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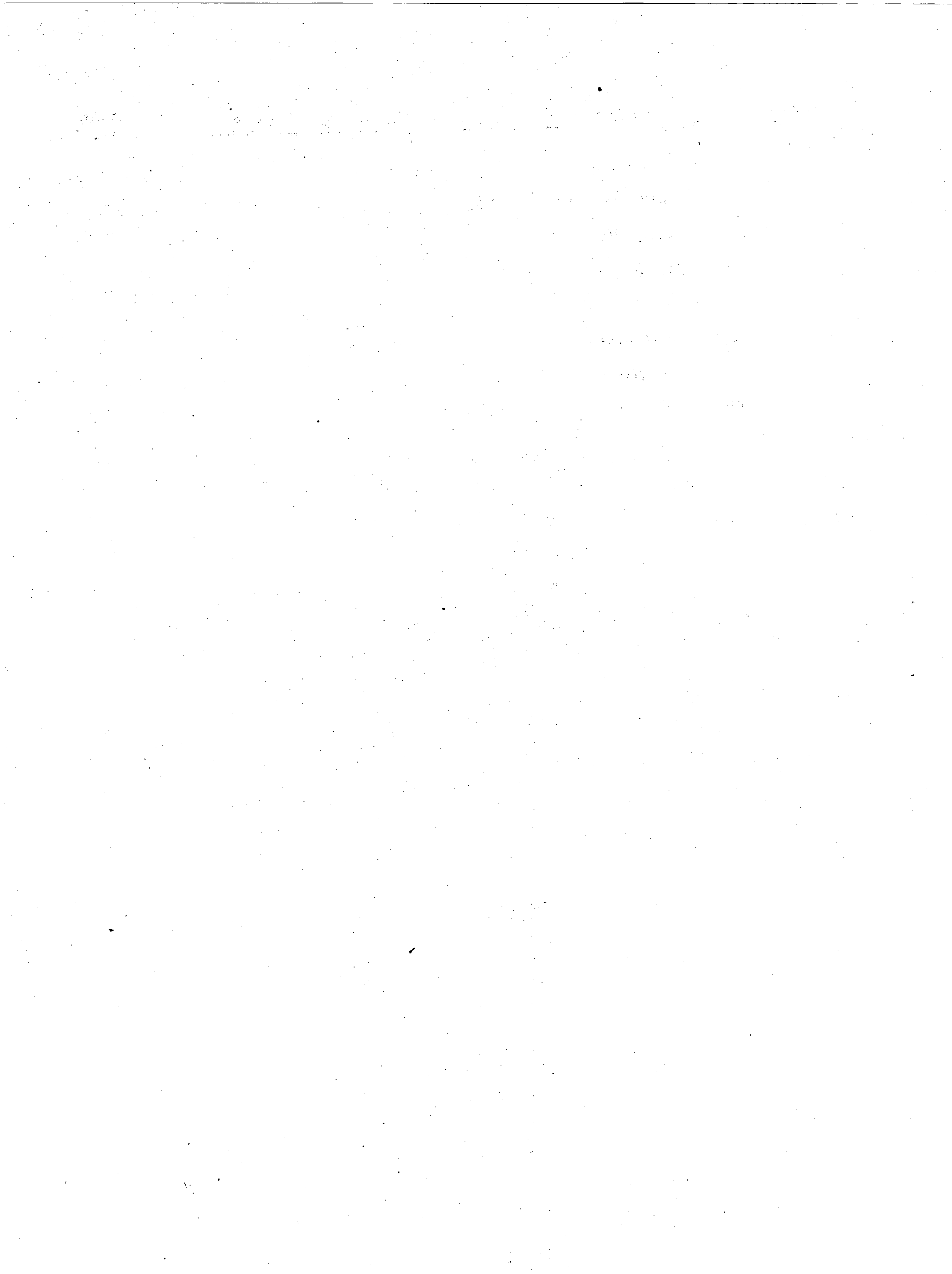
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A BILL

FOR

AN ACT TO REPEAL THE FOREIGN EXCHANGE (MONITORING AND MISCELLANEOUS PROVISIONS) ACT, CHAPTER F34, LAWS OF THE FEDERATION OF NIGERIA. 2004 ESTABLISH A FOREIGN EXCHANGE MARKET AND TO PROVIDE FOR THE CONTROL. MONITORING AND SUPERVISION OF THE TRANSACTIONS CONDUCTED IN THE FOREIGN EXCHANGE MARKET AND FOR RELATED MATTERS

