



Major Oil Marketers  
Association of Nigeria

# THE WEEKLY POST

Vol. 27 Issue 92 | 27 September 2022/ 27 septembre 2022

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# PETROLEUM DOWNSTREAM INSIGHTS

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# LEGAL ADVISORY

## REGULARIZE AND PROTECT YOUR DOWNSTREAM OPERATING LICENSE

*By Akabogu & Associates*

### **Introduction**

The enactment of Nigeria's Petroleum Industry Act 2021 brought about a radically changed regulatory environment for oil and gas business in the country. For existing operators in the petroleum downstream sub-sector, certain provisions of the Act are so fundamental that they impact upon the very capacity of operators to undertake or continue operations beyond prescribed timelines. It is thus extremely important that these players not only familiarize themselves with the law but even more crucially, put in place compliance mechanisms which meet its requirements.

### **Regulated Activities**

Parts IV and V of the PIA deal with activities requiring licenses for midstream and downstream gas operations and midstream and downstream petroleum liquids operations respectively. The regulated activities cut across the entire value chain of the industry, including refining, gas processing, pipelines operations, bulk storage and transportation of gas and petroleum products as well as oil trading, operation of import or export terminals and retail of petroleum products and gas among others.

### **Status of Subsisting Operating Licenses**

The combined import of Sections 111, 125 and 174 of the Act is that undertaking any midstream or downstream oil and gas activity without an

appropriate license issued by the Nigerian Midstream and Downstream Regulatory Authority ("the Authority") or the Minister of Petroleum (in the case of refining) is prohibited. Sections 125(6) and 174(6) particularly mandate holders of subsisting midstream and downstream operating leases, licenses or permits issued prior to the effective date of the PIA to apply within 18 months of that said effective date for issuance of the appropriate licenses or permits where applicable. This implies that after 18 months from the effective date of the Act, all subsisting operating licenses issued under the old regulatory regime may lapse if no application for issuance of an appropriate license or permit is made by the affected entity.



*His Excellency Muhammadu Buhari, President of the Federal Republic of Nigeria signing into law the Petroleum Industry Act in August 2021*



# LEGAL ADVISORY

## **Effect of not regularizing operating licenses**

The effective date of the PIA according to the interpretation Section 318 is the date when the Act came into force and thus 16th August 2021 when President Muhammadu Buhari signed it into law. Consequently, all applications for regularization of subsisting licenses must be made to the Authority by 17th January 2023.

Carrying on a downstream petroleum activity beyond this date on the basis of a license or permit traceable to the old regime will be illegal if the relevant application for regularization is not made within the stipulated time. Defaulters expose themselves to criminal prosecution, sealing of their facilities, confiscation of equipment and materials used in carrying on the unlicensed activity and even outright disposal of such equipment and materials by the Authority.

It must be noted however that what the Act requires is that an application for regularization must have been made within the stipulated time. Where such timeous applications remain untreated by the Authority beyond the cut-off date indicated above, the penalties stipulated will not apply.

## **Unbundling of Downstream Operations**

Entities applying for regularization of their licenses must bear in mind that Section 212 of the Act allows the Authority to require license holders to maintain a separation of management, accounting or legal entities of its licensed activities which may prohibit the holder of the license from directly holding licenses of another type. It may safely be assumed therefore that such unbundling of operations may feature regularly as a criterion for regularization, in which case operators must be prepared for compliance with or challenge to such requirements.



