CENTRAL BANK OF NIGERIA



GUIDELINES ON THE ISSUANCE AND TREATMENT OF BANKERS ACCEPTANCES AND COMMERCIAL PAPERS

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1.0 INTRODUCTION

In order to ensure uniform practice and correct treatment of Bankers Acceptances (BAs) and Commercial Papers (CPs) by Banks and Discount Houses in Nigeria, it has become imperative to issue these guidelines, to deepen and facilitate the effective and efficient functioning of the Nigerian money market. These guidelines are issued by the Central Bank of Nigeria (CBN) in exercise of its statutory powers under Section 33 (1)(b) of the Central Bank of Nigeria Act 2007.

2.0 DEFINITION OF BANKERS' ACCEPTANCE AND COMMERCIAL PAPER

2.1 **Working definitions of BA and a CP are given below for guidance**

2.1.1 A BA is a draft drawn on and accepted by a bank, unconditionally ordering payment of a certain sum of money at a specified time in the future to the order of a designated party. Since the instrument is negotiable, title to it is transferred by endorsement. It is a marketable instrument and allows a bank to finance its customers without necessarily utilising its loanable funds. Instead, funds are provided by investors who are willing to purchase these obligations on a discounted basis.

2.1.2 A CP is an unconditional promise by a person to pay to the order of another person a certain sum at a future date. Such an instrument may or may not carry the bank's guarantee. Where the bank guarantees the CP to make it more marketable in the money market, the instrument acquires the force of a BA and the bank incurs a contingent liability. Where the CP is not secured or guaranteed by the bank (clean CP), it needs not be reported as a contingent liability.

3.0 GENERAL CONDITIONS FOR CREATING A BANKERS ACCEPTANCE AND COMMERCIAL PAPERS

(a) Bankers Acceptances

(i) Every BA shall have an underlying trade transaction for which the bank should hold the title documents to the merchandise as collateral for the acceptance. These documents shall be available for Examiners' scrutiny.

(ii) A BA shall be represented by a physical instrument in the form of a draft signed by the drawer and accepted by the bank. All BAs shall be properly executed by the bank by affixing its 'ACCEPTED' stamp, signature and date on the face of the bill. These shall be made available for the Examiners' scrutiny.

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(iii) The bank shall have a signed agreement, for each acceptance it creates, with the drawer.

(iv) Subject to these Guidelines, a BA may only be drawn on and accepted by a bank, pursuant to an acceptance credit line, to finance the drawer's business-related activity in relation to the purchases from or sale of goods to another person who may be a resident or non-resident, evidenced by proper and adequate documentation.

(v) Unless otherwise specifically provided for in these Guidelines or approved by the CBN, the "sale" or "purchase" of services shall not be eligible for BA financing.

(vi) A bank shall not accept a BA that is drawn to finance a sale or purchase of goods, where:

(a) The two parties to the trade transaction are part of a single legal entity (e.g. Production Department and Marketing Department of one company or one branch and another branch);

(b) The two transacting parties are sole proprietorships operated or owned by the same individual or where the proprietors are different individuals related to each other (parent/child or spouse); or

(c) The two transacting parties are partnerships in which the partners are the same individuals, or the majority of the partners are common, or one or more common partners own the majority share in the partnerships.

(vii) Where the two transacting parties are related corporations, a BA may still be drawn provided that the accepting bank shall take reasonable measures to verify that:

(a) The related corporations are indeed separate legal entities;

(b) The trade transaction between the two related corporations was undertaken at arm's length and there was a genuine transfer of title to the goods concerned, evidenced by proper and adequate documentation.

(c) The transaction is to finance cross border trade.

(viii) Extension of BA tenure or creation of new BA to repay the financing created by existing BA using the same commercial and/or financial documents is not allowed.

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(ix) In the event that funds collected from investors are not disbursed to the issuer immediately, such funds shall be treated as deposits.

(x) A BA shall be executed before canvassing for funds from potential investors. Investors in BAs shall also be made aware of the identity of the issuer.

(b) Commercial Papers

(i) A CP qualifies as a financing vehicle under these guidelines if:

(a) the issuer has 3-years audited financial statements, the most current not exceeding 18 months from the last financial year end; and

(b) the issuer has an approved credit line with a Nigerian bank acting as an issuing and payment agent (IPA), where the bank guarantees the issue.

(ii) Investors in CPs shall be made aware of the identity of the issuer.

(iii) CPs shall only be guaranteed and not accepted since the intermediating bank is only a secondary obligor.

(iv) When a bank invests in a CP by disbursing its own funds, the transaction shall be reported on balance sheet and treated as a loan. However, if the bank merely guarantees the instrument, it shall be shown off-balance sheet as a contingent liability.

(v) Resale of CPs by banks/discount houses shall be accompanied by adequate documentation which should be provided to Examiners on request.

