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COUNCIL (FRC) OF  
NIGERIA.

EXPOSURE DRAFT OF  
THE NATIONAL CODE  
OF CORPORATE  
GOVERNANCE 2015

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## Part A: PRELIMINARY MATTERS

### 1. Introduction

This Code, to be referred to as the Not-For-Profit Organisations Governance Code 2015, is the outcome of an additional directive given to the Steering Committee on the National Code of Corporate Governance on 29th November 2013 by the Honourable Minister of Trade and Investment. The remit of the committee is to extend corporate governance to Not-For-Profit Organisations (NFPOs) in Nigeria. The need for extension was informed by the fact that corporate governance is currently very high on the economic agenda of many countries and it encompasses three sectors: the private, the public and not-for-profit. The not-for-profit sector is sometimes referred to as the Benevolent Sector, the Third Sector or the Civil Society Sector.

#### 1.1 Terms of Reference

The Terms of Reference given to the Steering Committee by the Honourable Minister was expanded to include the development of a Corporate Governance Code for not-for-profit organisations that will enable the Financial Reporting Council of Nigeria, among other things, to:

- (a) promote the highest standards of corporate governance;
- (b) promote public awareness about corporate governance principles and practices;
- (c) act as the national coordinating body responsible for all matters pertaining to corporate governance in the private, public and not-for-profit sectors of the Nigerian economy;
- (d) encourage sound systems of internal control and information systems control to safeguard stakeholders' investment and assets of public interest entities;
- (e) promote sound financial reporting and accountability based on true and fair financial statements duly audited by competent independent Auditors; and
- (f) ensure that audit committees of public interest entities keep under review the scope of audit and its cost effectiveness, the independence and objectivity of the auditors.

- 1.2 The strategic objectives of the committee were dictated not only by the remit, but also by the perceived challenges to good corporate governance practices in the not-for-profit sector of the Nigerian environment. Good governance within the context of NFPOs can be defined as “a transparent decision-making process in which the leadership of a non-profit organisation, in an effective and accountable way, directs resources and exercises power on the basis of shared values”.

### 2. Distinctive Attributes of Not-for-Profit Organisations

Generally, NFPOs exist to create a better world and they do this by operating diverse missions whose objectives are usually either to fill a social gap or to achieve

a very humane purpose. They therefore undeniably play a very vital role in the society. NFPOs take the form of non-governmental organisations, charities, charitable trusts, foundations, public benefit corporations, mutual benefit corporations, co-operative trusts, educational, religious, moral organisations and corporations. The goal of NFPOs is not necessarily financial success expressed as in for-profit in terms of organizational wealth or bottom-line; their goal is expressed in terms of mission fulfilment, or beneficiary satisfaction and trust.

The sector encompassing NFPOs is extremely diverse. It is therefore either impossible or procedurally inappropriate for a Code to be dogmatically prescriptive in defining characteristics for general Not-For-Profit sector governance. What is therefore required is the adoption of the principles of good governance across the sector, while allowing the use of very flexible nomenclatures by various organisations. These will provide very useful frameworks and critical platforms for the establishment of good **but mandatory** governance practices, on a case-by-case basis, having regard for each NFPO's peculiar and particular circumstances.

### **3. Need for Corporate Governance in Not-for-Profit Organisations**

The need for corporate governance in NFPOs is hinged on good governance and orderly succession in view of the volume **and type** of funding they attract. Urged on by humanitarian concerns over either glaring poverty and neglect, or economic mismanagement of some countries, donors have made significant donations directly to relevant NFPOs in the hope that they would engender greater mission fulfilment, donor value, and greater beneficiary satisfaction and trust than those given by Governments.

Apart from foreign donors, domestic donors out of conviction, knowledge, philanthropy, need, deceit or ignorance contribute large sums of money to NFPOs. Many NFPOs operate with unknown frameworks, but with governments completely in the dark as to both their ownership and principal accountability. In the context of current global insurgency, the operations and funding of NFPOs raise serious security concerns, hence the need for good governance of NFPOs in the country.

### **4. The Concepts of Donor Trust and Mission Fulfilment**

- 4.1. Some NFPOs set themselves up by claiming expertise over some local problems which they define, and attempt to solve with what is sometimes referred to as faceless or 'blind money' which they think they do not have to account for. Such situations can create distrust between donors, governing boards and managers of NFPOs, particularly in the absence of mission fulfilment and beneficiary satisfaction in the face of very significant and transparent stakeholder beneficiary dissatisfaction.
- 4.2. The authority to whom NFPOs are accountable, their funders, purpose and mission are matters of concerns to governments across the world. Some governments, particularly in Africa, have taken undue local and international credit for commendable work done by

NFPOs using both local and foreign donor funds, but still, such governments remain very sceptical of the real intention or mission of such donors.

- 4.3. Governments are concerned about blind and faceless money and wish to establish orderliness over the operations of NFPOs from the points of view of stakeholder satisfaction, donor trust, national reputation, economic growth, state security and safety.

