

**CENTRAL BANK OF NIGERIA, ABUJA**



# **PROCEDURES MANUAL**

## **FOR PROCESSING APPLICATIONS**

### **FOR BANK MERGERS/TAKE-OVERS**

**BANKING SUPERVISION DEPARTMENT  
DECEMBER 2004**

# **PROCEDURES MANUAL FOR THE PROCESSING OF APPLICATIONS FOR BANK MERGERS/TAKE-OVERS**

## **1.0 INTRODUCTION**

Paragraph 6.2 of The Guidelines and Incentives on Consolidation in the Nigerian Banking Industry issued by the CBN on August 5, 2004 stipulates that “banks should obtain the approval of the Governor of the Central Bank of Nigeria as required under Section 7 of the Banks and Other Financial Institutions Act (BOFIA) 1991 as amended before any merger and/or acquisition is consummated and/or announced”.

Also, Paragraph 6.1 of the same Guidelines provides that “banks should comply with the legal requirements on mergers and acquisitions as contained in Section 100 – 123 of the Investments and Securities Act (ISA) No 45, 1999 and all other regulatory requirements”.

In order to give effect to these provisions of the Guidelines and to fast track the processing of bank’s request for mergers and acquisitions with the December 31, 2005 deadline for compliance in view, the following documentation and procedural requirements are being proposed to guide the processing of applications.

## **2.0 ALLOWABLE LEGAL MODES OF CONSOLIDATION**

Paragraph 3.0 of the Guidelines provides that “the only legal modes of consolidation allowed are mergers and outright acquisition/takeovers”.

## **3.0 DEFINITION OF TERMS**

For the purpose of this Procedures Manual, the following definitions shall apply.

### **3.1 MERGER**

Merger is a reorganization process involving the coming together of two or more banks whereby a new bank with a new legal status (the successor bank) is created and the merged banks are simultaneously liquidated. All the rights and obligations of the merged banks pass to the successor bank.

### **3.2 TAKEOVER**

Takeover is a reorganization process involving outright acquisition of one or more banks by another (the acquiring bank). The acquiring bank becomes the successor to the rights and obligations of the bank(s) taken over (the relinquish banks). After the takeover, the legal status of the acquiring /successor bank remains unchanged and the bank(s) taken over cease to exist.

### **4.0 STAGES OF APPROVAL**

There shall be three stages of approval for mergers – pre-merger consent, approval-in-principle and final approval and two stages of approval for takeovers - approval-in-principle and final approval.

#### **4.1 PRE-MERGER CONSENT**

Pre-merger consent represents CBN's preliminary consent to the banks wishing to merge to the effect that it has no objection to the proposed merger. This is to enable it forward its application for mergers to the Securities and Exchange Commission in accordance with the ISA 1999 for processing and approval.

#### **4.2 APPROVAL-IN-PRINCIPLE**

Approval-in-principle represents CBN's conditional approval of the merger or takeover.

### **4.3 FINAL APPROVAL**

This approval shall be given after the merger or take-over has been approved by the Securities and Exchange Commission or on presentation of Takeover application to CBN. The successor bank, in the case of a merger, will then be issued a new banking licence. The banking licence(s) of the merged bank(s) ( in mergers and takeovers) shall be withdrawn and cancelled.

### **5.0 OPERATIONS OF BANKS IN THE PROCESS OF CONSOLIDATION**

Banks that are undergoing consolidation shall continue to transact business under their old names and licences but should not embark on further expansion or new capital projects until CBN final approval is given to the successor bank.

### **6.0 TIMELINES FOR COMPLETING PROCESSING AND CONVEYING APPROVALS**

#### **6.1 PRE-MERGER CONSENT**

Within a maximum of five (5) working days of the receipt of an application seeking for pre-merger consent, the CBN shall issue a no objection letter or a rejection letter, informing the applicants of the reasons for rejection.

#### **6.2 APPROVAL-IN-PRINCIPLE**

6.2.1 Within a maximum of ten (10) working days of the receipt of an application for merger not involving any fresh capital injection, the CBN shall issue an approval-in-principle or reject the application, informing the applicants of the reasons for rejection.

6.2.2 Where an application for merger involves fresh capital injection, approval in principle will be issued to the applicants within a maximum of fifteen (15) working days. Where the application is rejected or part of the fresh capital injection is not recognized, the applicants

will also be informed within a maximum of ten (10) working days of the receipt of the application.

### **6.3 FINAL APPROVAL**

Final approval shall be conveyed to the successor bank or the acquiring bank within a maximum of ten (10) working days of receipt of the application for final approval.

