



# CENTRAL BANK OF NIGERIA

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Circular to all Banks and Other Financial Institutions.

## **EXPOSURE DRAFT OF THE FRAMEWORK FOR LICENSING, REGULATION AND SUPERVISION OF PRIVATE ASSET MANAGEMENT COMPANIES IN NIGERIA**

Developments in the Nigerian banking industry have necessitated the need for the licensing of Private Asset Management Companies (PAMCs) to play complementary roles in the management of non-performing assets of the industry.

We forward herewith, an Exposure Draft of the Framework for Licensing, Regulation and Supervision of the business of Private Asset Management Companies for your comments and observations.

A copy of the draft Framework may also be accessed on the CBN website [www.cbn.gov.ng/documents/circulars.asp](http://www.cbn.gov.ng/documents/circulars.asp).

We would appreciate receiving your comments/inputs by July 5, 2017, please.

Thank you.

Yours faithfully,

  
**KEVIN N. AMUGO**  
**DIRECTOR OF FINANCIAL POLICY AND REGULATION**

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DRAFT

FRAMEWORK FOR THE LICENSING, REGULATION AND SUPERVISION OF  
PRIVATE ASSET MANAGEMENT COMPANIES IN NIGERIA

ISSUED BY

CENTRAL BANK OF NIGERIA

APRIL 2017

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TABLE OF CONTENTS

1.0 PREAMBLE.....2

2.0	OBJECTIVES OF THE FRAMEWORK .....	3
3.0	PRIVATE ASSET MANAGEMENT COMPANIES (PAMCs).....	3
4.0	SCOPE OF ACTIVITIES.....	4
4.1	Permissible Activities.....	4
4.2	Prohibited Activities .....	5
4.3	Transparent and Realistic Assets Pricing.....	5
4.4	Creation of Security Interest.....	5
5.0	ESTABLISHMENT AND MANAGEMENT OF PAMCs IN NIGERIA .....	5
5.1	Licensing Requirements.....	5
5.2	Application for the Grant of Licence .....	6
5.2.1	Requirements for Grant of Approval-In-Principle (AIP) .....	6
5.2.2	Requirements for grant of final licence .....	8
5.3	Terms of Licence.....	9
5.3.1	Requirements for pre-commencement of operations .....	9
5.3.2	Post commencement requirements .....	9
5.3.3	Change of Name.....	9
6.0	Ownership of a PAMC.....	10
6.1	Qualification for Directors and Top Management Appointments in a PAMC .....	11
6.2	Corporate Governance .....	11
6.3	Risk Management.....	11
6.4	Internal Control.....	11
7.0	ON-SITE EXAMINATION AND OFF-SITE SURVEILLANCE .....	12
7.1	On-Site Examination.....	12
7.2	Off-Site Surveillance .....	12
8.0	DISSOLUTION, LIQUIDATION AND REVOCATION OF LICENCE.....	13
8.1	Dissolution and Liquidation .....	13
8.2	Revocation of Licence.....	13
9.0	COMMENCEMENT .....	14
	ACRONYMS .....	15
	GLOSSARY OF TERMS .....	15

## 1.0 PREAMBLE

The dynamic developments in the management of risk assets in the Nigerian banking system necessitated the establishment of the Asset Management Corporation of Nigeria (AMCON) in 2010. The prime objective of AMCON was

to manage the toxic assets of the system, which was exacerbated by the global financial crisis.

Given the ever evolving developments in the industry, the decline in international commodity prices with its consequent impact on risk assets in the industry, it has become expedient to proactively widen the space for the management of non-performing loans through the establishment of Private Asset Management Companies (PAMCs). This is in line with the Central Bank of Nigeria's core mandate of promoting a sound and stable financial system in Nigeria.

Following from the above, this Framework is issued by the Central Bank of Nigeria (hereinafter referred to as the "CBN" or the "Bank") in exercise of the powers conferred on it by the provisions of Sections 2 (d) and 33 subsection (1) (b) of the CBN Act No.7 of 2007 and in pursuance of the provisions of Sections 58 (2), 61- 63 of the Banks and Other Financial Institutions Act (BOFIA) of 1991 (as amended).