## **5. Vision and Mission of Not-For-Profit Organisations**

- 5.1. The key functions of an NFPO board, like any for-profit board, include the determination of the vision and mission of the organization, setting of strategy and helping the organization to understand these concepts and relating them to organizational plans.
- 5.2. Vision and mission statements of an NFPO are the inspiring words chosen by the founders, leaders or governing boards to clearly and concisely convey the purpose and direction of the organisation. Vision statements and mission statements serve two related but nevertheless two different purposes.
- 5.3. The vision of an NFPO is the reason for its creation and existence and is usually aspirational. It represents what the organization wants to see accomplished; hence it is the value that usually inspires stakeholders, members, staff, volunteers, donors and sympathizers to common action.
- 5.4. The Mission of an NFPO can be described as what the organization will do to achieve its vision. NFPOs are expected to advertise their vision and mission statements prominently on their websites and annual reports for the benefit of both current and prospective stakeholders.
- 5.5. The problem associated with vision and mission statements of NFPOs is the integrity and ethical tenacity required for sticking to the vision, and the will to use the resources to ensure mission fulfilment. This remains a major concern of donors all over the world, and is also one of the defects this Code is meant to address.

## **6. Conflicts with Founders or Leaders**

- 6.1 Conflicts with founders arise from the structural growth problems which small organisations worldwide face when replacing one-person management (or family management) with a more institutionalised structure. Founders usually have absolute or pioneering control over these organisations, hence the trauma of transition to an independent management structure involving expert roles or the authority and autonomy of professional and independent managers.
- 6.2 Founders tend to want to maintain the status quo even after their individual, family, management or informal board structure has become glaringly unable to match organisational needs.

- 6.3 Founders should appreciate the expected benefits which may result from more formal management structures, hence the inevitability of the challenges of formality and bureaucratic structures to sustain organisational values of accountability, adequate disclosure and transparency in the face of significant diversity of donor sources and enhanced external funding.
- 6.4 Accountability is an obligation or willingness of founders to accept responsibility or to account for their actions or stewardship. Being accountable means demonstrating regularly that the organisation/person uses the resources wisely and does not take advantage of its special privileges to pursue activities contrary to its non-profit status.
- 6.5 Founders should view formalised structures as inevitable to a successful pioneering work. They should therefore not view associated governance and internal control framework as the 'suspicion of the founder' now being institutionalised. Instead, it should be viewed as an acknowledgement of the success of the founders' legacy that is being institutionalised. The unwillingness of a respected founder to view the need for formal structure as success may inadvertently fuel the suspicion of members, beneficiary and donors.
- 6.6 An organisation exercises good governance when it has an internal system of checks and balances that ensures public interest is served, and that power and resources do not accumulate exclusively in the hands of a single individual, founder, or group.
- 6.7 An accountable NFPO is one that readily opens its books and records to public scrutiny by stakeholders, beneficiaries and donors: underpinning this is an irrevocable commitment to democratic values and strong civil society.
- 6.8 Founders have no special place in law. A founder should realise that once the organisation adopts a formal structure, he is bound by the charter or enabling document just like anyone else.

## **Part B: APPLICATION OF THE CODE**

### **7. Application, Scope and Modality of Compliance**

#### **7.1. Application of the Code**

The Code is applicable to all NFPOs in Nigeria, whatever the description or nomenclature adopted.

#### **7.2. Scope of the Code**

The extreme diversity of the sector renders impossible comprehensive listing, but some illustrative examples of such organisations are stated hereunder to facilitate self-classification by current and prospective NFPOs:

##### **(a) Charitable:**

- Homeless shelter
- Disability

- Youth empowerment
- Hospital
- Healthcare clinic
- Animals' right group
- Human rights group
- Para – military (scout, brigade, etc)
- Emergency relief group
- Philanthropic organisation
- Any other charitable organisation

**(b) Educational:**

- Schools (primary, post primary, tertiary, vocational, etc)
- Child care centre
- Adult education centre
- Conservation group
- Wildlife
- Museum
- Library
- Any other educational organisation

**(c) Professional and Scientific:**

- Research centre, group or foundation
- Professional group (environmental, engineering, medical, etc)

**(d) Religious:**

- Temple
- Church
- Mosque
- Synagogue
- Seminary /Bible College etc
- Relief or charitable group with religious base/principles
- Any other religious body, mission or society

**(e) Literary/Artistic:**

- Concert centre

- Theatre group
- Art gallery
- Music group and orchestra
- Artists, writers, poetry etc organisations
- Art theatre
- Any other literary/artistic organisation

**(f) Political /Administrative Grouping:**

- Political parties
- Political observers
- Political pollsters
- Lobbying Groups.
- Trade groups (Chambers of Commerce, Business Councils, etc.)

**(g) Social and recreational clubs and Associations**

**(h) Trade Unions**

**(i) Others:** This encompasses organisations with similar missions but not deemed classifiable under any of the above categories by the Founders or Governing Bodies.

**7.3. Modality of Compliance**

Compliance with this Code by NFPOs is mandatory.

**Part C: BOARD MATTERS**

**8. Organisational Structure**

**8.1. General Assembly**

8.1.1. The Governing Board of the NFPO shall convene a general assembly or an annual general meeting each year in addition to any other meeting as may be provided for in its Constitution/Articles of Association or other statutes.

8.1.2. The Directors and every member of the NFPO are entitled to receive notice and attend the general assembly or annual general meeting. The length of notice shall be as specified in the constitution/articles of association or the Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria 2004 (CAMA).

- 8.1.3. Subject to the provisions of the constitution/articles of association of the NFPO, the directors/trustees shall be appointed or removed by the general meeting.
- 8.1.4. The Governing Board should ensure that all members are treated fairly at all times and are adequately protected from abusive actions.
- 8.1.5. The governing board should ensure that members are furnished with adequate information on the state of finances and other activities of the NFPO. Where these are rendered electronically, the board should ensure that they are rendered to members promptly and in a secure manner.
- 8.1.6. The venue of the general meeting should be accessible to all members. The board should ensure that members are not disenfranchised on account of choice of venue.

