



GUIDELINES FOR THE REGULATION AND SUPERVISION OF INSTITUTIONS OFFERING NON-INTEREST FINANCIAL SERVICES IN NIGERIA

1.0 PREAMBLE

WHEREAS:

The Central Bank of Nigeria, (CBN) New Banking Model authorizes the establishment of the following banking structures as defined under the Banks and Other Financial Institutions Act (BOFIA) 1991 as amended:

- (i) Commercial Banks;
- (ii) Merchant Banks; and
- (iii) Specialised Banks.

Specialised Banks include non-interest banks, microfinance banks, development banks, mortgage banks and such other banks as may be designated by the CBN from time to time.

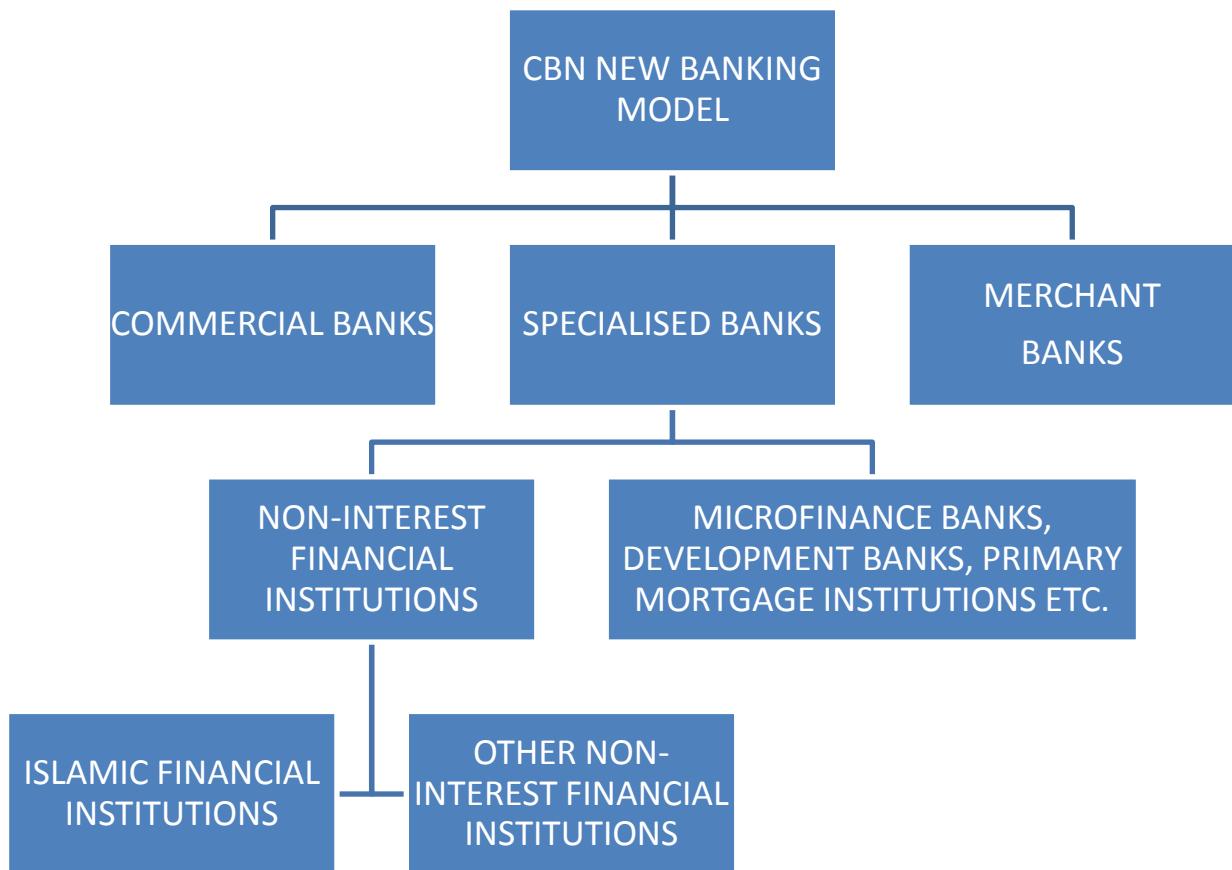
Guidelines for some of the specialized financial institutions, e.g., microfinance banks primary mortgage institutions and finance companies have been issued under a separate cover. Guidelines for other categories of non-interest banking will be issued upon request which shall be consistent with international best practice.

