



DUALE, OVIA &
ALEX-ADEDIPE

Understanding the Central Bank of Nigeria Guidelines on the Operation of Bank Accounts for Virtual Assets Service Providers in Nigeria



Introduction

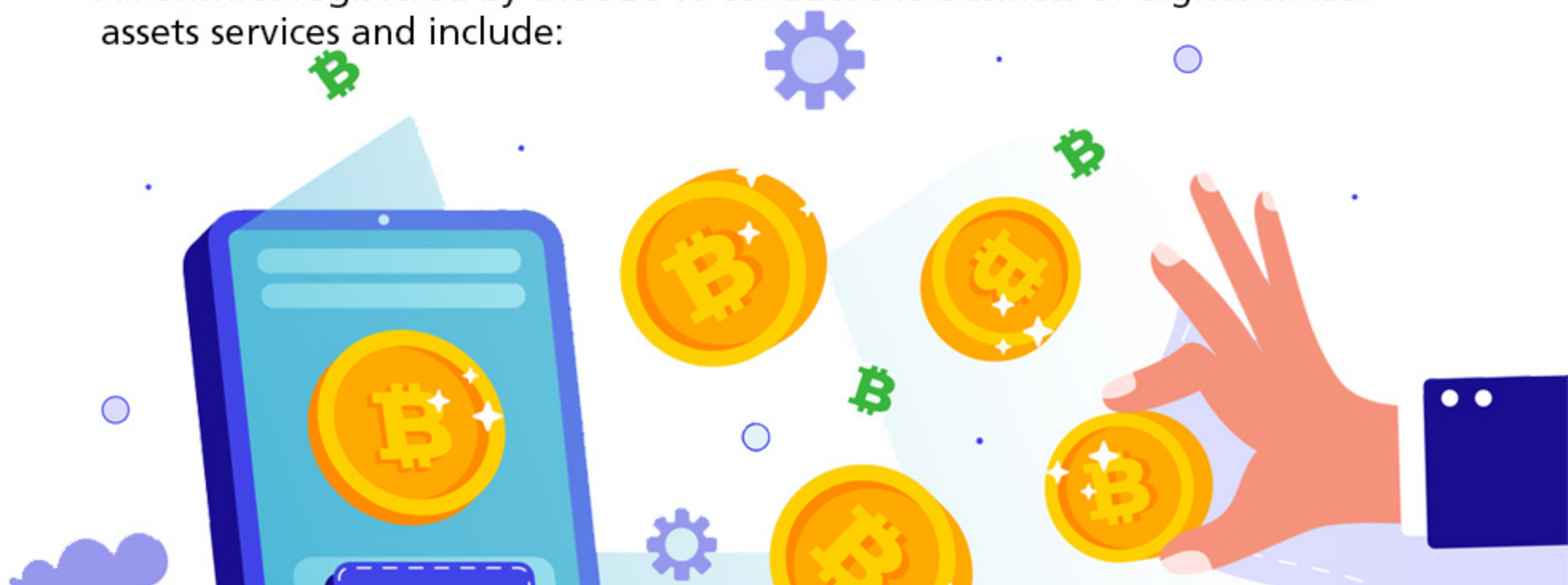
On 22nd December 2023, the Central Bank of Nigeria ("**CBN**") issued Guidelines FPR/DIR/PUB/CIR/002/003 on the operations of bank accounts for virtual assets service providers ("**VASPs**") (the "**Guidelines**"). The Guidelines lifted the ban hitherto placed on banks and other financial institutions from operating accounts for virtual/digital service providers.

We have therefore, summarized the key provisions of the Guidelines for the benefits of our clients and a wide range of stakeholders in the virtual/digital assets ecosystem.

1. Scope of the Guidelines

The Guidelines applies to banks and other financial institutions under the regulatory purview of the CBN. They include:

- Commercial and merchant banks
- Payment service providers (restricted to those that are involved in settlement for third parties)
- All entities registered by the SEC to conduct the business of digital/virtual assets services and include:



- o Virtual Assets Service Providers
- o Digital Asset Custodian
- o Digital Asset Offering Platform
- o DAX
- o DAX Operator
- o Any other entity that may be categorized by the CBN from time to time

The Guideline complements other relevant legislation and regulations on Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation Financing of Weapons of Mass Destruction in Financial institutions and customer due diligence.