## **8.2. Board of Trustees**

- 8.2.1. There shall be for a NFPO a Board of Trustees established in accordance with the provisions of section 9.4(c) and (d) below.
- 8.2.2. The Chairman of the Board of Trustees shall be appointed by the members of the Board.
- 8.2.3. The functions of the Board of Trustees are as follows:
  - (a) to intervene when there is a clear and retrievable abandonment of the organisation's vision and mission;
  - (b) to mediate in any disruptive disagreements or conflicts between members of the Governing Body as a group, or between members of the Governing Body and members of the Executive Committee; and
  - (c) to continue to give moral and ethical guidance to the NFPO.
- 8.2.4. The Chairman of the Board of trustees shall not act as the Chairman of the governing/executive council.
- 8.2.5. Members of the board of trustees who are members of the governing board should not participate in the day-to-day management of the NFPOs.

## **8.3. Governing Board**

- 8.3.1. The Governing Board shall be the principal governing body of the NFPO and, shall exercise appropriate governance functions set out very clearly in the Organisation's Governance Charter.
- 8.3.2. The role of the Governing Board shall include:
  - (a) determining, reviewing and maintaining the vision, mission and values of the NFPO;
  - (b) approval of short and long-term strategies of the NFPO;
  - (c) approval of the annual budget of the NFPO;

- (d) approval of expenditure over pre-specified limits;
- (e) appointment, performance evaluation and termination of the employment of the Chief Executive Officer and possibly other senior managers;
- (f) risk oversight;
- (g) providing a check on the integrity of external financial and non-financial reports;
- (h) any additional monitoring of the activities of the NFPO in order to satisfy itself that the NFPO is being properly managed; and
- (i) engaging with key stakeholders.

#### **8.4. Management Committee**

8.4.1. The Management Committee has the responsibility for the management of the organisation and delivering the outcomes for which it has been set up.

8.4.2. Every Management Committee should provide leadership to the organisation by ensuring the effective management of the organisation and its activities while monitoring the activities of the organisation to ensure they are in keeping with the founding principles, objects mission and values.

8.4.3. The overall responsibilities of the Management Committee are as follows:

- (a) ensure that everything the organisation does supports its vision, purpose and aims;
- (b) safeguard the fundamental values, the ethical principles and strategic direction in which the organisation operates;
- (c) account for everything the organisation does, including its spending and activities;
- (d) ensure that all money, property and resources are properly used, managed and accounted for. In order to be accountable, suitable systems must be in place and kept up to date;
- (e) ensure that appropriate policies and procedures are in place for staff and for volunteers, and that both are properly managed and supported;
- (f) encourage and enable the engagement of key stakeholders, such as users and beneficiaries, in the organisation's planning and decision-making;
- (g) identify those with a legitimate interest in its work (stakeholders) and ensure that there is regular and effective communication with them about the organisation; and
- (h) be open and accountable to stakeholders about its own work and the governance of the organisation.

## **9. Position of the Founder or Leader**

- 9.1.** The Founder or Leader of a NFPO occupies a special position in the Organisation and is committed to the success and longevity of the NFPO. Accordingly, a Founder or Leader should not take on too many responsibilities in the organisation or have an indefinite term in the running of the organisation.
- 9.2.** Where for any reason, a Founder or Leader of NFPO also occupies any of the three governance positions of Chairmanship of the Board of Trustees, the Governing Board or Council, and the Headship of the Executive Management (or their governance equivalents), the following provisions shall apply before the end of the organization's financial year in which this Code takes effect.
- 9.2.1. The Founder or Leader shall cease to occupy these three governance positions simultaneously. This is to ensure the separation of powers and avoid possible concentration of powers in one individual.
- 9.2.2. The Founder or Leader may however choose – subject to the agreement of the organization's apex authority as expressed in the Annual General Assembly, Annual Meeting, Annual Stakeholder Engagement, Annual Conference, Annual Synod, Annual Fellowship Assembly or their equivalents – only one of these three governance positions subject to his current tenure. This is to ensure a clear division of responsibilities at the head of the organization between the running of the governing body and the executive responsibility for the management and fulfilment of the organization's mission.
- 9.3.** Where the Founder or Leader has occupied all or any of these three governance positions for more than ten years, or is aged seventy years or above, the choice in section 9.2.2 above should only relate to the Board of Trustees as in section 9.4(c) below.

In the case of religious or cultural organisations, nothing in this code is intended to change the spiritual leadership and responsibilities of Founders, General Overseers, Pastors, Imams and Muslim Clerics, Presidents, Bishops, Apostles, Prophets, etc. which are distinguishable from purely corporate governance and management responsibilities and accountabilities of the entities.

- 9.4.** Conflicts with Founders or Leaders should therefore be addressed by:
- (a) recognising and respecting past achievements and strategy of the Founder or Leader with assurances that change has become inevitable to enable his dream live on;
  - (b) making provisions if not already in existence, or drawing the Founder's or Leader's attention to the maximum tenure already stipulated by the Charter and imploring the Founder or Leader to respect it;
  - (c) considering and ensuring Founder's or Leader's continued advisory or spiritual role by creating a Board of Trustees (BOT) for which the original Founder or Leader can become the First or Life Chair; and
  - (d) elevating deserving and senior members of the organisation to the Board of Trustees.

