



Mainstreaming Transparency in SOEs: *The Role of Accountability Actors*

a policy brief

About BudgIT

BudgIT is a civic organisation driven to make the Nigerian budget and public data more understandable and accessible across every literacy span. BudgIT's innovation within the public circle comes with a creative use of government data by either presenting these in simple tweets, interactive formats or infographic displays. Our primary goal is to use creative technology to intersect civic engagement and institutional reform.

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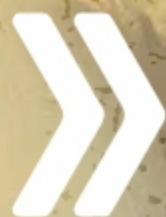
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Background

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“Generally, State owned enterprises are the commercial means through which a government manages a sector, industry or set of public goods”

BudGIT Foundation describes State Owned Enterprises (SOE) in the following terms: “A corporation established by federal law as a venture in which the state exercises ownership and where its purpose and activities (whether partially or wholly) are largely of an economic nature (OECD, 2015)”. This means that an SOE refers to a government business and not to state entities that primarily serve a policy or regulatory function. However, there are government entities possessing multiple characteristics of enterprises and government departments (in terms of strict administrative origin and function), which in our view makes them somewhat hybrid organisations and perhaps could be included in this description (an example is the Nigerian Customs Service and the Nigerian Ports Authority). Generally, State owned enterprises are the commercial means through which a government manages a sector, industry or set of public goods. These organisations are expected to be run with the highest standards of governance, as the very fact that the government (and not the private sector) is the one involved in production and management, means it will have some advantages over similar enterprises not owned by the state. This brings to light why transparency and accountability are crucial for the running of these SOEs and for the improved quality of government.

How Transparency and Accountability Interact:

Accountability is an often-used word in modern democratic governance, for good reason: it forms the cornerstone of a responsible state and can help improve the legitimacy

of a government in the eyes of citizens, the private sector and the international community. There is a reason why accountability and transparency are usually mentioned together, for without accountability, transparency would have no ‘bite’ and without transparency, accountability would be ‘indeterminate’. To a minimal extent, the Nigerian government has established principles and policy for the operation of Ministries, Departments and Agencies (MDAs) and other government entities, as far as the transparency of information is concerned.¹ Though, this does not mean that the best has been done (in terms of ensuring transparency) but does show a starting point and a level from which progress should proceed from. The question then becomes: how can SOEs be made more transparent? Transparency in government connotes several elements that lead to the same goal: better government, improved resource management and accountability. We can describe fiscal transparency as the continuous act by government of making publicly available and easily accessible to citizens, both routine and unique financial information (budgets, projections, assumptions, underlying data and strategy) and the likely decisions to be made on that information. In addition, it means that the data and information ought to be appropriately managed and handled, to ensure that it represents that factual state of affairs.

Yet, not all instances of transparency fall between government and citizens or citizen’s groups: some are within the government itself. Supervisory and Monitoring agencies (on the side of the Executive, like the Fiscal

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Yet, not all instances of transparency fall between government and citizens or citizen's groups: some are within the government itself. Supervisory and Monitoring agencies (on the side of the Executive, like the Fiscal Responsibility Commission (FRC) and the Budget Office of the Federation) and the National Assembly (on the side of the legislature); all owe each other the most possible transparency. The quality of information has an effect on the level of transparency, as minimal or sporadic releases of very general information will not qualify for 'good' level of transparency. Rather, it is important that the information is frequent, comprehensive, relevant, internationally comparable, reliable, open to scrutiny and outlines risks, among other things. In the Nigerian context, the Budget Office, FRC and

the National Assembly are whom SOEs are meant to be accountable to, as a matter of policy and in the fundamental sense of the arms of government serving as a check and balance against each other.

However, and as it is commonly understood, the government does not owe itself but also owes transparency to the public; this includes the citizens, organised Civil Society groups, the private sector, and the international community. This could be termed as a form of 'external' accountability and serves to improve the quality of the rule of law and the business environment, as players in the economy would be assured that where the government is involved, it would be transparent with its information and data. It would then create a level of confidence in the system that could influence the emergence of accountability; it would be a system that would have what it needs to generate trust in government.

An industrial facility featuring several large, white, cylindrical storage tanks. A worker in a blue hard hat and dark clothing is visible in the background near a yellow staircase. The foreground shows a green machine and a yellow pallet. The overall scene is industrial and brightly lit.

