

# CBN's 2023 Corporate Governance Guidelines

Summary of key changes

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## Introduction

On 13 July 2023, the Central Bank of Nigeria (CBN) issued the Corporate Governance Guidelines (“the Guidelines”) for Commercial, Merchant, Non-Interest, Payment Services Banks and Financial Holding Companies in Nigeria.

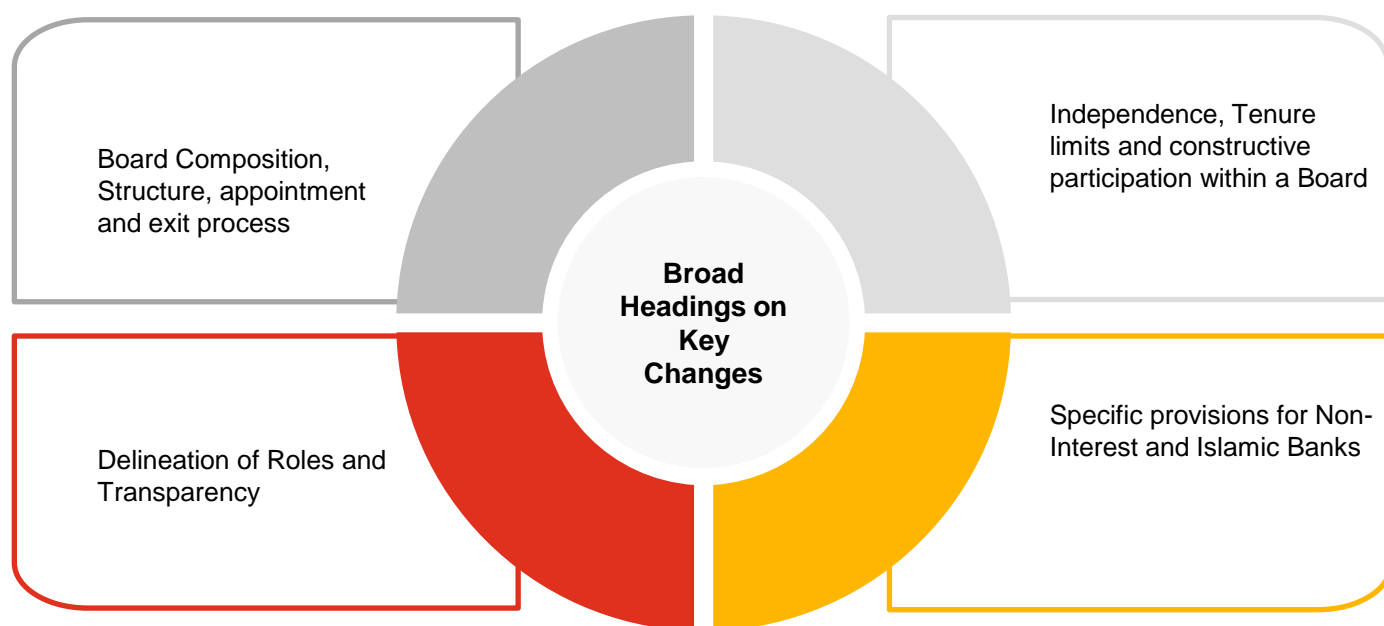
The Guidelines seeks to enhance the previously issued Codes and Guidelines such as 2014 CBN Code of Corporate Governance for Banks and Discount Houses as well as harmonise specific requirements in the Nigerian Code of Corporate Governance with practices unique to the banking industry.

We have analysed the requirements of the new Guidelines and identified key changes (not exhaustive).

The effective date of the Guidelines is 01 August 2023.

## Summary of Key changes

Key changes focuses on the following areas which are further elaborated upon in this document.



## Board Composition, Structure, Appointment & Exit Process

### 1. Board Composition and Structure

- Section 1.3 of the Guidelines requires the minimum and maximum number of directors on the Boards of a Commercial, Merchant and Non-Interest Banks (CMNIBs) to be seven (7) and fifteen (15). Conversely, the minimum and maximum requirement on the Board of a Payment Service Bank (PSB) is seven (7) and thirteen (13) respectively. Section 1.5 mandates a minimum of two (2) - three (3) INEDs on Boards of PSBs, NIBs, Merchant and Commercial Banks on the basis of their authorisation.
- Two areas of focus in relation to diversity of the Board are requirements on elements of skills and gender. Sections 1.7, of the Guideline requires two NEDs (one of whom shall be an INED) to have requisite knowledge and experience in innovative financial technology, Information Communication Technology (ICT) and/or cyber security while section 1.6 expressly prohibits the constitution of a board with only one gender.

