

TERMS OF REFERENCE

REVIEW OF CROSS-BORDER (DIASPORA) PENSION GUIDELINE IN NIGERIA

1. Introduction

Pension funds are important players in capital markets because of the large amount of funds they hold on behalf of members. The long-term liability profile of pension funds affords them the leeway to invest in long-term investments that could directly impact a country's economic development.

The Nigerian pension industry has recorded exponential growth in recent years in terms of size and value. It has continued to play a significant role in developing the domestic capital markets. The total asset under the management of pension funds in Nigeria, which stood at N14.4 trillion (US\$32.7 billion) as of August 2022, has consistently maintained an estimated average annual growth of 10%.

In local currency, total pension assets have over the last decade grown by over 400% from N3.25 trillion in 2012; however, when the official currency devaluation in Nigeria over the same period is factored in, the growth reduced to 83%. If the parallel market rates were to be considered, total pension assets would have recorded negative growth.

Pension managers have traditionally been investing a large proportion of their assets in government securities due to the relatively high sovereign yields, which have historically been above the inflation rate. The current macroeconomic challenges and the continued increase in the inflation rate have made it more difficult for pension managers to earn an inflation-adjusted return with their existing portfolio mix that is concentrated on sovereign investments.

To provide a hedge for pension fund assets against inflation and currency devaluation, thereby protecting the value of pension assets, the National Pension Commission (PENCOM), with the support of FSD Africa, developed the foreign (offshore) investment guideline for pension funds in Nigeria. This is also supposed to provide diversification benefits to pension funds by reducing market concentrations (only 0.1% of the PFA assets are currently invested in foreign markets). Due to FX illiquidity and the capital controls on foreign currency in Nigeria, the PFAs cannot access foreign exchange markets, which poses a challenge to implementing the offshore investment guideline.

In 2008, PENCOM released the guideline for cross-border pensions as part of the Pensions Reform Act of 2004. Under the guideline, provisions were made for:

- Nigerians working abroad who were interested in joining a new pension scheme and wanted to make voluntary contributions
- Nigerian employees of Nigerian institutions with offices abroad

The Pension Reform Act of 2004 was repealed and revised in 2014; however, the cross-border guideline, which was drafted in line with the provisions of the 2004 act, is yet to be revised for over a decade. As such, the guideline needs to be in line with current realities.

In recent times, there has been an increasing interest from Nigerians outside the country in maintaining a Retirement Savings Account ("RSA"). The increasing number of skilled migrants exiting the country presents an opportunity to increase the Contribution Pension Scheme's outreach. In addition, there is a growing wave of young Nigerians with offshore jobs earning foreign currency in Nigeria. Most of these jobs have no pension arrangements, and there is an increasing need to provide pensions for this class of workers- the "gig" workers.

FSD Africa and the Pension Fund Operators Association of Nigeria ("PenOP") are seeking the services of a specialised regulatory consultant to assist in reviewing, developing and updating the cross-border pension guidelines in line with international benchmarks that can be adopted in the Nigerian pension industry.

2. Background

2.1 Financial Sector Deepening Africa (FSD Africa)

FSD Africa is a specialist development agency working to reduce poverty by strengthening financial markets across sub-Saharan Africa. Based in Nairobi, FSD Africa's financial sector experts work alongside governments, business leaders, regulators, and policymakers to design and build ambitious programmes that make financial markets work better for everyone. Established in 2012, FSD Africa is incorporated as a non-profit company limited by guarantee in Kenya. It is funded by UK aid from the UK government.

Please find more details about FSD Africa on our website at www.fsdafrica.org.

2.1 Pension Fund Operators Association of Nigeria (PenOP)

The Pension Fund Operators Association of Nigeria is an independent, non-governmental, non-political body. It was established to promote the operations of the pension industry, provide for self-regulation and ensure that international best practices relating to the industry are observed by the operators registered in Nigeria. They are the umbrella body for all licensed pension operators operating in Nigeria. They are the central party that coordinates and harmonizes the activities of the pension operators and pension industry in general to ensure that pensions have a positive effect on all stakeholders and the economy in general. One of the keyways they do this is by engaging regulators, international organization and the financial markets to facilitate workshops, trainings and provide opportunities to co create structures and products with the market which the pension operators can support.

