

In The Loop



OLANIWUN
AJAYI



Introduction

This newsletter is issued from the stable of two leading financial and professional services institutions in Africa – First Bank of Nigeria Limited and Olaniwun Ajayi LP Services respectively. The contents have been carefully curated with the principal aim of delivering an ensemble of informative and insightful reporting on relevant happenings across the financial, economic, social, and political landscape – both locally and globally – with a view to providing useful tips on how these happenings impact everyday life.

In this maiden edition, we take a cursory yet incisive look at the year 2021 in hindsight (Part A) – the significant events which defined the year leaving lasting impacts on the succeeding year 2022 (Part B) and beyond. Our expectation is that this periodical will not only offer instructive information to the diverse segments that our institutions serve, but it will also offer our customers an aperture into the intelligence and thinking that guide us, and our businesses as we endear ourselves to you, our dear customers, in our continuous commitment to put You First!



REVIEW OF 2021 **Part A**

Sustained Recovery From Covid-19 Induced Recession

The COVID-19 pandemic significantly impacted most economies in the world. Beyond the untold health challenges, the COVID-19 pandemic brought significant economic disruption, inducing one of the worst global recessions since World War II. The economic shock created by the pandemic triggered Nigeria's worst recession in decades. Nigeria's economy shrank 6% in the second quarter of 2020, the first contraction since the first quarter of 2017 and the steepest since the first quarter of 2004.

However, the path towards global outputs rebound and recovery commenced with improved vaccination efforts, as well as support from monetary and fiscal authorities. Similarly, the Nigerian economy has shown steady growth with the Gross Domestic Product (GDP) recording positive successive quarter-on-quarter growth, declining inflation, steady corporate earnings and improved returns in the financial markets. The Nigerian banking sector has contributed immensely to the sustained recovery of the economy from the COVID-19 induced recession.

Cryptocurrency Trading Ban

In the first quarter of 2021, the Central Bank of Nigeria (CBN), in a letter dated 5 February 2021, directed all deposit money banks (DMBs), non-bank financial institutions (NBFIs), and other financial institutions (OFIs) to identify persons or entities involved in cryptocurrency trading within their system and ensure that such accounts are closed immediately.

It also directed banks to refrain from transacting in and with entities dealing in cryptocurrencies. Justifying its position, the apex bank claimed that cryptocurrencies were being used to facilitate fraud, money laundering, terrorism financing, illicit fund flows, and other criminal activities.

Following the cryptocurrency ban comments and adverse reactions by experts, operators, and speculators followed the development. Also, financial institutions took steps to comply with the CBN directive, as banks began deactivating customer accounts on suspicion of engaging in cryptocurrency-related transactions and also improved their know your customer requirements. We also experienced popular cryptocurrency exchanges halt the marketing of their services. These developments caused some panic, with users forced to clear their cryptocurrency wallets, while others resorted to peer-to-peer trading.

Growth in GDP Bringing an End to Two Consecutive Quarters of Contraction (Recession)

In 2020, Nigeria experienced its second recession in a space of 5 years, driven by the impact of the COVID-19 pandemic and the susceptibility of the Nigerian economy to changes in oil prices as movement restrictions due to the pandemic affected the global demand level for crude oil which led to a crash in prices.

This drop in oil prices coupled with the negative impact of the COVID-19 pandemic induced lockdown on other sectors resulted in a recession with the country recording two consecutive negative GDP contraction of -6.1% and -3.62% in Q2 and Q3 2020. However, in Q4 2020, the country commenced its exit from recession which it achieved by the end of Q1, 2021 with a real GDP growth of 0.51%.

The administration of vaccines and easing of movement restrictions in 2021, led to positive GDP growth of 5.01% and 4.03% for Nigeria in the second and third quarters of 2021, respectively.



Inauguration of the Lagos-Ibadan Railway Service

In June 2021, President Muhammadu Buhari launched the commercial operation of the Lagos - Ibadan Standard Gauge Railway after construction began in March 2017; the first of its kind in West Africa. The railway enables the transportation of goods from the Apapa Port quayside straight to the Inland Container Depot located in Ibadan.

In addition to creating wealth and opening business opportunities, this development will reduce the number of vehicles that ply the Lagos-Ibadan expressway, thereby reducing the cost of road maintenance and increasing the life span of the expressway. It will also provide a more efficient means of transporting goods across the country and contribute to the ease of doing business for SMEs. The residents and commuters of Apapa are key beneficiaries, as the railway resolves the perennial gridlock caused by craters on the road and heavy-duty vehicles that ply the route to transport fuel and goods from the port.



The Petroleum Industry Act

On 16 August 2021 the Petroleum Industry Act, 2021 (the PIA) was passed into law by President Muhammadu Buhari. The PIA has garnered significant interest given its legislative history of close to two decades and its significance to the Nigerian economy.