## **7.0 DOCUMENTARY REQUIREMENTS FOR MERGERS**

### **7.1 PRE-MERGER CONSENT**

- 7.1.1 A formal application by the merging banks addressed to the Governor of Central Bank of Nigeria and signed by the Chairmen and Managing Directors of each of the merging banks accompanied with the following;
- 7.1.2 The proposed name of the successor bank.
- 7.1.3 Memorandum of Understanding between the merging banks.
- 7.1.4 Current Memorandum and Articles of Association (MEMART) of each of the merging banks.
- 7.1.5 Resolution by each of the boards of the merging banks approving the merger.
- 7.1.6 Resolution of the shareholders at the AGM or EGM.
- 7.1.7 List of significant shareholders of the **existing banks** (i.e shareholding of 5% and above) showing their names, business and residential addresses (not P.O.Box).
- 7.1.8 Organisational structure, showing functional units, reporting relationships and grade (status) of heads of departments/units of the merging banks.
- 7.1.9 List of Directors, designation and the interest they represent in the merging banks.
- 7.1.10 List of the top management team (AGM and above) of the merging banks and their designation.
- 7.1.11 Copies of CBN approvals of the appointments of the directors and top management team listed in paragraph 7.1.9 and 7.1.10.

## **7.2 APPROVAL-IN-PRINCIPLE**

- 7.2.1 Draft Memorandum and Articles of Association (MEMART) of the successor bank.
- 7.2.2 List of significant shareholders of the **successor bank** (i.e. shareholding of 1% and above) showing their names, business and residential addresses (not P.O.Box).
- 7.2.3 Organisational structure, showing functional units, reporting relationships and grade (status) of heads of departments/units of the successor bank.
- 7.2.4 List of Directors, their curriculum vitae, designation and interest they represent in the successor bank.
- 7.2.5 List of the proposed top management team (AGM and above), designation and their detailed curriculum vitae.
- 7.2.6 Method of valuation agreed to by the banks.
- 7.2.7 Draft Scheme of Merger.
- 7.2.8 Due diligence report on each of the merging banks.

## **7.3 FINAL APPROVAL**

- 7.3.1 Formal application accompanied by the following documents;
- 7.3.2 Original banking licence(s) of the merging bank(s).
- 7.3.3 The Scheme of Merger approved by Securities and Exchange Commission.
- 7.3.4 Business/Strategic plan of the successor bank for the next five years showing how the integration process will be managed, future goals and operations, branch expansion/rationalization, treatment of surplus staff and staff to be retained, etc.
- 7.3.5 Certificate of incorporation of the successor bank.
- 7.3.6 CTC of CAC form 2.5 – return of allotment.
- 7.3.7 CTC of CAC form 2.3 – particulars of directors.
- 7.3.8 CTC of form CAC 6 – location of principal place of business.
- 7.3.9 Evidence of de-registration of the relinquent banks by CAC.
- 7.3.10 SEC final approval of the merger.

- 7.3.11 A signed undertaking from each proposed Director that he/she will comply with the code of conduct for Directors as the CBN shall from time to time prescribe.
- 7.3.12 Opening Statement of Affairs showing the details of the capital base.
- 7.3.13 Evidence of stamp duties paid to Federal Inland Revenue Service on the new authorized share capital.
- 7.3.14 Schedule of disengaged staff, including the total severance package and mode of settlement.
- 7.3.15 Schedule of retained staff, including their placements.

## **8.0 DOCUMENTARY REQUIREMENTS FOR TAKEOVERS**

### **8.1 APPROVAL-IN-PRINCIPLE**

- 8.1.1 A formal application by the acquiring bank addressed to the Governor of Central Bank of Nigeria and signed by the Chairman and Managing Director, accompanied with the following:
- 8.1.2 A scheme of arrangement stating clearly that the acquired banks will cease to exist and other documents attached including:
  - i. The Valuation Report
  - ii. Due Diligence Report on the bank(s) to be taken over
- 8.1.3 Memorandum of information/understanding.
- 8.1.4 Memorandum and Articles of Association (MEMART) of the acquiring bank.
- 8.1.5 Resolution of the board of directors of the acquiring and acquired banks approving the take-over.
- 8.1.6 Certificate of incorporation of the acquiring bank.
- 8.1.7 List of significant shareholders of the **acquiring bank** (i.e. shareholding of 1% and above) showing their names, business and residential addresses (not P. O. Box).
- 8.1.8 Organisational structure of the acquiring bank post take-over, showing functional units, reporting relationships and grade (status) of heads of departments/units.