The purpose of the Framework is to set forth the rules and procedures for the establishment and operations of PAMCs in Nigeria.

## **2.0 OBJECTIVES OF THE FRAMEWORK**

The main objectives of this Framework shall be to:

- a. Assist the regulatory authorities in promoting the soundness and stability of the Financial System;
- b. Create a vehicle to acquire Eligible Assets of banks, Other Financial Institutions (OFIs) and banks in-liquidation;
- c. Create an alternative source of liquidity for banks and OFIs;
- d. Provide a platform for restructuring acquired Eligible Assets of banks ,OFIs and banks in-liquidation;
- e. Minimize the systemic consequences of delinquent assets on banks and OFIs;
- f. Allow private institutions to complement the role of AMCON.

## **3.0 PRIVATE ASSET MANAGEMENT COMPANIES (PAMCS)**

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 banks, OFIs and banks in-liquidation.

The PAMC shall:

- a. be an independent legal entity with a primary focus on the purchase, management and disposal of Eligible Assets of banks and OFIs;
- b. be privately-owned limited liability company incorporated in Nigeria under the Companies and Allied Matters Act (CAMA);
- c. have 'Asset Management Company' as part of its name and object clause;
- d. have well defined processes for the acquisition, control, management, marketing and disposal of Eligible Assets; and
- e. be regulated and supervised by the CBN as an OFI.

#### **4.0 SCOPE OF ACTIVITIES**

##### **4.1 Permissible Activities**

A licensed PAMC is authorized to undertake the following activities:

- a. Acquire Eligible Assets of banks and OFIs;
- b. Hold, manage, realize and dispose of Eligible Assets acquired from banks and OFIs in accordance with the Guidelines issued by the CBN;
- c. Hold, manage, realize and dispose of underlying collaterals associated with the Eligible Assets acquired from banks, OFIs and/or the Nigeria Deposit Insurance Corporation (NDIC);
- d. Acquire performing loans of banks and OFIs, undertake debt factoring and subject to SEC approval, engage in assets securitization.;
- e. Purchase or sell other receivables of banks and OFIs including other assets;
- f. Provide consultancy and advisory services to banks and OFIs for the purpose of restructuring receivables and other assets, including sale of such assets to third parties;
- g. Subject to SEC and other requisite regulatory approvals, issue or invest in securities;
- h. Subject to CBN's approval, own subsidiaries;
- i. Purchase Eligible Assets from other PAMCs;
- j. Sale of Eligible Assets to other PAMCs; and
- k. Any other activities as may be prescribed by the CBN from time to time.

## **4.2 Prohibited Activities**

A licensed PAMC is prohibited from carrying out the following activities:

- a. Provision of credit to customers;
- b. Acceptance of deposits from customers;
- c. Provision of guarantee(s) for loans;
- d. Obtaining loans from banks and OFIs in Nigeria;
- e. Issuance of securities to banks and OFIs in Nigeria;
- f. Provision of fund management services to third parties; and
- g. Engaging in 'sale and buy-back' of eligible assets with banks and OFIs.
- h. Acquisition of any Eligible Assets in respect of which the PAMC has provided services as stated in 4.1 (e) above;
- i. Any other business that may be prohibited by the CBN from time to time.

## **4.3 Transparent and Realistic Assets Pricing**

- a. The pricing and transfer of assets must be transparent, reasonable and at arms-length.
- b. The accounting entries for the transactions must fully comply with relevant accounting standards, principles and guidelines.

## **4.4 Creation of Security Interest**

- a. A PAMC shall enter into security agreement with the bank or OFI it intends to purchase Eligible Assets from.
- b. In the case of purchase of Eligible Assets of a bank in-liquidation, a PAMC shall enter into security agreement with the NDIC.
- c. A security agreement shall be effective and create a security interest as between the parties according to its terms.

## **5.0 ESTABLISHMENT AND MANAGEMENT OF PAMCS IN NIGERIA**

### **5.1 Licensing Requirements**

As from the date hereof, no person or group of persons shall operate a PAMC (as defined in this Framework) in Nigeria unless licensed to do so by the CBN.