It is anticipated that the changes introduced by the PIA will provide the much-needed reform, transparency and clarity to the regulatory and fiscal framework of the industry and also encourage investment in the oil and gas sector.

The PIA introduced broad changes to the legal and regulatory framework of the oil and gas sector. Some of the key changes include the restructuring of the regulatory framework, which birthed two new regulators for the upstream sector, midstream and downstream sectors respectively; the commercialization of the Nigerian National Petroleum Corporation (NNPC); introduction of new fiscal regimes for operators in the industry; and the creation of a Host Community Development Trust for the sustainable development of host communities.



Sanctions by the National Information Technology Development Agency (NITDA) for Data Privacy Invasion

In August 2021, NITDA sanctioned Soko Lending Company Limited (Soko Loans), an online lending platform, for data privacy invasion. The agency explained that it took this action following complaints levied against Soko Loans for unauthorised disclosures, defamation of character, a failure to protect customers' personal data as well as failure to carry out necessary due diligence as mandated by the National Data Protection Regulation (NDPR).

Soko Loans had granted its customers uncollateralised loans and required them to download its mobile application on their phone to activate a direct debit in the company's favour. The application gave Soko Loans access to the loanee's phone contacts and when one complainant failed to meet his repayment obligations, the company unilaterally sent privacy-invading messages to his contacts. NITDA imposed a monetary sanction of N10,000,000 (Ten Million Naira) on the company and directed it to show full compliance with the NDPR. These steps taken by NITDA was on the basis that Soko Loan's action constituted non-conformity with the rights of privacy enshrined under the 1999 constitution and illegal data sharing without lawful basis under the Nigerian Data Protection.

CBN's Crackdown on Exchange Rate Manipulation and Illicit Flows of Money

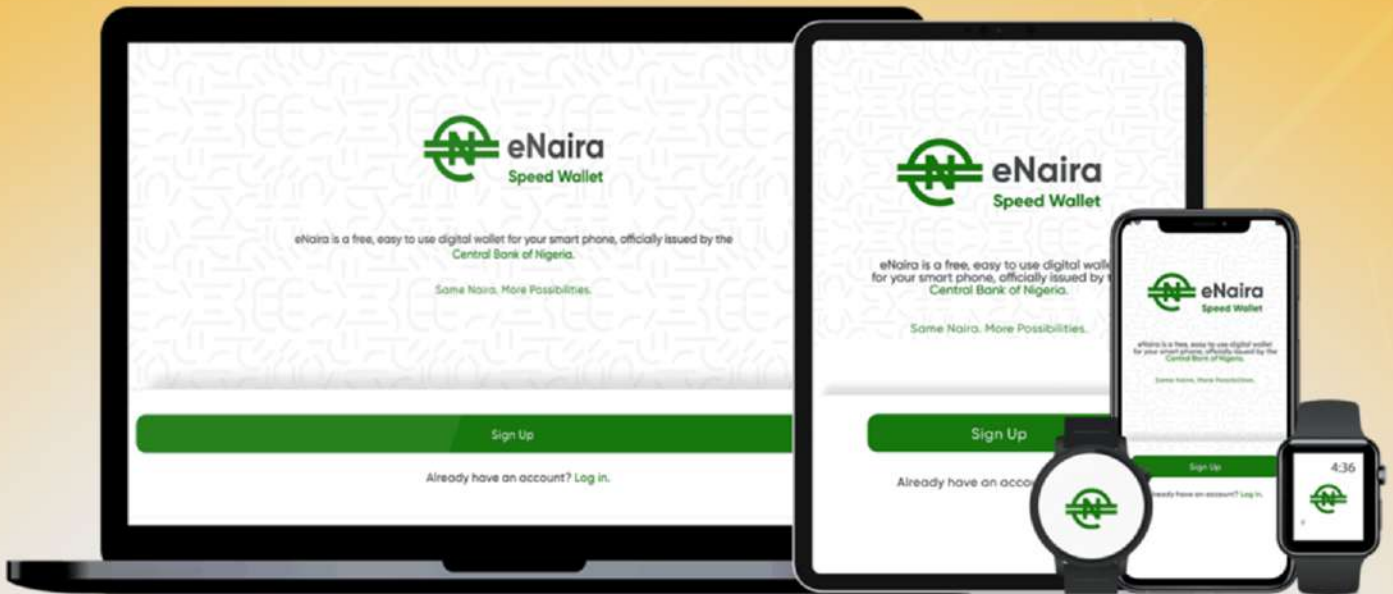
The CBN, during the July 2021 MPC meeting attributed the continued depreciation of the Naira to illegal forex trading by Bureau De Change (BDC) operators in the country. Consequently, it discontinued the sale of foreign currency to BDCs and stopped the issuance of new BDC licenses. Mr Godwin Emefiele, the CBN governor, knocked the BDCs for facilitating illicit financial flow, rather than processing retail foreign currency requests of \$5000 or less. This move appeared to signal a clamp down on foreign currency market malpractice.

