

STREAMSOWERS & KÖHN

BARRISTERS, SOLICITORS & ARBITRATORS

REVIEW OF THE CURRENCY CONVERSION (FREEZING ORDERS) ACT (AMENDMENT) BILL, 2015 – HB 274

1 Introduction

1.1 The Currency Conversion (Freezing Orders) Act (Amendment) Bill, 2015 ("the Bill") is sponsored by Hon. Ahmed Idris (Plateau State). The Bill has been passed by both chambers of the National Assembly and was transmitted to the President for assent. The Acting President, via a letter read at a plenary session of each chamber of the National Assembly on 22nd February 2017, informed the National Assembly that presidential assent has been withheld because "*the modalities for communicating asset forfeiture orders were unacceptable*". The Bill has been referred to the legal department of the National Assembly for review.

2 Review

2.1 The Currency Conversion (Freezing Orders) Act Cap. C43 Laws of the Federation of Nigeria, 2004 ("the Principal Act") deals with empowering the Governor of the Central Bank of Nigeria to stop transactions on accounts involved in irregular currency conversion operations. Section 9 of the Principal Act also empowers the President of the Federal Republic of Nigeria ("the President") to exercise his discretion and order the forfeiture of the account, property, movable or immovable, of the affected persons.

2.2 The Bill seeks to amend section 9 (1) and (2) of the Principal Act by removing the discretionary powers vested in the President to make the forfeiture order and transfer same to a judge of a High Court who shall exercise such discretion after hearing both parties.

2.3 We note section 7(b) of the Principal Act which allows the Minister of Finance, upon receipt of the findings of any investigating panel, to make recommendation to the President to exercise his discretion to order the forfeiture of the account or property of the affected person. We believe that since the Bill contemplates transfer of the President's powers to a judge of a High Court, section 7 (b) will consequently become redundant and should be deleted. Further, we note that the Bill makes no provisions for instituting proceedings before a judge of a High Court

2.4 As earlier mentioned, the Bill has been referred to legal department of the National Assembly for review. It is possible that these issues will be highlighted and addressed during the review.