

FINANCE UPDATE

JUNE 2017



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HIGHLIGHTS OF THE CIRCULARS AND GUIDELINES ISSUED BY THE CENTRAL BANK OF NIGERIA IN JUNE 2017

Dear Esteemed clients,

INTRODUCTION

The Central Bank of Nigeria (CBN) issued the following circulars/guidelines in the month of June. We shall focus on some of these circulars and hope you find some of the information useful in your operations.

- ✚ **FMD/DIR/CIR/GEN/08/008:FUTHER LIBERALIZATION OF THE INTER-BANK FOREIGN EXCHANGE (FX) MARKET**
- ✚ **TED/FEM/FPC/GEN/01/009:EXPORTS FROM NIGERIA- COMPLIANCE WITH MEMORANDUM 11 OF THE FOREIGN EXCHANGE MANUAL**
- ✚ **FPR/DIR/GEN/CIR/06/021:EXPOSURE DRAFT OF THE FRAMEWORK FOR LICENSING, REGULATION AND SUPERVISON OF PRIVATE ASSET MANAGEMENT COMPANIES IN NIGERIA**

1. **FMD/DIR/CIR/GEN/08/008: FUTHER LIBERALIZATION OF THE INTER-BANK FOREIGN EXCHANGE (FX) MARKET.**

The CBN has issued the following directives with respect to inter-bank trading and On-boarding of FMDQ Trading System further to the Circular on the Establishment of the Investors' & Exporters' (I & E) FX Window dated 21 April, 2017 and referenced **FMD/DIR/CIR/GEN/08/007**. The directives are highlighted in the table below:

Inter-bank Trading	On-Boarding of FMDQ Trading System
<ul style="list-style-type: none"> • Authorized dealers may defease their excess foreign currency trading positions to other authorized dealers without seeking prior approval from the CBN; • All inter-bank transactions are to be subject to maximum spread of N1.00; • Funds purchased by an authorized dealer from another authorized dealer in inter- bank market, shall not be held in position overnight by the buying authorized dealer or sold to another authorized dealer; • Authorised dealer shall not exceed their respective Foreign Currency Trading Position Limit (FCTPL) without the approval of the CBN; 	<p>The CBN advised authorized dealers to encourage their corporate clients to on-board the FMDQ system immediately to avoid sanctions; foster the speedy migration of the activities of the I & E FX window onto the FX trading System ;and also ensure that the objective of deepening the market is achieved.</p>

<ul style="list-style-type: none"> • Inter-bank trades-spot, forwards, futures, options and swaps- that have an impact on an authorised dealer’s FCTPL are expected to comply with rate reasonability standards; and • Authorised dealers must report to the CBN the details of all inter-bank purchases/sales by 4p.m daily through the portal provided. The details include source and applications indicating the amount, counterparty and the deal rate, etc) • The CBN reserves the right to intervene, as a buyer or seller, as it deems fit in the inter-bank trading. 	
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Please refer to the circular for comprehensive details at: <https://www.cbn.gov.ng/Out/2017/FMD/CIRCULAR%20ON%20FURTHER%20LIBERALIZATION%20OF%20FX%20MARKET.pdf>

2. TED/FEM/FPC/GEN/01/009: EXPORTS FROM NIGERIA- COMPLIANCE WITH MEMORANDUM 11 OF THE FOREIGN EXCHANGE MANUAL

In ensuring that all export transactions are carried out through formal channels, the CBN has directed all authorized dealers, exporters and the general public to ensure that bills of lading in respect of exports from Nigeria are to henceforth carry Form NXP (Nigerian Export Proceeds) number of the underlying cargo.

In addition, all exporters are required to register Form NXP with an authorized dealer before the shipment in accordance with Memorandum 11, *section 1(a) (i)* of the Foreign Exchange Manual.

Please note that this circular takes immediate effect and failure to comply with its will be regarded as a breach of extant regulations by the exporter.

Please refer to the circular for comprehensive details at: <https://www.cbn.gov.ng/Out/2017/CCD/nxp-exports-jun2017.pdf>

3. FPR/DIR/GEN/CIR/06/021: EXPOSURE DRAFT OF THE FRAMEWORK FOR LICENSING, REGULATION AND SUPERVISION OF PRIVATE ASSET MANAGEMENT COMPANIES IN NIGERIA

This exposure draft framework has been issued by the apex bank to all Banks and Other Financial Institutions (“BOFI”) on the licensing and regulation of Private Asset Management Companies (“PAMCs”).

The exposure draft covers the establishment and management of PAMCs in Nigeria, the objectives of PAMCs, their scope of activities, ownership of the PAMC, on-site examination and off-site surveillance, and the dissolution, liquidation and revocation of PAMC’s licence.