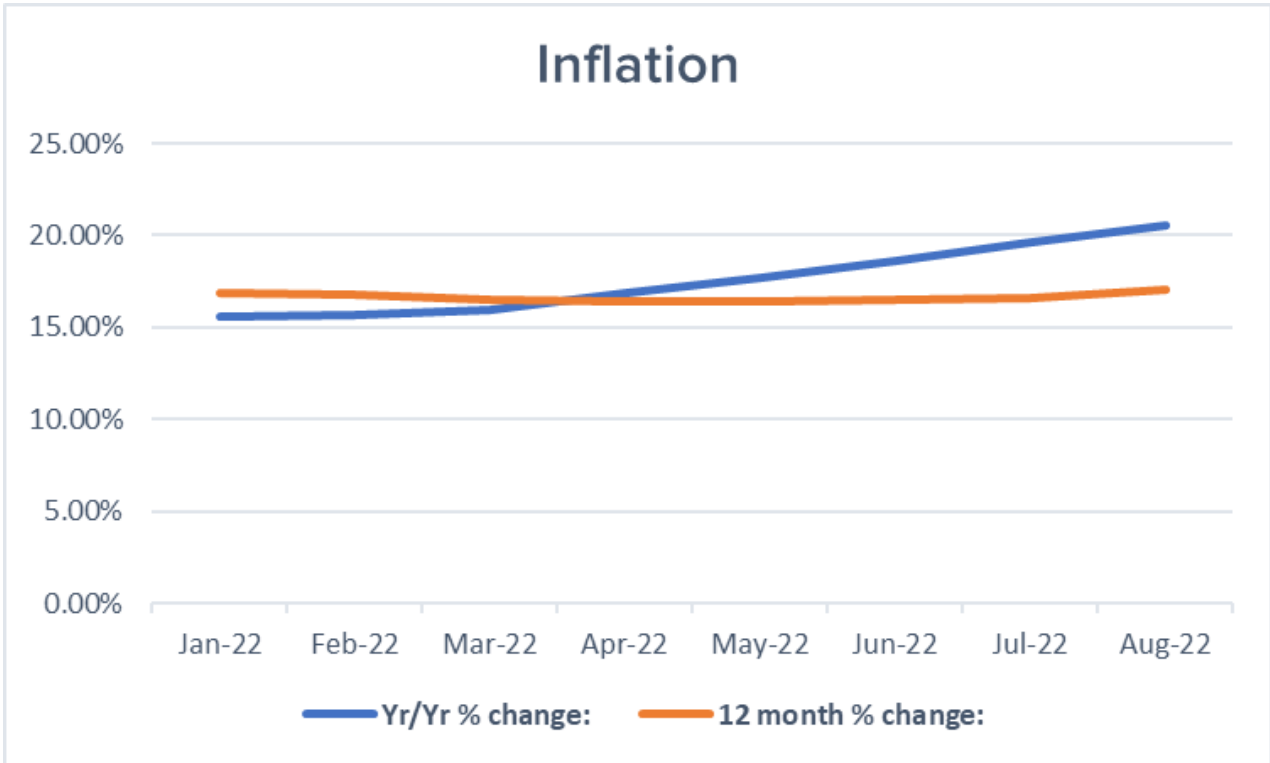
*Engr. Farouk Ahmed, The Authority Chief Executive (ACE), Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA)*

## **Conclusion**

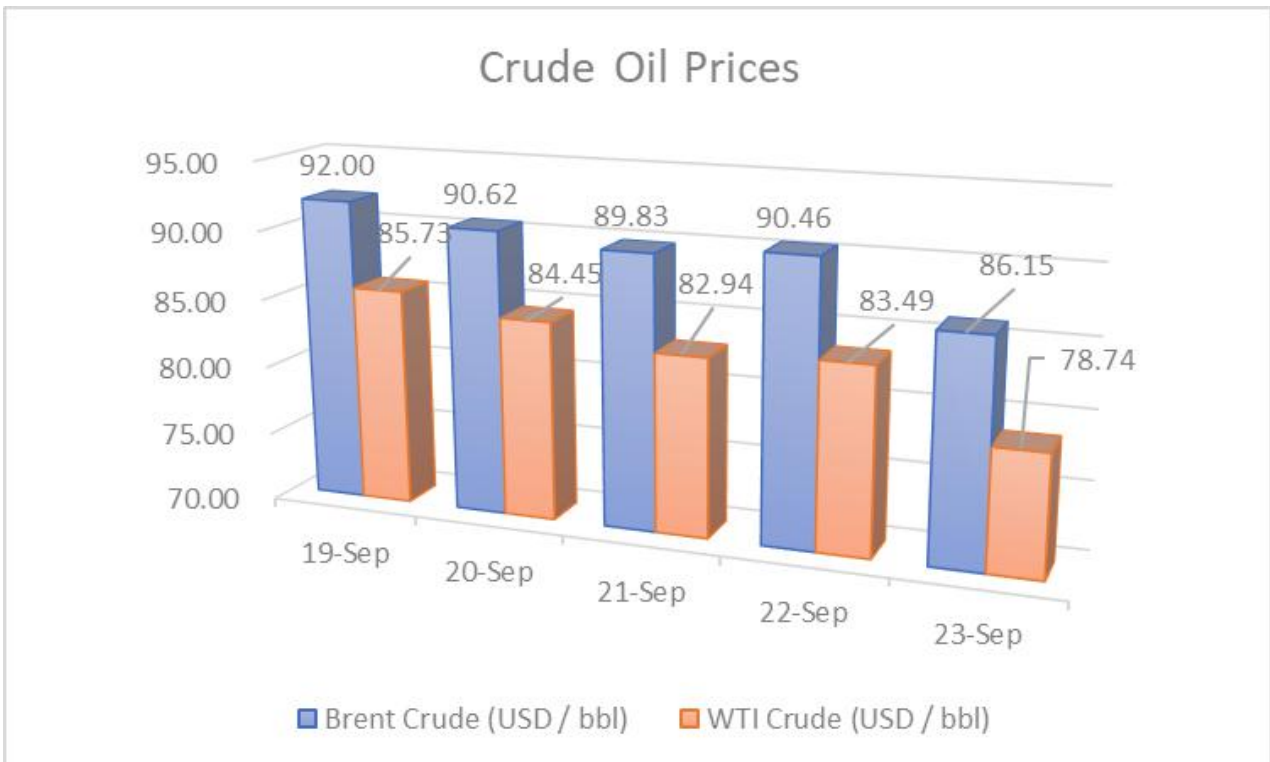
The regulatory environment for downstream operations under the PIA is not unusual. Specific compliance issues - especially those which impact upon the capacity of operators to continue in business - must however be fully appreciated and timeously attended to by all operators in the industry.

