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**DRAFT FRAMEWORK FOR THE REGULATION AND SUPERVISION OF  
NON-INTEREST BANKS IN NIGERIA**

In response to the increasing number of investors, banks and other financial institutions desiring to offer Non-interest products and services, the CBN has developed the attached draft framework for the regulation and supervision of Non-interest banks in Nigeria.

The document is being issued as an exposure draft for comments, suggestions or inputs by stakeholders.

All responses should be forwarded to the Director of Banking Supervision within two weeks from the date of this publication.

D.A.N. Eke

**Ag. Director of Banking Supervision.**

# **DRAFT**

## **THE FRAMEWORK FOR THE REGULATION AND SUPERVISION OF NON-INTEREST BANKS (NIBs) IN NIGERIA**

### **1.0 INTRODUCTION**

A non-interest bank means a bank which transacts banking business, engages in trading, investments and commercial activities, as well as the provision of financial products and services in accordance with the principles and rules of Islamic commercial jurisprudence. Transactions and contracts under this type of banking are non-permissible if they involve:

- interest;
- uncertainty or ambiguity relating to the subject matter, terms or conditions;
- gambling;
- speculation;
- unjust enrichment; or
- exploitation/unfair trade practices.

Given the increasing number of banks and other financial institutions desiring to offer Islamic compliant products and services in Nigeria, the Central Bank of Nigeria has developed the following guidelines on non interest banking.

### **2.0 OBJECTIVES**

The objective of the framework is to provide minimum standards for the operation of non-interest banking in Nigeria.

## **3.0 LEGAL FRAMEWORK**

### **3.1 Legal Basis**

The guidelines are issued pursuant to Section 28 (1)(b) of the CBN Act 2007 and the following provisions of BOFIA 1991 (as amended): Sections 55(2); 52; 59(1)(a); 32(1); 61; 23(1).

The Guidelines shall be read together with the BOFIA 1991 (as amended), the CBN Act 2007, CAMA (1990) and circulars/guidelines issued by the CBN from time to time.

### **3.2 Corporate Powers**

A non-interest bank must ensure that its Memorandum and Articles of Association state that its business operations will be conducted in accordance with the principles and practices applicable to non-interest banking.

## **4.0 LICENSING REQUIREMENTS**

Non-interest banks shall be licensed in accordance with the requirements for new banking license issued by the CBN from time to time. The extant requirements are summarized hereunder:

### **4.1 Preliminary Requirements for Grant of Approval-In-Principle (A.I.P)**

**4.1.1** A formal application for the grant of a licence to carry on the business of non-interest banking in Nigeria shall be made and addressed to the Director of Banking Supervision, Central Bank of Nigeria, P. M. B.

0187, Garki, Abuja.

- 4.1.2** All applications must be submitted with the required documents including a Non-refundable application fee of N500,000.00 and deposit of minimum capital of N25 billion with the Central Bank of Nigeria.

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

- 4.2.1** Not later than six (6) months after the grant of A.I.P, the promoters of a proposed bank must submit application for the grant of a final banking license to the Director of Banking Supervision with a Non-refundable licensing fee of N5,000,000.00 in bank draft payable to the CBN and other required documents.

- 4.3** The detailed requirements for new banking license can be obtained directly from the Banking Supervision Department, Central Bank of Nigeria, Abuja or downloaded at [www.cenbank.org](http://www.cenbank.org).

## **4.0 MODELS OF NON-INTEREST BANKING**

All licensed banks or promoters wishing to offer non-interest banking products and services may operate using any of the following models:

**i. Full-fledged non-interest bank or subsidiary.**

This shall be licensed in accordance with the current guidelines for licensing of banks issued by the CBN.

**ii. Non-interest banking branch of a conventional bank.**

Non-interest banking branches shall be established in line with extant CBN regulation on bank branch expansion.

**iii. Non-interest banking window of a conventional bank.**

Non-interest banking windows shall be established in line with CBN guidelines on the introduction of new products and other applicable regulations.

## **5.0 NON-INTEREST FINANCIAL INSTRUMENTS**

Non-interest banks may transact business using any of the following instruments or financing modes:

1. Murabaha
2. Mudarabah
3. Musharakah
4. Ijarah
5. Salam and Parallel Salam
6. Istisna
7. Sukuk
8. Any other financing mode or structure that is Shariah compliant and approved by the CBN.

## **5.2 Commissions and Fees**

- (a) A financial institution carrying on non-interest banking business may charge such commissions or fees as may be necessary and shall be guided by the Guide to Bank Charges issued by the Bankers' Committee.
- (b) The funds received as commissions and fees shall constitute the bank's income and shall not be divided among the depositors.

