

GUIDELINES FOR THE OPERATIONS OF
THE ASSET MANAGEMENT CORPORATION OF NIGERIA

15TH NOVEMBER 2010



ARRANGEMENT OF GUIDELINES

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In exercise of the powers conferred by the Asset Management Corporation of Nigeria Act, 2010, and after due consultation with the Federal Ministry of Finance, the Central Bank of Nigeria hereby issues these Guidelines to regulate the performance of the functions of the Asset Management Corporation of Nigeria and to give effect to the provisions of the Asset Management Corporation of Nigeria Act, 2010.

PART I

GENERAL

- 1 These Guidelines may be cited as the Asset Management Corporation of Nigeria Guidelines No.1 of 2010. *Citation*
- 2 These Guidelines shall come into force on 15th November, 2010. *Commencement*
- 3 The purpose of these Guidelines is to – *Purpose*
 - (a) designate the classes of banks assets that qualify as Eligible Bank Assets for the purposes of the Act;
 - (b) regulate the regime for the valuation and acquisition of Eligible Bank Assets and rights in Collateral connected therewith by the Corporation pursuant to the Act; and
 - (c) regulate the regime for administration, realisation, management and disposal of Eligible Bank Assets and rights in Collateral connected therewith acquired by the Corporation pursuant to the Act.
- 4 In these Guidelines the terms defined in the Act shall except otherwise defined herein have the same meaning given to such terms in the Act, and except the context otherwise so permits the following words shall in these Guidelines have the meanings set out below. *Interpretation*

“Act” means the Asset Management Corporation of Nigeria Act, 2010;

“Asset Manager” means a firm or company appointed by the Corporation pursuant to powers in that behalf under Section 14(a) of the Act and in accordance with the provisions of these Guidelines, to undertake on behalf of

the Corporation, the management of assets acquired by the Corporation;

“Asset Management Contract” has the meaning ascribed thereto in Section 14 of these Guidelines;

“BOFIA” means the *Banks & Other Financial Institutions Act, CAP B3 Laws of the Federation of Nigeria 2004*;

“Book Value” means the total principal amount of an Eligible Bank Asset as at the relevant date on which the Eligible Bank Asset is valued;

“Business Day” means a day other than a Saturday, Sunday or public holiday on which banks in Nigeria are open for business;

“CBN” means the Central Bank of Nigeria;

“Corporation” means the Asset Management Corporation of Nigeria established by the Act;

“Collateral” means any tangible or intangible asset charged, pledged or mortgaged to secure any credit facility or financial accommodation or other obligation whether of the owner of such asset or a third party obligee or debtor, and forming part of Eligible Bank Assets; the term Collateralised shall be construed accordingly;

“Credit Information” means all data, information, (both physical and electronic), credit facility documentation, books and records (including the loan contract and any supporting security/Collateral) relating to an Eligible Bank Asset; and such warranties, representations and indemnities as may be required by the Corporation in pursuance of Section 29(b) and (c) of the Act ;

“Deposit Money Bank” means any company duly licensed by CBN to carry on “banking business”, (within the meaning of that term (“banking business”) under Section 66 BOFIA), which is solvent and not a Grave Situation Bank;

“Eligible Bank Asset” has the meaning ascribed thereto in Section 6;

“Eligible Financial Institution” means a bank duly licensed by the CBN to carry on the business of banking in Nigeria under the BOFIA and shall include a bank or other financial institution whose banking licence has been revoked by the CBN pursuant to the BOFIA;

“Failing Bank” means a failing bank within the meaning of Section 59 NDIC Act;

“Global Master Securities Lending Agreement” means one of the uniform lending agreements prescribed by the International Securities Lending Association;

“Governor” means the Governor of the CBN;

“Grave Situation Bank” means (a) any duly licensed bank in Nigeria in respect of which the Governor has applied any of his powers under Section 35(2) BOFIA; or (b) any duly licensed bank in Nigeria in respect of which CBN has applied its powers under Section 36 BOFIA; or (c) any duly licensed bank in Nigeria which is under the management and control of NDIC under Sections 37 – 38 BOFIA; or (d) a Failing Bank in respect of which NDIC, has applied the provisions of Sections 38 or 39 NDIC Act, 2007; or (e) a bank whose banking license has been revoked by the CBN pursuant to BOFIA (f) a bridge bank established and operating in pursuance of the provisions of Section 39 NDIC Act;

“International Securities Lending Association” means the independent trade association established in 1989 which represents the interests of the securities lending industry with the primary goal of assisting in the orderly, efficient and competitive development of the securities lending market, with headquarters in the United Kingdom;

“Managed Assets Fund” means the portfolio of Managed Assets under the management of an Asset Manager;

“Managed Assets” means the assets of the Corporation (including assets acquired by way of realisation of Collateral or any obligation connected with an Eligible Bank Asset) together with all accretions, proceeds of

disposal, accounts receivable in connection therewith, all securities, assets and cash in which any of the foregoing are from time to time reinvested and all additional cash, securities or assets from time to time assigned by the Corporation to an Asset Manager for management and includes title documents or like instruments connected herewith;

“NDIC” means the Nigerian Deposit Insurance Corporation established under the NDIC Act;

“NDIC Act”, means the Nigerian Deposit Insurance Corporation Act, 2006;

“Net Asset Value” means the value of a company, based on the valuation of its total assets less all balance sheet liabilities and prior capital [such as debentures, loan notes and preference shares];

“Nigerian GAAP” means the Nigerian Generally Accepted Accounting Principles issued by the Nigerian Accounting Standards Boards (“NASB”) (which include standards and interpretations approved by the NASB together with its pronouncements of the NASB thereon from time to time);

“Non-Performing Loans” means non-performing loans within the meaning and intendment of the Prudential Guidelines;

“NSE” means the Nigerian Stock Exchange;

“Prudential Guidelines” means the Prudential Guidelines for banks in Nigeria issued by the CBN from time to time.

