GREY MATTER

| MEDIA<br>&<br>ENTERTAINMENT | **FINANCING THE CREATIVE INDUSTRY IN NIGERIA: MATTERS ARISING** |
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As part of efforts to boost job creation, particularly among Nigerian youths, the Central Bank of Nigeria (**"CBN"**), in collaboration with the Bankers' Committee, established the ***Creative Industry Financing Initiative*** (**"CIFI"**) in May 2019. The CIFI is to be funded from the *Agri-Business Small and Medium Enterprises Investment Scheme* (AGSMEIS), operated by the Bankers' Committee, with a seed fund of Twenty-Two Billion Nine Hundred Million Naira (₦22.9 billion) (the **"Fund"**).

CIFI was developed purposely to improve access to long-term, low-cost and sustainable financing for entrepreneurs and investors in the creative and information technology sub-sectors of the Nigerian economy (generally referred to as **"Creatives"**). The initiative is envisioned to complement other development finance schemes of the CBN, to accelerate financial inclusion in the country and harness entrepreneurial potential of the youth in the target sectors, ultimately for economic development.

Thus, on July 1, 2019, the CBN took further step towards concretizing the CIFI by releasing a framework for its implementation. The framework, tagged ***Modalities for the Implementation of the CIFI***, defines the objectives, sets the scope and prescribes the operational guidelines for accessing and administering the fund.

This article critically examines the CIFI implementation framework and provides clarifications on the general requirements for benefiting from the fund. It is also the aim of this piece to identify any potential challenges, which may impede smooth implementation of the CIFI, for possible regulatory actions.

## Scope of the CIFI

As stated in the framework, eligible activities under the CIFI are categorized into three groups, namely:

- Existing enterprises in the creative industry;
- Start-ups engaged in the creative industry; and
- Students of higher institutions engaged in software development.

The focal sub-sectors of the eligible activities for financing purposes include: (i) Fashion (ii) Information Technology ("IT") (iii) Movie and (iv) Music.

## How to benefit from the CIFI

Creatives whose businesses fall within the focal sub-sectors of the eligible activities can obtain a loan ranging from ₦3 Million to ₦500 Million, depending on their areas of business. An interested Creative is expected to approach any of the Participating Financial Institutions **("PFIs"**) with a clear business plan or statement, detailing how much capital is needed to execute the drawn business proposal, and complete the loan application process in the manner prescribed by the chosen PFI. All commercial and microfinance banks, licensed by the CBN to operate in Nigeria, are PFIs.

## Application & Documentation Requirements

Documentation requirements for accessing a loan under the CIFI are to be determined by each PFI, in line with its internal processes for customer credit requests. Where a PFI finds an applicant successful after conducting due diligence of the application and documents submitted, it will issue such applicant an offer letter containing the terms of the loan agreement, including repayment schedule. Afterwards, the PFI is required to forward the successful application with the offer letter to the CBN for consideration. Upon a satisfactory evaluation of the process, the aggregate facility amount shall be released by the CBN to the PFI for on-lending to the successful applicant.

## Key Features of the CIFI

- **MAXIMUM LOAN AMOUNT PER BORROWER –** The implementation framework sets single obligor limits (**"SOL"**) for each of the available loans under the CIFI. Whilst the SOL is ₦3 million for *Student Software Development Loan* (**"SSDL"**), it is ₦50 million and ₦500 million for movie production and movie distribution respectively. The framework does not specify applicable SOL for loans relating to the other eligible sub-sectors, such as fashion, IT and music industries.

- **FUNDING STRUCTURE –** The stipulated funding structure, for financing successful applicants' projects, is made up of Minimum Equity Contribution (**"MEC"**) and Term Loan. With the exception of SSDL which is to be fully financed by banks (100% Term Loan with 0% MEC), Creatives applying for CIFI loans in the other focal sub-sectors will have their projects partly financed by MEC and Term Loan. Whilst eligible movie industry loans require 30% MEC (by borrowers) and 70% Term Loan (from the banks), loans relating to eligible activities in the fashion, IT and music industries require 20% MEC and 80% Term Loan, appropriately.

- **SECURITY ARRANGEMENT –** For SSDL and movie industry loans, required collateral includes the MEC by borrowers (where applicable) together with execution of *All Assets Debenture* and *Legal Mortgage*, as well as *Personal Guarantee* and the provision of *Credible Guarantor*. However, for SSDL, a borrower is required to deposit, with the PFI, certificates of his/her university degree and National Youth Service Corp (NYSC) in lieu of debenture and mortgage deeds. In addition to the foregoing collateral security, borrowers in the fashion, IT and music industry shall have a lien placed on their connected stock of trade and items of equipment.


- **INTEREST RATE –** The rate of interest payable on all CIFI loans shall be 9% per annum (all inclusive).

- **REPAYMENT (MODE & SOURCE) –** For SSDL and loans granted for movie distribution, the mode of repayment is monthly. However, for movie production, repayment is required quarterly. Also, loans granted for other eligible activities in the fashion, IT and music industries are required to be repaid on a quarterly basis. The source of repayment shall be the proceeds of software sale or patent usage, movie tickets at the box office and other channels of distribution, sale of music record and income from services provided generally, as the case may be.

