

# **GUIDELINES ON THE NIGERIAN DEBT CONVERSION PROGRAMME**

In 1988, the Federal Government of Nigeria established the Debt Conversion Programme (DCP) and set up a Debt Conversion Committee (DCC) to implement the Programme.

## **PART I**

### **GENERAL PROVISIONS**

#### **1. OBJECTIVES OF THE NIGERIAN DEBT CONVERSION PROGRAMME**

The objectives of the Nigerian Debt Conversion Programme are:

- 1.1 To reduce the stock of outstanding foreign currency denominated debt in order to alleviate the debt service burden.
- 1.2 To create an attractive avenue for the importation of foreign capital.
- 1.3 To serve as an additional incentive for the repatriation of capital.
- 1.4 To stimulate investments that will generate employment opportunities.
- 1.5 To achieve industrial development in the economic growth through significant dependence on local inputs.
- 1.6 To encourage the creation and development of export oriented industries thereby diversifying the export base of Nigerian economy.
- 1.7 To increase access to appropriate technology, external market and other benefits associated with foreign investment.

## **2. MEMBERSHIP OF THE DEBT CONVERSION COMMITTEE**

Membership of the Debt Conversion Committee comprises of:-

The Governor of Central Bank	-	Chairman
The Honourable Minister of Finance	-	Member
Secretary to the Government of the Federation	-	Member
Honourable Minister of Industry	-	Member
Honourable Attorney-General and Minister of Justice	-	Member
Chief Economic Adviser to the President	-	Member

## **3. SECRETARIAT OF THE COMMITTEE**

In order to achieve the objectives of the DCP stated in paragraph 1, and carry out the functions of the DCC in paragraph 4 of the Guidelines, the Debt Conversion Committee Secretariat shall be situated in Central Bank of Nigeria and the head of such a Secretariat shall be the Secretary to the Debt Conversion Committee.

## **4. FUNCTIONS OF THE DEBT CONVERSION COMMITTEE (DCC)**

The primary functions of the Debt Conversion Committee shall include the following:

- 4.1 To design, review and implement an efficient Debt Conversion Programme in Nigeria
- 4.2 To establish clear and concise approval criteria and procedures.
- 4.3 To approve applications and transactions within reasonably specified time
- 4.4 To continually monitor and review the progress of the Programme and projects approved under it.

## **5. ELIGIBLE DEBTS**

Eligible debts under the programme are:

- 5.1 CBN dollar denominated promissory notes issued under the CBN Circular of 18<sup>th</sup> April 1984.
- 5.2 The Nigerian Par Bonds.
- 5.3 Some portions of the Paris Club debts.

## **6. ELIGIBLE PARTICIPANTS**

All holders or assignees of the designated debt instruments in Section 5, whether corporate or non-corporate, Nigerians or non-Nigerians, resident or non-resident are eligible to participate under the Debt Conversion Programme.

## **7. APPLICATION OF CONVERSION PROCEEDS**

Proceeds of conversion under the Programme shall only be applied in respect of any one or more of the following transactions:

- 7.1 Conversion for the purpose of making a grant to Nigerian non-profit organizations such as educational institutions, health, charitable organizations, research centres, religious bodies, or for the financing of programmes on the environment, ecology, poverty alleviation, prevention of HIV/AIDS, or other communicable diseases or scourges, etc.
- 7.2 Conversion for the acquisition of naira denominated government debt instruments such as FGN Development Stock. However, such investments should be held for a minimum period of four years unless it is diversified into other productive sectors of the economy as approved by the Committee.
- 7.3 Conversion for the acquisition, expansion or recapitalization of existing companies or businesses.
- 7.4 Conversion for acquisition of government privatized enterprises.

- 7.5 Conversion for the establishment of new projects or companies, subject to paragraph 11.
- 7.6 Conversion for the purpose of making portfolio investment.

## **8 PRIORITY OF APPLICATION OF CONVERSION PROCEEDS**

Within the eligible transactions stated in Paragraph 5, above, priority will be accorded in the following order:

- 8.1 Investment in production processes based on at least 70 percent local raw materials, especially in the development of agriculture and agro-allied industries, production for export and production of raw materials and other requirements of local industries.
- 8.2 Investment with high employment content.
- 8.3 Investment for the extraction, exploration and commercialization of Nigeria's mineral, forestry, and other natural resources.
- 8.4 Investment for research to improve, enhance the use of new or existing inventions and new discoveries in Nigeria in relation to new machineries, products, methods, techniques with suitable and adaptable technology to the Nigerian environment.