“Overseas Securities Lending Agreement” means one of the uniform lending agreements prescribed by the International Securities Lending Association;

“PE Ratio/” means the valuation ratio of a company’s ordinary share price to the earnings per share over the latest twelve-month period;

“SEC” means the Securities and Exchange Commission established under the Investments and Securities Act 2007;

“Securities Lending” means the collateralised lending of securities by one party to another for the purpose of facilitating the settlement of trade or a short sale or to finance the security on a recognized exchange or to facilitate a loan to another borrower for any of the aforesaid purposes;

“Threshold Effective Date” means the date following the end of three (3) calendar months from the date of commencement of these Guidelines;

“Valuation Day” means 3 Business Days following the end of each quarter (corresponding to three (3) calendar months); and

“Valuation Model” means the model for the valuation and pricing of Eligible Bank Assets or portfolio of Eligible Bank Assets (developed by the CBN based on independent advice), set out in Schedule I as may from time to time be amended by the CBN based on market conditions and by notice published in the Gazette.

In these Guidelines, reference to a statute shall include any amendment or re-enactment of such statute, for the time being in force, and all orders, regulations and guidelines made pursuant thereto.

PART II

5 The following shall be Eligible Bank Assets for the purpose of the Act and these Guidelines:

*Eligible Bank
Assets*

- (a) Collateralised or secured Non-Performing Loans of Eligible Financial Institutions which are substandard, doubtful or lost in accordance with the Prudential Guidelines whether or not so classified by an Eligible Financial Institution;
- (b) unsecured Non-Performing Loans of Eligible Financial Institutions which are substandard, doubtful or lost in accordance with the Prudential Guidelines whether or not so

classified by an Eligible Financial Institution;

- (c) Loans (whether or not Collateralised) owed to an Eligible Financial Institution that is a bank whose banking license has been revoked by the CBN pursuant to BOFIA;
- (d) 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;
- (e) Any loan which poses significant risk to an Eligible Financial Institution: For the purpose of this subsection, 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 Corporation to purchase such loan; 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 Corporation to purchase such loan; and
- (f) Such other instrument or asset class which the CBN may, from time to time designate by order in writing.

- 6
- (a) With effect from the Threshold Effective Date, no Eligible Financial Institution shall hold on its books Eligible Bank Assets with an aggregate Book Value exceeding five percent (5%) of the Book Value of its existing loan portfolio.
 - (b) Subject to paragraph (c) of this Section, where at any time after the Threshold Effective Date, the aggregate Book Value of the Eligible Bank Assets

*Maximum
Holding of
Eligible Bank
Assets*

of an Eligible Financial Institution exceeds the threshold specified in paragraph (a) of this section, the Eligible Financial Institution whose holding of Eligible Bank Assets exceeds the specified threshold shall bring its aggregate holding of Eligible Bank Assets within, no later than 30 days from the date the specified threshold is exceeded and may for this purpose offer to sell to the Corporation, or such other asset management company as may be approved by the CBN, such portion of its Eligible Bank Assets as is necessary to bring its holding of Eligible Bank Assets within the specified threshold. Provided that the sale to any such other asset management company by the Eligible Financial Institution shall be conducted at arm's length, on commercially reasonable terms and in a transparent manner.

- (c) Where the aggregate Book Value of the Eligible Bank Assets of an Eligible Financial Institution has exceeded the threshold specified in paragraph (a) of this section prior to the Threshold Effective Date, and continues to so exceed the specified threshold as at the Threshold Effective Date, the number of days within which such Eligible Financial Institution shall be obligated to bring its aggregate holding of Eligible Bank Assets within the specified threshold shall be reckoned from the Threshold Effective Date.
- (d) Where an Eligible Financial Institution elects to offer to sell Eligible Bank Assets to the Corporation in pursuance of paragraph (b) of this section, such offer to sell must be in writing and must-
 - i. contain a full listing of all the Eligible Bank Assets of the Eligible Financial Institution

and the corresponding Book Value of each of the listed Eligible Bank Asset as at the date of the offer;

- ii. specify the aggregate Book Value of Eligible Bank Assets by which the Eligible Financial Institution has exceeded the threshold specified in paragraph (b) of this section, as at the date of the offer;
- iii. be an offer to sell any of the Eligible Bank Assets listed in pursuance of sub-paragraph (i) of this paragraph (d) up to the aggregate Book Value specified in pursuance of sub-paragraph (ii) of this paragraph (d); and
- iv. specify that the listed Eligible Bank Assets are offered at a price to be determined using the valuation model specified in Schedule I to these Guidelines.

