



Snapshots:

LeLaw's Year 2023 in Retrospect

LeLaw Thought Leadership | July 2023

Going Further Beyond:

Corporate Restructuring Reflections on the Companies and Allied Matters Act 2020 Single Shareholder Company Regime

Thought Leadership by Afolabi Elebiju and Denis Ogunbowale

LeLaw Thought Leadership | November

Questions:

Perspectives on Share Buy Backs under the Companies and Allied Matters Act 2020

Thought Leadership by: Afolabi Elebiju

Transfer Pricing Forum

Transfer Pricing for the International Practitioner

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LeLaw Thought Leadership | August 2023

Perplexities:

Is the Companies and Allied Matters Act 2020 (CAMA)'s Prohibition of Political Donations by Nigerian Companies Tenable?

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LeLaw Tax Monograph Series No.4 | April 2023

Posers and Answers:

The Petroleum Industry Act 2021, Production Sharing Contracts and Stabilisation Issues

Afolabi Elebiju

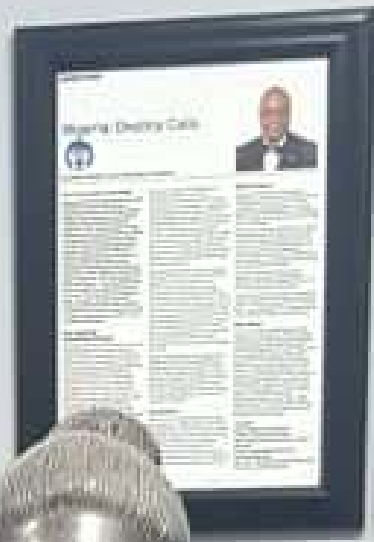
LeLaw Thought Leadership | January 2023

Locations:

Issues in 'Geographical Boundaries' Regulation and Digital Operations of Microfinance Banks in Nigeria

Introduction

The emergence of microfinance banks (MFBs) in Nigeria was a conscious regulatory policy initiative to bank the unbanked, financially disadvantaged "bottom of the pyramid" but significant segment of the economic populace: traders, artisans, low skilled workers, farmers, with an inclusive focus on also those in the rural areas.¹ The army of unbanked or financially excluded people has been a global phenomenon, especially in developing economies, with concomitant efforts to close the "financial access" gaps. On its own part, the United Nations' Millennium Declaration 2000 which laid out the Millennium Development Goals (MDGs), also gave a boost to the MFB regulatory framework in Nigeria.





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Preface:

From Our Principal

We are delighted to share our Year 2023 Performance Report with our esteemed readers. Our foray into this good practice started in 2020 with ‘**Retrospections: LeLaw’s Year 2020 Highlights**’: https://lelawlegal.com/add111pdfs/LeLaw_-_2020_in_Retrospect1.pdf , and we continued in 2022 with ‘**Winds and Sails: LeLaw’s Year 2021 Highlights**’: [https://lelawlegal.com/add111pdfs/Sails_-_LeLaws_2021_Highlights_Final_032022_\(Compressed\).pdf](https://lelawlegal.com/add111pdfs/Sails_-_LeLaws_2021_Highlights_Final_032022_(Compressed).pdf).

Unfortunately, due to many factors, we decided not to publish our Year 2022 Report, but ‘consumed’ the learnings in-house; we have however compelled ourselves to resume producing the Yearly Report, hence this **Snapshots** publication.

Whilst it lasted, 2023 did not look as exciting as we hoped it would have been at the beginning of the year. However, as we took stock we realised that it was actually not as bad as the year felt month on month. Whilst the economy tanked and there other challenges, on the positive at least Nigeria succeeded in another democratic transition and the prevailing mood is that the transition is worth celebrating.

Every day, we acknowledge, in line with the “*Clients First*” element of **Our Values**, that: “*Without clients, we would not be in business.*” So in sharing this Report, we are also expressing our unbounded appreciation to our esteemed clients who entrusted their most challenging business issues to us for our intervention. We hope to remain worthy of your trust and look forward to being even of greater assistance to, and winning with you in 2024!