## **9. BENEFICIARIES OF CONVERSION PROCEEDS**

- 9.1 The enterprise(s) or organization(s) to be funded with the redemption proceeds must be registered and recognized by Nigerian Law as at the time of the transaction and shall cease to participate when their status change.
- 9.2 Where the purpose of conversion is for investment, the minimum paid-up capital of the beneficiary company shall not be less than ₦5,000,000.00.

## **10. SOURCES OF FUNDS FOR DEBT ACQUISITION**

- 10.1 For the purpose of Debt Conversion Programme, where debt instruments are to be acquired either through purchase, assignment or transfer, the foreign exchange

required for the acquisition must not be sourced from the foreign exchange market in Nigeria.

- 10.2 Intending redemptors shall be required to submit along with their applications, concrete evidence of financing ability to source the debts to be converted such as references from their foreign bankers.

#### **11. STATUS OF INVESTMENT**

Investments through the Programme will be accorded foreign approval status and shall enjoy all privileges associated with foreign investments under existing laws of Nigeria.

#### **12. FINANCING OF OFF-SHORE COSTS OF PROJECTS**

The naira proceeds of conversion shall be applicable only to the local cost of the project in which the investment is made. All off-shore costs of the projects shall be sourced out of Nigeria. The ability to provide the off-shore cost shall be a condition precedent to any debt equity conversion. Such additional foreign capital investment shall be accorded all the privileges of foreign investment in Nigeria under the existing laws.

#### **13. MINIMUM TRANSACTION**

In order to minimize administrative work, discourage frivolous applications and facilitate the supervision of, or surveillance over the projects in which the naira proceeds of debt conversion are invested, the minimum amount of debt to be considered under the Scheme shall be \$250,000 in the first instance and \$25,000 in subsequent redemptions. In the case of conversions for the purpose of making grants, there shall be no limitation.

#### 14. **VOLUME CONTROL**

The Debt Conversion Programme shall be consistent with the fiscal, monetary and other policies of the Federal Government of Nigeria by ensuring that the amount, timing and application of the proceeds of converted debts are in accordance with the national priorities, especially the policies on inflation and acceleration of industrial and agricultural development. Thus, a volume control shall be kept under constant review in line with monetary, credit and other macro-economic objectives and development.

#### 15. **TAXATION OF PROFIT AND DIVIDEND**

Taxation of profits and dividends arising from approved DCP projects shall be in accordance with the existing tax laws in Nigeria at the time such profits and dividends are declared.

#### 16. **REMITTANCE OF CAPITAL, DIVIDENDS, PROFITS AND INTEREST INCOMES**

16.1 There are no restrictions on capital and other associated costs imported into the country through the Programme. In other words:

- i) Dividends, profits, interests incomes, patent, licence fees and other invisibles arising from investments made under the Programme may be repatriated (as and when earned), subject to the prevailing foreign exchange regulations at the time of remittance.
- ii) Proceeds from subsequent disposal of capital investment under the Programme may be repatriated as and when desired subject to the prevailing foreign exchange regulations at the time of remittance.

16.2 Without prejudice to the provision in Paragraph 16.1 above, a redeptor wishing to either repatriate proceeds arising from the disposal of capital, dividends, profits, interests, etc. under the Programme shall seek for clearance in writing from the Debt Conversion Committee Secretariat.

## **PART II**

### **APPLICATION PROCEDURE**

#### **SEEKING FOR APPROVAL IN PRINCIPLE**

17. All prospective participants must first obtain the prior consent or Approval-in-Principle From the Debt Conversion Committee in order to qualify for participation in the Programme.
18. All such applications shall be made on Form DCP/1 obtainable at the Debt Conversion Committee Secretariat located at the Central Bank of Nigeria, Abuja.
19. Applications should be supported by relevant documents duly certified by either a Court or Notary Public. The documents are as follows:
  - i) Certificate of Incorporation/Registration of the Applicant (if it is a corporate body)
  - ii) Certificate of Incorporation/Registration of the beneficiary company/organization
  - iii) Memorandum and Articles of Association of the beneficiary company/organization
  - iv) Feasibility Report(s)
  - v) Three (3) Years Financial Statements of the beneficiary company
  - vi) The applicant Bankers' reference (if a corporate body)
  - vii) Other related/useful documents which could facilitate decision making on the application.

20. Incomplete or defective application(s) will be returned for necessary correction and if need be, the applicant will be required to submit additional information. Should the need arise; the applicant and/or his agent(s) may be invited for interview in order to clarify issues raised on the application.

Similarly, projects into which the conversion proceeds will be injected may be inspected for the purpose of evaluation. The applicant shall give reasonable opportunity to allow the officers of the Debt Conversion Committee Secretariat access to carry out such inspection.

The decision to interview the applicant or visit the project site purely rests on the Secretariat.