## 5.2 Application for the Grant of Licence

### 5.2.1 Requirements for Grant of Approval-In-Principle (AIP)

A Promoter seeking to operate a PAMC in Nigeria shall apply in writing to the Governor, Central Bank of Nigeria, P.M.B 0187, Garki, Abuja and submit with the following documents:

- a. A non-refundable application fee of ₦500,000 (Five Hundred Thousand Naira only) payable to the CBN or any other amount that may be prescribed by the CBN from time to time.
- b. Evidence of deposit of the specified minimum paid-up capital requirement of ₦10,000,000,000 (ten billion Naira only) into the designated account with CBN or any other amount that may be prescribed by the CBN from time to time. The amount shall be refunded to the PAMC with the accrued interest upon grant of final licence.
- c. Detailed business plan or feasibility study, including:
  - i. Objectives of the PAMC.
  - ii. The need for the services of the PAMC, supported with a detailed market survey.
  - iii. Ownership structure in tabular format showing names of proposed investor(s), profession/business and their percentage shareholding.
  - iv. Five-year financial projection for the operation of the PAMC indicating expected growth and profitability and the details of the assumptions which form the basis of the financial projection;
  - v. Proposed Information and Communication Technology (ICT) infrastructure.
- d. Detailed bio-data/resume of shareholders.
- e. Details of the proposed sources of equity contribution from each investor.  
Note: Where a loan is obtained to finance the equity, such loan must be long-term (at least of 7-year tenor) and must not be taken from the Nigerian banking system and/or foreign subsidiaries of Nigerian banks.
- f. Board and Committee charters stating the roles and responsibilities of the Board and its Sub-Committees.
- g. Board composition and directors detailed resumes. The total number of directors should be between 5 and 7, including the independent director(s).
- h. Clear means of identification of shareholders and directors.

- i. Signed Fitness and Propriety Questionnaire and Declaration executed by the proposed shareholders, directors and management personnel in line with the provisions of Section 4.0 of the CBN's Revised Assessment Criteria for Approved Persons' Regime for Financial Institutions.
- j. Organisational structure, showing functional units, responsibilities, reporting relationships and grade (status) of heads of department/unit.
- k. Services to be rendered by the PAMC.
- l. Undertaking by promoters that the PAMC will be adequately capitalised for the volume and character of its business at all times.
- m. For corporate investors, promoters shall forward:
  - i. Certificate of Incorporation of the investing company.
  - ii. Board resolution supporting company's decision to invest in the equity shares of the proposed PAMC.
  - iii. Names and addresses (business/residential) of shareholders/directors and their related companies, if any.
  - iv. Last 3 years audited financial statements of the company and Tax Clearance Certificate.
  - v. Certified True Copies of the company's Corporate Affairs Commission (CAC) Forms CO2 and CO7.
  - vi. Tax Identification Number of the investing company.
- n. Proposed PAMC's name reservation with CAC.

No PAMC shall be registered or incorporated with a name which includes the words "Central", "Federal" "Federation", "National", "Nigeria", "Reserve", "State", "Christian", "Islamic", "Moslem", "Quranic" or "Biblical".
- o. Draft copy of Memorandum and Articles of Association (MEMART) stating:
  - i. Proposed name of the PAMC.
  - ii. Object clauses
  - iii. Subscribers to the MEMART
  - iv. Procedure for amendment
  - v. Procedure for share transfer/disposal
  - vi. Procedure for appointment of directors
- p. Shareholders agreement providing for disposal/transfer of shares as well as authorisation, amendments, waivers, reimbursement of expenses etc.
- q. Statement of intent to invest in the PAMC.



- r. Bank Verification Number of the proposed shareholders/Directors.
- s. Current Tax Clearance Certificate of the proposed shareholders/Directors.
- t. Notarized Statement of Networth of the Shareholders and Directors.
- u. Two Reference Letters from reputable individuals for each director nominee.
- v. Technical Services Agreement (where applicable).
- w. Any other documents/information that may be required by the CBN from time to time.

