

FINANCIAL REPORTING
COUNCIL (FRC) OF
NIGERIA

EXPOSURE DRAFT OF
NATIONAL CODE OF
CORPORATE
GOVERNANCE 2016

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Part A: Preliminary Matters

1. Introduction

(FRC to populate)

Part B: Application of the Code

2. Application of the Code

2.1 The National Code of Corporate Governance for the private sector in Nigeria 2016 shall be applicable to the following:

- (a)** All public companies (whether listed or not);
- (b)** All private companies that are holding companies or subsidiaries of public companies; and
- (c)** All other companies other than those listed in (a) and (b) above, but excluding those companies that routinely file returns only with the Corporate Affairs Commission and the Federal Inland Revenue Service and small private companies.

2.2 Compliance with the provisions of this code is mandatory.

Part C: Board of Directors

3. Main Purpose of the Board

The main purpose of the board is to provide entrepreneurial, strategic and ethical leadership to a company, ensure that management is acting in the best interest of owners and other stakeholders through the board's advisory and monitoring roles, and in the process enhance and sustain the prosperity of the company over time.

4. Responsibilities of the Board

4.1 Every company should be headed by a board that should govern, direct and be in effective control of its affairs. Every board should have a Charter setting out its responsibilities.

- 4.2 The board being central in corporate governance should serve as the link between the stakeholders and the company. The board's paramount responsibility is the positive performance of the company in creating value for all its stakeholders.
- 4.3 The board should exercise leadership, enterprise, integrity and judgment in directing the company so as to achieve continuing survival and prosperity of the company.
- 4.4 The board shall ensure the establishment of a succession plan, appointment, training and remuneration for both the board and senior management of the company.
- 4.5 The board is accountable to the company and should exercise the important role of identifying other stakeholders relevant to the business of the company and incorporate their expectations in its decisions.
- 4.6 The board should set the company's values and standards (including ethical standards), and ensure that obligations to shareholders and other stakeholders are understood and met.
- 4.7 The appointment and removal of the head of the internal audit shall be the responsibility of the board on the recommendations of the statutory or Board Audit Committee (or both where they co-exist).
- 4.8 The board is responsible for the establishment of the company's risk management framework as well as oversight over its implementation.
- 4.9 The board should be responsible for Information Technology governance.

5. Board Structure and Composition

- 5.1 The board should be of a sufficient size relative to the scale and complexity of the company's operations and be composed in such a way as to ensure diversity of experience and gender without compromising competence, independence, integrity and availability of members to attend meetings.
- 5.2 The board should include an appropriate combination of executive and non-executive directors (and, in particular, independent non-executive directors) such that no individual or small group of individuals can dominate the board's decision-making.
- 5.3 No person, having retired from the board or executive management of a company, should continue to exercise any surreptitious influence or dominance over any of these two governance structures.

Such continued dominance or influence may vitiate the validity of the disengagement cool-off period as provided for by this Code.

- 5.4** The number of executive directors on the board should not be more than one-third of the board.
- 5.5** The number of non-executive directors on the board should not be less than two-thirds of the board and the number of independent non-executive directors should not be less than half of the number of non-executive directors.
- 5.6** Membership of the board should not be less than eight (8). However, in the case of a small company, the regulator may prescribe the minimum number of independent non-executive directors to safeguard both minority and stakeholders' interests.
- 5.7** The board should appoint one of the independent non-executive directors as the lead independent non-executive director to provide a sounding board for the chairman and to serve as an intermediary for the other directors when necessary. The lead independent non-executive director should be available to shareholders if they have concerns which contact through the normal channels of chairman, chief executive or other executive directors has failed to resolve or for which such contact is inappropriate.
- 5.8** The positions of the Chairman of the board and the Managing Director/Chief Executive Officer (MD/CEO) of the company shall be separate such that one person shall not combine the two positions in any company.
- 5.9** The board should discourage cross-memberships on the boards of two or more companies (unless within a group) and disallow it where this will lead to a conflict of interest situation among competing companies.
- 5.10** Directors may hold concurrent directorships. However, concurrent service on too many boards may interfere with an individual's ability to discharge his responsibilities. The board and the shareholders should therefore give careful consideration to other obligations and commitments of prospective directors in assessing their suitability for appointment to the board. To achieve this:
 - 5.10.1** A prospective director should disclose his/her memberships of other boards;
 - 5.10.2** The directorial status of every director should be indicated against the name of the director in the annual report of the company, corporate publications and investors' portal;
 - 5.10.3** The board should consider the other directorships held by such a prospective director and determine whether the

prospective director can contribute effectively to the performance of the board and the discharge of its responsibilities before recommending such a person for appointment;

- 5.10.4** Serving directors should notify the board of prospective appointments on other boards; and
- 5.10.5** Directors should not be members of boards of companies in the same industry to avoid conflict of interest, breach of confidentiality and diversion of corporate opportunity.
- 5.11** Not more than two members of the same or extended family shall sit on the board of the same company at the same time.
- 5.12** Companies should establish a policy concerning diversity and disclose the policy or a summary of that policy. The policy should include requirements for the board to establish measurable objectives for achieving gender diversity for the board to assess annually both the objectives and progress in achieving them.

6. Officers of the Board

6.1 Chairman

- 6.1.1** The chairman's primary responsibility is to ensure effective operation of the board such that the board works as a group towards achieving the company's strategic objectives. The chairman should not be involved in the day-to-day operations of the company. This should be the primary responsibility of the chief executive officer and the management team.
- 6.1.2** The positions of the chairman of the board and chief executive officer shall be separate and held by different individuals.
- 6.1.3** The chairman of the board should be a non-executive director.
- 6.1.4** The MD/CEO should not go on to be the chairman of the same company. If in very exceptional circumstances the board decides that a former MD/CEO should become chairman, the cool off period should be 10 years and the board should consult both majority and minority shareholders in advance and also inform the regulator of the appointment, setting out its reasons for such appointment. This should also be stated in the next annual report.

6.1.5 The chairman may be re-elected at the first meeting of the board of directors after the annual general meeting of the company in which he was re-elected as a director.

6.1.6 The chairman's functions should include the following:

- (a) providing overall leadership and direction for the board and the Company;
- (b) getting the board to agree an annual board plan;
- (c) setting the agenda for board meetings;
- (d) ensuring that the board and its committees are composed of the relevant skills, competencies and desired experience;
- (e) ensuring that board meetings are properly conducted and the board is effective and functions in a cohesive manner;
- (f) ensuring that all directors focus on their key responsibilities and play constructive role in the affairs of the company;
- (g) ensuring that induction programmes are conducted for new directors and a continuing education programme is in place for all directors;
- (h) ensuring effective communication and relations with the company's institutional shareholders and strategic stakeholders;
- (i) taking a lead role in the assessment, improvement and development of the board;
- (j) presiding over general meetings of shareholders; and
- (k) confirming to shareholders whether board expectations have been met, particularly for the reporting period.

6.1.7 The chairman is responsible for ensuring that the directors receive accurate, timely and clear information. Management has an obligation to provide such information but directors should seek clarification or amplification where necessary.

6.1.8 The chairman should hold meetings with the non-executive directors without the executives present. Led by the lead independent non-executive director, the non-executive directors should meet without the chairman present at least annually to appraise the chairman's performance and on such other occasions as are deemed appropriate.

6.2 Lead Independent Non-Executive Director

- 6.2.1** The independent non-executive directors should appoint one among themselves as the lead independent non-executive director to provide a sounding board for the chairman and to serve as an intermediary for the other directors when necessary.
- 6.2.2** The lead independent non-executive director should be available to shareholders if they have concerns which contact through the normal channels of chairman, chief executive or other executive directors has failed to resolve or for which such contact is inappropriate.
- 6.2.3** The lead independent non-executive director should preside at the exclusive meetings of non-executive directors and separate meetings of independent non-executive directors.

6.3 Managing Director/Chief Executive Officer

- 6.3.1** The managing director (MD) or chief executive officer (CEO) should be the head of the Management and is answerable to the board.
- 6.3.2** The MD/CEO should be knowledgeable in relevant areas of the company's activities. He should demonstrate industry, credibility and integrity and have the confidence of the board and management.
- 6.3.3** The MD/CEO should not be the only executive director on the board of directors of the company.
- 6.3.4** The MD/CEO and the senior management should establish a culture of integrity, compliance, conformance and performance which should be assimilated by personnel at all levels of the company.
- 6.3.5** The functions and responsibilities of the MD/CEO should include the following:
 - (a)** day-to-day running of the company;
 - (b)** guiding the development and growth of the company;
 - (c)** acting as the company's leading representative in its dealings with its stakeholders.
- 6.3.6** The authority of the MD/CEO and the relationship between the office and the board should be clearly and adequately described in a letter of appointment.