Sponsored by Senator John Owan Enoh

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

PART I - OBJECTIVE

1. The objective of this Act includes to-

Objectives

(a) establish a foreign exchange market;

(b) provide for the regulation, monitoring and supervision of the transactions conducted in the market and for related matters;

(c) contribute to the sound development of the national economy by striving to facilitate foreign transactions;

(d) maintain an equilibrium of balance of international payments; and

(e) stabilize the value of currency by ensuring the liberalization of foreign exchange transactions and of other foreign transactions, and by revitalizing market functionality.

2. The provisions of this Act shall apply to-

Scope and application

(a) foreign exchange transactions performed in the Federal Republic of Nigeria or other related acts;

(b) transactions, payment or receipts between Nigeria and a foreign country, or other related acts (including those which are performed in a

1 foreign country and which have an effect in Nigeria); and

2 (c) transactions by a private person having domicile or residence in a
3 foreign country and a juristic person having a main office in a foreign country,
4 which are denominated in the currency of Nigeria or in which payment is to be
5 made in such currency, or other related acts.

6 PART II - ESTABLISHMENT OF FOREIGN EXCHANGE MARKET

Establishment
and regulations
of Foreign
Exchange Market

7 3.-(1) There is established a Foreign Exchange Market (in this Act
8 referred to as "the Market") where transactions in foreign exchange shall be
9 conducted in accordance with the provisions of this Act.

10 (2) Subject to this Act, the Central Bank (in this Act referred to as "the
11 Bank") shall, from time to time, issue guidelines to regulate procedures and
12 transactions in the Market and such other matters as may be deemed
13 appropriate for effective operation of the Market.

14 (3) Subject to the provisions of this Act and to such directions or
15 instructions as the Minister may give in writing to the Bank, the Bank shall
16 have and exercise or discharge all functions, powers and duties relating to the
17 administration, control and management of all dealings and transactions in
18 relation to foreign exchange matters.

19 (4) The Bank shall endeavour to create a foundation for stable supply
20 and demand of foreign exchange and to stabilize the foreign exchange market,
21 and shall devise policies therefor.

22 (5) The Bank may require a person who is resident or who conducts
23 business in the country to-

24 (a) furnish the Bank with details of part or the whole of that person's
25 foreign exchange transactions; or

26 (b) provide returns in a form prescribed by the Bank accompanied
27 with details of that person's foreign exchange transactions.

Basic Exchange
Rates

28 4.-(1) The Bank may determine the basic exchange rate, rate of
29 purchase and sale of foreign exchange, and arbitrated exchange rate (in this Act
30 referred to as the "basic exchange rate, etc.") in foreign exchange transactions,

1 if it is necessary to do so for harmonious and orderly foreign exchange
2 transactions in Nigeria.

3 (2) Where the Bank determines the basic exchange rate pursuant to
4 subsection (1) of this section, residents and non-residents shall perform
5 transactions in conformity with such basic exchange rate

6 5.-(1) Transactions in the Market shall be conducted in any
7 convertible foreign currency. Instrument of transaction in the market

8 (2) Without prejudice to the generality of the provisions of
9 subsection (1) of this section, transactions in the Market may be conducted
10 through the foreign exchange market instruments, including-

- 11 (a) foreign bank notes;
12 (b) foreign coins;
13 (c) travellers' cheques;
14 (d) bank drafts;
15 (e) mail, electronic or telegraphic transfers; and
16 (f) such other money market instruments as the Bank may, from
17 time to time, determine.

18 6.-(1) Except as required under any enactment or law, a person
19 executing a transaction in the Market shall not be required and if required,
20 shall not be obliged, to disclose the source of any foreign currency to be sold
21 in the Market. Non-disclosure of source of imported foreign currency

22 (2) Notwithstanding the provisions of subsection (1) of this
23 section, Authorized Dealers shall continue to render returns to the Bank
24 which must contain information on sources of foreign exchange of more
25 than US\$10,000 and utilization of same.

26 (3) No foreign currency imported pursuant to this Act shall be
27 liable to seizure or forfeiture or to suffer any form of expropriation by the
28 Federal or a State Government except as provided under this Act.

