



# Amendment of FRCN Act: Changes to Financial Reporting and Corporate Governance in Nigeria

NOVEMBER 17, 2023

In a bid to enhance transparency and accountability in financial reporting and further strengthen corporate governance in Public Interest Entities (“PIEs”), the National Assembly, in April 2023, passed the **Financial Reporting Council of Nigeria (Amendment) Act, 2023** which amended some provisions of the Financial Reporting Council of Nigeria Act of 2011.



The Financial Reporting Council of Nigeria (“FRCN”) was primarily established in 2011 to develop and publish accounting and financial reporting standards to be observed by PIEs in the preparation of financial

statements, as well as to adopt and enforce corporate governance codes to be complied with by the boards and managements of the entities.

The FRCN Amendment Act, which has a commencement date of May 3, 2023, and was published in the Federal Republic of Nigeria Official Gazette of July 19, 2023, introduced new supervisory, governance, regulatory, compliance, enforcement and punitive measures to the existing and applicable financial reporting and corporate governance regimes.

This article provides a quick guidance on the changes, introduced by the FRCN Amendment Act, that are relevant to PIEs – entities that are subject to the regulatory remit of the FRCN.



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S/N	KEY ISSUES	PROVISIONS IN THE FRCN ACT OF 2011	CHANGES INTRODUCED BY THE FRCN AMENDMENT ACT, 2023
1.	<b>Definition of PIEs.</b>	Governments, government organizations, quoted and unquoted companies and all other organizations which are required by law to file returns with regulatory authorities (excluding private companies that routinely file returns only with the CAC and FIRS)	<ul style="list-style-type: none"> <li>• Governments and government organizations.</li> <li>• Listed entities on any recognized exchange in Nigeria.</li> <li>• Non-listed entities that are regulated.</li> <li>• Public limited companies.</li> <li>• Private companies that are holding companies of public or regulated companies.</li> <li>• Concession entities.</li> <li>• Privatized entities in which government retains an interest.</li> <li>• Entities engaged by any tier of government in public works with annual contract sum of ₦1 billion and above and settled from public funds.</li> <li>• Licensees of government.</li> <li>• All other entities with an annual turnover of ₦30 billion and above.</li> </ul>
2.	<b>Annual Dues payable by registered professionals, firms of registered professionals, and PIEs as contributions to the statutory Fund maintained by the FRCN.</b>	<ul style="list-style-type: none"> <li>• A minimum of ₦5,000 payable by every registered professional as Annual Due.</li> <li>• A publicly quoted company with market capitalization not more than ₦1 billion to pay annually an amount equal to 0.1% of its market capitalization or ₦250,000, whichever is lower.</li> <li>• A publicly quoted company with market capitalization greater than ₦1 billion but not more than ₦500 billion to pay annually an</li> </ul>	<ul style="list-style-type: none"> <li>• A minimum of ₦10,000 payable by every registered professional as Annual Due.</li> <li>• A publicly quoted company with market capitalization not more than ₦1 billion to pay annually an amount equal to 0.10% of its market capitalization or ₦500,000, whichever is higher.</li> <li>• A publicly quoted company with market capitalization greater than ₦1 billion but not</li> </ul>

