

BUILDING THE COMPLIANCE DEADLINE

EPC, POWER AND PROJECT DELIVERY RISK IN NIGERIA'S DATA- CENTRE BUILDOUT



I. The Regulatory Trigger and the Infrastructure Reality Behind It

On 15 June 2026, the Central Bank of Nigeria ("CBN") issued a Circular requiring all payment transaction data generated in Nigeria to be stored and managed domestically by 1 January 2027.[1] The rule applies across the payments ecosystem: banks, mobile money operators, switching companies, payment solution providers, and their upstream technology partners. Every affected institution now faces the same question – not whether to localise, but how to[1] build the physical capacity to do so before the deadline closes.

This is not, at its core, a data-governance exercise. Nigeria does not yet have sufficient domestic data-centre capacity to absorb the transaction volumes which the Circular contemplates. Nigeria's electronic payment volumes have already exceeded 60 billion transactions annually, placing further pressure on domestic digital infrastructure. For a significant portion of the market, compliance means delivering new infrastructure: designing, financing, constructing, and commissioning new facilities that do not yet exist. For institutions without sufficient domestic capacity, the Circular effectively creates a construction mandate with a regulatory deadline attached.

That changes the nature of the problem entirely. The institutions most exposed are not those with the weakest IT teams. They are those without a credible delivery programme for the physical infrastructure on which compliance depends. And because every regulated institution faces the same deadline simultaneously, the market is competing for the same contractors, the same long-lead equipment, the same grid connections, the same land, and the same limited window in which to deliver.



[1] Central Bank of Nigeria, Circular on Introduction of Market Structure Requirement, Data Localisation, Ultimate Beneficial Ownership Disclosure, and Systemic Oversight Measures in the Nigeria Payments System, No. PSS/DIR/PUB/CIR/001/004 (15 June 2026), available at The Circular PSS/DIR/PUB/CIR/001/004 .

II. Why This Is a Construction Problem - Not an IT Migration

The instinct across much of the market has been to treat localisation as a cloud-migration or data-architecture project. For some institutions, those with existing domestic hosting arrangements or sufficient contracted capacity, that may be adequate. But for a material share of the market, compliance requires physical delivery: concrete, steel, generators, switchgear, cooling plant, fibre connectivity, and power. Three features distinguish this from a conventional data-centre procurement:

First, the deadline is fixed and industry-wide. Unlike a commercial development programme, where delay costs the developer money but does not change its legal status, delay here may trigger supervisory sanctions, licence conditions or enforcement action. The CBN has expressly reserved its power to impose consequences for non-compliance. A project that is 90 per cent complete on 1 January 2027 does not, without more, satisfy a requirement that the relevant payment transaction data be stored and managed domestically from that date.

Second, the power constraint converts every data-centre project into a dual infrastructure delivery. Nigeria's national grid faces persistent availability challenges, with data-centre operators increasingly relying on alternative power arrangements to maintain reliable operations. Grid generation has also remained broadly within the 4,500–5,000-megawatt range for more than two decades.[2] A data centre designed to Tier III or IV standards therefore cannot assume uninterrupted grid supply. It requires a reliable primary power solution, whether through embedded generation, hybrid systems or other dedicated arrangements. The EPC scope is consequently not one project but two: a digital infrastructure facility and an integrated power solution, sharing a single programme, a single deadline and a single set of interface risks.

Third, the supply chain is constrained. Long-lead electrical equipment – HV switchgear, transformers, generators, UPS systems, cooling plant – carries procurement cycles of 26 to 52 weeks in the current market. Projects that have not already placed orders face the real prospect of equipment arriving after the compliance window closes.

Nigeria's data-centre pipeline is not starting from zero. Rack Centre commissioned its 12MW LGS2 facility in March 2025.[3] Equinix completed its LG2.3 Lagos expansion in April 2025.[4] Africa Data Centres, Open Access Data Centres, MTN's Dabengwa facility, and new entrants such as Kasi Cloud are progressing developments at various stages.[5] But the Circular's significance is that it compresses existing demand into a common deadline and adds a regulatory penalty for failure to deliver. For developers, EPC contractors and investors, this is not business as usual, it is a programme with an immovable long-stop date that the market has never previously faced.