### 2. Board Member Appointment and Exit Process

- Section 1.1 of the Guidelines requires the procedure for appointment to the Board shall be formal, transparent, and documented in the Board Charter. Although appointing Board members through a formalised process is standard practice, documenting the same in a duly approved Board Charter may be new to industry players.
- Sections 1.18 - 1.21 of the Guidelines requires Directors to submit ninety (90) days written notice of resignation to the Chairman of the Board before the effective date of resignation and mandates the Board to appoint a replacement also within ninety (90) days, where any such resignation will result in the minimum requirement of INEDs on the Board not being met.

### 3. Cross-directorship within a Holding Structure

- The Guidelines in section 1.15 prohibits having more than 30% of FHCs Board members on the Board of subsidiary banks and exceeding thirty per cent (30%) the aggregate number of directors from the subsidiaries of the members of the Board of the FHC.
- Also, where a bank is a member of an FHC, the Chairman of the Bank is prohibited by section 3.1.3 of the Guideline from sitting on the Board of the FHC in any capacity and vice versa .

#### Note:

Previously issued CBN Code, Circulars and Directives requires the minimum and maximum number of Board members at five (5) and twenty (20) respectively. Modalities for Board appointment and exit requirements were not mandated in the manner stated in this section and limits were not placed on the number of directors common to the Boards of FHCs and their banking subsidiaries.

## Independence, Tenure limits and constructive participation within a Board

### 4. Exclusive Meetings for INEDs and NEDs

- INEDs are now required to hold a formal meeting at least once in a year without the other directors being present in line with Section 3.5.7 of the Guidelines.
- Also, the Chairman is required by Sections 3.1.2 of the Guidelines to meet formally with the NEDs at least once every year.

### 5. Cooling Off Period

- Two years cooling off period is required by section 7 of the Guideline where:
  - an ED of a bank is appointed to the Board of its FHC in any role;
  - an ED exits from the Board of a bank either upon or prior to the expiration maximum tenure now allowed by the Guideline before being eligible for appointment as a NED in the same bank;
  - before a NED is eligible for appointment in any executive role in the same bank.
  - a director from a bank transition to a sister subsidiary and it results in a change of role (cooling-off period is not required where there is no change of role).

### 6. Induction and Continuing Education

- The Board of banks are now mandated by section 9.2 to approve an annual budget for the training and continuing education of directors and ensure its proper implementation, while section 9.1 specifies the timeline within which induction for new directors must be carried out (within three months of appointment).

### 7. Tenure Limits of Directors

- Tenure of the MD/CEO/EDs of a bank is subject to a maximum period of twelve (12) years (sections 3.2 and 3.3.1). NEDs will also serve for a maximum of twelve (12) years (Section 3.4.2). However, tenure for INEDs shall not exceed eight (8) years (section 3.5.2).
- Of note is the provisions of sections 3.3.2 which prohibits extension of cumulative period of twelve (12) years, where an ED becomes a DMD and 3.3.3 which allows for a cumulative period of twenty four (24) years, where a DMD/ED becomes an MD/CEO.

**Note:**

Previously issued CBN Code, Circulars and Directives did not specify provisions on exclusive meetings, cool-off periods, timelines for conducting induction for newly appointed directors or requirement for the Board to approve an annual training budget. Also, minimum number of INEDs was lesser, their tenure duration was not prescribed while cumulative period of the CEO tenure was limited to Ten (10) years. A circular issued by the CBN on 24 February 2023 caps the cumulative tenure limit for Executive and Non-Executive Directors at 20 years.

## Delineation of Roles and Transparency

### 8. Company Secretariat

- Commercial, Merchant and Non-Interest Bank are prohibited from combining the roles of the Head Legal/Legal Adviser, without the approval of the CBN by section 3.6.3 of the Guidelines and section 3.6.2 further prohibits banks from outsourcing the functions of a company secretary.

### 9. Delineated Committee Functions

- Functions of the Board Risk Management Committee BRMC and the Board Audit Committee (BAC) are not to be combined for Commercial, Merchant and Non-Interest Banks according to Section 6.10 of the Guidelines.