	<p>amount equal to 0.04% of its market capitalization or ₦2 million, whichever is lower.</p> <ul style="list-style-type: none"><li>• A publicly quoted company with market capitalization greater than ₦500 billion to pay annually a sum of ₦5 million.</li></ul>	<p>more than ₦5 billion to pay annually an amount equal to 0.04% of its market capitalization or ₦2 million, whichever is higher.</p> <ul style="list-style-type: none"><li>• A publicly quoted company with market capitalization greater than ₦5 billion but not more than ₦100 billion to pay annually an amount equal to 0.004% of its market capitalization or ₦3.5 million, whichever is higher.</li><li>• A publicly quoted company with market capitalization greater than ₦100 billion but not more than ₦250 billion to pay annually an amount equal to 0.004% of its market capitalization or ₦10 million, whichever is lower.</li><li>• A publicly quoted company with market capitalization greater than ₦250 billion but not more than ₦500 billion to pay annually an amount equal to 0.003% of its market capitalization or ₦15 million, whichever is lower.</li><li>• A publicly quoted company with market capitalization greater than ₦500 billion but not more than ₦1 trillion to pay annually an amount equal to 0.0025% of its market capitalization or ₦20 million, whichever is lower.</li><li>• A publicly quoted company with market capitalization greater than ₦1 trillion to pay</li></ul>
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		<p>PIEs that were not publicly quoted companies were required to pay annually amounts stated as follows:</p> <ul style="list-style-type: none"> <li>• ₦5,000 where the annual turnover was not less than ₦25 million but not more than ₦50 million.</li> <li>• ₦20,000 where the annual turnover was greater than ₦50 million but not more than ₦500 million.</li> <li>• ₦50,000 where the annual turnover was greater than ₦500 million but not more than ₦1 billion.</li> <li>• ₦100,000 where the annual turnover was greater than ₦1 billion but not more than ₦10 billion.</li> <li>• ₦1 million where the annual turnover was greater than ₦10 billion.</li> </ul>	<p>annually an amount equal to 0.002% of its market capitalization or ₦25 million, whichever is lower.</p> <p>PIEs that are not publicly quoted companies are now required to pay annually amounts stated as follows:</p> <ul style="list-style-type: none"> <li>• An amount equals to 0.02% of annual turnover, where the annual turnover of the entity is not more than ₦25 million.</li> <li>• An amount equals to 0.025% of annual turnover, where the annual turnover of the entity is greater than ₦25 million but not more than ₦50 million.</li> <li>• An amount equals to 0.03% of annual turnover, where the annual turnover of the entity is greater than ₦50 million but not more than ₦500 million.</li> <li>• An amount equals to 0.04% of annual turnover, where the annual turnover of the entity is greater than ₦500 million but not more than ₦1 billion.</li> <li>• An amount equals to 0.045% of annual turnover, where the annual turnover of the entity is greater than ₦1 billion but not more than ₦10 billion.</li> <li>• An amount equals to 0.05% of annual turnover, where the annual turnover of the entity is greater than ₦10 billion.</li> </ul>
3.	<b>Annual Dues Payment</b>	Payment dates were not specified but Annual Dues were required to be paid “as	<ul style="list-style-type: none"> <li>• Individual professionals and professional firms are now</li> </ul>

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	<p><b>Dates.</b></p>	<p>and when due”. This was likely to be determined by Demand Notices from the FRCN.</p>	<p>required to pay their Annual Dues “not later than 60 days from January 1 every year”.</p> <ul style="list-style-type: none"> <li>PIEs are now required to pay “not later than 120 days of the financial year”.</li> <li>Other entities qualified under the FRCN Amendment Act are now required to pay “not later than 120 days of the financial year”.</li> </ul>
<p><b>4.</b></p>	<p><b>Penalties for Non-payment.</b></p>	<ul style="list-style-type: none"> <li>A person who failed to pay the applicable due would be liable to pay a penalty equivalent to 10% of the amount due for every month of default cumulatively for up to ten months.</li> <li>If still in default after the ten months, the person would be prosecuted and if convicted would be liable to a fine of not more than 3 times the amount due, plus all accrued penalties for default charged by the FRCN.</li> <li>Where the defaulting person is a company, the CEO of the company would, in addition, be liable to a fine of not more than ₦500,000 or imprisonment for a term not exceeding 6 months.</li> </ul>	<ul style="list-style-type: none"> <li>A person who fails to pay the applicable due shall now be liable to pay a penalty equivalent to 10% of the amount due for every month of default cumulatively until payment is made and shall be prosecuted by the FRCN in accordance with the law.</li> <li>A person shall be liable to sanctions as may be determined by the FRCN for any default of its agents, officers, or personnel engaged in the financial reporting process for non-compliance with the provisions of the FRCN Act (as amended).</li> <li>In the case of the CEO of a company, the penalty shall be as prescribed by the FRCN, or imprisonment for a term not exceeding 6 months on conviction.</li> </ul>
<p><b>5.</b></p>	<p><b>Registration of professionals and validity period.</b></p>	<p>The FRCN was required to maintain a Register of Professionals, and every registration was valid for a period of 2 years.</p>	<p>The FRCN shall maintain a Register of Professionals, and every registration of professionals under the FRCN Act (as amended) shall be renewed annually.</p>