### **5.2.2 Requirements for Grant of Final Licence**

Not later than six (6) months after obtaining the AIP, the promoters of a proposed PAMC, having met all the conditions in the AIP, shall submit an application for the grant of final licence accompanied with the following:

- a. A non-refundable licensing fee of ₦2,000,000 (two million Naira only) payable to the CBN or any other amount that may be prescribed by the CBN from time to time.
- b. Evidence of deposits made by each shareholder.
- c. Certified True Copy (CTC) of Certificate of Incorporation of the PAMC.
- d. CTC of MEMART.
- e. CTC of CAC Form CO2 -Allotment of Shares.
- f. CTC of CAC Form CO7 - Particulars of Directors.
- g. CTC of CAC Form CO3 – Primary Place of Business.
- h. Evidence of payment of Stamp Duties.
- i. List of identified top/senior management staff (AGM and above) and detailed curriculum vitae stating their qualification, experience, records of accomplishment etc.
- j. Changes (if any) in the Board and Shareholding.
- k. Copies of letters of offer and acceptance of employment in respect of the management team (Heads of department and above).
- l. Manual of Operations.
- m. Enterprise Risk Management Framework.
- n. Internal control policy.
- o. Contingency and Disaster Recovery Plan (Business Continuity Plan).

### 5.3 Terms of Licence

- a. The licence shall be granted for an indefinite period and shall not be transferable.
- b. In accordance with Section 5 (1) of BOFIA, the CBN may impose such conditions on a PAMC's licence, vary or review the conditions at any time, as it may deem fit.
- c. A licensed PAMC shall comply with the provisions of the guidelines, regulations and circulars as may be issued by the CBN from time to time.
- d. A licence shall automatically expire if a PAMC fails to commence business after six (6) months from the date of issuance of the licence, or such other period as may be specified by the CBN from time to time..

#### 5.3.1 Requirements for pre-commencement of operations

A PAMC shall submit a letter to the CBN of its readiness to commence operation, accompanied with the following:

- a. Copy of shareholders' register.
- b. Opening statement of affairs signed by its directors and auditors.
- c. Minutes of pre-commencement Board meeting.

#### 5.3.2 Post commencement requirements

A PAMC shall:

- a. maintain adequate accounting system and records that capture information and reflect the financial conditions of the institution;
- b. ensure sustenance of an unimpaired minimum share capital;
- c. ensure on-going compliance with all other requirements incidental to the authorization granted and perform PAMC activities as stipulated by the CBN;
- d. render returns of its activities to the CBN as specified in Section 7.2 (v).

#### 5.3.3 Change of Name

No PAMC shall change its name without prior written approval of the CBN.

The request for approval shall be accompanied with the following:

- i. Application fee of N200,000 (two hundred thousand Naira only) payable to CBN or any other amount that may be prescribed by the CBN from time to time.
- ii. Board resolution authorizing the change.
- iii. Justification for the proposed name change.
- iv. Any other information/document as may be required by the CBN.

#### **5.3.4 Opening, Relocation and Closure of Offices and Branches**

No PAMC shall open, relocate or close an office or a branch without the prior written approval of the CBN. The PAMC shall forward a written request along with the following documents, to the CBN:

- i. Board Resolution approving the opening, relocation or closure;
- ii. Justification for the opening, relocation or closure;
- iii. Feasibility report which should contain the cost implication; and
- iv. Any other document or information as may be required by the CBN from time to time.

#### **6.0 OWNERSHIP AND BOARD COMPOSITION OF A PAMC**

- a. Interested individuals/entities, foreigners inclusive, are at liberty to invest in a PAMC subject to CBN approval.
- b. Nigerian banks, financial holding companies, OFIs and their subsidiaries are precluded from investing in PAMCs.
- c. The maximum number of directors [including executive directors] on the Board of a PAMC shall be seven [7], while the minimum number shall be five [5], at least one of which shall be an independent director.
- d. The number of non-executive directors shall be more than that of executive directors at any point in time.
- e. No individual shall serve on the board of more than one [1] PAMC at the same time.
- f. No board member or officer of a Nigerian bank, financial holding company and their subsidiaries shall serve on the board of a PAMC.
- g. The appointment/upgrade of a new director/ management staff shall be subject to the approval of the CBN.

