



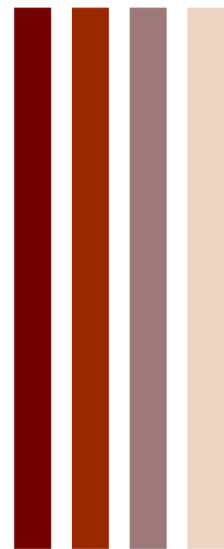
CBN's New Payments Framework:

Is Nigeria Introducing Functional Separation into the Payments Ecosystem?

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Introduction

sector in recent years. While the circular also introduces data localisation and ultimate beneficial ownership disclosure requirements, among its most consequential features are the provisions restricting the extent to which a participant with significant market share in consumer issuing activities may also participate in merchant acquiring activities, and vice versa.

At first glance, the requirements appear relatively straightforward. Institutions with more than 25% market share in one segment may not exceed 15% market share in the other.

However, beneath those thresholds lie a number of complex regulatory, commercial and competition-related questions that may ultimately determine the practical impact of the framework.

The broader significance of the circular may lie in what it reveals about the CBN's evolving regulatory approach. Rather than regulating individual payment products or services in isolation, the CBN appears increasingly concerned with the overall structure of the payments ecosystem and the concentration of influence across different layers of that ecosystem.

A Form of Functional Separation?

The circular bears some resemblance to functional separation models that have emerged in sectors such as telecommunications and critical infrastructure regulation.

The underlying concern in such frameworks is not necessarily that a participant has become dominant in a particular market segment. Rather, it is that dominance in one layer of a value chain may allow that participant to exert disproportionate influence over adjacent layers. Historically, payment businesses have sought to build integrated ecosystems.

A provider may issue payment instruments to consumers, operate wallets, acquire merchants, provide payment gateways, process transactions and offer a range of ancillary services. The commercial logic is obvious: the more touchpoints a provider controls within the payments chain, the greater the opportunities for growth, customer retention and network effects.

The circular appears to reflect a different concern. By limiting the extent to which a participant with significant market share on the consumer side may also hold a substantial position on the merchant side, the CBN may be signalling that concentration at both ends of the payments transaction creates risks that warrant regulatory intervention.

If this interpretation is correct, the circular is not simply about market share. It is about market structure.

The Critical Question: What Are the Relevant Functions?

The practical impact of the framework will depend largely on what constitutes "consumer issuing" and "merchant acquiring".

Notably, the Electronic Payment Channels Guidelines do not appear to contain standalone definitions of those concepts. Instead, the Guidelines regulate various payment channels and identify the roles performed by issuers, merchant acquirers, merchants, cardholders, switches and other participants within those channels.

As a result, the relevant concepts may ultimately be determined not by formal labels but by the nature of the services being provided.

What Constitutes Consumer Issuing Activities?

The Electronic Payment Channels Guidelines do not appear to provide a standalone definition of "consumer issuing activities". Instead, the concept must be inferred from the roles and functions recognised within the payments ecosystem.

This raises an important interpretative question: for purposes of the circular, is the focus on the legal form of the service, the regulatory licence under which it is provided, or the economic function being performed? The policy objective underlying the circular suggests that the latter may be the more relevant consideration.

Consumer issuing activities may be understood by reference to the provision of payment instruments, payment accounts or payment interfaces through which consumers initiate transactions. The common thread is not the form of the product itself, but control of the consumer payment relationship and the origination of payment instructions.

If this broader functional approach is adopted, the circular could have implications for a wide range of business models, including digital banks, mobile money operators, wallet providers and other fintechs that occupy the consumer-facing side of the payments ecosystem.

What Constitutes Merchant Acquiring Activities?

The same interpretative challenge arises in relation to merchant acquiring activities.

The concept is well understood within the payments ecosystem. However, the circular does not specify the precise boundaries of the activity for purposes of market share measurement. As a result, questions may arise regarding the treatment of integrated payment businesses that provide a range of merchant-facing services across multiple channels.

The Guidelines contemplate merchant acquirers as institutions that contract with merchants, onboard merchants, conduct merchant due diligence, facilitate payment acceptance and participate in settlement processes.

This suggests that the relevant inquiry may be less about particular products or channels and more about the broader function of enabling merchants to accept and receive electronic payments.

The breadth of that function may become particularly important when assessing business models that combine merchant onboarding, payment acceptance, gateway services, settlement services and other merchant-facing activities.

Market Share Without Market Definition?

Perhaps the most significant unanswered question is one that naturally arises whenever market share thresholds are introduced:

What market is being measured?

Under conventional competition law analysis, market share is rarely assessed in isolation. The exercise typically begins with identifying the relevant product market and the relevant geographic market. Only after those markets have been defined can market shares be calculated and interpreted.

If a similar framework were introduced by the Federal Competition and Consumer Protection Commission (FCCPC), questions regarding market definition would likely be among the first issues requiring analysis. This is important because market shares can vary significantly depending on how the market is defined.

If the principles reflected in the FCCPC's Notice on Market Definition were applied in this context, the analysis would likely begin by identifying the products or services that are reasonably interchangeable or substitutable from the perspective of users and merchants, as well as the geographic scope within which competitive constraints operate.

For consumer issuing activities, this could raise questions such as whether the relevant market comprises:

- all consumer payment instruments;
- all account-based payment services;
- all wallet services;
- all card-based payment products; or
- some narrower category of consumer-facing payment solutions.

Similarly, for merchant acquiring activities, questions may arise as to whether the relevant market consists of:

- merchant acquiring generally;
- merchant payment acceptance services;
- online acquiring services;
- POS acquiring services; or
- some broader category of merchant-facing payment solutions.