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2 Research and Markets, Nigeria Data Centre Market Size – Market Share Analysis, Industry Trends & Statistics, Growth Forecasts (2026-203)1 (Dublin: Research and Markets, 2024), available at https://www.researchandmarkets.com/reports/5907698/nigeria-data-center-market-share-analysis; Per Second News, National Power Generation Remains Stuck at 4,500MW–5,000MW Level – TCN Official (May 2026), available at https://persecondnews.com/2026/05/06/national-power-generation-remains-stuck-at-4500mw-5000mw-level-tcn-official/.

3 Rack Centre, Press Release: "LGS2 12MW Data Centre Commissioned in Lagos" (April 2025), available at https://rack-centre.com/rack-centres-lgs2-12mw-data-centre-commissioned/.

4 Equinix, Inc., "LG2.3 Lagos Data Centre Expansion: Company Announcement" (April 2025), available at https://www.equinix.com/newsroom.

5 Metropolitan Networks, "The CBN Has Mandated Data Localisation by January 2027. The Harder Questions Start Now" (June 2026) - https://metnetworks.ng/cbn-mandates-data-localisation-by-jan-2027/?utm_source

III. The EPC Contract: Where Delivery Risk Lives

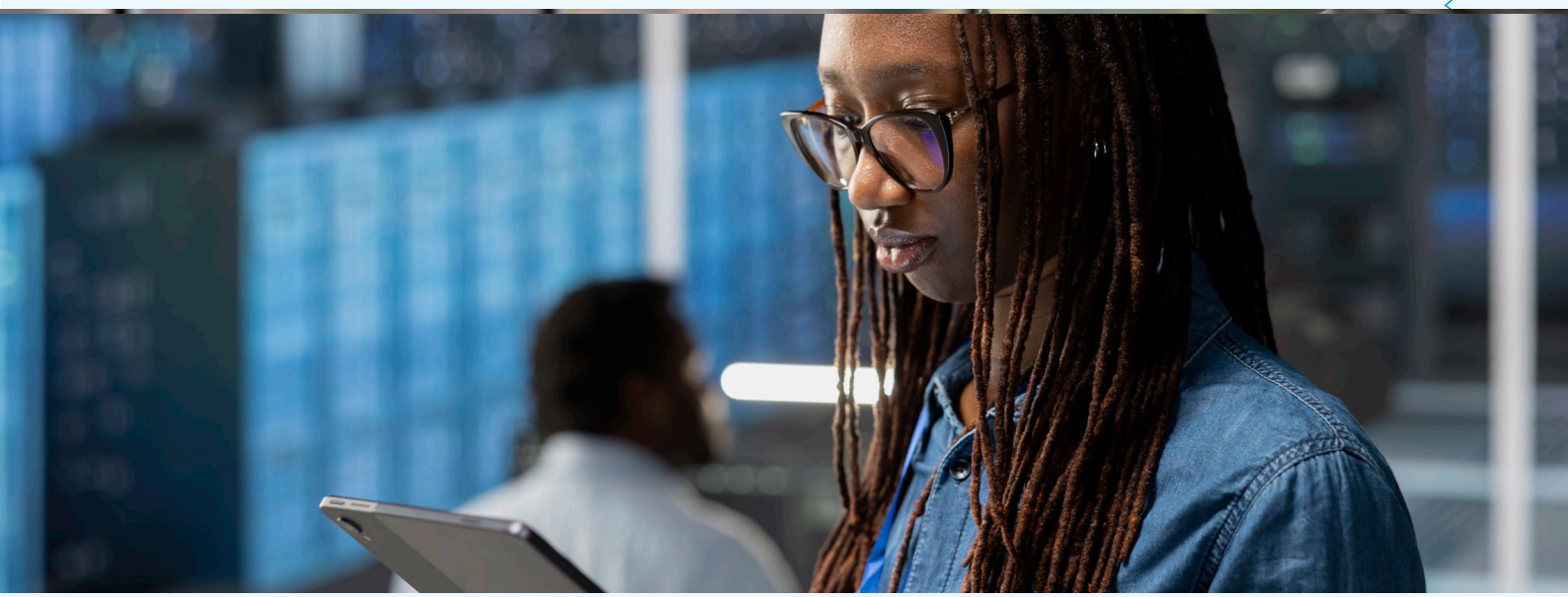
For any institution procuring new or expanded data-centre capacity, the EPC contract is the primary instrument through which delivery risk is allocated. Get the EPC structure wrong, and the operator carries risks it cannot price, the contractor faces exposures it cannot manage, and the lender finances a project whose completion mechanics do not reflect how data centres are built in Nigeria. The following are the critical risk areas that EPC contracts for Nigerian data-centre projects must address, and where conventional construction templates consistently fail.