The emphasis of this guideline is on Non-Interest Financial Institutions operating under the principles of Islamic Commercial Jurisprudence, one of the categories of Non-Interest Financial Institutions (NIFI). In addition, other guidelines in the conduct of banking under the principles of Islamic commercial jurisprudence, e.g., operational, corporate governance, product compliance, risk management and capital adequacy, etc. will be issued in due course.

NIFI means a bank or Other Financial Institution (OFI) under the purview of the Central Bank of Nigeria (CBN), which transacts banking business, engages in trading, investment and commercial activities as well as the provision of financial products and services in accordance with any established non-interest banking principles.

Non-interest banking and finance models are broadly categorized into two:

1. Non-interest banking and finance based on Islamic commercial jurisprudence;
2. Non-interest banking and finance based on any other established non-interest principle.



Islamic banking as one of the models of non-interest banking, serves the same purpose of providing financial services as do conventional financial institutions save that it operates in accordance with principles and rules of Islamic commercial

jurisprudence that generally recognizes profit and loss sharing and the prohibition of interest, as a model.

Other non-permissible transactions include those involving any of the following:

- uncertainty or ambiguity relating to the subject matter, terms or conditions;
- gambling;
- speculation;
- unjust enrichment;
- exploitation/unfair trade practices;
- dealings in pork, alcohol, arms & ammunition, pornography and;
- other transactions, products, goods or services which are not compliant with the rules and principles of Islamic commercial jurisprudence.

Given the increasing number of requests from persons, banks and other financial institutions desiring to offer non-interest banking products and services based on Islamic commercial jurisprudence in Nigeria, the CBN has developed these guidelines for the regulation and supervision of institutions offering Islamic financial services (IIFS) referred to in this guideline.

All non-interest financial institutions under this model are required to comply with these and any other guidelines that may be issued by the CBN from time to time.

The reference to IIFS for the purpose of these guidelines means:

- i. Full-fledged Islamic bank or full-fledged Islamic banking subsidiary of a conventional bank;
- ii. Full-fledged Islamic merchant or full-fledged Islamic banking subsidiary of a conventional merchant bank;
- iii. Full-fledged Islamic microfinance bank;
- iv. Islamic branch or window of a conventional bank;
- v. Islamic subsidiary, branch or window of a non-bank financial institution;
- vi. A development bank regulated by the CBN offering Islamic financial services;

- vii. A primary mortgage institution licensed by the CBN to offer Islamic financial services either full-fledged or as a subsidiary; and
- viii. A finance company licensed by the CBN to provide financial services, either full-fledged or as a subsidiary.

2.0 OBJECTIVE

- 2.1 The objective of these guidelines is to provide minimum standards for the operation of IIFS in Nigeria.
- 1.2 Accordingly, these guidelines are applicable to IIFS only and do not seek to regulate other non-interest financial institutions which may be established from time to time.

3.0 LEGAL FRAMEWORK

3.1 Legal Basis

These guidelines are issued pursuant to the Non-Interest banking regime under Section 33 (1) (b) of the CBN Act 2007; Sections 23(1) 52; 55(2); 59(1)(a); 61 of Banks and Other Financial Institutions Act (BOFIA) 1991 (as amended) and Section 4(1)(c) of the Regulation on the Scope of Banking Activities and Ancillary Matters, No. 3, 2010. It shall be read together with the provisions of other relevant sections of BOFIA 1991 (as amended), the CBN Act 2007, Companies and Allied Matters Act (CAMA) 1990 (as amended) and circulars/guidelines issued by the CBN from time to time.