## **6.1 Qualifications for Appointment to the Positions of Director and Top Management of a PAMC**

The following minimum qualifications and experience are mandatory for officers who may occupy executive management positions in the PAMC:

- a. Managing Director/Chief Executive – minimum of a recognized university degree or its equivalent with at least ten (10) years relevant post-qualification experience.
- b. Executive Director - minimum of a recognized university degree or its equivalent with at least eight (8) years relevant post-qualification experience.
- c. Non-Executive Director – A non-executive director must possess a minimum of first degree or its equivalent with at least five (5) years relevant post qualification experience.
- d. Top Management
  - i. A minimum of first degree or its equivalent in any discipline (additional qualification in any related discipline would be an advantage);
  - ii. A minimum of seven (7) years post-graduation experience out of which, at least, 4 must have been in financial services industry and at least, 2 at management level.

## **6.2 Corporate Governance**

PAMCs shall comply with good Corporate Governance practice.

## **6.3 Risk Management**

A PAMC shall be required to develop an Enterprise Risk Management (ERM) Framework which will serve as a guide in the identification, measurement, monitoring and control of risks. The ERM Framework should be approved by the Board of Directors and cover the different forms of risks to which a PAMC may be exposed. Such risks include: Liquidity, Credit, Operational, Market, Legal and Compliance Risks.

## **6.4 Internal Control**

- a. A PAMC shall have in place an internal control framework which should at a minimum cover the following key areas: control environment; risk

assessment; control activities; information and communication; and monitoring.

b. A PAMC shall, as part of its audited annual financial statements, include:

- i. a statement on the effectiveness of the internal control signed off by the Board of Directors; and
- ii. a report by its external auditors attesting to the existence, adequacy and effectiveness or otherwise of the internal control system.

## **7.0 ON-SITE EXAMINATION AND OFF-SITE SURVEILLANCE**

### **7.1 On-Site Examination**

- a. The CBN shall conduct periodic examination of the activities of all licensed PAMCs.
- b. Every PAMC shall make its books and records readily available to the CBN for examination and other supervisory purposes as and when required.
- c. The CBN shall have unrestricted access to the records of all licenced PAMCs.

### **7.2 Off-Site Surveillance**

Every PAMC shall:

- i. Comply with the International Financial Reporting Standards (IFRS) in its reporting framework.
- ii. Maintain December 31 as its financial year-end.
- iii. Submit its annual financial statements to the Other Financial Institutions Supervision Department (OFISD) of the CBN not later than three (3) months after its year-end for the purposes of obtaining 'no objection' from the CBN to publish.
- iv. Publish its annual financial statements not later than four (4) months after its year-end.

- v. Submit its returns, in the specified format, to the Other Financial Institutions Supervision Department (OFISD) of the CBN not later than ten (10) working days after the last day of each month or at such other interval as the CBN may specify from time to time.
- vi. Submit report to the CBN as may be required at any time, in any format and on any matter, including the performance of its functions under this Framework and any information or statistics relating thereto.

Failure to comply with any of the provisions of this sub-section or any other section of this Framework shall attract appropriate regulatory sanctions.

## **8.0 DISSOLUTION, LIQUIDATION AND REVOCATION OF LICENCE**

### **8.1 Dissolution and Liquidation**

- a. Where a PAMC is desirous of winding up its affairs, it shall notify the CBN in writing accompanied with the following documents:
  - i. A copy of the minutes of the special meeting of shareholders in which the resolution to dissolve the PAMC was passed.
  - ii. Financial statements as at the date of the resolution as well as a report from its external auditor.
  - iii. A sworn statement from the chief executive officer specifying outstanding obligations (if any).
  - iv. A sworn declaration of how it intends to extinguish the outstanding obligations.
- b. The CBN shall on receipt of notice of dissolution conduct an investigation and if satisfied, withdraw the licence of the PAMC.

### **8.2 Revocation of Licence**

A PAMC that fails to meet the terms of the licence and conditions for operation as provided by this Framework shall be granted a period of three months to address the regulatory concerns.

