

HIGHLIGHTS OF THE CBN REVISED REGULATORY FRAMEWORK FOR BANK VERIFICATION NUMBER (BVN) OPERATIONS AND WATCH-LIST FOR THE NIGERIAN BANKING INDUSTRY



INTRODUCTION

In 2017, the Central Bank of Nigeria (the CBN) in line with its objective of promoting financial system stability issued the Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-List for the Nigerian Banking Industry (the Old Regulatory Framework), which provides standards for both BVN operations and the watch-list of bank customers who have been involved in fraudulent activities in the Nigerian banking industry. Pursuant to a circular dated October 12, 2021, the CBN has now issued a revised Regulatory Framework for BVN Operations and Watch-List for the Nigerian Banking Industry (the Revised Regulatory Framework).

The Revised Regulatory Framework, which now replaces the Old Regulatory Framework, reiterates the CBN's stance on most of the provisions in the Old Regulatory Framework whilst introducing salient amendments to meet the current realities in the banking and financial services industry, particularly the applicability of the BVN regime to mobile money wallets/operations and the exemption of Tier-1 accounts from participating in the BVN database, amongst other key amendments.

This Newsletter examines the key innovations under the Revised Regulatory Framework.



HIGHLIGHTS OF THE KEY CHANGES IN THE REVISED REGULATORY FRAMEWORK

Exemption of Tier-1 Accounts/Wallets from linkage with BVN

The Revised Regulatory Framework now exempts Tier-1 accounts from linkage with the BVN. In the Old Regulatory Framework, all types of bank accounts were required to be linked to the BVN, however, in view of the barrier this requirement creates to the onboarding of low-value customers and based on wider financial inclusion considerations, the Revised Framework now exempts this category of customer. Thus, a financial institution or a mobile money wallet operator may now onboard of the customer/account holder. This also applies to corporate customers,

their beneficial owners and directors. of the customer/account holder.

Applicability of the Revised Regulatory Framework to Mobile Money Wallets

Another significant update to the Revised Regulatory Framework is the applicability of the Revised Regulatory Framework to mobile money operators/wallets. Before now, the BVN regime was limited to bank accounts, however, given the recent proliferation of mobile money wallets or services, the Revised Regulatory Framework has now expanded the applicability of the BVN regime to mobile money wallets/operators. Henceforth, mobile money wallets (with the exception of Tier-1 mobile money wallets) are also required to be linked to the BVN.



Restricted Access to the BVN Database

The Revised Regulatory Framework now provides additional restrictions to accessing the BVN database (which is maintained and operated by the Nigerian Interbank Settlement Services (NIBSS) Plc). Under the Old Regulatory Framework, deposit money banks (DMBs), Other Financial Institutions (OFIs), Mobile Money Operators (MMOs), Payment Service Providers (PSPs), law enforcement agencies, credit bureaus and other entities as applicable could all access the BVN database. However, the Revised Regulatory Framework now creates different categories (Tier 1 and Tier 2) of users that may

access the BVN database. Specifically, the general rule now is, that except Tier 1 users of the BVN database i.e., banks, OFIs, and MMOs, who have direct access to the BVN database, access to the BVN database by Tier 2 users is to be approved by the CBN and subject to additional restrictions as indicated below:

1. Tier 1 Users (Banks, OFIs, and MMOs): these users have direct access to the BVN database and do not require CBN's approval

2. Tier 2 Users (PSPs, credit bureau, other entities that may be approved by the CBN): these users require the approval of the CBN to access the BVN database and such users much access the BVN database through NIBSS (in accordance with the Standard Operating Guidelines of NIBSS for the operation of the BVN (NIBSS SOG)).

This implies that all fintech companies (particularly PSPs, except MMOs) that seek to access the BVN database to offer products and services are Tier 2 Users and as such, must comply with the additional restrictions set out in the Revised Regulatory Framework. Further, the Revised Regulatory Framework expressly excludes foreign entities and individuals from accessing the BVN database. With respect to foreign entities, this exclusion appears to impliedly institute local incorporation requirements on any entities that require access to the BVN database.

