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Client Alert

Amendment of the National Housing Fund Act and Contribution into the National Housing Fund (NHF)

On March 24, 2023, the Director General of the Nigeria Employers' Consultative Association (NECA)¹ issued a circular to all member-companies, titled, "Amendment of the National Housing Fund Act and Contribution into the National Housing Fund (NHF)" (the "**Circular**"). The Circular was issued sequel to the signing of the Business Facilitation Act (BFA) 2022 by President Muhammadu Buhari in February 2023. The Circular seeks to implement the amendments of the BFA to the National Housing Fund Act 1992, particularly with reference to the regulation of contributions made to the NHF by private sector employers of labour in Nigeria.

In this client alert, we summarise the provisions of the Circular and highlight the key changes that it has introduced.

Precursor to the Circular: Amendment of the NHF Act by the BFA

The National Housing Fund (NHF) was established by the NHF Act of 1992 to mobilise funds that will facilitate the provision of affordable houses for Nigerians.² Under the NHF Act, **every** Nigerian in the public and private sector earning an equivalent of the National Minimum Wage³ or above is required to contribute 2.5% of their monthly basic salary into the NHF managed and administered by the Federal Mortgage Bank of Nigeria (the "**Bank**").⁴ The funds mobilized is then made available through the Bank to contributors at affordable interest rates to own houses. By the Act, employers of labour are required to deduct, at source,

¹ Nigeria Employers' Consultative Association (NECA) is the umbrella organization of employers in the Organised Private Sector of Nigeria. It was formed in 1957 to provide the forum for the Government to consult with private sector employers on socio-economic and labour policy issues.

² Section 2 of the NHF Act.

³ The minimum wage in Nigeria is currently N30,000 (Thirty Thousand Naira). Section 3 (1) National Minimum Wage Act 2019.

⁴ Section 4 & 10 of the NHF Act.

the prescribed rate of contribution from the monthly salaries of qualifying employees and remit same to the Bank ⁵

The above requirement has now been altered by section 45 of the BFA which in effect, amends section 4 of the extant law. By the amendment, only employees earning the national minimum wage and above in the **public sector**, and **self-employed** individuals are required **to** contribute 2.5% of their monthly income to the Fund. Consequently, private sector employees are now excluded from compulsory compliance with this obligation and may hence forth contribute the requisite 2.5% of their monthly income to the NHF voluntarily.

The Circular

As a follow-up to the changes introduced by the BFA, the NECA issued a Circular to all member companies bringing the amendment to their notice. The Circular informed member-companies that employees can either decide to opt out of contributing to the NHF or continue to contribute, at their discretion. For those employees who choose to remain contributors of the NHF, the Circular directs employers to continue to deduct the prescribed rate at source and make remittances to the Federal Mortgage Bank of Nigeria (FMBN). For employees who are current contributors but choose to exercise their right to opt out, the employers are directed to inform such employees to process their refund as provided under the NHF Act.⁶

Conclusion

While we expect the Bank to issue subsequent guidance or practice directives on implementation of the new provisions, especially as regards employees who choose to opt out of the scheme, in the interim, we recommend that all employers take note of the Circular, as well as the amendments introduced by the BFA and begin to put in place, structures, to ensure compliance.

⁵ Section 9 of the NHF Act.

⁶ Expectedly, the NHF Act does not anticipate a situation where a contributor seeks to withdraw contributions as a result of the exercise of discretion as now provided by the BFA amendment. However, section 20 of the NHF Act provides for the general procedure for requesting a refund. Under the said section, any contributor who has not obtained a housing loan from the bank and has— a) attained the age of 60 years; or b) retired from his employment and **becomes incapable of continuing the contribution to the Fund**, shall be eligible to a refund of his contribution within three months of the application at the rate of interest prescribed by the Minister.

Ostensibly, a private employee who chooses to exercise the option to opt out will most likely follow this procedure to obtain a refund. Furthermore, there is a process for, and list of documents provided on the NHF website for obtaining a refund of contributions to the NHF. Please find here: [Federal Mortgage | NHF \(fmbn.gov.ng\)](https://www.fmbn.gov.ng)