(e) Where an offer to sell Eligible Bank Assets is made to the Corporation by an Eligible Financial Institution in pursuance of paragraph (b) of this section, the valuation and pricing of such offered Eligible Bank Assets shall be in accordance with the provisions of section 9.

(f) For the avoidance of doubt, the Corporation may, but shall not be obligated to purchase any Eligible Bank Assets offered to it in pursuance of this Section 6. Provided that the Corporation shall give written notice of its election not to purchase to the Eligible Financial Institution.

7 (a) The Corporation may purchase Eligible Bank Assets offered to it by any Eligible Financial Institution pursuant to the provisions of the Act and section 6 above, in the manner set out below, and at a value and price determined in accordance with section 9 below.

*Acquisition of
Eligible Bank
Assets*

(b) Notwithstanding the provisions of section 7(a), the Corporation shall, at the request of the NDIC acting in

pursuance of section 38(d) of the NDIC Act, acquire Eligible Bank Assets of a Grave Situation Bank in accordance with the provisions of, in the manner set out below, and at a value and price determined in accordance with section 9 below.

8 (a) Any Eligible Financial Institution desirous of disposing of its Eligible Bank Assets to the Corporation in pursuance of the Act, or which is required by the Act or these Guidelines to offer its Eligible Bank Assets to the Corporation, shall offer its Eligible Banks Assets for sale to the Corporation in such form and manner as the Corporation may specify and furnish the Corporation with Credit Information in respect of such Eligible Bank Assets.

Sale Offer Process

(b) In the case of any Eligible Financial Institution which is a Grave Situation Bank; if any such Grave Situation Bank does not make an offer to dispose of all its Eligible Bank Assets to the Corporation in pursuance of paragraph (a) of this section, then, at the request of the NDIC acting in pursuance of section 38(d) of the NDIC Act, the Corporation shall serve a notice on the Grave Situation Bank directing it to offer to sell of all of its Eligible Bank Assets to the Corporation.

(c) Upon service of the aforesaid notice by the Corporation on a Grave Situation Bank in pursuance of section 8(b), the Grave Situation Bank shall be obliged to offer for sale all of its Eligible Bank Assets to the Corporation and to furnish the Corporation with Credit Information relating to all its Eligible Bank Assets.

9 (a) Where an offer for sale of Eligible Bank Assets or portfolio of Eligible Bank Assets is made to the Corporation in pursuance of either section 7(b) or section 9(a) and (c), the Corporation shall forthwith upon receipt of the offer undertake or cause to be

*Valuation &
Pricing of Eligible
Bank Assets*

undertaken a valuation of the Eligible Bank Asset or portfolio of Eligible Bank Asset offered to it, for the purpose of determining the price at which the Corporation will purchase the offered Eligible Bank Assets or portfolio of Eligible Bank Assets.

- (b) The valuation to be undertaken by the Corporation in pursuance of section 9(a) shall be undertaken using the Valuation Model to the exclusion of any other valuation model or methodology and following such valuation the Corporation shall prepare or cause to be prepared a detailed and comprehensive valuation report on the offered Eligible Bank Assets or portfolio of Eligible Bank Assets.
- (c) The valuation report prepared in pursuance of section 9(b) shall be delivered by the Corporation to the relevant Eligible Financial Institution in sealed envelopes.
- (d) Subject to section 9 (e) to (k), save for manifest error, the value specified in the valuation report for an Eligible Bank Asset or a portfolio of Eligible Bank Assets shall be the price at which the Corporation shall purchase the Eligible Bank Asset or portfolio of Eligible Bank Assets to which the valuation report relates.
- (e) Manifest error shall be the sole and only cognisable ground upon which a valuation of any offered Eligible Bank Assets or portfolio of Eligible Bank Assets duly undertaken by the Corporation or its Agent in pursuance of, and in accordance with section 9(a) and (b) can be disputed by an Eligible Financial Institution.

10 The acquisition of an Eligible Bank Asset or portfolio of Eligible Bank Assets shall be documented in a written contract between the Corporation and the Eligible

*Sale and
Purchase
Agreement*

Financial Institution which contract shall at a minimum contain detailed provisions on -

- (a) assignment/conveyance of the Eligible Bank Assets or portfolio of Eligible Bank Assets to the Corporation together with the rights in any Collateral connected therewith;
 - (b) the purchase price for the Eligible Bank Assets or portfolio of Eligible Bank Assets as in accordance with the valuation and pricing regime specified in section 9;
 - (c) closing of sale and purchase of Eligible Bank Assets or portfolio of Eligible Bank Assets, including closing documentation delivery requirements;
 - (d) due diligence and examination of books and records;
 - (e) representations and warranties by the Eligible Financial Institution; and
 - (f) special remedies including without limitation, indemnities in favour of the Corporation, the right of the Corporation to require an Eligible Financial Institution to repurchase the Eligible Bank Assets and mechanisms for downward review of the price paid for the Eligible Bank Assets in the event of misrepresentation by the Eligible Financial Institution.
- 11 (a) For the purposes of conducting valuations of Eligible Bank Assets or portfolios of Eligible Bank Assets in pursuance of section 9(a), the Corporation may appoint Valuation Advisers who shall undertake, on behalf of the Corporation, the valuation of Eligible Bank Assets in strict compliance with the provisions of section 9(b) and (c). *Appointment of Valuation Advisers by the Corporation*
- (b) The Corporation shall maintain a list of Valuation Advisers so appointed, from among whom it shall obtain a valuation of Eligible Bank Assets from time to time offered to it for sale.