To stem a resultant potential scarcity, the CBN directed commercial banks to create dedicated Foreign currency desks for legitimate retail requests. Proactive perhaps, but insufficient to buffer a crash in market rates which fell from N520/\$ to N570/\$ a day after the announcement. Popular indicative rate site, AbokiFX, (and its founder) were swiftly accused of rate manipulation, speculation, and consequent economic sabotage. The site was summarily outlawed from publishing indicative market rates



eNaira Launch

Fourth Quarter



The Central Bank of Nigeria (CBN), pursuant to sections 2 and 19 of the Central Bank of Nigeria, Act 2007 (CBN Act) and section 57 of the Banks and Other Financial Institutions Act, 2020 (BOFIA), on the 25 October 2021, introduced Africa's first Central Bank Digital Currency (CBDC) – the eNaira. The eNaira is described as the digital form of the fiat currency, an electronic version of the local paper naira currency and at par in value (1 eNaira = 1 Naira). The eNaira is not intended to replace the Naira but to join it as currency-in-circulation as a less costly, more efficient, generally acceptable, safe and trusted means of payment.

The eNaira is a digital asset, accounted for in a digital ledger. It is also supplied and fully controlled directly by the CBN. It possesses a non-interest-bearing CBDC status, a transaction limit for customers, and a value-based transaction limit. Financial institutions licensed by the CBN are to be responsible for identity verification, eNaira payment processing, and creating wallets for customers to hold their eNaira. The eNaira wallet is similar to a bank account and is created in the same way. However, it is a separate account that is not connected to an already existing bank account. Since the launch, it has been reported that downloads have continued to increase to almost 700,000 and the wallet has been downloaded from North America to Australia and all over Africa. Furthermore, the report showed that the app was also downloaded in South America, Europe, Asia, and in almost all the countries in Africa.



With the addition of this payment system, it has been predicted that the eNaira would potentially serve to increase payment options, boost financial inclusion, reduce the cost of processing cash and drive efficiency for monetary policies, among other benefits for the Nigerian payment system

Finance Act 2021

On the last day of 2021, the Finance Act 2021 (Finance Act) was signed into law by President Muhammadu Buhari. The Finance Act, which came into effect on 1 January 2022, amends various extant statutes, in accordance with macroeconomics policy reforms

Section 2 of the Finance amends section 30 of the Capital Gains Tax (CGT) Act to the effect that CGT set at 10% will now be charged on gains accruing from the disposal of shares worth N100million (One Hundred Million Naira) or above in any twelve (12) consecutive months, except to the extent that the proceeds are reinvested in the shares of any Nigerian company. However, the transfer of shares under a regulated securities lending transaction is exempted.

In a similar vein, sections 4 and 8 of the Finance Act amends section 13(2) and 30 of the Companies Income Tax (CIT) Act respectively. By these amendments, the profits of foreign companies undertaking certain activities in Nigeria, though not being registered in Nigeria, are now subject to Company Income Tax.

Additionally, the Finance Act empowers the Federal Inland Revenue Service (FIRS), by the amended Section 30 of the CIT Act, to assess non-resident digital companies for tax on a fair and reasonable percentage of the portion of their turnover which is attributable to their significant economic presence in Nigeria.

Given the severe economic setback that Nigeria has suffered, particularly owing to the global pandemic, it is evident that the introduction of the amendments in the Act will raise the government's revenue to address rising debt servicing cost and budget deficits while stabilizing the economy.

Collection of Value Added Tax: The Rivers State Ruling

In 2021, the Rivers State Government instituted an action against the Federal Inland Revenue Service (FIRS) and the Attorney General of the Federation challenging the powers of the FIRS to collect VAT, Withholding Tax, Education Tax, and Technology levy within the State. In its judgment delivered on 9 August 2021, the Federal High Court (FHC) declared that the National Assembly lacked the power to make laws on sales tax, including VAT in Rivers State. Consequently, the decision validated the powers of the Rivers State Government through the Rivers State Internal Revenue Service (the RIRS) to administer and collect VAT in Rivers State. The Court issued an order of perpetual injunction restraining the FIRS and the Attorney General of the Federation, from collecting, demanding, threatening, and intimidating residents of Rivers State to pay the above taxes to FIRS.