3.2 Corporate Powers

A non-interest financial institution under this model shall ensure that its Memorandum and Articles of Association (MEMART) state that its business operations will be conducted in accordance with the principles and practices of Islamic commercial jurisprudence.

4.0 LICENSING REQUIREMENTS

A non-interest financial institution under this model shall be licensed in accordance

with the requirements issued by the CBN from time to time.

- 4.1 Applications for the grant of license shall be accompanied by evidence of a technical agreement executed by the promoters of the proposed institution with an established and reputable Islamic bank or financial institution. The agreement shall explicitly specify the role of the two parties and shall subsist for a period of not less than 3 years from the date of commencement of operations of the licensed IIFS.
- 4.2 A license to undertake Islamic banking business operations may be issued by the CBN upon such terms and conditions which authorize the operation of a non-interest financial institution on a regional or national basis for banks, or any other basis for other financial institutions.
- 4.3 An IIFS with regional banking authorization shall be entitled to carry on its banking business operations within a minimum of six (6) and a maximum of twelve (12) contiguous States of the Federation, lying within not more than two (2) Geo-Political Zones, as well as within the Federal Capital Territory (FCT).
- 4.4 An IIFS with national banking authorization shall be entitled to carry on banking business operations within every State of the Federation including the Federal Capital Territory (FCT), Abuja.
- 4.5 The detailed licensing requirements can be obtained directly from the Financial Policy and Regulation Department (FPRD), Central Bank of Nigeria, Abuja or downloaded at www.cbn.gov.ng.

5.0 FINANCING MODES AND INSTRUMENTS

IIFS shall transact business using only financing modes or instruments that are compliant with the principles under this model and approved by the CBN.

6.0 COMMISSIONS AND FEES

- 6.1 An IIFS may charge such commissions or fees as may be necessary in accordance with the principles under this model and the Guide to Bank Charges.
- 6.2 The funds received as commissions and fees shall constitute the bank's income and shall not be shared with depositors.

7.0 ESTABLISHMENT AND OPERATION OF AN ISLAMIC SUBSIDIARY, WINDOW OR BRANCH OF A CONVENTIONAL BANK

- 7.1 Conventional banks and other financial institutions operating in Nigeria may offer or sell products and services in line with the principles under this model through subsidiaries, windows or branches only.
- 7.2 An Islamic subsidiary of a conventional bank or financial institution shall be established in line with the licensing requirements for the establishment of a full fledged non-interest financial institution.
- 7.3 Similarly, an Islamic window or branch of a conventional bank or financial institution shall be established and operated in line with the guidelines on windows/branches issued by the CBN.
- 7.4 **Cross-Selling of Products/Services and Shared Facilities**
The Islamic subsidiaries, windows or branches may operate using the existing facilities or branch network of the conventional bank. The subsidiary, window or branch shall however, not sell products/services that do not comply with the principles under this model.
- 7.5 **Execution of Service Level Agreements in Respect of Shared Services**
Conventional banks or other financial institutions with Islamic subsidiaries, branches or windows shall execute Service Level Agreements (SLA) in respect of shared services with their subsidiaries, branches or windows.

7.6 Intra-Group Transactions and Exposures

All transactions and exposures between an Islamic subsidiary, window or branch of a financial institution and the parent shall be in accordance with the principles and practices under this model.

8.0 CORPORATE GOVERNANCE

8.1 All licensed IIFS shall be subject to:

- Guidelines on corporate governance for non-interest financial institutions issued by the CBN;
- 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 of BOFIA 1991 (as amended) and CAMA 1990 (as amended).

8.2 All licensed IIFS shall have an internal review mechanism that ensures compliance with the principles under this model. They shall also have an Advisory Committee of Experts (ACE) as part of their governance structure. The detailed guidelines for the appointment, operation, qualification, duties and responsibilities of member of the ACE are contained in separate guidelines to be issued by the CBN.

