

FAAC POST MORTEM SUB-COMMITTEE

REPORT OF THE EXCHANGE RATE APPLICATION BY NNPC AND CBN FOR REMITTANCES INTO THE FEDERATION ACCOUNT, FOREX EQUALIZATION ACCOUNT AND EXCHANGE GAIN ACCOUNT

1.0 INTRODUCTION

1.1 You may recall that the issue of the wrong application of Exchange Rate by NNPC and CBN came up severally during the FAAC Post Mortem Sub-Committee meetings. Also recall that the issue was brought up at FAAC Plenary and after deliberations, the Sub-Committee was assigned to look into it together with the States Commissioners of Finance Forum.

1.2 As you are aware, the assignment was segregated into two parts as follows:

- a. Application of Exchange Rate by NNPC in payment of NUPRC Royalty, FIRS PPT and Domestic Crude handled by the FAAC Post Mortem Sub-Committee/consultants;
- b. Exchange Rate applied in remitting revenue into the Exchange Gain and Forex Equalization Account was handled by the States Commissioners of Finance Forum and reviewed by FAAC Post Mortem Sub-Committee.

2.0 A. APPLICATION OF EXCHANGE RATE BY NNPC IN PAYMENT OF NUPRC ROYALTY, FIRS PPT AND DOMESTIC CRUDE PROCEEDS FOR THE PERIOD 2015 TO 2021

2.1 On Part A of the assignment, the Sub-Committee had carried out an in depth analysis of the Exchange Rate applied by NNPC for NUPRC Royalty, FIRS PPT and NNPC Domestic Crude sales proceeds from 2015 to July 2022. The Stakeholders met and discussed it extensively and agreed to hand it over to NNPC as per NNPC's request. This will give them time to ensure that all discrepancies are resolved before presentation and a timeline of one week was agreed for NNPC to study it and revert to the Committee. This segment is therefore work in progress. The final Report will be presented at the next meeting.

B. APPLICATION OF EXCHANGE RATE BY CBN ON INFLOWS INTO THE FEDERATION ACCOUNT AND FOREX EQUALIZATION ACCOUNT

2.2.1 Members may also recall that this part of the assignment was handled by States Commissioners of Finance Forum but was reviewed by FAAC Post Mortem Sub Committee. Members may recall that the Honorable Commissioners of Finance Forum engaged a consultant, **Rebo Usman & Co (Chartered Accountants)** to handle this aspect of the assignment. On 16th May, 2022, the Chairman of the Commissioners of Finance Forum forwarded the Report of the Forensic Analysis carried out by its Consultant on the Exchange Rate applied by CBN in remitting inflows into the Exchange Gain Account and the Forex Equalization Account for the period 2015 to 2021 to the FAAC Post Mortem Chairman to enable the Committee review it and Harmonize it with that of NNPC with the committee was handling.

2.2.2 Thereafter, the Ad-Hoc Committee handling the issue invited the Consultant to make presentation on how he arrived at the findings from his report. The summary of his findings were presented to the Sub-Committee during its meeting of 18th August, 2022 as follows:

- i. The Consultant source of information were documents obtained from the Federal Ministry of Finance and CBN Component Statement;
- ii. That prior to the inception of mandated rate period in August 2017, i.e. January 2015 to July 2017, the Central Bank of Nigeria (CBN) applied Exchange Rates **arbitrarily** in determining funds released to the Federation Account from foreign exchange earnings. The rates applied were lower than the CBN official Exchange Rates which led to a total Exchange Rate shortfalls of **N881,585,271,841.59 (Eight Hundred and Eighty-One Billion, Five Hundred and Eighty-five Million, Two Hundred and Seventy-one Thousand, Eight Hundred and Forty-One Naira, Fifty-Nine kobo);**
- iii. That in the months of **March to May 2020**, the mandated rate was suspended in transfers made to the Forex Equalization Account, however in January to February and June to December 2020 mandated rates were applied.

2.2.3 After the presentation of the report by the Consultant, the Ad-hoc Committee observed the following:

- i. That the Consultant did not take cognizance of the Exchange Gain Ledger which was in operation prior to August 2017 before the Forex Equalization Account was created. During that period, the difference between the

Budgeted Exchange Rate and the Actual Exchange Rate was transferred to the Exchange Gain Ledger which was later transferred to the Federation Account for sharing when the need arises;

- ii. that in the months of march to May 2020, the Mandated Exchange Rate was not applied by CBN because they claimed that the Actual Rate was higher than the Mandated Rate, while the Actual Rate was **N360/\$**, the Mandated was **N325/\$**.