We also look forward to welcoming new clients onboard, as part of the reward for our responsible corporate citizenship, and professionalism including through consistently investing in qualitatively contributing to topical Nigerian legal regulatory business discourse.

We hope you find this **Snapshots** publication an interesting read, and would be delighted to receive your feedback. On our part, we regard it as a call to action to raise our game, and engineer even better client outcomes. You can send your feedback to: info@lelawlegal.com.

With the assurances of our warm regards as we also wish you a wonderful Year 2024,

Afolabi Elebiju Esq.
Principal



LELAW: 2023 *Significant Engagements*

For the record, we have decided to share with our Clients and Friends, the major engagements we undertook in 2023

Advisories

– Oil & Gas, FSI, Public Sector, Tertiary and Secondary Education, Real Estate, FMCG

- provided significant tax regulatory related capital restructuring transaction advisory for an upstream group, as “a second pair of eyes”, to review the deliverable of the primary (Big 4) adviser;
- advising a growth focused indigenous oil services client on insitutionalising corporate governance framework including but not limited to, drafting and finalising a robust shareholder agreement (SHA);
- advised (as co-counsel) a Federal Government health agency about global operating models of peer institutions, pursuant to proposed new legislative framework, to facilitate its more robust health sector impact delivery. Provided input on implementation roadmap and critiqued structure and language of proposed legislation;
- advised an investee company cum investor in an upstream company about the mechanics of implementing share buy backs under **CAMA 2020** in the light of both companies' and affiliates' circumstances;
- advised an FSI client on strategy for effectively asserting its rights in a real estate JV investee company and against majority shareholder/JV partner regarding realisation of client's potential returns from a multibillion Naira development in Nigeria;
- advised a multinational microfinance institution on compliance strategy issues cum regularisation on a prior foreign exchange (loan) transaction, from a repatriation point of view;
- advised on, drafted, reviewed, provided negotiation support and finalised various commercial contracts for FMCG client covering: supply, installation and commissioning of specialised equipment; receipt of security





services; marketing and branding services; personnel outsourcing arrangements; and expatriate employee regulatory optimal compliance strategy;

- advised various founders of *promising tech start-ups* on diverse corporate governance, business strategy, legal regulatory and tax issues;
- provided *sweat equity entitlement advisory to a departing CEO* and successfully got the employer to agree to pay-out after initial insistence on client's non-entitlement;
- advised a founder and CEO of a tech company with regional footprint on dispute management strategy, regarding differences with directors and investor groups;
- advised *high profile repatriate (hired from offshore)* on terms and conditions of his employment by offshore parent and secondment to Nigerian affiliate;
- advised *international FMCCG company* on sundry expatriate employment compliance issues and agreements;
- advised on *consortium on arrangements* for making a bid for an FSI player that PE firm owner wanted to divest from;
- concluded advisory work for a Nigerian subsidiary of a foreign investor on *exit strategy from an 'imbalanced' real estate JV arrangement*, successfully achieved 'unravelling' and providing implementation support to fully consummate the landowner client's exit;
- sundry advisory opinions on diverse operational business legal regulatory tax issues for leading PE client;
- sundry advisory opinions on diverse operational business legal regulatory tax issues for leading integrated real estate development client across its entire value chain;
- sundry advisory opinions on start-up and

operational legal regulatory tax issues for global aspirational not for profit Nigerian tertiary institution;