A. Scope Definition: One Contract or Two?

The threshold question is whether the data-centre civil works and the embedded power system sit within a single EPC wrap or are procured under separate contracts with an interface agreement between them.

A single-wrap EPC offers the operator a single point of responsibility for the integrated facility. But it requires a contractor capable of delivering both scopes, and willing to accept schedule and performance risk across both. In practice, the number of contractors capable of accepting integrated data-centre and power-generation delivery risk may be limited. The alternative, separate contracts with defined interface points, preserves specialist procurement but transfers interface risk to the operator, who must manage the boundary between two programmes that share a single critical path.

Neither structure is inherently superior. But the choice must be made deliberately, early, and with full visibility of the consequences for delay allocation, liquidated damages, completion testing and lender step-in rights. Projects that defer this decision, or default to a conventional building EPC without addressing the power scope, are building interface and allocation risk into the project from the outset.



B. Completion and Performance Testing: What "Done" Actually Means

In a conventional commercial building, practical completion means the building is fit for occupation: the structure is sound, services are connected, and the client can move in. That framework does not translate to a data centre with embedded generation. For these projects, "completion" must be defined across at least three dimensions:

- Construction completion: the civil, structural, mechanical and electrical works are physically finished to specification.
- Commissioning and systems integration: the power system, cooling, fire suppression, BMS and IT infrastructure operate together as an integrated facility, demonstrated through integrated systems testing.
- Performance acceptance: the facility sustains the specified IT load while achieving the contractual PUE target under defined test conditions, with the embedded power system meeting specified availability and efficiency requirements.

An EPC contract that conflates these, or defines completion by reference to construction alone, gives the operator a building that may not function and gives the lender a facility that cannot service debt. The performance guarantees must be specific, measurable and tied to commercial consequences: liquidated damages for underperformance, retentions linked to test outcomes, and defects liability periods that reflect the operational reality of generation assets (which degrade differently from civil structures).