- (c) The Corporation shall appoint only reputable firms, entities or companies skilled in the audit, valuation and pricing of tangible and non-tangible assets as Valuation Advisers.
- (d) For the purposes of appointing Valuation Advisers, the Corporation shall from time to time, and in the first instance, within three (3) months of its establishment, issue Requests for Proposals (RFP) to prospective Valuation Advisers.
- (e) The RFP shall specify the eligibility and qualification criteria for appointment as a Valuation Adviser taking account of the provision of paragraph (c) of this section.
- (f) The RFP must be published in at least two (2) daily newspapers with nationwide circulation.
- (g) Prospective Valuation Advisers shall within such time as may be specified in the RFP submit an expression of interest to the Corporation.
- (h) The Corporation shall appoint as Valuation Advisers only persons who meet the eligibility and qualification criteria specified in the RFP.
- 12 (a) Upon acquisition of an Eligible Bank Asset or a portfolio of Eligible Bank Assets, the Corporation shall put in place arrangements necessary for the due administration and servicing of such acquired Eligible Bank Assets or portfolio of Eligible Bank Assets, and for the administration, enforcement and realisation of the rights in the Collateral or other security connected therewith. *Administration of Eligible Bank Assets*
- (b) For the purpose of giving effect to the provisions of section 12(a), the Corporation may engage third party service providers (including without limitation, recovery agents, distressed bank asset administrators

and servicers and attorneys) to provide the relevant administration, servicing, enforcement and realisation services in connection with the Eligible Bank Assets and/or the rights in the Collateral or other security connected with such Eligible Bank Assets.

(c) Without limiting the generality of the provisions of section 12(b), the Corporation may engage third party service providers to –

- (i) analyse and appraise Eligible Bank Assets acquired by the Corporation;
- (ii) administer Eligible Bank Assets acquired by the Corporation;
- (iii) act on the Corporation's behalf to register, perfect or maintain the rights and interest of the Corporation in any Collateral or other security connected with Eligible Bank Assets acquired by the Corporation;
- (iv) act on the Corporation's behalf to demand, receive, collect, recover and/or enforce the recovery of all payments due under or in connection with any Eligible Bank Assets acquired by the Corporation;
- (v) act on the Corporation's behalf to administer, enforce and realise the rights of the Corporation in any Collateral connected with any Eligible Bank Assets acquired by the Corporation; and
- (vi) manage or see to the management, or as the circumstances may require, the orderly receivership, liquidation or winding up of any borrower or debtor counterparty to any Eligible Bank Asset acquired by the Corporation.

13 The Corporation may appoint Asset Managers who shall, *inter alia*, render the following services:

*Asset
Management*

(a) act on the Corporation's behalf to administer, manage, invest, re-invest and dispose the tangible and intangible assets and choses-in-action beneficially owned by the Corporation (i) by reason of the realisation and enforcement of its rights, title and interest (as may be applicable) in and on to the Eligible Bank Assets acquired by the Corporation and the Collateral or other security connected with such Eligible Bank Assets, and (ii) by direct acquisition by the Corporation;

in a manner that (i) promotes capital appreciation, (ii) promotes the best interest of the Corporation, (ii) is consistent with its fiduciary responsibility to the Corporation, and (iii) promotes reasonable returns on such assets and an orderly disposal thereof to ensure the market for such assets are not disrupted; and

(b) provide all such other asset management services ordinarily and customarily provided by asset managers in relation to assets similar to those specified in section 13(a).

14 (a) The Corporation shall from time to time, (and in the first instance, within three months of its establishment), issue Requests for Proposals (RFP) to prospective Asset Managers.

*Appointment of
Asset Manager*

(b) The RFP must be published in at least two (2) daily newspapers with nationwide circulation.

(c) Prospective Asset Managers shall within fourteen (14) days of receipt of such RFP submit an Expression of Interest to the Corporation.

(d) No later than twenty-one (21) days after the issuance of the RFPs, the Corporation shall organize selection interviews for short-listed prospective Asset Managers.

(e) The Corporation shall appoint as Asset Managers only persons who meet the qualifications specified hereunder.

(f) No Eligible Financial Institution shall be eligible to be appointed as an Asset Manager.

