The Role Of The Commercial And Development Banks In Nigeria As Recognised Under The Law

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ABSTRACT
There are basically two types of banks. These are the Regulatory and Participatory Banks. The Regulatory Banks are the Central Banks, while the Commercial Banks, Merchant Banks, Development Banks, other specialised Banking Institutions and Micro Finance Banks are the Participatory Banks. However, the main focus of this paper is on the Commercial and Development Banks as Participatory Banks in Nigeria, as they play very useful roles in the Nation’s economic and social development, especially by being very beneficial and useful to the citizens. However, because there must be a Regulatory bank to oversee the issue of compliance by these banks, a brief history of the Central bank of Nigeria, together with its roles and functions has been discussed as well. The following Development Banks were well focused on – The Federal Mortgage Bank of Nigeria, The Bank of Industry and The Nigeria-Export Import Bank. These three Development Banks serve functions that affect majority, if not the entire Nigerian Population, directly or indirectly, more than other Development Banks, in my view, especially for the fact that Banks like the NEXIM Bank and Bank of Industry support large Scale Agriculture, which is the basis of existence. This Paper exposes us to the wide range of benefits rendered by the Commercial Banks and these three Development Banks and suggestions as to how they can further improve the socio-economic situation of Nigerians. Whatever be the case, these Banks have certainly come to stay, and should indeed remain in existence to continue to help in solving the socio-economic problems of the Nigerian Population.

Keywords: Banks, Regulatory Banks, Participatory Banks, Central Bank of Nigeria, Commercial Banks, Development Banks, Federal Mortgage Bank of Nigeria, Bank of Industry, Nigeria Export-Import Bank

INTRODUCTION

BRIEF HISTORY OF THE CENTRAL BANK OF NIGERIA

The history of the Central Bank of Nigeria started in 1892 – 1952 with the G.D Paton Report which emanated from an enquiry by the then Colonial Administration to investigate banking Practice in Nigeria, and this Report formed the basis for the first Banking Ordinance of 1952 which was designed to ensure orderly commercial banking and to prevent the establishment of unviable banks. A Draft Legislation was then presented to the House of Representatives in March 1958 to this effect, and on 1st July, 1959, the Act was fully implemented, establishing the Central Bank of Nigeria.

The current legal framework within which the Central Bank of Nigeria (CBN) operates is the CBN Act of 2007, which repealed the Act of 1991 and all its amendments. The CBN Act 2007 says in section 1(1) that there is established a body known as the Central Bank of Nigeria. In section 1 (3) it says .... the Bank shall be an independent Body in the discharge of its functions. The objects of establishing the Central Bank of Nigeria consist of the provisions of section 2 of the CBN Act 2007 which are as follows: ensuring monetary and price stability, issuing legal tender currency in Nigeria, maintaining external reserves to safeguard the international value of the legal tender currency, promoting a sound financial

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1 www.cenbank.org
2 www.cenbank.org
3 See also www.nigeria-law.org/CBN: www.cenbank.org.
system in Nigeria; and to act as banker and provider of economic and financial advice to the Federal Government. I must add that the CBN is also established with the aim of being a Regulator to the Commercial and other banks/Financial Institutions in Nigeria since this is not expressly stated in its objects. At least, no mention was made of the term ‘Regulator’ in Section 2 of the CBN Act. Commercial Banks are generally referred to as those banking Institutions that create money in the form of demand deposits. The BOFIA\(^4\) defines a Commercial Bank as a bank in Nigeria whose business includes the acceptance of deposits withdrawable by cheques. According to Igweike\(^5\), \textit{by far today, the largest part of the Nigerian money stock consists of deposits which are debts of the Commercial Banks.}