*This opinion is prepared by Akabogu & Associates, a specialist law firm for petroleum, maritime and international trade law in Nigeria. For further information contact Dr. Emeka Akabogu (emeka@akabogulaw.com).*

# MARKETS WATCH



Annual inflation has been rising steadily since the beginning of 2022. The annual inflation rate in Nigeria accelerated to 20.52% in August 2022 from 19.64% in the previous month, and above market expectations of 20.25%. This remains the highest since September 2005.



# MARKETS WATCH



## EQUITIES MARKET UPDATE

SECTOR	16-Sep-22	23-Sep-22	Weekly Change	WTD	MTD	QTD	YTD
NSE 30	1,763.67	1,746.22	-17.45	-0.99	-1.73%	-7.49%	1.39%
Consumer Goods	606.05	605.09	-0.96	-0.16	0.75%	-3.03%	2.68%
Oil & Gas	532.15	507.25	-24.90	-4.68	-4.68%	-6.98%	47.02%
Banking	374.09	382.59	8.50	2.27	-1.24%	-3.82%	-5.78%
Industrial	1,791.53	1,721.36	-70.17	-3.92	-3.14%	-20.02%	-14.29%
Insurance	177.96	174.26	-3.70	-2.08	-3.31%	-2.28%	-12.04%



## FOREX RATES - INTERBANK I & E MARKET

NGN	19-Sep-22	20-Sep-22	21-Sep-22	22-Sep-22	23-Sep-22
Minimum	435.00	435.00	435.00	435.00	435.00
Maximum	437.00	437.00	437.00	437.00	437.00
Official Closing (FX Rate (\$/N))	436.00	436.00	436.00	435.25	435.20



# MARKETS WATCH



## CLOSING USD / NGN FX RATES

<b>INTERBANK (CLOSING IND)</b>	<b>Bid</b>	<b>Offer</b>	<b>Market Closing FX Rate (\$/NGN)</b>
19-Sep-22	435.00	437.00	436.00
20-Sep-22	435.00	437.00	436.00
21-Sep-22	435.00	437.00	436.00
22-Sep-22	435.00	437.00	436.00
23-Sep-22	435.00	437.00	436.00



CENTRAL BANK OF NIGERIA

## FOREX RATES - PARALLEL MARKET

=N=	19-Sep-22	20-Sep-22	21-Sep-22	22-Sep-22	23-Sep-22
USD					
GBP					
EURO					

abokiFX

# INDUSTRY WATCH

## AVERAGE WEEKLY PRICES



Available on the [Argus Publications App](#)

Week	Gasoline Eurobob delivered West Africa \$/t	Gasoline Eurobob delivered West Africa NGN/litre	Jet/Kerosine delivered West Africa \$/t	Gasoil diesel 1000ppm delivered West Africa \$/t	Gasoil diesel 1000ppm delivered West Africa NGN/litre
19 Sep - 23 Sep	880.2	284.58	1070.31	1028.94	374.01
12 Sep - 16 Sep	882.29	284.06	1101	1050.15	380.08
5 Sep - 9 Sep	859.96	275.47	1,179.70	1,115.05	402.45
29 Aug - 2 Sep	870.82	276.76	1,189.50	1,109.38	396.39
22 Aug - 26 Aug	953.18	302.06	1,265.70	1,173.35	418.06
15 Aug - 19 Aug	973.44	307.27	1,168.05	1,078.40	382.7
8 Aug - 12 Aug	999.11	314.29	1118.35	1040.6	368.02