15 An entity submitting an expression of interest in response to the RFP issued by the Corporation pursuant to Section 11 above shall be required to have met the under-listed specified criteria:

*Qualification
for
Appointment of
Asset Manager*

(a) The applicant must -

- (i) be a limited liability company duly incorporated in accordance with the laws of Nigeria;
- (ii) have a minimum paid up share capital of N150 million or such higher sum as may be prescribed, from time to time, by the Corporation;
- (iii) in the case of an Asset Manager who would be managing securities have ability to act in a number of capacities including as – an asset manager, or funds manager, or portfolio manager, or broker, dealer, or market maker, or custodian, or trustee, or investment or financial adviser, and also be, or have access to dealing membership of, (a recognized stock exchange in Nigeria in particular), the NSE,;
- (iv) possess a proven track record of managing assets in Nigeria and have the professional and technical capacity to manage and administer assets;
- (v) not have compounded its debt or failed to honour its obligations;
- (vi) never have been a manager or administrator of any assets which were mismanaged or has been in distress due to any fault, either fully or partially, of the asset manager or any of its subscribers, directors or officers
- (vii) have team members with experience in at least 3 of the following areas; debt financing and

restructuring of distressed debt & companies/turnaround advisory; project financing; private equity investing; and corporate finance and Mergers and Acquisition advisory;

(viii) have a management team comprising at least 2 SEC sponsored individuals;

(ix) possess appropriate Information and Communication Technology to adequately cater for online real-time transactions in addition to keeping proper accounting records;;

(b) The Applicant must meet such other additional requirements or conditions as may be prescribed from time to time by the Corporation.

16 a) In addition to meeting the criteria stipulated in Section 15 above, an applicant shall only be appointed as an Asset Manager if it procures, to the reasonable satisfaction of the Corporation, loss insurance cover and fidelity bond in an amount representing 20% of its paid up share capital or in such other amount as the Corporation may stipulate from time to time. *Additional criteria for appointment of Asset Manager*

b) The policies mentioned above must be from a reputable and well capitalized insurance company, acceptable to the Corporation and with shareholder's funds of such sums as may be specified by the Corporation from time to time, and at no time less than N5billion and so certified by National Insurance Commission yearly.

17 (a) The appointment of an Asset Manager in pursuance of the provisions of these Guidelines, and the terms of such appointment, shall be documented in a written contract, between the Corporation and the Asset Manager to be known as the Asset Management Contract. *Rules for Engagement and Operations of Asset Manager*

(b) At a minimum, the Asset Management Contract shall

contain detailed provisions on –

- i. Scope of the authority of the Asset Manager;
- ii. Management and investment aims and limits consistent with the objects of the Corporation as stipulated in Section 4 of the Act;
- iii. Reference currency;
- iv. Method, form, accounting and valuation principles of assets being managed and periodicity of financial statements to the Corporation;
- v. Custodial arrangements;
- vi. Compensation of the Asset Manager;
- vii. Procurement by the Asset Manager of suitable insurance loss and fidelity bond cover;
- viii. Dispute resolution, damages, fidelity, good faith and the like; and
- ix. Termination of the Asset Management Contract.

18. The business of the Asset Manager shall be to administer and manage the portfolio of assets allotted to it by the Corporation in accordance with the terms and conditions of the Asset Management Contract and in accordance with the provisions of the Act and these Guidelines. *Business of Asset Manager*
19. In the discharge of its responsibilities under the Asset Management Contract, the Asset Manager shall at all times act in the best interest of the Corporation and shall put in place appropriate measures, to the satisfaction of the Corporation, to eliminate conflicts of interest and breach of trust or fiduciary duties, while ensuring full compliance with any applicable (a) capital maintenance and adequacy rules, (b) liquidity and reserve requirements, (c) prudential guidelines, (d) fidelity and corporate governance rules, (d) professional code of conduct and etiquette, (e) self regulatory organization rules, and (f) other rules required of Asset Managers. *Asset Manager's Duty of Loyalty*
20. a) No Asset Manager shall directly or indirectly have or keep custody of any Managed Assets or maintain any settlement accounts in relation thereto. All Managed *Custodial Arrangements*

Assets shall be deposited with a custodian or securities trader appointed by the Corporation in accordance with a custodial agreement in form and substance satisfactory to the Corporation as well as meets the minimum requirements specified in paragraphs (b)&(c) of this Section.

- b) Any custodian to be engaged by the Corporation must:
- i. be a limited liability company duly incorporated in accordance with the laws of the Federal Republic of Nigeria;
 - ii. [be a licensed financial institution or be wholly/jointly owned by (a) licensed financial institution(s) with a/combined minimum net worth of N25 billion unimpaired by losses];
 - iii. have, or its parent company/companies, must have a combined total balance sheet of at least N125 billion;
 - iv. be a reputable custodian company with excellent track record;
 - v. have the professional and technical capacity to provide custodial services as contemplated under these Guidelines;
 - vi. never have been a custodian of any assets which was mismanaged or has been in distress due to any fault, either fully or partially by the custodian;
 - vii. maintain adequate insurance in respect of assets in its custody against loss through fire, theft, natural catastrophe and the like, as well as fidelity guarantee cover of 25% of its paid up capital;
 - viii. possess appropriate Information and Communication Technology that could adequately cater for online real-time transactions in addition to keeping proper accounting records;
 - ix. have a system of internal controls which ensures that the assets under its custody are safeguarded and segregated and records adequately reflect the