29 (4) Notwithstanding the provisions of subsection (3) of this
30 section, Authorized Dealers seeking to import foreign currency notes shall

	1	obtain prior approval of the Bank to do so.
	2	(5) The application for such approval shall state the amount and
	3	purpose of the importation.
Sources of foreign currency in the Market	4	7. For the avoidance of doubt, foreign currency from the following
	5	sources may be sold in the Market-
	6	(a) foreign currency domiciliary accounts maintained in authorised
	7	banks in Nigeria;
	8	(b) foreign currency held or imported by-
	9	(i) Nigerian citizens returning home from any other place outside
	10	Nigeria;
	11	(ii) foreign nationals resident in Nigeria;
	12	(c) agency commissions, professional fees and other forms of
	13	invisible earnings;
	14	(d) export proceeds earned by exporters of Nigerian commodities;
	15	(e) foreign currency held by Nigerian citizens resident in Nigeria;
	16	(f) foreign currency imported by foreign nationals to purchase goods
	17	in Nigeria;
	18	(g) foreign currency imported or held by foreign embassies, high
	19	commissions and international organisations from external sources;
	20	(h) foreign currency held in external accounts by individuals, bodies
	21	corporate and unincorporated, commission agents, professional bodies,
	22	insurance companies and other similar bodies;
	23	(i) foreign currency imported by tourists into Nigeria;
	24	(j) foreign currency provided by the Bank;
	25	(k) foreign currency imported for direct investment in Nigeria; and
	26	(l) foreign currency from such other sources as the Bank may, from
	27	time to time, specify by order published in the Gazette.
	28	PART III - GRANT OF LICENCE TO DEAL WITH FOREIGN EXCHANGE
Requirement of licence to deal in Foreign Exchange	29	8.-(1) A person shall not carry on the business of dealing in foreign
	30	exchange without a licence issued by the Bank under this Act.

1 (2) The Bank shall prescribe any person or any corporate entity that
2 it considers competent to engage in the business of dealing in foreign
3 exchange.

4 (3) The Bank shall issue or renew a licence to engage in the
5 business of dealing in foreign exchange, subject to conditions that it shall
6 determine, from time to time.

7 9. An application for a licence to engage in the business of dealing
8 in foreign exchange shall be made to the Bank in the form prescribed by the
9 Bank and accompanied with information that may be specified by the Bank
10 from time to time.

Application for
a licence

11 10.-(1) The Bank shall grant a licence to the applicant, within sixty
12 days after the receipt of the application, with complete documentation, if it is
13 satisfied that the applicant has-

Grant of licence

14 (a) fulfilled the conditions required for a licence, and

15 (b) paid the prescribed fees.

16 (2) The licence shall be used by the applicant to engage in the
17 business of-

18 (a) buying and selling bank notes, coins and traveller's cheques in
19 foreign currency,

20 (b) electronic settlement of transactions in the Market, and

21 (c) any other activity that may be determined by the Bank from
22 time to time.

23 (3) The Bank shall, from time to time, cause to be published in the
24 Gazette and any other news media of national circulation, the name of
25 licencees and the foreign exchange business, which have been granted
26 licences.

27 (4) A licence shall be valid for one year from the date of issue
28 subject to a renewal for a similar period.

29 11. Where the Bank refuses to grant a licence to an applicant, the
30 Bank shall inform the applicant, in writing, of its decision and the reasons

Refusal of
licence

	1	for the decision, within three months, after the receipt of the application.
Conditions of licence	2	12.-(1) A licence to engage in the business of dealing in foreign
	3	exchange shall be subject to the conditions specified in the licence.
	4	(2) Without limiting the power to suspend
Suspension or revocation of licence	5	13.-(1) The Bank may suspend or revoke a licence issued under this
	6	Act where the licensee-
	7	(a) fails to utilize the licence within ninety days after the date of issue
	8	of the licence;
	9	(b) fails to disclose in the application for the grant, extension or
	10	renewal of a licence, material information known to the licensee or reasonably
	11	expected to have been known to the licensee;
	12	(c) has provided material information for an application for a licence
	13	which is false in a material particular;
	14	(d) has not complied with a directive issued under this Act or pursuant
	15	to a regulation;
	16	(e) has, since the issue of the licence, ceased to qualify for the grant of
	17	licence;
	18	(f) is found by the Bank to have engaged in malpractice or irregularity
	19	in the management of the business of dealing in foreign exchange;
	20	(g) is placed under liquidation, receivership or is adjudged bankrupt;
	21	(h) has contravened the provisions of this Act or Regulations made
	22	under it; or
	23	(i) is in breach of such other conditions as the CBN may prescribe
	24	from time to time.
	25	(2) The Bank may-
	26	(a) suspend a licence for a specific period, or
	27	(b) determine conditions or restrictions for the licence instead of
	28	revoking the licence entirely.
Notice of suspension, revocation or variation of licence	29	14.-(1) Where the Bank intends to suspend, revoke or vary a licence,
	30	the conditions or restrictions of the licence, the Bank shall give the licensee

