The National Housing Fund (Establishment) Act 2018

What you need to know and ten cogent reasons Nigeria cannot afford the new law!

The golden principle of tax policy is that all taxes are effectively borne by real people regardless of the base on which it is charged and irrespective of who is making the direct payment. Hence, this law effectively imposes fresh taxes on all workers (public and private sectors), pensioners, shareholders, future home owners and tenants.

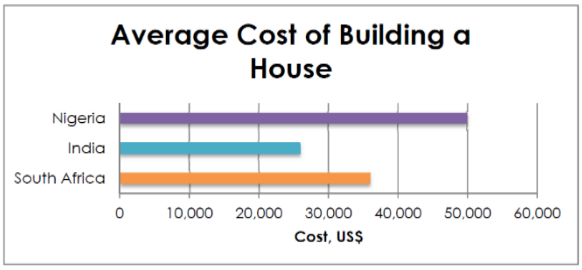
Background

According to Maslow's hierarchy of needs theory, shelter is one of the basic needs of man and ranks next only to air, food, water and sleep. This underscores the importance of housing to the well-being of people.

The real estate sector in Nigeria has struggled for decades contributing less than an average of 7 percent to GDP and under 1 percent to employment. The sector has been in decline for the better part of the last 5 years. Compared to the rest of the world where it is the largest sector in countries like the US and Australia in terms of contributions to GDP and also provides the largest employment in Australia.

The National Housing Fund (NHF) was established by the NHF Act of 1992 to mobilise funds that will facilitate the provision of affordable housing for Nigerians. Under the extant NHF law, every Nigerian earning N3,000 or more per annum is required to contribute 2.5 percent of their monthly basic salary to the NHF. The funds mobilized will be made available to contributors at affordable interest rates to build homes.

Fast forward to 2019, the housing problem seems to be getting worse. It is estimated that Nigeria has a deficit of 17 million houses as of August 2012 and requires 700,000 houses annually compared to less than 100,000 currently being constructed (NBS). Ironically the cost of building a house in Nigeria is relatively higher while the average income level is relatively lower compared to global average. This means even when there is a supply of housing units, the price tag whether self-built or off the shelf purchase is out of the reach of majority of Nigerian workers thereby making affordable housing still a dream.



Average cost of building a house in Nigeria, India and South Africa – NBS 2015

Beyond access to finance, other major challenges facing the sector include poor government policies and bureaucratic regulations, unreliable data and lack of transparency, shortage of high quality building materials, poor infrastructure especially transportation, and shortage of skilled labour.

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The Proposed NHF Act

On 18 February 2019, the National Assembly passed the National Housing Fund (Establishment) Act 2018 to repeal the extant NHF Act, Cap N45, LFN 2004. The key provisions of the new law include:

- Mandatory 2.5 percent contribution of monthly income by employees earning minimum wage and above in public and private sectors to be deducted and remitted monthly by all employers
- 2.5 percent of income by self-employed individuals
- 2.5 percent levy on cement, locally produced or imported
- Banks, insurance companies and pension fund administrators shall invest a minimum of 10 percent of their profits before tax into the Fund at an interest rate not exceeding 1 percent above rate payable on current accounts by banks:
- Penalty for non-compliance of up to N100 million for corporates and N10m for individuals
- Sanctions include cancellation of operating licenses of banks, insurance companies and PFAs for violations
- Withdrawal by contributors who have attained the age of 60 years or 35 years of service to be at interest rate of 2% per annum
- The Fund and any refund of contributions are exempted from payment of taxes

What is the cost of the proposed changes?

The base of calculating the NHF contribution will increase significantly. For instance, a worker earning a wage of 18,000 per month will pay N450 monthly. In context, this is 250% of the N180 which the worker will pay as PAYE.