- 6.3.7** The board may delegate such of its powers to the MD/CEO as it may deem appropriate to ensure smooth operation of the company.
- 6.3.8** The remuneration of the MD/CEO should comprise of a component that is long-term performance related and may include stock options and bonuses which should however be disclosed in the company's annual reports.

6.4 Company Secretary

- 6.4.1** Without prejudice to the provisions of the Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria 2004, the company secretary should be a person with relevant qualification and competence necessary to effectively discharge the duties of his office. He should be appointed through a rigorous selection process similar to that of new directors.
- 6.4.2** The company secretary has the primary duty of assisting the board and management in implementing this Code and developing good corporate governance practices and culture.
- 6.4.3.** The Company Secretary has both functional and administrative responsibilities. The functional responsibility is to the Board to which he reports directly through the Chairman, while the administrative responsibility is to the company and the MD/CEO to whom he reports as the Head of Executive Management.
- 6.4.4** In addition to his statutory functions, the company secretary should carry out the following duties and responsibilities:
- (a) Provide the board and directors individually, with detailed guidance as to how their responsibilities should be properly discharged in the best interest of the company;
 - (b) Coordinate the orientation and training of new directors;
 - (c) Assist the chairman and MD/CEO in coordinating activities regarding the annual board plan and with the administration of other strategic issues at the board level;

- (d) Compilation of board papers and ensuring that the board's discussions and decisions are clearly and properly recorded and communicated to the relevant persons;
- (e) Notify board members of matters that warrant their attention;
- (f) Provide a central source of guidance and advice to the board and the company, on matters of ethics, conflict of interest and good corporate governance.

6.4.5 Under the direction of the chairman, the company secretary's responsibilities include ensuring good information flows within the board and its committees and between senior management and non-executive directors.

6.4.6 The company secretary should be properly empowered by the board to discharge his duties and responsibilities.

6.4.7 The appointment and termination of the appointment of the company secretary should be a matter for the board.

6.5 Executive Directors

6.5.1 Executive directors should be persons knowledgeable in relevant areas of the company's activities in addition to possessing such other qualifications as may be needed for their specific assignments or responsibilities.

6.5.2 Executive directors should be involved in the day-to-day operations and management of the company. In particular, they should be responsible for their departments and should be answerable to the board through the MD/CEO.

6.5.3 Executive directors should not be involved in the determination of their remuneration.

6.5.4 The levels of remuneration of executive directors should be such that will attract, retain and motivate directors of the quality required to run the company successfully.

6.5.5 Executive directors' remuneration should be structured to link rewards to corporate and individual performances.

- 6.5.6** The remuneration of executive directors should comprise a component that is long-term performance related and may include stock options and bonuses.
- 6.5.7** The details of the remuneration of executive directors should be disclosed in the company's annual reports.
- 6.5.8** Executive directors should not receive any sitting allowances or director's fees.
- 6.5.9** An executive director may be appointed non-executive directors of other companies, provided such appointments are not detrimental to his immediate responsibilities as an executive director and are in accordance with board-approved policy.
- 6.5.10** Where the board permits an executive director to serve as a non-executive director elsewhere, there should be a disclosure in the annual report as to the value of his remuneration for such appointment and the policy of the company as to its retention or otherwise.
- 6.5.11** Executive director should not take on more than one non-executive directorship in a listed company nor the chairmanship of such a company unless the company is a subsidiary or associate of the company of which he is an executive director.
- 6.5.12** Under no circumstances should executive directors sit on the nomination and governance committee, remuneration committee or audit committee (whether statutory or board audit committee).

6.6 Non-Executive Directors

- 6.6.1** Non-executive directors should be chosen on the basis of their wide experience, specialist knowledge and personal qualities and are expected to bring these qualities to bear on issues of strategy, performance and resources.
- 6.6.2** Non-executive directors should constructively challenge and contribute to the development of the strategy of the company and satisfy themselves that the financial information provided by the company is accurate and that the company has in place a robust and adequate internal controls and risk management systems.
- 6.6.3** Non-executive directors should be responsible for the performance evaluation of the MD/CEO.

- 6.6.4** Non-executive directors, led by the lead independent non-executive director, should be responsible for performance evaluation of the chairman, taking into account the views of executive directors.
- 6.6.5** Non-executive directors should have unfettered access to executive directors.
- 6.6.6** Non-executive directors should have unfettered access to the Company Secretary and the Internal Auditor, while access to other senior management (other than executive directors) should be through the MD/CEO.
- 6.6.7** Non-executive directors should declare any conflicts of interest on appointment. In the event that they become aware of any potential conflicts of interests after appointment to the board, they should disclose these to the board.
- 6.6.8** Non-executive directors shall be entitled to be paid sitting allowances, directors' fees and reimbursable travel and hotel expenses. These payments, in addition to any other benefits made to non-executive directors shall be disclosed in the company's annual report.
- 6.6.9** Non-executive directors should be provided with appropriate facilities and administrative support for the effective discharge of their duties. Adequate and comprehensive information on all board matters should be provided to them in a timely manner.

6.7 Independent Non-Executive Directors

- 6.7.1** The main purpose of independent non-executive directors is to bring a desired degree of objectivity that sustains investors' trust and confidence by representing a strong independent voice on the board.
- 6.7.2** An independent non-executive director should be independent in character and judgment and accordingly should be free from such relationships or circumstances with the company, its management, or substantial shareholders which may, or appear to, impair his ability to make independent judgment.
- 6.7.3** An independent non-executive director is a non-executive director who:
 - (a)** is not a substantial shareholder of the company (that is, one whose shareholding, directly or indirectly, does not exceed 0.1% of the company's paid up capital) or a nominee of a

substantial shareholder of the company or otherwise related to such a substantial shareholder of the company;

- (b) is not a representative of a shareholder that has the ability to control or significantly influence Management;
- (c) has not been an employee of the company or group within the last five years;
- (d) is not a close family member of any of the company's advisers, directors, senior employees, consultants, auditors, creditors, suppliers, customers or substantial shareholder;
- (e) does not have, and has not had within the last five years, a material business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has, or has had, such a relationship with the company;
- (f) does not render any professional, consultancy, or other advisory services to the company or the group, other than in a capacity of a director;
- (g) does not receive, and has not received additional remuneration from the company apart from a director's fee and allowances, and does not participate in the company's share option or a performance-related pay scheme, nor is a member of the company's pension scheme;
- (h) has not served on the board for more than nine years from the date of his first election; and
- (i) does not hold cross-directorships or significant links with other directors through involvement in other companies or bodies.

6.7.4 The above mentioned criteria for establishing the independent status of an independent non-executive director are not intended to be exhaustive, but should be considered as examples of some of those relationships or circumstances which may impair, or appear to impair, an independent non-executive director's independent judgment.

6.7.5 In appointing independent non-executive directors, companies may apply to any of the relevant regulators or the Institute of Directors, Nigeria for a list of potential independent non-executive directors from their respective database.

6.7.6 At least once every year, there should be a meeting of only the independent non-executive directors of the company, at

which no other director or member of management of the company is present.

- 6.7.7** An independent non-executive director should declare annually his continued independence. The board should undertake an annual evaluation of the independent status of each independent non-executive director of the company.
- 6.7.8** The independent status of independent non-executive directors of a company should be clearly disclosed in the company's annual report, corporate governance report, and on the website of the company.
- 6.7.9** The reclassification of an existing non-executive director into an independent non-executive director on the same board is not allowed.
- 6.7.10** Independent non-executive directors may seek and obtain external professional advice, at the company's expense, in the discharge of their responsibilities.
- 6.7.11** Where an independent non-executive director resigns from the board before the expiration of his term, he should disclose to the appropriate regulator(s) the reasons for such resignation.

7. Meetings of the Board

- 7.1** In order to effectively perform its oversight function and monitor management's performance, the board should meet at least once every quarter.
- 7.2** Every director should be required to attend at least two-thirds of all board meetings. Such attendance record shall be among the criteria for the re-nomination of a director except where there are cogent reasons which the board must notify the shareholders of at the annual general meeting.
- 7.3** Where a majority of independent non-executive directors dissent on an issue decided by the board, such decision can only be valid where at least 75% of the full board (without reference to quorum) vote in favour of such decision.

8. Board Committees

- 8.1** The board should determine the extent to which its duties and responsibilities should be undertaken through committees. It should determine the number and composition of such committees, ensuring that each comprises of directors with relevant skills and

competencies and that its members are able to devote sufficient time to the committee's work.