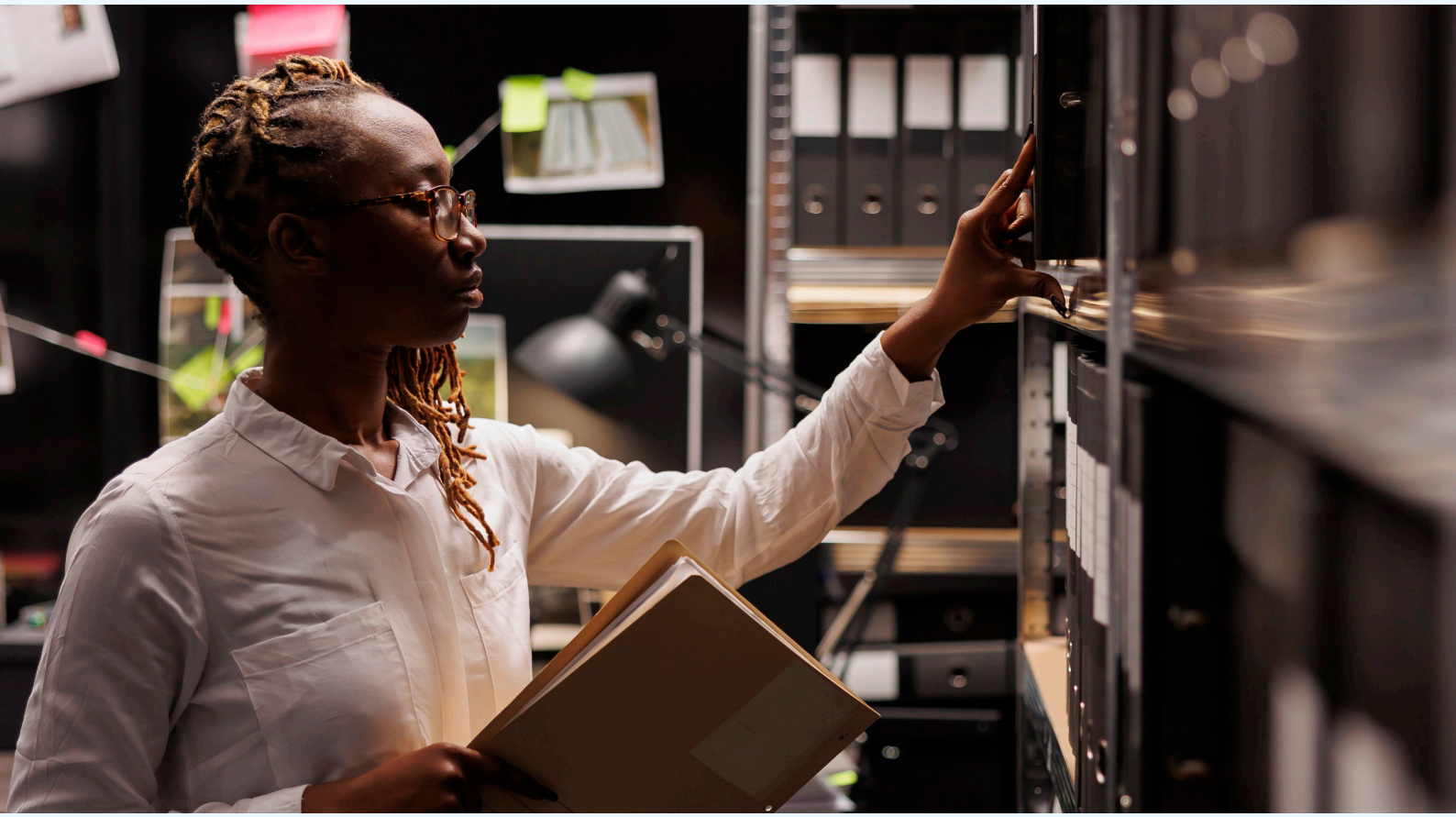


C. Delay Liquidated Damages: The Regulatory Premium

Conventional EPC delay liquidated damages are generally structured as an agreed measure of the employer's anticipated loss from delayed completion during the period of delay. They are not calibrated to compensate for regulatory sanctions, licence conditions, supervisory action or the systemic consequences of failing to meet a mandatory compliance deadline.

For a Nigerian data-centre project driven by the CBN Circular, the operator's true exposure on delay is not the rental value of the facility for an additional week. It is the aggregate cost of non-compliance: potential CBN sanctions, disruption to payment-processing operations, reputational damage, and, for listed or externally financed institutions, the downstream consequences for investors and lenders.

This creates a tension. If delay LDs are set at a level that reflects the operator's true regulatory exposure, the contractor may refuse to accept the risk, or price it prohibitively. If they are set at conventional levels, the operator is materially under-compensated in the event that matters most. The solution is not a single LD rate but a structured delay regime: conventional LDs for commercial delay, with enhanced termination and lender step-in rights where delay threatens a defined regulatory milestone. That structure must be negotiated, not assumed.



D. Extensions of Time: Who Owns Which Delays?

The compressed programme creates acute sensitivity to delay events that would be routine on a longer project. A six-week delay to a transformer delivery, a three-month permit process for embedded generation, a land-title dispute requiring judicial intervention - any of these can consume the programme float that separates timely completion from regulatory breach. The EPC contract must therefore allocate delay risk with precision:

- Contractor risk events (design errors, subcontractor default, resource constraints, workmanship): no extension of time, LDs apply.
- Employer risk events (late access, design changes, failure to obtain employer-procured permits): extension of time with cost relief.
- Shared/external risk events (force majeure, utility delays, gas-supply interruption, regulatory-approval delays): extension of time, potentially without cost relief, with defined consequences if the delay causes the regulatory deadline to be missed.

The critical category is the third. In Nigeria, utility connections, gas-supply agreements and generation permits involve third parties - NERC, the DisCos, gas suppliers, zone authorities - whose timelines the contractor cannot control and the operator cannot guarantee. A contract that treats these as the contractor's risk will be undeliverable. A contract that treats them as force majeure may leave the operator without recourse when the deadline passes. The answer lies in express identification of these dependencies, early procurement of the relevant approvals, and a contractual mechanism that allocates the the commercial consequences proportionately.



IV. The Power Workstream: A Project Within the Project

A. Generation Architecture

The power solution for a Nigerian data-centre project cannot be treated simply as a backup system. Given the facility's reliability requirements and the limitations of grid supply, the power architecture will often need to incorporate substantial dedicated generation and storage capacity capable of supporting the IT load, cooling demand and ancillary consumption independently of the grid.