1 (a) fourteen days' notice prior to the suspension, revocation or
2 imposition of conditions or restrictions,

3 (b) reasons for the intention of the Bank to suspend, revoke or vary
4 a licence, and

5 (c) an opportunity to make an oral or written representation to
6 oppose the intended action of the Bank.

7 (2) A licensee who receives a notice may make the representation
8 within fourteen working days from the date of receipt of the notice.

9 (3) The Bank shall within thirty days after the representation take a
10 decision on the representation and inform the licensee.

11 **15.-(1)** A person aggrieved by a variation of a licence, a rejection or
12 refusal of the Bank to-renew that person's licence or a suspension or
13 revocation of a licence, may submit a petition to the Bank for a review of its
14 decision.

Review and
appeal

15 (2) The Bank shall after receipt of the petition review its decision
16 and respond to the petition within thirty days.

17 (3) A person who is dissatisfied with the decision of the Bank or
18 with the failure of the Bank to make a decision within thirty days, may,
19 appeal to the Court.

20 **PART IV - APPOINTMENT OF AUTHORISED DEALER AND**

21 **AUTHORISED BUYER**

22 **16. -(1)** The Bank may, appoint as an Authorised Dealer or
23 Authorised Buyer of foreign currency, any bank or non-banking corporate
24 organisation which shows evidence of adequate resources and capacity to
25 operate in accordance with the provisions of this Act.

Appointment of
Authorised Dealer
or Authorised
Buyer

26 (2) An Authorised Dealer or Authorised Buyer appointed pursuant
27 to the provisions of subsection (1) of this section shall operate in the Market
28 subject to such terms and conditions as the Bank may specify in the letter of
29 appointment.

Revocation of
the Appointment
of Authorised
Dealer or
Authorised
Buyer

1 17.-(1) The Bank may revoke the appointment of an Authorised
2 Dealer or Authorised Buyer, if it has reason to believe that it is not in the
3 national interest that the person appointed Authorised Dealer or Authorised
4 Buyer shall continue to operate as an Authorised Dealer or Authorised Buyer
5 under this Act.

6 (2) Where the Bank proposes to revoke the license of an Authorised
7 Dealer or Authorised Buyer pursuant to subsection (1) of this section, the Bank
8 may give notice of its intention to revoke the appointment to the Authorised
9 Dealer or Authorised Buyer and the Authorised Dealer or Authorised Buyer
10 may within 28 days, make a representation to the Bank in respect thereof.

11 PART V – MODE OF TRANSACTION AND MARKET OPERATIONS

Mode of
transaction

12 18. -(1) Transactions in the Market shall be between-

13 (a) the public and Authorised Dealers;

14 (b) the public and Authorised Buyers; or

15 (c) the Authorised Dealers and Authorised Buyers appointed under
16 this Act.

17 (2) Transactions in the Market shall be as prescribed, from time to
18 time, by the Bank.

Market Operations

19 19.-(1) The Bank shall supervise and monitor the operation of the
20 Market to ensure the efficient performance of the Market.

21 (2) The Bank may, from time to time, make rules and regulations, and
22 issue such directives or circulars for the efficient operation of the Market.

Market rate

23 20. The determination of the rate at which the transaction would be
24 executed, where funds are purchased from the Bank, may be subject to rules
25 and regulations as may be prescribed by the Bank.

Transactions
permitted in the
market

26 21. Except where a transaction is prohibited by law, any transaction
27 adequately supported by appropriate documentation shall, for the purposes of
28 this Act, be an eligible transaction for the purchase of foreign exchange in the
29 Market; provided always that the Bank shall have power to determine
30 transactions for which foreign exchange may be sourced from the Bank.