## **10. Role of the Chairman of the Governing Board**

- 10.1. There should be a Chairman for the board of every NFPO.
- 10.2. The primary responsibility of the Chairman is to ensure the effective operation of the board such that the board works as a group towards achieving the NFPO's strategic objectives.
- 10.3. The Chairman should not be involved in the day-to-day operations of the NFPO.
- 10.4. The positions of the Chairman of the board and the Chief Executive Officer shall be separate and held by different individuals.
- 10.5. The functions of the Chairman are as follows:
  - (a) Scheduling board meetings.
  - (b) Setting the agendas for board meetings with the Chief Executive Officer.
  - (c) Presiding and leading discussions at board meetings.
  - (d) Coordinating any board activity outside of board meetings.
  - (e) Appointing the chairmen of board committees.
  - (f) Overseeing the hiring and performance evaluation of the Chief Executive Officer.
  - (g) Supporting and supervising the Chief Executive Officer.
  - (h) Ensuring the board performs its responsibilities effectively.
  - (i) Ensuring that the board undertakes an evaluation of its performance.
  - (j) Representing the NFPO in public when necessary.

## **11. Role of the Chief Executive Officer**

- 11.1. The Chief Executive Officer is the head of the Management of the NFPO and answerable to the board.
- 11.2. The Chief Executive Officer should not be the only executive director on the board of the NFPO.
- 11.3. The authority of the Chief Executive Officer and the relationship between the office and the board should be clearly and adequately described in a letter of appointment.
- 11.4. The functions of the Chief Executive Officer are as follows:
  - (a) hiring, firing and supervising the staff of the NFPO;
  - (b) managing and evaluating the programmes and operations of the NFPO;
  - (c) identifying, acquiring and managing the resources of the NFPO;

- (d) preparing the annual budget of the NFPO;
- (e) proposing policies and strategic initiatives to the board;
- (f) promoting the NFPO; and
- (g) supporting the board in the performance of its duties and functions.

## **12. Role of the Organisation Secretary**

12.1. There shall be a Secretary for a NFPO who shall be responsible for supporting the Chairman and the Governing Board or Board of Directors of the NFPO in ensuring the smooth functioning of the Board.

12.2. Additional responsibilities of the Secretary include the following:

- (a) Ensuring that meetings of the NFPO, such as general assembly or annual general meeting, Board meetings, Committees meetings, etc, are effectively organised and minutes of such meetings properly recorded.
- (b) Maintaining adequate and effective records of the NFPO and its activities.
- (c) Ensuring that the NFPO complies with all legal requirements regarding its existence and operation.
- (d) Acting as custodian of the NFPO's governing documents.
- (e) Dealing with all correspondence to the NFPO or its Committees.

## **13. Role of the Organisation Treasurer**

13.1. There shall be for a NFPO a treasurer.

13.2. The treasurer shall be responsible for the following:

- (a) General financial oversight of the NFPO;
- (b) Ensure that appropriate financial systems and controls are in place;
- (c) Ensure that record-keeping and accounts meet the conditions of funders or statutory bodies;
- (d) Ensure compliance with relevant legislation;
- (e) Financial planning and budgeting;
- (f) Financial reporting;
- (g) Banking, book-keeping and record-keeping;

- (h) Control of fixed assets and stocks; and
- (i) Funding, fund-raising and sales.

13.3. The treasurer shall be a member of the Finance and General Purposes Committee of the NFPO.

#### **14. Executive Directors**

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

14.2. Executive directors should be involved in the day-to-day operations and management of the organisation.

#### **15. Non-Executive Directors**

15.1. 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.

15.2. Non-executive directors should be provided with appropriate facilities and administrative support for the effective discharge of their duties.

15.3. Adequate and comprehensive information on all board matters should be provided to non-executive directors in a timely manner.

15.4. Non-executive directors shall be entitled to be paid sitting allowances, directors' fees and reimbursable travel and hotel expenses.

#### **16. Appointment and Removal of Directors**

16.1. Directors must be recruited in accordance with the organisation's governing document and relevant legislations.

16.2. Before the appointment of new directors, the Board should determine what new attributes, skills and knowledge are needed and ensure that the appointment fills this gap.

16.3. The Board should ensure that the recruitment process is fair and transparent in a manner as to attract suitable candidates for the position(s).

16.4. Candidates should be formally interviewed and appointed on merit.

16.5. The Board should ensure that the procedures for joining and leaving the Board are well documented and understood by those concerned.

#### **17. Directors' Induction and Development**

- 17.1. The Board should have a strategy for the support of all directors so that each director can keep up to date with the knowledge and skills they need to carry out their role.
- 17.2. All new directors should undergo a full induction, in which they receive all the information and support they need to carry out their duties, and can meet key staff, beneficiaries and other stakeholders.
- 17.3. The induction process should:
  - (a) build an understanding of the nature of the organisation, its objectives and the fields in which it operates; and
  - (b) build a link between the organisation's people, including meeting with senior management, visit to sites, and participating in Board's strategy development.

## **18. Remuneration of Executive Directors**

- 18.1. Executive directors should not be involved in the determination of their remuneration.
- 18.2. The levels of remuneration of executive directors should be such that will attract, retain and motivate directors of the quality required to run the organisation successfully.
- 18.3. Executive directors' remuneration should be structured to link rewards to organisational and individual performances.

## **19. Board and Directors' Evaluation**

- 19.1. The Board should ensure that:
  - (a) at least every two years, it sets aside time to reflect on its own performance and functioning as a team;
  - (b) the performance of individual directors is regularly assessed and appraised, either by the chair or another director, or by using external assistance;
  - (c) the performance of the chair is likewise assessed and appraised, with input from the chief executive, by the Board as a whole excluding the chairperson, or by using external assistance; and
  - (d) the performance of sub-committees, standing groups and other bodies is similarly appraised and reviewed.
- 19.2. The results of these appraisals should be used to make necessary changes and improvements, to inform the creation of appropriate training programmes, and to guide director's tenure renewal and recruitment.

