

CBN REVERSES
STANCE: **CRYPTO**
BANKING
TRANSACTIONS
NOW ALLOWED

NEWSLETTER



Introduction

The Central Bank of Nigeria (“**CBN**”) has lifted the restrictions placed on cryptocurrency bank accounts, and issued guidelines to regulate bank accounts for Virtual Assets Service Providers (VASPs). This information was communicated via a circular dated December 22, 2023, titled “Guidelines on Operations of Bank Accounts for Virtual Assets Service Providers” (“**the Guidelines**”), addressed to all banks and Other Financial Institutions (“**OFIs**”). This move signifies the end of the previous ban on banks and OFIs facilitating crypto transactions in Nigeria, while introducing a comprehensive regulatory framework.

It would be recalled that the CBN in two public releases, (one on January 12, 2017, through a Circular, addressed to banks and OFIs in Nigeria regarding virtual currency operations, and another via a Letter dated February 5, 2021, addressed to all Deposit Money Banks, Non-Bank Financial Institutions, and OFIs), prohibited the use of virtual currencies such as Bitcoin, Dogecoin, Ripples, Litecoin, etc., as legal tender in Nigeria. The CBN also debarred banks and OFIs from engaging in and facilitating payments on behalf of crypto exchanges. As a result, crypto bank accounts were closed, leading crypto users to explore alternative means for their transactions.

By the Guidelines, the CBN, while sanctioning crypto banking transactions, has emphasised that banks and OFIs are still prohibited from holding, trading, and/or transacting in virtual currencies on their own account. In the same vein, Financial Institutions (“**FIs**”) under the Guidelines have been defined as banks and OFIs.

We therefore provide in this newsletter, the summary of the key highlights of the Guidelines and the consequential regulatory obligations for FIs and VASPs/Digital Asset (“**DA**”) entities.

KEY HIGHLIGHTS OF THE GUIDELINES

DEFINITION OF VIRTUAL AND DIGITAL ASSETS

The Guidelines define a virtual asset as a digital representation of value that can be transferred, digitally traded and used for payment or investment purposes. The Guidelines, however, restrict virtual assets from including digital representations of fiat currencies, securities and other financial assets that are already covered elsewhere in the Financial Action Task Force (FATF) recommendations.

In relation to digital assets, the Guidelines define them as digital tokens representing assets such as a debt or equity claim on the issuer.

PERMISSIBLE ACTIVITIES

Under the Guidelines, banks and OFIs are permitted to undertake the following activities in their operations of accounts for VASPs:

1. Opening and operation of designated accounts;
2. Acting as a settlement bank and providing accounts and services for VASPs;
3. Acting as channels for foreign exchange flows and trade;
4. Preparing and submitting monthly reports containing information on designated account to the CBN;
5. Establishing appropriate risk management systems for anti-money laundering (AML), combating the financing of terrorism and countering of proliferation financing (CFT and CPF);
6. Monitoring and reporting of suspicious transactions; and
7. Any other activity that may, from time to time, be permitted by the CBN.

DESIGNATED ACCOUNT

The Guidelines provide that any individual or entity intending to engage in the virtual/digital assets business is required to open an account specifically designated for that purpose, whilst adhering to the requirements outlined in the Guidelines. The Guidelines further provide that the designated account can only be opened with the approval of the senior management of the financial institution.



Furthermore, cash withdrawals are prohibited on this account. Consequently, withdrawals from the designated account are restricted to the issuance of a Manager's Cheque or via transfer to another account.

Where there are no transactions conducted on the designated account for three consecutive months, the account will be declared dormant. In such cases, the account will be treated as unclaimed funds or abandoned property, in accordance with Section 72 of the Banks and Other Financial Institutions Act (BOFIA) 2020.

A designated account shall undergo continuous verification of address and documentation by the FIs.

ELIGIBLE PARTICIPANTS

Under the Guidelines, the entities considered to be eligible stakeholders in the digital/virtual assets ecosystem include the following:

1. Commercial and Merchant banks;
2. Payment Service Providers (restricted to those that are involved in settlements for third parties);
3. All entities registered by the Securities and Exchange Commission (SEC) to conduct the business of digital/virtual assets services which include:
 - a. Virtual Assets Service Providers.
 - b. Digital Asset Custodians (DACs).
 - c. Digital Asset Offering Platforms (DAOPs).
 - d. Digital Asset Exchange (DAX).
 - e. DAX Operator.
 - f. And any other entity that may, from time to time, be categorized by the CBN.