- 8.2** A Charter should be established and approved for each committee of the board. The board shall spell out therein the terms of reference and composition of such committees.
- 8.3** The board should delegate certain of its functions to well-structured committees, but without abdicating its own responsibilities. The membership of board committees should be reviewed and reconstituted at most every three years.
- 8.4** Every board should establish nomination and governance committee, remuneration committee, audit committee, and risk management committee.
- 8.5** The boards of small companies may merge any of the committees mentioned in section 8.4, taking into consideration the size, needs and other requirements of the company, subject to adequate board oversight and regulatory concurrence.
- 8.6** In the case of small companies, where one committee performs audit and risk management functions, the officer overseeing risk in the company should be in attendance at the meeting of the committee when deliberating on risk matters only. The officer shall not be present when the committee is deliberating on audit matters.
- 8.7** The chairman of the board should not sit on any board committee, and no director should serve on more than two of these three committees: nomination and governance, remuneration and audit.
- 8.8** No one other than the Committee Chairman and members of the committee is entitled to be present at a meeting of the nomination and governance, audit or remuneration committee, but others may attend only at the specific invitation of the committee. Such persons should take their leave immediately after satisfying the purpose of their invitation.
- 8.9** The company secretary, or any other officers in the office of the company secretary, shall be the secretary of all board committees.
- 8.10** Minutes of meetings of board committees should be prepared and sent to members of such committees on a timely basis, and thereafter to members of the board on a timely basis.
- 8.11** Minutes are a record of what transpired at a meeting. Minutes should therefore not be written for meetings not actually held.
- 8.12** **Nomination and Governance Committee**
 - 8.12.1** The board should establish a nomination and governance committee which shall be composed of at least three

members, all of whom shall be non-executive directors, a majority of whom shall be independent non-executive directors.

8.12.2 The chairman of the nomination and governance committee shall be appointed by the board and must be an independent non-executive director.

8.12.3 The committee should meet in the course of the year as it deems appropriate. The agenda for the meetings of the committee shall be developed by the chairman of the committee in consultation with other members of the committee.

8.12.4 The nomination and governance committee shall have the duty to:

- (a) Review the structure, size and composition of the board at least annually and make recommendations on any proposed changes to the board.
- (b) Establish the criteria for board and board committee membership, review prospective candidates' qualifications and any potential conflict of interest, assess the contribution of current directors against their re-nomination suitability, and make appropriate recommendations to the board.
- (c) Periodically determine the skills, knowledge and experience required on the board and its committees.
- (d) Identify individuals suitably qualified to become board members and make recommendations to the board for nomination and appointment as directors.
- (e) Ensure the annual declaration of independence by independent non-executive directors and undertake the annual assessment of the independent status of such independent non-executive directors.
- (f) Justify to the board and members of the company the re-classification of an existing non-executive director as an independent non-executive director.
- (g) Ensure that the company has a succession policy and plan in place for the chairman of the board, the chief executive officer of the company, and all other executive and non-executive directors and senior management positions.

- (h) Ensure that the board undertakes an annual performance evaluation of itself, its committees, the chairman and other individual directors.

8.12.5 A separate section of the annual report should describe the work of the nomination and governance committee, including the process it uses in relation to board appointments.

8.13 Remuneration Committee

8.13.1 The board should establish a remuneration committee which shall be composed of at least three members, all of whom shall be non-executive directors, a majority of whom shall be independent non-executive directors.

8.13.2 The chairman of the remuneration committee shall be appointed by the board and he must be an independent non-executive director.

8.13.3 The remuneration committee should meet in the course of the year as it deems appropriate. The agenda for the meetings of the remuneration committee shall be developed by the chairman of the committee in consultation with other members of the committee.

8.13.4 The duties of the remuneration committee shall include:

- (a) Development of a formal, clear and transparent procedure for developing the company's remuneration policy.
- (b) Recommendation to the board on the company's remuneration policy and structure for all executive directors and senior management employees.
- (c) Recommendation to the board on the remuneration of non-executive directors.
- (d) Recommendation to the board on compensation payable to executive directors and senior management employees for any loss of office or termination of appointment to ensure that it is consistent with contractual terms, fair and not excessive.

8.13.5 The remuneration committee may engage a remuneration consultant at the expense of the company for the purpose of carrying out its responsibilities. Where such a consultant is engaged by the remuneration committee, the consultant must

be independent. The name of the consultant should be disclosed in the annual report of the company.

8.14 Audit Committee

8.14.1 Consistent with section 359(3) and (6) of Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria 2004, every public company shall establish a Statutory Audit Committee which shall perform the following functions:

- (a) ascertain whether the accounting and reporting policies of the company are in accordance with legal requirements and agreed ethical practices;
- (b) review the scope and planning of audit requirements;
- (c) review the findings on management matters in conjunction with the external auditor and departmental responses thereon;
- (d) keep under review the effectiveness of the company's system of accounting and internal control;
- (e) make recommendations to the board regarding the appointment, removal and remuneration of the external auditors of the company; and
- (f) authorise the internal auditor to carry out investigations into any activities of the company which may be of interest or concern to the committee.

8.14.2 Without prejudice to the provision of the Companies and Allied Matters Act, CAP C20, Laws of the Federation of Nigeria 2004 every public company should, in addition to a Statutory Audit Committee, have a Board Audit Committee.

8.14.3 All members of an audit committee (whether statutory or board) should have financial literacy and should be able to read and interpret financial statements. At least one member of the committee should be an expert and have current knowledge in accounting and financial management.

8.14.4 The Board Audit Committee shall be composed of at least three members, all of whom shall be non-executive directors, a majority of whom shall be independent non-executive directors.

8.14.5 The chairman of the Board Audit Committee must be an independent non-executive director. In the case of the

Statutory Audit Committee, its chairman should be either an independent non-executive director or an independent shareholder.

- 8.14.6** The Board Audit Committee shall meet at least once every quarter. The agenda for the meetings of the committee shall be developed by the chairman of the committee in consultation with other members of the committee.
- 8.14.7** The number, timing and duration of Board Audit Committee meetings should be appropriate to ensure that the committee achieves its objectives.
- 8.14.8** At least once in a year, the Board Audit Committee shall meet the head of internal audit and other members of the internal audit function without the chief financial officer and the external auditors being present.
- 8.14.9** The Board Audit Committee should have the following additional responsibilities:
- (a) Exercise oversight over the integrity of the company's financial statements, compliance with legal and other regulatory requirements, assessment of qualifications and independence of external auditor, and performance of the company's internal audit function as well as that of external auditors;
 - (b) Establish an internal audit function and ensure there are other means of obtaining sufficient assurance of regular review or appraisal of the system of internal controls in the company;
 - (c) Ensure the development of a comprehensive internal control framework for the company, obtain assurance and report annually in the financial report, on the operating effectiveness of the company's internal control framework;
 - (d) Oversee the process for the identification of significant fraud risks across the company and ensure that adequate prevention, detection and reporting mechanisms are in place;
 - (e) At least on a quarterly basis, obtain and review a report by the internal auditor describing the strength and quality of internal controls including any issues or recommendations for improvement, raised by the most recent internal control review of the company;

- (f) Discuss the annual audited financial statements with management and external auditors;
- (g) Discuss policies and strategies with respect to risk assessment and management;
- (h) Meet separately and periodically with management, internal auditors and external auditors;
- (i) Review and ensure that adequate whistle-blowing procedures are in place and that a summary of issues reported are highlighted to the chairman of the committee;
- (j) Review, with the external auditor, any audit scope limitations or problems encountered and management's responses to same;
- (k) Review the independence of the external auditors and ensure that where approved non-audit services are provided by the external auditors, there is no conflict of interest;
- (l) Preserve auditor independence, by setting clear hiring policies for employees or former employees of independent auditors;
- (m) Consider any related party transactions that may arise within the company or group;
- (n) Invoke its authority to investigate any matter within its Charter for which purpose the company must make available the resources to the internal auditors with which to carry out this function, including access to external advice where necessary; and
- (o) Report regularly to the board.

8.14.10 Every company, other than a public company, should have a Board Audit Committee.

8.14.11 Persons serving on any Audit Committee, whether Statutory Audit Committee or Board Audit Committee, shall have coextensive responsibilities and must have such relevant experience, competence and knowledge that would enable them serve on either or both of the two committees.

8.14.12 The Statutory Audit Committee Report, the opinion expressed and the recommendations made therein to shareholders must be predicated on and evidenced by the work done by the Committee, verifiable where necessary, by regulatory action.

8.14.13 The Board Audit Committee Report, the various opinions expressed and the recommendations made to the board must be predicated on and evidenced by the work done by the Committee, verifiable where necessary, by regulatory action.

8.15 Risk Management Committee

8.15.1 The board may establish a risk management committee which shall be composed of a majority of non-executive directors. At least one of the non-executive directors shall be an independent non-executive director.

8.15.2 The chairman of the risk management committee shall be appointed by the board and he must be an independent non-executive director.

8.15.3 The committee should meet in the course of the year as it deems appropriate. However, it shall meet at least once every quarter in a financial year. The agenda for the meetings of the committee shall be developed by the chairman of the committee in consultation with other members of the committee.