- 8.1.9 List of Directors, their curriculum vitae, designation and interest they represent.
- 8.1.10 List of the proposed top management team post take-over (AGM and above), designation and their detailed curriculum vitae.
- 8.1.11 Copies of CBN approvals of the appointments of the directors and top management team listed in paragraph 8.1.9 and 8.1.10 (where applicable).
- 8.1.12 Business/Strategic plan of the acquiring bank for the next five years showing how the integration process will be managed, future goals and operations, branch expansion/rationalization, treatment of surplus staff and staff to be retained etc..

## **8.2 FINAL APPROVAL**

- 8.2.1 CTC of CAC form 2.5 – return of allotment.
- 8.2.2 CTC of CAC form 2.3 – particulars of directors.
- 8.2.3 CTC of form CAC 6 – location of principal place of business.
- 8.2.4 Evidence of voluntary liquidation/winding up of the acquired bank(s).
- 8.2.5 Original banking licence(s) of the acquired bank(s).
- 8.2.6 Evidence of stamp duties paid to Federal Inland Revenue Service on the new authorized share capital.
- 8.2.7 Opening Statement of Affairs showing the details of the capital base.
- 8.2.8 Schedule of disengaged staff, including the total severance package and mode of settlement.
- 8.2.9 Schedule of retained staff, including their placements.

## **9.0. PROCESSING MANUAL**

### **9.1 RESPONSIBILITY**

The Bank Consolidation Implementation Committee (BCIC) shall be responsible for processing banks' applications for mergers and/or takeovers.



## **9.2 PRE-MERGER CONSENT**

### **9.2.1 RECEIPT OF APPLICATION**

The application for merger shall be received in the Director's office, checked for completeness and accuracy of documentation before on-the-spot acknowledgement to the applicant.

### **9.2.2 PROCESSING**

On receipt of application, the processing officer will:

- i) Ensure that the application has been duly registered.
- ii) Determine if the name is acceptable and conforms with the requirements of Section 39(1) (a) and (2) of BOFIA 1991 as amended.
- iii) If the name is acceptable, notify the promoters to go ahead and register the name with the Corporate Affairs Commission (CAC) and thereafter provide all the required documentation and certified true copies.
- iv) If name is not acceptable, notify the promoters to provide a substitute.
- v) Check and compare the information on the documents submitted with those in our records.

### **9.2.3 Approving Authority**

If the promoters have complied with all the relevant requirements, the Director of Banking Supervision shall approve the pre-merger consent.

After the Director of Banking Supervision's approval, the processing officer shall communicate the pre-merger consent, through a letter signed by the Director of Banking Supervision, to the banks.

## **9.3 APPROVAL-IN-PRINCIPLE: MERGER**

### **9.3.1 RECEIPT OF APPLICATION**

As in 9.2.1.

### **9.3.2 PROCESSING**

On receipt of application, the processing officer will:

- i) Ensure that the application has been duly registered.
- ii) Roles and responsibilities of the board and its sub committees must be spelt out in the strategic plan
- iii) Criteria for selecting board members should be stated.
- iv) Top management (AGM and above) and board should be appraised applying CBN circular on pre-qualification for appointments into board and top management position in Nigerian banks (if not already done).
- v) Organisational structure should show functional units, reporting relationships and grade (status), responsibilities, delegation of functions, succession plan for key officers and span of control.
- vi) Ensure that the emerging organization has defined lines of responsibility and hierarchy and that there are no Co-Chairman and/or Co-Chief Executive Officer arrangements.
- vii) Appraise the scheme of merger and comment on the following:
  - a. Group arrangements.
  - b. Plans for employees and directors and other dissenting shareholders.
  - c. Valuation.

### **9.3.3 Approving Authority**

If the promoters have complied with all the relevant requirements, the Director of Banking Supervision shall seek the Governor's approval for an approval-in-principle.

After the Governor's approval, the processing officer shall communicate the approval-in-principle, through a letter signed by the Director of Banking Supervision, to the banks.

## **9.4 FINAL APPROVAL: MERGERS**

### **9.4.1 RECEIPT OF APPLICATION**

As in 9.2.1.

