



**PenCom**

# CIRCULAR ON CORPORATE GOVERNANCE FOR PENSION FUND OPERATORS

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**National Pension Commission**

**DECEMBER, 2019**

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## List of Abbreviations

PRA, 2014	Pension Reform Act, 2014
CPS	Contributory Pension Scheme
Commission	National Pension Commission
PFA	Pension Fund Administrator
CPFA	Closed Pension Fund Administrator
PFC	Pension Fund Custodian
PFOs	Pension Fund Operators
Board	Board of Directors
Chairman	Chairman Board of Directors
NED	Non-Executive Director
INED	Independent Non-Executive Director
MD/CEO	Managing Director/Chief Executive Officer
ED	Executive Director
CS	Company Secretary

## About this Circular

The Corporate Governance Circular for Pension Fund Operators (PFOs) is a set of principles based on best practices, intended to guide Pension Fund Administrators (PFAs), Closed Pension Fund Administrators (CPFAs) and Pension Fund Custodians (PFCs), on the structures and processes for achieving optimal governance practices.

The Circular is ***to be used in conjunction with*** Nigerian Code of Corporate Governance 2018 and replaces the Code of Corporate Governance for Licensed Pension Operators 2008, issued by the National Pension Commission. The requirements are consistent with the provisions of the Pension Reform Act (PRA) 2014, rules, regulations and guidelines issued by the Commission.

## 1.0 INTRODUCTION

Following the issuance of Nigerian Code of Corporate Governance 2018 by the Financial Reporting Council (FRC) of Nigeria, the National Pension Commission has developed industry specific draft Corporate Governance Guidelines for Pension Fund Operators (PFOs), which is to be issued by the Commission.

This Circular will assist the PFO meet their governance responsibilities and drive greater corporate accountability. Therefore, the Circular aims at encouraging PFOs to embrace good corporate governance practices and high professional ethics in their organizations. The minimum corporate governance requirements are outlined but PFOs are encouraged to aspire for higher standards.

This Circular consists of six broad areas:

- i. Board of Directors
- ii. Control Functions
- iii. Relationship with Shareholders
- iv. Ethics and Business Practice
- v. Sustainability
- vi. Transparency

The Board of the PFOs shall be responsible for monitoring adherence to ensure that breaches are effectively sanctioned. This may be delegated to the committee responsible for nomination and governance. Directors, top management and all other employees shall have an obligation, at all times, to comply with the provisions of the Circular on Corporate Governance for Licensed Pension Operators in Nigeria.

Non-compliance with the provisions of this Circular will attract appropriate administrative penalty by the Commission.

## 1.1 Definitions of Terms

- 1.1.1 **The Contributory Pension Scheme (CPS):** A pension scheme established for the payment of retirement benefits of contributors to whom the Scheme applies under the Pension Reform Act, (PRA) 2014.
- 1.1.2 **National Pension Commission:** The regulatory authority on all pension matters in Nigeria, established under the Pension Reform Act, 2014.
- 1.1.3 **Pension Fund Administrator (PFA):** A company licensed by the National Pension Commission with functional responsibilities as stipulated in Section 55 of the PRA, 2014.
- 1.1.4 **Closed Pension Fund Administrator (CPFA):** A company licensed by the National Pension Commission to exclusively manage the pension fund of a sponsoring company.
- 1.1.5 **Pension Fund Custodian (PFC):** A company licensed by the National Pension Commission to hold pension fund and assets in safe custody on trust for holders and beneficiaries of the Retirement Savings Account (RSA).

## 1.2 Purpose of the Circular

- 1.2.1 Essentially, the Circular was developed to achieve the following:
- i. To institutionalize corporate governance best practices in PFOs in Nigeria;
  - ii. Promotes awareness of essential corporate values and ethical practices in the Nigerian Pension Industry;
  - iii. To show a clear delineation of roles, authority and responsibilities among the Shareholders, Board and Management of the PFOs;
  - iv. To better align the interest of the Board and Management, with those of the Shareholders and other Stakeholders especially the contributing members (RSA holders).