8.15.4 The risk management committee shall have the duty to:

- (a) Assist the board in its oversight of the risk profile, risk management framework and the risk strategy as may be determined by the board.
- (b) Review the adequacy and effectiveness of risk management and controls in the company.
- (c) Exercise oversight over management process for the identification of significant risks across the company and the adequacy of prevention, detection and reporting mechanisms.
- (d) Undertake the review of the company's compliance level with applicable laws and regulatory requirements which may impact the company's risk profile.
- (e) Undertake periodic review of changes in the economic and business environment, including emerging trends and other factors relevant to the company's risk profile and make recommendations to the board as appropriate.

- (f) Review and recommend for approval of the board risk management procedures and controls for new products and services.
- (g) Ensure that Information Technology assets are managed effectively.
- (h) Review the company's Information Technology governance framework at least annually

8.15.5 A member of senior management of the company shall be charged with the responsibility of performing the risk function and shall be entitled to attend the meetings of the risk management committee.

9. Appointment to the Board

- 9.1** The board should develop a written, clearly defined, formal and transparent procedure for appointment to the board of directors.
- 9.2** The board shall specify and document the criteria for appointing directors. Such criteria should embrace the strengths and weaknesses of the existing board, required skills, and experience as well as current age range and gender diversity.
- 9.3** Appointments should be a matter for the board as a whole and there should be a formal selection process which will reinforce the independence of non-executive directors and make it evident that they have been appointed on merit and not through any form of patronage. In the case of specialised businesses, possession of requisite technical skill should be taken into account.
- 9.4** The nomination committee shall recommend names of prospective candidates for consideration for directorship positions. The board shall appoint directors subject to ratification by the relevant industry regulator(s), where this is applicable.
- 9.5** Shareholders should be provided with biographical information of proposed directors including:
 - (a) Name, age, qualification and country of primary residence. If not resident in Nigeria, the ownership interest represented;
 - (b) Whether the appointment is executive, non-executive or independent and any proposed specific area of responsibility;
 - (c) Work experience and occupation in the preceding ten years;

- (d) Current directorships and appointments in the preceding five years;
- (e) Shareholding in the company and its subsidiaries; and
- (f) Any real or potential conflict of interest, including whether he is an interlocking director.

9.6 The Corporate Governance Section of the company's annual report should state the processes used in relation to all board appointments.

10. Induction and Continuing Education

10.1 The board should establish a formal induction programme for new directors of the company to familiarize the new directors with the company's operations, strategic plan, senior management and its business environment, and to induct them in their fiduciary duties and responsibilities.

10.2 It is mandatory for all directors to participate in periodic, relevant, professional continuing education programmes in order to update their knowledge and skills and keep them informed of new developments in the company's business and operating environment. The objective of the training is to assist the directors discharge fully and effectively their duties to the company. The training shall be at the company's expense.

10.3 The company shall disclose in its annual report the courses attended by each director on a named basis.

11. Terms and Conditions of Service

11.1 The terms and conditions of a director's employment or service on the board should be in writing and issued to the director in the form of a contract.

11.2 The letters of appointment should cover the following issues:

- (a) Duration or term of appointment;
- (b) Remuneration package and method of remuneration;
- (c) Explanation of the duties of care, skill, diligence and loyalty and other responsibilities of the director;
- (d) Requirement to disclose any material interests in the company and other entities related to the company;

- (e) Requirement to disclose periodically, material interests in contracts in which the company is interested or involved;
- (f) Specific requirements, such as board meeting attendance;
- (g) Synopsis of directors' rights;
- (h) Formal orientation programme or training for the director to attend;
- (i) Copy of Board Charter, Code of Business Conduct and Ethics and the director's responsibility to observe same;
- (j) Directors' evaluation programme used by the company; and
- (k) Any other contractual responsibilities.

12. Access to Independent Advice

The board should ensure that directors, especially non-executive directors, have access to independent professional advice at the company's expense where they consider it necessary to discharge their responsibilities as directors.

13. Access to Information

The board should be supplied in a timely manner with all relevant information in a form and of a quality appropriate to enable it to discharge its duties. This is without prejudice to the right of the Board to have access to all documents and information relating to the management of the company at all times.

14. Tenure and Re-election of Directors

14.1 Subject to satisfactory performance and the provisions of Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria 2004, directors should offer themselves for re-election at regular intervals of at least once every three years. In order to guide the decision of shareholders, names and sufficient biographical details of directors nominated for re-election should be accompanied by performance evaluation results and any other relevant information.

14.2 Non-executive directors should serve for a defined period on the board. Consequently, 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 non-executive directors.

14.3 The tenure of the Managing Director/Chief Executive Officer shall not exceed two terms of five years each.

14.4 The tenure of executive directors other than the Managing Director/Chief Executive Officer shall not exceed three terms of four years each.

14.5 Where an executive director is subsequently appointed as the Managing Director/Chief Executive Officer of the company, his tenure of office in that new capacity starts from the date he assumed the position of Managing Director/Chief Executive Officer and he is entitled to two terms of five years each PROVIDED that no person shall serve as an executive director of a company for a combined period of more than 15 years in total.

14.6 The tenure of non-executive directors shall not exceed three terms of four years each.

15. Performance Evaluation

15.1 The board should establish a system to undertake a formal and rigorous annual evaluation of its own performance, that of its committees, the chairman and individual directors.

15.2 The evaluation system should include the criteria and key performance indicators and targets for the board, its committees, the chairman and each individual committee member.

15.3 The result of the board performance evaluation should be communicated and discussed by the board as a whole, while those of individual directors should be communicated and discussed with them individually by the chairman.

15.4 Where the performance of a director is considered to be unsatisfactory, the director concerned should undergo further training. Where such is not feasible or practicable, the director may be removed or requested to retire in accordance with established procedures.

15.5 The board may engage the services of external consultants to facilitate the performance evaluation of the board, its committees, and individual directors at least, once every three years. The name of the consultant must be disclosed in the annual report.

15.6 The cumulative result of the performance evaluation of the board and individual directors should be used as a guide in deciding eligibility for nomination for re-election.

- 15.7 The result of the performance evaluation of each director should be disclosed in the annual report on a named basis.

16. Part D – Risk Management and Audit

16. Risk Management

16.1. The Board is responsible for the process of risk management. It should accordingly form its own opinion on the effectiveness of the process. Management is accountable to the Board for implementing and monitoring the process of risk management and integrating it into the day-to-day activities of the company.

16.2. The Board should:

- (a) Oversee the establishment of a management framework that defines the company's risk policy, risk appetite and risk limits. The framework should be formally approved by the Board. The company's risk management policies should be communicated in simple and clear language to all employees to ensure the integration of risk awareness at all levels of the company.
- (b) Ensure that the risk management framework is integrated into the day-to-day operations of the business and provide guidelines and standards for management of key risks.
- (c) Undertake at least annually, a thorough risk assessment covering all aspects of the company's business. The results of the risk assessment should be used to update the risk management framework of the company.
- (d) Obtain and review periodically relevant reports to ensure the ongoing effectiveness of the company's risk management framework.
- (e) Ensure that the company's risk management policies and practices are disclosed in the annual report.

16.3. Going Concern

The directors should report in annual and half-yearly financial statements that the business is a going concern, with supporting assumptions or qualifications as necessary.

17. Internal Audit Function

17.1 All companies should have an effective risk-based internal audit function. Where the board decides not to establish such a function,

sufficient reasons must be disclosed in the company's annual report with an explanation as to how assurance of effective internal processes and systems such as risk management, internal control and the like will be obtained.

- 17.2** The purpose, authority and responsibility of the internal auditing activity should be clearly and formally defined in an internal audit charter approved by the board. This should be consistent with the definition of internal auditing by the Institute of Internal Auditors.
- 17.3** The Head of Internal Audit Unit should be headed by a professional with relevant qualification who has registered with the regulator. The unit should be adequately resourced and have appropriate budget to enable it effectively discharge its responsibilities.
- 17.4** The Head of Internal Audit Unit should report directly to both the Board Audit Committee and the Statutory Audit Committee (where both co-exist) while having a line of communication with the MD/CEO. The Head of Internal Audit Unit should have unrestricted access to the chairmen of both the Board Audit Committee and Statutory Audit Committee (where both co-exist).
- 17.5** The Head of Internal Audit Unit should report at least once every quarter, at audit committee meetings, on the adequacy and effectiveness of management, governance, risk and control environment, deficiencies observed and management mitigation plans.
- 17.6** The internal audit function should assist the directors and management to maintain effective controls through periodic evaluation to determine the effectiveness and efficiency of the company's internal control systems and make recommendations for enhancement or improvement.
- 17.7** The evaluation of controls by the internal audit function should encompass the following:
 - (a)** The information systems environment;
 - (b)** The reliability and integrity of financial and operational information;
 - (c)** The effectiveness and efficiency of operations;
 - (d)** Safeguarding of assets; and
 - (e)** Compliance with laws and regulations.
- 17.8** The internal audit function should establish a risk-based internal audit process that provides a consistent basis for the provision of

internal audit services and highlights the key steps and activities to be performed from the planning stage through to the reporting phase of the audit.