	Monthly income	Monthly PAYE	Monthly NHF	NHF % of PAYE
Minimum wage earner	18,000	180	450	250%
Middle class worker	250,000	29,167	6,250	21%

Although contributors are expected to benefit from the scheme, in reality only a tiny proportion of contributors will ever benefit from it while the vast majority can only withdraw their contributions after attaining the age of 60 years or 35 years of service. By this time the capital is almost completely eroded as the return on contributions is grossly insufficient to even cover inflation.

For instance, N1 million naira which was equivalent to USD 1.3 million 35 years ago will be worth exactly N2 million today at 2 percent interest compounded annually but equivalent to USD5,600 which is less than 1 percent of the original contribution in real terms. This is effectively a 100 percent tax on the investment income and 99 percent tax on the capital.

The golden principle of tax policy is that all taxes are effectively borne by real people regardless of the base on which it is charged and irrespective of who is making the direct payment. Hence, this law effectively imposes fresh taxes on all workers (public and private sectors), pensioners, shareholders, future home owners and tenants.

Ten reasons why the proposed law is a bad idea

1. The contribution is regressive as it taxes the poor more than the rich.
2. Making all employers liable to deduct and remit the contributions monthly (without a threshold) will worsen the ease of doing business and Nigeria's paying taxes ranking
3. Introducing earmark taxes and increasing the tax burden of contributors without addressing other fundamental issues like land registration and legal framework for real estate investment trusts is inconsistent with the 2017 National Tax Policy
4. Imposition of the 2.5% levy on cement is a tax on property development which will make housing even less affordable. ***It is counter-intuitive to impose a tax on cement in order to make housing development more affordable.***
5. The penalty regime is draconian, excessive and disproportionate to the violations under the law
6. The exemption from tax clause is badly worded, it means refunds are exempt but contributions are taxable.
7. Negative impact on the capital market – because banks, insurance companies will have to set aside 10 percent of the profits for NHF investment, the returns available to shareholders will be less hence reducing the attractiveness and value of their shares
8. Cost of other funds – Since funds will be forcefully diverted from other uses, it means less liquidity and hence higher cost of borrowing
9. GDP impact – the opportunity cost of the funds going to NHF is that investment will be

negatively impacted as well as consumption thereby impacting negatively on GDP growth especially in the likely event that the growth from NHF investment in housing is insufficient to offset the decline in other sector.

10. Pensioners will be worse off as the return of 2% per annum on their contributions to be withdrawn after attaining 60 years of age or 35 years of service means their investment will be completely eroded.

The way forward

While the proposed law may be well intentioned, availability of funds alone will not solve the myriad of challenges facing the housing sector which centre mostly on policies and regulations. If you make funds available at a low rate by regulation rather than by market forces, it does not mean the funds are cheap, it means someone else is paying for it. Even if we assume that the funds are indeed cheap, affordable financing of itself will not guarantee affordable housing. I recommend the following action points:

Action #1 – Sector review and assessment

A good place to start would be to render account to contributors and Nigerians in general articulating the achievements of the past 27 years of the NHF scheme. The report should also provide an assessment and impact analysis of major challenges facing the housing sector.

Action #2 – Review applicable regulations and policies

Many countries such as Australia and the US where housing is thriving do so by simply providing the right environment for private sector investment and empowerment of the people to ensure affordability. With proper engagement of key stakeholders, Nigeria should fix its housing policies and regulatory framework including those required for effective operation of Real Estate Investment Trusts (REITS).

Action #3 – Consider other means of affordable housing

To cater for the vast majority of Nigerians, government should consider other forms of inexpensive housing ideas such as pallet homes, outbuilding, shipping containers, etc.

My final thoughts

The main objective of NHF should not be just to make *affordable funding* available for housing, but to create an environment that makes *affordable housing* possible. To achieve this, Nigeria must adopt a holistic approach to the challenges facing the sector of which affordable financing is only a component. The fact that there is no marked progress to show for the 27 years of establishing the NHF is proof that Nigeria's housing problem cannot be solved by simply throwing more money at the problem.

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