



Briefing Note: Nigeria's Emergency Economic Stimulus Bill 2020

Background

Economies across the globe have begun responding to the Covid-19 pandemic not only medically but in economic terms, with various monetary and fiscal interventions being implemented. Nigeria is not left out with some monetary and fiscal measures having recently been announced or implemented by the Executive Arm of the Federal Government of Nigeria. The latest in the Nigerian offering is its legislative response, styled, the Emergency Economic Stimulus Bill, 2020 (the “Bill”). The Bill was passed by the House of Representatives (the “House”) of the Nigerian National Assembly on March 24, 2020. By virtue of Nigeria's bi-camera legislature, the Bill is now before the Nigerian Senate. The Bill is long-titled, “A Bill for an Act to provide for Relief on Corporate Tax Liability, Suspension of Import Duty on Selected Goods and Deferral of Residential Mortgage Obligations to the Federal Mortgage Bank of Nigeria for affixed term to protect jobs and alleviate financial burden on citizens in response to the economic downturn occasioned by the outbreak of COVID-19 disease.”

In this Briefing Note, we highlight, summarize and make relevant observations on the 3 (three) fiscal and related incentives provided by the Bill.

The Bill:

A.Highlights + Features:

Short Title:

Emergency Economic Stimulus Bill, 2020.

Principal Purpose:

- a) Provision of temporary financial relief on corporate tax liability and to individuals.
- b) Protection of the employment status of Nigerians due to economic realities caused by the outbreak of Covid-19.
- c) Provision of moratorium on mortgage obligations for individuals.
- d) suspension of import duty on medical necessities required for treatment and management of Covid-19.
- e) Catering to the general wellbeing of Nigerians pending the eradication of Covid-19.

Application

All Individuals in Nigeria, Nigerian companies and foreign companies doing business in Nigeria.

No. of Sections:

14

Sponsor

Members of the House led by its Speaker, Honourable Femi Gbajabiamila.

B. Summary of Major Provisions of the Bill and Remarks:

S/N	Relevant Provisions	Synopsis of the Provision	Remarks
B.1 : Employers' 50% PAYE Relief:			
1	Sections 3	An employer who does not retrench any of its personnel but maintains the same employee status from 1st March, 2020 till 31st December 2020 (the "Period") will be entitled to set off 50% of the Pay As You Earn ("PAYE") Personal Income Tax ("PIT") remittances due or paid on its employees' behalf from its income tax liability.	We note that the Bill uses the expression "income tax" without limiting it to either or all of the Tertiary Education Tax ("TET"), Companies Income Tax ("CIT") or the National Information Technology Development Agency ("NITDA") Levy that companies ordinarily pay as income taxes. It is important that the eventual law be specific on which or all of TET, CIT and NITDA Levy are included in the expression "income tax". We note, as highlighted in relation to Section 6 below that, Petroleum Profits Tax ("PPT") is expressly excluded as a non-applicable income tax.

S/N	Relevant Provisions	Synopsis of the Provision	Remarks
2	Section 4	An employer will not be deemed to have retrenched its employees if the employees cease to be in its employment during the Period for any of the following reasons: death, voluntary resignation and or dismissal or termination in accordance with Nigeria's Federal Labour Act.	
3	Section 5	To qualify as an employer for the purpose of the Bill, the employer must be organized either as an incorporated company pursuant to Part A of the Companies and Allied Matters Act, 1990 (as amended) ("CAMA") or registered as a business name under Part B of CAMA.	Aside from excluding employers in the informal sector, the Bill also does not take into consideration that other State laws, for example those that set up limited partnerships, cooperative and multi-purpose societies, equally create formal businesses that become employers.
4	Section 5	Income taxes that are due under the PPT Act will not enjoy the incentive created under Section 3.	This fiscal posture is largely debatable seeing that one of the impacts of the current pandemic is the southward direction of global oil prices and accordingly the fortunes of exploration and production companies in Nigeria. The 50% PAYE relief will further ease their income tax anxieties.