- 17.9** The internal audit function should develop an annual risk-based internal audit plan in line with the risk-based internal audit process and should be approved by the audit committee.
- 17.10** The annual risk-based internal audit plan should:
- (a) Address the broad range of risks facing the company linking this to risk management framework;
 - (b) Identify audit priority areas and areas of greatest threat to the company;
 - (c) Indicate how assurance will be provided on the company's risk management process; and
 - (d) Indicate the resources and skills available or required to achieve the plan.
- 17.11** The internal audit plan should be based on the result of the assessment of the risks faced by the company in line with the risk management framework and should be approved by the board. The plan should identify audit priority areas and determine the frequency of audits as well as the required resources and skills. The risk assessment process should be of a continuous nature so as to identify emerging, as well as residual or existing risks and should be conducted at least annually, but more often in companies with complex operations.
- 17.12** Internal audit should provide independent assurance on the robustness and effectiveness of the company's risk management process.
- 17.13** The internal audit function should liaise with other internal and external providers of assurances in order to ensure proper coverage and to minimise duplication of effort.
- 17.14** There should be an external assessment of the effectiveness of the internal audit function at least once every three years by a qualified independent reviewer, as defined by the Institute of Internal Auditors, or by an external review team.
- 17.15** The head of the internal audit function should be a member of senior management and can only be removed by the board on the recommendation of the Statutory Audit Committee (and board audit committee, in the case of companies with two audit committees).

18. Whistle-blowing

- 18.1** The objective of whistle-blowing is to encourage stakeholders to bring unethical conduct and illegal violations to the attention of an internal and/or external authority so that action can be taken to verify the ethical violation, apply appropriate sanctions and avoid a re-occurrence. This will minimize a company's exposure to the damage that can occur when internal mechanisms are abused or circumvented. It will also demonstrate to stakeholders the criticality of adherence to codes of ethics and conduct.
- 18.2** A whistle-blower is any person(s) including the employees, management, directors, customers, service providers, creditors and other stakeholder(s) of a company who reports any form of unethical behaviour or dishonesty to the appropriate internal authority or external regulators.
- 18.3** Companies should have a whistle-blowing policy which should be known to employees, stakeholders such as contractors, customers, service providers, creditors, shareholders, job applicants and the general public. It is the responsibility of the board to implement such a policy and to establish a whistle-blowing mechanism for reporting any illegal or unethical behaviour, with or without the knowledge or involvement of the company's external auditors.
- 18.4** The whistle-blowing mechanism should be accorded priority and the board should also reaffirm continually its support for and commitment to the company's whistle-blower protection mechanism.
- 18.5** The whistle-blowing mechanism should include a dedicated telephone "hot-line", e-mail address and other electronic communication methods that could be used, even anonymously, to report illegal or unethical practices.
- 18.6** The Head of the internal audit function should review reported cases and bring them to the notice of the Statutory Audit Committee (and Board Audit Committee, in the case of companies with two audit committees).
- 18.7** The Head of the internal audit function should provide the audit committee(s) with a summary of reported cases, cases investigated, the process of investigation and the results of the investigations.
- 18.8** A whistle-blower should disclose any information connected with the activities of companies which indicate any of the following:
- (a) that an offence has been committed;
 - (b) that a person has failed to comply with any laws, internal policies and procedures, etc; or

- (c) that someone has concealed any matter falling within (a) or (b) above.

18.9 A disclosure is deemed to have been made in accordance with this section if the whistle-blower makes the disclosure to the appropriate internal authority of the company or external regulator provided that such disclosure, even if made anonymously, is:

- (a) in respect of matters which he believes to be true;
- (b) reasonable;
- (c) made in good faith; and
- (d) can be investigated.

18.10 Companies shall treat all disclosures resulting from whistle-blowing in a confidential manner. The identity of the whistle-blower, if disclosed - though it need not be disclosed - shall be kept confidential.

18.11 No company to which this Code applies shall subject a whistleblower to any detriment whatsoever on the grounds that he has made a disclosure in accordance with the provisions of this Code.

18.12 Where a whistle-blower has been subjected to any detriment in contravention of the above provision, he may present a complaint to the regulators. This is without prejudice to the right of the whistle-blower to take other appropriate legal actions.

18.13 An employee who has suffered any detriment by reason of disclosure made pursuant to the provisions of this Code shall be entitled to compensation and/or reinstatement provided that in the case of compensation, the employee's entitlement shall be computed as if he had attained the maximum age of retirement or had completed the maximum period of service, in accordance with his condition of service. For other stakeholders, the whistle-blower shall be adequately compensated.

18.14 Any company which contravenes the provision of this section of the Code will be sanctioned appropriately.

18.15 For the purpose of this Code, the word “detriment” includes dismissal, termination, demotion, retirement, redundancy, undue

influence, duress, withholding of benefits and/or entitlements and any other act that has a negative impact on the whistle-blower.

19. External Auditors

19.1 The Statutory and Board audit committees, either independently or jointly (where they co-exist) should have the primary responsibility for making a recommendation to the board on the appointment, reappointment and removal of external auditors.

19.2 The appointment of the first external auditor of a company shall be as stipulated by the Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria 2004. Subsequent appointments shall be approved by the shareholders.

19.2.1 Listed and Significant Public Interest Entities shall engage Joint External Auditors for their statutory audit. These entities are those whose market capitalisation is not less than ₦1 billion and/or whose annual turnover is not less than ₦10 billion.

19.2.2 Where the existing or first statutory auditor is an international firm (that is to say, a firm that has at least a non-Nigerian partner in the firm whether incidental or otherwise), the second auditor who must be appointed by show of hands (in an Annual General Meeting) rather than by poll, should be a national firm (that is to say, a firm that has no non-Nigerian in the partnership in the firm whether incidental or otherwise).

19.3 External audit firms should be retained for no longer than seven years continuously. External audit firms disengaged after continuous service to a company for seven years may be considered for reappointment seven years after their disengagement. Where an auditor's aggregate or cumulative tenure has already exceeded seven years at the date of commencement of this Code, such auditor shall cease to hold office as an auditor of the company at the end of the financial year that this Code comes into force.

19.4 An external auditor shall provide to the company only such other services as are approved by the board of directors on the recommendation of the audit committee, but which shall not include any of the following services (whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company), namely:

(a) accounting and book keeping services;

- (b) internal audit services;
- (c) design and implementation of any financial information system;
- (d) actuarial services;
- (e) investment advisory services;
- (f) investment banking services;
- (g) rendering of outsourced financial services;
- (h) management services;
- (i) taxation services;
- (j) performance evaluation of the board and its committees; and
- (k) any other kind of services as may be proscribed by the regulators:

Provided that an auditor or audit firm who or which has been performing any non-audit services on or before the commencement of this Code shall comply with the provisions of this section before the end of the first financial year after the date of the commencement.

19.5 Companies should require external audit firms to rotate the audit partners assigned to undertake the external audit of the company every three years.

19.6 In order to ensure independence:

a) No retired partner of an audit firm should be appointed as a director of any company that had been, or still being audited or investigated by the firm from which the partner retired, until five years after the disengagement of the firm from such audit or investigation and/or the disengagement of the partner from the firm.

b) No partner or employee of an audit firm should be employed by the company which the audit firm has audited until after a period of not less than three years after the person ceased to be a partner or staff of the audit firm.

19.7 Audit quality depends on a number of factors including, but not limited to, the quality of the individuals who conduct an audit. The external auditor must therefore ensure:

- (a) That the lead engagement partner and the audit team have the necessary knowledge and relevant skills to meet the company's audit requirements.
- (b) That the audit team provides quality audit services to the satisfaction of the Board Audit Committee or Statutory Audit Committee or both.
- (c) That the primary members of the audit team demonstrate the knowledge skills and experience necessary to address the company's area of greatest financial reporting risk.
- (d) That the audit team carries out a comprehensive and sound risk assessment, including especially an assessment of fraud risk.
- (e) That the audit team is able to demonstrate, a good understanding of the company's business and industry and also the impact of the economic environment on the company.
- (f) That the lead engagement partner and the audit team are satisfied with the quality of other engagement teams that perform other portions of the audit in various domestic and foreign locations.
- (g) That the lead engagement partner and the engagement team are independent of the company and approach their work with a high level of objectivity and professional scepticism.

19.8 Where the regulator is satisfied that an external auditor of a company has abused his office or acted in a fraudulent manner or colluded in any fraud in the company, it may by regulatory order direct the company to approach its members to consider and resolve whether on the basis of any facts revealed, the company in general meeting should change its auditors. The decision on this matter at the general meeting shall be by show of hands only. The proceeding for the change of auditor shall be without prejudice to any sanctions that the regulator might impose on such erring auditor.