## 2.0 BOARD OF DIRECTORS

### 2.1 Role of the Board

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 1 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.1.1 The Board shall ensure that it acts in good faith in the exercise of its duties and shall ensure that its responsibilities are performed impartially.
- 2.1.2 The Board shall exercise a degree of care and diligence in fulfilling its responsibilities.
- 2.1.3 The Board shall provide oversight and strategic direction of the PFOs by:
- i. Establishing the vision, mission and values of the PFOs;
  - ii. Developing annual plans of the Board;
  - iii. Setting long and short term strategies to guide the PFOs;
  - iv. Establishing policies for governing the PFOs;
  - v. Appointing Non-Executive Directors (NEDs) and Independent Non-Executive Directors (INEDs);
  - vi. Appointing a Managing Director/Chief Executive Officer (MD/CEO), Executive Directors (EDs) and Senior Management (Heads of Departments), to oversee the day to day operations of the PFOs;
  - vii. Developing the Contract of Employment of the MD/CEO and the Executive Directors (EDs) which shall include Terms of Reference (ToR), Tenure and Remuneration;
  - viii. Ensuring that the Board and its Committees comprise of members with relevant skills, experience and competencies;
  - ix. Establishing agreed performance targets for Executive Management;
  - x. Monitoring and evaluating the performance of Executive Management;
  - xi. Reporting to Shareholders at Annual General Meetings;



- xii. Overseeing the effectiveness and adequacy of the Compliance, Internal Audit & Control and Risk Management functions;
- xiii. Appointing the Company Secretary, developing his/her ToR and ensuring that the person appointed is able to provide independent professional advice to the Board and Management;
- xiv. Promoting and overseeing the highest standards of corporate governance within the Board and the PFOs;
- xv. Establishing a succession plan, appointment process, induction and regular training process and remuneration structure for both Board and Executive Management (Executive Directors, Non-Executive Directors and Independent Non-Executive Directors);
- xvi. Developing Charter and Terms of Reference (ToR) for Management Committees of the PFOs; and
- xvii. Ensuring compliance with the laws of the Federal Republic of Nigeria and subsidiary legislations issued by the Commission.

2.1.4 Directors should undertake diligent analysis of all proposals placed before the Board and act with the level of skill expected from them.

2.1.5 Directors should not make improper or prejudicial use of information acquired as Directors and not disclose non-public information except where disclosure is authorized or legally mandated.

2.1.6 Directors should not take advantage of their position as Directors for personal gain or to compete with the PFOs.

2.1.7 Directors should not engage in conduct likely to discredit the PFOs, and should encourage fair dealings by all employees with the PFO's stakeholders.

## **2.2 Board Composition and Structure**

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 2 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.2.1 Members of the Board of Directors of PFOs shall be appointed by the Board, approved by the Shareholders and the Commission.
- 2.2.2 The Board shall develop a policy and criteria for the selection and appointment of Directors.
- 2.2.3 The Board shall constitute a Nomination and Governance Committee to make recommendations to the Board on all Board appointments.
- 2.2.4 A person who is not a serving director of the PFOs should not exercise any influence on the decision making of the Board or Management of the PFOs.
- 2.2.5 The Board shall develop a policy for the onboarding and orientation of new Directors to the Board.

## **2.3 Officers of the Board**

### **2.3.1 The Chairman of the Board**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 3 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.3.1.1 The MD/CEO or any ED shall only be appointed to the position of Chairman or NED of the PFOs in exceptional circumstances and after a cooling off period of at least three years.
- 2.3.1.2 The Chairman shall hold meetings with the NED without the Executive present at least once annually and on such other occasions as are deemed appropriate.
- 2.3.1.3 The Chairman's responsibilities include:

- i. Acting in the best interests of the PFOs, and in consistent with the position;
- ii. Taking active role in reviewing and approving policies for major initiatives and activities of the PFOs;
- iii. Promoting a culture of openness and debate among the Directors; and
- iv. Facilitating effective contribution and constructive relations between the EDs and NEDs.

### **2.3.2 The Managing Director/ Chief Executive Officer**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 4 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

2.3.2.1 The functions and responsibilities of the MD/CEO shall include:

- i. Ensuring that the Management team is effective and operates in a cohesive manner and all Senior Management focus on their key responsibilities; and
- ii. Ensuring effective communication with all stakeholders.

