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The Nigeria Police Trust Fund (Establishment) Act, 2019: A Step in the Right Direction?

The President of the Federal Republic of Nigeria recently signed into law the new Nigeria Police Trust Fund (Establishment) Act, 2019 (“the Act”). This Act establishes the Nigeria Police Trust Fund (“the Fund”) in favour of the Nigerian Police Force (“the Police”). The main objective of the Act is to provide a legal framework to govern the Fund to be utilized for training the Police, providing state-of-the-art security equipment and other related facilities to aid in the enhancement of the discharge of the duties of the Police.

Highlights of the Act

1. The Fund is operational for a period of six (6) years from commencement of the Act, unless extended for a further period as approved by the National Assembly. Upon the expiration of the six-year period, a six-month window is allowed for the Fund to wind up and settle all liabilities, after which all its outstanding assets will be handed over to the Police.

2. The establishment of the Nigeria Police Trust Fund Board of Trustees (“Board of Trustees”) is also established to oversee the administration of the Fund and update the Federal Government (FG) on its activities through periodic reports.

3. The Federal Government is to contribute 0.5% of the Federation's total revenue, into the Fund.

4. Companies carrying out businesses in Nigeria are expected to contribute a levy of 0.005% of their profit after tax (PAT) annually into the Fund.

5. Other sources of financing for the Fund may include income derived from investments, grants from non-governmental organizations and/or international agencies, as well as monetary gifts and landed properties.

Our Comments

Efforts aimed at promoting the welfare of the officers and members of the Nigeria Police Force should be commended, especially at this time when insecurity has become pervasive in all parts of the country, coupled with the obvious fact that the members of the Force are currently at the least level of motivation in the country's history. Evidence of hardly habitable residential and office accommodations for the Force can be seen all over the country, while disability and death benefits are always in arrears, if ever paid.

Notwithstanding the foregoing and irrespective of the apparent low rate of determining the levy, it is important to note that the imposition of another levy on the profits of companies is worrisome, as this has increased the number of earmarked taxes operating in Nigeria. Already,

Nigerian companies are liable to pay a 2% Tertiary Education Tax, 1% technology development levy, not to mention all other various social contributions tied to employee costs. This proliferation of earmarked taxes is inconsistent with the current National Tax Policy, which aims at de-emphasizing direct taxation in favour of indirect taxation. There is indeed a need to avoid the temptation of creating a special tax to address every major social and infrastructural challenge as this will promote a proliferation of special purpose taxes, with the attendant negative impact on both local and foreign direct investments (FDI) to Nigeria. Worse still, these special taxes have had very limited impact on the issues they were meant to address.

We note that the new Act does not specify the modality for assessment, payment and collection of the levy. Since the Federal Inland Revenue Service Establishment Act (FIRSEA) is yet to be amended to include this levy, there is a need to quickly clarify this situation. Meanwhile, it is important to avoid the creation of another revenue collection agency, as the multiplicity of such agencies tends to be as negative to the ease of doing business in Nigeria, as the multiplicity of taxes.

Lastly, we recommend that the quarterly reports of the administration of the Fund should not only be submitted to the President (as enshrined in the Act) but also published for the use of the general public to promote transparency and accountability.

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