Please find more details about PenOp on our website at www.penop.com.ng.

3. Objectives and Scope

3.1. Objective

The main objective of this assignment is to develop a guideline for implementing cross-border pensions based on international best practices for the Nigerian market. The new guideline will seek to expand pension contributions in Nigeria by providing the framework by which the following class of employees can participate in the local pension scheme:

- i. Individuals who have Retirement Savings Accounts (RSA) and have migrated but want to contribute voluntarily to their pension.
- ii. Individuals who already have an active RSA account and have migrated do not intend to contribute but want to use their RSA account to access a mortgage.
- iii. Nigerians abroad who do not have an RSA account in Nigeria but want to open an account and start contributing.
- iv. Nigerians abroad with an RSA account who want to continue contributing and access a mortgage.
- v. Non-Nigerians that may want to participate in the Nigerian pension scheme

Additionally, the guideline will help the PFAs implement their portfolio diversification strategy and address the concentration risk in holding government securities. The guideline will also aid the implementation of the offshore investment guideline, which PENCOS recently finalised.

3.2. Scope of work

The scope of the assignment will cover the following areas highlighted below:

- Review the current cross-border pension guideline in line with current realities and changing global economic landscape as it affects the pension industry in Nigeria as well as current pension guideline in Nigeria and presents a gap analysis report.

- Conduct international benchmarks of cross-border pensions using comparable jurisdictions to Nigeria as a benchmark and suggest changes or updates to the current cross-border pension guideline.
- Engage stakeholders within the Nigeria pension industry (PENCOM, PenOP, pension fund administrators, custodians) and financial regulators necessary for implementing the proposed guideline (e.g. Central Bank of Nigeria). Identify and flag any potential regulatory overlap, conflict or gap that may hinder the implementation of the proposed guideline and suggest recommendations to address such gaps.
- Develop and draft a revised suitable cross-border pension guideline for the Nigeria pension industry. The guideline should complement existing guidelines, such as the offshore guideline, in achieving the overall objective of the assignment as specified in 3.1 above and address the following regulatory issues:
 - eligibility - who is eligible to contribute?
 - roles and responsibilities of stakeholders under the guideline (PENCOM, CBN, PFAs, PFCs, etc.)
 - currency of contribution and mode of remittance.
 - jurisdiction and tax treatment governing contributions.
 - risk management practices in the guideline to ensure safety and fair returns.
 - portfolio structure and eligible investment asset classes.
 - safeguards, governance, and risk management practices that would guarantee **safety** and fair returns on foreign investments.
 - governance, risk management and fiduciary responsibilities of fund managers under the guideline in line with global best practices.
- Propose and recommend the implementation approach for the proposed guideline.
- Support PenOP in the final presentation of the proposed guideline to PENCOM through a presentation to the executive management of PENCOM and a one-day training workshop for the supervision team.

4. Deliverables

The deliverables under this contract are as follows:

- a) An inception report including but not limited to; a summary of the proposed approach, the interview questions, timelines, documents, and stakeholders/interviewees to be consulted.
- b) Diagnostic reports that will facilitate consultation with stakeholders.
- c) Stakeholder engagement workshops.
- d) Final diagnostic reports covering the key findings, recommendations and areas indicated in the scope of work.
- e) The proposed cross-border pension guideline in a word document - in draft and final copies.
- f) Presentation of the proposed guideline to PenOP and PENCOM
- g) Monthly progress reports.

5. Timelines

The project shall be implemented under a 3-month consultancy contract. The consultant shall provide monthly update reports on the progress of the implementation of the project as per the deliverables above and the work plan set out.

