

CHAPTER 151

FOREIGN CURRENCY (DOMICILIARY ACCOUNTS) ACT

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SCHEDULE

CHAPTER 151

FOREIGN CURRENCY (DOMICILIARY ACCOUNTS) ACT

An Act to authorise citizens of Nigeria, persons resident in Nigeria, corporate bodies in Nigeria, diplomats, foreign diplomatic missions and international organisations to import foreign currency and deposit same in a designated local bank account maintained in an approved foreign currency. 1985 No. 18.

[1st October, 1985] Commencement.

1. (1) Notwithstanding anything to the contrary contained in any other enactment, including the Bills of Exchange Act, the Central Bank of Nigeria Act, the Exchange Control Act and the Exchange Control (Anti-Sabotage) Act, as from the coming into force of this Act, it

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shall be lawful for the persons specified in subsection (2) of this section to open, maintain and operate domiciliary accounts designated in foreign currency in any of the following banks, that is to say—

- (a) First Bank of Nigeria Limited;
- (b) Union Bank of Nigeria Limited;
- (c) United Bank for Africa Limited;
- (d) International Bank for West Africa Limited;
- (e) Nigeria Arab Bank Limited;
- (f) Allied Bank of Nigeria Limited;
- (g) Savannah Bank of Nigeria Limited;
- (h) National Bank of Nigeria Limited;
- (i) African Continental Bank Limited;
- (j) Bank of the North Limited;
- (k) New Nigeria Bank Limited;
- (l) Habib Bank Nigeria Limited;
- (m) Societe Generale Nigeria Limited;
- (n) Progress Bank Nigeria Limited;
- (o) Commercial Credit Lyonnais Nigeria Limited;
- (p) Bank of Credit and Commerce International (Nigeria) Limited; and
- (q) such other commercial or merchant banks as the President may, from time to time, in an Order published in the *Federal Gazette*, appoint.

(2) The persons referred to in subsection (1) of this section authorised to open, maintain and operate domiciliary foreign currency accounts are as follows—

- (a) citizens of Nigeria;
- (b) aliens resident in Nigeria;
- (c) bodies, corporate and unincorporate, registered under the relevant laws operative in Nigeria;
- (d) foreign diplomats, diplomatic and consular missions and international organisations; and
- (e) such other persons as the President, Commander-in-Chief of the Armed Forces may, from time to time, designate in an Order published in the *Federal Gazette*.

(3) The foreign currencies in which an account may be opened, maintained and operated are as follows—

- (a) the United States dollar;
- (b) the British pound sterling;
- (c) the French franc;
- (d) the Deutsche mark;
- (e) the Swiss franc; and
- (f) such other foreign currency as the President, Commander-in-Chief of the Armed Forces may, from time to time, by order published in the Federal Gazette, prescribe.

(4) No currency which is not designated as an internationally convertible currency shall be accepted for the purpose of any transaction relative to this Act; but other internationally convertible foreign currencies not designated in subsection (3) of this section shall be accepted by the bank and converted at the prevailing exchange rate of the currency in which the account is maintained and credited to such account.

(5) Subject to the provisions of section 4(1) of this Act, a person making an application to open an account under this Act shall not be required and if required shall not be obliged to disclose the source of moneys sought to be deposited in such account.

(6) A person may open more than one account under this Act designated in the same or different foreign currencies and at the same or different banks.

(7) No money imported for the purposes of this Act shall be liable to seizure or forfeiture or suffer any form of expropriation by the Government of the Federation or of a State.

2. (1) Every application for the opening of a domiciliary foreign currency account (hereafter in this Act referred to as "an account") shall be made in Form FCA 1, as specified in Part A of the Schedule to this Act.

The domiciliary foreign account.

(2) Every account shall be opened with and have therein at all times a sum not less than the equivalent of one hundred naira designated in foreign currency.

(3) The bank shall pay to the credit of an account interest at a rate to be prescribed and published by the Central Bank of Nigeria from time to time.

(4) The Central Bank of Nigeria may authorise the banks specified in section 1(1) of this Act to transact banking business with any foreign currency deposited with such banks pursuant to this Act.

Deposit and
withdrawal
from
account.

3. (1) On opening an account, the bank shall issue the depositor with a passbook as in Form FCA 3 in Part B of the Schedule to this Act and all transactions relative to that account shall be reflected in such passbook.

(2) Any application for the deposit of money into an account shall be made on Forms FCA 2A and FCA 2B in Part C of the Schedule to this Act.

(3) Any person who wishes to withdraw the naira equivalent of the foreign currency standing to the credit of his account shall sell the said foreign currency to the Central Bank of Nigeria at the prevailing exchange rate and the holding bank shall, after deducting its service charges in naira, transfer the balance of the foreign currency to the Central Bank of Nigeria.