S/N	Relevant Provisions	Synopsis of the Provision	Remarks
5	Section 7	The President of the Federal Republic of Nigeria (“President”) may, subject to ratification by a simple majority of the Nation Assembly, extend the Period; that is, past the 31st December 2020 timeline.	
B.2: Deferral of Mortgage Payment under the NHF			
6	Section 8	The provisions of the National Housing Fund Act, 2018 (sic) or any other Act on the payment of mortgage obligations on residential mortgages obtained by individual contributors to the National Housing Fund are deferred for a period of 180 days from 1st March 2020.	We note that the National Housing Fund Bill, 2018 is currently awaiting the President's assent for passage into law and the National Assembly is remiss at the mention of the “National Housing Fund Act, 2018” which is currently non-existent. We assume that this provision can be applied to the existing National Housing Fund Act, 1992.
7	Section 9	The President may, subject to ratification by a simple majority of the Nation Assembly, extend the 180 days moratorium granted in Section 8.	

S/N	Relevant Provisions	Synopsis of the Provision	Remarks
B.3: Import Duty Waiver on Medical Supplies			
8	Section 10 and 11	With effect from March 01, 2020 till December 31, 2020, the import duty on all of the following medical goods will be waived: medical equipment, medicines, personal protection equipment, medical necessities for COVID-19 and such other goods as published (gazetted) by the Minister of Health.	
9	Sections 12 and 13	The President can extend this waiver period in line with his powers under Section 13 of Nigeria's Customs and Excise Tariffs etc. (Consolidated) Act ("CETA").	Section 13 (1) (a) of the CETA allows the President, on the recommendation of the Tariff Review Board, to impose, vary or remove any import or excise duty on any goods.

Our Thoughts in Conclusion

The next stage in the legislative process of the Bill becoming law is its presentation before the Nigerian Senate which is currently on recess. It is expected that given current emergencies, as the Bill is eponymously called, the leadership of the Nigeria Senate will call for the relevant emergency sessions to consider the provisions of the Bill. It is our hope that the Senate will significantly improve the Bill by providing the measurable and more tangible fiscal stimulus that the Nigerian economy requires in the wake and aftermath of this pandemic. It is important that adequate economic and scientific thoughts are given to what Nigerians and Nigeria actually need to bounce back from the pandemic. For instance, it is largely debatable why the Bill does not reference or directly revise any of the provisions of the subsisting Finance Act, 2019. This is in light of the fact that the Finance Act was enacted on the premise of certain assumptions for Nigeria's 2020 economy; assumptions that the current pandemic has negatively revised. The Bill is an opportune avenue for introducing sensitive fiscal palliatives that address the now erroneous assumptions of the Finance Act, particularly for the major drivers of the Nigerian economy. A significant impact of the Finance Act is its new Minimum Tax Rule that now requires all major players in the Nigerian economy to compulsorily pay a minimum 0.5% of their turnover as CIT. Reducing or removing this threshold, at least for the 2020 'pandemic' year, may be a more significant

palliative for the major drivers of the Nigerian economy. The value of a palliative of this nature can easily be quantified in monetary terms. Quantification of stimulus plans or palliatives is a global norm; the Canadians are having a +\$82billion aid of which \$27billion is in direct funding and \$55billion in tax deferrals; the United States' Senate has just passed a \$2 trillion economic stimulus plan. Nigeria's National Assembly needs to put a significant value to the Bill, by improving its contents on the strength of core economics. Our legal appraisal of the Bill and, hopefully, the resulting legislation is the least in the value chain of what Nigerians desire to see.

For further information on the foregoing (none of which should be taken as legal advice), please contact:
Bidemi Olumide (bidemi.olumide@ao2law.com) or
Kitan Kola-Adefemi (kitan.kola-adefermi@ao2law.com) or
Ayomikun Ola-Kenny (ayomikun.ola-kenny@ao2nominees.com)
with the subject: **“Nigeria’s Emergency Economic Stimulus Bill 2020”**.