9.0 CBN ADVISORY COUNCIL OF EXPERTS

9.1 There shall be an advisory body to be called CBN Advisory Council of Experts to advise the CBN on matters relating to the effective regulation and supervision of IIFS in Nigeria. The qualification, duties, responsibilities etc of members of the Council are contained in guidelines to be issued by the CBN.

10.0 CONDUCT OF BUSINESS STANDARDS

10.1 Branding

In line with the provisions of Section 39 (1) of BOFIA 1991 (as amended), the

registered or licensed name of an IIFS shall not include the word "Islamic" , except with the consent of the Governor of the CBN. IIFS shall, however, be recognized by a uniform symbol designed by the CBN. All the signages and promotional materials of IIFS shall bear this symbol to facilitate recognition by customers and the general public.

10.2 Approval of Contracts, Products and Services

All contracts, products and services offered or proposed to be offered by IIFS shall be reviewed and approved by each institution's ACE. The introduction of new products/services shall require the prior written approval of the CBN.

10.3 Product Literature

An IIFS shall state in its product literature/marketing materials the ACE (indicating names of all the members) that certified the product or services being offered.

11.0 PROFIT SHARING INVESTMENT ACCOUNTS

- 11.1 An IIFS shall ensure that relevant disclosures are made to Profit Sharing Investment Accounts (PSIA) holders in a timely and effective manner and also ensure the proper implementation of investment contracts.
- 11.2 An IIFS shall inform its prospective PSIA client(s) operating under profit-sharing, loss-bearing contracts, in writing that the risk of loss rests with the client(s) and that the institution will not share in the loss unless there is proven negligence or misconduct for which the institution is responsible.
- 11.3 IIFS with PSIAs may maintain a Profit Equalization Reserve (PER) which would serve as an income smoothing mechanism and risk mitigation tool to hedge against volatility of returns to investment account holders. They may also maintain an Investment Risk Reserve (IRR) to cushion against future losses for PSIA holders.

11.4 The basis for computing the amounts to be appropriated to the PER and IRR should be pre-defined and disclosed.

12.0 AUDIT, ACCOUNTING AND DISCLOSURE REQUIREMENTS

All IIFS shall comply with relevant provisions of the circular issued by the CBN on disclosure requirement by financial institutions and other disclosure requirements contained in CAMA 1990 (amended) and BOFIA 1991 (as amended). In addition, they shall comply with the relevant standards on disclosure issued by standards-setting organisations including the following:

- Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI);
- Islamic Financial Services Board (IFSB); and
- Nigerian Accounting Standards Board (NASB).

12.1 All IIFS shall comply with the requirements of section 29 of BOFIA 1991 (as amended) and applicable guidelines/directives issued by the CBN as well as the relevant provisions of CAMA 1990 (as amended) regarding the appointment, re-appointment, resignation, rotation, change and removal of auditors.

12.2 All IIFS shall comply with the Generally Accepted Accounting Principles (GAAP) codified in local standards issued by the 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 and auditing standards issued by the AAOIFI shall apply.

12.3 Where there is a conflict between the local and international standards, the provisions of the local standard(s) issued by NASB shall apply to the extent of the inconsistency. All IIFS shall have an internal review and audit

mechanism to examine and evaluate on periodic basis the extent of compliance with the rules and principles pertinent to this model.

13.0 PRUDENTIAL REQUIREMENTS

13.1 Minimum Capital Adequacy Ratio

All IIFS shall maintain a minimum Capital Adequacy Ratio (CAR) as may be prescribed by the CBN from time to time.

The minimum Capital Adequacy Ratio (CAR) for IIFS shall be consistent with the prevailing CAR as may be prescribed for conventional banks and financial institutions by the CBN from time to time.

13.2 Liquidity Management

13.2.1 All IIFS are required to put in place appropriate policies, strategies and procedures which ensure that they maintain adequate liquidity at all times to fund their operations.

13.2.2 IIFS shall not invest their funds in interest-bearing securities or activities. They are required to invest their funds in eligible instruments for the purpose of meeting the CBN prescribed minimum liquidity ratio. Liquid assets shall be held in line with the provision of section 15 of BOFIA 1991 (as amended), provided they comply with the principles under this model.