Critical Issues

02



“There are a handful of SOEs that are more transparent than most, i.e, the Nigerian National Petroleum Corporation (NNPC) did the unexpected-at least for Nigeria-and published its Comprehensive Audited Financial Statements in 2018”

The above provides an explanation as to what transparency can achieve (or at least provide the conditions for) but it does not explain how the above can be produced and mainstreamed. The practise of open and accountable government should stretch beyond rhetorical devices and the signing of conventions and exist in tangible form. This is a real and urgent problem for Nigeria, as numerous SOEs are unaccountable to the public nor are they transparent enough. There are a handful of SOEs that are more transparent than most, i.e, the Nigerian National Petroleum Corporation (NNPC) did the unexpected-at least for Nigeria-and published its Comprehensive Audited Financial Statements in 2018. This was heralded as unprecedented, as the state oil company had never done so up until that day. The NNPC received praise from numerous parties in the legislature, sub-national governments and the media. Yet, while the NNPC under Mr. Mele Kyari has been making strides in transparency,² it ought not to be the only SOE that performs such “unprecedented” feats. Such should be the order of the day in the Nigerian

government space. With the exception of a minimal number of SOEs,³ a number of government entities do not have their budgets available in formats that are available to the public. The likely line of action would then be to have these two-internal and external-parties provide the requisite pressure on the SOEs to publish their budgets. One way this could be done is for these various entities to use their unique advantages and positions, to make calls or demands for transparency and potentially enforce them; where possible. For instance, the FRC is adequately poised to demand disclosures from MDAs in general. All this can create a swell of information and attention around the issue of transparency, thereby calling those out required to make the disclosures, to actually make them. Or, at the very least point out those SOEs (and potentially other errant MDAs) to whom the attention and calls to action are to be made. Below, BudgetIT has classified the various actors within government and Civil Society that can play a role in mainstreaming transparency and provided potential means for that to be done.



Civil Society and the Media

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Improve Advocacy by CSOs around Transparency in the affairs of SOEs:

It has generally been observed that the operation of CSOs and the media in many countries, along many thematic areas, has aided the promotion of transparency and accountability of good governance. Nigeria is not an exception in this regard but there is more that can be done by CSOs and the media, especially those that operate and report on issues in the public financial management and transparency sectors. This can be done by the facilitation of dialogue sessions with government officials, from various sectors and in various tiers, on pertinent issues relating to the creation of new mandates for transparency or the investigation into the non-enforcement of existing ones. CSOs and the media perhaps need to emphasise that the intention is for all parties involved to work harmoniously for the benefit of the nation's commonwealth-the latter being

something that no one person can own but which can benefit the entire population. CSOs and the media are poised to engage the government, as they possess the power of 'agenda setting' which is the ability to not only raise national issues (in this case; issues and requirements of transparency in government) to the level of broad discourse but also to ensure that they have a certain amount of traction. Moreso, many CSOs and media entities have the credibility and profile to engage with government officials and agencies and allow the public to be a part of it. These forums, in their many different forms, are places where issues can be tabled publicly, before the government.



The Government

04



“In s.2(1)(a). Where SOEs appear recalcitrant to adhere to remonstrances by the Commission, the latter can explore the activation of these powers granted it by legislation and it is doing so by the amendment to its enabling legislation”

The Budget Office of the Federation: The Budget Office-the key executive entity with the ability to oversee, appraise and manage the coordination of budgets of all federal agencies-should ensure that SOEs adhere to the basic standards of reporting and monitoring compliance with regulations, ensuring that the inputs are those agreed in the budget, and intervening as deemed appropriate. This can be done by engaging with the Minister for Finance, Budget and National Planning, the various agencies that provide ancillary or complementary functions to budgeting (such as the Office of the Auditor and Accountant Generals, for example) and the various National Assembly committee chairpersons on budgets. These engagements would require the Budget Office to leverage its existing capacities for broad budget coordination and its domicile within the Executive, to demand compliance from SOEs. It should be noted that the SOEs are creations of the Executive and hence owe loyalty and obedience to its dictates.

The Presidency-Fiscal Responsibility Commission: As outlined in the mandate of the Fiscal Responsibility Act, the FRC is expected to monitor and enforce its Act and ensure that SOEs revenue raising policies, resource allocation decisions, and debt management decisions are undertaken in a prudent, transparent and timely fashion as

