# NATIONAL ASSEMBLY PASSES THE NATIONAL HOUSING FUND (ESTABLISHMENT) BILL 2018

On 18 February, 2019, both houses of the National Assembly passed the National Housing Fund (Establishment) Bill, 2018 (the **NHF Bill**). The NHF Bill seeks to repeal the National Housing Fund Act Cap. N45, Laws of the Federation, 2004.

In the main, the NHF Bill establishes the National Housing Fund (the **Fund**), to be managed and administered by the Federal Mortgage Bank of Nigeria[1] (**FMB**). The Fund will be funded by:

i. 2.5% (ex-factory price before transportation cost) levy payable by local manufacturers and importers of cement on each bag of 50 kilograms of cement or its equivalent in bulk;[2]

ii. 2.5% deductions on the monthly income of Nigerians in the public and private sectors, earning the national minimum wage and above, with an interest rate of 2% per annum payable on the contribution;[3]

iii. minimum of 10% of profits before tax earned by commercial and merchant banks, insurance companies and registered Pension Fund Administrators (PFAs), with an interest rate of 1% above the interest rate payable on current accounts by banks;[4]

iv. financial contributions by the Federal Government, for the purpose of granting long term loans and advances for housing development in Nigeria.[5]

Employers have an obligation to deduct the required contributions from the employee's monthly income and remit it to the Fund, whilst self-employed persons are required to personally remit the deductions to the Fund.[6] Obligations are further imposed on the: (i) Central Bank of Nigeria (CBN) to collect the required contributions from commercial and merchant banks;[7] (ii) National Insurance Commission (NAICOM) to collect the needed contributions from insurance companies;[8] (iii) National Pension Commission to collect contributions from the registered PFAs;[9] and (iv) Federal Inland Revenue Service (FIRS) to assess and collect from local manufacturers and importers of cement.[10] Contributions are made to the FMB who in turn is immediately required to credit to the Fund.[11]

The NHF Bill provides that the obligation that insurance companies and PFAs make contributions to the Fund subsists notwithstanding any provision in the Insurance Act or the Pension Reform Act, relating to investment of insurance companies or PFAs.

1. Section 15(1) of the NHF Bill
2. Section 4(1) of the NHF Bill
3. Section 5(1) of the NHF Bill
4. Section 6 of the NHF Bill
5. Section 7(1) of the NHF Bill
6. Section 8(1) and 9 of the NHF Bill
7. Section10(1) of the NHF Bill
8. Section 11(2) of the NHF Bill
9. Section 12(1) of the NHF Bill
10. Section 13 of the NHF Bill
11. Section 14 and 15(1) of the NHF Bill

Strikingly, the NHF Bill imposes severe sanctions on persons who fail to make the required contributions. For instance, the NHF Bill confers on the CBN, NAICOM and PENCOM the statutory power to cancel the license of any commercial or merchant bank, insurance company or PFA that fails to make the required contributions as and when due.[12]

## SIGNIFICANCE OF THE NHF BILL

The NHF Bill now imposes a higher tax burden on contributors as the basis for the computation of the contribution of Nigerians in the public and private sectors is now 2.5% of their monthly income as against the position under the soon to be repealed NHF Act, which requires contributions equivalent to 2.5% of the individual's basic income.

In the case of the commercial and merchant banks, the basis of the computation of the required contribution is no longer 10% of its loans and advances neither 20% of its none-life funds and 40% of its life funds in the case of insurance companies. Rather, contributions equivalent to 10% of profits before tax are required from commercial banks, merchant banks and insurance companies. Further, PFAs and local manufacturers and importers of cement, have been added to the pool of contributors.

Arguably, the imposition of the higher tax on the contributors may be counter-productive. However, stakeholder have expressed differing views on the implication of this imposition. Some have argued that the increase in the contribution will drastically reduce the disposable income of individuals and adversely affect their ability to make the required investment in housing projects, especially in the face of rising inflation. In the same vein, the higher tax burden imposed on contributors and the levy imposed on local manufacturers and importers of cement may result in a significant rise in cement prices, which will in turn increase the cost of real estate in Nigeria.

On the other hand, another school of thought have argued that, even with the proposed increases, the levels of contribution are still very low given the wider macro economic structure of low wage environment and the high population level in Nigeria. They noted that the model as currently designed under the NHF Bill can only work in an economy with smaller populations and high wage environment.

Further, although the NHF Bill provides that individual contributors, who have attained 60 years of age, 35 years of service or such other retirement age[13] and have no outstanding loan with the FMB, have the right to a refund of their contributions at an interest rate of 2% per annum, the interest rate accruing on contributions to the Fund are significantly low, given the current economic trends, inflation rate and interest rate.

In addition, while the NHF Bill requires that banks, insurance companies and PFAs invest in the Fund, it fails to stipulate the tenure or terms and conditions (save for the interest rate) of such investment, thereby suggesting that the term may be as negotiated by the

12. Section 23 to 27 of the NHF Bill criminalises a number of acts or omissions of persons done in contravention of the NHF Bill. Such acts or omissions include the following; failure of the employer or self-employed persons to deduct and remit the deductions on the monthly salaries of its employees or its monthly income respectively, prevention and/or obstruction of the deduction or remittance, intentional making of false statement, misrepresentation or the production of any document containing false statement, misrepresentation, failure of commercial and merchant banks, insurance companies and pension fund administrators to make required contributions and failure to produce documents for inspection when required under NHF Bill. In respect of prosecution all the offences under the NHF Bill, the Federal High Court shall have the exclusive jurisdiction to try and prosecute all such offences.
13. Section 20(2) of the NHF Bill provides that in the event that the contributor is deceased, such contribution shall be paid to his legal representatives who can produce the Will, Letters of Administration of the estate of the deceased issued from the Probate Registry.

relevant entity and the FMB. Further, it is not clear whether the contributions to be made by local manufacturers and importers of cement is an outright grant or will be recoverable, and, if recoverable, the relevant interest rate that will accrue on the contributions.

On March 20, 2019, President Mohammed Buhari declined to assent to the NHF Bill, along with a number of other bills. The said refusal was officially communicated in a letter addressed to the Senate President, Bukola Saraki. While the reason(s) for the President's refusal are as yet unclear, stakeholders will do well to monitor subsequent developments at the National Assembly. In particular, it will be interesting to see whether the legislature will seek to override the presidential veto, or whether the sponsors of the Bill will take the chance to return to the drawing board and address some of the concerns with the Bill.

## CONCLUSION

The NHF Bill may be regarded as being a further step in the race to accelerate housing development. Unlike its predecessor, the sanctions detailed in the NHF Bill may prove successful at deterring contributors from defaulting on their contributions. The extent to which it will be successful in eliminating the current housing deficit in Nigeria however remains to be seen.

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