- 19.3. The Board should periodically conduct strategic reviews of all aspects of the organisation's work and functioning, to ensure that:
- (a) the needs for which the organisation was set up still exist, and its objects as set out in its governing document remain relevant to its needs;
  - (b) the organisation is continuing to meet those needs, and remains fit for purpose; and
  - (c) the needs are being met in the most effective way.

## **20. Duties of Directors and Other Officers**

- 20.1. The board should view maintaining the integrity and interest of the organisation as a primary overriding duty. Directors should act reasonably at all times in the interests of the organisation and of its present and future beneficiaries, users and relevant stakeholders. All individual board members should maintain high ethical standards and ensure that conflicts of interest are promptly reported and appropriately dealt with.
- 20.2. Directors of not-for-profit organizations should discharge their duties in accordance with the following basic fiduciary duties:

### **20.2.1. Duty of Care**

Directors of NFPOs should act in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

### **20.2.2. Duty of Loyalty**

Directors of NFPOs should act in good faith and in the best interests of the NFPO, rather than in their own interest or the interest of another entity or person.

### **20.2.3. Duty of Obedience and Mission Fulfilment**

- (a) The Board should act within the organization's purposes and ensure that the Mission of the NFPO is pursued.
- (b) The Board should ensure that expenditures are appropriate and reasonable, funds are spent according to approved procedures, investments are carefully managed, a complete and accurate record is kept of financial transactions, and adequate steps are taken to acquire and maintain diversified financial resources.

## **21. Board Committees**

- 21.1. 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.

- 21.2. 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 as prescribed in its constitution. Where the constitution is silent; then at most every three years.
- 21.3. The appropriate number and type of board committees varies from organisation based on issues such as organisational size, complexity of operations, the organisation's constitution, and regulatory or grantor requirements. Board committees may include but are not limited to:
  - (a) Finance and General Purposes Committee;
  - (b) Governance Committee; and
  - (c) Audit and Risk Management Committee.
- 21.4. The board should set out clear terms of reference for its committees and should monitor their performance.
- 21.5. The board should ensure that its Committees have sufficient delegated authority to carry out their responsibilities. All delegated authorities must have clear written limits relating to budgetary, reporting and other matters.
- 21.6. All delegated authorities must be subject to regular monitoring by the Board.
- 21.7. The use of board committees does not obfuscate the responsibilities of those board members who are not on the committee. The matters which a board committee decides remain decisions of the board if not subject to board's reserved powers.
- 21.8. Subject to regulatory concurrence, the boards of NFPOs may merge any of the committees, taking into consideration the size, needs and other requirements of the organisation on a case by case basis.

## **22. Finance and General Purposes Committee**

- 22.1. The Finance and General Purposes Committee should be chaired by a non-executive director preferably a person with recent and relevant financial knowledge.
- 22.2. The Finance and General Purposes Committee should be responsible for strategy and planning, financial management, monitoring performance, procurement and other administrative matters. While the committee needs to be involved enough in operations to monitor financial and non-financial performance, it should take care not to micro-manage the management of the NFPO.
- 22.3. The Finance and General Purposes Committee should comprise of non-executive directors and the executive director in charge of finance and administration (where this

exists). Where the finance and administration function is performed by an officer who is not a member of the Board, he should be invited to attend meetings of the Committee.

- 22.4. The chairman of the Finance and General Purposes Committee should be independent of any interest that may unduly influence objectivity.

### **23. Governance Committee**

- 23.1. The Governance Committee should comprise of only non-executive directors, a majority of whom should be persons who are independent of any interest that may unduly influence objectivity.
- 23.2. The chairman of the committee should be independent of any interest that may unduly influence objectivity.
- 23.3. The Governance Committee should be responsible for nomination and appointments, succession planning, remuneration, board evaluation, governance and human resources.

### **24. Audit and Risk Management Committee**

- 24.1. The Audit and Risk Management Committee should comprise of at least three, or in the case of smaller organisations two, directors. The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience. The chairman of the Board should not be an audit committee member.
- 24.2. Members of the Audit and Risk Management Committee should be independent of any interest that may unduly influence objectivity.
- 24.3. The main role and responsibilities of the Audit and Risk Management committee should be set out in written terms of reference.
- 24.4. The Audit and Risk Management Committee should comprise of individuals who collectively possess a good understanding of internal controls, finance and financial reporting. At least one of the members of the committee must have sound knowledge of accounting and financial management.
- 24.5. Members of the Audit and Risk Management Committee should receive appropriate information, advice and training to enable it carry out its role effectively.
- 24.6. The Audit and Risk Management Committee should be responsible for audit, internal control and risk management of the NFPO.

## **Part D: ACCOUNTS AND AUDIT**

### **25. Financial Statements**

- 25.1. The annual financial statement of the NFPO should be prepared in accordance with approved framework of accounting and financial reporting issued from time to time by the Financial Reporting Council of Nigeria.

- 25.2. Audited annual financial statements shall be distributed to relevant stakeholders after the Audit and Risk Management Committee has reviewed them and the Governing Board has approved them.
- 25.3. The Chief Financial Officer of the NFPO shall be responsible for preparing annual and other periodic financial statements.
- 25.4. Depending on the size and needs of the NFPO and its stakeholders, in addition to the annual financial statements, the board may decide to commission and produce interim financial statements.
- 25.5. Directors are stewards of the NFPO's financial and other resources. The Governing Board should ensure that the financial resources are used to further the NFPO's objectives and that the organisation's funds are appropriately accounted for by regularly receiving and reviewing up-to-date financial statements and any auditors' letter or audit and risk committee report.