1 22.-(1) A person shall be required to declare at the port of entry into
2 or exit from Nigeria, any foreign currency in excess of US \$10,000 or its
3 equivalent.

Importation and
Exportation of
foreign currencies

4 (2) Foreign currency in excess of US \$5,000 or its equivalent,
5 whether being imported into or exported out of Nigeria, shall be declared on
6 the prescribed form.

7 23. Any foreign currency purchased from the Market for the
8 purposes of eligible transactions, may be repatriated from Nigeria and shall
9 not be subject to any further approval.

Reparation of
Funds

10 24. The Bank may, by notice, make rules to impose restrictions on
11 the importation or exportation from Nigeria of-

Importation and
Exportation of
the Naira

12 (a) bank notes,

13 (b) bank coins,

14 (c) travellers cheques,

15 (d) electronic units of payment, and

16 (e) securities in the denomination of local currency or the currency
17 of another country.

18 PART VI - OPERATION OF FOREIGN CURRENCY DOMICILIARY ACCOUNTS

19 25.-(1) A person may open, maintain and operate a domiciliary
20 account designated in foreign currency with an Authorised Dealer.

Domiciliary
Account

21 (2) The foreign currency in which a domiciliary account may be
22 opened, maintained and operated shall be any internationally convertible
23 currency.

24 (3) Except as provided under any other enactment or law, a person
25 making an application to open a domiciliary account under this Act, shall not
26 be obliged to disclose the source of the foreign currency sought to be
27 deposited in the account.

28 (4) A person may open more than one domiciliary account under
29 this Act, at the same or in different banks and designated in the same or
30 different foreign currencies.

	1	(5) Money imported in accordance with the provisions of this Act
	2	shall not be liable to seizure or forfeiture or suffer any form of expropriation by
	3	the Federal or a State Government.
Rate of Interest	4	26.-(1) A bank shall pay, to the credit of a domiciliary account, interest
	5	at such rate as the Bank may, from time to time, prescribe.
	6	(2) The Bank may authorise a bank to transact banking business in any
	7	foreign currency deposited with the Bank, pursuant to this Act.
Exporters to open export proceeds domiciliary Account	8	27.-(1) An exporter of any goods, including petroleum products, shall
	9	open and maintain an exports proceeds domiciliary account into which, foreign
	10	currency corresponding to the entire proceeds of the export concerned, may be
	11	retained.
	12	(2) An exporter of any goods, including petroleum products, shall
	13	repatriate the proceeds of the goods exported into the export proceeds
	14	domiciliary account within such period and under such conditions as the Bank
	15	may, by regulation, prescribe from time to time.
	16	(3) Any exporter, who contravenes the provisions of subsection (2) of
	17	this section, is liable on conviction to a fine of 25% of the FOB value of the
	18	export, payable by the exporter or its directors, where the exporter is a
	19	company".
	20	(4) The Bank may impose administrative fine of not less than 10% of
	21	the FOB value of the export referred to in subsection (2) of this section on the
	22	bank that processed the export transaction
Regulation, Monitoring and Supervision	23	28. The Bank shall regulate, monitor and supervise the general
	24	operations of this Act
Operation of Domiciliary Account	25	29. The operations of domiciliary accounts shall be as prescribed by
	26	the Bank, from time to time.
Payments for certain goods	27	30.-(1) Notwithstanding anything to the contrary contained in any
	28	enactment or law and except as provided in subsection (2) of this section, a
	29	person shall not make or accept cash payment in Nigeria, whether denominated
	30	in foreign currency or not, for the purchase or acquisition of the following-

- 1 (a) landed properties;
2 (b) securities, including stocks, shares, debentures and all forms of
3 negotiable instruments; and
4 (c) motor cars, including other vehicles of any description
5 whatsoever.

6 (2) Payments for the items specified in subsection (1) of this
7 section shall, as from the commencement of this Act, be made by means of
8 bank transfers (including electronic transfers) or cheques drawn on banks in
9 Nigeria only.

10 (1) Except as otherwise prescribed by the Bank, foreign currency
11 shall not be paid or accepted for the Payment of goods and services in
12 Nigeria.