2.3.2.2 The MD/CEO provides overall leadership for the Management team.

### **2.3.3 Executive Director**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 5 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

2.3.3.1 The EDs' responsibilities shall include:

- i. Supporting the MD/CEO in the day to day running of the affairs of the PFOs, implementation of its strategic initiatives and policies as well as prudent management of the PFO's resources;

- ii. Promoting and protecting the interests of the PFOs;
- iii. Contributing to the development of the PFO's strategies and policies; and
- iv. Supporting the MD/CEO in ensuring that Management provides the Directors with accurate and timely information.

#### **2.3.4 Non-Executive Directors**

##### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 6 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

2.3.4.1. NEDs shall not nominate alternate Directors to represent them at Board and Board Committee Meetings.

2.3.4.2. The responsibilities of the NEDs shall include:

- i. Contributing to the agenda and deliberations of the Board, Board Committees and Annual General Meetings (AGMs); and
- ii. Ensuring that they attend all Board and Board Committee Meetings (as applicable).

#### **2.3.5 Independent Non-Executive Director**

##### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 7 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

2.3.5.1 An INED is one who:

- i. Does not possess a shareholding in the PFOs, its related or associated PFOs;
- ii. Has not been an employee and/or executive management of the PFOs, its parent, related or associated company;

- iii. Does not have an immediate family member (i.e. spouse, child, adopted child, step-child, brother, sister or parent) who is, or has been employed by the PFOs or any of its related PFOs within the last five (5) years;
- iv. Has not received any compensation or remuneration from the PFO or its parent company for the past five (5) financial years, apart from Director's fees and allowances;
- v. Is not a substantial shareholder, partner or executive officer of any profit making organization to which the PFOs made, or from which the PFOs received significant payments, in the past five (5) financial years; and
- vi. Has not served on the Board for more than nine years from the date of his first election.

2.3.5.2 The PFOs shall not reclassify an existing NED into an INED on the same Board.

2.3.5.3 The responsibilities of the INEDs shall include:

- i. Providing the Board with an independent opinion;
- ii. Ensuring that they attend all Board and Board Committee Meetings (as applicable); and
- iii. Ensuring and advising on maintenance of corporate governance at all times.

## 2.3.6 Company Secretary

### Recommended Practices:

Recommended practices shall be as specified by *Principle 8 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

2.3.6.1. The responsibilities of the Company Secretary (CS) shall include:

- i. Assisting the Chairman and MD/CEO in coordinating activities regarding the Board and Board Committees; and
- ii. Ensuring good information flow within the Board, its Committees and Senior Management.

## **2.4 Access to Independent Advice**

### **Recommended Practices:**

Recommended practices shall be as specified by Principle 9 of Nigerian Code of Corporate Governance 2018.

## **2.5 Board Meetings**

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 10 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.5.1** Written notices, including agenda of the meeting, shall be circulated before the meeting, except in the circumstance of emergency meetings, where the notice period may be reduced or waived.
- 2.5.2** Every Director shall endeavor to attend all Board and Board Committee meetings in which he/she is a member. Any Director who does not attend at least 50% of all Board and Board Committee meetings during his/her tenure except in special circumstances shall not qualify for consideration for re-election.
- 2.5.3** The quorum for Board meeting shall be clearly specified in the Memorandum and Articles of Association as well as the Board Charter.

## **2.6 Board Committees**

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 11 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.6.1** The Board shall establish structured Committees which shall include, Investment Strategy; Risk Management; Nomination & Governance; and Audit Committees. However, the establishment of the Investment Strategy Committee shall not be applicable for Custody business.

**2.6.2** The Board shall ensure that each Committee comprises of Directors with relevant skills and competencies.

**2.6.3** Membership of each Committee shall comprise of at least three Directors.

**2.6.4** The Board shall review the performance of the Committees annually.

**2.6.5 Nomination and Governance Committee:**

2.6.5.1 Members of the committee responsible for Nomination and Governance shall be NEDs and shall include at least one INED.

2.6.5.2 Members of the Committee responsible for Nomination and Governance, shall also be responsible for Remuneration Committee function, as highlighted under Section 11.3 of Nigerian Code of Corporate Governance 2018.

2.6.5.3 The Committee shall meet at least once every quarter.

2.6.5.4 The Nomination and Governance Committee's responsibilities shall include:

- i. Reviewing prospective candidates' qualifications and any potential conflict of interest, assessing the contributions of current Directors against their re-nomination suitability, and make appropriate recommendations to the Board;
- ii. Review the structure, size and composition of the Board at least annually and make recommendations on any proposed changes.

