



National Pension Commission

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Requirements for
PFC Licence

Form APP/01/PFC

February 2005

REQUIREMENTS FOR PENSION FUND CUSTODIAN LICENCE

1.0 Introduction

1.1 The business of a Pension Fund Custodian (PFC) shall be to provide custody of pension assets; and to hold and deal with such assets strictly in accordance with directives given by the Pension Fund Administrator (PFA) and the National Pension Commission (PenCom) in conformity with the Pension Reform Act 2004.

1.2 The assets in custody of a PFC shall be kept separate and distinct from the Custodians' own assets.

1.3 The services to be provided by a PFC would include and not be limited to the following:

1.3.1 Basic Custodial Services

- (a) Keeping securely securities which constitute Pension Fund assets and settlement documents.
- (b) Acting as clearing agent, buying and selling securities under the instructions of a PFA and collecting payments of dividends, interest and all other incomes related to Pension Fund investments.
- (c) Receiving pension contributions on behalf of PFAs.

1.3.2 Investment accounting and performance measurement.

1.3.3 Risk management and compliance reporting. This shall include monitoring compliance with investment guidelines and PFA's policy limits.

2.0 Application Procedure

- 2.1 Any organisation wishing to act as a custodian of pension fund assets in Nigeria must apply and be duly licensed by PenCom in accordance with Sections 46, 47, 51, 52 and 97 of the Pension Reform Act 2004.
- 2.2 Application for a licence to transact business as a PFC shall be made in the prescribed manner as determined by PenCom.
- 2.3 Application for a licence to transact business as a PFC shall be made to the Director-General, PenCom.
- 2.4 After meeting the requirements for the grant of a licence for a PFC, an Approval-In-Principle (AIP) may be granted to the applicant which shall be valid for three (3) months only.
- 2.5 The satisfactory fulfilment of the requirements for commencement of operations would lead to the grant of a licence.

3.0 Requirements

The following are the requirements that must be met by any organisation wishing to be licensed to carry on the business of a PFC in Nigeria:

- 3.1 The applicant must submit to PenCom evidence that it:
 - 3.11 is a duly incorporated limited liability company in Nigeria under the Companies and Allied Matters Act, Cap. C20 LFN 2004.
 - 3.12 is set up with the sole purpose of carrying out the business of a pension fund custodian;
 - 3.13 is wholly/jointly owned by (a) licensed financial institution(s) with a/combined minimum net worth of ₦5billion unimpaired by losses;
 - 3.14 has or its parent company/companies has/have a/combined total balance sheet of at least ₦125 billion;

- 3.16 is capable of providing a guarantee to the full sum and value of pension assets held or to be held by it, in bank deposits and other liquid assets, or its parent company/companies issue(s) such guarantee acceptable to PenCom;
- 3.17 has the professional and technical capacity to provide custodial services as contemplated under the Pension Reform Act 2004 and guidelines issued in connection therewith by PenCom;
- 3.18 has never been custodian of any fund which was mismanaged or has been in distress due to any fault, either fully or partially;
- 3.19 has adequately insured pension assets in its custody against loss through fire, theft, natural catastrophe and the like, as well as fidelity guarantee cover;
- 3.21 possesses appropriate Information and Communication Technology that could adequately cater for online real-time transactions in addition to keeping proper accounting records;
- 3.22 has a system of internal controls which ensures that the assets under its custody are safeguarded and segregated and records would adequately reflect the information they purport to present; and
- 3.23 has satisfied all requirements prescribed by the Pension Reform Act 2004, other relevant laws or any such additional requirements or conditions as may be prescribed from time to time by PenCom.

4.0 Documents to be Submitted

- 4.1 An application for licence as a PFC shall be accompanied by:
 - 4.11 Duly completed Application Form (APP/02/PFC).
 - 4.12 A non-refundable application fee of ₦2, 000,000.00 (Two Million Naira) in bank draft payable to National Pension Commission and marked as "Application Fee".

- 4.13 Name, Address (physical and electronic) and Telephone numbers of the person to whom enquiries may be referred.
 - 4.14 Address and location of the applicant's registered office and proposed Head Office, if different from the registered office.
 - 4.15 An undertaking to hold the pension fund and assets to the exclusive order of the Pension Fund Administrator on trust for the respective employees.
 - 4.16 An attestation that the applicant or its subscribers, directors or officers have never mismanaged, either fully or partially, any fund.
- 4.2 A Certified True Copy of the Memorandum and Articles of Association of the applicant company which must contain, amongst others, the following provisions:
- 4.21 the sole object being to carry out the business of pension fund custody and to hold assets to the exclusive order of Pension Fund Administrator and for the benefit of the account holders in the PFA;
 - 4.22 a provision precluding the PFC from acquiring any interest, for its own account, in any other company or from owning a subsidiary company;
 - 4.23 a limitation on the issuance of any un-issued share capital, rights issue, issuing preference shares or debentures by the PFC without *prior* written approval of PenCom; and
 - 4.24 a provision precluding the PFC from incurring any liability, including contingent liabilities such as indemnification, other than the liabilities it incurs in respect of assets/funds held on behalf of the PFAs and its ordinary obligations to its parent company.
- 4.3 Sample copy of the proposed contract for custodial services between the PFC and PFAs.