13 **31.** Notwithstanding anything to the contrary in any enactment or
14 law, the Bank shall have access, at all reasonable times, to the offices,
15 registers, books of accounts and documents relating to accounts maintained
16 with an Authorised Dealer to confirm compliance with the provisions of this
17 Act.

Special
surveillance
of certain
transactions

18 **32.** An Authorised Dealer and Authorised Buyer shall-

Preservation of
records

19 (a) maintain at all times the register and other books of account
20 mentioned in section 31 of this Act, for the purpose of recording details of all
21 transactions carried out by them under the provisions of this Act; and

22 (b) preserve the register and other books of account mentioned in
23 section 31 of this Act, for a period of at least 7 years after the last transaction
24 recorded in the register.

25 **33.** For the purpose of determining and monitoring the flow of
26 foreign currencies into Nigeria, an Authorised Dealer shall, notwithstanding
27 any other requirement contained in any enactment or law, notify the Bank of
28 any cash transfer to or from a foreign country of a sum greater than US
29 \$10,000 or its equivalent.

Duty to report
international
transfer of funds

PART VII - INVESTMENT IN FOREIGN CURRENCIES

Investment in
Foreign Currencies
and Capital in
enterprises or
securities in
Nigeria

1
2 34.-(1) Any person may invest in any enterprise or security, with
3 foreign currency or capital imported into Nigeria through an Authorised Dealer
4 either by telegraphic or electronic transfer, cheques or other negotiable
5 instruments and converted into the naira in the Market in accordance with the
6 provisions of this Act.

7 (2) The Authorised Dealer through which the foreign currency or
8 capital for the investment referred to in subsection (1) of this section is
9 imported, shall, within 48 hours of the importation, issue Certificate of Capital
10 Importation to the investor and shall, within 72 hours thereafter, make returns
11 to the Bank giving such information as the Bank may require, from time to
12 time.

13 (3) The Bank shall furnish to the Minister, on a quarterly basis, reports
14 on the returns furnished to the Bank under subsection (2) of this section for
15 information and statistical purposes only.

16 (4) Foreign currency imported into Nigeria and invested in any
17 enterprise pursuant to subsection (1) of this section, shall be guaranteed
18 repatriation of proceeds and capital through an Authorised Dealer in a freely
19 convertible currency, relating to-

20 (a) dividends or profits (net of taxes) attributable to the investment;

21 (b) payments in respect of loan servicing where a foreign loan has
22 been obtained; and

23 (c) the remittance of proceeds (net of all taxes) and other obligations
24 in the event of sale or liquidation of the enterprise or any interest attributable to
25 the investment.

26 (5) The repatriation referred to in subsection (4) of this section shall
27 be communicated by an Authorised Dealer to the Bank, within fourteen days of
28 the repatriation.

Authorised
Dealers to submit
returns

29 35.-(1) An Authorised Dealer and Authorised Buyer appointed under
30 this Act shall submit to the Bank, at such intervals as the Bank may prescribe,

1 returns of activities in the Market and the returns shall be in such form as the
2 Bank may, from time to time, by circulars and guidelines direct.

3 (2) The Bank shall, on request, furnish to the Minister reports on
4 the returns submitted to it under subsection (1) of this section.

5 (3) An Authorised Dealer or Authorised Buyer who contravenes
6 the provisions of subsection (1) of this section, by failing, neglecting or
7 refusing to submit the returns, is guilty of an offence and liable on conviction
8 to the terms provided in the Bank of Nigeria Act and Banks and Other
9 Financial Institutions Act, as if it had contravened the provisions of those
10 Acts relating to the submission of returns.

11 PART VIII – DEALING IN SECURITIES

12 (b) with intent to defraud, forges, mutilates, utters or defaces any
13 passbook maintained pursuant to this Act; commits an offence under this
14 Act.

15 (2) A person who being a bank converts the proceeds of any
16 domiciliary account maintained in Bank to a use for which it was not
17 intended; commits an offence under this Act.

18 (3) A person who being a depositor, negotiates any draft, foreign
19 bank note or negotiable instrument otherwise than through the Banking
20 system; commits an offence under this Act.

21 (4) A person who being an Authorised Dealer, permits or
22 facilitates, in any way, the withdrawal by a depositor of foreign currencies
23 contrary to provisions of this Act; commits an offence under this Act.