21. The Committee shall have the power to approve or reject in part or whole of any application. The approval or rejection of an application shall be communicated to the applicant and/or his agent(s).

The decision to approve or reject in part or whole of any application shall be final. The Committee shall not be under any obligation to give reason(s) for approval or rejection.

### **VALIDITY PERIOD OF APPROVAL-IN-PRINCIPLE**

22 The life span of an Approval-in-Principle is one year effective from the date such an approval is granted. Any approval not utilized either in whole or in part, shall in effect, be deemed to have lapsed at the expiration of the one year period.

23. However, any request for the revalidation of an Approval-in-Principle that has lapsed shall be considered on the merit of the case. The Secretariat reserves the right to call for fresh information and conduct a fresh inspection for the purpose of evaluation or re-evaluation of the project.

### **PART III**

#### **CONVERSION PROCEDURE**

##### **24. MODE OF CONVERSION**

The method of conversion is by auction. On very rare occasions, however, the Debt Conversion Committee, can at its discretion, approve an application for conversion on its own merits outside the auction system and at a price determined by the weighted average of discount offered by successful bidders at the most recent auction.

##### **25. ANNOUNCEMENT OF AUCTIONS**

The auction shall, be conducted by the Debt Conversion Committee on the last Friday of each month or as often as possible as the Committee may deem necessary.

The Auction date, amount to be offered for redemption and relevant conditions for the auction will be announced 10 working days before an auction is held.

##### **26. ELIGIBLE BIDDERS**

All applicants who have received Approvals-in-Principle are eligible to participate in the auction session(s) organized by the Debt Conversion Committee Secretariat. An applicant who has received an Approval-in-Principle is not obliged to convert the full amount approved in a single auction.

## **27. BID SCHEDULE**

Bid forms will be provided by the Debt Conversion Committee Secretariat and complete bids will be received in the morning on the day of the auction until the commencement of the auction.

## **28. BIDDING**

- 28.1 An Applicant could submit multiple bids at any particular session in respect of an Approval-in-Principle. If more than one bid is successful, redemption will be on the basis of descending order of discount offered, that is, the highest discount must first be redeemed before the lower ones.
- 28.2 The Debt Conversion Committee Secretariat reserves the right to reject any irregular bid and its decision shall be final.

## **29. EXCHANGE RATE**

The applicable exchange rate shall be the prevailing rate at the time of the auction and this shall be applied to each successful redeptor's bid price in the calculation of the naira proceeds.

## **30. RESERVE PRICE**

The Debt Conversion Committee may set a reserve price above which no deal can be effected.

## **31. AWARD**

Bids will be ranked in descending order of discount offered. The right to redeemed will be awarded by discount rank until the amount offered for redemption is exhausted. If two or more bids offered the same discount and the balance of the amount offered for conversion is insufficient to cover all that balance will be distributed pro rata among the two or more bids in respect of

offers at the same price. Award will be made to a successful bidder at his bid price.

**32. PAYMENT OF TRANSACTION COMMISSION**

A non-refundable transaction commission payable in US dollar equivalent to 2.5 per cent of discounted value of the debt instrument to be converted shall be made by the redeptor to the US dollar account of the Central Bank of Nigeria with JP Morgan Chase, 450 West 33 Street, New York or any other bank designated by the Committee within ten (10) working days of the date of notification of winning. However, transaction commission for cash gift/grant may be paid in naira. In the case of cash gift/grant where a redeptor is to pay the transaction commission in naira, the naira commission will be deducted from the proceeds of conversion.

**33. WAIVERS ON UNUTILIZED WINNINGS-AUCTIONS/OUTSIDE AUCTIONS**

33.1 If a successful bidder at an auction or an applicant with an-out auction approval does not take up the winning for one reason or the other and subsequently requested for a waiver on the winning such that he can participate in future auctions, the following conditions are set out for considering such requests:

- i) The redeptor or applicant must have paid the mandatory non-refundable 2.5 per cent transaction commission on the winning for which the waiver is being sought within the stipulated time frame. Evidence of such payments must be available to the Secretariat.
- ii) The redeptor must further show evidence of acquisition of the debt instruments to be utilized for the up coming auction as a replacement for the waiver being sought. Such evidence should include contract notes or agreement between the seller/buyer and particulars of such notes.

33.2 In the event of a grant of a waiver and the redelector participates but **further fails** to utilize same, such a redelector may:

- a) be made to **forfeit in full** the transaction commission already paid, and
- b) **be barred** from participating in future auction sessions.

33.3 If a bidder is successful at the auction but fails to perform and does not ask for a waiver nor gives a satisfactory explanation for the non-performance, such a bidder would be barred from participating in subsequent auctions.

