Indigenous IMTO are herein jointly referred to as IMTOs.

Overseas partnership/FTP would usually become necessary where, due to infrastructural challenges, an Indigenous IMTO requires technical assistance to operate its money transfer business. Agents, usually authorized foreign exchange dealers, are often engaged by licensed IMTOs to act as their local agents.

Section 2.4 of the CBN 2014 Guidelines lists the requirements and documents to accompany an application by an International IMTO, notable among which are that the Foreign IMTO must be duly licensed in its home country with a minimum share capital of US$1 Million, have licensed

[5] https://www.cbn.gov.ng/out/2014/ted/imtso_scanned.pdf

[6] CCD/GEN/02-08-2016/01; https://www.cbn.gov.ng/Documents/PressReleases.asp

authorized foreign exchange dealer(s) to act as its local agent and make payment of a non-refundable fee of Five Hundred Thousand Naira to the CBN.

Section 2.5 of the CBN 2014 Guidelines deals with the requirements for an Indigenous IMTO, notable among which are that the operator must be duly incorporated in the Federal Republic of Nigeria by the Corporate Affairs Commission (**CAC**) with a minimum share capital of Two Billion Naira.

The CBN 2014 Guidelines permits an Indigenous IMTO to engage the services of a foreign technical partner (FTP), with the prior approval of the CBN. The prospective FTP must meet the following conditions:

- Be duly licensed in its home country to carry on international money transfer operations with a minimum net worth of US$10 Million as contained in its current audited financial statements.
- Be well established in money transfer services business with a veritable track record of operations.
- Have a Memorandum of Understanding with the Indigenous IMTO setting out the respective liabilities of parties in the event of disputes and/or process failures.

The CBN 2014 Guidelines also allows an approved IMTO to carry out its business in Nigeria through an Agent. The Agent must be an authorized foreign exchange dealer/buyer under the regulatory purview of the CBN, and a well-established incorporated entity registered with the CAC, having been in operation for at least 12 months. An Agent should also have the requisite IT infrastructure and human resources to provide money transfer services. It must not be on any sanction list and should not have been classified as a non-performing borrower.

It is worthy to note that the CBN also provided Guidelines for the operation of and issuance of licences for International Mobile Money Remittances Services (**IMMRS)** through its 2015 Guidelines on International Mobile Money Remittance Service ("**CBN 2015 Guidelines"**) which allows remittances via mobile applications. Before an IMMRS licence is issued by the CBN, an interested institution must meet the following requirements [7]:

1. Be a registered entity, licensed in its home country to carry on money transfer activities.
2. Have a minimum net worth of US$1 billion, as per the latest audited financial statement, or as may be determined by the CBN from time to time.
3. Hold a valid Mobile Money Operator's license.
4. Be well established **(operate in at least twenty countries** with at least **10 years' experience**) in the money transfer business with a track record of operations.
5. Have a Memorandum of Understanding that delineates liabilities in the event of disputes and/or process failures.
6. Be in partnership with an authorized dealer bank licensed in Nigeria

[7] https://www.cbn.gov.ng/out/2015/ted/guidelines%20on%20international%20mobile%20money%20remittance%20service%20in%20nigeria.pdf

Market operators have argued that the conditions for operating international money transfer services are very stringent and give the impression that the Nigerian government does not really intend to liberalise this sector. With the exception of services by Western Union Money Transfer, MoneyGram, and Ria Money Transfer, the suspension of all international money transfer services in Nigeria by the CBN on 2 August, 2016, seemed to buttress this position; coupled with the fact that, apart from Western Union Money Transfer and MoneyGram, many of the existing or prospective money transfer operators may not have the financial clout to meet up with the capital threshold required by the CBN for IMMRS. However, with the issuance of licences to 11 international money transfer operators on 30 August, 2016[8], in addition to the unsanctioned Western Union Money Transfer, MoneyGram and Ria, CBN may have put paid to the accusation that it has an agenda to tactfully squeeze smaller players out of the market, leaving the big names to dominate the market.

Clearly, it is in the interest of all stakeholders that there be more participants in this sector, as having more money transfer operators for IMTO and IMMRS will lead to increased competition among operators, inevitably driving down costs and enhancing efficient service delivery.

The CBN however, has a responsibility to continue to enhance the transparency and sustainability of the sector, in order to reduce incidents of sharp practices and backdoor operations by unregistered service providers. We are of the view that a balance must be struck between the optimal capitalisation of participants in the sector and increasing sectoral competition, with the overarching goal of putting the much-needed foreign exchange into the hands of low end users. In the meantime, the ball is now in the court of existing and prospective players in the international money remittance space to conduct their business within the ambit of the regulatory framework in order to properly position themselves to capture their own market share in what is obviously a booming business.

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[8] www.cbn.gov.ng/Out/2016/CCD/Press%20Release%20on%20licensing%20of%20new%20IMTSOs%20(300816).pdf