- **TENOR & MORATORIUM –** Whilst the longest tenor available under the CFI loan is ten (10) years, repayment periods generally vary and depend on the focal sub-sectors involved. Save for SSDL which has a tenor of 3 years, other loans relating to production & distribution of movies and equipment purchase & rental/service fees in the fashion, IT and music industries all have a 10-year tenor. Also, while SSDL enjoys 9-month moratorium from date of loan disbursement, the equivalent period for movie industry-related loans is 24-month. For loans relating to fashion, IT and music industries, the corresponding moratorium each is 36 months from date of loan disbursement.

- **OTHER CONDITIONS –** The implementation framework provides for other general and important conditions for the grant of CIFI loans to Creatives, which include: a good ("No bad") credit history with *Credit Risk Management System* (CRMS) or any commercial banks in Nigeria; preference for areas where their businesses have low penetration; and in certain circumstances, minimum of three (3) years relevant experience or at least three (3) referrals from recognized sponsors, bodies or associations.


## Commentary

At any rate, the development and rise of youths-centered entrepreneurial skills remain, at this critical time, a low-hanging fruit for Nigeria. Policies capable of driving the growth of intellectual property and spurring the establishment of an enabling environment for the advancement of the media, entertainment and technology industries – sectors most appealing to young people – are generally canvassed as a necessary vehicle for transiting from a consumption based and crude-oil dependent economy to a production based and competitive knowledge-economy. In this connection, the establishment of the CIFI and release of its implementation framework could provide the much needed incentives, for maximally unlocking the potential of the country's bourgeoning youthful population and harnessing same for the targeted growth in the Nigerian creative industry.

Whilst the aims and objectives of the CIFI are laudable, we consider that certain challenges remain in the modalities for operationalizing the scheme. It is thus necessary, that the identified challenges, highlighted below, be holistically addressed in order to position the initiative for maximum success.

We note that the CIFI implementation framework suffers from lack of certainty and uniformity of documentation requirements for loan applications. This is, perhaps, the most glaring factor which may pose problems to the smooth operation of the scheme. The wide latitude granted to each of the PFIs, to determine what documents/information to be required from a loan applicant, leaves too much to the discretion of the banks and may throw up transparency issues in the selection process. In our view, the CBN's framework ought to have prescribed a uniform and industry-wide documentation requirements to ensure a seamless regime.

Another issue is the restriction in the scope of the CIFI. In this regard, we consider that the listed eligible activities in the focal sub-sectors do not cover all the segments of the creative industry. It therefore leaves the fate of other Creatives, whose businesses, talents and skills are outside the listed four areas (Fashion, IT/Software Development, Movie and Music) hanging. It is our considered opinion that the eligible sectors of the creative industry be expanded beyond the listed four or, in the alternative, the initiative be made to cover all economically viable activities within the creative industry. Accordingly, the CIFI should be extended to Creatives whose skills and investments are in other segments of the industry, such as Performing Art; covering dance, music, drama/theatre and many aspects of Visual Arts; covering painting, drawing, print-making, sculpture, ceramics, photography, design/industrial design, graphic design, interior design and decorative art, among others. By excluding some creatives from the CIFI, the government and other corporate sponsors have continuously undermined the potential of these sectors to engender cultural, social and economic transformation of the Nigerian nation.

For example, performing artists, particularly dance artists, musicians, and theatre practitioners have been very instrumental to our cultural renaissance and are strategic to the success of the other sectors within the industry. They contribute in no small measure to the growth of the advertising industry through television commercials and are central to the movie industry, with many dance creatives working for private organizations while others work/consult for governmental institutions like the Councils for Arts and Culture.

Similarly, the visual arts do not only provide critical means of artistic expression but also enhance innovation and present viable opportunities for creating and owning intellectual property rights. In other words, visual artists create wealth capable of spurring both individual and national development and surviving through generations. Whilst skills such as photography and interior décor/design have become major occupations for many, others such as industrial/graphic design, ceramics, print-making and drawing form an important element in certain industries.

Collectively, performing and visual arts effectively project a good image of the country abroad, create jobs for millions of people (especially youths), generate wealth and are capable of attracting foreign direct investment through exhibition at annual international festivals, workshops, and multi-cultural performances. Thus, because of the identified huge potential of the excluded sub-sectors, we are of the opinion that a minimum threshold for measuring viability of projects across the entire creative industry be introduced, such that any Creative, in any segment of the industry whatsoever, can benefit from the CIFI where the prescribed minimum threshold is met.

It is also noted that the CIFI framework does not provide any timelines for the implementation of the scheme. In other words, there are no stated checks in place to ensure efficiency of the funding process. We believe the CIFI should not be left without a proper review mechanism, so as to prevent it from going the way of similar initiatives in the past; which only appeared on paper and made waves as news headlines, without achieving much in terms of beneficiaries and outputs.

**The Grey Matter Concept is an initiative of the Law Firm, Banwo & Ighodalo**

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*For further information on the Creative Industry Financing Initiative, including how to benefit from the scheme, kindly contact our* ***Media & Entertainment Law Team:*** *medialaw@banwo-ighodalo.com or send your enquiries to: ipgroup@banwo-ighodalo.com*


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