- advising on *Nigerian entry, operating and exit strategies* for leading multinational investors; and
- tax advisory *cum strategy consultancy* for a leading litigation firm retained by their client on a transfer pricing dispute;
- advised a leading industry player on evaluating the correctness or otherwise of a significant stamp duty assessment from the FIRS, provided dispute resolution strategy advisory including preparing a detailed pushback letter on their behalf;
- advising a UK client on cross-border dispute management strategy regarding liquidation proceedings founded on unsubstantiated/contestable tax claims by the HMRC;
- advised an investment client on the exit options under their international hotel management services agreement covering branded hotels in Nigerian city locations;
- advised a proposed non-resident investor on health sector start-up requirements for medical services, development and operation of health facilities in Nigeria, and financing arrangements for same;
- advised a not for profit promoter of a tertiary institution and provided implementation support for establishing foreign foundations to platform foreign donations and grants.
- advised an FMCG on immigration related expatriate secondee matters; and pension compliance, payroll and risk management issues *vis a vis* contract arrangements with outsourced staff providers;



Transactions

– FSI, Real Estate, FMCG, ICT, Hospitality, Oil & Gas, PPP

- acted as buyers' co-counsel in a significant M&A transaction involving two related FSI targets;
- implementing real estate loan restructurings for three separate projects involving different parties running into **US\$75 million** and **₦300 billion** respectively;
- further to earlier advisory services, providing *implementation support* to consummate exit of JV partner landowner client from a disadvantageous landmark real estate JV in a premium city location;
- providing *transaction support services* to oil services client promoter/consortium member on consortium project arrangements (inclusive of upstream asset owner), for the development of *midstream gas solution* on an upstream asset in order to capture the full value of the oil and gas chain therein;
- providing *transaction support services* to oil services client promoter/consortium member on consortium project arrangements for the development of *mini-LNG/CNG Project and Power Solution*;
- continued advisory services to a Nigerian project promoter on a significant PPP road project in a West African country;
- continuing start-up advisory, structuring and part regulatory support to a real estate focused PE fund and also on respective RE transactions;
- advised a non for profit (religious body) on a real estate transaction involving lease, and many other elements;
- advised *the promoter of a tertiary institution* on real estate transaction involving acquisition of a temporary campus and related comprehensive refurbishment works;
- advised *a start-up aspirational tertiary institution* on proposed project finance for its campus with an international development institution, including on issues such as borrowing powers of Nigerian not for profits;



Litigation and ADR

- as co-counsel in a tax dispute of **₦97 billion** involving an international upstream client, advised on strategy that brought the Revenue to the discussion table, including resorting to the Tax Appeal Tribunal, *vis a vis* earlier threatened ‘illegal’ enforcement action;
- counsel in separate tax appeals including an upstream client (Benin City (TAT), Yenagoa (FHC), Lagos (FHC) and a leading ICT player (Benin-City, FHC) running into billions of Naira;
- Claimant’s counsel in a litigation for **US\$25 million** indemnification from upstream customer of oil services client following accident in customer chartered vessel, resulting in loss of equipment;
- 2nd Defendant’s counsel in a facilities management services and fee recovery dispute in respect of a shopping mall;
- concluded *via* settlement, a High Court appeal against unfavourable findings against client lessee in a tenancy dispute;
- conducting an ongoing trial at the Lagos High Court as 1st Defendant counsel in a franchise/banker-customer relationship;
- continuing representation of a customer-couple, against a leading Nigerian bank in a dispute involving foreign currency transactions.



OUR VALUES

INTEGRITY
We are committed to the highest standards of ethical conduct and transparency in all our business dealings.

EXCELLENCE
We strive for the highest quality in everything we do, from our products to our customer service.

INNOVATION
We embrace change and seek out new ways to improve our products and processes.

TEAMWORK
We believe in the power of a diverse team working together to achieve our common goals.

COMMUNITY
We are committed to the well-being of the communities in which we operate and to making a positive impact on the world.

"Meet that man Ulgent to his business! He shall stand before things, he shall not stand before men!"
- Proverbs 22:1

"The gold is not in the mine but in the hands of those who will it."
- Proverbs 10:2



Thought Leadership

We continued our active qualitative contribution to Nigerian legal regulatory business discourse. We also contributed chapter contributions to international publications and a forthcoming indirect taxes book.



