



Nigeria's Business Climate and Ease of Doing Business Initiatives

“Enforcement and implementation of the Orders is therefore the critical issue. How do these Orders differ from the extant laws which MDAs flagrantly disregard at the moment? Who will be directly responsible for the actualization of the objectives of the Orders? What are the channels available for applicants to report instances of non-compliance with the Orders by officials of the various MDAs? These questions require critical analysis if the country is to achieve effective implementation of the Order.”

Nigeria is viewed by many as a country with enormous opportunities and business potentials. The sheer size of the country's population, human and natural resources as well as its

diverse culture place the country in a class of potentially great nations. It is therefore a sad narrative when the challenges faced by businesses and entrepreneurs are considered. According to the World Bank Doing

Business Report 2017, Nigeria is ranked 169 among 190 economies in the ease of doing business.

A country's rating on the index is based on the average of multiple indices, about 10 of them. These include timing, procedure and cost of starting a business, dealing with construction and registering properties, access to electricity, getting credit, investor protection, ease of paying taxes, cross border trading, enforcing contracts and insolvency procedure. Without engaging in any scholarly research, an average Nigerian is likely to award very low score to the country on any of the indices. The government also seems to fully recognise this challenge as some of the initiatives being pursued by the National Economic Council (NEC) are directed at these areas.

In furtherance of Federal Government's commitment and determination to improve the business environment in Nigeria, various actions have been initiated. One of these initiatives is the 60 day national action plan covering key priority areas. The Presidential Enabling Business Environment Council (PEBEC) was directly in charge of the action plans and implemented through its Enabling Business Environment Secretariat (EBES). The action plan was closely followed by release of the scorecard on the 60 day action plan to measure the progress and achievements. As noted in our [Tax Alert 1](#) and [Tax Alert 2](#), the report highlighted 31 completed reforms across eight priority indicators. The scorecard specifically covered the success achieved within the 60 days period from February 21, 2017 to April 21, 2017.

Many giant steps have been taken by government to position Nigeria as a business-friendly nation. Some of the key initiatives are discussed below:

1. New Executive Orders

The Acting President, Prof. Yemi Osinbajo on Thursday, 18 May 2017, signed three executive orders which were directed at making the business environment more efficient. The first Executive Order addresses

the transparency and efficiency in the business environment and has six main focus areas. The focus areas include:

1.1 Transparency in Ministries Departments and Agencies

All Ministries, Departments and Agencies (MDAs) are enjoined to publish a complete list of all fees, timelines, conditions and requirements for obtaining permits, licenses and approvals both on their premises and websites.

The deadline for implementing this is 8 June 2017. It is expected that this would enhance certainty in government procedures, improve transparency and reduce cases of unauthorized collection of fees by officials of MDAs.

1.2 Default Approvals

MDAs are, by the Order, mandated to either approve or reject applications within the specified timelines, as an application would be deemed granted/approved where the agency fails to do this within the requisite timelines. Approval or rejection of applications must be communicated by at least two methods, including letters, emails and publications on the MDA's website. For applications which are deemed to be approved, the applicant can apply to the Minister in charge to issue a document or certificate as evidence of the grant within 14 days of lapse of the deadline. Deadline for implementing this directive is 8 June 2017.

If implemented, the bureaucratic process

currently being witnessed in MDAs should reduce, and ultimately result in a more fluid process which will be beneficial to businesses/investors. To ensure proper implementation and achievement of underlying aim, the following should be considered:

- Timelines for relevant Ministers to issue document evidencing grant of title. This is to ensure the delays do not move from the relevant parastatals to the Ministers' offices.
- Conflict with provision of substantive law – the default approval may appear to abrogate the provisions of the law and may thus create a conflict.

1.3 One Government Directive

Where an MDA requires a document from another MDA in order to deliver service to an applicant, it is the responsibility of the requesting MDA (not the applicant) to seek verification or certification from the issuing MDA. The requesting MDA shall only request a photocopy from the applicant. Deadline for implementation is 8 June 2017.

This directive is expected to promote inter-agency collaboration, and reduce the burden hitherto placed on applicants.

1.4 Entry experience of visitors and travelers

The different regulatory agencies at the airports are mandated to merge their respective departure and arrival interfaces into a single customer interface.

The intention of this directive is to ensure free entry of potential investors into the country.

Further, the Order also mandates that tourist and business visas must be issued within 48 hours and the issuance of visa on arrival must be done in a transparent manner. The Nigeria Immigration Service is also required to publish an up-to-date list of requirements and timelines for visa-on arrival on all immigration related websites.

The deadline for implementing all visa related issues under this section was 18 May 2017, while the deadline for implementing the merger of arrival and departure interfaces is 17 June 2017.

1.5 Ports Operations

All agencies present at the ports are required to harmonise their operations into one single interface station in one location in the port, and operate as a single joint task force at all times. Each port in Nigeria has also been directed to dedicate an existing export terminal to agricultural produce. Further, Apapa port has been mandated to resume 24-hour operations within 30 days of the issuance of the Order. The timeframe for commencement of these directives is not later than 17 June 2017.

The expectation is that this would encourage free flow of goods in and out of Nigeria, and minimize the bureaucratic delays currently associated with clearing of goods from our ports.