Outlook For 2022 Part B

Pan-African Payment and Settlement System

The African Union in conjunction with Afrexim Bank and the West African Monetary Institute (WAMI) has developed the Pan-African Payment Settlement System (PAPSS), a cross-border financial market infrastructure that serves to enable seamless payment transactions across Africa. For context, a user on the system can pay in their local currency for a product, while the merchant in another country receives payment in their local currency – which would potentially bridge intra-continental trade gaps, especially in the import and export of goods. Beyond this, PAPSS also seeks to record informal cross-border trade among countries on the continent, creating a central payment and settlement infrastructure for Africa.

In preparedness for the operation of the system, the Central Bank of Nigeria (CBN) issued the Guidelines on the Operations of PAPSS in Nigeria, in October 2021. The guidelines set certain standards with the aim of bringing Nigeria in line with the continental economic integration, in tandem with the African Continental Free Trade Area Agreement (AfCFTA).

It is worthy of note that PAPSS was formally launched and opened for commercial use on 13 January 2022 in Ghana. Ultimately, we believe PAPSS will be a commercially viable tool instrumental in addressing critical barriers for SMEs and MSMEs to trade competitively, as well as opening African countries to more market opportunities. We hope to see a steadily increased adoption of the system by more central banks on the continent.

The Petroleum Industry Act and the Nigerian Oil and Gas Industry

Just as earlier noted, the enactment of the long-awaited Petroleum Industry Act (PIA) redefined the legal, regulatory and fiscal framework of the oil and gas industry. The implementation of the 319-section law commenced in 2021 with the incorporation of the Nigerian National Petroleum Company Limited (NNPC Limited), the establishment and constitution of the board of the Nigerian Upstream Petroleum Regulatory Commission (the Commission) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (the Authority). However, a lot still needs to be done and the following implementation steps, amongst others are anticipated in 2022:

01

Transfer of assets and liabilities of NNPC to NNPC Limited

02

Transfer of assets and liabilities of the Department of Petroleum Resources to the Commission and Authority

03

Issuance of regulations and guidelines by the Commission and Authority – which are required to provide clarity to industry players on certain provisions of the PIA.

04

Issuance of new licences in line with the new licensing regime as provided by the PIA.

Telecommunications: 5G Infrastructure; The Prospects and Potential Impact on the Telecoms Industry (Competition and Growth), the Tech Space (Innovation and Opportunities), and the Overall Economy

Fifth-generation wireless technology (5G) is the most recent version of cellular technology, designed to dramatically improve wireless network speed and responsiveness. Nigeria became the first West African country to initiate 5G network trials in 2019, when its biggest telecoms provider, MTN Nigeria, ran spectrum tests in its offices in Lagos and Calabar. This marked the foray of 5G into Nigeria. In 2021, MTN Nigeria and Mafab Communications won the two slots of the 3.5GHz Spectrum auction for the deployment of 5G technology.

This landmark achievement is expected to positively impact the security challenges in the country as security institutions are encouraged to leverage the speed, dependability, and real-time services that the technology will provide. For consumers and businesses, it will serve as an enabler for investments, innovation (internet of things IoT) and significantly impact the entertainment industry with respect to faster streaming and multisensory digital content. The national policy on 5G has recently been launched to provide guidelines on adoption and allay public concerns around health and data protection.



Contact us



Olaniwun Ajayi LP - Branch Offices

Lagos

The Adunola Plot L2.
401 Close. Banana Island,
Ikoyi, Lagos, Nigeria.

Abuja.

4th Floor Leadway House
Plot 1061, Cadastral Avenue,
Central Business District,
Abuja, Nigeria.

Port-Harcourt

Flat 5, BICS Suite
25 Herbert Macaulay Street
Old GRA, Port-harcourt
River State, Nigeria

First Bank of Nigeria Limited Head Office

Samuel Asabia House
35 Marina
P.O. Box 5216,
Lagos,
Nigeria



+234 1270 2551
0700-OLANIWUN

01-448 5500
0700-FIRSTCONTACT



www.olaniwunajayi.net

www.firstbanknigeria.com

 @OlaniwunAjayiLP

@FirstBankngr 

 Olaniwun Ajayi LP

First Bank of Nigeria Ltd 

 Olaniwun Ajayi Lp

First Bank of Nigeria Limited 

For Enquiries: strategicpartnerships@firstbanknigeria.com | segmentsandvaluepropositions@firstbanknigeria.com | lawyers@olaniwunajayi.net

Disclaimer

"The information provided in this Newsletter does not, and is not intended to, constitute legal advice on any subject matter; instead, all information available in this Newsletter are for general informational purposes only. Readers of this Newsletter should contact their attorney to obtain advice with respect to any particular legal matter. Only your attorney or financial Advisors can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your particular situation. Use of, and access to, this Newsletter or any of the links or resources contained within the Newsletter do not create any relationship between the reader and the Newsletter authors.

All liability with respect to actions taken or not taken based on the contents of this Newsletter are hereby expressly disclaimed. The content on this Newsletter is provided "as is" and no representations are made that the content is error-free"