**2.6.6 Audit Committee:**

2.6.6.1 The responsibilities of the Audit Committee shall include:

- i. Reviewing controls over financial reporting, information technology security and operational matters;
- ii. Assessing the qualifications, independence and performance of the PFO's internal and external auditors;

- iii. Obtaining appropriate external assurance and reporting on the design and operating effectiveness of the PFO's internal controls in its annual audited financial report; and
- iv. Ensuring that the scope of the audit plan is appropriate, risk based, and addresses major areas of concern, and that the audit plan is reviewed within appropriate frequency.

2.6.6.2 The Audit Committee shall have unrestricted access to the financial records of the PFOs including external auditors' reports.

## **2.6.7 Risk Management Committee:**

2.6.7.1 The responsibilities of the Risk Management Committee shall include:

- i. Determining the risk profile of the investment portfolios of the Pension Fund Administrator and Closed Pension Fund Administrator;
- ii. Identifying, assessing and recommending to the Board acceptable levels of Risk;
- iii. Drawing up programmes of adjustments in the case of deviation;
- iv. Determining the level of reserves to cover the risks of the investment portfolios;
- v. Advising the Board on Risk Strategies as well as reviewing and recommending the risk management policy and framework for the approval of the Board;
- vi. Ensuring that risk awareness culture is maintained throughout the PFOs;

2.6.7.2 Where a single Committee is responsible for audit and risk management, the Executives can only be in attendance;

2.6.7.3 The Board shall have at least one member having joint membership of both the Risk Management and Audit Committees for more effective functioning;

2.6.7.4 The Chairman of the Committee shall be an INED; and

2.6.7.5 The Committee shall render a report of its activities to the PFO's Board and



the Commission, at least once every quarter.

## **2.6.8 Investment Strategy Committee**

2.6.8.1 The functions and responsibilities of the Investment Strategy Committee shall include:

- i. Formulating investment strategies for the approval of the Board in line with Investment Regulations issued by the Commission. The strategies shall include a set of assumptions about the PFO's risk tolerance and the portfolios' expected returns;
- ii. Monitoring and overseeing the implementation of the investment strategy;
- iii. Establishing investment objectives and policies;
- iv. Determining an optimal investment mix consistent with risk profile agreed by the Board of the PFOs;
- v. Setting performance targets for the various pension funds under management;
- vi. Evaluating the value of the daily marked to market portfolios and make proposals to the Board of the PFOs;
- vii. Reviewing the performance of the major securities of the investment portfolios of the PFOs with the relevant benchmarks on periodic basis;
- viii. Defining roles and responsibilities for Management including approval and authorization limits;
- ix. Reviewing the level of the PFO's compliance with applicable investment laws and guidelines issued by the Commission;
- x. Ensuring due diligence in the selection and approval of investments; and
- xi. Periodically reviewing Investment policies and procedures.

2.6.8.2 The person charged with the responsibility for Investment Management shall

be a member of Senior Management of the PFOs, with relevant professional qualifications and experience; and shall be in attendance at meetings of the Committee; and

2.6.8.3 The Chairman of the Committee shall be a Non-Executive Director.

## **2.7 Appointment to the Board**

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 12 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.7.1 The tenure for the MD/CEO and the EDs shall be determined by the Board but shall not exceed the maximum tenure provided in this Circular.
- 2.7.2 To resign, Directors shall submit a written notice of resignation addressed to the Chairman and the Commission.
- 2.7.3 Where a Director has concerns about the running of the PFOs, which cannot be resolved and he elects to resign from the Board, such concerns shall be detailed in a written statement to the Chairman for circulation to the Board, with a copy to the Commission.

## **2.8 Induction and Training of Directors**

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 13 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.8.1 The Induction programme shall include:
  - i. The PFO's strategic objectives, products and services;
  - ii. The PFO's Memorandum and Articles of Association, Board procedures and matters reserved for the Board;
  - iii. The PFO's major risks and risk management strategies;

- iv. Key performance indicators; and
- v. Regulatory requirements.