Current market practice points towards hybrid architectures that combine gas-fired reciprocating engines or turbines (for baseload), diesel generators (for N+1 redundancy and black-start capability), and, increasingly, solar PV with battery energy storage systems (for peak shaving and sustainability commitments). The selection and sizing of these assets determines the project's capital cost, operating economics, fuel-supply requirements, emissions profile and, critically, its EPC scope and programme.

B. Gas Supply: The Bankability Question

Where gas-fired generation provides baseload power, the entire project's viability rests on a reliable, long-term gas supply. Nigeria's upstream gas sector offers significant volumes, including stranded and associated gas that is currently flared or underutilised, but converting that resource into a bankable fuel supply for a data-centre project requires:

- A gas sale and purchase agreement (GSPA) with a creditworthy counterparty, on terms that match the project's load profile and offtake requirements.
- Pipeline or virtual pipeline infrastructure capable of delivering gas at the required pressure, volume and reliability.
- Contractual protections against supply interruption, including take-or-pay structures, supply-shortfall remedies and alternative fuel provisions.
- Regulatory certainty regarding domestic gas-supply obligations, pricing and allocation.

For a gas-dependent project, the GSPA is not ancillary to the EPC contract; it is part of the project's bankability architecture. A data centre with a 20-year design life and a 15-year debt tenor cannot be financed on a gas supply that is subject to annual renegotiation, unresolved pipeline access disputes or competing claims from higher-priority industrial users. The bankability of the power solution - and therefore of the project - depends on the bankability of the fuel.



C. Licensing and Regulatory Approvals

The regulatory treatment depends on the architecture adopted. The Electricity Act 2023 distinguishes captive generation from generation undertaken for supply or sale, while NERC continues to administer a separate captive-power permit regime. Where a project involves embedded, off-grid or grid-connected generation, the applicable licensing or regulatory requirements will depend on the structure and capacity of the facility. The relevant approvals should therefore be identified at the design stage and treated as critical-path activities. [6]

Where the project's power architecture involves a mini-grid or electricity supply to third parties, the NERC Mini-Grid Regulations 2026 and other applicable electricity-sector requirements may also become relevant.[7] These approvals carry their own timelines, documentation requirements and conditions, and they sit on the project's critical path.

A construction programme that assumes power-sector approvals will be obtained in parallel with civil works, without building in the lead time those approvals actually require, contains a scheduling assumption that may prove fatal. The generation permit, gas-supply approval, grid-connection agreement and environmental clearance should each be identified as a predecessor activity in the project programme, with contractual consequences defined for delay to each.

V. Land, Siting and Zone Risk

Several Nigerian data-centre developments are in or around established technology and infrastructure hubs, including Eko Atlantic and the Lekki Free Zone. These locations can offer advantages including access to fibre networks, proximity to submarine cable infrastructure, dedicated or planned power infrastructure and, in designated free zones, certain administrative and fiscal incentives.

But rights to occupy and develop land within an SEZ generally arise through concession, lease, sublease or other zone-specific arrangements rather than conventional freehold ownership, subject to zone-specific conditions, development obligations and other contractual or regulatory requirements. For a data centre with a 20 to 25-year operational life and debt tenors of 10 to 15 years, the critical questions are:

- Duration and renewability: Does the land tenure match or exceed the project's economic life and debt maturity?
- Lender security: Can the operator grant effective security over its leasehold interest? Will the zone authority consent to lender step-in and assignment on enforcement?
- Termination risk: Under what circumstances can the zone authority terminate the concession, and what compensation or cure rights exist?
- Dispute resolution: Are disputes with the zone authority subject to arbitration, or to administrative processes that may lack independence?

A developer that secures an attractive site without resolving these questions may find that its lenders cannot close, its equity investors cannot obtain the risk profile they require, and its 25-year business plan rests on a tenure instrument that can be disrupted by a single counterparty decision.

[6] Electricity Act 2023, s 63; Nigerian Electricity Regulatory Commission (Permits for Captive Power Generation) Regulations 2008, regs 2–3.
[7] Nigerian Electricity Regulatory Commission Mini-Grid Regulations 2026.