Generally, the history of Modern Banking in Nigeria dates back to 1892 with the establishment of the African Banking Corporation in Lagos. In 1894, the International Bank of West Africa (IBWA) which is now First Bank of Nigeria took over the African Banking Corporation. The Bank for British West Africa remained the only Bank in Nigeria until 1912 when the Barclays Bank (now Union Bank) was set up. Subsequently, other banks came on stream\(^6\). Until 1959, the banking Industry in Nigeria was largely unregulated. Thus, there were no reliable and organised data on the monetary sub-sector. As the country was approaching Independence, the Central Bank of Nigeria (CBN) was founded on 1\(^{st}\) July 1959. According to Section 4 of the CBN Ordinance of 1958, one of the principal objectives of the Bank is to promote monetary stability and a sound financial structure in Nigeria. The phenomenal growth in the number of financial Institutions in Nigeria was as a result of the introduction of the Structural Adjustment Programme (SAP) of 1986, which subsequently led to the greater use of monetary policy for economic stabilization in Nigeria. However, the need to monitor the events in the sub-sector calls for a more timely, accurate and reliable data. This involves the development of research and the acquisition of monetary statistics on the economy. Since its inception, the Research Department of the CBN has been gathering and publishing financial, monetary and banking statistics on the Nigerian economy.

**FUNCTIONS OF THE COMMERCIAL BANKS & THEIR CONTRIBUTION TO ECONOMIC DEVELOPMENT**

The functions of Commercial Banks are broadly classified into two – \textit{money creating functions & Service-rendering functions}\(^7\). The money – creating function is the more important of the two functions in any national economy, and this is accomplished through the mobilisation of capital. This involves not only the raising of funds or collection and pooling of bank deposits, but also the provision of credit to the various sectors of the nation’s economy.

The \textit{Service-rendering functions} of the commercial banks include –

- a. The keeping of accounts for customers- this may be current account, savings or time deposit accounts;
- b. The provision of Facilities for domestic and foreign remittances for their customers, including the provision of ordinary cheques, traveller’s cheques and foreign currency;
- c. The collection and settlement of national and International debts arising from domestic and external trade for their customers, including the provision of letters of credit;
- d. The provision of Facilities for their customers for the saving of their money and for the safe custody of their valuables;
- e. Undertaking feasibility Studies and rendering of financial and Investment advice and other corporate assistance to their customers; and

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\(^4\) Cap B3 Laws of Federation of Nigeria 2004, s.66. This section also defines a deposit as money lodged with any person, whether or not for the purpose of any interest or dividend, and whether or not such money is repayable upon demand upon a given period of notice or upon a fixed date.


\(^7\) See Igweike \textit{Law of Banking & Negotiable Instruments} (2004)@p.41
f. The undertaking of Trust and Administration of Estates in respect of their deceased customers. Examples of Commercial Banks are First Bank of Nigeria Plc, Zenith Bank Plc, UBA, Guaranty Trust Bank, Ecobank, Access Bank, Diamond Bank, Skye bank, FCMB, Fidelity Bank, Sterling Bank, Union Bank, etc.

THE MERCHANT BANKS
Under the BOFIA\(^8\), Merchant Bank is defined as a bank whose business includes receiving deposits on deposit account, provisions of finance, consultancy and advisory services relating to corporate and investment Matters, making or managing investments on behalf of any person.

According to Igweike\(^9\), Merchant Banking is of recent development in Nigeria. Neither the Banking Ordinance of 1952 and 1958 nor the Banking Decree of 1969 appeared to have anticipated Merchant Banking as a distinct and separate type of banking business requiring separate treatment. The first merchant Banking business in Nigeria began in 1961 with the opening by Philip Hills of London of an Office in Lagos. In 1969, the merchant banking activities of the Firm was transferred to and employed as Springboard for the establishment of the full - fledged merchant bank in country, known as the Nigerian Acceptances Limited (NAL). This Institution planned and monopolised whatever merchant business was available until the early seventies, when other merchant banks also began to open and operate in the country\(^10\).

THE DEVELOPMENT BANKS\(^11\)
A major development in the Institutional Framework of International and national economies is the spectacular growth of Development Banks, as well as development banking. The two main types of Development Banks being emphasized here are –

The Pure Development Banks – which perform the function of providing capital to a definite selected group of customers; and

The Development Corporations – which in addition to benefit derived from (a), may render various kinds of technical, managerial, commercial and other assistance to their customers.

Origin of Development Banks\(^12\)
Development Banking has its origin in the devastation of the Second World War at the end of which national leaders, principally in Europe and America put their heads together on how to salvage their world-torn economies. This gave birth to the Premier development bank known as The International Bank for Reconstruction and Development (World Bank). The World Bank was established in 1946 following the Bretton Wood Agreement of 1944 between the World leaders at the time, and epitomises International Development Banking at its apex. Following this, the movement for setting up Regional and National Development Banks was set in motion and soon spread to most countries of the World.