4.0 DOCUMENTATION REQUIREMENTS FOR BAs AND CPs

4.1 Bankers Acceptances

(1) In general, a BA may only be drawn on the presentation of a complete set of documents, as follows:

(i) The drawer's declaration that no other source of finance (including a lease, hire purchase, or factoring agreement) has been or would be entered into in respect of the trade transaction concerned;

(ii) The full set of commercial and/or financial documents, evidencing or acknowledging the trade transaction concerned; and

(iii) A receipt or other documentary evidence of payment, in the case where the purchaser who is drawing the Bankers Acceptance has already made payment to the supplier prior to the creation of the Bankers Acceptance.

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(2) Where the full set of commercial and/or financial documents may not yet be available on the drawing date or where the transaction is only evidenced by a single document, a Bankers Acceptance may still be drawn subject to the following conditions:

(i) At least one supporting document or the single document is presented;

(ii) The document(s) presented contain the following information:

(a) Names and addresses of the parties to the trade transaction;
(b) Specific description of the goods which is the subject of the trade transaction;
(c) Financial value of the trade transaction; and
(d) Terms and conditions for the settlement of the trade transaction.

(iii) The remaining documents should be presented for the accepting bank's records once they become available.

(3) The commercial and/or financial documents presented to the accepting bank should be original copies.

(4) In the event that the original copies of the commercial and/or financial documents are not available or may not be available on the acceptance date, a bank may accept copies of such documents which are produced:

(i) by reprographic systems;
(ii) by or as a result of, automated or computerised systems; or
(iii) as second or carbon copies;

Provided that such documents:

(i) have a serial number; and
(ii) are authenticated by authorised signatories, where applicable.

(5) The original copies of the commercial and/or financial documents should be presented for the accepting bank's record within seven (7) days for a local and thirty (30) days for a foreign transaction, of the acceptance date, even though the Bankers Acceptance has already been drawn and accepted.

(6) The accepting bank should clearly indicate it is the drawee of the Bankers Acceptance on the first page of each and every commercial and/or financial document presented.

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4.2 Commercial Papers

The standard documentation requirements for a CP transaction in Nigeria shall include:

(a) CP raising mandate

(b) Board Resolution to borrow

(c) Issuing, placing and paying agency agreement

(d) Commercial Paper Note

(e) Bank Guarantee, where applicable

(f) Investment Instruction/Investment Mandate

(g) Investment Advice

(h) Custodial Agreement

(i) Information memorandum on the issuer in the case of clean CPs

(j) Latest rating report from the credit rating agency

(k) Backstop loan request for guaranteed CPs

5.0 RATING REQUIREMENTS FOR CP ISSUES

5.1 Commercial Papers

Either the issuer of a CP or the specific issue itself shall be rated by a rating agency registered in Nigeria or an international rating agency acceptable to the CBN. An indicative rating must have been obtained by the issuer at the time of submission of declarations and information to a licensed Securities Depository.

5.2 The issuer or the issue shall have a minimum of investment grade credit rating (BBB- or similar rating).

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6.0 TENOR AND ROLLOVER OF BANKERS ACCEPTANCES AND COMMERCIAL PAPERS

6.1 Bankers Acceptances

(i) The tenor of the BA, including rollover, shall not exceed:

(a) In the case of financing purchases, 365 days after execution of documents and acceptance by the bank.

(b) In the case of financing sales, the shortest remaining credit period extended by the drawer (seller) to the purchaser(s) of the goods.

(c) In the case of importation of capital goods, 365 days and a final rollover of additional 180 days, subject to CBN approval.

6.2 Commercial Papers

(a) The CP shall be issued for maturities of between 15 days and 270 days, including rollover, from the date of issue.

(b) Every issue of a CP is therefore, a separate CP.

(c) The capitalization of upfront interest and discount on maturing Commercial papers into a rollover is not allowed.

7.0 DENOMINATIONS OF BANKERS ACCEPTANCES AND COMMERCIAL PAPERS

7.1 Bankers Acceptances

7.1.1 The face value of a BA may be equal to but shall not exceed the financial value of the trade transaction stipulated in the supporting document(s).

7.1.2 The financial value of a trade transaction shall be:

(i) In the case of purchases, equal to the amount of money payable by the drawer of the BA to the supplier for the settlement of the trade, plus other separate payments to relevant parties (e.g. import duties to the Government, insurance premiums to insurance companies, transportation charges to transport companies etc.), if applicable, which are necessary to enable the drawer to accept delivery of the goods; or

(ii) In the case of sales, the amount of money receivable by the drawer (of the BA) from the buyer for the settlement of the trade.

7.1.3 Any fees, charges, costs, or payments whatsoever payable or receivable as consideration for after-sales services shall not be eligible for financing under a BA facility.