VI. Financing: What Lenders and Investors Need to See

The capital intensity of data-centre development in Nigeria, compounded by the need for dedicated or embedded power infrastructure, means that projects of scale are likely to require a combination of equity and structured debt financing. Sovereign wealth funds, development finance institutions and strategic investors are increasingly participating in African digital infrastructure, with Nigerian projects also attracting sovereign and strategic capital.[8] For these investors and lenders, the CBN Circular adds a new regulatory dimension to project-delivery and completion risk.

A. Completion Risk and the Regulatory Long-Stop

Lenders financing a data-centre project driven by the localisation requirement face a completion risk that is qualitatively different from a conventional infrastructure project. The regulatory deadline functions as a long-stop date that is not within the borrower's control to extend. If the facility is not operational by 1 January 2027, the borrower may face sanctions that impair its ability to service debt, not because demand has failed, but because the regulator has intervened.

Financing documents must therefore address:

- Completion undertakings tied to the regulatory timeline, not merely to construction milestones.
- Compliance conditions precedent to drawdown: evidence of a credible delivery programme, contractor mobilisation, equipment procurement and regulatory-approval status.
- Events of default that distinguish between borrower failures (which should trigger acceleration) and external delays (which may warrant cure periods, standstill arrangements or restructuring mechanisms).
- Step-in rights that allow lenders to take control of the project — including the EPC contract and power arrangements — if the borrower's delivery programme fails.

[8] Nigeria Sovereign Investment Authority, Project Kasi (recording a US$8 million quasi-debt investment through a convertible loan note for the development of a 20 MW data centre); Nigeria Sovereign Investment Authority, "NSIA Advances Nigeria's Digital Future Through Strategic Technology Investments" (21 May 2026).

B. Revenue Certainty and Offtake

Data-centre projects are typically financed on the strength of contracted revenue: colocation agreements, wholesale hosting contracts or anchor-tenant commitments. In the current

capacity but converting that signal into bankable offtake requires contracted commitments at pricing, tenure and credit quality that support debt service.
Lenders will look for:

- Anchor offtake agreements with creditworthy counterparties (ideally, the regulated institutions themselves).
- Take-or-pay or minimum-commitment structures that underwrite base-case revenue regardless of actual utilisation in early years.
- Escalation mechanisms that protect against naira depreciation and energy-cost inflation.
- Contractual alignment between the offtake tenor and the debt maturity.

VII. Data Protection and Technology Migration: The Contractual Layer Beneath the Infrastructure

The CBN's localisation requirement operates alongside the Nigeria Data Protection Act 2023 ("NDPA"), which permits the transfer of personal data outside Nigeria subject to prescribed conditions and safeguards.[9] The interaction between the two regimes is not yet fully resolved, but the practical consequence is clear: existing cloud-computing, data-processing and outsourcing arrangements that depend on offshore hosting may need to be restructured, renegotiated or terminated.



[9] Nigeria Data Protection Act 2023, ss 41–43

For operators, this creates a parallel contractual workstream:

- Migration obligations: existing service agreements must be reviewed for data-portability rights, migration-assistance obligations and transition timelines.
- Termination and transition: where existing arrangements must end, the operator needs contractual certainty on data return, deletion, transition assistance and liability for the migration period.
- Service continuity: the migration from offshore to domestic hosting must be executed without service interruption to payment-processing operations – a continuity requirement that imposes its own technical and contractual constraints.
- Liability allocation: who bears the risk if data is lost, corrupted or exposed during migration? The existing processor, the new domestic host, or the operator?

These are not IT procurement issues to be resolved after the data centre is built. They are critical-path contractual workstreams that must progress in parallel with construction and be completed and tested before the compliance deadline.