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# INDUSTRY WATCH

## PLATTS

	19-Sep-22	20-Sep-22	21-Sep-22	22-Sep-22	23-Sep-22
<b>PMS</b>					
FOB Rotterdam	-	819.500	830.000	850.750	817.250
FOB MED	-	800.500	804.000	818.750	789.750
CIF NWE	-	899.500	906.750	927.250	893.750
<b>AGO</b>					
CIF NWE	-	959.750	946.000	974.750	935.250
<b>ATK</b>					
CIF NEW - JET	-	1,025.000	1,013.250	1,042.500	997.750
<b>ICE Gasoil</b>					
(USD/ MT)	973.000	981.000	982.000	1,001.000	956.000

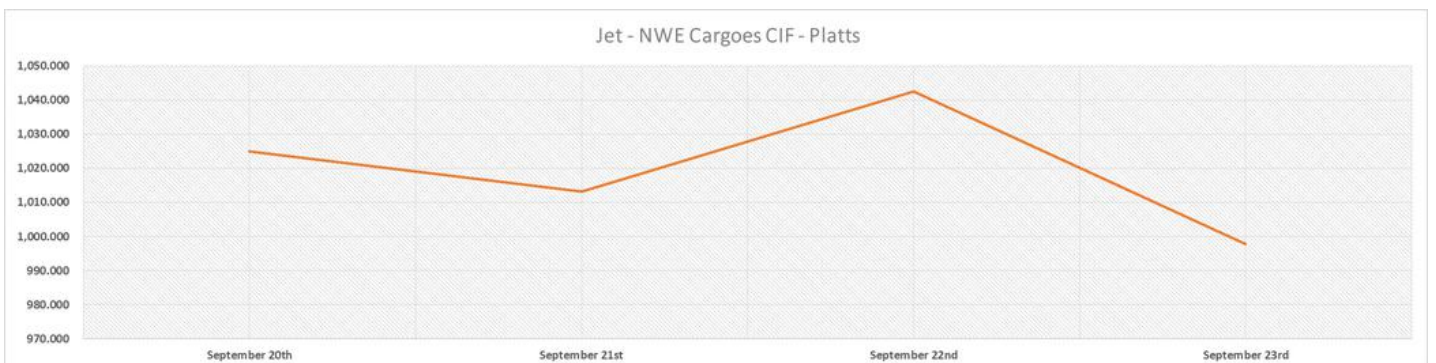
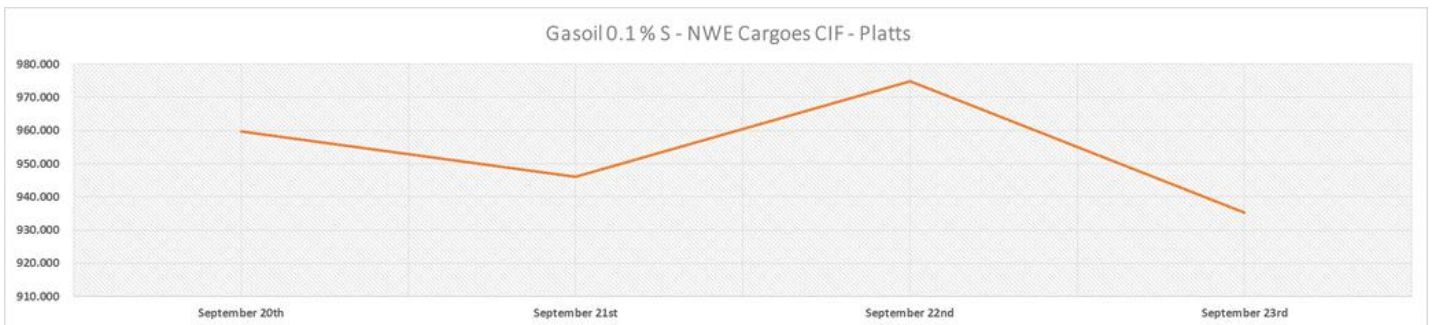
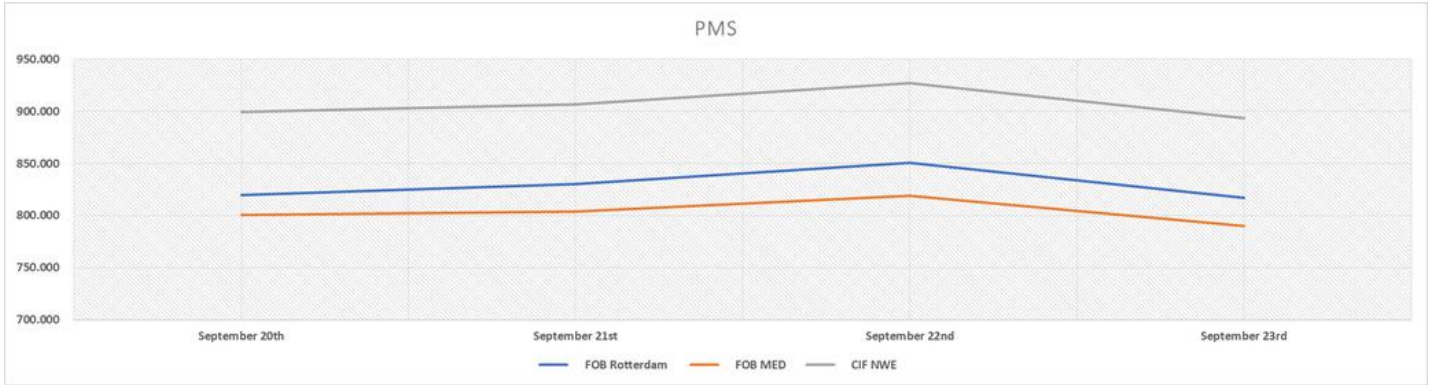
**S&P Global**  
Platts

