

CBN Clarifies List of Items Eligible for Foreign Exchange



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Overview

The Central Bank of Nigeria (“CBN”) on 17 May, 2017 issued a circular clarifying certain items that are eligible for foreign exchange (“FX”) in the Nigerian official foreign exchange market (“FX market”).

This follows the CBN Circular dated 3 May 2017 titled the “Revised Documentation Requirement for Allocation of Foreign Exchange for Small - Scale Importation” which appeared to have lifted the ban on the items classified as ‘not valid for forex’ in relation to

small scale importation with a value of not more than USD20,000 per quarter. The CBN thereafter issued a press release to clarify that the May 3 circular did not apply to the 41 items that are currently classified as ‘not valid for forex’.

We have provided highlights of the Circular and its implications below.

Background: In mid-2015, the CBN prohibited importers from accessing the FX market to source FX for importation of 41 items.

The list of items, which included some manufacturing inputs, only contained general descriptions, with no specific definitions or official identification codes, and created confusion amongst importers of potentially affected items. This led to many enquiries across the FX market.

The Circular seeks to clarify that the specified items in the new Circular are not affected by the 2015 prohibition and remain eligible for FX.

Inclusion of HS Codes for eligible items: Unlike the 2015 prohibition list, the Circular uses precise terminology, including common external tariff harmonized system codes (“HS Codes”) used by the Nigerian Customs Service to identify imported goods. These precise references should obviate any subsequent need to seek clarification from the CBN in relation to a particular named item.

Carve out of specific items from previous broad categories:

While “vegetable oils” and “processed vegetable products” are named on the 2015 list as generally ineligible for sourcing FX from the FX market, the Circular lists “*Animal or vegetable fat and oils fractions hydrogenated*” with HS Code 1516.2010.00) as eligible.

Similarly, the 2015 list includes glass and glassware generally but the Circular specifically identifies certain categories of glassware (mainly those categories used in pharmaceutical manufacturing) as eligible. This applies also to textiles.

Takeaway

The precision of the Circular is a welcome development for two reasons. HS Codes would limit confusion and, precision helps to target specific products where importation is supported or discouraged as the case may be.

The list does not appear to be exhaustive, as there are items which are not listed on either of the CBN’s circulars.

Our interpretation is that such items continue to be valid for FX as the Foreign Exchange Manual provides that visible imports are eligible transactions except imports under absolute prohibition.