2.2.4 Based on the above, the Ad-hoc Committee resolved that:

- i. The OAGF should provide the Consultant with the Exchange Rate Ledger to enable him review his work in order to authenticate his findings; and
- ii. CBN should examine and provide authorization validating the suspension of the use of Mandated Rate for the months of March to May 2020.

2.2.5 Accordingly, the OAGF further provided the Consultant with the Exchange Rate Ledger as directed by the Sub-Committee which he used to review his earlier analysis the second time. Thereafter, the Consultant was invited again during the Ad-Hoc Committee meeting held on 20th September, 2022 and his presentation highlighted the following:

- i. That the Exchange Gain Ledger provided by OAGF and other documents from the Ministry of Finance were used for the review;
- ii. That additional Exchange Gain difference in February 2015

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|---|---|-----------------------------|
| Captured in March 2015 ledger | - | N45, 748,950,010.90 |
| Additional Exchange Gain difference in May 2016 | | |
| Captured in August 2016 ledger | - | N36, 494,089,628.64 |
| Excess of Exchange Gain difference in Ledger | | |
| For May 2017 over the component statement | | |
| Figure for the month | - | <u>N121, 166,554.07</u> |
| Additional Exchange gain from Ledger | - | N82,364,206,193.61 |
| Add initial computed Exchange Gain | - | N881, 585,271,841.59 |
| Total Exchange Gain before the introduction of Mandated Rate | - | N963,949,478,035.20 |
- iii. During the Presentation, it was observed that the Consultant further categorized the issues into two (2) aspect namely; The Pre-Mandated Exchange Rate period (January 2015-June 2017) and Post Mandated Exchange Rate period (July 2017 - December 2021.)

- iv. **Pre-Mandated Period:** The period covered in this segment of the Report by the Consultant was January 2015 to June 2017 FAAC records, which was the period preceding the introduction of the Mandated Exchange Rates Policy. That for the period January 2016 to June 2017, all figures reflected in the Exchange Gain Ledger as highlighted above were moved to the Federation Account as captured in the monthly Federation Account Income Distribution Schedule made available by the Federal Ministry of Finance. However in 2015, a total Exchange Gain computation of **N245,389,807,667.96 (Two Hundred and Forty Five billion, Three Hundred and Eighty Nine Million, Eight Hundred and Seven Thousand, Six Hundred and Sixty Seven Naira, Ninety Six Kobo)** was not reflected in the Federation Account Distribution Schedule for 2015 as provided by the Federal Ministry of Finance but reflected in the documents provided by OAGF. The Committee subjected it to further reconciliation between the Consultant and the OAGF
- v. **Post Mandated Period:** This period covers July 2017 to December 2020. On this aspect, the Consultant observed that the CBN did not apply the Mandated Rate in computing Exchange Rate Differential credited to the Forex Equalization Account for the months of March to May 2020, however in the preceding months of January and February 2020, and subsequent months of June to December 2020 the Mandated Rates were applied.
- vi. That the representative of CBN provided and validated the Component Statement for January 2017 to December 2020 but were not able to tender authorization for not applying the Mandated Rates for the period.
- vii. That the Mandated Rate came into implementation as a resolution of FAAC after agitations by Stakeholders at FAAC Plenary that foreign earnings of the nation domiciled at CBN should be monetized using the Mandated Rate while the difference between the Official Rates and the Mandated Rate should be transferred to the Forex Equalization Account for sharing as the need arises. That for CBN to suspend the application of the Mandated Rates for three months should have been by a Resolution of FAAC which CBN have not been able to provide.
- ix. That the Consultant analyzed the difference between CBN Official Rates and the Mandated Rates from July to December 2017, 2018, 2019, 2020 and 2021; and observed that the Mandated Rate was within the range of **N18-N20** which shows a trend of rates over and above CBN official Exchange

Rate. In all the years under review, the difference of **N18** to determine the Mandated Rate was only applied four times. It was based on this trend that the Consultant applied the difference of **N19** to work back for the months of March, April and May 2020 to compute the difference which resulted in a shortfall of **N67, 103,539,195.29 (Sixty Seven Billion, One Hundred and Three Million, Five Hundred and Thirty Nine Thousand, One Hundred and Ninety Five Naira, Twenty Nine Kobo)** as CBN unremitted Fund that was not credited to the Forex Equalization Account for the benefits of the three tiers of Government.