## **2.9 Board Evaluation**

### **Recommended Practice:**

Recommended practices shall be as specified by *Principle 14 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.9.1 The Individual Evaluation shall aim to show the contributions of each Director to the Board, including time committed for Board and Board Committee meetings.
- 2.9.2 To bring objectivity to the process, the Board may consider the use of an external third party to conduct the evaluation.
- 2.9.3 Where the use of an external third party is not desirable, the PFOs may decide to design and institute its own internal board review and evaluation process, and the following shall apply:
  - i. The Nomination and Governance Committee shall be responsible for evaluating performance;
  - ii. The NEDs, led by the INED, shall be responsible for performance evaluation of the Chairman, taking into account the views of the EDs;
  - iii. The Chairman and the NEDs shall be responsible for the evaluation of EDs;
  - iv. The Chairman and the EDs shall be responsible for the evaluation of NEDs; and
  - v. Details of such processes shall be forwarded to the Commission for prior approval.
- 2.9.4 The Chairman shall act on the results of the performance evaluation by recognizing the strengths and addressing the weaknesses of the Board and its Committees.

2.9.5 The PFOs shall attach the outcome of the annual evaluation of the Board, Board Committees and Directors to its Corporate Governance Report to the Commission highlighted under 2.10.1.

## **2.10 Corporate Governance Evaluation**

### **Recommended Practice:**

Recommended practices shall be as specified by *Principle 15 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

2.10.1 The annual Corporate Governance Evaluation Report shall also be forwarded to the Commission not later than three months after the PFO's financial year end.

2.10.2 The Corporate Governance Report should include:

- i. A description of Corporate Governance practices instituted in the PFOs within the reporting year;
- ii. Disclosures of any deviation from the Corporate Governance Circular;
- iii. Delegation of authority by the Board to any Board Committee to make decisions on any Board matters;
- iv. The number of Board meetings held in the year and the attendance of every Board member at the meetings;
- v. The number of Board Committee meetings held in the year and the attendance of every Board Committee member at the meetings;
- vi. The terms of reference of all Board Committees;
- vii. The type of material transactions that require Board approval under the PFO's internal Guidelines;
- viii. The nature of Independent Director's relationship and the reason for considering him/her as independent, where the PFOs considers him/her independent despite the existence of a relationship as stated in 2.3.5.1 above that would otherwise deem him/her as non-independent.
- ix. The relationship between the MD/CEO and the Chairman where they are related (spouse, child, step-child, brother, sister or parent);

- x. The process for selection and appointment of new Directors to the Board;
- xi. Key information regarding the Directors, i.e. which Directors are, Executive, Non-Executive or considered by the Nomination and Governance Committee to be independent;
- xii. The process of assessing the effectiveness of the Board as a whole and the contribution of each individual Director to the effectiveness of the Board;
- xiii. Composition of the Board Committees and details of their activities;
- xiv. The adequacy of internal controls, including financial, operational and compliance controls as well as risk management systems; and
- xv. How the performance evaluation of the Board, its Committees and its Directors was conducted.

## **2.11 Tenure and Re-election**

### **Recommended Practice:**

- 2.11.1 The tenure for the MD/CEO and the EDs shall not exceed a maximum of ten (10) years, while the tenure for an ED who proceeds to be MD/CEO shall not exceed a maximum of 15 years, inclusive of the years spent as ED.
- 2.11.2 NEDs shall serve for a maximum period of fifteen (15) years on the Board. However, it is necessary to reinforce the Board by continually injecting new energy, fresh ideas and perspectives. The Board should ensure the periodic appointment of new Directors to replace existing NEDs.
- 2.11.3 INEDs shall not serve on the Board for more than a maximum of 9 (nine) years comprising three terms of three years each.
- 2.11.4 No Chairman of a PFOs can become the MD/CEO of the same PFOs upon expiration of his/her tenure.
- 2.11.5 To ensure smooth transition in the PFOs, a grace period of two years from the date of the commencement of this Circular, shall apply where Board Member's aggregate or cumulative tenure has already exceeded tenure limit for such position.