19.9 There should be no direct reciprocal change of the same firms of auditors taking the form of two audit firms succeeding each other as opposites in audits from which they have just mandatorily retired.

19.10 Where the Board Audit Committee or the Statutory Audit Committee has made a recommendation for the appointment, re-appointment or removal of an external auditor, such recommendation can only be overridden by a 75% vote of the board's full membership.

19.11 Where External Auditors discover or acquire information during an audit that leads them to believe that the company or anyone associated with it has committed an indictable offence under the Companies Act or any other Statute, they must report this to the Regulator, whether or not such matter is or will be included in the Management Letter.

Part E: Relationship with Shareholders

20. Dialogue with Shareholders

20.1 The board should establish a system of constant dialogue with shareholders, majority and minority, based on mutual understanding of the objectives of the company. The board as a whole has responsibility of ensuring that this dialogue with shareholders takes place.

20.2 The chairman or lead independent non-executive director should ensure that the views of shareholders are communicated to the board as a whole. The chairman should discuss governance and strategy with majority and minority shareholders.

20.3 Non-executive directors are entitled to attend scheduled meetings with shareholders (majority and minority) and should attend meetings if requested by shareholders.

20.4 The lead independent non-executive director should attend sufficient meetings with a range of shareholders to listen to their views in order to help develop a balanced understanding of the issues and concerns of all shareholders.

20.5 The board should state in the annual report the steps it has taken to ensure that the members of the board, and in particular the independent non-executive directors, develop an understanding of the views of all shareholders about the company, for example through direct face-to-face contact, analysts' or brokers' briefings and surveys of shareholder opinion.

21. Constructive Use of the Annual General Meeting

21.1 The board should use the annual general meeting to communicate with investors and to encourage their participation.

21.2 The general meetings of the company should be the primary, but not the only, avenue for meeting and interaction between shareholders (majority and minority), board and management.

- 21.3 The board should ensure that all shareholders are treated fairly and are given equal and simultaneous access to information about the company.
- 21.4 General meetings should be conducted in an open manner allowing for free discussions on all issues on the agenda. Sufficient time should be allocated to shareholders, particularly minorities, to participate fully and contribute effectively at the meetings.
- 21.5 The chairmen of all board committees and of the Statutory Audit Committee should be present at general meetings of the company to respond to shareholders' queries and questions.

22. Protection of Shareholder Rights

- 22.1 The board should ensure that shareholders' statutory and general rights are protected at all times. In particular, the board should ensure that shareholders at annual general meetings preserve their effective powers to appoint and remove directors of the company.
- 22.2 The board should ensure that all shareholders are treated fairly and equally. No shareholder, however large his shareholding or whether institutional or otherwise, should be given preferential treatment or superior access to information or other materials.
- 22.3 It is the responsibility of the board to ensure that minority shareholders are treated fairly at all times and are adequately protected from abusive actions by controlling shareholders.
- 22.4 The board should ensure that the company promptly renders to shareholders documentary evidence of ownership interest in the company such as share certificates, dividend warrants and related instruments. Where these are rendered electronically, the board should ensure that they are rendered to shareholders promptly and in a secure manner.

23. Venue of Meeting

The venue of a general meeting should be accessible to shareholders. The board should ensure that shareholders are not disenfranchised on account of the choice of venue.

24. Notice of Meeting

Notices of general meetings shall be at least 21 days from the date on which the meeting will be held. Companies shall allow at least seven days for service of notice if sent out by post from the day the letter containing the same is posted. The notices should include copies of such documents, including annual reports and audited

financial statements and other information as will enable members prepare adequately for the meeting.

25. Resolutions

- 25.1** The board should ensure that unrelated issues for consideration are not lumped together at general meetings. Statutory business should be clearly and separately set out. Separate resolutions should be proposed and voted on for each substantial issue.
- 25.2** The board should ensure that decisions reached at general meetings are properly and fully implemented as governance directives.

26. Role of Shareholders' Associations

- 26.1** The board of every public company should ensure that dealings of the company with shareholder associations are always transparent.
- 26.2** The board should ensure that in any interaction or dialogue with shareholders, invitations are also sent on a random or purposive selection basis to minority shareholders in their individual capacities to act as a sounding board for the personal views of the minority shareholders of the company. This is without prejudice to the role of shareholders' associations.

27. Institutional Investors

- 27.1** Shareholders should play an active role in good corporate governance. In particular, institutional shareholders and other shareholders should seek to influence positively the standard of corporate governance in the companies in which they invest. They should demand compliance with the provisions of this Code and report to the regulator whenever they observe non-compliance with this Code.
- 27.2** Institutional investors should:
 - (a)** publicly disclose their policy on how they discharge their stewardship responsibilities;
 - (b)** have a robust policy on managing conflicts of interest in relation to stewardship which should be publicly disclosed;

- (c) monitor their investee companies;
- (d) establish clear guidelines on when and how they will escalate their stewardship activities;
- (e) be willing to act collectively with other investors where appropriate;
- (f) have a clear policy on voting and disclosure of voting activity; and
- (g) report periodically on their stewardship and voting activities.

Part F: Minority Shareholder Protection

28. Insider Trading

Insider trading undermines investor confidence in the fairness and integrity of the securities market. Insiders are, therefore, precluded from buying and selling any security in breach of their fiduciary duty and other relationship of trust and confidence while in possession of material, privileged, non-public, and price-sensitive information about the security.

29. Minority Interest Expropriation

- 29.1** In order to protect minority shareholders and other external stakeholders, insiders are precluded from engaging in transfers of assets and profits out of companies for their personal benefits or for the benefit of those who control the companies.
- 29.2** A shareholder or group of shareholders, holding in aggregate not less than one per cent of the share capital or shares of a company, shall be entitled to submit items for inclusion in the agenda of the annual general meeting of the company.
- 29.3** Controlling Shareholders have a fiduciary responsibility to minority shareholders and should call a general meeting to discuss major or extraordinary transactions that could have a material impact on the business of the company, including acquisitions or divestitures, capital restructuring, change of business model, venture partnerships or similar activities.

30. Related Party Transactions

The company should disclose all transactions between related parties, whether natural persons or body corporate, including whether such transactions have been executed at arm's length and on normal market terms.

31. Conflict of Interests

The board should have a distinct policy on conflict of interest situations. Such a policy should be guided by the following principles:

- (a) Directors should promptly disclose any real or potential conflict of interest that they may have by virtue of their membership of the board.
- (b) A director should not be present during the time any matter on which he has an interest is being decided.
- (c) 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 nomination and governance committee for advice and guidance.
- (d) If any question arises before the board as to the existence of a real or perceived conflict, the board should by a simple majority determine if a conflict exists. The director or directors potentially in the conflict of interest situation shall not be present during any discussion and voting on the issue.
- (e) 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 nomination and governance committee.
- (f) Disclosure by a director of a real, potential or perceived conflict of interest or a decision by the board as to whether a conflict of interest exists should be recorded in the minutes of the meeting.
- (g) No member of executive management (director level and above) leaving the services of a relevant regulatory institution, for any reason, should be appointed as a director or top management staff of an institution that has been directly supervised or regulated by the said regulatory institution until after three years of the disengagement of such executive or senior management staff from that regulatory institution.

Part G: Relations with Other Stakeholders

32. Sustainability Issues

- 32.1** Companies should pay adequate attention to the interests of their stakeholders such as employees, creditors, consumers, suppliers, trade unions, host community, government, the general public and future generations.
- 32.2** Companies should recognise corruption as a major threat to business and to national development and therefore as a sustainability issue for businesses in Nigeria. Companies, boards and individual directors must commit themselves to transparent dealings and to the establishment of a culture of integrity and zero tolerance of corruption and corrupt practices.
- 32.3** The board should report annually on the nature and extent of its social, ethical, safety, health and environmental policies and practices. Issues should be categorized into the following levels of reporting:
- (a)** Disclosures of the company's business principles and codes of practice and efforts towards implementation of same;
 - (b)** Description of workplace accidents, fatalities and occupational and safety incidents against objectives and targets and a suitable explanation where appropriate;
 - (c)** Disclosure of the company's policies, plans and strategy for addressing and managing the impact of HIV/AIDS, malaria and other serious diseases on the company's employees and their families;
 - (d)** Adoption, in the company's operations, of options with the most benefit or least damage to the environment, particularly for companies operating in disadvantaged regions or in regions with delicate ecology, in order to minimize environmental impact of the company's operations;
 - (e)** Disclosure of the nature and extent of employment equity and gender policies and practices, especially as they relate to the executive level opportunities;
 - (f)** Disclosure of the number and diversity of staff, training initiatives, employee development and the associated financial investment;
 - (g)** Disclosure of the conditions and opportunities created for physically-challenged persons or disadvantaged individuals;

- (h) Disclosure of the nature and extent of the company's social investment policy; and
- (i) Disclosure of the company's policies on corruption and related issues and the extent of compliance with the policies and the company's Code of Business Conduct and Ethics.