- information they purport to present;
- x. never have been a custodian of any assets which was mismanaged or has been in distress due to any default, either fully or partially, by the custodian;
 - xi. be capable of providing a guarantee, either by itself or through its parent company/companies, to the full sum and value of assets held or to be held by it, in bank deposits and other liquid assets; and;
 - xii. not be an entity or company in which any Asset Manager or any of the subsidiaries of an Asset Manager have an aggregate shareholding exceeding five percent (5%) of its issued and paid-up capital.
- c) A custodial agreement contemplated in paragraph (a) of this Section, shall at the minimum:—
- i. impose an obligation on the custodian to keep custodial assets separate and distinct from the asset of the custodian;
 - ii. impress custodial assets with trust in favour of the Corporation;
 - iii. impose on the custodian an undertaking to deal with the custodial assets in accordance with directions given to it by the Corporation from time to time and in accordance with these Guidelines;
 - iv. make suitable provision for the safe keeping and secure custody of the custodial assets;
 - v. make provision for regular accounting to the Corporation and Asset Manager and permitting the Corporation and Asset Manager, its officers or duly authorised agents to inspect the books, records and statements of the custodian at any time;
 - vi. impose liability on the custodian for any loss to the assets as well as an undertaking to make good any such loss; and
 - vii. set out the agreed fees/charges for the custodial service and the terms of payment of such fees/charges.

- 21 (a) Trading or similar dealings with Managed Assets which are listed securities shall be carried out on the floor of a securities exchange registered or recognised by SEC or any recognised money market electronic platform open to the public and approved or recognized by the CBN or the Debt Management Office. Provided that this paragraph (a) shall not apply to bonds and securities issued and fully guaranteed by the Federal Government of Nigeria or the CBN, which are acquired from a primary issue. *Authorised Markets for Disposal of Assets*
- (b) Trading or similar dealings with Managed Assets other than listed securities shall be carried out in an open, competitive and transparent manner.
- 22 The Corporation shall ensure that at all times the disposal of Managed Assets is conducted – *Disposal of Managed Assets*
- (a) in accordance with an asset management plan prepared and approved by the Board of the Corporation for each class of Managed Assets;
- (b) at arm's length and in a commercially reasonable manner;
- (c) in a transparent manner;
- (d) in a manner that ensures the realisation of the long term economic value of such Managed Assets;
- (e) in the best interest of the Corporation; and
- (f) in a manner that preserves the orderly conduct of the markets in which such assets are to be disposed.
- 23 (a) Subject to the limits as to maximum investment (per issue and per issuer), the minimum rating and the minimum qualifying benchmarks, specified against each asset class in Schedule II of these Guidelines, Managed Assets Funds shall only be invested in – *Eligible Investments*
- i. securities issued and guaranteed by the Federal Government of Nigeria or the CBN;
- ii. with the prior written consent of CBN, securities issued, or which are guaranteed by the central government of a sovereign country;

- iii. with the prior written consent of CBN, securities issued or guaranteed by an international financial institution of which Nigeria is a member;
- iv. repurchase agreements fully collateralised by securities of the governments and institutions mentioned in sub-paragraphs (i)-(iii) above, with a maximum maturity of 30 days;
- v. negotiable certificates of deposits, banker's acceptances, and overnight investment facilities, (which meet the rating requirement specified in Schedule II to these Guidelines), with the custodian having custody of the Managed Assets under a custodial agreement entered into in pursuance of Section 20 of these Guidelines or with a bank, in its own behalf, which meets the requirements specified for a custodian under section 20(b) of these Guidelines;
- vi. securities issued by a State Government in accordance with the provisions of the Investments and Securities Act, which are registered with the SEC and which are listed or proposed to be listed on a securities exchange registered or recognized by the SEC and which meet the rating requirement specified in Schedule II to these Guidelines;
- vii. new issues of debt securities, redeemable preference shares and other debt instruments issued by corporate entities, [(save zero coupon bonds and convertible bonds)], and share of public companies which are registered with the SEC and which are listed or proposed to be listed on a securities exchange registered or recognized by the SEC and which meet the rating requirement specified in Schedule II to these Guidelines; and
- viii. such other securities or instruments that the Corporation may with the approval of the CBN, from time to time, designate.

(b) Notwithstanding anything to the contrary in paragraph (a) of this Section, Managed Asset Funds may subject to such restrictions as may be specified in the Asset Management Contract, be used for the purposes of Securities Lending conducted in pursuance of transactions on the floor of a securities exchange, registered or recognised by the SEC, in accordance with the Overseas Security Lending Agreement or the Global Master Securities Lending Agreement.

24 An Asset Manager shall maintain modern, robust, secure, *ICT* interoperable *ICT* systems and networks and disaster *Requirements* recovery protocols and a central data repository suitable for *for Asset* bank asset management to the reasonable satisfaction of the *Manager* Corporation.

25 (a) Every Asset Manager shall be responsible for *Reporting on* determining the fair value of the Managed Assets under *Value of* its management and for this purpose shall cause to be *Managed* prepared and submitted to the Corporation, a valuation *Assets* on the portfolio of Managed Assets assigned to it on every Valuation Day.