#### 34. **CANCELLATION OF DEBT INSTRUMENT(S)**

34.1 After the auction, the Debt conversion Committee Secretariat will advise the relevant cancellation agent to accept, verify for genuineness and cancel the debt instruments of successful bidders within fifteen (15) working days of winning at the auction.

34.2 If a redelector fails to deliver the debt instrument(s) within the stipulated period for cancellation he shall not participate in subsequent auctions unless the redelector has satisfied the provisions of Section 33 of this Guidelines.

34.3 Where the amount of debt to be converted is less than the face value of the debt instrument(s) submitted for cancellation, the cancellation agent concerned shall issue a fresh debt instrument in the amount of the unredeemed balance to the redelector.

#### 35. **REDEMPTION PROCEEDS**

Upon confirmation of receipt and cancellation of the debt instrument(s) by the appropriate agent, the Central Bank of Nigeria will provide the naira proceeds in a

non-interest yielding account at the Central Bank of Nigeria for draw down by the beneficiary organization.

## **PART IV**

### **MONITORING**

#### **36. VISIT TO PROJECTS**

Debt Conversion Committee Secretariat shall conduct pre and post-disbursement visits to all projects financed under the Programme. The aim of such inspections is to ensure that conversion proceeds are used exclusively for approved purpose. Consequently, the following category of inspections shall be undertaken:

##### **36.1 Pre-disbursement inspection**

This shall be done before the release of the first tranche of conversion proceeds to the beneficiary organization.

##### **36.2 Post-disbursement Inspection**

Post-disbursement visits shall be conducted after funds had been disbursed to the beneficiary organization(s) in order to ensure and assess proper utilization of disbursed funds.

##### **36.3 Annual Visits**

The Secretariat shall pay annual visits to projects that have received proceeds of conversion in the immediate past three (3) years. The information so collected shall form the statistical base for preparing annual report on the programme for the consideration of the appropriate authorities.

#### **37. RELEASE OF CONVERSION PROCEEDS**

Naira proceeds of converted debt instrument kept in a non-interest yielding account with the Central Bank of Nigeria shall be released upon application by the

beneficiary organization, through the designated non-interest bearing account named by the beneficiary for the purpose of funding the project.

**38. ACCESS TO FOREIGN EXCHANGE & RENDITION OF MONTHLY STATEMENT OF ACCOUNTS**

All designated debt conversion accounts are ineligible for the purpose of foreign exchange market transactions. To ascertain this, banks holding the beneficiary's non-interest yielding account shall furnish the Debt Conversion Committee Secretariat with monthly statement of account showing utilization of funds disbursed, details of withdrawals and all foreign exchange transactions by the beneficiary company with the bank.

**39. INVESTMENT OF PROCEEDS IN GOVERNMENT DEBT INSTRUMENTS**

Naira proceeds of grant made non-profit organizations through the Programme could be invested in government debt instruments if they so wish until required by the beneficiary organization.

**40. ISSUANCE OF INVESTMENT INSTRUMENTS**

To protect the investors under the Programme and to facilitate ease of repatriation of capital imported under the Programme as well as dividends and interest incomes thereto, the Registrar of the company in which the redemption proceeds is invested shall, on receipt of the first tranche of the naira proceeds of conversion, issue the relevant investment certificate(s) to the redeptor. The original(s) of such certificate(s) shall be forwarded to the Debt Conversion Committee Secretariat for sighting only.

#### **41. PERIODIC REPORT BY DEBT CONVERSION COMMITTEE**

The Debt Conversion Committee shall submit to the Federal Government annual reports highlighting the operations of the Programme and projects financed with the proceeds of debt conversion. The database for these reports shall emanate from the information generated from Annual Visit report per Section 36.3 of this Guidelines.

### **PART V**

#### **SANCTIONS AND PENALTIES FOR NON-COMPLIANCE WITH AND AMENDEMENTS TO THE GUIDELINES**

#### **42. NON-COMPLIANCE WITH THE DEBT CONVERSION PROGRAMME GUIDELINES**

Transactions in violation of the Guidelines stated herein or conditions set by the Debt Conversion Committee or other acts against the laws of the country would be deemed null and void and will attract appropriate sanctions and penalties under the appropriate Nigerian law(s) as may from time to time be in force. In addition, diversion of naira proceeds of conversion into unauthorized projects would lead to immediate blacklisting of the beneficiary organization or company as the case may be.

#### **43. AMENDMENT TO THE GUIDELINES**

The DCP Guidelines may be reviewed or amended from time to time by the Central Bank of Nigeria and may set or modify execution procedures for the purpose of controlling or supervising operations pursuant to the Debt Conversion Programme.