VIII. Enforcement Risk: What Happens When the Deadline Passes

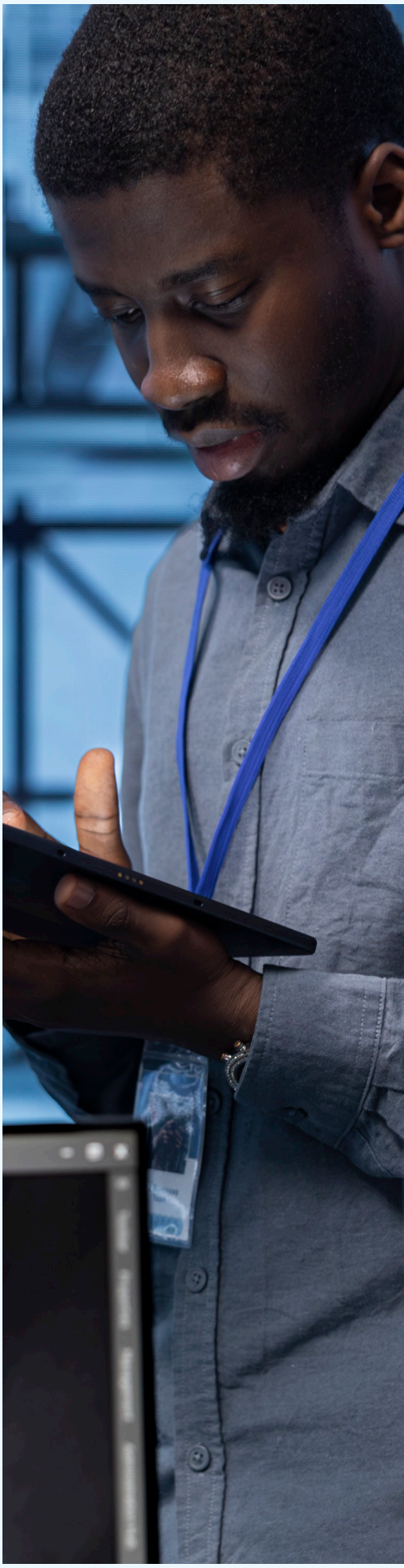
The Circular expressly reserves the CBN's power to impose sanctions for non-compliance.[10] The fixed date creates a particularly acute enforcement risk: from 1 January 2027, institutions must be able to demonstrate compliance with the localisation requirement, while the Circular provides no automatic grace period or published transitional regime. This leaves institutions with limited certainty as to how the CBN will treat partial or delayed compliance.

That raises the question every operator, contractor and financier must confront: who bears the consequences when the infrastructure is incomplete at the moment compliance is required?

The answer cannot be left to general delay provisions or force majeure clauses. It must be addressed expressly in:

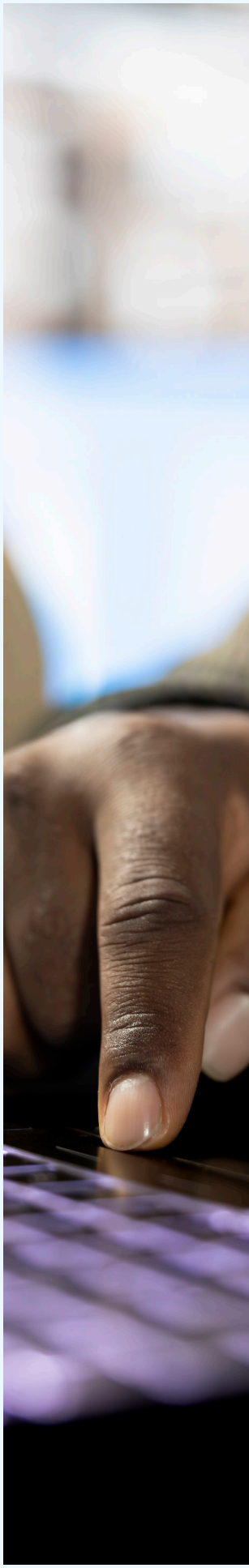
- The EPC contract: through regulatory-milestone LDs, enhanced termination rights for critical delay, and defined consequences for partial completion.
- The financing documents: through compliance undertakings, regulatory-event triggers, cure periods and standstill mechanics.
- The offtake agreements: through conditions precedent to service commencement, delay indemnities and alternative-hosting obligations during transition.
- The regulatory engagement: through proactive dialogue with the CBN where delay risks become apparent, documented carefully to establish the operator's good faith and the external causes of any shortfall.

Operators that address these dependencies in advance - allocating risk expressly, documenting regulatory engagement and building compliance flexibility into their contractual structures - will be materially better positioned than those that treat the deadline as aspirational and the consequences as negotiable.



[10] Supra at note 1

IX. Conclusion



The CBN's data localisation directive has the potential to convert a data-governance requirement into a construction and infrastructure-delivery challenge. For the institutions that must build to comply, the challenge is not regulatory interpretation; it is project delivery. And project delivery, in Nigeria's infrastructure environment, means delivering two interdependent projects - digital and energy - to a fixed deadline that the entire market faces simultaneously.