Going Further Beyond:

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Thought Leadership by Afolabi Elebiju and Denis Ogunbowale



Perplexities:

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Thought Leadership | Afolabi Elebiju, Blessing Aghorah and Denis Ogunbowale

Locations: Issues in 'Geographical Boundaries' Regulation and Digital Operations of Microfinance Banks in Nigeria

Introduction

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This raises some pertinent questions: can non-National MFBs not validly transact online with 'out of boundary' customers? Is the territorial regulatory restrictions not limited to physical operations? Why should a non-National MFB that has made the necessary investments in technology not be able to leverage its platform and other (developed) including industry ICT infrastructure that it can access to have a wider online reach, rather than being constrained by the physical/territorial prescriptions of its license?

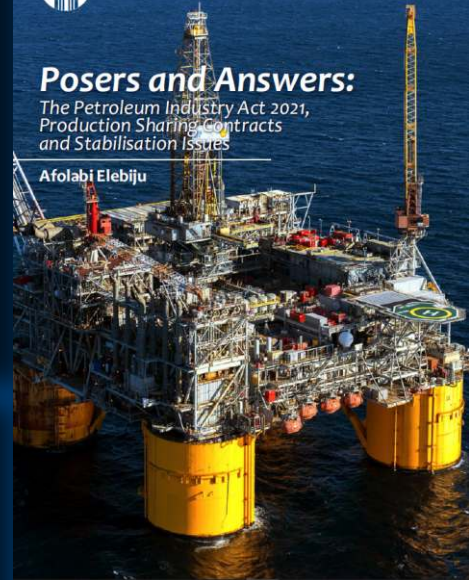
This article aims to address these and other questions regarding the emerging operational and business challenges faced by MFBs, in the context of their applicable regulatory cum commercial framework. However, we will preface our discussion with a historical overview of MFB regulatory policy in Nigeria.

LeLaw (Barristers & Solicitors), 101 Akoka Road, Lagos, Nigeria. www.lawlegals.com



Posers and Answers: The Petroleum Industry Act 2021, Production Sharing Contracts and Stabilisation Issues

Afolabi Elebiju



Questions:

Perspectives on Share Buy Backs under the Companies and Allied Matters Act 2020

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Signposts and Landmarks:

The Business Facilitation (Miscellaneous Provisions) Act No. 5 of 2022 - A Critique of Recent Strides in Nigeria's Business Regulatory Policy Reform Journey

Afolabi Elebiju



Public Interest Litigation, Citizens' Rights and 'Regulatory Irresponsibility':

Periscoping the Central Bank of Nigeria's Q1 2023 Currency Change Exercise

by: Afolabi Elebiju



Thought Leadership | Afolabi Elebiju, Uthoma Ovesor and Kayode Fabusola

Validity Questions: Nigeria's Companies and Allied Matters Act 2020 (CAMA) and Limited Partnerships (LPs)

Introduction

Following the enactment of the Companies and Allied Matters Act 2020 (CAMA), some commentators recently raised the question, whether CAMA's limited partnership (LP) provisions establishing LP as a nationally available business vehicle are constitutional. Given the serious implications of the outcome for business, vis a vis regulatory policy objectives, this article seeks to consider the above equity in more detail, especially as there does not appear to have been any previous exercise in this regard.