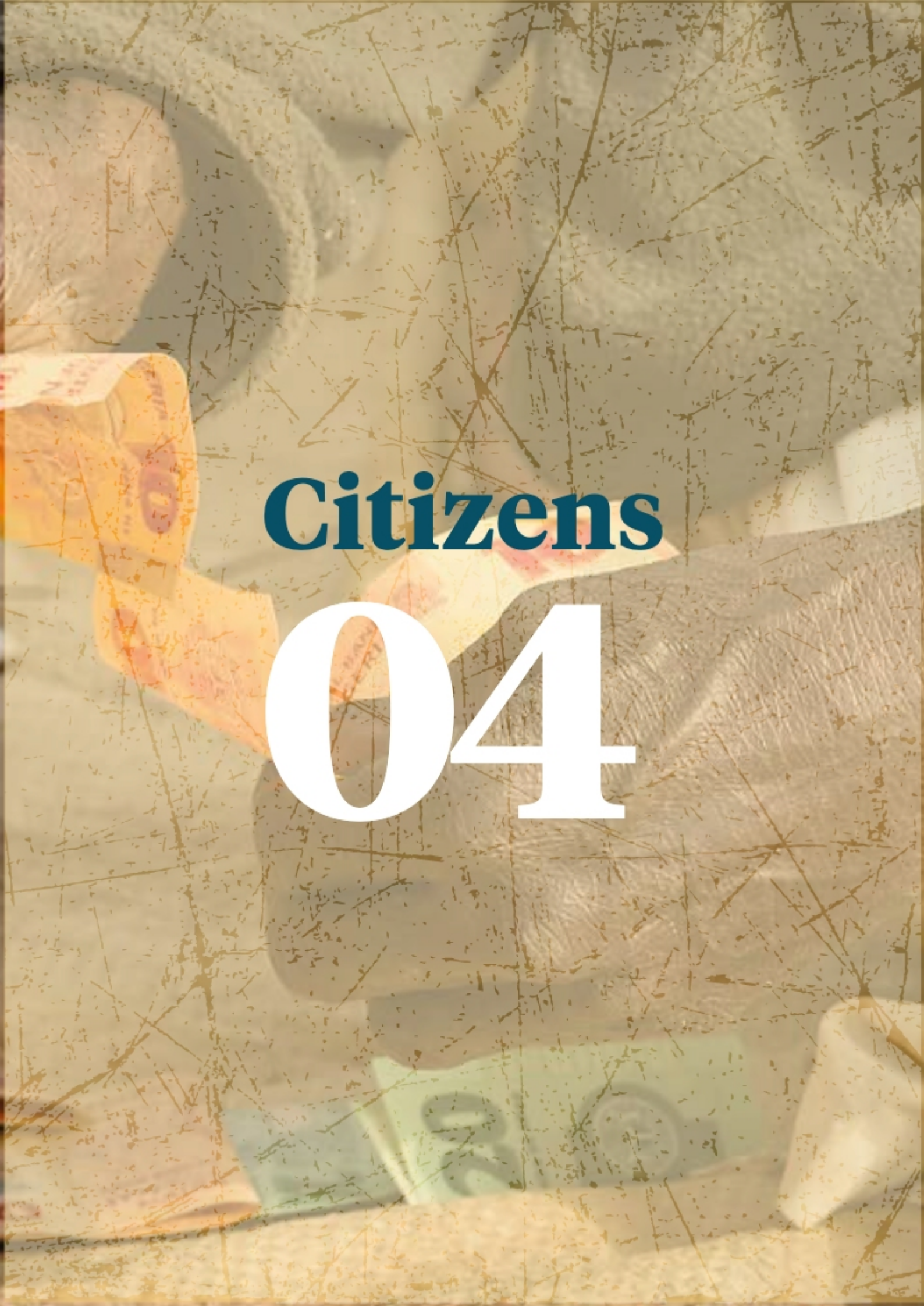
provided by the law. It should be noted that the FRA provides the Commission with the powers to compel any agency to comply with its directives, in s.2(1)(a). Where SOEs appear recalcitrant to adhere to remonstrances by the Commission, the latter can explore the activation of these powers granted it by legislation and it is doing so by the amendment to its enabling legislation. Currently before the National Assembly, the amendment bill⁴ aims to expand the remit of the FRC, to enable it among other things, to enforce instances where: “Any person who refuses or fails, without lawful excuse, to give information to the Commission or Federal Ministry of Finance, Budget and National Planning, Budget Office of the Federation and the Debt Management Office of the Federation or any other Government Institution, upon a request made in the performance of a function imposed by this Act commits an offence and shall upon conviction be liable to a term of imprisonment of not less than One year or a fine of not less than N1,000,000.00 (One Million Naira) or both fine and imprisonment”.⁵

The Office of the Accountant General of the Federation: The role of the Accountant General office cannot be overemphasised in the promotion of transparency and accountability in the affairs of the SOEs. This office can strive to ensure that SOEs provide account statements and other payment

related documents available to the public. The open government imperative of providing information such as this and more, was highlighted in the Office's Financial Transparency Policy and Implementation Guidelines of December, 2019. This should be an issue of serious attention, as the Accountant General has the Constitutional powers to: access books and records of every Ministry at any reasonable time; request for information and explanation necessary for his duties; and carry out special investigation in any Ministry. All of these powers can be used to promote not only transparency but also accountability.

The Financial Reporting Council: The Financial Reporting Council is a statutory body set up by legislation, with the responsibility to set up and develop financial reporting and accounting standards for any public interest entity in the federation. Liberty is taken to assume that SOEs fall into the category of "public interest entities" and as such are covered by their remit. The Financial Reporting Council in s.7(2)(f) and (h) of its Act, can: 'Require management assessment of internal controls, including Information Systems controls with independent attestation' and 'Require entities to provide real time disclosures on material changes in financial conditions or operations'. It is contended that these functions be extended to SOEs.





