RC 336267

NASD LISTING REQUIREMENTS ADMISSION OF DEBT SECURITIES ON THE NASD OTC SECURITIES EXCHANGE

1. GENERAL REQUIREMENTS

1.1. **Conditions for Approval for Admission**

1.1.1. All Debt Securities to be admitted by NASD shall first be registered with the Commission.

1.1.2. An Issuer shall appoint a Participating Institution who shall:

i. Advise the Issuer on the requirements for Admission including documentation and structuring;

ii. Ensure that all applicable rules, regulations, and guidelines are complied with and that all necessary resolutions are duly passed.

iii. Carry out such other functions as stipulated by the Commission.

1.1.3. An application for admission on the NASD OTC shall be made in writing by a Participating Institution (Issuing House) to NASD on behalf of an Issuer and accompanied by the documents listed in Rules 6.3 and 8, in accordance with these Rules.

1.1.4. Where debt securities are issued under a programme, either all or a certain class or tranche of the debt securities issued under the programme may be admitted.

1.1.5. If Debt Securities are issuable in two or more series with different terms, each series shall be deemed a separate class for the purposes of these Rules.

1.1.6. The Issuer shall have satisfied all the requirements as may be prescribed by NASD and the Commission.

1.1.7. All applications and documents to be considered or approved by NASD shall be submitted at the earliest possible date. The final Offer Documents for approval shall be forwarded to NASD at least seven (7) working days before the date for the completion board meeting.

1.1.8. Subscriptions shall remain open for a maximum period of twenty-eight (28) working days or as prescribed by the Commission.

1.1.9. No short-term Debt Securities with an original maturity date of less than 1 year shall be listed under these Rules.

1.1.10. In connection with any application, modification of security or the issuance of additional securities, NASD may request the Issuer to file additional documents or make payment of such additional sum as may be determined from time to time by NASD.

2. ELIGIBILITY CRITERIA FOR CORPORATE BODIES

2.1. An Issuer applying for the Admission of debt securities for this purpose shall be a Corporate body.

2.2. The Issuer shall appoint a Participating Institution duly licensed by NASD and registered with the Commission, to submit its application for Admission of Debt Securities on NASD OTC.

2.3. The Corporation shall fulfil the following eligibility criteria:

2.3.1. be a duly incorporated entity registered under the laws of Nigeria

2.3.2. obtain all necessary approvals (where applicable) in relation to the Issue, from other regulatory authorities and file them together with the application for Admission.

2.3.3. Have a minimum of three (3) years' operating track record.

2.3.4. have not less than three (3) years' Audited Financial Statements prior to the date of its application to be admitted on NASD OTC. Where the Issuer does not have audited financial statements for the last three (3) years, the Issuer shall provide evidence of a strong technical partner who has a minimum of three (3) years of operating track record with substantial equity, involvement in management and an audited financial statement for the last three (3) years of the technical partner.

2.3.5. Be authorized by its Memorandum and Articles of Association and other relevant constitutional documents,with regard to its capacity to issue debt securities and borrowing limits, among others.

2.3.6. Have such minimum shareholders' funds (unimpaired by losses) as may be prescribed by the Commission and shall be evidenced by its latest audited accounts (not being later than nine (9) months from the last financial year end) which shall be maintained at or above that level for the entire tenor of its debt securities admitted on NASD.

2.3.7. The Issuer shall have no overdue loans or default in its credit information report obtained from a CBN licensed Credit Bureau, and the said report shall be issued not later than two (2) weeks prior to the application date.

2.3.8. The Issuer's total indebtedness, including the new debt security issue should not exceed Four Hundred percent (400%) of the Issuer's net worth (or gearing ratio of 4:1) as of its latest audited accounts.

2.3.9. Issuer must not be under receivership, liquidation, or sanction.

2.3.10. Where the debt security is guaranteed, the Issuer shall maintain an approved credit line with a guarantor with a minimum rating of BBB.

2.3.11. Ensure that the securities are fully paid up at allotment and registered in compliance with the Commission's Rules.

2.3.12. The Issuer shall submit an executed trust deed for securing the issue of debt securities in favour of the trustee. The trust deed shall contain such clauses as may be prescribed by the Commission and shall not contain any clause which has the effect of

a. limiting or extinguishing the obligations and liabilities of the trustees or the Issuer in relation to any rights or interests of the investors;

b. limiting or restricting or waiving the provisions of the Act, the rules and regulations of the Commission, these Rules and other relevant Rules issued by NASD
c. indemnifying the trustees or the issuer for loss or damage caused by their acts of negligence, commission, or omission.