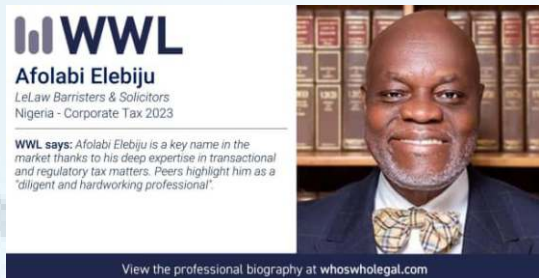
If the dispositive analysis confirms the constitutionality of CAMA's LP vehicle, then there is no cause for concern; however, a contrary finding will entail further questions and remedial steps. In order to ensure that the LP regulatory framework does not make businesses (such as funds in the private equity (PE) industry), nervous. Incidentally, CAMA's limited liability partnership (LLP) provisions do not appear to have any questions of constitutional validity, but may impact the LLP provisions of the Partnership Law of Lagos State (PLLS), which appears to be the only State Law with LLP provisions.¹

It is not in contention that matters revolving around LP had always been for the States' Houses of Assembly (SHAs) to legislate on pre-CAMA.² Hence, the

1. See the PLLS provisions on Limited Partnerships (LPs) under the Companies and Allied Matters Act 2020. 'What Should Business Considerations?' (LeLaw Thought Leadership, April 2023). <https://www.lawlegals.com/insights/thought-leadership/what-should-business-considerations/>. See also: 'The Companies and Allied Matters Act 2020 (CAMA) - A Critique of Recent Strides in Nigeria's Business Regulatory Policy Reform Journey' (LeLaw Thought Leadership, November 2023). <https://www.lawlegals.com/insights/thought-leadership/cama-a-critique-of-recent-strides-in-nigerias-business-regulatory-policy-reform-journey/>. See also: 'The Companies and Allied Matters Act 2020 (CAMA) - A Critique of Recent Strides in Nigeria's Business Regulatory Policy Reform Journey' (LeLaw Thought Leadership, November 2023). <https://www.lawlegals.com/insights/thought-leadership/cama-a-critique-of-recent-strides-in-nigerias-business-regulatory-policy-reform-journey/>. See also: 'The Companies and Allied Matters Act 2020 (CAMA) - A Critique of Recent Strides in Nigeria's Business Regulatory Policy Reform Journey' (LeLaw Thought Leadership, November 2023). <https://www.lawlegals.com/insights/thought-leadership/cama-a-critique-of-recent-strides-in-nigerias-business-regulatory-policy-reform-journey/>.

Recognitions

Our work continued to gain positive market recognition and our Principal and the Firm were winners of several international awards, some of which are shown below:



Clients Choice Award: Corporate Tax - Nigeria



CSR

Submission of Memo to the Presidential Committee on Fiscal Policy and Tax Reforms

In response to calls for submission of memoranda by professionals and interested members of the public, our Principal submitted a 9 page memorandum on behalf of the Firm (as part of our CSR obligations), to the Presidential Committee on Fiscal Policy and Tax Reforms in November 2023. We wish them Godspeed in their very important national assignment.



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(by Access Bank, A/H Branch)
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E: info@lelawlegal.com

www.lelawlegal.com

MEMORANDUM

TO: Presidential Committee on Fiscal Policy and Tax Reforms
(submissions@fiscalreforms.ng)

COPY: Taiwo Oyedele (Chair), Files

FROM: LeLaw Barristers & Solicitors (a.elebiju@lelawlegal.com)

DATE: 23rd November 2023

SUBJECT: Re: Public Notice – Call for Memoranda on Fiscal Policy and Tax Reforms

1.0. Background

We refer to, and commend the Presidential Committee for the above recent Notice which was widely published in the news media, and make our submissions in response thereto, below. For ease of reference, we have utilised subheadings for the various issues considered in this Memo.

2.0. Reform Suggestions

A. Repeal or Amend the Industrial Training Fund (ITF) Act

Our Principal was also Keynote Speaker at the grand opening of new law offices of Liberte Vie on Democracy Day, 12th June 2023. He spoke on ‘Liberty, Law and Order in the Age of Crisis’.