1.6 Ports Operations

The Order mandates the Registrar-General of Corporate Affairs Commission (CAC) to ensure that all registration processes (from the start of an application process to completion) are fully automated through the CAC website within 14 days of the issuance of this Order. Once this is implemented, we envisage a much shorter business incorporation process.

2. New reforms

2.1 Starting a business

In a bid to gradually automate business registration process, the CAC announced that it has stopped receiving manual applications in Abuja, Enugu, Kano, Kaduna and Port-Harcourt. Fresh applications must now be submitted via CAC's online registration portal.

Other business registration processes which have been automated include:

- generation of tax identification number upon completion of company registration
- public search window for determining available company names. Also the maximum turnaround for name registration is 12 hours
- electronic stamp duty integrated into the company registration portal
- document upload functionality which allows applicants to upload and submit all documents including those requiring signatures online
- consolidated online form, streamlined to

remove any unnecessary information

2.2 Paying Taxes

The Federal Inland Revenue Service (FIRS) has upgraded the Integrated Tax Administration System (ITAS) which allows taxpayers submit their tax returns online using the e-filing platform. The e-filing platform also allows for online payment of taxes directly from the ITAS platform. Several taxpayers have already started taking advantage to file their returns online.

In furtherance of FIRS' drive to automate the tax filing process, FIRS is increasing awareness of the new e-filing platform by encouraging taxpayers to complete 'E-Filing Access Application Form' which would grant them access to the platform.

Also, in response to feedback from users of the online platform, FIRS is making adjustments to the e-filing platform which are expected make filing of taxes easier. The updates were expected to officially go live on 1 June 2017. It is also expected that taxpayers would have a window within which they would be required to migrate fully to the e-filing system from the paper based filing.

2.3 Trading across borders

As part of its efforts to improve trading across borders, the Nigerian Customs Service (NCS) has cut down the number of paperwork required for exporters to execute before exporting items, from 17 to 10.

The NCS is reported to have attained 75% automation level while cutting down inspection hours of imported items and paper processing at ports and airports in line with the Federal Government's ease of doing business goals. This should also go a long way in achieving the objective of the Order in respect of port operations.

2.4 Getting Credit

The Acting President on Tuesday 30 May 2017, signed two bills into law. The signed bills are the Secured Transactions in Movable Assets Act, 2017 (Collateral Registry Act) and the Credit Reporting Act, 2017. The aim of these new Acts is to ensure that Nigerians, especially Micro, Small and Medium Enterprises (MSMEs), have easy access to credit facilities. The Collateral Registry Act will allow business owners use movable assets (such as motor vehicles, equipment and accounts receivable) as collateral for accessing loans. These assets must however be registered with the National Collateral Registry before they can be used as collateral.

The Credit Reporting Act will facilitate sharing of credit information between credit bureaux, financial institutions and other lenders and institutions that provide credit facilities such as telecommunication companies and retailers. Effectively, lenders will have access to the credit history of potential borrowers and will be able to make informed decisions as to the extent of loans they can grant.

It is important to note that these new Acts have now replaced the existing Central Bank of Nigeria Guidelines regulating the operations of the National Collateral Registry and credit bureaux. We expect these Acts to make it easier for small business owners to access credit facilities from banks and other financial institutions and would ultimately impact positively on the Federal Government's drive to improve the ease of doing business for MSMEs in Nigeria.

Conclusion

The current momentum of business reforms initiated by PEBEC is commendable. Further, the step towards enforcing compliance with these

reforms through issuance of Executive Orders is a step in the right direction. Nonetheless, it is instructive to note the attendant challenges in the implementation of the Orders. For instance, while there are set deadlines within which the Orders are expected to be implemented, there are no provisions for penalties for MDAs who fail to meet the deadlines.

Enforcement and implementation of the Orders is therefore the critical issue. How do these Orders differ from the extant laws which MDAs flagrantly disregard at the moment? Who will be directly responsible for the actualisation of the objectives of the Orders? What are the channels available for applicants to report instances of non-compliance with the Orders by officials of the various MDAs? These questions require critical analysis if the country is to achieve effective implementation of the Order.

Overall, investors are encouraged to key into these reforms which are in their best interest. We envisage that with the success recorded thus far, Nigeria will move up in the World Bank's next rankings in the Ease of Doing Business Report.

Contact us:

Yomi Olugbenro

Lead Tax Partner, Tax & Regulatory Services

Mobile: +234 1 904 1724

Email: yolugbenro@deloitte.com.ng

Seye Arowolo

Partner, Tax & Regulatory Services

Mobile: +234 1 904 1723

Email: oarowolo@deloitte.com.ng

Patrick Nzeh

Partner, Tax & Regulatory Services

Mobile: +234 8 493 3103

Email: pnzeh@deloitte.com.ng

This is by no means an exhaustive documentation of the proposed Policy. Readers are enjoined to read the Policy proposal in full and take independent advice thereon.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Akintola Williams Deloitte, a member firm of Deloitte Touche Tohmatsu Limited, is a professional services organization that provides audit, tax, consulting, accounting and business process solutions, financial advisory and risk advisory services.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 245,000 professionals make an impact that matters, please connect with us on [Facebook](#), [LinkedIn](#), or [Twitter](#).

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2017. For information, contact Akintola Williams Deloitte. All rights reserved.