- 4.4 Certified True Copy of Form C02 (Allotment of Shares), C07 (Particulars of Directors), C06 (Location of Registered Office) and Certificate of Incorporation.
- 4.5 A signed copy of a Technical Services Agreement (where applicable).
- 4.6 Feasibility Report/Business Plan which shall contain, amongst others, the following:
 - 4.61 Business Strategy and Objectives of the PFC.
 - 4.62 Organisational Structure showing functional units and reporting relationships as well as details of functions and responsibilities.
- 4.7 Applicant's Five Year financial projections including Balance Sheet, Profit and Loss Account and Cash Flow Statement and underlying assumptions.
- 4.8 Where the applicant intends to have branches, provide details of policy on branch expansion indicating policy objectives, probable location of branches and targeted volume of business.
- 4.9 Ownership structure of the applicant company in a columnar format.
- 4.10 For the parent company/companies of the applicant, attach the following:
 - 4.10.1 Certificate of Incorporation and Forms CO2 and C07;
 - 4.10.2 Board Resolution supporting the company's decision to invest in equity shares of the proposed PFC. In that regard, the source of capital could also be a subject of verification.;
 - 4.10.3 List of shareholders with holdings of five (5) % and above.
 - 4.10.4 Names and current addresses (Business and Residential) of directors and their related companies, if any;

- 4.10.5 A Certified True Copy of the parent company's/companies' licence(s) to undertake financial services business;
 - 4.10.6 Latest five (5) years audited accounts and reports of the company including the most recent management letter; and
 - 4.10.7 Evidence that it has paid all taxes.
- 4.11 The structure of proposed Board and Senior management, committees, internal control systems and reporting arrangement must be such that they collectively provide for effective, efficient and prudent custody of assets. The following information shall also be provided:
- 4.11.1 Specify the criteria for selecting Board members, noting that the size of the Board should not be unwieldy.
 - 4.11.2 In the case of executive members, selection must comply with the requirements on the "pre-qualification for appointments into top management" issued by PenCom.
 - 4.11.3 Provide additional information on appropriate competence to enable them to fulfill their duties.
 - 4.11.4 Clearly specify the roles and responsibilities of the Board and its Sub-Committees.
 - 4.11.5 The full names and address and detailed curriculum vitae outlining the relevant qualification and experience of each of the proposed Board members of the PFC including directorship of other companies for the past ten years. Each of the proposed directors and the Chief Executive Officer would also be required to fill a Personal Profile Form No. APP/PPF/01.
 - 4.11.6 Proposed Board members and top management may be invited to attend an interview at PenCom.
 - 4.11.7 Outline the policy on succession plan for key officers.

4.12 Attestation by each of the proposed members of the Board and top management that he/she has never:

- 4.12.1 compounded his/her debt, had a judgement debt, or been involved in any fraud;
- 4.12.2 been indicted by any Commission of inquiry;
- 4.12.3 been refused or expelled from membership of a professional body or association;
- 4.12.4 been convicted by any court of law or is under any pending criminal prosecution; and
- 4.12.5 has not been disqualified under any law in Nigeria from acting in that capacity.

5.0 Minimum Capital Requirement

- 5.1 After preliminary evaluation of an application and before the issuance of an AIP, applicant shall be required to submit evidence of deposit of a minimum paid up capital of ~~₦~~2 billion in an escrow account with Central Bank of Nigeria (CBN) along with details of contribution by each investor. PenCom would issue applicants with letters of introduction to CBN.
- 5.2 Where an applicant fails to obtain an AIP, the amount deposited and interest thereon would be refunded immediately on notification. Similarly, where an AIP is granted the amount deposited and interest thereon will immediately be released to meet the requirements for commencement of business.

6.0 Requirements for Commencement of Operations

Once the PFC is ready to commence business and within 3 months of the grant of an AIP, it should inform PenCom through a letter accompanied by the following:

- 6.1 Non-refundable licence fee of ~~₦~~10 million.
- 6.2 Copy of the Shareholders' register.

- 6.3 Copy of the share certificate issued to each investor.
- 6.4 Copy of the opening Statement of Affairs signed by directors and a firm of Chartered Accountants.
- 6.5 Copy of Manual of Operations.
- 6.6 Minutes of pre-commencement Board Meeting.
- 6.7 Evidence of readiness of installation of appropriate Information and Communication Technology facilities.
- 6.8 Copies of Letter of offer and acceptance of employment in respect of the Management Team.
- 6.9 Evidence of readiness of procedures and record keeping policies that will ensure an effective and efficient Management Information System.
- 6.10 Evidence of appropriately documented procedures to exclude unauthorised access to critical systems, thorough testing of all new proprietary systems and the continuity of operations of all its critical applications.
- 6.11 Evidence of an appropriately documented system of risk management to provide substantial assurance of continuity in the event of disruption.
- 6.12 Undertaking by each of the members of the Board and the top management to maintain high ethical standard and exercise due diligence and care in their conduct and avoid any conflict of interest at all times.
- 6.13 Undertaking by each of the members of the Board and the top management to ensure that the PFC observes high standard of integrity, professionalism and fairness in its operation as well as keep proper books and records at all times.
- 6.14 Undertaking by each of the members of the Board and top management that the PFC shall not engage in any business other than the custody of pension funds and assets at all times.

- 6.15 Attestation of willingness and capacity on the part of the PFC to comply with the provisions of the Pension Reform Act 2004 and PenCom's licensing and supervisory requirements and standards on a continuous basis.
- 7.0 Duly completed application form and supporting documents should be submitted in both hard and soft copies in sealed envelopes to the following address:
- Director-General
National Pension Commission
Plot 2774, Shehu Shagari Way
Maitama District
PMB 5170 Wuse
Abuja
- 8.0 All enquiries should be referred to the above address. The licensing requirements, other guidelines and relevant forms can be downloaded from PenCom's website:
www. pencom.gov.ng.

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