Some of the salient points of the exposure draft are as follows:

1. Definition of a PAMC

A PAMC is a privately owned institution licensed by the CBN as an Other Financial Institution (“OFI”) to acquire, manage, restructure and dispose of Eligible Assets of the banks, OFIs and banks in-liquidation.

The term “**Eligible Assets**” refers to non-performing loans as defined in the CBN Prudential, Microfinance Banks, primary mortgage banks and other sector Guidelines and any asset as may be designated by the CBN from time to time and they include collateralized or secured non-performing loans of eligible financial institutions, unsecured non-performing loans of eligible financial institutions and loans owed to an eligible financial institution that is a bank or other financial institution whose license has been revoked by the CBN pursuant to the Banks and Other Financial Institutions Act.

2. Objectives of the framework

The framework aims at:

- creating a vehicle for the acquisition of Eligible Assets of BOFI;
- creating alternative source of liquidity for BOFI,
- provides a platform for the restructuring of acquired Eligible Assets of BOFI and banks in-liquidation; and
- provide a platform for private institutions to complement the role of Assets Management Corporation of Nigeria.

3. Establishment and Management of PAMCs in Nigeria

A person or a group of persons will not be allowed to operate as a PAMC in Nigeria unless it has obtained a licence from the CBN. The application for the grant of licence requires the applicant to apply for the grant of **Approval-in- Principle** and grant of a **Final Licence**.

For the **Approval-in-Principle (AIP)**, a promoter seeking to operate as a PAMC in Nigeria is required to apply in writing to the CBN and pay a non-refundable application fee of N500,000 to the CBN or any other amount that may be prescribed by the CBN from time to time.

For the **grant of Final Licence**, the promoter of the proposed PAMC is required to submit an application for the grant of a final licence not later than six (60 months after obtaining the AIP.

4. Permissible Activities

A PAMC is authorised to undertake the following activities:

- Acquire Eligible Assets of banks and OFIs;
- Hold, manage, realize and dispose of Eligible Assets acquired from banks and OFIs in accordance with the Guidelines issued by the CBN;
- Hold, manage, realize and dispose of underlying collaterals associated with the Eligible Assets;
- Acquire performing loans of banks and OFIs, undertake debt factoring and subject to Securities and Exchange Commission (“SEC”);
- Purchase or sell other receivables of banks and OFIs including other assets;
- Own subsidiaries subject to CBN’s approval;
- Sale of Eligible Assets to other PAMCs;
- Issue and invest in securities subject to SEC and other requisite regulatory approvals; and
- Any other activities as may be prescribed by the CBN from time to time.

5. Prohibited Activities

A licenced PAMC is prohibited from carrying on the following activities:

- Accepting deposits from customers;
- Providing credit to customers;
- Providing guarantee(s) for loans;
- Obtaining loans from BOFIs in Nigeria;
- Issue securities to BOFIs;
- Provide fund management services to third parties;

- Engage in sale and buy-back of eligible assets with BOFI; and
- Acquire any Eligible Assets in respect of which the PAMC has provided services within the scope of the permissible activities.

6. Transparent and Realistic Assets Pricing

The pricing and transfer of assets must be transparent, reasonable and at arm's length.

7. Creation of Security Interest

A PAMC shall enter into a security agreement with the bank or OFI it intends to purchase Eligible Assets from; and in the event of a purchase of Eligible Assets of a bank in-liquidation, a PAMC shall enter into security agreement with the NDIC.

8. Revocation of Licence

In the event that a PAMC fails to meet the terms and conditions of its licence as provided in this exposure draft, the PAMC will be granted a period of three (3) months within which to address the regulatory concerns.

However, the CBN Governor may revoke the licence of a PAMC on the following grounds:

- Failure to address the regulatory concerns within the stipulated timeframe;
- Submission of false information/data during and after the processing of the application for licence;
- Failure to comply with the requirements of this framework or directives of the CBN;
- Engaging in activities outside the scope of its licence as specified in this framework; and
- Failure to render returns in the prescribed manner.

Please refer to the exposure draft for comprehensive details of the requirements on corporate ownership and board composition, governance and risk management issues, on-site and off-site surveillance, dissolution, liquidation and revocation of licence at: <https://www.cbn.gov.ng/Out/2017/FPRD/EXPOSURE%20DRAFT%20OF%20THE%20FRAMEWORK%20FOR%20LICENSING,%20REGULATION%20AND%20SUPERVISION%20OF%20PRIVATE%20ASSET%20MANAGEMENT%20COMPANIES%20IN%20NIGERIA.pdf>;