## **6.0 WINDOW OPERATIONS ("WINDOWS") OF CONVENTIONAL BANKS**

The following guidelines shall apply to the non-interest window operations or branches of conventional banks:

### **6.1 Cross-Selling of Products/Services**

Conventional banks operating in Nigeria may offer Sharia-compliant products and services through their non-interest banking branches or windows. However, such branches or windows cannot offer conventional banking or interest based products and services.

### **6.2 Execution of Service Level Agreements (SLAs) in Respect of Shared Services**

Conventional banks with non-interest banking windows shall be required to execute Service Level Agreements (SLA) in respect of shared services between the window and other departments or units of the bank.

### **6.3 Separation of Records**

A conventional bank shall not co-mingle its funds with that from its non-interest banking window operations. Consequently, separate accounting books and records must be maintained.

### **6.4 Conversion of Windows to Subsidiaries**

Upon written application and subject to the prior approval of the CBN, a bank may convert its non-interest banking window operations to a full fledged subsidiary. An application for conversion to a subsidiary shall be deemed to be a

request for new banking license. Consequently, the minimum conditions for licensing of new banks in Nigeria shall apply.

## **7.0 CORPORATE GOVERNANCE**

All licensed non-interest banks shall be subject to the provisions of the Code of Corporate Governance for Banks in Nigeria issued by the CBN and any subsequent amendments thereto, and all relevant provisions on Corporate Governance contained in Companies and Allied Matters Act (CAMA) and Banks and Other Financial Institutions Act (BOFIA) 1991 (as amended).

All licensed banks offering Shariah-compliant financial products or services shall have a Shariah compliance review mechanism and a Bank Shariah Advisory Committee (SAC) as part of their governance structure. The detailed guidelines for the appointment, operations, qualification, duties and responsibilities of the (SAC) are contained in a separate guideline.

## **8.0 Disclosure Requirements**

All non-interest banks must ensure that the disclosures required by AAOIFI FAS 18 are made to all clients. This requirement also applies to the non-interest “windows” or “branches” of conventional banks.

## **9.0 CBN SHARIAH COUNCIL**

There shall be an advisory committee on non-interest banking within the CBN to be called the CBN Shariah Council (CSC), which will be outsourced. The CSC shall

advise the CBN on Islamic laws and principles for the purposes of regulating non-interest banking business.

## **10.0 CONDUCT OF BUSINESS STANDARDS**

### **10.1 Branding**

In line with the provisions of Section 39 (1) of BOFIA 1991 (as amended), banks offering non-interest banking products and services shall not include the words "Islamic" as part of their registered or licensed name. They shall however, be recognized by a uniform logo to be designed and approved by the CBN. The CBN shall require all the banks' signages and promotional materials to carry the logo to facilitate recognition by consumers.

### **10.2 Product Literature**

Before a bank communicates any marketing material to a person, it must ensure that, the material states which Shari'a Committee has reviewed the products or services to which the material relates (i.e in addition to the disclosure requirements in AAOIFI FAS 18).

## **11.0 PROFIT SHARING INVESTMENT ACCOUNTS (PSIA)**

- a. Where a transaction will involve a client becoming a Profit Sharing Investment Account holder, a bank must warn the client, in writing, that the risk of loss rests with the client and that the bank will not share in the



- losses, unless there is negligence or misconduct for which it is responsible.
- b. A bank must ensure that a client agreement provided to a client contains the following information:
    - (a) how the monies of the client will be managed and invested including details of its policy on diversification of the portfolio;
    - (b) the basis for the allocation of profit between the bank and the client;
    - (c) A clause stating that losses arising from assets funded by the PSIA shall be borne by the client or depositor unless there is negligence on the part of the bank;
    - (d) confirmation of the investment objectives of the PSIA investment account holder, including details of any restrictions requested by the client.
  - c. A bank must ensure that a periodic statement provided to a client contains the following information:
    - i. details of the performance of the client's investment; and
    - ii. the allocation of profit between the bank and the client.

## **12.0 AUDIT AND ACCOUNTING REQUIREMENTS**

- a. All NIBs must comply with the requirements of section 29 of BOFIA 1991 and applicable guidelines/directives issued by the CBN as well as CAMA

1990 (as amended) regarding the appointment, re-appointment, resignation, rotation, change and removal of auditors of banks.

- b. Non-interest banks must comply with the Generally Accepted Accounting Principles (GAAP) codified in local standards issued by the Nigerian Accounting Standards Board (NASB) and the International Financial Reporting Standards (IFRS) / International Accounting Standards (IAS). For transactions, products and activities not covered by these standards, the relevant provisions of the Financial Accounting Standards (FAS) issued by the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) shall apply.