## **26. Organisation's Assets**

- 26.1. The Governing Board of NFPO should ensure complete inventory of all the assets of the organization, both non-current assets and current assets wherever they may be situate, while also ensuring as far as possible both the possession and legal ownership. The assets of a NFPO are donated to or acquired by the organization in order to benefit the public good and are normally intended towards that use alone.
- 26.2. The prohibition of NFPO assets being used for purposes other than the intended charitable objective makes it mandatory that founders, directors, managers and volunteers should not have control over them for personal use.
- 26.3. Where the assets of the organization are currently in the custody of any person, whether being used or not, such assets must be identified and the custodian must be made to admit the interest and control of the organization over such assets which should be properly accounted for.
- 26.4. Where some assets are being used by the organisation in a manner wrongly suggestive that the assets belong to or are controlled by the organisation, such assets must be identified and the basis of usage properly accounted for, apart from not being classified as a non-current or current assets.
- 26.5. Where any form of assets has been bought by the organization for the use of a Founder or Eminent member, such assets remain under the control of the organization who also retains legal ownership. This position is different when members voluntarily donate cash or other assets outside the purview of the organizational control as a gift to such persons, in which case, such assets belong to such persons personally. The basis of any personal donations or gift must be clearly stated to facilitate proper accountability for organizational assets.

## **27. Commercial Activities**

27.1. Where the organisation is involved or associated with another entity engaged in commercial activities, the profit from such ventures should be ploughed back into the funds of the organisation after accounting for all expenses relating to the venture.

27.2. In the management of the entity mentioned above, care should be taken to avoid running the entity at a loss.

27.3. Where the entity referred to above does not belong to the organisation it is associated with, the accounts of the organisation should show the financial benefits accruable to the organisation as a result of such association.

## **28. Role of External Auditor**

28.1. The audit and risk management committee should have the primary responsibility for making recommendation to the Governing Board on the appointment, re-appointment and removal of external auditors.

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

28.3. An external auditor shall provide to the NFPO only such other services as are approved by the Governing Board on the recommendation of the audit and risk management committee, but which shall not include any of the following services (whether such services are rendered directly or indirectly to the NFPO or any of its affiliates), 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) corporate governance services
- (j) any other services as may be prescribed by the regulators.

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

**28.4** NFPOs should require external audit firms to rotate the audit partners assigned to undertake the external audit of the NFPO every three years.

**28.5** (a) No ex-employee of an audit firm should be employed by the NFPO which the audit firm has audited until a period of three years has elapsed since the person ceased to be a partner or staff of the audit firm.

(b) No ex-partner of an audit firm should be appointed as a director of any NFPO that has been, or still being audited or investigated by the firm, until five years after the disengagement of the firm from such audit or investigation and/or the disengagement of the partner from the firm.

(c) No regulator should be appointed as a director of any NFPO that has been closely supervised or investigated by him/her until three years after the disengagement of such regulator from the regulatory Institution.

**28.6** Audit quality depends on 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 NFPO's audit requirement.

(b) That the audit team provides quality audit services to the satisfaction of the audit and risk management committee.

(c) That the primary members of the audit team demonstrate the knowledge, skills and experience necessary to address the company's areas 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 NFPO's sphere of activities and also the impact on the society.

(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 locations.

- (g) That the lead engagement partner and the audit team are independent of the NFPO and approach their work with a high level of objectivity and professional scepticism.

- 28.7 Where the regulator is satisfied that an external auditor of an NFPO has abused his office or acted in a fraudulent manner or colluded in any fraud in the NFPO, it may by regulatory order direct the NFPO to request its members to consider and resolve whether on the basis of any facts revealed, the NFPO in general meeting should change its auditors. The proceeding for the change of auditor should be without prejudice to any sanctions the regulator may impose on such erring auditor.=
- 28.8 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 mandatorily retired.
- 28.9 Where the audit and risk management committee has made a recommendation for the appointment, re-appointment or renewal of an external auditor, such recommendation can only be overridden by a 75% vote of the Governing Board's full membership.
- 28.10 Where Auditors discover or acquire information during an audit that leads them to believe that the NFPO or anyone else associated with it has committed an indictable offence under CAMA 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.

## 29 **Whistle-blowing Framework**

- 29.1 The board of every NFPO should establish a whistle-blower policy that encourages individuals to report credible information on illegal practices or violations of policies of the organization, specifies that the organization will protect the individual from retaliation, and identifies the parties to whom such information can be reported.
- 29.2 A whistle-blower is any person including the employees, management, directors, service providers, and other stakeholders of the NFPO who report any form of unethical behaviour or dishonesty to the appropriate internal authority or external regulators.
- 29.3 The whistle-blower policy should be known to employees, stakeholders such as contractors, service providers and the general public.

## **Part E: RELATIONS WITH STAKEHOLDERS**

### **30. Stakeholder Relationship**

- 30.1. Each NFPO should identify those with a legitimate interest in its work (stakeholders) and ensure that there is regular and effective communication with them about the organisation.
- 30.2. The NFPO should strive for healthy relationships with its stakeholders.
- 30.3. Stakeholder analysis will help the NFPO identify its key stakeholders and facilitate how to satisfy them. The analysis will also assist the NFPO reveal how ways of satisfying those key stakeholders will also create public value and advance the common good.

