



**GUIDELINES ON FINANCIAL AND TECHNICAL ASSISTANCE TO
OPERATING INSURED BANKS AND DEPOSIT TAKING FINANCIAL
INSTITUTIONS.**

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NIGERIA DEPOSIT INSURANCE CORPORATION

GUIDELINES ON FINANCIAL AND TECHNICAL ASSISTANCE TO OPERATING INSURED BANKS AND DEPOSIT TAKING FINANCIAL INSTITUTIONS.

1.0 INTRODUCTION

1.1 Background

The Policy Guidelines on Financial and Technical Assistance for operating insured banks and other deposit taking financial institutions is aimed at broadening the statutory responsibilities of the Corporation to provide consistent and equitable financial assistance to the insured banks. The NDIC Act 2006 empowers the Corporation under sections 2 (1) (b) to give assistance to insured institutions in the interest of depositors, in case of imminent or actual financial difficulties particularly where suspension of payments is threatened to avoid damage to public confidence in the banking system.

2.0 POLICY OBJECTIVES

The application of the proposed guidelines for providing financial assistance to insured banks shall vary in accordance with the nature of the problem, as well as the type and extent of assistance required. The guidelines shall be subject to Periodic reviews reflecting the changing responsibilities of the Corporation in the dynamic financial sector. All applications for assistance shall be evaluated in the light of policy objectives which include the following:

- i) The cost of providing assistance is less than other available alternatives,
- ii) The assistance will enhance the future viability of the insured bank or financial institution;
- iii) The continued operation of the bank, or financial institution, is essential to the community;
- iv) The assistance will minimize risks to the stability of the financial sector,
- v) If granted, the assistance will not undermine market discipline in the banking sector;
- vi) Proposals for monitoring the financial assistance to ensure compliance to agreed terms and conditions;
- vii) The approximate financial effect on shareholders and creditors of the applicant bank, or financial institution, had the assisted institution closed. The financial assistance should not be to the benefits of shareholders in any way. It should be targeted at depositors' protection;

- viii) The Corporation shall consider application for technical assistance within a competitive bidding process in cases of acquisitions and mergers and it may solicit interest from qualified entities;
- ix) The bank or financial institution should provide sufficient tangible capitalization through capital infusions/technical expertise from outside private investors;
- x) The amount of assistance and the new capital injected from outside sources must provide reasonable assurance of the future viability of the institution;
- xi) The bank, or financial institution, must show evidence of having exhausted all other avenues of assistance before considering putting up the application;
- xii) The applicant bank or financial institution shall disclose all fee arrangements to attorneys, investment bankers, accountants, consultants, and other advisors and agents incident to the requests for financial assistance. This will be evaluated by the Corporation in determining the cost of assistance package. Excessive fees must be avoided.

3.0 TYPES OF ASSISTANCE TO INSURED INSTITUTIONS

The Corporation shall provide various types of technical and financial assistance in accordance with section 37 [2] [a-c] & section 38 [1] [a-e] of the NDIC Act 2006. These Guidelines provide various prudential thresholds for Supervisory intervention in the event that the solvency and or liquidity of many or most banks suffer shocks that may have shaken public confidence. Any bank that exhibits a combination of the above thresholds is expected to solicit for short-term liquidity support from the Corporation.

3.1 (a) FINANCIAL ASSISTANCE TO INSURED INSTITUTIONS

Section 37 [2] [a-c] of NDIC Act 2006 specifies the types of financial assistance available to insured banks and other deposit taking financial institutions. These include but not limited to the following:

- (a) Loans on such terms as may be agreed upon by the Corporation and the failing insured institution;
- (b) Guarantee for a loan taken by the insured institution;
- (c) Accept an accommodation bill with interest for a period not exceeding 90 days maturity exclusive of days of grace and subject to renewals of not more than seven times.

Provided that interest rates applicable to facilities extended to the failing institution shall not exceed the Minimum Rediscount Rate of the Central Bank of Nigeria.

3.1.1 (b) PRE-REQUISITE FOR FINANCIAL ASSISTANCE

Under the liquidity thresholds, a bank is considered significantly illiquid if it records liquidity ratio greater than 10% but less than 20%, its current account with the CBN is overdrawn and not covered on the next working day subsequently for five working days within a month, a net taker of up to 25% of its total deposits, its ratio of total loans to total deposits is above existing prudential ratio by 20% for three consecutive months and if it incurs clearing operations losses continuously for 10 days. Any bank that exhibits a combination of the above thresholds is expected to solicit for short-term liquidity support from the Corporation.

For an insured institution to qualify for the assistance, it must meet the pre-conditions as contained in section 37 [1] [a-c] of the NDIC Act and others including the Contingency Planning Framework as listed below:

- i) The applicant insured institution has difficulty in meeting its obligations to its depositors and other creditors,
- ii) It persistently suffers liquidity deficiency,
- iii) There exist severe financial conditions which threaten the stability of the financial system thereby posing grave risks to depositors,
- iv) An insured institution that is a net taker of up to 25% of its total deposits.