## 2.12 Remuneration Governance

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 16 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 2.12.1 The Board should carefully consider compensation commitments of Directors in the event of early termination.
- 2.12.2 The Commission shall approve all new long-term incentive schemes for Directors.
- 2.12.3 The Director's letter of Appointment shall include remuneration package and method of remuneration.
- 2.12.4 Where performance related elements is considered in remuneration of the EDs, it should be transparent, stretching and rigorously applied without bias, and care must be taken to prevent excessive risk taking.
- 2.12.5 The Board may consider industry peer comparison or other benchmark for developing the Director's remuneration. However, such comparisons should be used with caution, to avoid paying more than necessary and the risk of upward notch in remuneration levels without corresponding improvement in corporate and individual performance.
- 2.12.6 Remuneration structure should reflect the level of work expected of the EDs and NEDs and shall be in a manner that is consistent with appropriate incentives.
- 2.12.7 The Board should include provisions that specify the circumstances where the PFOs would recover money paid or withhold payment of money to both Executive and Non-Executive Directors, and when it will be appropriate to do so.

## **3.0 CONTROL FUNCTIONS**

### **3.1 Risk Management**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 17 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

The Board should:

- 3.1.1 Ensure that the risk management framework reflects the risk profile and appetite of the PFOs, clearly defining all risk elements and processes to identify and manage risks;
- 3.1.2 Ensure periodic review of the implementation of the risk management framework;
- 3.1.3 Re-evaluate the risk management process on a periodic basis to accommodate major changes; and
- 3.1.4 The Head, Risk Management shall report administratively to the MD/CEO, and he/she shall have functional reporting line to the Board Risk Management Committee.

### **3.2 Compliance**

#### **Recommended Practices:**

- 3.2.1 The Board shall have the primary responsibility for the compliance function, as it shall oversee the management of the PFO's compliance risk.
- 3.2.2 The Board shall approve the compliance policy of the PFOs and actively promote the values of honesty and integrity throughout the PFOs.
- 3.2.3 The Board shall approve the appointment and if necessary dismiss a Compliance Officer subject to the approval of the Commission. In addition, the redeployment of a Compliance Officer shall be subject to the Commission's approval.
- 3.2.4 At least once a year, the Board or a Committee of the Board shall identify and assess the extent to which the Operator is managing its compliance

risks.

3.2.5 The PFOs shall employ a Compliance Officer whose responsibilities shall include:

- i. Ensuring compliance with the provisions of the PRA 2014, Guidelines, Rules and Regulations issued by the Commission as well as internal policies of the PFOs;
- ii. Having relevant professional and cognate experience;
- iii. Reporting to the MD/CEO of the PFOs and the Commission on any non-compliance by the PFOs; and
- iv. Liaising with the Commission with regard to any matter which, in the opinion of the Commission, will enhance the compliance of the PFOs with the provisions of the PRA 2014, Guidelines, Rules and Regulations issued by the Commission.

3.2.6 The Regulation for Compliance Officers issued by the Commission remains valid and operational, as part of the practices of the Compliance function.

### **3.3 Internal Audit**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 18 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

3.3.1 The Board shall articulate, implement and review the PFO's internal control systems to strengthen the risk management framework.

3.3.2 The Board shall approve the appointment of the Head Internal Audit function subject to the approval of the Commission. The Board reserves the right to dismiss the Head, Internal Audit function, based on recommendation of the Board Audit Committee.

3.3.3 The Internal Audit function shall not be outsourced.



### **3.4 Whistle Blowing**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 19 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 3.4.1 The Board shall establish an effective whistle-blowing mechanism that will encourage stakeholders to bring unethical misconduct, violations of laws and regulations to the attention of an internal authority and/or the Commission. This will ensure that actions can be taken to verify the allegation and apply appropriate sanctions or take remedial actions to correct any harm done. The mechanism should be known to employees, as well as external stakeholders.
- 3.4.2 The Board shall ensure that no whistle-blower is subject to any detriment on the grounds that he/her has made a disclosure in good faith. Where a whistle-blower has been subjected to any detriment, he/she may present a complaint to the Commission. A whistle-blower who has suffered any detriment by reason of disclosure may be entitled to compensation and/or reinstatement as prescribed by the Commission.