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6.	<b>Penalties for holding appointments and offering services to PIEs for remuneration by unregistered persons.</b>	A person not registered with the FRCN, who held appointment or offered any service for remuneration as a professional for PIEs, was liable on conviction to a fine not exceeding ₦500,000 or to imprisonment for a term not exceeding 6 months or both.	A person not registered with the FRCN, who holds appointment or offers any service for remuneration as a professional for PIEs shall be liable on conviction, to a fine of ₦5 million or any other amount that the FRCN may prescribe by Regulation from time to time, or to imprisonment for a term not exceeding 6 months.
7.	<b>Adoption of accounts, financial reports or annual returns and other documents required under certain Acts of the National Assembly.</b>	The FRCN was required to adopt accounts, financial reports or annual returns and other documents required under certain Acts listed in Section 59 of the FRCN Act of 2011.	In addition to the Acts listed under Section 59 of the FRCN Act of 2011, the FRCN is now required to adopt accounts, financial reports or annual returns and other documents required under the following three Acts: <ul style="list-style-type: none"> <li>i. Finance Act, 2021.</li> <li>ii. Fiscal Responsibility Act, 2007.</li> <li>iii. Finance Control and Management Act, 1958.</li> </ul>
8.	<b>Practice Review by FRCN of professional accountants &amp; execution of Warrant of Distraint.</b>	Subject to the consent of a public interest entity/company under investigation, the FRCN could inspect any relevant book, document, and record in the possession, or under the control of the auditor, his partner or employee and make copies of, or take any abstract of, or extract from any such book, document, and record in relation to the company.	<ul style="list-style-type: none"> <li>• The FRCN no longer requires the consent of a public interest entity/company under investigation, to carry out the specified inspection and copying of documents and records in possession or under the control of the auditor, his partner or employee.</li> <li>• The FRCN may now co-opt the assistance and cooperation of any of the law enforcement agents in the discharge of its duties under the law, and the law enforcement agents shall aid</li> </ul>

and assist any FRCN authorized officer in the execution of any warrant of distraint and the levying of distraint.

- An FRCN official armed with a warrant issued by a judicial officer and accompanied by law enforcement officers, shall have the right and power to enter, search, and seal off any premises covered by the warrant.
- An official executing a warrant of distraint shall have the right and power to search for any document and seize or take possession of such document or any article suspected to have been used in the commission of an offence.
- Copies or extracts of documents, including digital copies of records, books, computer are allowed to be taken during execution of a warrant of distraint, regardless of the medium used for their storage.
- Forceful entry into premises covered by a warrant of distraint, through outer or inner windows and doors, are now permitted.
- A designated official of the FRCN is now empowered to use reasonable force to remove any obstruction to entry, search, examination, seizure, or removal of any

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			<p>articles from a covered premises.</p> <ul style="list-style-type: none"> <li>• A person executing a warrant of distraint has the right to search the body of any person found in the covered premises, who is of the same gender with the person carrying out the body search.</li> </ul>
9.	<b>Obstruction of an Inspector in the execution of his powers or duties under the law.</b>	<p>Obstruction of an Inspector in the execution of his powers or duties under the FRCN Act of 2011 amounted to an offence and, any person who caused such obstruction was liable on conviction to a fine not exceeding ₦500,000 or to imprisonment for a term not exceeding 6 months or to both.</p>	<p>Obstruction of an Inspector in the execution of his powers or duties under the law is now an offence that attracts a fine or penalty not exceeding ₦5 million or as the FRCN shall prescribe by regulation, or on conviction to imprisonment for a term not exceeding 6 months or to both.</p>
10.	<b>Sanction for non-compliance.</b>	<ul style="list-style-type: none"> <li>• Failure to comply with the prescribed statement of accounting and financial reporting standards developed by the FRCN or any of its decisions amounting to non-compliance with the law and with such other accounting and financial reporting standards as may be specified under relevant enactments, attracted a fine of not exceeding N10 million or imprisonment for a term not exceeding 2 years or both, upon conviction.</li> <li>• The FRCN was required to give a notice of non-compliance to any entity that contravened specified financial and accounting</li> </ul>	<ul style="list-style-type: none"> <li>• Non-compliance with the prescribed statement of accounting and financial reporting standards developed or adopted by the FRCN or with any of the decisions of the FRCN or with any law and such other accounting and financial reporting standards as may be specified under relevant enactments, now attracts upon conviction a fine of ₦10 million or any other amount which the FRCN may prescribe in a regulation, or imprisonment for a term not exceeding 2 years.</li> <li>• Failure to comply with Notice given by the FRCN within the specified timeframe, now attracts a fine or penalty of</li> </ul>