Part H: Transparency

33. Disclosures

- 33.1** Companies should strive to achieve international best practices and therefore engage in full disclosure of all the matters set out in this Code.
- 33.2** The chief executive office (or equivalent) and chief financial officer (or equivalent) should jointly state in writing to the board that the company's financial statements present a true and fair view, in all material respects, of the company's financial condition and operational results and are in accordance with relevant accounting standards.
- 33.3** The board of a company should ensure that the company's annual report contains the following information on the company's capital structure:
 - (a) Details of issuance of its share capital during the year;
 - (b) Borrowings and maturity dates;
 - (c) Details and reasons for share buy-backs during the year, if any;
 - (d) Details of directors' and substantial shareholders' interests in the company and subsidiaries or associated companies; and
 - (e) All acquisitions and disposals (specifying dates, quantities and values) of each director's, insider's and substantial shareholder's holdings in the company and its subsidiaries and associated companies.
- 33.4** The board of every company should ensure that the company's annual report includes a corporate governance report that conveys to stakeholders clear information on the strength of the company's governance structures, policies and practices. The report should include the following:
 - (a) Composition of the board of directors stating the names of the chairman, the managing director/chief executive officer, the executive and non-executive directors as well as independent non-executive directors;

- (b) The measurable objectives for achieving gender diversity set by the board in accordance with its diversity policy, the progress towards achieving them and the proportion of women employees in the whole organisation, including women in senior executive positions and women on the board.
- (c) The directorial classification of each director set out against his name wherever his name appears in the report. This information should also be on the company's website and other publications of the company.
- (d) The matters reserved for the board and those delegated to Management;
- (e) Board appointment process including induction and training of board members;
- (f) Evaluation process and summary of evaluation results for the board as a whole, its committees and each individual director;
- (g) Directors standing for re-election and their educational and previous board performance evaluation details to enable shareholders to make informed decisions about their continued suitability for re-election;
- (h) Composition of board committees including names of chairmen and members of each committee and their directorial classification;
- (i) Description of the roles and responsibilities of the board committees and how the committees have discharged those responsibilities;
- (j) Aggregate tenure of the Governance Consultant (years and months) at the end of the reporting period.
- (k) The number of meetings of the board and its committees held during the year and the attendance of individual directors at those meetings;
- (l) Aggregate tenure of each director (years and months) at the end of the reporting period;
- (m) Aggregate tenure of the external auditor (years and months) at the end of the reporting period;
- (n) Statement of the availability or otherwise of the Code of Business Conduct and Ethics for directors, management and all employees;

- (o) Human resource policies, internal management structure, relations with employees, employee share-ownership schemes and other workplace development initiatives;
- (p) Company's sustainability policies and programmes covering social issues such as corruption, community service, including environmental protection, HIV/AIDS and matters of general corporate social responsibility;
- (q) A detailed list of all the fines and penalties (including date, amount, and subject matters) paid to regulators in the financial year for infractions of this Code or other regulations.

33.5 In addition to the foregoing, the board should ensure that the company's annual report make sufficient disclosure on accounting and risk management issues. In particular, the following matters shall be disclosed:

- (a) A statement of the director's responsibilities in connection with the preparation of the financial statements.
- (b) Details of accounting policies utilised and reasons for changes in accounting policies.
- (c) Where the accounting policies applied are not in conformance with standard practices, the external auditor should express an opinion on whether they agreed with the departure and the reasons for such departure.
- (d) A statement by the directors that the business is a going concern, with supporting assumptions or qualifications where necessary.
- (e) Executive directors' remuneration, share options, compensation for loss of office, and terminal benefits.
- (f) Non-executive directors' fees and allowances and share options, if any.
- (g) The board's evaluation of the risk management processes of the company and their effectiveness.

33.6 The Chairman's statement in the annual report should provide a balanced and readable summary of the company's performance for the period under review and future prospects, and should expressly state whether the board's expectations (financial and non-financial) for the reporting period have been met.

33.7 The annual report should contain a statement by the board with regards to the company's degree of compliance with the provisions of this Code. In particular it should provide:

- (a) Assurances that effective internal audit function exists in the company and that risk management control and compliance system are operating efficiently and effectively in all respects;
- (b) The board's explanation of the basis for the rejection of the audit committee's recommendation on the appointment, reappointment or removal of an external auditor and subsequent override of the recommendation by 75% vote of board's full membership;
- (c) Statement on the sustainability initiatives of the company;
- (d) The nature of any related party relationships and transactions as well as relevant information about their purpose and financial magnitudes necessary to understand whether the transactions have been at arm's length and that the company has not suffered any loss or disadvantage from such transactions.

33.8 Every company should disclose details of any director's interest in contracts either directly or indirectly with the company or its subsidiaries and holding companies. The details should include the name of the director, his directorial classification, the nature and details of the contract and the director's interest therein: provided that the disclosures required do not include the director's service contract.

33.9 Every company should disclose the details of any service contracts and other contracts with controlling shareholder(s), their group networks and associates. The details should include the names of the parties, the nature of the contract, and monetary values involved.

33.10 Disclosures on related party transactions relating to directors' current accounts or loans should include the following:

- (a) The amount of the transactions;
- (b) The amount of outstanding balances at the beginning and at the end of the financial year including the terms and conditions of the loans and details of any guarantees given and received;
- (c) The amounts of principal and interest which have fallen due and have not been paid with the overdue period stated, and the amount of provisions for doubtful debts related to the amount of the outstanding balances;
- (d) The aggregate expense recognised during the period in respect of bad or doubtful debts due from related parties, and the proportion of it attributable to directors; and

- (e) A statement as to whether the transactions were conducted at arm's length.

33.11 The disclosures required to be made for related party transactions shall be made separately for each of the following:

- (a) The parent company;
- (b) Entities with joint control or significant influence over the entity;
- (c) Subsidiaries;
- (d) Associates;
- (e) Joint ventures in which the entity is a partner;
- (f) Key management personnel of the entity or its parent; and
- (g) Other related parties.

33.12 The board should use its best judgment to disclose any matter even though not specifically required by this Code to be disclosed if in the opinion of the board such matter is capable of affecting the financial condition of the company or its status as a going concern. The onus of proof of such possible negative effect is on the board.

33.13 In evaluating and reporting on the extent of compliance with this Code, the board may engage independent experts. Where such is done, the name of the consultant should be disclosed. A summary of the report and conclusions of the consultant shall be included in the company's annual report.

33.14 Concerned members of the board of directors, particularly independent non-executive directors, should ensure that the following disclosures are promptly made to the regulator:

- (a) Any unreported cases of insider trading or related party transactions.
- (b) Director's dissent on any matter before the board being inappropriately or unjustifiably overridden by the board majority, and not properly minuted.
- (c) Any evidence of the impairment of the external auditor's independence and objectivity, or failure to approach his work with an acceptable degree of professional scepticism.
- (d) Deliberate withholding of information from directors.

- (e) Any egregious violation of this Code, laws of the land and extant regulations, and flagrant disregard for accounting standards.
- (f) Any evidence of the impairment of the independence of the board or any of its committees.
- (g) Condoning of high-level unethical behaviour and conduct in the company.

33.15 For the avoidance of doubt, the regulator is entitled to demand for further documents or reports from the company to enable it validate the disclosures made herein.

34. Corporate Governance Evaluation

- 34.1** Every company should carry out annual corporate governance evaluation which should be facilitated by an independent external consultant who must be registered by the regulator for this purpose.
- 34.2** The corporate governance evaluation should not be undertaken by the company's external auditor or a firm related to the external auditor.
- 34.3** The report of this evaluation should be presented at the company's annual general meeting and a copy of the report sent to the regulator and made accessible on the investors' portal of the company.

35. Company Investors' Portal

- 35.1** Companies should adopt and implement a communications policy that enables the Board and Management to communicate, interact with and disseminate information regarding the operations and management of the company to shareholders, stakeholders and the general public.
- 35.2** The board should ensure that company reports and other communications to shareholders and other stakeholders are in plain language, readable and understandable and consistent with previous reports.

35.3 Communication with shareholders, stakeholders and the general public should be governed by the principle of timely, accurate and continuous disclosure of information and activities of the company so as to give a balanced and fair view the company, including its non-financial matters.

35.4 Companies should ensure that shareholders have equal access to the company's information. The board should establish web sites and investors' portals where the communication policy as well as the company's annual reports for a minimum of five immediately preceding years and other relevant information about the company should be published and made accessible in downloadable format to the public.

Part I: Code of Business Conduct and Ethics

36. Code of Business Conduct and Ethics

36.1 Every company should have a Code of Business Conduct and Ethics which should be regarded as part of the corporate governance practices of the company.