SUMMARY OF OBLIGATIONS ON VASPS/DIGITAL ASSETS (DA) ENTITIES UNDER THE GUIDELINES

1. REQUIREMENTS FOR OPENING DESIGNATED ACCOUNTS

The Guidelines require VASPs and DA entities to submit the following documents for the opening of designated accounts with FIs:

- a. Evidence of a valid licence issued by the Securities and Exchange Commission (SEC) for the entity to engage in the business of VASP/DAX/DAOP;
- b. Certified true copy of the Memorandum and Articles of Association, Form CAC2 - Statement of Share Capital and Returns of Allotment of Shares, Form CAC 2.1- Particulars of Secretary, Form CAC 3 – Notice of Registered Address and Form CAC 7-Particulars of Directors;
- c. Verifiable registered address of the company;
- d. Copy of Certificate of Capital Importation (CCI) (where applicable);
- e. Valid means of identification of all the directors, principal officers and beneficial owners of the company;
- f. Bank Verification Number (BVN) of all the directors, principal officers and beneficial owners of the company;
- g. Home address of all the directors, principal officers and beneficial owners of the company;
- h. AML, CFT and CPF Policy of the entity;
- i. All other requirements of a corporate account in line with the CBN Customer Due Diligence Regulations, 2023; and
- j. Any other requirement that the CBN may impose from time to time.

2. PROVISIONS ON DESIGNATED SETTLEMENT ACCOUNTS

The Guidelines require all VASPs/DA entities' platforms to maintain designated settlement accounts in banks, upon which their obligations arising from transactions within the ecosystem will be settled. The designated settlement accounts shall warehouse all Naira positions held by individuals, with the VASPs/DAs. The Guidelines compel VASPs/DA entities to ensure that details of the transactions on the VASP platforms leading to settlement on the designated settlement account, are made accessible online, on a real-time basis to the FIs. In addition, designated settlement accounts are not permitted to facilitate the foreign exchange (FX) positions of persons on the VASP/DAs platform.



The Guidelines mandate that transactions on the VASP/DA platforms shall only be in Naira and further require VASP/DA entities to maintain a minimum collateral, equal to 150% of their highest net debit position, in the designated settlement account. The Guidelines also require that returns on transactions on the designated settlement accounts should be rendered monthly to the banks or at a frequency that the banks may require.

3. RESTRICTION ON THE USE OF DESIGNATED ACCOUNT

The Guidelines permit the use of the designated account for only transactions on virtual/digital assets and prohibit the use of the designated account for any other purposes.

SUMMARY OF THE OBLIGATIONS OF FIS UNDER THE GUIDELINES

1. RETURNS TO CBN ON THE ACTIVITIES OF VASPS

Under the Guidelines, FIs are obligated on a continuous basis, to monitor all activities conducted in designated accounts opened in accordance with the Guidelines.

FIs shall, at the end of every month and not later than the 10th of the following month, submit to the relevant supervisory department of CBN, data and other requisite information on a designated account. The content of the returns shall include, but not limited to: (a) the number of designated accounts opened within the reporting period; (b) the value and volume of transactions conducted in each account within the reporting period; (c) the details of the counter party(ies) to the transactions; (d) incidents of fraud or theft; and (e) number of customer complaints and remedial measures taken.

2. OPERATIONAL AND TRANSACTIONAL LIMITS

FIs are required to establish transaction limits for each designated account opened in accordance with these Guidelines in line with its risk assessment criteria. The limits shall be prudent and bear a relationship to the volume of cash moved by the account holder and the risks associated with the conduct and nature of the business of the account holder.

3. RISK MANAGEMENT FOR ANTI-MONEY LAUNDERING, COMBATING THE FINANCING OF TERRORISM AND THE COUNTERING OF PROLIFERATION FINANCING (AML, CFT, AND CPF).

FIs are obligated to establish appropriate risk management systems to determine whether a designated account opened under these Guidelines has been used, is being used or is likely to be used for money laundering, terrorism financing and proliferation financing. In the same vein, FIs shall also take reasonable measures to establish the beneficial ownership, source of wealth and source of funds of the designated account under these Guidelines.

4. MAINTENANCE OF RECORDS AND CONSUMER PROTECTION MEASURES

FIs shall maintain all necessary records of transactions of a designated account for at least five years after completion of the transaction or such longer period as may be required by the CBN, provided that this requirement shall apply regardless of whether the account or business relationship is ongoing or has been terminated.

Furthermore, FIs are required to carry out Customer Due Diligence (CDD), monitor and report suspicious transactions, establish a complaints redress mechanism and ensure proper communication of this mechanism to the public, among other things.

5. RESTRICTION ON OPERATIONS OF DESIGNATED ACCOUNTS ON CONCESSION

FIs are not permitted to enter into any concession agreement/arrangement with a holder of a designated account. The Guidelines require that the account shall, at all times, be subject to the maximum transaction charges band as provided for under the CBN Guide to Charges for Banks and Other Financial Institutions.

SANCTIONS

The CBN reserves the right to impose any of the following sanctions on an FI, its Board of Directors, officers or staff for non-compliance with any of the Guidelines:

- Prohibition from opening any further designated account.
- Imposition of a monetary penalty, not less than the sum of NGN2,000,000.00 (Two Million Naira) against the FI, members of its board, senior management, and any staff, for any infraction.
- Suspension of the operating licence of an FI.

CONCLUSION

The Guidelines indicate a shift towards the regulation of cryptocurrency service providers in Nigeria. Consequently, these enterprises will be required to adhere to explicit regulations as established by Nigerian authorities, such as the SEC Rules on Issuance Offering and Custody of Digital Assets 2022. This marks a noteworthy development in the regulatory landscape.

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