### 10. Compliance Function

- Executive Compliance Officer (ECO) are prohibited from combining their responsibility with income generating activity according to Section 15.1 of the guidelines.

### 11. Risk Management:

- Sections 12.3 and 12.4 in the Guideline requires the Board to ensure that the risk management function is headed by an Executive Director (ED). In the case of NIBs with regional authorisation and PSBs, the risk management function must be headed by a senior management officer with relevant qualification, competence and experience. For Banks that have the position of the Chief Risk Officer (CRO) distinct from the ED Risk, the CRO shall not be below the grade of an Assistant General Manager, and shall report to the ED Risk who reports to the Board.
- In addition to disclosing a summary of risk management policies in annual financial statements, publicly quoted banks, must now host a summary of such disclosures on their website according to Section 12.7 of the Guideline.

**Note:**

Previously issued CBN Code, Circulars and Directives did not include a requirement to separate the roles of the Company Secretary v Head of Legal, or ECO and was silent on the minimum grade level of the personnel responsible for risk management. Combination of Board Risk and Audit Committee Functions was also not expressly prohibited and publicly quoted Banks were not required to host a summary of risk management practices disclosed in their annual financial statements on their website.



## Specific provisions for Non-Interest Banks

### Specific Provisions for Non-Interest Banks

The Guideline incorporates various provisions specific to Non-Interest and Islamic Banks. Notable provisions include that:

- At least one INED in a NIB (a member of the Board Audit Committee) shall be knowledgeable and/or have experience in the field of Islamic finance or Islamic Commercial Jurisprudence as required by Sections 3.5.8.1, 6.13 in the Guideline.
- The independent external consultant who carries out the appraisal of the Board of NIBs must also possess knowledge and experience in Islamic Finance or Islamic Commercial Jurisprudence according to Section 10.3 of the Guideline.
- Annual reports of NIBs are required to contain certification of the ACE that the operations of the NIB are in line with the principles of Islamic finance as specified by Section 26.3 in the Guideline.
- NIBs must have an internal shariah audit function headed by an Internal Shariah Auditor (ISA) not below the rank of an Assistant General Manager. In the case of commercial banks with NIB window, the head of the internal shariah audit function shall not be below the rank of a Manager. This is stated in Section 14.1 of the Guideline.

*The provisions above supersede previously issued CBN Guidelines on Shariah Governance for Non-Interest Financial Institutions in Nigeria.*

## Glossary of Terms

- |  |   |
|--|---|
| • BAC - Board Audit Committee                          | • ED - Executive Director                         |
| • BRMC - Board Risk Management Committee               | • FHC - Financial Holding Company                 |
| • CBN - Central Bank of Nigeria                        | • ICT - Information, Communication and Technology |
| • CEO - Chief Executive Officer                        | • INED - Independent Non-Executive Director       |
| • CMNIBs - Commercial, Merchant and Non-Interest Banks | • MD - Managing Director                          |
| • CRO - Chief Risk Officer                             | • NED - Non-Executive Director                    |
| • DMD - Deputy Managing Director                       | • PSB - Payment Services Bank                     |
| • ECO - Executive Compliance Officer                   |   |



## How we can support you

### Our Services

#### Status quo Assessment and Gap Analysis

We can review your current corporate governance practices towards identifying areas requiring enhancement to ensure conformance with the CBN Guidelines and NCCG 2018



#### Update of Corporate Governance Artefacts

We can support in updating Board and Committee Charters, Board Policies, Corporate Governance Framework to align with the provisions of the CBN Guidelines and NCCG 2018.



#### Development of Implementation Roadmap

We can work with you to design a recommendation implementation roadmap which would align with your priorities and resource requirements.



#### Training and Capacity Building

We have broad and in-depth expertise needed to deliver customised trainings which would assist you in effective implementation of the provisions of the CBN Guidelines and NCCG 2018.



## Contacts



**Wura Olowofoyeku**

**Partner**, Governance, Risk and Compliance

wura.olowofoyeku@pwc.com  
+234 (0) 807 239 0033



**Temilola Abdul**

**Manager**, Governance, Risk and Compliance

temilola.abdul@pwc.com  
+234 (0) 805 660 6938



**Boluwatife Adeyeye**

**Senior Consultant**, Governance, Risk and Compliance

boluwatife.adeyeye@pwc.com  
+234 (0) 706 476 2406





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