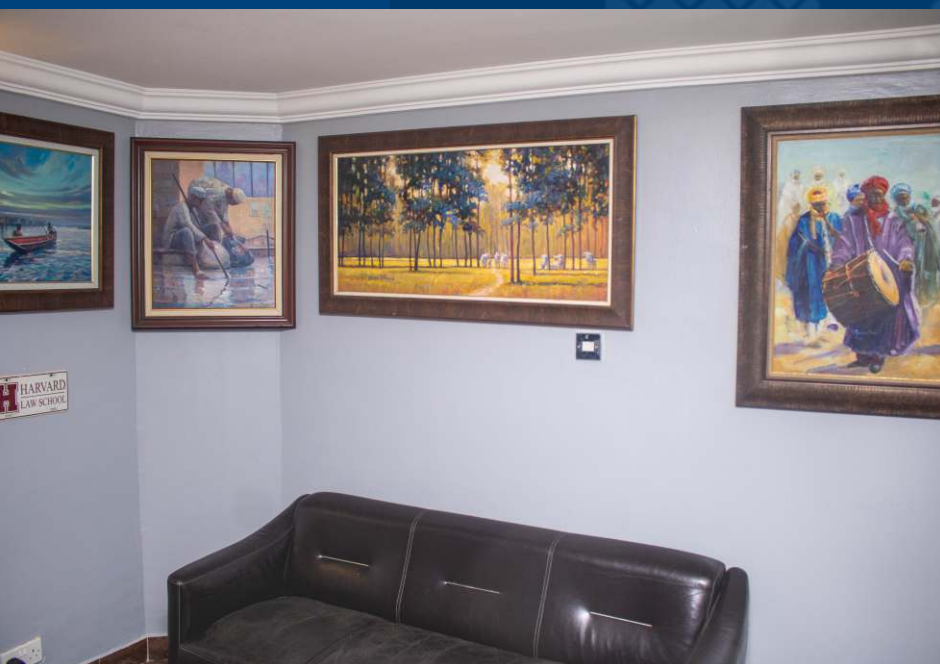
Mentoring:

The Firm and our Principal continues to mentor young and emerging professionals either directly or through respective LinkedIn pages *vide* motivational and self-development materials. His PowerPoint presentations and other helpful career resources continue to attract many followers.