2.4. Required documentation for corporations

2.4.1. The Issuer/Sponsor seeking Admission of debt securities on NASD OTC shall, through the Participating Institution, file an application in the prescribed NASD form along with such supporting documentation and disclosures as outlined below:

2.4.1.1. An application form which shall state the rate of interest, the date of maturity or if the issue matures severally, a brief indication of the serial maturities. The application form shall be signed by the Participating Institution and accompanied by a non refundable application fee and appropriate Admission fees.

2.4.1.2. A letter of indemnity in favour of NASD by the Issuer dated and signed by a director and the company secretary.

2.4.1.3. A copy of the Offer Documents.

2.4.1.4. A copy of the approval letter from the Securities and Exchange Commission and other relevant regulatory authorities (where applicable)

2.4.1.5. Certified True Copy (CTC) of its Memorandum and Articles of Association; 2.4.1.6. CTC of the Certificate of Incorporation of the Issuer and Sponsor (where applicable);
2.4.1.6. Company profile reflecting the Issuer's name, registered office address, principal activity, business sector, organizational structure, subsidiaries, associates, factory/branch locations, products/services, the profile of directors and managers, the composition of the board as well as details of any changes thereto;

2.4.1.7. CTC of the Issuer's/Sponsor's most recently filed CAC Form 5 (Statement of Share Capital and Return of Allotment of Shares), Status Report, and a description of the shareholding structure showing major shareholders owning above five percent (5%);

2.4.1.8. CTC of the Status Report, and profiles of the Directors and Management team as well as details of any changes in the

2.4.1.9. Certified copy of the Shareholders' resolution authorising the issuance (special resolution is required for private placements).

2.4.1.10. Resolution of shareholders at a General Meeting where the amount to be borrowed is beyond the specified limit on the borrowing powers of the directors in the Memorandum and Articles of Association of the Issuer, and where the bond to be issued is convertible

2.4.1.11. Certified copy of the resolution(s) of the board approving and authorising the issue of the

Offer Documents.

2.4.1.12. Annual Reports and Audited Financial Statements for the past three (3) years with the most recent not older than nine (9) months from the last financial year-end. Every public company shall in its annual report state its level of compliance with the provisions of the Commission's code of corporate governance for public companies.

2.4.1.13. Any document that provides information and details of any charges or encumbrance on the Issuer's/sponsor's cash flow.

2.4.1.14. Comprehensive schedule of the Issuer's/Sponsor's current debt profile by type, purpose, tenor, and maturity dates.

2.4.1.15. Comprehensive schedule of all material contracts executed by the Issuer/Sponsor.

2.4.1.16. Details of any litigation and claims currently involving the Issuer/Sponsor certified by the Issuer's external solicitors.

2.4.1.17. Evidence that the issuance of the Debt Securities does not exceed the limit of the Issuer's/Sponsor's borrowing powers.

2.4.1.18. Credit information report by a CBN-licensed credit bureau.

2.4.1.19. Rating report from a rating agency registered by the Commission.

2.4.1.20. Valid and subsisting Credit Rating Report (of the Issuer or Issue) obtained from a credit rating agency registered or recognised by the Commission;

2.4.1.21. Copy of Underwriting agreement, where applicable;

2.4.1.22. Where the Issuer is a Special Purpose Vehicle (SPV), an executed deed of undertaking by the Sponsor as approved by the Commission, in favour of the SPV and the Trustees for the prompt settlement of the payment obligations of the Issuer

2.4.1.23. Sources of repayment/funding plan for the Issue;

2.4.1.24. Details of any credit enhancement to support the Bond Issue in the form of guarantee or credit lines (where applicable);

2.4.1.25. Reporting accountant's final report on the financial projections;

2.4.1.26. Evidence of payment of NASD's application fee for admitting the Bonds.

2.4.1.27. Signed undertaking (Appendix I) to abide by the Rules of the NASD OTC, and to pay all relevant fees

2.4.1.28. Copy of the Trust Deed.

2.4.1.29. Copy of vending agreement, between issuer and the issuing house(s).

2.4.1.30. Copy of the allotment letter.

2.4.1.31. Printers' proofs of the advertisement and posters.

2.5. The following document shall be lodged with NASD within 48 hours of the completion board meeting:

2.5.1. One copy of each of the Offer Documents, poster and advertisement, which shall be:

2.5.1.1. Dated and signed by all the parties who are named in the Offer Documents as a director or proposed director of the company or by his agent authorised in writing;

2.5.1.2. Where an agent signs the documents referred to in 3.3 (i)(a) above, a certified copy of the authorisation for such signature shall be submitted along with the documents.

2.6. Prior to the issue being admitted, the following documents shall be lodged with NASD:

2.6.1. A written undertaking accepting to comply with the post-admission requirements of NASD in the form set out in Appendix II of these Rules.