Without prejudice to the powers of the CBN Governor to revoke the license of OFIs under the BOFIA, the Governor may revoke the licence granted to a PAMC on any or all of the following grounds:

- a. Failure to address regulatory concerns within the stipulated timeframe.

- b. Submission of false information/data during and/or after the processing of the application for licence.
- c. Engaging in functions/ activities outside the scope of its licence as specified in this Framework.
- d. Failure to comply with the requirements of this Framework or directives of the CBN.
- e. Failure to render returns in the prescribed manner.
- f. Unauthorized cessation of operations for a continuous period of three months or any period aggregating three months during a continuous period of twelve months.
- g. Liquidation, winding-up or dissolution of the PAMC.
- h. Any other act[s] which in the opinion of the CBN constitute[s] a valid ground for revocation of the licence..

#### **COMMENCEMENT**

This Framework shall come into force on XXXX 2017.

#### **DEFINITION CLAUSE**

"Banks" shall mean any institution licensed by the CBN to carry out banking business and shall include:

- i. Deposit Money Banks
- ii. Microfinance Banks
- iii. Development Finance Banks
- iv. Non-Interest Banks
- v. Any other institution that may be designated as a bank by the Central Bank of Nigeria from time to time

**ACRONYMS**

<b>AGM:</b>	Annual General Meeting
<b>AIP:</b>	Approval-In-Principle
<b>AMCON:</b>	Asset Management Corporation of Nigeria
<b>BOFIA:</b>	Banks and Other Financial Institutions Act
<b>BVN:</b>	Bank Verification Number
<b>CAC:</b>	Corporate Affairs Commission
<b>CAMA:</b>	Companies and Allied Matters Act
<b>CBN:</b>	Central Bank of Nigeria
<b>CTC:</b>	Certified True Copy
<b>ERM:</b>	Enterprise Risk Management
<b>ICT:</b>	Information and Communication Technology
<b>IFRS:</b>	International Financial Reporting Standards
<b>MEMART:</b>	Memorandum and Articles of Association
<b>PAMCs:</b>	Private Asset Management Companies
<b>SEC:</b>	Securities and Exchange Commission

**GLOSSARY OF TERMS**

1. **Eligible Assets:** Non-performing loans (as defined in the CBN Prudential, Microfinance Banks, Primary Mortgage Banks and other sector



Guidelines) and any other assets as may be designated by the CBN from time to time. For the purpose of this Framework, eligible assets shall include:

- i. Collateralized or secured non-performing loans of eligible financial institutions which are substandard, doubtful and lost in accordance with the Prudential Guidelines, the Guidelines for Microfinance Banks and Primary Mortgage Banks, whether or not so classified by an eligible financial institution;
- ii. Unsecured non-performing loans of eligible financial institutions which are substandard, doubtful and lost in accordance with the Prudential Guidelines, the Guidelines for Microfinance Banks and Primary Mortgage Banks, whether or not so classified by an eligible financial institution;
- iii. Loans (whether or not classified) owed to an eligible financial institution that is a bank or other financial institution whose licence has been revoked by the CBN pursuant to BOFIA;
- iv. Assets acquired by an eligible financial institution in the course of the satisfaction of any debt owed to such eligible financial institution, whether or not the underlying debt obligation remains outstanding;
- v. Any loan which poses significant risk to an eligible financial institution. For the purpose of this Framework, a loan shall be deemed to pose significant risk where such loan (i) is reasonably expected to be classified as substandard within a period of at least 3 months following the date the relevant eligible financial institution makes an application to the PAMC to purchase such loans; or (ii) may result in a loss equal to at least 1% of the eligible financial institution's balance sheet within a period of at least 6 months following the date the relevant eligible financial institution makes an application to the PAMC to purchase such loan; and
- vi. Such other instruments or asset class which the CBN may, from time to time designate by order in writing.

2. **CAC Form CO2:** Return on Allotment of Shares.
3. **CAC Form CO7:** Particulars of Directors.
4. **Security Interest:** A type of property interest created by agreement or by operation of law over assets to secure the performance of an obligation, usually the payment of a debt.

EXPOSURE DRAFT