24 (5) A person convicted of an offence under subsections (1), (2), (3)
25 and (4) of this section is liable-

26 (a) in the case of an individual, to imprisonment for a term not
27 exceeding 2 years;

28 (b) in the case of an officer at the port of entry or a bank official, to
29 imprisonment for a term not exceeding 5 years;

30 (c) in the case of a body corporate, to a fine of ten times the amount

1 of foreign currency involved; and

2 (d) in the case of officials of the body corporate, to imprisonment for a
3 term of 5 years or to a fine of five times the amount of foreign currency
4 involved.

5 (6) In addition to the penalty imposed under this section-

6 (a) the foreign currency involved, shall be forfeited to the Federal
7 Government;

8 (b) where an offence under this section is committed by a body
9 corporate the court may order that the body corporate shall thereupon and
10 without any further assurance, be wound up and all the assets and properties of
11 the body corporate shall be forfeited to the Federal Government; and

12 (c) where an offence under this section is committed by an Authorised
13 Dealer, the court may, in addition to the penalty prescribed in paragraph (b) of
14 this subsection, order that the license of the Authorised Dealer be revoked.

Offences by
Bodies Corporate

15 41. Where an offence under this Act has been committed by a body
16 corporate, every person who, at the time of the commission of the offence was a
17 proprietor, director, manager, secretary or other similar officer of the body
18 corporate, who was purporting to act in such capacity, shall be deemed to have
19 committed an offence and liable to be punished as specified in this Act, unless
20 he proves that the offence was committed without his consent or connivance
21 and that he had exercised all such diligence as he ought to have exercised
22 having regard to the nature of his functions in that capacity.

Power of the Bank
to compound
offences

23 42. Subject to the other provisions of this section, the Bank may if he
24 is satisfied that any person has committed an offence under this Act, compound
25 such offence by accepting from such person a sum of money and ordering the
26 forfeiture to the Government of the specified foreign currency or other
27 property in respect of which the offence was committed.

28 PART XII - MISCELLANEOUS

Blocked accounts

29 43.-(1) Where there is a seizure of foreign currency for any reason
30 connected with the contravention of this Act, the foreign currency shall be

1 lodged in a blocked account with the Bank.

2 (2) Where the foreign currency remains in the blocked account for
3 a period of more than 3 years and in the absence of any action by the person
4 from whom the foreign currency was seized to retrieve the foreign currency
5 within the period, the Bank Shall transfer the foreign currency into the
6 Consolidated Revenue Fund and notify the Minister accordingly.

7 (4) Notwithstanding any of the provisions of this Act, the Bank
8 may-

9 (a) revoke or suspend the appointment of Authorised Dealer or
10 Authorised Buyer, or

11 (b) impose a penalty not exceeding N50 million or not exceeding
12 ten times the amount of the foreign currency involved in the infraction, for
13 the Authorised Dealer's or Authorised Buyer's failure to comply with the
14 provisions of this Act, or any rules, regulations, guidelines or administrative
15 directives made or issued by the Bank under this Act.

16 44.-(1) The persons specified in subsection (2) of this section shall
17 comply with such directions as may be given to them, respectively, by the
18 Bank, being-

Directives by the
Central Bank

19 (a) in the case of any such persons, directives as respects the
20 exercise of any functions exercisable by them by virtue of anything done
21 under any provision of this Act; and

22 (b) in the case of Authorised Dealers and Authorised Buyers,
23 directives-

24 (i) as to the terms on which they are to accept foreign currency; or

25 (ii) requiring them to offer their specified currency to the Bank on
26 such terms as may be specified in the directives.

27 (2) The persons referred to in subsection (1) of this section are as
28 follows, that is-

29 (a) bankers and Authorised Dealers or Authorised Buyers;