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7.1.4 Where it is the normal commercial practice in particular types of trade to stipulate in the supporting documents that the financial value is only provisional, the face value of the BA drawn to finance such types of trade may not exceed the provisional financial value.

7.1.5 Drawing Multiple BAs on a Single Transaction

Where multiple BAs are drawn to finance a single trade transaction, the drawer shall appoint a lead bank to accept the draft on behalf of the other banks.

7.2 Commercial Papers

7.2.1 CP shall be issued at the primary market for a minimum value of N100 million and in multiples of N50 million, thereafter.

8.0 LIMITS AND THE AMOUNT OF ISSUE OF BAs AND CPs

8.1 Off-balance sheet BAs and guaranteed CPs extended to a single obligor shall not exceed 30 percent of a bank's or discount house's shareholders' funds unimpaired by losses.

8.2 Aggregate off-balance sheet BAs and guaranteed CPs shall not be more than:

(a) 150 percent of shareholders' funds unimpaired by losses for a bank; and

(b) 300 percent of shareholders' funds unimpaired by losses for a discount house.

9.0 UNDERWRITING OF CPs

9.1 The underwriting of any issue shall be decided by the issuer.

9.2 In the event that the issuer shall decide that no underwriting or only partial underwriting is required, the issuer shall state the minimum level of subscription necessary to achieve its funding objectives.

9.3 Unless otherwise allowed, where any issue is under-subscribed and cannot meet the minimum level of subscription as required under paragraph 9.2, the issue shall be aborted, and any consideration received for the purposes of subscription, where applicable, shall be immediately returned to all subscribers.

9.4 In the event that an underwriting met the minimum level of subscription but failed to attain full subscription, the shortfall shall be recognized on the balance sheet as a loan.

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9.5 Banks may provide issuers with credit enhancement by way of stand-by credits or guarantees to the issue based on their prudent commercial judgment.

9.6 Guarantees so provided are subject to proper credit guidelines, processes and Board approvals.

9.7 Guarantees shall be executed by an officer not below the rank of Director or Company Secretary.

9.8 Banks shall ensure that appropriate accounting entries are passed off balance sheet for every guarantee issued by the bank.

9.9 If the issuer credit risk of a CP guaranteed by a bank crystallizes the bank as the secondary obligor of the instrument shall redeem its guarantee of the instrument by disbursing funds to the beneficiary immediately.

9.10 All transaction arising from paragraph 9.8 shall be reported on-balance sheet of the bank as a loan.

10.0 INVESTORS IN BANKERS ACCEPTANCES AND COMMERCIAL PAPERS

10.1 BAs and CPs may be issued to and held by individuals, deposit money banks, other corporate bodies registered or incorporated in Nigeria and unincorporated bodies, Non-Resident Nigerians and Foreign Institutional Investors.

11.0 FORMS OF MAINTAINING BAS AND CPS

11.1 Issuers and investors in BAs and CPs may do so in dematerialized or physical form. Issuers and investors are encouraged to issue and hold BAs and CPs in a dematerialized form.

12.0 ISSUING AND PAYING AGENT (IPA)

12.1 Only a Deposit Money Bank and Discount House may act as an IPA for issuance of CP.

13.0 MODE OF PAYMENT AND ISSUANCE OF BAS AND CPS

13.1 The initial investor in a BA or CP may pay the discounted value of the BA or CP through the IPA (where applicable) to the account of the issuer. On maturity, when the BA or CP is held in a physical form, the holder shall present

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the instrument for payment to the issuer through the IPA (where applicable). However, when the BA or CP is held in a dematerialized form, the holder shall have it redeemed through a licensed Securities Depository and receive payment from the IPA (where applicable).

14.0 PROCEDURE FOR ISSUANCE OF BAs AND CPs

14.1 Bankers Acceptances

The general procedure for the creation of a BA is as follows:

(i) An acceptance credit line is arranged with a bank;

(ii) The required documentary evidence of trade is presented to the bank for the purpose of drawing a BA on the bank; and

(iii) When the bank is satisfied that the documents are in order and the BA complies with the terms of the acceptance of a normal credit facility and all the applicable conditions for the creation of BA specified in these Guidelines, the bank accepts the BA.

14.2 Commercial Papers

14.2.1 Any company proposing to issue CPs shall submit a proposal to the IPA with its rating report issued by a credit rating agency. The IPA, on receipt of the proposal, shall scrutinize same and, on being satisfied, take the proposal on record or record the proposal in its blotter.

14.2.2 Companies shall ensure that the proposed issue of CP is completed within the period of two weeks from the date of opening of the issue for subscription.

14.2.3 After the exchange of deal confirmation between the IPA and the issuer, the IPA shall issue physical certificates to the investor or arrange for crediting the CP to the investor's account with a Securities Depository.