In Nigeria, inadequacy or insufficiency of indigenous private investments is usually often due to shortage of capital. The Nigerian Government over the years have tried to resolve this problem to a large extent by establishing a number of development banks or Loan Boards as they were originally known. These are essentially designed to handle Government Investments in selected targeted sectors of the economy, aimed at filling the gaps created by the inadequacy or insufficiency of private capital and investment. Thus, they have become financial Institutions which plan, finance and carry out investment projects or programmes for or on behalf of the Government. They have made it possible for the country to launch a number of successful projects that would never have otherwise materialised, and these are positive functions.

\(^8\) See s.66
\(^9\) Law of Banking& Negotiable Instruments @p.42
\(^10\) In my view, merchant banks are no longer the in-thing in the Nigerian Banking System of today, as Commercial Banks seem to be playing their roles fine. However, Merchant Banks do exist in some other countries of the World.
\(^11\) Igweike supra @p.44
\(^12\) Igweike @ pp 44-46
Development Banks provide the basic ingredients for economic development and adjustments, such as the necessary finance enterprise, technical and managerial assistance which have been in short supply. In this regard, they perform not only the banking function of making funds available for development projects, but also the development function of providing technical and managerial assistance to the needy sectors of the national economy.\(^\text{13}\)

In Nigeria, Development Banks began to appear as a feature of the banking system just at about the time the economy started to embark on Development Plans. The first of such development Plans was launched in 1946 to cover the period between 143-1956, and soon afterwards, the Nigerian Development Board was established by the Federal Government to help promote the realization of the Plan. This Board was later dissolved in 1949 and replaced with four new Boards – The Eastern, Western, Northern Regional development Boards and Lagos (Colony) Development Board. These Boards took over the activities of their predecessor and soon began to extend financial assistance to the Industrial and Agricultural sectors. In 1956, the Lagos (Colony) Development Board was dissolved and replaced with two new Boards which are – The Western Region Finance Corporation and The Federal Loan Board. In the same year, The Eastern Nigerian Development Corporation (ENDC) & The Northern Nigeria Development Corporation (NNDC) were established and charged with similar responsibilities in their respective Regions. However, all these Boards are no longer in existence today.

The current position in Nigeria is that the Federal Government has since created Development Banks to develop specific sectors of the economy. Some of these are:  The Bank of Industry, Federal Mortgage Bank of Nigeria (specifically for Housing), The Nigeria Export-Import Bank (NEXIM). These three Banks form the crux of this Paper on the subject Matter of Development Banks, and their Roles and functions to the Society are going to be discussed in details below.

THE FEDERAL MORTGAGE BANK OF NIGERIA & ITS FUNCTIONS\(^\text{14}\)

The Federal Mortgage Bank was established in 1956, then known as the Nigerian Building Society. Following the introduction of the Indigenisation Policy, the Federal Government by the Indigenisation Act of 1973 undertook 100% ownership acquisition of the NBS and consequently renamed it as the Federal Mortgage Bank of Nigeria\(^\text{15}\). The Bank operates as an effective vehicle for increasing the mobilisation of long term funds, lending volume and expansion of mortgage lending services to all segments of the Nigerian population. It was established as a body corporate with powers to sue and be sued, to acquire and to hold and dispose of property for the realisation of its aims and purposes, and for the performance of its functions\(^\text{16}\). The FMBN started the management and administration of the contributory savings scheme, known as the National Housing Fund (NHF) established by Act 3 of 1992. The NHF is a pool that mobilizes long term funds from Nigerian Workers, banks, Insurance Companies and the Federal Government to advance loans at soft interest rates to its contributors\(^\text{17}\). In 1994, the FMBN with the promulgation of the FMBN Act 82 of 1993 and the Mortgage Institutions Act 53 of 1989 was accorded the status of the apex mortgage Institution, and thus ceded its retail function to an autonomous company, the Federal Mortgage Finance Limited (FMFL), which was carved out of the FMBN itself and fully owned by the Federal Government of Nigeria.