Citizens

04

“This citizen’s action function, is critical to the development of necessary collective action required to improve the demand-side quality of transparency (and potentially-accountability)”

The Citizens: Citizens are often in loose undifferentiated sets and rely more-for the aggregation of their aspirations and goals-on the instrumentality of specialised groups, such as NGOs and CSOs. However, there is still a role for citizens to play, even in their individual capacities or as ‘groups of concerned citizens’. This citizen’s action function, is critical to the development of necessary collective action required to improve the demand-side quality of transparency (and potentially-accountability). Through, letters, Freedom of Information Requests, engagement with CSOs and NGOs in the governance space and support for the implementation of government policy (by active and passive acknowledgement and

acceptance), citizens directly influence the quality of government and governance. For instance, in relation to corruption, the Chairman of the Independent Corrupt Practices Commission (ICPC), mentioned that: “Abating and eradicating corruption is possible when the government, citizens, and the private sector cooperate to denounce opacity and subterranean actions of public officials”.⁶ However, understanding the role of citizens must be accompanied by the fact that such engagements have to be strategically placed, to create maximum sustainable impact.⁷





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1. See generally, Budget Office of the Federation: Federal Ministry of Finance, Budget and National Planning. 19th August, 2021. FGN 2022 Budget Call Circular, at p. 19. Federal Republic of Nigeria. Available at: <https://www.budgetoffice.gov.ng/index.php/resources/internal-resources/call-circular?task=document.viewdoc&id=94>; the Budget Office of the Federation. 2022-2024 Medium Term Expenditure Framework and Fiscal Strategy Paper, at p. 23. Federal Republic of Nigeria. Available at: <https://www.budgetoffice.gov.ng/index.php/2022-2024-mtef-fsp?task=document.viewdoc&id=924>; and the Office of the Accountant General of the Federation. Financial Transparency Policy and Implementation Guidelines. December, 2019, at p. 4. The Federal Republic of Nigeria.
2. In general, though the NNPC has been transparent, it has left a great deal to be desired in terms of accountability for its actions that, to many, border on the outrageous. For instance, the NNPC did not produce a single drop of refined crude oil between August of 2020 and August of 2021 but was spending billions of naira on maintenance and rehabilitation. In fact, in the 2021 fiscal year (prorated for the month of August) the NNPC's refineries had a deficit of over N40 billion naira, even though not a drop of crude oil was refined. It is difficult to reconcile this spending (or level of investment) with no requisite revenue and this is where the NNPC must be able to provide not only explanations for its actions but respond to the independent questioning of both the government itself and the public. See generally, the Nigerian National Petroleum Corporation (NNPC). Financial and Operations Report: Monthly Report, at pages 18 to 20. The Federal Republic of Nigeria. Available at: <https://www.nnp-cgroup.com/NNPCDocuments/Performance%20Data/-FullReports/NNPC%20Monthly%20Financial%20and%20Operations%20Report%20for%20August%202021.pdf>.
3. According to Budget's purposive categorisation, the SOEs are as follows: Ajaokuta Steel Company Limited; Defence Industries Corporation of Nigeria; Nigeria Commodity Exchange; Nigeria Bulk Electricity Trading Plc.; Nigeria Electricity Liability Management Limited; Nigerian Railway Corporation; Tafawa Balewa Square Management Board; and Transmission Company of Nigeria. It is only these SOEs that have their budgets published in the annual Appropriation Act.
4. See the Fiscal Responsibility Commission. A Bill For the Repeal of the Fiscal Responsibility Act, 2007 and To Enact the Fiscal Responsibility Act, 2020, s.49(4), Part IV, Enforcement, Offences and Penalties. Federal Republic of Nigeria. Available at: https://docs.google.com/document/d/1dZaFiAVEmusuKz_K85XQ-RbN8Nm6Efrghkj5j9y8xg/edit.
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6. See Owasanoye, B. (2022). Developing Effective, Accountable and Transparent Institutions At All Levels Of Governance, at p. 4. Being a paper presented at the Joint Planning Board/ NCDP Meeting: Ebonyi 2022, held At Exco Chambers Government House, Abakaliki, Ebonyi State. Available at: <https://nationalplanning.gov.ng/wp-content/uploads/2022/04/DEVELOPING-TRANSPARENT-INSTITUTIONS-Repaired-1.pdf>.
7. See generally, Fox, J. (2015). Social Accountability: What Does the Evidence Really Say? *World Development* Vol. 72, pp. 346–361, 2015. 0305-750X/Ó 2015 Published by Elsevier Ltd. Available at: <http://dx.doi.org/10.1016/j.worlddev.2015.03.011>.