2. Activation of the SEC Regulatory Framework

The SEC Regulatory Framework, issued last year and currently in abeyance, is by virtue of this Guidelines made effective and accordingly binding on all stakeholders transacting in digital/virtual assets in Nigeria. Pertinently, the SEC Regulatory Framework stipulates the license categorization and relevant thresholds for participants in digital/virtual assets in Nigeria.



Paragraph 7.3 of the Guidelines requires VASPs, DAX and DAOP to show evidence of valid license obtained from SEC as part of the account opening requirements. In furtherance of the foregoing, paragraph 5.0 of the Guideline also provides that every entity licensed by SEC pursuant to the SEC Regulatory Framework is eligible to participate in digital/virtual asset transactions. Consequently, participants are expected to comply with the SEC Regulatory Framework in addition to this Guidelines.

3. Scope of Banks and other financial institutions' participation in digital/virtual asset transaction

Banks and other financial institutions are only permitted to do the following:

- Opening of designated accounts
- Provide designated settlement accounts and settlement services
- Act as channels for foreign exchange flows and trade
- Any other activity that maybe permitted by the CBN from time to time

They are however prohibited from holding, trading and/or transacting in virtual currencies on their own account.



4. Operation of bank account by VASPs

VASPs are only permitted to operate bank account designated for the purpose of conducting business of digital /virtual assets ("**Designated Account**"). The Designated Account must be approved by the senior management who must be an officer of the bank from the rank of assistant general manager and above.

5. Restriction on the use of the account

The Designated account shall only be used for: Transactions on virtual/digital assets and not for any other purpose. Accordingly, the designated account:

- Should not be used for cash withdrawal
- Should not be used for clearing third party cheques
- Withdrawal shall be done only through a Manager's Cheque or transfer to an account except where it is for settlement of a virtual/digital assets transaction which shall be done through a transfer to another Designated Account.



6. Transaction limits and Monthly returns to CBN

The Guidelines mandates FI to establish transaction limits for each Designated Account taking into account 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.

Further, FI is expected to file returns about the Designated Account with the CBN every 10th of the following month.

7. Operation of designated settlement account by FI

The Guidelines allow FI to operate designated settlement account of SEC's VASPs/DA entities, upon authorization from the CBN. All obligations arising from transactions within the VASPs/DA entities platform shall be settled in the designated settlement accounts maintained by them in the banks. The VASPs/DAs shall not be given value before settlement occurs or earlier than the settlement. The settlement cycle for transactions shall be T+3. FIs shall ensure that VASPs/DAs entities maintain minimum collateral equal to 150% highest net debit position into the designated settlement account over the past 10days. Transactions on the VASP/DA platform shall only be in Naira.



8. Risk Management for Anti-Money Laundering and Customer Due Diligence

The Guidelines mandates FIs to conduct customer due diligence in the following instances:

- When onboarding a VASPs in a new relationship
- When a transaction of significant value takes place
- When a customer information/documentation change substantially
- When there is material change in the way that the account is being operated or
- When the institution becomes aware that it lacks sufficient information about an existing customer.

FIs shall implement enhanced due diligence (“**EDD**”) requirements to all Designated Account opened in accordance with these Guidelines on the basis of materiality and risk.



9. Duties of FIs with respect to Consumer Protection

The Guideline mandates FIs to:

- Ensure that appropriate consumer protection systems against risks of fraud are established
- Provide a channel for communication of customer complaints against designated account holders
- Establish complaints redress mechanism and ensure proper communication of this mechanism to the general public
- Ensure strict adherence to the provision of the circular issued by CBN on deployment of the consumer complaints management system.

10. Sanctions

In furtherance of its statutory regulatory powers, the CBN may take any of the following actions against FIs, its board of directors, officers or staff for failure to comply with the provisions of this Guidelines:

- Prohibition from opening any further Designated Account
- Monetary penalty not below the sum of N2,000,000 against the FIs, members of its board, senior management and any staff for any infraction
- Suspension of operating license of a FI



Conclusion

Notwithstanding the wrong message sent by the previous regulatory stance taken by the CBN, we envisage that the coming of this Guidelines will i) restore the much-needed confidence and respite amongst stakeholders in the virtual/digital assets ecosystem and ii) unlock fresh local and foreign investment in decentralized ledger technology in Nigeria.