Under the reform of the Housing sector based on the Federal Government’s 2006 National Policy on Housing and Urban Development, the FMBN was restructured into a Federal Government sponsored Enterprise (FGSE) with more focus on secondary mortgage and capital market functions. It plays the critical role of developing a robust mortgage finance system for the country\(^\text{18}\).

The Bank performs the following five principal functions:

\(^{13}\) Igweike – *Law of Banking & Negotiable Instruments* @pp 44-46
\(^{14}\) www.fmbn.gov.ng
\(^{15}\) www.fmbn.gov.ng
\(^{16}\) Igweike: *Law of Banking & Negotiable Instruments* @ p.54
\(^{17}\) www.fmbn.gov.ng
\(^{18}\) www.fmbn.gov.ng
1. The provision of long term credit facilities directly to individual Nigerians desiring to acquire houses of their own at such rates and upon such terms as may be determined by the Board in accordance with the Policy of the Federal Executive Council;
2. The provision of long term credit facilities to mortgage Institutions to enable these Institutions grant comparable facilities to Nigerian citizens desiring to own their houses;
3. The encouragement and development of mortgage Institutions, both at the National and State levels;
4. The supervision and control of Mortgage Institutions in Nigeria in accordance with such direction as may be given to the FMBN in that behalf by the Federal Executive Council; and
5. The provision at competitive commercial rates of interests, of credit facilities to commercial Property Developers, Estate Agents and Developers of offices and other specialized types of buildings (with the approval of the Minister of Housing).

To effectively discharge these functions, the Bank was granted the following powers:\19:

a. Accept term deposits and savings from Primary mortgage institutions, Trust Funds, and private Individuals as the Board of the Bank may determine;
b. Promote the mobilization of savings from the general public;
c. Invest in companies engaged in the manufacturing or production of building materials in the country;
d. Furnish financial advice and provide or assist in the provision of managerial, technical and administrative services for companies engaged in building, construction and development in the country;
e. Guarantee loans from private investment sources for building development;
f. Provide guarantees including guarantees in respect of promissory notes and other bills of exchange issued by licensed banks in the country and to discount such notes and bills;
g. Issue its own securities including debentures and bonds under Federal Government guarantees, and issue promissory notes and other bills of exchange for the purpose of raising funds from finance Institutions;
h. Establish a sinking fund for the redemption of the securities issued by it and provide for contribution by it to the sinking fund;
i. Carry out research on mortgage finance activities and building construction in the country;
j. Carry out research aimed at improving housing patterns and standards in both urban and rural areas of the country;
k. Organise and operate in collaboration with reputable insurance companies a mortgage protection system designed to guarantee liquidity to mortgage institutions as well as afford them the opportunity of having liberal premium terms;
l. Do anything and enter into any transaction which in its opinion is necessary to ensure the proper performance of its functions as contained in the National Housing Policy; and
m. With the approval of the Minister of Housing, borrow from any source, any money required for meeting its obligations and discharging its functions under the National Housing Policy 2006.

The National Housing Fund (NHF) Loans
In terms of eligibility for the NHF loan, an applicant should be an adult of eighteen years and above, should be a contributor to the NHF for at least six months, and must have a regular flow of income to guarantee loan repayment\20. The format for application is as follows:\21:

i. Applicant is to apply through a duly licensed and accredited mortgage loan originator of his or her choice, and not necessarily directly to the Federal Mortgage Bank of Nigeria;

\19 Igweike: Law of Banking & Negotiable Instruments @ p.55
\20 www.fmbn.gov.ng
\21 www.fmbn.gov.ng
ii. The MLO of the applicant’s choice must be accredited by the Federal Mortgage Bank of Nigeria to access the Facility;

iii. Application forms for the NHF are obtainable from the MLO

**Security for the Loan**
The property for which the loan is sought shall serve as security for the loan. The property shall conform with the existing planning Laws and Regulations (approved Building Plan). The property shall possess sufficient value to recover the loan. The mortgage property shall be insured against hazards. The loan shall be secured by first legal mortgage of the property between the applicant and the Mortgage loan Originator (MLO) and assigned to FMBN22.