Beyond the tier-2 access, just as in the Old Regulatory Framework, the Revised Regulatory Framework also recognizes that certain entities, including law enforcement agencies, National Pension Commission, Pension Fund Administrators and other approved entities, may require access to the BVN database depending on the exigencies of the operations of these entities. However, the Revised Regulatory Framework now requires that these entities present valid Federal High Court orders before access can be granted.



General Provisions Relating to Accounts and Wallets

More broadly, Banks and OFIs are required to make sure that the BVN details of signatories, directors, and beneficial owners are linked to their respective non-individual (corporate) accounts/wallets. Interestingly, this is now expressly extended to foreign directors of corporate accounts. Thus, all directors of Nigerian companies or foreign companies operating Nigerian accounts irrespective of nationality must have a BVN. Customers may be allowed to close their accounts/wallets. Where the account/wallet to be closed is not linked with a BVN, a payment instrument is to be issued in the same name in which the account/wallet was opened. In any event, where the balance on such account/wallet exceeds the legal minimum on a paper instrument, the relevant Bank or OFI shall seek and obtain clearance from the Nigerian Financial Intelligence Unit (NFIU) before such accounts/wallets can be closed and the balance transferred electronically to another account.



Requirement to Procure Consent of the Customers

The Revised Regulatory Framework now mandates the BVN database users to procure the consent of the customers before processing their data (i.e., BVN). This is a significant improvement from the Old Regulatory Framework, which was silent on this requirement, thereby raising certain privacy and data protection concerns. While hitherto, the Old Regulatory Framework was silent on the need to procure the consent of the customers before processing their BVN, the NIBSS SOG had filled this lacuna, thus, the CBN has merely updated the Revised Regulatory Framework in accordance with the data and privacy requirements set out in the SOG. Effectively, users of the BVN Database (whether Tier 1 or Tier 2) must always procure the consent of the users/customers before processing their BVN.

Sanctions and Penalties

The sanctions and penalties for customers and participants have now been expanded under the Revised Regulatory Framework. In respect of the sanctions and penalties for customers with BVNs on watch-list, under the Old Regulatory Framework, Categories 0 and 1 include “Forgery, compromise, complicity, and fraudulent duplicate enrolment. However, under the Revised Regulatory Framework, Categories 0 and 1 now include “Any Breach without monetary value” and “Any Breach with monetary value” respectively, with no peculiar qualifiers to the infractions. The Revised Regulatory Framework has also included a new watch-list classification in the event a customer is deceased. In such circumstances, the stipulated penalty is for Banks and OFIs to report the BVNs of such confirmed deceased customers to the NIBSS for designation as “DECEASED” on the BVN database within 24 hours of confirmation.

By paragraph 3.2.1, the Revised Regulatory Framework has introduced sanctions and penalties for participants in the provision of BVN operations. Some of the infractions by participants that may attract penalties include the misuse of the BVN watch-listing process for victimization, improper linking of accounts/wallets (except Tier-1), and other infraction(s), as may be determined by Bank.



CONCLUSION

The exclusion of Tier-1 accounts and wallets from most BVN requirements and sanctions is a laudable move as it could contribute to the financial inclusion gains in the country. Also, the general data and privacy consent requirement imposed on the users of the database indicates that the CBN is mindful of the potential data and privacy breaches that may arise from the misuse of the BVN. The additional requirement imposed on mobile money operators to link their customers' wallets with the BVN database is also laudable and would further ensure that mobile money wallets are held to similar standards applicable to regular bank accounts.

Finally, the Revised Regulatory Framework is another step by the CBN to further ensure the maximum optimization of the BVN database vis-à-vis ensuring the stability of the financial systems in Nigeria particularly from an operational and risk perspective.



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