### **3.5 External Auditors**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 20 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 3.5.1 The Board shall engage a qualified External Auditor(s) and re-appoint or remove the Auditor based on the recommendation of the Board Audit Committee who shall be responsible for the external audit function of the PFOs.
- 3.5.2 There shall be a cooling off period of three years before a PFOs can engage any member of the audit team as a staff member in the financial reporting function.
- 3.5.3 Where the Board is satisfied that the External Auditor has abused its office, acted in a fraudulent manner or colluded in any fraud or for any other reason, the Board may recommend the removal of such External Auditor in accordance with the provisions of extant laws, and a notice of the

recommendation be forwarded to the Commission within 14 days.

- 3.5.4 Where the Commission is satisfied that the External Auditor of the PFOs has abused its office as an auditor, it may require the PFOs to remove such External Auditor in line with the provisions of the extant laws.
- 3.5.5 The External Auditor shall be responsible to the Commission for the protection of pension funds and assets managed or held by the PFOs it is auditing and shall report to the Commission on the following:
- i. Any extreme situation such as evidence of imminent financial collapse of the PFOs; and
  - ii. Any evidence of any event or occurrence which has led or is likely to lead to material diminishing of the net assets of the fund or the PFOs or both.
- 3.5.6 The Board shall forward copies of the audited financial report to the Commission for approval together with the External Auditor's management letter on the audit of the fund and PFO, not later than four months from the PFOs/Fund's financial year end.

## **4.0 RELATIONSHIP WITH SHAREHOLDERS**

### **4.1 General Meetings**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 21 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 4.1.1 The meeting venue should be selected with consideration to shareholders with special disabilities.
- 4.1.2 Notices of General Meetings shall be at least 21 days from the date on which the meeting is scheduled to hold. Copies of the Annual Reports, Audited Financial Statements and all other related documents pertaining to any resolution to be voted upon should be dispatched along with the notice of the meeting. This includes voting or proxy instructions and relevant papers that will enable stakeholders prepare adequately for the meeting.

## 4.2 Shareholder Engagement

### Recommended Practices

Recommended practices shall be as specified by *Principle 22 of Nigerian Code of Corporate Governance 2018*.

## 4.3 Protection of Shareholder Rights

### Recommended Practices

Recommended practices shall be as specified by *Principle 23 of Nigerian Code of Corporate Governance 2018*.

## 5.0 ETHICS AND BUSINESS PRACTICES

### 5.1 Conflict of Interest

#### Recommended Practices:

Recommended practices shall be as specified by *Principle 24 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 5.1.1 A relationship between a PFOs (PFA, CPFA, & PFC) and a third party service provider is deemed to exist where:
- i. The PFOs and the service providers, which it appoints, have common ownership or directorship, no matter how insignificant; and
  - ii. An immediate family member (i.e. spouse, child, adopted child, step-child, brother, sister or parent) of a shareholder or director of a PFOs is a shareholder or director of a service provider, which it appoints.
- 5.1.2 PFOs shall engage service providers that have a relationship with it on an arm's length basis and customary disclosures shall be made in their audited financial statements.
- 5.1.3 Where the PFA decides to invest pension funds in a Company whose registrar is related (i.e. shareholder, subsidiary or associate) to either the PFA or the PFC which the PFA appoints, the PFA shall disclose such relationship to the Commission. In such circumstance, the Commission reserves the right to allow or disallow such investment.

- 5.1.4 A relationship between a PFA and a PFC is deemed to exist in situations where:
- i. Any director in a PFA is an employee, principal officer or shareholder in a PFC that the PFA appoints to carry on any form of business on its behalf, in its subsidiary, associated PFOs, or its parent company;
  - ii. Any director in a PFA that is a director on the Board of a PFC, and vice versa, that the PFOs appoints to carry on any form of business on its behalf, or is on the Board of its subsidiary or associated PFOs; and
- 5.1.5 The PFA shall not have any relationship with the PFC with which it chooses to do business.
- 5.1.6 To avoid potential conflict of interest, where applicable, PFOs employees shall declare their marital relation with employees of the Commission, and vice versa, immediately such relationships arise. Actions following disclosure shall be subject to the Commission's Conflict of Interest Policy.
- 5.1.7 Employees shall at the earliest opportunity bring to the notice of their employers, in all cases, whereby conflict of interest arises in the discharge of their duties to the PFOs.
- 5.1.8 Directors should promptly disclose any real or potential conflict of interest that they may have by virtue of their membership of the Board.
- 5.1.9 If a Director is not certain whether he is in a conflict of interest situation, the Director concerned should discuss the matter with the Chairman of the Board, the Company Secretary or the Chairman of the committee responsible for nomination and governance for advice and guidance.
- 5.1.10 If any question arises before the Board as to the existence of a real or perceived conflict, the Board *or any Director*, should report to the Commission to determine if a conflict exists.
- 5.1.11 Directors who are aware of a real, potential or perceived conflict of interest on the part of a fellow Director, have a responsibility to raise the issue promptly for clarification, either with the Director concerned, the Chairman of the Board or the Chairman of the committee responsible for nomination and governance.
- 5.1.12 In the event that a Director becomes aware of any potential conflict of interest at any other point, he/she should disclose this to the Board and the PFOs should report to the Commission at the earliest possible opportunity.