**How much to apply for**
A borrower is entitled to a maximum loan of fifteen million naira or as determined by the Bank. Secondly, no individual should be given a loan in excess of ninety percent of the cost or value of the property to be mortgaged. The equity contribution on the new loan amount is currently as follows: Fifteen million naira – 30%, Ten million naira – 20%, five million naira – 10%. The interest rate shall be as prescribed by the National Housing Fund Act.23 The maximum repayment period shall be thirty years, and the individual borrower shall make repayment through the mortgage loan originator through which they obtained the loan24.


**THE BANK OF INDUSTRY**
The Bank of Industry is owned by the Federal Government of Nigeria. It is established with the aim of transforming Nigeria’s Industrial Sector26, and it finances the following types of Projects27:

a. Projects in areas where Nigeria has comparative advantage;

b. Projects that involve the efficient conversion of local raw materials into finished products; and

c. Ventures that can manufacture good quality products with the least production cost, and which can be successfully marketed locally or internationally.

Products and services deliverable by the Bank of Industry are as follows28:

i. Medium and long term loans/financing

ii. Working capital finance

iii. Equity Financing

iv. Funds Management

v. Loan Guarantees

vi. Co-financing

vii. Investment in Corporate Boards

viii. Business Development Services

ix. Lease Financing

x. Trusteeship

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22 www.fmbn.gov.ng
23 National Housing Fund Act 3 of 1992. This ranges between 2% - 6% per annum.
24 See the National Housing Fund Act; www.fmbn.gov.ng
25 www.fmbn.gov.ng
26 www.boi.ng
27 Role of Commercial & Development Banks in the promotion of Small and Medium scale Enterprises – www.entrepreneurshipsecret.com
28 www.entrepreneurshipsecret.com
29 www.boi.ng/services
THE NIGERIA EXPORT-IMPORT BANK (NEXIM)
The Nigeria Export-Import Bank is 100% owned by the Federal Government of Nigeria with an authorised share capital of fifty billion naira, equally subscribed to by the Federal Ministry of Finance and the Central Bank of Nigeria. The NEXIM was established by the NEXIM Act 38 of 1991 as an Export Credit Agency. The NEXIM differs from other Banks because it is a Development Finance Institution and does not accept deposits like the conventional Banks. It has its main focus on the developmental role of creating jobs and supporting the exports of Nigerian Goods and Services. It is not competing with the commercial Banks, but complements their roles in the developing the economy. It deals mainly on non-oil exports in different segments of the market as compared to the conventional Banks. These are usually new segments of the market which the commercial banks are not structured to service. The role of the NEXIM Bank includes assisting to structure the appropriate financing for such markets, either singly or with other commercial Banks/Financial Institutions through syndication.

The Various Facilities Available To Exporters from the NEXIM Bank
1. Rediscounting and Refinancing Facility – this is a Facility designed to assist exporters and Banks to provide pre- and post-shipment finance in local currency. It is usually available for a hundred and eighty days.
2. Stocking Facility – this Facility is disbursed in local currency and enables manufacturers of exportable Goods to procure adequate quantities of local raw materials needed to keep production at optimal level during period of scarcity.
3. Direct Lending Facility – the short term direct lending Facility is available for the financing of commodity and value – added exports. While the long term direct lending Facility is available to companies engaged in marketing and production of exportable goods. These are for a maximum tenor of 180 and 365 days respectively.
4. Local Input Facility – this is a medium or long term Facility disbursed in local currency for the purpose of asset acquisition/modernization, and expansion of existing production units for exports. It can be for a maximum tenor of seven years.
5. Foreign Input Facility - this Facility provides manufacturers with finance to import machinery, raw materials and other components to produce finished products for export. The Facility has a maximum tenor of seven years, inclusive of a moratorium period of not more than two years. It is repayable in foreign currency.
6. Export Credit Guarantee Facility – this is operated as a guarantee provided to Banks in respect of credit given to exporters in support of the export of goods and services from Nigeria. It also enables Nigerian Exporters to access credit internationally on terms that are more competitive than that offered within the local market.