The answer matters because an institution's market share may differ considerably depending on the market definition adopted.

The geographic dimension may be equally important. While payments services are often provided nationally, some services may be constrained by licensing, infrastructure, distribution channels, commercial arrangements or other factors that could influence the scope of the relevant geographic market.

The circular does not presently prescribe a market definition methodology. However, if market share restrictions are to be applied consistently across the industry, some framework for defining the relevant market may ultimately be required. In practice, this may involve many of the same analytical considerations that competition regulators routinely apply when assessing market power and concentration.

The Market Share Methodology Challenge

Even if the relevant market can be identified, a second challenge arises.

How exactly will market share be measured?

Several methodologies are conceivable. Market share could be based on transaction value, transaction volume, number of active customers, number of active merchants, number of payment instruments issued, or some combination of these metrics.

The choice of methodology may significantly affect the outcome. An institution may process relatively few transactions but account for a large share of transaction value. Another may have millions of customers but comparatively modest transaction volumes. Each metric tells a different story about market presence and competitive significance.

Accordingly, the methodology ultimately adopted by the CBN may prove as important as the thresholds themselves.

The absence of detailed guidance is particularly noteworthy given the implementation timeline. Institutions are expected to achieve compliance by 31 December 2026, leaving a relatively short period for participants to assess their position, develop internal monitoring frameworks and, where necessary, implement structural or operational changes. If further guidance is contemplated, there may be value in issuing it as soon as practicable to provide participants with sufficient time to evaluate the implications of the framework.

Related Entities: A Potentially Significant Expansion of the Framework

An aspect of the circular that may warrant closer attention is its application to related entities.

At first glance, the market share restrictions appear to apply to individual licensed institutions. However, the circular's reference to related entities suggests that the CBN may be concerned not only with the activities of a particular regulated entity, but also with concentration that exists across a broader corporate group.

This raises a number of important questions.

For example, if one member of a group undertakes consumer-facing payment activities while another undertakes merchant-facing activities, will market shares be assessed separately or on a consolidated basis? Similarly, how will the framework apply to holding company structures, joint ventures, minority investments or businesses operating through multiple regulated subsidiaries?

These questions are particularly relevant in a sector where corporate groups often operate across several segments of the payments value chain. In some cases, different functions may be housed in separate entities for regulatory, commercial or operational reasons, even though they ultimately form part of the same economic enterprise.

The treatment of related entities may therefore prove critical to the effectiveness of the framework. A narrow interpretation could permit market participants to achieve indirectly what the circular seeks to prevent directly. Conversely, an expansive interpretation could capture a broad range of corporate relationships and require groups to assess market share at a consolidated level.

The issue also has implications for investment and transaction activity. Investors, acquirers and strategic partners may increasingly need to consider whether interests held across multiple payment businesses could be aggregated for purposes of the market share thresholds. This may become particularly relevant in private equity structures, platform investments and group reorganisations involving regulated payment businesses.

Further guidance from the CBN on the treatment of related entities would therefore assist market participants in evaluating both current compliance obligations and future strategic transactions.

The Practical Reality of a Rolling Twelve-Month Measurement Period

The circular applies the thresholds by reference to a rolling twelve-month period.

From a regulatory perspective, this approach has obvious attractions. It reduces the risk of distortions associated with fixed reporting periods and allows concentration levels to be assessed on a more continuous basis.

The practical implementation of such an approach, however, may present challenges.

Market share is inherently dynamic. A successful product launch, major merchant acquisition, strategic partnership or seasonal increase in transaction volumes could materially alter an institution's position within a relatively short period.

Institutions may therefore find themselves moving above or below relevant thresholds over time, even where there has been no deliberate change in strategy. The challenge is not unique to Nigeria.

Even in jurisdictions with mature competition and financial regulatory frameworks, market shares are typically assessed using periodic industry data rather than continuously updated market-wide measurements. While a rolling twelve-month methodology may reduce distortions associated with annual reporting periods, its effectiveness will depend on the availability of reliable and sufficiently current market-wide data.

This raises a practical question. To what extent will regulated entities have visibility into the market-wide information required to assess compliance on an ongoing basis? Participants will generally have access to their own data. Determining relative market position is considerably more difficult.

The circular's introduction of monthly reporting obligations suggests that the CBN intends to collect and monitor such information directly. However, the extent to which market-wide information will be made available to participants remains unclear.

Implications for Transactions and Investment Activity

The circular may also influence transaction planning within the sector.

Historically, acquisitions, strategic investments and partnerships have often been driven by the desire to expand capabilities across different segments of the payments value chain.

The new framework introduces an additional consideration: whether a proposed transaction could contribute to market share accumulation across both consumer-facing and merchant-facing activities.

As a result, market structure considerations may become increasingly relevant in investment decisions, acquisition strategies, group structuring exercises and merger control assessments involving payment businesses.

Looking Ahead

The circular represents an important evolution in the regulation of Nigeria's payments ecosystem.

It signals an increasing regulatory focus on the structure of the payments ecosystem and the distribution of market power within it. The framework suggests a willingness by the CBN to intervene directly where it considers concentration across different layers of the payments value chain to present regulatory concerns.

Whether the framework ultimately achieves its objectives will depend largely on how the CBN addresses several foundational issues, including the scope of consumer issuing and merchant acquiring activities, the methodology for calculating market share, the treatment of related entities and the availability of reliable market-wide data.

Until further guidance emerges, the industry's focus is likely to shift from the thresholds themselves to the more fundamental question of how those thresholds will operate in practice.

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