## PLATTS MONTHLY AVERAGE

	Aug-22	Jul-22	Jun-22	May-22	Apr-22	Mar-22	Feb-22	Jan-22
<b>PMS</b>								
FOB Rotterdam	955.932	1,156.938	1,379.513	1,249.643	1,053.947	1,084.554	907.513	816.125
FOB MED	919.409	1,124.975	1,360.775	1,227.464	1,047.289	1,065.543	900.163	802.000
CIF NWE	1,031.659	1,212.438	1,473.088	1,328.500	1,078.776	1,114.261	925.079	826.725
<b>AGO</b>								
CIF NWE	1,064.011	1,092.975	1,324.200	1,109.488	1,088.197	1,091.315	822.713	746.788
<b>ATK</b>								
CIF NEW - JET	1,126.091	1,161.100	1,398.050	1,265.464	1,211.618	1,153.000	872.025	808.825



## PLATTS



# INDUSTRY WATCH

## EX-DEPOT PRICES

(NAIRA PER LITRE)

19-Sep	Warri/Oghara	Calabar	PHC	Satelite	Ibafon/TInCan	Apapa
PMS	168.00	167.70	168.50	162.50	162.70	162.33
AGO	730.00	-	725.00	739.40	738.20	727.25
DPK	760.00	-	-	755.00	755.00	750.00

20-Sep	Warri/Oghara	Calabar	PHC	Satelite	Ibafon/TInCan	Apapa
PMS	168.17	167.22	167.26	163.70	162.88	163.00
AGO	750.00	-	-	740.00	737.60	733.20
DPK	760.00	-	-	760.00	759.00	758.00

21-Sep	Warri/Oghara	Calabar	PHC	Satelite	Ibafon/TInCan	Apapa
PMS	169.33	167.80	166.83	164.30	164.68	164.25
AGO	750.00	-	-	740.00	739.30	732.00
DPK	760.00	-	-	754.30	753.00	753.00

22-Sep	Warri/Oghara	Calabar	PHC	Satelite	Ibafon/TInCan	Apapa
PMS	169.67	168.00	167.88	166.00	166.25	165.38
AGO	760.00	-	-	746.00	741.40	735.20
DPK	750.00	-	-	754.00	753.00	752.00

23-Sep	Warri/Oghara	Calabar	PHC	Satelite	Ibafon/TInCan	Apapa
PMS	168.00	168.00	167.67	166.40	166.25	166.25
AGO	745.00	-	-	758.80	753.40	748.00
DPK	760.00	-	-	746.67	747.00	750.00

# INDUSTRY WATCH



## SESSION TOPIC

# MAKING GAS MAINSTREAM IN AFRICA'S NEW ENERGY ORDER



24<sup>th</sup> – 26<sup>th</sup> October, 2022

Lagos Oriental Hotel

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