## **13.0 PRUDENTIAL REQUIREMENTS**

### **13.1 Minimum Capital Ratio Requirement**

- a. All non-interest banks are required to maintain a minimum Risk Weighted Asset Ratio ("RWAR") of 10.0% or as may be determined by the CBN from time to time.
- b. For the purpose of calculating its Capital Adequacy Ratio (CAR), the risk weighted assets of a non-interest bank shall consist of the sum of the risk weighted assets financed by the non-interest bank's own capital and liabilities, plus 50% of the risk-weighted assets financed by the non-interest bank's PSIA, in line with the Statement on the Purpose and Calculation of the Capital Adequacy Ratio for Islamic Banks issued by Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI). This applies to both unrestricted PSIA that are accounted for on the non-interest bank's balance sheet and restricted PSIA that are accounted for off the balance sheet.

## **13.2 Liquidity Management**

Non-interest banks are required to establish appropriate policies, strategies and procedures which ensure that they maintain adequate liquidity at all times to fund their operations. All banks are currently required to maintain, at the minimum, 30% of their deposit liabilities in the form of liquid assets. Unless otherwise determined by the CBN, liquid assets must be held in line with the provision of section 15 of BOFIA 1991 (as amended).

Non-interest banks shall not invest their funds in interest bearing securities or activities. They may invest their funds in the following Sharia-compliant instruments which shall be eligible as liquid assets for the purpose of meeting the CBN prescribed minimum liquidity ratio:

- Commodity Murabaha Certificates issued by the London Metal Exchange (proposal to be worked out)
- CBN Islamic Treasury Bill (to be developed)
- DMO Islamic Bond (to be developed)
- Any other eligible instrument that may be introduced by the CBN

## **14.0 RISK MANAGEMENT**

All NIBs are required to develop appropriate policies, systems and procedures to identify, measure, monitor and control their risk exposures. In addition, they are required to put in place, a risk management system that recognizes the unique risks faced by Islamic banks, such as displaced commercial risk (DCR), fiduciary Risk, transparency risk, sharia risk, reputational risk, mark-up risk etc. Further details and guidance are provided in the following documents issued by the CBN and international standard setting bodies:

1. Generic Risk Management Guidelines
2. Guidelines for the Development of Risk Management Frameworks for Individual Risk Elements
3. Prudential Guidelines
4. Basel Committee Risk Management Guidelines
5. IFSB Standards for Risk Management

#### **14.1 Profit Equalization Reserve (PER)**

- a. All NIBs with PSIAs may maintain a Profit Equalization Reserve which would serve as an income smoothing mechanism and risk mitigation tool to hedge against volatility of returns to investment account holders.
- b. The reserve shall be funded by setting aside a portion of gross income before deducting the bank's own share (as agent)
- c. The basis for computing the amounts to be appropriated should be pre-defined and disclosed.

### **15.0 ANTI-MONEY LAUNDERING AND COMBATting OF THE FINANCING OF TERRORISM (AML/CFT)**

#### **15.1 General**

- a. In view of the ethical character of their business, all non-interest banks are required to screen their promoters, shareholders, customers, counterparties, transactions, products and activities against the proceeds of crime, corruption, terrorist financing and other illicit activities using legal and moral filters.

- b. All non-interest banks are required to have effective anti-money laundering ('AML') policies and procedures, in addition to measures for combating the financing of terrorism ('CFT').n
- c. All non-interest banks are required to comply with all relevant laws and guidelines for combating money laundering and the financing of terrorism issued by the CBN and other relevant regulatory agencies.

### **GLOSSARY OF TERMS**

In this framework, unless the context requires, the following terms shall have the followings meanings:

<b>S/N</b>	<b>TERM</b>	<b>MEANING</b>
1	Istisna'	A purchase order contract of assets whereby a buyer places an order to purchase an asset to be delivered in the future, according to the specifications given in the sale and purchase contract.
2	Ijarah	Sale and lease-back of asset, generally for long term financing. This requires Sharia compliant tangible and leaseable assets e.g property, machinery, etc.
3	Mudharabah	A profit sharing contract where one party contributes his entrepreneurial efforts while the other provides capital. The Entrepreneur and the financier will share profit according to an agreed ratio in the contract. Any loss is exclusively borne by the financier.
4	Musharakah	A partnership contract between two or more parties, each contributing capital. The profit is shared among the parties based on the profit sharing ratio agreed in the contract and any loss is shared among the parties based on the contribution ratio agreed.
5	Murabaha	Sale of an asset by the bank to a customer at cost plus a profit margin, repayment of which can be instant or spread over a period. It is used mainly for working capital financing.

6	Salaam and Parallel Salaam	Deferred Delivery
7	Sukuk	Islamic Bond
8	Window Operations	For the purpose of this framework, a non-interest banking window operation is defined as part of a conventional financial institution (which may be a branch or dedicated unit) that provides fund management (investment accounts), financing and investment that are Sharia compliant.