The commercial opportunity is substantial. Nigeria's data-centre market is entering a period of accelerated investment driven by regulatory compulsion, growing digital-economy demand and increasing international capital flows into African digital infrastructure. But the projects themselves are complex, capital-intensive, multi-party undertakings in which construction risk, power-supply risk, regulatory risk and financing risk converge on a single compliance-critical timeline.

The legal framework within which these projects are delivered - the EPC contracts, power agreements, financing documents, offtake structures, land instruments and regulatory engagement - will determine whether that opportunity is captured or lost. Operators and investors that treat this as a standard procurement, draft on conventional templates and address the regulatory dimension as an afterthought will find themselves exposed at the moment that matters most. Those that structure deliberately, allocate risk expressly and build their contractual architecture around the realities of Nigerian infrastructure delivery will be the ones that reach compliance, and capture the market position that compliance confers.

Consequently, for developers, operators, EPC contractors, investors and lenders approaching a Nigerian data-centre project in the current regulatory environment, the following principles should inform both project structuring and legal advisory:

(a) Treat the project as integrated digital and energy infrastructure from day one.

Power procurement, generation design, fuel supply and grid connection must be settled before EPC scope is finalised. These should not be treated as a downstream operational decision. The generation solution determines the EPC programme, the capital cost, the operating economics and the project's bankability. It is not an add-on.

(b) Structure the EPC around the regulatory critical path, not the construction programme.

Completion milestones, testing regimes, delay LDs, extension-of-time provisions and termination triggers must all be calibrated to the CBN's compliance timetable. A contract that treats this as a conventional commercial development, where delay costs money but nothing else, fundamentally misprices the operator's exposure.

(c) Procure long-lead equipment and regulatory approvals immediately.

HV switchgear, transformers, generators, UPS systems, cooling plant, NERC generation permits, gas-supply agreements and zone-authority consents all carry lead times measured in months. Projects that have not commenced procurement of these items face delivery risk that no amount of contractual drafting can cure.

(d) Align financing with the delivery programme and regulatory timeline.

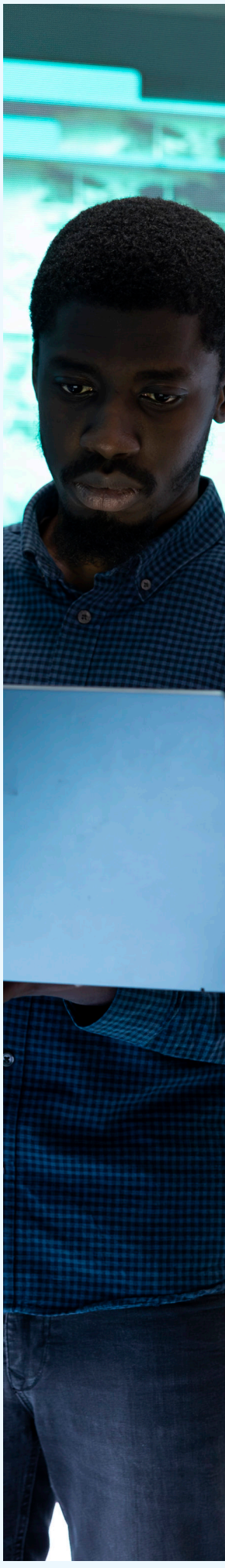
Drawdown conditions, completion tests, compliance undertakings and event-of-default triggers must reflect the integrated nature of the project and the regulatory consequences of delay. Financing documents drafted on conventional real-estate or commercial-building assumptions will not serve.

(e) Run technology migration and regulatory compliance in parallel with construction.

A completed facility does not constitute compliance. Data migration, outsourcing restructuring, data-protection assessment and UBO verification must all be progressed alongside construction and commissioned before the deadline. The contractual architecture supporting those workstreams—including migration agreements, transition services and liability frameworks—requires the same rigour as the EPC and financing documents.

(f) Engage the regulator early where compliance risk is identified.

Where timely compliance genuinely appears unlikely - whether due to construction delay, equipment procurement, power-licensing timelines or technology-migration complexity - regulated institutions should engage the CBN proactively, explain the causes, provide evidence of progress, and seek clarity on transitional arrangements. Any accommodation must be documented and incorporated into the project's compliance record.



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