(b) Except as otherwise agreed by the Corporation, the valuation required to be submitted in pursuance of paragraph (a) of this Section shall be made by the Asset Manager in accordance with the following rules –

- i. except for securities described in sub-paragraph (iv) of this paragraph (b), Managed Assets that are securities listed on an exchange shall be valued at the last traded “composite” price on the exchanges on which such securities are traded on the applicable traded composite price on that Valuation Day, or if there has been no last traded composite price on that Valuation Day, the previous last traded composite price on those exchanges shall be used. In the event that the securities are traded on an exchange which does not report a last traded price, the securities shall be valued at the most recent quoted bid on the

- applicable Valuation Day, or if there has been no such bid price, at the most recently quoted bid price prior to that Valuation Day. Price information on listed securities shall be taken from a trading tape offered by one of the pricing services designated by the Corporation.
- ii. Managed Assets that are securities not listed on an exchange for which market quotations are not readily available shall be valued at an evaluated bid as determined by one or more pricing services designated by the Corporation. The methodology for an evaluated bid shall be agreed in the Asset Management Contract.
 - iii. Debt instruments which have 60 days or less remaining until maturity will be valued at their amortised cost as determined by using straight-line amortization method.
 - iv. Forward foreign exchange contracts and exchange traded futures and option contracts shall be valued at their most recently traded market price.
 - v. Managed Assets that are Real Property shall be valued at the lower of cost and market value;
 - vi. Managed Assets that are not securities, debt instruments, forward foreign exchange, exchange traded futures and options contracts or Real Property shall be valued at the lower of cost and market value and
 - vii. Values of securities denominated in a currency other than the reference currency under the Asset Management Contract shall be expressed in the reference currency at the price of the base currency as quoted in generally recognised reliable sources as determined from time to time by the Corporation. Foreign currency or foreign denominated holdings, if any, shall be similarly valued.
- (c) Every Asset Manager shall maintain all records and

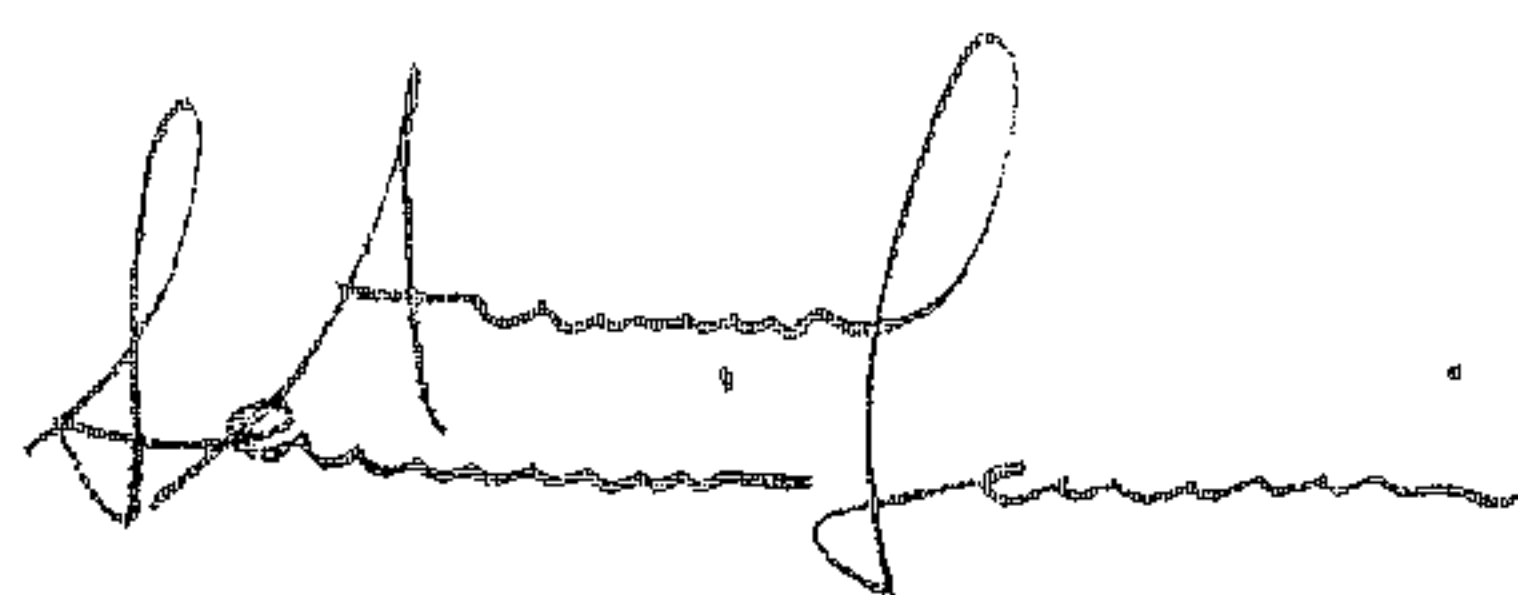
information used for the purposes of valuation in pursuance of this section and shall make such records and information available to the Corporation on demand.

- 26 Every Asset Manager shall be responsible for determining the return on investment (ROI) and the Net Asset Value (NAV) of Managed Asset Funds under its management and for this purpose shall cause to be calculated, and submitted to the Corporation, a rate of return report on the portfolio of Managed Assets Fund under its management on the first day of every month using an appropriate formula. *Reporting on ROI and NAV*
- 27 (a) The Corporation shall prepare its books of accounts and financial statement in accordance with Nigerian GAAP or such other accounting standard as may be approved by the CBN and on accrual basis. *Financial Reporting By Corporation*
- (b) The Corporation will identify in its books of accounts the income from the management and disposal of Eligible Bank Assets (including the collection of interest, principal and capital due and taking over of collateral securing such assets) acquired by the Corporation;
- (c) The Corporation shall identify in its books proper accounts of all withdrawals made from income made from the management and disposal of Eligible Bank Assets (including the collection of interest, principal and capital due and taking over of collateral securing such assets) acquired by the Corporation.