(4) A depositor who wishes to withdraw any foreign currency from an account affected by this Act shall complete Form FCA 4 in Part D of the Schedule to this Act and shall not be required to give prior notice to the Bank for the withdrawal.

(5) All transactions relative to an account shall be conducted in person by the depositor.

(6) Withdrawal from an account shall only be made from the branch of the bank in which the account is maintained.

(7) A depositor shall forthwith report the loss or destruction of his passbook to the bank by which it was issued.

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(5) All transactions relative to an account shall be conducted in person by the depositor.

(6) Withdrawal from an account shall only be made from the branch of the bank in which the account is maintained.

(7) A depositor shall forthwith report the loss or destruction of his passbook to the bank by which it was issued.

(8) No transaction relative to an account shall be made and no foreign currency withdrawn from an account shall be disposed of outside the banking system or in any wise howsoever in contravention of this Act.

(9) Interest shall be credited to an account twice in every year, first in March and then in September.

4. (1) Any person who wishes to operate an account or deposit therein any foreign currency imported otherwise than by bank drafts, mail or telegraphic transfers, shall present to the bank as evidence of such importation, a declaration made at the time and point of importation on Nigeria Exchange Control Forms $\frac{K}{TM}$ (popularly known as the "Yellow Form"), as specified in Part E of the Schedule to this Act; but such declaration shall not disclose the source of the money.

Importation, exportation, etc. of foreign currency.

(2) Any person wishing to export any foreign currency out of Nigeria shall at the port and time of exportation complete the Nigeria Exchange Control Form $\frac{J}{TE}$ as specified in Part F of the Schedule to this Act.

(3) Exporters of goods, other than exporters of petroleum and petroleum products, may retain and deposit in an account foreign currency equivalent to 10 per cent of the proceeds of the export concerned.

5. (1) The Central Bank of Nigeria shall in the normal course of its duties control and supervise the general operations of the provisions of this Act.

Control and supervision by the Central Bank of Nigeria.

(2) Every bank concerned with the operation of domiciliary foreign accounts shall at the end of each month complete and submit a report to the Central Bank of Nigeria as in Forms FCA 5 and FCA 6 in Part G of the Schedule to this Act.

(3) For the avoidance of doubt, the report referred to in subsection (2) of this section shall relate generally to the transactions under this Act and not to the identity of depositors.

Offences and penalties.

6. (1) Any person who—

- (a) being a depositor, withdraws from an account affected by this Act any foreign currency and sells such currency to an unauthorised dealer whether in Nigeria or outside Nigeria;
- (b) with an intent to defraud, forges, mutilates, utters or defaces any passbook maintained pursuant to this Act;
- (c) being a bank, converts the proceeds of any foreign account maintained in such bank to a use for which it was not intended; or
- (d) being a depositor, negotiates any draft, foreign bank note or negotiable instrument otherwise than through the banking system,

shall be guilty of an offence under this Act.

(2) A person convicted of an offence under this Act shall be liable—

- (a) in the case of an individual, to imprisonment for a term not exceeding five years;
- (b) in the case of a customs officer or a bank official, to imprisonment for a term not exceeding ten years;
- (c) in the case of a body corporate, to a fine ten times the amount involved,

and in addition, the foreign currency, the subject matter of the charge, shall be forfeited to the Federal Military Government.

(3) Where an offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a proprietor, director, manager, secretary or other similar officer of the body corporate or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he had exercised all such diligence as he ought to have exercised having regard to the nature of his functions in that capacity.

(4) An offence under this Act shall be triable by the tribunal set up under the Exchange Control (Anti-Sabotage) Act.

(5) Accordingly, for the purposes of the trial of an offender under this Act, the provisions of sections 4 to 12 of the Exchange Control (Anti-Sabotage) Act (which relate to procedure at trials) shall be read as one with this Act.

7. (1) The relevant provisions of—

- (a) the Bills of Exchange Act;
 - (b) the Central Bank of Nigeria Act;
 - (c) the Exchange Control Act;
 - (d) the Exchange Control (Anti-Sabotage) Act,
- shall be read with such modifications as to bring them into conformity with the provisions of this Act.

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(2) If any other law, including the laws specified in subsection (1) of this section, are inconsistent with this Act, the provisions of this Act shall prevail and that other law shall, to the extent of such inconsistency, be void.

(3) For the avoidance of doubt, nothing in this Act shall affect the operation of any law restricting or regulating the importation or exportation of the naira.

8. In this Act, unless the context otherwise requires—

“authorised dealer” has the same meaning as in the Exchange Control Act; and “unauthorised dealer” shall be construed accordingly;

“account” means a domiciliary foreign account opened, maintained and operated under this Act;

“bank” has the meaning assigned thereto by section 41 of the Banking Act;

“foreign currency” means any currency specified under or pursuant to section 1(3) of this Act.

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tion.
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Cap. 28.

9. This Act may be cited as the Foreign Currency (Domiciliary Accounts) Act.

Short title.