### **9.4.2 PROCESSING**

On receipt of application for final licence, the processing officer shall:

- i) Ensure that the application has been duly registered.
- ii) Dispatch status enquiries on new shareholders/directors to other regulatory authorities viz: NDIC, NAICOM and SEC, (if any, where such clearance had not been obtained earlier).
- iii) Dispatch completed Personal History Statement (PHS) forms accompanied by the CVs of the new shareholders/directors to the State Security Services to carry out security screening of the proposed shareholders/directors (if any, where such clearance had not been obtained earlier).
- iv) Ascertain the fitness and properness of the new shareholders/directors through the responses received from the security agencies and status enquiries from SEC, NDIC, NAICOM, CRMS and CBN's Black Book (if not already done).
- v) Ensure that in the board composition the number of non-executive directors is more than the number of executive directors and that the board is not more than 20 directors.

- vi) Each of the directors shall sign an undertaking that he/she will comply with the code of conduct for directors as the CBN shall from time to time prescribe.
- vii) Compare the provisions of the scheme document in respect to staff to be disengaged or retained with the information provided on same in the schedules of disengaged and retained staff.

### **9.4.3 Approving Authority**

Subject to the promoters compliance with all the relevant requirements and receipt of satisfactory status enquiries and security reports, the processing officer shall prepare an appraisal memo to the Director of Banking Supervision requesting him to recommend to the Governor, the issuance of a new banking licence to the emerging bank.

A new banking licence signed by the Governor will be issued to the successor bank.

The old licences of the merged banks will be withdrawn.

## **9.5 APPROVAL-IN-PRINCIPLE: TAKEOVERS**

### **9.5.1 RECEIPT OF APPLICATION**

As in 9.2.1.

### **9.5.2 PROCESSING**

On receipt of application, the processing officer will:

- i) Ensure that the application has been duly received and registered.
- ii) Ensure that the takeover bid documents submitted are in line with the specified requirements.
- iii) Examine the takeover bid to determine the terms and conditions of the takeover.
- iv) Examine the Memorandum of Understanding, MEMART, board resolution of the acquiring and

acquired banks and the certificate of incorporation of the acquiring bank.

### **9.5.3 Approving Authority**

Subject to the promoters' compliance with all the relevant requirements and receipt of satisfactory status enquiries and security reports, the Director of Banking shall seek the Governor's approval for approval-in-principle.

After the Governor's approval, the acquiring bank shall be notified in writing through a letter signed by the Director of Banking Supervision.

## **9.6 FINAL APPROVAL - TAKEOVERS**

### **9.6.1 RECEIPT OF APPLICATION**

As in 9.2.1.

### **9.6.2 PROCESSING**

On receipt of application, the processing officer shall:

- (i) Ensure that the application has been duly received and registered.
- (ii) Dispatch status enquiries on new shareholders/directors to other regulatory authorities viz: NDIC, NAICOM and SEC, (if any, where such clearance had not been obtained earlier).
- (iii) Dispatch completed Personal History Statement (PHS) forms accompanied by the CVs of the new shareholders/directors to the State Security Services to carry out security screening of the new shareholders/directors (if any, where such clearance had not been obtained earlier).
- (iv) Ascertain the fitness and properness of the new shareholders/directors through the responses received from the security agencies and status

enquiries from SEC, NDIC, NAICOM, CRMS and CBN's Black Book (if not already done).

- (v) Ensure that in the board composition the number of non-executive directors is more than the number of executive directors and that the board is not more than 20 directors.
- (vi) Each of the new directors shall sign an undertaking that he/she will comply with the code of conduct for directors as the CBN shall from time to time prescribe.
- (vii) Roles and responsibilities of the board and its sub committees must be spelt out in the strategic plan.
- (viii) Criteria for selecting board members should be stated.
- (ix) Top management (AGM and above) and board should be appraised applying CBN circular on pre-qualification for appointments into board and top management position in Nigerian banks (if not already done).
- (x) Organisational structure should show functional units, reporting relationships and grade (status), responsibilities, delegation of functions, succession plan for key officers and span of control.
- (xi) Ensure that the successor bank has defined lines of responsibility and hierarchy and that there are no Co-Chairman and/or Co-Chief Executive Officer arrangements.
- (xii) Compare the provisions of the scheme document in respect to staff to be disengaged or retained with the information provided on same in the schedules of disengaged and retained staff.

### **9.6.3 Approving Authority**

Subject to the promoter's compliance with all the relevant requirements and receipt of satisfactory status enquiries and security reports, the Director of Banking shall seek the Governor's approval of the new capital base of the bank of the

bank and the withdrawal of the licence(s) of the acquired bank(s).

After the Governor's approval, the acquiring bank shall be notified in writing through a letter signed by the Director of Banking Supervision, while the acquired bank(s) shall be required to return their old licences for cancellation.

**BANKING SUPERVISION DEPARTMENT  
DECEMBER, 2004**