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ARTICLE

BANK RECAPITALISATION: CBN SETS NEW MINIMUM CAPITAL REQUIREMENT FOR BANKS IN NIGERIA

INTRODUCTION

On the evening of Friday, March 29, 2024, a significant development unfolded in Nigeria's banking sector as news of bank recapitalisation emerged, marking a pivotal moment that has been the focus of discussions since 2023 amongst various stakeholders.

It would be recalled that on November 24, 2023, during the 58th Annual Bankers' Dinner organised by the Chartered Institute of Bankers of Nigeria (CIBN), Mr. Olayemi Cardoso, the Governor of the Central Bank of Nigeria ("CBN"), unveiled the CBN's intention to implement a new banking recapitalisation plan. Governor Cardoso emphasised the need for banks to play a pivotal role in realising Nigeria's vision of achieving a one trillion-dollar economy by 2030, a cornerstone of the vision advocated by Nigeria's current President, Bola Ahmed Tinubu.

Against this backdrop and in alignment with its mandate to foster a safe, sound and stable banking system, the CBN, through a circular dated March 28, 2024 (the "Circular"), announced an upward revision of the minimum capital requirements for commercial, merchant, and non-interest banks in Nigeria.

In this article, we delve into the revised minimum capital requirements set by the CBN and explore the CBN's recapitalisation options as well as the implications on the banking sector in Nigeria.

OVERVIEW OF BANK RECAPITALISATION

Banking recapitalisation is essentially the act of shoring up a bank's capital to meet or exceed the levels mandated by regulatory authorities. In Nigeria, it is a regulatory measure overseen by the CBN, necessitating banks to augment their minimum paid-in common equity capital to a specified amount based on their license category and authorisation within a designated timeframe.[1] This capital requirement is strengthened by the provisions of section 9 of the Banks and Other Financial Institution Act 2020 (BOFIA) which grants the CBN powers to determine the minimum paid-up share capital for the different categories of banks licensed under BOFIA.

[1] See FAQs on Banking Sector Capitalization Programme 2024 & 2024 Circular on the Review of Minimum Capital Requirements for Commercial, Merchant and Non-Interest Banks.

Since 1952, Nigeria's banking sector has undergone numerous recapitalisation reforms targeted at raising the minimum paid-up capital of banks in Nigeria. The latest of such recapitalisation reforms was the banking consolidation of July 6th, 2004, which witnessed the increase in the minimum capital requirement for banks across all licence categories with effect from December 31, 2005. One of the significant changes was the modification of minimum capital requirements for commercial banks to Twenty-Five Billion Naira (N25,000,000,000.00). The recapitalisation move was considered to have catalysed a substantial transformation, reducing the number of banks from 89 to 24 by 2006. While some banks merged in the course of the consolidation, others were acquired by stronger institutions.

Overall, a recapitalisation drive is aimed at ensuring that Nigerian banks have a robust capital base to absorb unexpected losses, support different sectors of the economy and improve confidence in the banking system thereby contributing to the growth and development of the Nigerian economy.

REVIEWED MINIMUM CAPITAL REQUIREMENTS

Based on the Circular, the revised minimum capital requirements (regarded as the Banking Sector Recapitalization Programme 2024) are as follows:

Type of Bank	Authorisation	Previous Minimum Capital (₦)	2024 Minimum Capital (₦)
Commercial	International	50,000,000,000	500,000,000,000
	National	25,000,000,000	200,000,000,000
	Regional	10,000,000,000	50,000,000,000
Merchant	National	15,000,000,000	50,000,000,000
Non-Interest	National	10,000,000,000	20,000,000,000
	Regional	5,000,000,000	10,000,000,000

The new minimum capital as specified in the Circular comprises the core capital that a bank holds in its capital structure, and according to the Circular is restricted to the following only:

a. paid-up capital; and
b. share premium.

The CBN has also indicated that it will not recognise the proceeds of (i) Additional Tier 1 (AT1) Capital, (ii) Bonus Issues, and (iii) proceeds from other reserves for the purpose of meeting the new capital requirement. However, relevant reserves will be recognised in the computation and determination of the risk-based Capital Adequacy Ratio (CAR) in line with *CBN's Guidelines on Regulatory Capital 2021.*

Flowing from the above, it has been remarked by stakeholders that the 2024 Banking Sector Recapitalisation Programme may require up to N4.7 trillion to meet the recapitalisation benchmark prescribed by the CBN. Nevertheless, analysts suggest that if the CBN were to modify its requirements to include retained earnings, approximately seven banks would easily exceed the revised minimum capital requirement.

RECAPITALISATION OPTIONS

To fulfil the minimum capital requirements, the CBN has proposed the following three (3) options for banks to consider:

a. Equity capital raised through private placements, rights issues, and/or offers for subscription.
b. Mergers and acquisitions.
c. Upgrading or downgrading of license authorisation.

EQUITY CAPITAL RAISE THROUGH PRIVATE PLACEMENT/RIGHT ISSUES/OFFER FOR SUBSCRIPTION

This option involves banks raising additional capital by issuing new shares to investors through private placements, rights issues (offering existing shareholders the right to buy additional shares at a discounted price) or offers for subscription (inviting investors to subscribe to newly issued shares). For private placements, this will involve selling shares to a select group of investors, typically institutional investors or high-net-worth individuals, without making a public offering. Rights issues on the other hand give existing shareholders the opportunity to maintain their ownership percentage in the bank by purchasing more shares at a predetermined price. Offers for subscription allow both existing and new investors to subscribe to newly issued shares at a specified price.