Examples are First Bank Plc, Diamond Bank, Zenith Bank, FCMB, Ecobank, UBA, Union Bank Plc.
7. Export Credit Insurance Facility – this Facility insures exporters against risk of non-payment by buyers, which such default is due to commercial/economic causes. Payment defaults due to political reasons are covered separately by the NEXIM Bank for the account of the Federal Government of Nigeria.42

Other facilities rendered by the NEXIM Bank include:
   a. ECOWAS Inter-State Road Transit Scheme
   b. ECOWAS Trade Support Facility
   c. Nigerian Creative and Entertainment Industry Stimulation Loan Scheme.43

To access the NEXIM Bank’s Facilities, a customer has to make an application and submit it with a non-refundable fee of fifty thousand naira. Apart from the risk-bearing Facilities, the interest rates for the Bank’s other Facilities are below the market interest rates. An interested exporter must be a duly registered company with the Nigerian Corporate Affairs Commission, and the Nigerian Export Promotion Council. The application once submitted, takes a period of four to twelve weeks for its processing and approval when submitted with all relevant and complete documents. Financing can be done through the commercial Banks or directly through the NEXIM Bank itself.44

In conclusion, Nigerian Banks are generally seen as catalysts to economic growth. The Commercial Banks facilitate and speed up the process of economic development through making more funds available from resources mobilized, especially for the fact that in recent times, they lend the Federal Government deposit money via the Bond Market, and this has been used for building of infrastructural facilities, programme support and meeting budget deficits.45 The Post Consolidation Banks have supported the country in no small measure, and the result of this support is the reported economic and GDP growth of seven percent over the last ten years.

Commercial and Development Banks have contributed a lot in the promotion of Small and Medium Scale Enterprises, especially in the various functions they carry out in their day-to-day operations. This has really helped many established Entrepreneurs in Nigeria. The Development Banks have done a great deal as well in the enhancement of the economy through the few Banks given as examples - The FMBN which has helped many Nigerians desirous of owning their own houses to get one, as we all know the relevance of shelter. It has lived up to reasonable expectation in compliance with its overall mandate which is to promote the delivery of affordable and modern houses to Nigerians.46 The only problem here is the fact that applicants for the National Housing Fund must have a steady flow of income, and with this, only a few percentage of Nigerians are qualified for the Housing Loan Scheme, which factor is attributable to the high rate of unemployment, resulting in majority of Nigerians living uncomfortably. It is humbly suggested that the Federal Government should influence the manufacturers of building materials to cut down the cost of these materials by some thirty percent to make even self employed Nigerians be able to afford a decent shelter for living.

The Bank of Industry recently set up a two billion naira Entrepreneurship Scheme in form of Capacity Building Programmes to empower Nigerian Youth Corpers presently on service in different States of the Federation.47 This no doubt, helps to reduce the high rate of unemployment among millions of Nigerian Youths who unfortunately, have remained unemployed. This is just an instance of the various great services rendered by the Bank of Industry. However, the Bank of Industry should expand the number of people who currently benefit from their scheme, as this will go a long way to improve the living conditions of many Nigerians.

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42 www.neximbank.com.ng
43 www.neximbank.com.ng
44 www.neximbank.com.ng
45 Eromosele Abiodun: Nigerian Banks as Catalyst to Economic Growth (This Day Newspaper) 20th May, 2015.
46 www.fmbn.gov.ng
47 Featured on Channels TV Station on Tuesday 2nd December, 2015. The BOI Management Staff saw to the progress of the Capacity Building programme which was carried out in all the Geo-political Zones of the country, including Lagos State, for the Nigerian Youth Corpers (NYSC).
The NEXIM Bank has been of great help to Nigerian Importers and Exporters, especially the Exporters through all the Facilities it renders to those group of business men/women in need. As a matter of fact, the NEXIM Bank as part of the strategy to reposition itself has decided to focus a lot on the Manufacturing, Agricultural, Solid Minerals and Service Sectors (MASS), which are considered to be serious drivers of the economy. However, it should be noted that the NEXIM Bank finances customers who export more than half of their total production at any given time or period. To ensure it carries out its functions well, the NEXIM Bank organizes quarterly Exporter Enlightenment Forum for each of the country’s Geopolitical zones to ensure that all Stakeholders are adequately informed of the Rules and Procedure for accessing the Bank’s Facilities. This is definitely encouraging, and a right step in the right direction.

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49 However, with the current restriction placed on forex transactions, leading to the scarcity of foreign currencies (especially the US Dollar currency), are the Exporters and Importers being encouraged to carry on their businesses on large scale? 50 Ph.D Law (In View), Bayero University, Kano, Kano State.