36.2 The Code should contain at least the following:

- (a)** In accordance with legal requirements and agreed ethical standards, directors and senior management of the company will act honestly, in good faith and in the best interests of the whole company;
- (b)** Directors owe a fiduciary duty to the company as a whole, 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;
- (c)** Directors should undertake diligent analysis of all proposals placed before the board and act with the level of skill expected from directors;
- (d)** Directors should not make improper or prejudicial use of information acquired as directors and not disclose non-public information except where disclosure is authorised or legally mandated;
- (e)** Directors should not take advantage of their position as directors for personal gain or compete with the company;
- (f)** Directors should not engage in conduct likely to discredit the company, and should encourage fair dealing by all employees

with the company's customers, suppliers, competitors and other employees;

- (g) Directors should encourage the reporting of unlawful or unethical behaviours and actively promote ethical behaviours and the protection for those who report violations in good faith;
- (m) Directors shall have an obligation, at all times, to comply with the principles of this Code.

36.3 The Code of Business Conduct and Ethics should:

- (a) Commit the company, its board and management to the highest standards of professional and ethical behaviour, business conduct and sustainable business practices;
- (b) Be designed with due consideration of the interests of management and employees;
- (c) Receive its implementation commitment from the managing director/chief executive officer and executive management;
- (d) Be sufficiently detailed as to give clear guidance to users; and
- (e) Be formally communicated to all persons to whom it applies.

36.4 The board should be responsible for formulating and reviewing the Code of Business Conduct and Ethics. All directors, management and other employees of the company should be required to abide by the code. The board should set a clear tone at the top and monitor adherence to ensure that breaches are effectively sanctioned.

36.5. Globally Responsible Business Conduct

36.5.1. Responsible Business Conduct has become everyone's business involving not only local and domestic companies, but also multinationals and their host operating environments. It is therefore a key priority on global economic agenda on which appropriate emphasis should be laid for meeting not only the expectations of owners, but also the needs of all relevant stakeholders and the suitability of the local operating environment for businesses to thrive and prosper.

36.5.2. This Code recognizes that international investment is of global importance having contributed largely to the development of world economy, hence the critical need for principles and standards for responsible business conduct in a global context, consistent with applicable laws and international standards.

36.5.3. These provisions on responsible business conduct are in line with the shared values of many governments whose aim is to promote positive contributions by all enterprises, both domestic and foreign, to the economic, social and environmental well-being of their own economies and the rest of the world.

36.5.4. Enterprises operating within a global context should therefore take into account the established processes in the countries in which they operate, while considering the views of all relevant stakeholders. Enterprises should particularly in this regard:

- a) Contribute to economic, environmental and social progress with a view to achieving sustainable development.
- b) Respect the internationally recognized human rights of those affected by their activities.
- c) Encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice.
- d) Encourage human capital development, in particular by creating employment opportunities and facilitating training opportunities for employees.
- e) Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to human rights, environmental, health, safety, labour, taxation, financial incentives, or other issues.
- f) Support and uphold good corporate governance principles and develop and apply good corporate governance practices throughout enterprise groups.

- g) Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.
- h) Promote awareness of and compliance by workers employed by multinational enterprises with respect to company policies through appropriate dissemination of these policies, including through training programmes.
- i) Refrain from discriminatory or disciplinary action against workers who make genuine and conscientious reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law or the enterprise's policies.
- j) Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs (k) and (l), and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.
- k) Avoid causing or contributing to adverse impacts on matters covered by this Code, through their own activities, and address such impacts when and where they occur.
- l) Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.
- m) In addition to addressing any adverse impacts, encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of responsible business conduct compatible with this Code.
- n) Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision-making for projects or other activities that may significantly impact local communities.

- o) Abstain from any improper involvement in local political activities.
- p) Engage in or support, where appropriate, private or multi-stakeholder initiatives and social dialogue on responsible supply chain management while ensuring that these initiatives take due account of their social and economic effects in the local environment and of existing internationally recognized standards.

36.5.5. This Code stresses that even though the primary responsibility for improving the legal and institutional regulatory framework lies with relevant governments, there is nevertheless a profound case for enterprises to implement good corporate governance practices in their operating environments.

Part J: Enforcement

37. Sanctions

37.1 Compliance with the provisions of this Code is mandatory. Accordingly, violations of the provisions of this Code will occasion both personal sanctions against the persons directly involved in the violation, and sanctions against the companies or firms involved in such violation.

The enforcement of the code should be the responsibility of the primary regulator.

37.2 Where sanctions have been imposed on any company, person or firm for the violation of this Code, the company or firm is precluded from making any reimbursements to that person for the sanctions.

Part K: Miscellaneous

38. Commencement

38.1. This Code shall come into force on July 1, 2016 and every company to which it applies is expected to comply with it in respect of the financial year ending after that date.

38.2. From the date of commencement of this Code, it supersedes any corporate governance code in force in Nigeria before that date.

39. Transitional Arrangements

An entity shall apply this Code in its annual financial statements for the periods beginning on or after July 1, 2016. Earlier application is permitted. If an entity applies this Code in its annual financial statements for a period before July 1, 2016, it shall disclose that fact.

40. Definitions

40.1 In this Code, unless the context otherwise requires:

40.1.1 “chief executive officer” means an officer who is responsible for the execution of policy and the day to day administration of the affairs of an entity.

40.1.2 “chief financial officer” means a person appointed as the chief financial officer of a company;

40.1.3 “company” means a company incorporated under the Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria 2004 or any previous legislation it replaced;

40.1.4 “close family member” means those persons who may be expected to influence, or be influenced by, that person in his dealing with a company.

40.1.5 “director” means a director appointed to the board of a company;

40.1.6 “executive management” means the chief executive officer and other persons having authority and responsibility for planning, directing and controlling the activities of the company, whether or not they are members of the board of directors of the company;

40.1.7 “insider” means the following:

- (a) any person who is connected with the company in one or more of the following capacities:
 - (i) a director of the company or a related company;
 - (ii) an officer of the company or a related company;
 - (iii) an employer of the company or a related company;

- (iv) an employee of the company, involved in a professional or business relationship to the company;
 - (v) any shareholder of the company who owns 5 per cent or more of any class of securities or any person who is or can be deemed to have any relationship with the company or member;
 - (vi) members of the Statutory Audit Committee of a company; and
- (b) any of the persons listed in paragraph (a), who by virtue of having been connected with any such person or connected with the company in any other way, possesses unpublished price sensitive information in relation to the securities of the company, and any reference to unpublished price sensitive information in relation to any securities of a company is a reference to information which:
- (i) relates to specific matters relating or of concern (directly or indirectly) to that company, that is, is not of a general nature relating or of concern to that company; and
 - (ii) is not generally known to those persons who are accustomed to or would be likely to deal in those securities but which would, if it were generally known to them be likely materially to affect the price of those securities;

40.1.8 “International firm” means audit firm that has at least a non-Nigerian partner in the firm whether incidental or otherwise;

40.1.9 “listed company” means a company which has any of its securities listed on any recognised stock exchange;

40.1.10 “Listed and Significant Public Interest Entities” means entities whose market capitalisation is not less than =N=1 billion and/or whose annual turnover is not less than =N=10 billion.

40.1.11 “national firm” means audit firm that has no alien in the partnership in the firm whether incidental or otherwise.

- 40.1.12** “regulator” or “regulatory authority” means the Financial Reporting Council of Nigeria and other sectoral regulators as may be appropriate;
- 40.1.13** “related company” means any body corporate which is that company’s holding company, subsidiary or fellow subsidiary;
- 40.1.14** “related party” means a person or entity that is related to any company subject to this Code;
- 40.1.15** Small Companies refer to entities that may not have public accountability and
- a) The amount of its annual turnover is not more than N500 million or such amount as may be fixed by the Corporate Affairs Commission, or
 - b) Its net asset value is not more than N200 million or such amount as may be fixed by the Corporate Affairs Commission.
- 40.1.16** “substantial shareholder” means a shareholder whose shareholding, directly or indirectly, exceeds 0.1% of the company’s paid up capital;
- 40.1.17** “whistle-blower” means any person(s) including the employee, management, directors, customers, service providers, creditors and other stakeholder(s) of an organisation who reports any form of unethical behaviour or dishonesty to the appropriate internal authority or external regulators.
- 40.2** In this Code:
- 40.2.1** words importing the masculine gender include females; and
 - 40.2.2** words in the singular include the plural and words in the plural include the singular.
- 40.3** In construing any fraction resulting from any provisions of this Code:
- 40.3.1** where the fraction results from the use of the expression “less than”, the figure should be rounded-up; that is to say, the fraction should be rounded off as one.
 - 40.3.2** where the fraction results from the use of the expression “more than”, the figure should be rounded-down; that is to say, the fraction should be disregarded