2.2.6 After extensive deliberation, the Ad-Hoc Committee resolved that:

- i. the shortfall of **N245,389,807,667.96** should be subjected to further investigation before the next meeting;
- ii. that CBN should provide any resolution of FAAC directing it to suspend the application of Mandated Rates in the three months under review. Also it was agreed that the matter should be reported to FAAC Plenary for further directives as the Consultant computed a shortfall of **N67, 103,539,195.29** to the Federation Account.

3.0 FINAL CONFIRMATION OF REMITTANCE OF 2015 EXCHANGE GAIN DIFFERENTIALS TO FAAC

3.1 Based on the above resolution, the Consultant to the States Commissioners of Finance Forum had a reconciliation meeting with the OAGF and Federal Ministry of Finance to further clarify what was earlier reported that the total Exchange Gain of **N245,389,807,667.96 (Two Hundred and Forty-Five Billion, Three Hundred and Eighty-Nine Million, Eight Hundred and Seven Thousand, Six Hundred and Sixty-Seven Naira, Ninety-Six kobo)** for the year 2015 was not reflected in the Federation Account Distribution Schedule and thereby not shared to the beneficiaries of the Federation Account.

3.2 The Consultant also reported that in order to confirm that the Exchange Gains computed in 2015 were distributed, he requested from the OAGF copies of the Mandates issued to the Central Bank of Nigeria for the release of computed Exchange Gain differentials for 2015 to the Federating Units. The documents

provided by OAGF were reviewed and certified that all computed Exchange Gains for 2015 were distributed to the Federating Units.

3.3 The Consultant also certified that the discrepancies noticed with respect to the 2015 Exchange Gain distribution were because the Exchange Gain distributions in the Distribution Schedule of FAAC started reflecting in 2016. (attached as appendix C).

4.0 NON APPLICATION OF MANDATED RATES IN MARCH, APRIL AND MAY 2020

4.1 The Consultant still re-submitted the claim of **N67, 103,539,195.29 (Sixty-Seven Billion, One Hundred and Three Million, Five hundred and Thirty-Nine Thousand, One Hundred and Ninety-Five Naira Twenty-Nine Kobo)**, being amount due to the Federation Account as a result of Central Bank of Nigeria not applying the Mandated Rates in the months of March, April and May, 2020 without authorization to suspend the application.

5.0 GENERAL OBSERVATIONS

5.1 The Sub-Committee's observations are as follows:

- i. Exchange Gain of **N245,389,807,667.96 (Two Hundred and Forty-Five Billion, Three Hundred and Eighty-Nine Million, Eight Hundred and Seven Thousand, Six Hundred and Sixty-seven Naira Ninety-six kobo)** for the year 2015 has been confirmed shared to the Federating Units;
- ii. That the CBN did not apply the Mandated Rate in computing Exchange Rate Differential for the months of March to May 2020, however in the preceding months of January and February 2020 and subsequent months of June to December 2020 the Mandated Rates were applied;
- iii. That the Consultant used the average of **N19** from the historical trend to re-compute the Mandated Rate for the months of March - May 2020 resulting to a shortfall of **N67,103,539,195.29 (Sixty Seven Billion, One Hundred and Three Million, Five Hundred and Thirty Nine Thousand, One Hundred and Ninety Five Naira, Twenty Nine kobo)** as revenue that had not been credited to the Forex Equalization Account for the benefits of the three tiers of Government;

- iv. That the application of the Exchange Rate by NNPC on Domestic Crude sales proceeds, PPT and Royalty is still on going.

6.0 Recommendation

- 6.1 In light of the above, the FAAC Post Mortem Sub-Committee recommends that FAAC Plenary should request CBN to pay the Federation Account, the sum of **N67,103,539,195.29 (Sixty Seven Billion, One Hundred and Three Million, Five Hundred and Thirty Nine Thousand, One Hundred and Ninety Five Naira, Twenty Nine Kobo)** for the benefits of the three tiers of Government.

8.0 Conclusion

The Sub-Committee call on the FAAC Plenary to note that the issue of Exchange rate application by CBN is concluded for further directive by FAAC Plenary while that of NNPC will be finalized next Month.



Kabir M. Mashi

(Kaigaman Katsina)

Chairman, FAAC Post Mortem Sub-Committee