	1	(b) persons to whom any power of the Bank under this Act has been
	2	delegated;
	3	(c) Government agencies authorised to accept the custody of
	4	securities and documents of title to securities; and
	5	(d) persons entrusted with the payment of capital moneys, dividends
	6	or interest in Nigeria.
Jurisdiction	7	45. The Federal High Court shall have jurisdiction to try all offences
	8	under this Act.
Repeal	9	46. The Foreign Exchange (Monitoring and Miscellaneous
	10	Provisions) Act, Chapter F34, Laws of the Federation of Nigeria, 2004, is
	11	repealed.
Savings	12	47.-(1) Without limiting the provisions of the Interpretation Act, the
	13	repeal of the Act referred to in section 46 of this Act, shall not affect any
	14	document made or anything whatsoever done under the repealed enactment
	15	(2) Every order, requirement, certificate, notice, direction, decision,
	16	authorisation, consent, application, request or thing made, issued, given or
	17	done under the enactment repealed by this Act, shall continue in force and have
	18	effect as if made, issued, given or done under the corresponding provision of
	19	this Act.
Regulations	20	48. The Bank may make regulations, rules, orders, or directions, as
	21	the case maybe, as may be required for carrying into effect the intendment of
	22	this Act including regulations, rules, orders, or directions relating to-
	23	(a) currency, securities and transactions relating to them;
	24	(b) any foreign exchange transactions other than transactions referred
	25	to in paragraph (a) of this section; or
	26	(c) imports into and exports from Nigeria including the transfer or
	27	settlement of payments, or transactions in relation to debts;
Interpretation	28	49. In this Act, unless the context otherwise requires-
	29	"Authorised Buyer" means any bureau de change, hotel or other corporate
	30	body appointed as such by the Bank under the provisions of this Act;

- 1 **"Authorised Dealer"** any bank or specialized bank licensed under the Banks
2 and Other Financial Institutions Act, and such other body corporate licensed
3 by the Bank and issued with the licence to deal in foreign exchange;
- 4 **"Bank"** means the Central Bank of Nigeria;
- 5 **"Bureau de Change"** means a business enterprise licenced by the Bank to
6 carry on the business of buying and selling specified foreign currency;
- 7 **"capital"** means all cash contributions, plant, machinery, equipment,
8 building, spare parts, raw material and other business assets, other than
9 goodwill;
- 10 **"Certificate of Title"** in relation to a security, means any document whereby
11 a person recognises the title of another to a security issued or to be issued by
12 the first-mentioned person;
- 13 **"commodities"** mean any articles of trade or commerce;
- 14 **"coupon"** means a dividend or interest in a security;
- 15 **"Court"** means the Federal High Court of Nigeria;
- 16 **"domiciliary account"** means a foreign currency account opened,
17 maintained and operated with a bank in Nigeria under this Act;
- 18 **"foreign capital"** means convertible currency, plant, machinery, equipment,
19 spare parts, raw materials and other business assets, other than goodwill,
20 brought into Nigeria with no initial disbursement of Nigerian foreign
21 exchange and intended for the production of goods and services related to an
22 enterprise, as applicable;
- 23 **"foreign currency"** means any currency, other than Nigerian currency, and
24 includes any note which is or has at any time been legal tender in any
25 territory outside Nigeria, and where reference is made to foreign currency,
26 the reference includes the right to receive foreign currency in respect of any
27 credit or balance at a bank;
- 28 **"foreign exchange market"** a market in which the Authorised Dealers,
29 Authorised Buyers, foreign exchange end-users and the Central Bank are
30 participants and may include any other participant that the Central Bank

1 may, from time to time recognize "inter-bank foreign exchange market" means
2 foreign exchange market where Authorised Dealers trade amongst themselves,
3 "Minister" means the Minister charged with responsibility for matters relating
4 to finance; and
5 "Ministry" shall be construed accordingly;
6 "security" means shares, stocks, bonds, notes (other than promissory notes),
7 debentures, debentures stock, units under a unit trust scheme, share in any
8 royalty, any letter of rights, any warrant conferring an option to acquire a
9 security, any deposit certificate in respect of securities, and any other
10 document, other than a bill of exchange or a promissory note, whereby a person
11 recognises the title of another person to securities issued or to be issued by the
12 first-mentioned person;

Short title

13 50. This Act may be cited as the Foreign Exchange (Control and
14 Monitoring) Act, 2016.

EXPLANATORY MEMORANDUM

*(This memorandum does not form part of this Act but it is intended to
explain its purport).*

This Act seeks to repeal the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, Chapter F34, Laws of the Federation of Nigeria, 2004 and enact the Foreign Exchange (Control and Monitoring) Act, 2015 to establish a Foreign Exchange Market in Nigeria and to provide for the control, monitoring and supervision of transactions conducted in the Foreign Exchange Market and for related matters.