2.6.2. A declaration of compliance in the form suggested in Appendix III.

2.6.3. A copy of the newspaper cuttings advertising the basis of allotment.

3. CONTENTS OF OFFER DOCUMENTS FOR ADMISSION OF SECURITIES BY CORPORATE BODIES

3.1. An Issuer seeking Admission debt securities shall ensure that Offer Documents contain the following in addition to all such information as prescribed by the Commission:

3.1.1. A declaration on compliance with SEC corporate governance

3.1.2. Where convertible debt securities to be admitted are subject to redemption or call, the description of the conversion terms of the securities shall include whether the right to convert or purchase the securities will be forfeited unless it is exercised before the date specified in the notice of redemption or call; the kind, frequency and timing of the notice of the redemption or call, including where the notice will be published; and, in the case of bearer securities, that investors are responsible for making arrangements to prevent loss of the right to convert or purchase in the event of redemption or call.

3.1.3. Details of the current Credit Rating Report of the Issuer or the Issue, including the rating grade as issued by a registered Credit Rating Agency.

3.1.4. Declaration by the issuer on compliance with all requirements of the Commission and NASD, and that the Issuer/Sponsor or any of its subsidiaries have not breached any terms and conditions in respect of borrowed monies that have resulted in the occurrence of an event of default and an immediate recall of the borrowed monies during the Twelve (12) calendar months immediately preceding the date of filing the application for Shelf Registration;

3.1.5. Any other material information in relation to the Issue as may be necessary for investors to make informed decisions and such other disclosures as specified by the Commission under the SEC Rules and required by NASD;

3.2. NASD shall not grant Admission for an initial offering where the last audited financial statement of a company is more than 9 months old.

3.3. NASD reserves the right to request further or additional information.

4. ELIGIBILITY CRITERIA FOR STATUTORY BODIES

4.1. An Issuer applying for the Admission of debt securities for this purpose shall be Federal Government agencies, State Government and its agencies, Federal Capital Territory (FCT) and its agencies, Local Governments, any company which is wholly or partly owned by the Federal, State or Local Government and any borrowing by a company which is guaranteed or sponsored by the Federal, State, Federal Capital Territory or Local Governments.

4.1.1. The statutory body must have a specific law, gazette, or local government by-law that established and explicitly authorizes it to issue the debt securities.

4.1.2. Before any application is made for the Admission of debt securities, Federal Government agencies must obtain the Approved Resolution of the National Assembly, State Government and its agencies must obtain the Approves Resolution of the State House of Assembly and that of the State Executive Council and in the case of Local Government, it must obtain the Approved Resolution of the State Executive Council

4.1.3. its total annual debt service obligations, including the debt service obligation arising from the proposed issuance, is not at any time exceeding 40% of the actual revenue that accrued to its consolidated revenue fund or other statutory fund in the 12 months period immediately preceding the proposed new issuance.

4.1.4. Investment in the Bond issue not backed by an irrevocable letter of authority shall be restricted to Qualified Institutional Investors and High Net Worth Individuals as defined under these Rules.

4.1.5. It complies with such other debt sustainability ratio as may be specified by the Commission or other relevant authority which takes account of the total current and future debt service obligations, other contractual obligations, and the variability of the future revenue of the issuing body.

4.1.6. it complies with the relevant provisions of the Commission's ISA and Rules and Regulations as well as well as relevant laws, Rules, Bye laws, and guidelines that regulates its functions and operations.

4.2. Required Documentation For Statutory Bodies

4.2.1 The Admission documents must contain such information as is necessary for bondholders to make an informed assessment of the activities, assets and liabilities, financial position, management, prospects of the issuer, its profits and losses, and the terms and conditions of the bonds.

4.2.2 Application for Admission of Federal, State/Local Government, and other Government agencies' debt securities shall be through a Participating Institution. The Participating Institution shall file an application in the prescribed format for Admission along with the supporting documentation and disclosures outlined below:

4.2.3 A copy of the Offer Document

4.2.4 A copy of the feasibility report on the specific project to be financed.

4.2.5 Counterpart copy of the original of the irrevocable letter of authority from the Accountant-General of the State authorising the Accountant-General of the State if the issuer is a Local government to deduct the principal and coupon directly from statutory allocation in case of default;

4.2.6 Counterpart copy of the original of the irrevocable letter of authority from the Accountant-General of the Federation authorising the Accountant-General of the Federation if the issuer is a Federal agency or State Government or its agencies, Federal Capital Territory or its agencies to deduct the principal and coupon directly from statutory allocation in case of default;

4.2.7 Letter of confirmation from the Accountant-General of the Federation or Accountant-General of the State (in the appropriate case) of receipt of the irrevocable letter of authority to deduct the principal and coupon from statutory allocation of the State/Local Government in case of default.