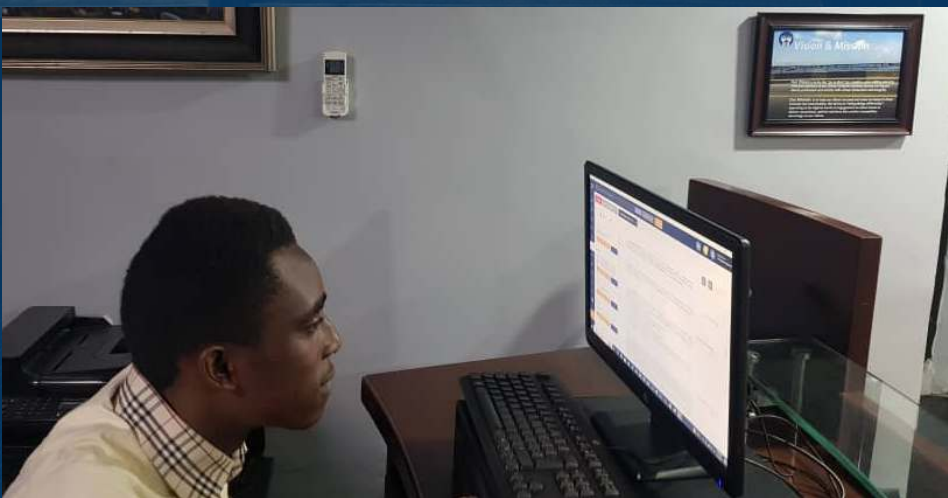
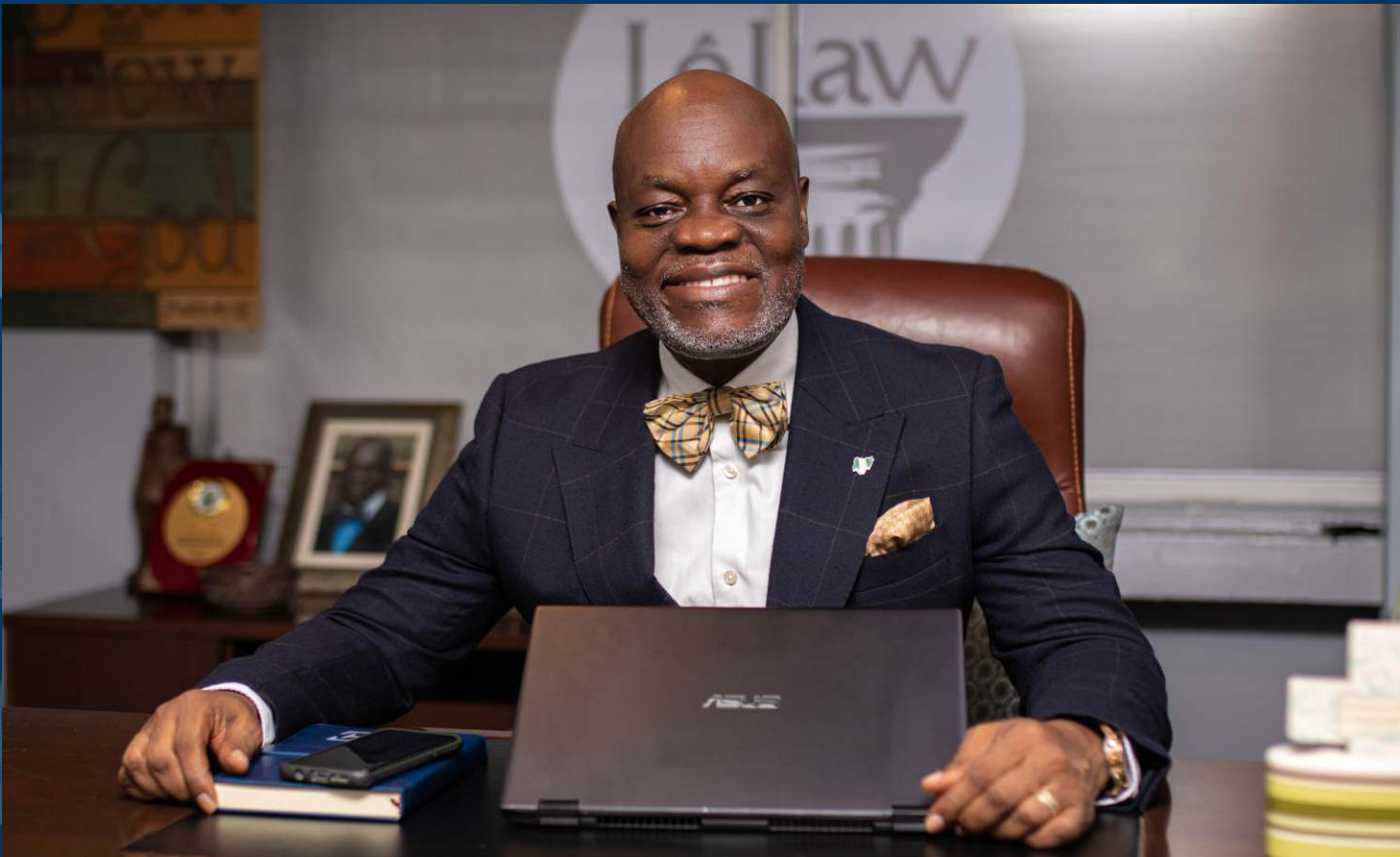
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New Offices:

We moved offices in March 2023 to our current location in Victoria Island. Here are a few pictures of our new office









Season's Greetings

All of us at **LeLaw** (Barristers & Solicitors) wish you a **Merry Christmas** and a **most Happy, Wonder-filled 2024!**

We appreciate your support.
Thank you for being there.





www.lerawlegal.com

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