3.2 (a) TECHNICAL ASSISTANCE TO INSURED INSTITUTIONS

Section 38[1] [a-e] of NDIC Act 2006 specifies the type of technical assistance that could be available to an insured institution. These include but not limited to the following:

- (a) Takeover of the management of a failing insured institution until its financial position has substantially improved;
- (b) Direct specific changes to be made in the management of the failing insured institution within such time as the Corporation may specify;
- (c) Arrange a merger with or acquisition by another insured institution or contract to have the deposit liabilities assumed by another insured institution; in which case: –
 - (i) The receiving or acquiring insured institution shall assume all the recorded deposit liabilities of the failing insured institution;
 - (ii) The receiving insured institution shall receive those assets of the failing insured institution that are acceptable and an amount equal to the difference between the assumed deposit liabilities and acceptable assets shall be advanced to the receiving insured institution by the Corporation;

- (iii) The Corporation may receive such assets from the failing insured institution as it may consider acceptable as collateral for the advance to the receiving insured institution or purchase the assets from the failing insured institution; and
 - (iv) Subject to paragraph (iii) above, any asset (including land) of the failing insured institution shall be transferred or be vested in the receiving insured institution or the Corporation;
- (d) Acquire, manage and dispose of impaired assets of failing insured institutions, either directly or through an Asset Management Company and the Board of the failing insured institution shall be obliged to offer assets of the failing insured institution for sale to the Corporation or the Assets Management Company or as security for loans from the Corporation or the Assets Management Company; or
- (e) Take such other measures that are reasonably necessary for the purpose of securing and restructuring the failing insured institution.

3.2.1 (b) PRE-REQUISITE FOR TECHNICAL ASSISTANCE

For an insured institution to qualify for the Technical Assistance, it must meet the pre-conditions as contained in section 37 [1] [a-c] of the NDIC Act and others as listed below:-

- i) It has accumulated losses which have nearly or completely eroded the shareholders' fund,
- ii) Bank or insured financial institution that is either significantly undercapitalized or critically undercapitalized with capital Adequacy Ratio of less than 5% but equal to or greater than 2% or bank with capital adequacy of less than 2% respectively;
- iii) Bank or insured financial institution identified to habitually violate laws, rules and regulations or bank's Charter or bye-laws or monetary policies;
- iv) Bank or insured financial institution with persistent squabbles among shareholders, directors and officers.

4.0 THE PROCEDURE FOR GRANTING FINANCIAL ASSISTANCE

4.1 REQUIREMENTS FOR FINANCIAL ASSISTANCE

- a] A formal Application for financial assistance stating the amount required.
- b] The purpose of the request i.e. the causes and extent of the problem to be addressed.
- c] Tenor/Repayment period.
- d] Sources and Mode of the loan repayment
- e] The current and projected monthly Cash Flow, Statement of Comprehensive Income and Statement of Financial Position, clearly stating

- the underlying assumptions for the projections, the impact of the expected facility and its amortization over the period of repayment.
- f] Board Resolution authorizing the request for the facility.
 - g] Evidence of the repayment of all insider related credits.
 - h] Evidence of repayment of any outstanding indebtedness to other banks by the Directors of the applicant bank.
 - i] Schedule of existing borrowings by the bank
 - j] The schedule of non-performing credits as well as the major liabilities that have matured.
 - k] A statement in quantifiable terms of measures taken to address the institution's liquidity problem. E.g. debt recovery, cost saving measures adopted.
 - l] Evidence of compliance with the recommendations of the CBN/NDIC Examiners.
 - m] A certified true copy of the Articles and Memorandum of Association of the insured institution.
 - n] The list of major shareholders [5% and above] and their shareholding as well as resumes of the Board and Management of the insured institution.
 - o] An acceptable joint and several guarantees of the members of the Board of Directors and Principal Shareholders of the insured institution.
 - p] Identification and Description of the specific property being offered as collateral, accompanied with recent Estate Valuers Report on same, stating the open market and Forced Sale Values.
 - q] Evidence of comprehensive insurance of the property.
 - r] A Strategic Business Plan indicating how the Management intends to address the insured institution's problem, repay the loan, to attain and sustain the ₦25 billion minimum capital requirement.
 - s] Any other information that may assist in the processing of the request of the particular insured institution.

4.2 GUIDELINES ON CONDITIONS PRECEDENT FOR LOAN FACILITY APPROVAL

The following guidelines shall be adhered to in processing any request for financial and technical assistance:

- i] The NDIC shall obtain from the CBN any adverse information on the bank or financial institution which is likely to affect the decision of the Corporation on the application.
- ii] If the applicant bank or financial institution fails to qualify under the aforementioned pre-requisites, terms and conditions for financial and technical assistance, the Corporation shall convey the rejection to the applicant within two weeks of taking the decision stating the specific reasons why the application was rejected.