- 5.1.13 No person who has served at directorate level or above, leaving the services of the Commission, for any reason, should be appointed as a Director or top management staff of a PFOs until after three years of the disengagement of such Executive or Senior Management staff.
- 5.1.14 Employees shall do all in their power to ensure their impartiality and independence and avoid all situations that could result in a conflict of interest or be perceived as such. They should not use their position for the private gain of their spouse or children, or for the private gain of any other person.

## 5.2 Ethical Culture

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 25 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 5.2.1 PFOs shall work in a spirit of respectful collaboration and co-operation with those with whom they interact without compromising their personal or professional integrity.
- 5.2.2 PFOs shall at all times, act honestly and in such manner that third parties are not caused to be misled. They shall not in the course of discharging their professional duties knowingly or recklessly disseminate false or misleading information to third parties.
- 5.2.3 PFOs shall not engage in any conduct involving dishonesty, fraud, deceit, or misrepresentation or commit any act that would negatively impact on the Pension industry.
- 5.2.4 PFOs shall not undermine other PFOs' stability in the process of marketing, so that competition is made healthy. PFOs shall not reveal information about other PFOs without their permission and shall take reasonable precautions to avoid such information from being disclosed unintentionally.
- 5.2.5 Employees shall avoid directly or indirectly accepting or giving any gift, gratification, or anything of monetary value for anything done or omitted to be done during the discharge of their duties.
- 5.2.6 PFOs shall be transparent in all their dealings except in cases where the

needs of business security dictate otherwise and shall hold themselves accountable to the appropriate authority/body.

- 5.2.7 PFOs shall never disclose in their writings, reports, social media posts or otherwise make public, any information they have acquired about persons, employers or clients in the course of their professional work, unless disclosure is both legal and that they have either taken reasonable steps to disguise the identity of the person, employer or client, or they have the express permission to disclose.
- 5.2.8 Transactions must be recorded promptly and accurately in order to permit the preparation of accurate financial and other records. Records shall not be falsified in any manner. No entry shall be made that intentionally hides or disguises the true nature of any transaction.
- 5.2.9 Employees shall act honestly, in good faith and in the best interests of the PFOs in accordance with legal requirements and agreed ethical standards.
- 5.2.10 Employees owe a fiduciary duty to the PFOs, and have a duty of care, skill, diligence and loyalty in fulfilling the functions of their offices and exercising the powers attached to those offices.
- 5.2.11 PFOs should encourage the reporting of unlawful or unethical behaviour and actively promote ethical behaviour and the protection of those who report violations in good faith.

## **6.0 SUSTAINABILITY**

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 26 of Nigerian Code of Corporate Governance 2018*.

## **7.0 TRANSPARENCY**

### **7.1 Stakeholder Communication**

#### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 27 of Nigerian Code of*

## **7.2 Disclosure**

### **Recommended Practices:**

Recommended practices shall be as specified by *Principle 28 of Nigerian Code of Corporate Governance 2018*, in addition to the following sector specific provisions:

- 7.2.1 The PFOs shall submit to the Commission, an annual report on both the company operations and pension funds being managed by it and the report shall include the audited accounts, not later than four months after its financial year end.
- 7.2.2 The report shall include the description of corporate governance practices instituted in the PFOs within the reporting year and shall also disclose and explain any deviation from any provision of this Circular.

## **8.0 REVIEW AND ENQUIRIES**

The Circular shall be subject to review by the Commission from time to time as the need arises.

All enquiries regarding this Circular shall be directed to the Director General, National Pension Commission.