13.3 Other Prudential Requirements

All IIFS are expected to comply with other prudential requirements on exposure and concentration limits as may be prescribed by the CBN from time to time and standards of best practices.

14.0 RISK MANAGEMENT

All IIFS are required to put in place 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 IIFS such as displaced commercial, fiduciary, transparency, reputational, equity investment and rate of return risks. Further details and guidance are provided in documents issued by the CBN and international standard setting organizations including:

- i. CBN Prudential Guidelines;
- ii. Risk Management Guidelines issued by the Basel Committee on Banking Supervision; and
- iii. IFSB Guiding Principles of Risk Management for Institutions Offering Only Islamic Financial Services.

15.0 ANTI-MONEY LAUNDERING AND COMBATING OF THE FINANCING OF TERRORISM (AML/CFT)

- 15.1 All IIFS and their promoters are required to screen shareholders, customers, counterparties, transactions, products and activities against the proceeds of crime, corruption, terrorist financing and other illicit activities using legal and moral filters.
- 15.2 All IIFS are required to have effective AML/CFT policies and procedures and comply with relevant statutes and guidelines for combating money laundering and the financing of terrorism issued by the CBN and other relevant agencies.

16.0 GENERAL

- 16.1 Consistent with the CBN objective of promoting financial inclusion in Nigeria, no IIFS shall engage in act(s) or practice(s) that appear inimical to the achievement of this overall objective as well as the integrity, credibility and long term interest and sustainability of the Islamic financial services sub sector.

- 16.2 Discrimination on grounds of faith or ethnicity or any other grounds in the participation by individuals or institutions as promoters, shareholders, depositors, employees, customers or other relevant parties in any transaction regarding a non-interest financial institution, whether based on Islamic or other model, is strictly prohibited.
- 16.3 In line with extant banking laws, the CBN shall provide level playing field for all categories of financial institutions under its regulatory purview without discrimination or special favors.

GLOSSARY OF TERMS

In this guidelines, unless the context requires, the terms below shall have the following meanings:

| S/N | TERM | MEANING |
|-----|-----------------------------|--|
| 1. | Profit Equalisation Reserve | An amount appropriated by a NIFI out of the gross income of the profit sharing investment before allocating the entrepreneur's share in order to maintain a certain level of return on investment for the investment account holders and to increase |
| 2. | Investment Risk Reserve | An amount appropriated by a NIFI in a profit sharing investment activity out of investment account holder's income, after allocating the entrepreneur's share, in order to cushion against future investment losses for the investment account holders. |
| 3 | Displaced Commercial Risk | This is the risk that arises when a non-interest bank is under commercial pressure to pay its investors-depositors a rate of return higher than what should be payable under the "actual" terms of the investment contract. This can occur when a non-interest bank under-performs during a period and is unable to generate adequate profits for distribution to the account holders. |

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| 4 | Fiduciary Risk | This is the risk that arises from an institution's failure to perform in accordance with explicit and implicit standards applicable to its fiduciary responsibilities, which could lead to legal risks. |
| 5 | Transparency Risk | This is the risk of incurring loss due to bad decisions based on incomplete or inaccurate information or lack of transparency. |
| 6 | Reputational Risk | This is the risk that the irresponsible actions or behaviour of the management of a non-interest financial institution will damage the trust of the institution's clients. |
| 7 | Equity Investment Risk | The risk arising from entering into a partnership for the purpose of undertaking or participating in a particular financing or general business activity as described in the contract and in which the provider of finance shares in the business risk. |
| 8 | Rate of Return Risk | This is the risk associated with the potential impact of market factors affecting rates of return on assets in comparison with the expected rates of return for investment account holders (IAHs). |
| 9 | Non-interest Window | A non-interest window is defined as a dedicated unit of a Conventional bank or other financial institution that provides fund management (investment accounts), financing, and investment and other banking services that are compliant with the principles under this model. |