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		<p>standards, and the entity served with such notice was required to restate its financial statements and resubmit them to the FRCN or any applicable government department or authority within 60 days of the service. Failure of a PIE to do this attracted, on conviction, a fine not exceeding ₦20 million in addition to restatement of the affected financial statements within 30 days thereafter.</p> <ul style="list-style-type: none"> <li>Where the FRCN reached a decision that any PIE had failed to comply with the law or specified standards, resulting to giving the entity a Notice requiring immediate compliance, failure of the PIE to comply with the FRCN decision within the specified timeframe attracted, on conviction, a fine not exceeding ₦10 million in addition to the obligations to rectify the relevant irregularities or restate any affected financial statements within 30 days thereafter, and also disclose same in the following year's financial statements.</li> </ul>	<p>₦25 million or any other amount that may be prescribed in a regulation by the FRCN, in addition to the obligation to restate the affected financial statements by the concerned PIE within 30 days.</p> <ul style="list-style-type: none"> <li>A PIE that fails to comply with a Notice by FRCN of its decision requiring immediate compliance with any law or specified accounting standards, shall be liable to a fine of ₦50 million or any amount as the FRCN may prescribe through regulations from time to time, in addition to the obligations to restate any affected financial statements within 30 days and to also disclose same in the following year's financial statements.</li> </ul>
11.	<b>Pre-trial Notice</b>	There was no requirement for a Pre-trial Notice to be served before any entity could bring an action against the FRCN.	A 30-Day Pre-trial Notice is now required to be served on the FRCN before commencement of any suit by an entity against the Commission. The Notice shall state the cause of action; particulars of the claim; name and place of abode of the intending plaintiff; and the relief sought.

**Remarks.**

The changes brought about by the FRCN Amendment Act underscore a heightened focus and emphasis on corporate governance and risk management in financial reporting by PIEs. The notable increase in the applicable fines and penalties for infringement clearly demonstrates a serious commitment to ensuring compliance with the law among relevant entities.

The new provision requiring the FRCN Board to maintain a national repository for electronic submission of General-Purpose Financial Statements by PIEs, will enhance public access to information on individual entity's performance, enhance accountability, and promote transparency in the Nigerian accounting and corporate governance landscape.

However, concerns arise regarding the expanded powers granted to the FRCN, particularly in executing warrants of distraint. The potential for dawn raids on entities by FRCN officials, in collaboration with law enforcement agents, raises apprehensions about financial losses and reputational damage for affected entities.

Additionally, the increased annual dues for PIEs, amid existing mandatory contributions to various regulatory agencies, may be perceived as an added financial burden on businesses. This could be seen as contradicting the government's commitment to reducing the cost of doing business in Nigeria.



Given that the FRCN Act is a primary legislation requiring strict compliance with its provisions (in contrast to the Nigerian Code of Corporate Governance 2018 which operates on the principle of "apply and explain" or 'Sectoral Governance Guidelines' or other relevant subsidiary legislations), the changes introduced have deep implications for PIEs in terms of compliance risks. Companies and other business entities that fall within the expanded meaning of PIEs are strongly advised to seek appropriate legal and professional guidance on the new regulatory regime.

The Grey Matter Concept is an initiative of the law firm, Banwo & Ighodalo.

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