MERGERS AND ACQUISITIONS (M&A)

This option involves banks merging with or acquiring other banking institutions to increase their capital base and strengthen their position in the market. Mergers occur when two or more banks combine to form a single entity, while acquisitions involve one bank purchasing another. By merging with or acquiring other banks, institutions can pool their resources, expand their customer base, and achieve economies of scale. However, mergers and acquisitions require careful planning, negotiation, and regulatory approval to ensure compatibility and compliance with antitrust laws. For an M&A option, the CBN has assured that depositors' accounts and funds will remain fully secure as the acquiring institution will assume all liabilities and obligations, including the safeguarding of depositors' interests.

UPGRADING OR DOWNGRADING OF LICENSE AUTHORISATION

This option involves banks adjusting their license authorisation to meet the minimum capital requirements. Upgrading license authorisation may involve transitioning to a higher category of banking license that requires a higher minimum capital base. Conversely, downgrading license authorisation involves shifting to a lower category of banking license that entails lower capital requirements.

Banks may choose this option based on their ability to meet the capital requirements and their strategic objectives. For example, a bank facing challenges in raising additional capital may opt to downgrade its license authorisation to reduce regulatory burden.

Comprehensively, these recapitalisation options provide banks in Nigeria with flexibility in meeting the minimum capital requirements mandated by the CBN. Each option presents its own set of advantages, challenges, and considerations, and banks may choose the most suitable option based on their financial situation, strategic objectives, and market conditions.

CBN'S REQUIREMENT FOR IMPLEMENTATION PLAN

According to the Circular, all banks are required to furnish an implementation plan delineating their chosen option(s) for meeting the new capital requirement along with a comprehensive outline of associated activities and their respective timelines. This plan must be submitted to the Director of the Banking Supervision Department at the Central Bank of Nigeria no later than April 30, 2024.

TIMELINE FOR COMPLIANCE

All existing banks are mandated to fulfil the minimum capital requirement within a 24-month timeframe, commencing from April 1, 2024, and concluding on March 31, 2026.

For prospective banks, the revised minimum capital requirement will be applicable to all new applications for banking licenses submitted after April 1, 2024.

Regarding pending applications for banking licenses where capital deposits have been made and/or Approval-in-Principle (AIP) has been granted, the promoters of such proposed banks must bridge the gap between the capital deposited with the CBN and the new capital requirement no later than March 31, 2026.

PENALTY FOR NON-COMPLIANCE

The Circular is reticent on the appropriate sanctions that may be meted out to defaulting Banks in the face of the new capital requirements. However, section 9(2) of the Banks and Other Financial Institutions Act (BOFIA) 2020 empowers the CBN to revoke the license of banks that fail to comply with minimum paid-up share capital as may be prescribed by CBN from time to time. Therefore, under BOFIA, one of the sanctions the CBN may implement is to revoke the license of banks that fail to comply with the new capital requirements.

KEY IMPLICATIONS OF THE CIRCULAR

There is a litany of implications the banks may face sequel to the new minimum capital requirements. Indeed, the Circular brings to the fore positive and negative effects. However, we have highlighted the key implications below:

1. **Increase in Foreign Investments:** It is contemplated that the increased capital requirements for banks will potentially attract more foreign portfolios and direct investors to invest in the banking sector of Nigeria.
2. **Increase in Business Activities:** In a bid to deliver value to shareholders, the banks will be poised to expand their business activities such as increased lending activities to SMEs who have apparently enjoyed minimal support from the commercial banks.
3. **Impact on Small Banks:** Smaller banks may face greater challenges in meeting the new capital requirements compared to larger banks. They may need to explore strategic partnerships or mergers to survive in the new regulatory environment. Thus, it is a no-brainer that the banking sector will likely expect a number of mergers and acquisitions with the new capital requirements. We therefore expect to see horizontal mergers between banks in a bid to comply with the new minimum capital requirement set by CBN.

4. **Increased Business for Capital Market Players:** The new capital requirements will see a surge in capital market activities as banks will seek to raise more finance through the capital markets. This capital raise could be by way of public offers, rights issues or private placements.

5. **Enhancement of Bank's Capital Buffers:** In addition to supporting economic growth, the 2024 Recapitalisation Programme will help enhance banks' capital buffers to ensure their continued stability and sustainability in the face of global and domestic macroeconomic headwinds.

6. **Supervisory Oversight:** The CBN will need to strengthen its supervisory oversight to ensure banks adhere to the new capital requirements and maintain financial stability. This may involve increased monitoring, stress testing, and enforcement actions against non-compliant institutions.

CONCLUSION

Undoubtedly, the Circular will cause banks to consider restructuring options in a bid to remain afloat. Thus, it behoves stakeholders to seek appropriate legal advice in order to navigate the inherent challenges associated with compliance with the new capital requirements.

It is worthy of note to mention that CBN will continue to monitor banks raising capital, whilst ensuring banks comply with extant laws and regulations on anti-money laundering with a view to avoiding or mitigating receipt of illicit funds by banks.

This article does not constitute legal advice but is for general information. Should you require assistance or legal advice on this score, our Corporate, Mergers & Acquisition, Capital Markets, and Banking and Finance teams are available to advise you on the appropriate steps to comply with the new CBN minimum capital requirements.

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