No.	Deliverables	Timelines
1.	An Inception Meeting Report- brief executive summary of meetings and a detailed approach to implementing the project.	Two (2) weeks after signing of the contract.
2.	A diagnostic report on the guideline for cross-border pensions in Nigeria with relevant international benchmarks	Five (5) weeks after signing of the contract.
3.	Stakeholder engagements to discuss the findings of the diagnostic report and get market views on the guideline	Six (6) weeks after signing the contract
4.	Draft proposed guideline for cross-border pensions in Nigeria	Nine (9) weeks after signing of the contract.
5.	Validation workshop	Ten (10) weeks
6.	Presentation to PenOP and PENCOM	Twelve (12) weeks
7.	Monthly progress report.	End of each month.

6. Invitation to Tender

FSD Africa is inviting proposals from suitably qualified Consultant (s).

Your proposal should contain the following:

- Identity and CVs of the key expert(s) not exceeding two pages.
- A summary of your experience providing the technical support called for in these Terms of Reference.
- A description of your understanding of the role of the selected Consultant (s) as outlined in terms of Reference and how you intend to fulfil the services within the suggested timeline.
- Samples of other work to demonstrate the capacity to carry out the assignment.
- An estimated budget for both professional fees and reimbursable expenses-Refer to Annex 1.

Submitted proposals should be at most ten pages (excluding annexures). The review will be based on the main proposal. This should be sent by email to FSD Africa at bids@fsdafrica.org by 1200hrs (East Africa Time) on 31 January 2023 under a subject line reading 'Invitation to tender: 'Review and development of the cross-border guideline for pension industry in Nigeria. Applications received after the deadline will not be considered.

7. Basis of award

FSD Africa will award a contract to the consultant based on the following criteria:

Mandatory requirements
A Master's degree in Economics, Business or equivalent, with at least seven years of relevant experience.
Demonstrated familiarity and experience in offshore investments and related operations.
Demonstrated capacity to engage intensively with this assignment, to conclude the work within the stipulated timelines.
A track record in delivering similar projects in developing countries.

Assessment criteria	Weighting (%)
Experience	40%
Skills and qualification	15%
Methodology	25%
Most economically advantageous.	20%

Demonstrated ability and experience to deliver in the assignment outlined in this Terms of Reference (evidenced by previous similar assignments in emerging markets, client references etc.)

A team lead with at least seven years of relevant experience in capital markets.

A master's degree in Economics, Business or equivalent, with at least seven years of relevant experience.

Have a team with a demonstrable good understanding of offshore and related processes.

Consultants must demonstrate a clear and concise understanding/interpretation of the task set out in the TORs.

The fee basis and total costs will be computed as follows:

FS = 20% x LB/BP where:
 FS = is the financial score
 LB = is the lowest bid quoted
 BP= is the bid of the proposal under consideration.

The lowest bid quoted will be allocated a maximum score of 20%.
The fee quoted must be inclusive of all taxes

Assessment criteria	Weighting (%)
Total	100%

8. Contact

Questions or comments regarding these terms of reference should be directed by email to: bids@fsdafrica.org on or before 12 noon (EAT) **23 January 2023** and feedback will be provided by 5 pm (EAT) **24 January 2023** via the same advertisement channel.

9. Applicable Taxes

As per Kenya’s tax law, FSD Africa will pay the Consultant after withholding the appropriate taxes at the applicable rate between Kenya and the Consultant's country of tax residence, considering any tax treaties in force. The Consultant’s responsibility is to keep themselves apprised of these applicable taxes. The below table guides the applicable rates as per tax regimes.

Country	WHT Rate
Kenya	5%
United Kingdom	12.5%
Canada	15%
Germany	15%
India	10%
The non-resident rate for citizens of EAC member countries (member countries attached)	15%
All other countries	20%

Annex 1: Proposed Fee Schedule

Costs should be shown separately in the format set out below. Fees proposed by tenderers should be inclusive of all taxes.

Consultancy fees*	Days	Fee USD/GBP	Total USD/GBP
xx			
xx			
Total remuneration			0.00
Reimbursement costs**	Unit	Cost USD/GBP	Total USD/GBP
xx			
xx			
Total reimbursement cost			0.00
Total proposed costs			0.00
<i>*Fees incl of all taxes</i>			
<i>**Expenses to be reimbursed on actual costs as per FSD Africa's travel policy</i>			