- iii] Any request for assistance received from a third party other than the target bank or financial institution shall not be processed unless the target institution is advised accordingly and its cooperation sought.
- iv] Application for financial or technical assistance should be submitted in triplicate to the Head Office of NDIC.
- v] Third parties that submit one form of proposal are not precluded from submitting other forms of the target bank or institution.

4.3 APPROVAL/REJECTION OF APPLICATION

The Insurance & Surveillance Department shall be responsible for processing applications and communication of approval or rejection of application for assistance.

5.0 SECURITY AND REPAYMENT

Any application for financial assistance must provide for repayment of such assistance. The facility shall be fully secured by tangible security. The applicant bank or insured institution for financial assistance must submit joint and several guarantees from the members of its Board as well as principal shareholders for the repayment of any financial assistance granted.

6.0 FORMAL AGREEMENT WITH THE CORPORATION FOR FINANCIAL AND TECHNICAL ASSISTANCE

The terms and conditions for a facility will vary from one insured institution to the other depending on the nature of the problem and the type of facility being sought. In general, the terms and conditions will cover pre and post-disbursement conditions to be met by the applicant bank. These include but are not limited to the following:

- i] The insured institution should show evidence of substantial debt repayment by shareholders and their related interests.
- ii] The insured institution should not default in premium payment.
- iii] Every applicant insured institution will submit a time-framed turn-around plan, the evaluation of which will determine the extent of financial and technical assistance to be granted by the Corporation.
- iv] The agreement will contain among others, the following terms and conditions that will be determined on a case by case basis:
 - Purpose of facility
 - Amount of financial facility
 - Tenor
 - Repayment
 - Interest rate

- Security – essentially government securities [e.g. investment certificates] or other acceptable collateral.
- v] Applicant insured institution will submit joint and several guarantees from the members of its Board as well as the principal shareholders for the repayment of any financial assistance granted.
- vi] The insured institution will suspend the repayment of dividends and bonus where it is in default of its repayment schedule.
- vii] The insured institution will embark on intensive deposit drive particularly from non-interbank sources.
- viii] The insured institution will render to the Corporation monthly returns on the following statements:
- Debt Recovery Statement
 - Statement of performing and non-performing loans,
 - Statement of new deposits
 - Statement of new lending
 - Maturity profile of Assets and Liabilities
 - Statement of Cash-flow
 - Statement of Comprehensive Income
 - Statement of Financial Position
 - Report on incidences of Frauds and Forgeries
 - Report on disciplinary measures taken on staff involved in frauds and forgeries.
- ix] Post assistance monitoring will take the form of on-site visitation and off-site monitoring of the operations of the bank. The on-site visitation may be in form of Target Examination or Sport-checks to ensure effective and efficient use of the facility granted and the smooth running of the banking operations. This will also be an opportunity to keep an eye on the security pledged for the facility and also ensure compliance with the terms and conditions precedent for the loan.

The off-site monitoring will normally be analyzing monthly returns stipulated in the terms and conditions for the assistance and directing the bank to take appropriate corrective measures.

7.0 SUPPLEMENTARY ISSUES

7.1 DUE DILIGENCE

The bank, or financial institution, must consent to unrestricted on-site due diligence reviews by any potential acquirer that is cleared by the Corporation in consultation with the CBN.

7.2 OTHER COVENANTS

i) Submission of a Time-framed Strategic Turn-around Plan

The applicant bank, or financial institution, must submit a time-framed strategic turn-around plan which shall include, among others: Viability projections based on reasonable assumptions regarding the use of the assistance, Earnings, Reserve levels, Asset quality Trends, Anticipated dividends and Needs. This will be evaluated by the Corporation in determining the extent of assistance to be granted.

ii) Managerial Resources

- a) The Corporation must determine that the Management of the applicant bank or financial institution is competent and complies with statutory regulations.
- b) The Corporation must determine that the Management of the applicant did not engage in any insider dealing, speculative practice, or abusive activity.
- c) The applicant for assistance must provide adequate managerial resources. Renegotiation or termination of management contracts is to be completed prior to the granting of assistance. Continued service of any Director or senior ranking officer who served in a Policy making role of the assisted bank, or financial institution, will be subject to the Corporation's approval. Furthermore, the Corporation may review and object to any, or all, parts of any new compensation arrangements [including termination clauses] covering these individuals during the period assistance is outstanding.
- d) The applicant bank or financial institution must have strong corporate governance, strong Internal Control system and Risk Management Framework in place.

7.3 Enquiries

All enquiries on these Guidelines may be directed to the **Director, Insurance & Surveillance Department (ISD), Nigeria Deposit Insurance Corporation (NDIC), Abuja.**