- 28 (a) Save and except as may be permitted under paragraph (b) of this Section, nothing in these Guidelines shall be construed as relieving a debtor or guarantor in respect of an Eligible Bank Asset acquired by the Corporation of any obligation to repay, in full, amounts outstanding and due in respect of such Eligible Bank Asset.
- (b) Subject to the provisions of sections 6(5) and 37(1) of the Act, the Corporation may negotiate the possible compromise or forgiveness of the indebtedness or liability in connection with and any Eligible Banks Assets acquired pursuant to these Guidelines where (i) such liability or indebtedness does not arise from a Tainted Eligible Bank Asset within the meaning and intendment of Section 37(2) of the Act and (ii) such will assist in the promotion and stability of the financial, money or capital market in Nigeria, or the reflation of the economy.

Forbearance

Made at Abuja this 15th day of November, 2010



SANUSI LAMIDO SANUSI, CON
Governor, Central Bank of Nigeria

SCHEDULE I
Valuation Model
for Valuation and Pricing of Eligible Bank Assets

1. The price payable by the Corporation for Eligible Bank Assets shall be determined in the following manner:

a. Loans secured by Real Estate

- i. Eligible Financial Institution (“EFI”) will provide the Corporation with a ‘good faith’ valuation on the real estate assets, reflecting the forced-sale and the open-market value.
- ii. Any Eligible Bank Assets secured by real estates purchased within 3 months of these guidelines shall be purchased at the average of the forced-sale and open-market valuation (“OMV”) provided by the management of the Eligible Finance Institution subject to a revaluation within twelve (12) months of purchase by a reputable real estate valuer jointly appointed by the Corporation and the Eligible Financial Institution. Where it is found following such revaluation that the Eligible Bank Assets were overvalued, such Eligible Financial Institution shall remit the difference in the valuation to the Corporation and shall pay interest at the rate of 10% of the differential as penalty. Where the Eligible Bank Assets are undervalued the Corporation shall pay the difference in the amounts to the relevant Eligible Financial Institution.
- iii. Following the expiration of the 3 months period referred to above the price payable for Eligible Bank Assets secured by real estate shall be the value of the real estate securing the Eligible Bank Assets such value to be determined by a reputable real estate valuer jointly appointed by the Corporation and the Eligible Financial Institution at the average of open market and forced sale valuations
- iv. The Corporation, will perform searches on all Collateral

b. Loans secured by Listed Shares

Where Eligible Bank Assets are secured by shares listed on the Nigerian Stock Exchange, the price payable by the Corporation for the relevant Eligible Bank Assets shall be the greater of;

- i. 5% (five percent) of the principal sum; and
- ii. The 60-day moving average price plus a 60% premium.

In the case of paragraph 1(b)(ii) above, the initial trade will be based on a 60-day moving average taken from the prior sixty trading days, up to and inclusive of, 15 November 2010

c. Loans secured by unlisted Shares

Where Eligible Bank Assets are secured by unlisted shares the valuation of the shares shall be as follows;

- i. The valuation of shares of unlisted public companies, shall be guided by the latest audited financials and will be based on the average of the following methodologies where applicable:
 1. Net Asset Value;
 2. Average PE Ratio against the average PE Ratio of shares in a similar sector or industry; and
 3. Valuation of comparable transactions in similar sector or industry.
- ii. The valuation of shares of a private company shall be done on a case by case basis and the minimum valuation for such Eligible Bank Asset shall be 5% of the principal sum.

d. Deficient Perfection

- i. Where any of the security referred to above is not perfected or fully perfected the price payable for relevant Eligible Bank Asset shall be at a discount and the minimum value for such loan shall be 5% of the principal sum.
- ii. Where the security can be fully perfected without recourse to the obligor, the price payable by the Corporation for such Eligible Bank Asset shall in the case of:
 - i. real estate be determined in the manner provided for in paragraph 1(a) of this Schedule;

- ii. listed shares be determined in the manner provided for in paragraph 1(b) of this Schedule;
- iii. in the case of unlisted shares be determined in the manner provided for in paragraph 1(c) of this Schedule.

e. Unsecured Loans

All unsecured Eligible Bank Assets shall be valued at 5% (five percent) of the principal sum.

f. Other Eligible Bank Assets

Where the Eligible Bank Assets constitute assets acquired in the satisfaction of any debt owed to an Eligible Financial Institution the price payable by the Corporation for such Eligible Bank Asset shall

- i. in the case of real estate be determined in the manner provided for in paragraph 1(a) of this Schedule;
- ii. in the case of listed shares be determined in the manner provided for in paragraph 1(b) of this Schedule;
- iii. in the case of unlisted shares be determined in the manner provided for in paragraph 1(c) of this Schedule.

SCHEDULE II

Limits on Maximum Investments, Minimum External Rating and Minimum Qualifying Benchmarks

Asset Class	Maximum Investment (as % of total value of Managed Fund Assets)	Per Issuer	Per Issue	Minimum Credit Rating	Minimum ROI