14.2.4 All IPAs issuing the CPs shall, within three working days from the date of completion of issue, advise the relevant Securities Depository on the amount of CPs actually issued.

15.0 ROLES AND RESPONSIBILITIES OF PARTIES TO CP ISSUANCE

15.1 Issuer

With the simplification in the procedures for CP issuance, issuers shall now have more flexibility. Issuers shall, however, have to ensure that the guidelines and procedures laid down for CP issuance are strictly adhered to.

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15.2 Issuing and Paying Agent (IPA)

(i) IPA would ensure that issuer has the minimum credit rating as stipulated by the CBN and amount mobilised through issuance of CP is within the quantum indicated by the guidelines for the specified rating.

(ii) IPA shall verify that all documents submitted by the issuer viz., copy of board resolution, signatures of authorised executants (when CP is in physical form) are in order. It shall also ensure that it has a valid agreement with the issuer.

(iii) Original documents, or certified true copies thereof, verified by the IPA should be held in its custody.

15.3 Credit Rating Agency (CRA)

(i) Furthermore, the credit rating agency shall have the discretion to determine the validity period of the rating depending upon its perception about the strength of the issuer. Accordingly, CRA shall at the time of rating, clearly indicate the date when the rating is due for review.

(ii) While the CRAs can decide the validity period of credit rating, CRAs would have to closely monitor the rating assigned to issuers vis-a-vis their track record at regular intervals and intimate the issuing bank of any revision in the rating, particularly when the rating is due for review.

16.0 REGISTRATION OF CPs

All CPs issued in Nigeria shall be registered with a licensed Securities Depository, which shall serve as the depository of the issue.

17.0 REPORTING REQUIREMENTS FOR BAs AND CPs

17.1 All deposit money banks and discount houses shall report their transactions in BAs and CPs on a weekly basis to the CBN.

17.2 All Security Exchanges and licensed Securities Depositories shall be required to submit all information on BA and CP trades to a CBN designated reporting platform.

18.0 ACCOUNTING TREATMENT

18.1 All transactions in BAs and CPs in which the bank merely adds its name as guarantee to enhance marketability without investing in the instrument, shall be treated off-balance sheet as a contingent liability.

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18.2 All financial entries for each bank guarantee shall be passed off-balance sheet.

18.3 In view of Paragraph 18.1 above, where a bank/discount house invests directly in the instrument in which it also serves as issuer, the transaction shall be treated as an on-balance sheet item.

18.4 Banks and discount houses shall book all CP purchases and sales on their balance sheets as loans and deposits, respectively.

18.5 All clean unsecured sales without recourse shall be netted off the already existing asset on the balance sheet. The net effect of a fully sold clean CP will be a nil asset position on the balance sheet.

18.6 CPs shall only be guaranteed and not accepted since the intermediating banks is only a secondary obligor.

19.0 PROVISION OF STAND-BY FACILITY FOR CPS

19.1 Banks and DHs shall have the flexibility to provide for a CP issue, credit enhancement by way of stand-by assistance/credit backstop facility, etc., based on their commercial judgment and as per terms prescribed by them.

19.2 However, these should be within the prudential norms as applicable and subject to specific approval of the Board.

20.0 DISCLOSURE REQUIREMENTS

(a) The bank shall fully disclose the issuer risk in the placement memorandum.

(b) CP are only redeemable at maturity, as such cannot be pre-liquidated.

(c) The investor in a CP may rediscount the paper with the bank before maturity at new market terms if the bank is willing to purchase the risk.

(d) Banks shall expressly state in customer advice/correspondence the difference between bank deposits and clean CP investments as well as highlight the underlying agreement that the bank is not obliged to pay at maturity until the issuer redeems the paper.

(e) Investment instructions in CP shall be received from the customer before transaction is booked.

(f) Acceptable channels of communication include:
(i) Logged/recorded telephone conversation

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(ii) email from official corporate email addresses
(iii) Letter signed according to existing mandate
(iv) SWIFT
(iv) Bloomberg, Reuters

(h) Every issue of CP, including renewal, shall be treated as a fresh issue.

21.0 MISCELLANEOUS PROVISIONS

21.1 All transactions in BAs shall have an underlying trade transaction for which the bank shall hold the title documents as collateral.

21.2 A BA shall be represented by a physical instrument in form of a draft signed by the drawer and stamped 'accepted' by the bank.

21.3 Any bank which, after acceptance, discounts the bill shall treat the transaction as a loan.

22.0 PENALTY FOR NON-COMPLIANCE

22.1 Non-compliance with these guidelines or any part thereof shall attract appropriate penalties as prescribed in Section 60 (1) of the Banks and Other Financial Institutions Act 1991 (as amended) and may also include debarring from the BA or CP market, or as may be prescribed by the CBN from time to time.

BANKING SUPERVISION DEPARTMENT
CENTRAL BANK OF NIGERIA
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