- 30.4. The Board of each NFPO should ensure that steps are taken to appropriately identify the individuals or groups that are likely to affect or be affected by a proposed action, and categorize them appropriately.
- 30.5. The Board should encourage and enable the engagement of key stakeholders, such as funders, donors and beneficiaries, in the organisation's planning and decision-making.
- 30.6. In organisations where the directors are elected by a wider membership, the Board should ensure that it:
- (a) has clear policies on who is and is not eligible for membership of the organisation;
  - (b) keeps the members informed about the organisation's work; and
  - (c) uses the membership as a way of involving stakeholders in the organisation's governance.

## **31. Overriding Need for Accountability, Adequate Disclosure and Transparency**

- 31.1. The Board should ensure that the organisation upholds a commitment to transparency and accountability. Accordingly, the organisation should ensure that:
- (a) information about the organisation and its activities are readily available to members of the public except those that are designated as being confidential in order to protect personal privacy or commercial confidentiality;
  - (b) it is open in respect of the governance of the organisation and its strategic reviews;
  - (c) stakeholders have the unfettered opportunity to hold the Directors of the organisation to account for their stewardship and the procedures for doing so are adequately communicated;
  - (d) the principles of equality and diversity are applied, and that information and meetings are available to all sections of the community; and
  - (e) all codes and standards of practice applicable to the organisation are publicly accessible.
- 31.2. The Board should ensure that the organisation has a website through which it publicises its activities and programmes. The organisation's Annual Report and Accounts should be made available at its website.

## **32. Beneficiaries' Activism and Mission Fulfilment**

The Board should ensure that the views of funders, beneficiaries, staff, volunteers and other stakeholders are taken into account in the organisation's decision-making and strategic reviews. Accordingly, there should be:

- (a) wider stakeholder engagement in the organisation's decision-making; and

- (b) efforts made to ensure that funders, beneficiaries, and other stakeholders are consulted in an appropriate way.

### **33. Evaluation of Mission Statement**

- 33.1. The Trustees, Directors and Management should have a clear understanding of the interrelationships among the organisation's activities and how they affect its operation and its ability to fulfil its mission.
- 33.2. The Trustees, Directors and Management should also be familiar with the external environment and how this may affect the operations of the organisation.

### **34. Mission Fulfilment**

- 34.1. While the actual work of the evaluation may be performed by the staff or an outside consultant, the board should ensure that the reasons for conducting the evaluation are clear, relevant factors are assessed, and meaningful measurements are consistently applied. The board should review the outcomes of an evaluation and verify that appropriate recommendations are implemented. The board should also consider whether the outcomes have any implications for the NFPO's overall direction, thus ensuring that a good evaluation feeds back into the planning process.
- 34.2. The board's most important duties in this respect are to ensure the mission meets the test of fulfilling a community or members' need and the NFPO honours the mission in everything it does. The board must also make sure the mission is realistic in scope, cost, and expected impact.
- 34.3. The Board should periodically carry out strategic reviews of all aspects of the organisation's work, and use the results to inform positive change and innovation.
- 34.4. Where possible, the Board should be open with stakeholders about the results of such reviews, indicate clearly what steps they intend to take in response, and give explanations concerning actions they have decided not to take.

### **35. Role of the Regulators**

- 35.1. The legal framework for the registration of some NFPOs in Nigeria is the Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria 2004 (CAMA).
- 35.2. NFPOs are registered either as Companies Limited by Guarantee under section 26 of the CAMA or Incorporated Trustees under Part C of the CAMA.
- 35.3. The Corporate Affairs Commission has oversight powers over NFPs including powers to make regulations pursuant to sections 16 and 609 of the CAMA. The Commission is also vested with powers to conduct investigation into the affairs of the NFP pursuant to sections 315(2) and 606 of the CAMA where the interest of the public so demands.

- 35.4. The NFPOs are required to prepare their financial statements in accordance with the accounting standards issued from time to time by the Financial Reporting Council of Nigeria.
- 35.5. The NFPOs also render returns to the Federal Inland Revenue Service as a requirement for tax exemption by virtue of their Not-For-Profit status.
- 35.6. The Electoral Act empowers the Independent National Electoral Commission (INEC) to register political parties in Nigeria subject to the conditions stipulated in the constitution of the Federal Republic of Nigeria.
- 35.7. The Electoral Act further provides that every registered political party shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- 35.8. INEC is statutorily vested with the power to monitor and keep records of the activities of all registered political parties.
- 35.9. Every political party is required by the Electoral Act to submit to INEC a detailed annual statement of assets and liabilities and analysis of its source of funds and other assets together with statement of its expenditure in such form as the Commission may from time to time require.
- 35.10. INEC is also conferred with the power to issue regulations, guidelines or manuals for the purpose of giving effect to the provisions by the Electoral Act and for its administration.
- 35.11. The power to register trade unions is vested in the Registrar of Trade Unions in accordance with the Trade Union Act (as amended).
- 35.12. The Trade Union Act requires every registered body under the Act to send to the Registrar before 1st June in each year an annual return in the prescribed form and which shall be certified as correct by a duly appointed auditor.
- 35.13. The Trade Union Act empowers the Minister to make such regulations as appear to him to be necessary or expedient for carrying the Act into effect and in particular for prescribing anything required or authorised by the Act.