4.2.8 A copy of the law, gazette, or Local Government by laws containing the instrument authorising the issue of the securities and specifying that a sinking fund to be fully funded from the consolidated revenue fund account of the issuer be established.

4.2.9 Audited account of the State/Local Government or other relevant Government agencies for the preceding 5 years or such number of years in existence (if less than 5 years);

4.2.10 Details of the sinking fund to be managed by the trustee and fully funded from the consolidated revenue account of the issuer

4.2.11 A copy of the Gazette or Local Government by-laws containing the instrument authorising the issue of the bond.

4.2.12 A copy of underwriting agreement (where applicable);

4.2.13 A copy of the Trust Deed.

4.2.14 A copy of the vending agreement.

4.2.15 The reporting accountant's report.

4.2.16 Rating report by a registered rating agency.

4.2.17 Details of any litigation and claims currently involving the Issuer/Sponsor certified by the Issuer's external solicitors.

4.2.18 Bridging loan agreement if any.

4.2.19 Schedule of all Material contracts executed in connection with the issuance.

4.2.20 An undertaking that the State and Local Government shall publish their audited annual financial statements in at least two (2) national newspapers throughout the life of the issuance.

4.2.21 An undertaking that the rating of the relevant governmental body shall be reviewed annually provided that the rating shall be no more than 12 months apart and shall be published in at least two national newspapers.

4.2.22 An undertaking that the relevant governmental body shall publish information on the utilization of the fund annually in at least two (2) national newspapers.

4.2.23 In the case of a federal or state Government agency or a company wholly owned by the federal government or state Government, a copy of the law establishing the agency or company and authorizing the agency or company to issue the debt securities.

4.2.24 Brief profile of key personnel of the issuer including members of the Executive arm of the

5. CONTENTS OF OFFER DOCUMENTS FOR ADMISSION BY STATUTORY BODIES.

5.1. Federal Government of Nigeria

5.1.1. Full name of the issuing authority
5.1.2. Purpose of issue.
5.1.3. Beneficiary of the issue
5.1.4. The amount and title of the issue.
5.1.5. Price of issue.
5.1.6. Coupon rate and date of payment.
5.1.7. Authority under which the security is issued.
5.1.8. Opening and closing dates of application.
5.1.9. The revenue against which the security is charged.
5.1.10. The place at which applications will be accepted.
5.1.11. Full particulars of the securities, e.g. the setting up of any sinking fund or of any rights of the Federal Government or public authority to redeem before maturity.
5.1.12. Tax position on interest payments.
5.1.13. Trustee status.
5.1.14. Maintenance of register.
5.1.15. The date of redemption of the registered bond or securities to be issued for the purpose of raising the loan; and

5.1.16. Any other information relating to the bond considered necessary to effectively raise the bond.

DOCUMENTATION REQUIREMENT FOR REGISTRATION OF CONVERTIBLE SECURITIES

S/N	Documentation Requirements for Debt-Equity Conversion
1.	Application Letter Duly completed NASD Form
2.	Conversion Information Memorandum containing all relevant information in respect of the Issue
3.	Updated Memorandum and Articles of Association
4.	Board and Shareholders resolutions authorizing the conversion
5.	Certificate of increase in share capital (where applicable)
6.	Company profile, short profiles of the current members of Issuer/Promoter's Board of Directors and Management Team together with the most recent Status Report from CAC, and Composition of the Board of Directors and Management Team during the year
7.	Debt conversion agreement and Share Purchase Agreement
8.	Audited annual reports and accounts covering the period relevant to the market segment, the most recent not exceeding twelve (12) months from the date of the submission of the application for the noting of the Issue (where applicable)
9.	Latest interim audited financial statements of the guarantor not exceeding (12) months from the date of the application for the Noting of the Bond
10.	External auditor's comfort letter on the Issuer/Promoter
11.	Any documentation that provides information and details of any charges/encumbrances on the Issuer's cash flows
12.	Comprehensive schedule of the Issuer/Promoter's current debt profile by type, purpose, tenor, and maturity dates

13.	Comprehensive schedule of all material contracts executed by the Issuer.
14.	Details of any litigations/claims currently involving the Issuer
15.	Evidence of the limit of the issuer's borrowing powers (if any)
16.	Undertaking to abide by the Guideline, including continuous reporting and disclosure requirements and to pay all relevant fees as provided in the Private Markets fees & dues framework which are subject to review from time to time.
17.	Declaration of Compliance by the Issuer
18.	Declaration of Prior Disclosure
19.	Letter of Indemnity
20.	Evidence of registration of shares with the SEC
21.	Evidence of Payment of applicable NASD Fees