## **Part F: TRANSPARENCY**

### **36. Disclosures**

- 36.1. NFPOs should strive to provide full disclosure of all the matters set out in this Code.
- 36.2. The board of every NFPO should ensure that the NFPO's annual report includes a corporate governance report that conveys to stakeholders clear information on the strength of the NFPO'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 chief executive officer, the executive and non-executive directors as well as any independent non-executive directors;

- (b) 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 NFPO's website or other publications of the NFPO;
- (c) The matters reserved for the board and those delegated to Management;
- (d) Board appointment process including induction and training of board members;
- (e) Evaluation process and summary of evaluation results for the board as a whole, its committees and each individual director;
- (f) Composition of board committees including names of chairmen and members of each committee and their directorial classification;
- (g) Description of the roles and responsibilities of the board committees and how the committees have discharged those responsibilities;
- (h) Aggregate tenure of the Governance Consultant (years and months) at the end of the reporting period;
- (i) The number of meetings of the board and its committees held during the year and the attendance of individual directors at those meetings;
- (j) Aggregate tenure of each director (years and months) at the end of the reporting period;
- (k) Aggregate tenure of the external auditor (years and months) at the end of the reporting period;
- (l) Human resource policies, internal management structure, relations with employees, employee share-ownership schemes and other workplace development initiatives;
- (m) Company's sustainability policies and programmes;
- (n) 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.

36.3. In addition to the foregoing, the board should ensure that the NFPO'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) Executive directors' remuneration, compensation for loss of office, and terminal benefits.

- (e) Non-executive directors' fees and allowances.
- (f) The board's evaluation of the risk management processes of the company and their effectiveness.
- (g) Any donations, contributions, payments, etc made to any entity.

### **37. Corporate Governance Audit**

- 37.1. Every NFPO should carry out annual corporate governance audit which should be facilitated by an independent external consultant who must be registered by the regulator for this purpose.
- 37.2. The report of this audit should be presented at the NFPO's annual general meeting and a copy of the report sent to the regulator and made accessible on the investors' portal of the company.
- 37.3. Smaller companies will be dealt with by the Regulator on a case-by-case basis.

### **38. Organisation's Website or Portal**

- 38.1. NFPOs 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 NFPO to its members, beneficiaries, stakeholders and/or the general public.
- 38.2. The board should ensure that the reports of the NFPO and other communications to members, beneficiaries, stakeholders and the general public are in plain language, readable and understandable and consistent with previous reports.
- 38.3. Communication with members, beneficiaries, stakeholders and the general public should be governed by the principle of timely, accurate and continuous disclosure of information and activities of the NFPO so as to give a balanced and fair view the NFPO, including its non-financial matters.
- 38.4. NFPOs should ensure that members, beneficiaries, and stakeholders have equal access to the NFPO's information. The board should establish web sites and/or portals where the communication policy as well as the NFPO's annual reports for a minimum of five immediately preceding years and other relevant information about the NFPO should be published and made accessible in downloadable format to the public.

## **Part G: ENFORCEMENT**

### **39. Sanctions**

- 39.1. 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 NFPOs involved in such violation.
- 39.2. Where sanctions have been imposed on any NFPO or person for the violation of this Code, the NFPO is precluded from making any reimbursements to that person for the sanctions.

## **Part H: MISCELLANEOUS**

### **40. Commencement**

- 40.1. This Code shall come into force on 1st ..... and every NFPO to which it applies is expected to comply with it in respect of the financial year ending after that date.
- 40.2. From the date of commencement of this Code, it supersedes any NFPO governance code in force in Nigeria before that date.

### **41. Transitional Arrangement**

### **42. Definitions**

- 42.1. In this Code, unless the context otherwise requires:
  - 42.1.1 “Board of Directors” means the principal governing body of the organisation or entity to which this Code applies. The term, as used in this Code, is also synonymous with such other terms as "Governing Board", "Governing Body", etc by which the principal governing body of some of such organisations or entities are known;
  - 42.1.2 “Chief Executive Officer” means an officer of any organisation or entity within the purview of this Code, who is the head of Management in such organisation or entity. The term, as used in this Code, is also synonymous with such other terms as "Executive Secretary", "General Manager", "Director General", "Registrar", etc by which the head of the Management of some of such organisations or entities are known;
  - 42.1.3 “Founder” means the person who originally found the organisation or entity to which this Code applies;
  - 42.1.4 ‘General Assembly’ means the meeting of all members of each entity to which this Code applies. The term, as used in this Code, is such other terms as ‘General Meeting’, ‘Synod’, ‘Conference’, ‘Convention’, etc of all members of some of such organisations or entities are known;
  - 42.1.5 ‘General Meeting’ means the same thing as General Assembly defined above
  - 42.1.6 “Governing Board” means the same thing as Board of Directors defined above;

- 42.1.7 “Governing Body” means the same thing as Board of Directors defined above;
- 42.1.8 “Leader” means the person who has assumed the headship of an organisation or entity to which this Code applies in the absence or demise of the Founder;
- 42.1.9 “Management Committee” means the team that is responsible for the day-to-day management of an organisation or entity to which this Code applies. The term, as used in this Code, is synonymous with the term “Executive Committee” by which such committee is known as in some of the organisations or entities to which this Code applies;
- 42.1.10 “Organisation” means the entity to which this Code applies. Examples of such entities are enumerated in section 7.2 of this Code;
- 42.1.11 “Regulator” means the Financial Reporting Council of Nigeria and other sectoral regulators as may be appropriate; and
- 42.1.12 “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.
- 42.2. In this Code:
- 42.2.1 words importing the masculine gender include females; and
- 42.2.2 words in the singular include the plural and words in the plural include the singular.