



NERC Issues Code of Corporate Governance for the Nigerian Electricity Supply Industry (NESI)

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In response to persistent governance inefficiencies within the Nigerian Electricity Supply Industry (NESI), the Nigerian Electricity Regulatory Commission (NERC), on 30th May 2025 issued the Code of Corporate Governance for NESI 2025 (the Code).

The Code provides the framework for exemplary governance, ethical conduct, and operational excellence of licensees in NESI.

By promoting accountability, transparency, and sustainability, the Code seeks to restore confidence among investors, consumers, and other stakeholders. It also aims to enhance the sector's ability to attract much-needed investments, improve service delivery and ultimately contribute to the nation's economic growth. This initiative by NERC is part of the wider reform efforts under the Electricity Act 2023, aimed at deepening transparency, accountability, and investor confidence in the power sector.

Background

Corporate governance of companies in Nigeria is primarily governed by the provisions of the Companies and Allied Act (CAMA), 2020 and the Nigerian Code of Corporate Governance (NCCG), 2018. While these legislations make extensive provisions on the corporate governance of companies in Nigeria, other sectors within the Nigerian market have issued sector-specific regulations to govern corporate governance with the aim of promoting sustainable business practices within the sector. Some of these regulations include: Central Bank of Nigeria Code of Corporate Governance for Banks and Discount Houses 2014 – financial sector; Securities and Exchange Commission Corporate Governance Guidelines 2020 – capital markets; National Insurance Commission Code of Corporate Governance for the Insurance Industry 2021 – insurance; etc.

Until recently, corporate governance within Nigeria's power sector was governed exclusively by the provisions

of CAMA and the NCCG, with no industry-specific framework in place. While speculations were made in 2014 of a code of corporate governance by NERC, it was merely proposed but never formalised. The newly issued Code of Corporate Governance for NESI is relevant because prior to its release, operators within NESI struggled with issues such as overlapping board memberships, insufficient board independence, and weak oversight mechanisms. As a result of these issues, stakeholders had flagged the absence of a binding, industry-specific governance framework as a critical gap that weakened internal controls and hindered effective decision-making across licensees. In response, the Code, while aligning itself with the provisions of the CAMA and the NCCG provides a clear and uniform structure for corporate governance, laying down enforceable standards on board composition, director eligibility, independence, and tenure in the electricity supply industry.

Key Objectives of the Code

The overarching goals of the Code are:



- To institutionalise best practices in corporate governance.



- To ensure that all licensees operating in NESI operate with integrity and professionalism.



- To create an enabling environment for the power sector to thrive.

Scope of Application

The Code applies to every entity licensed to engage in the business of generation, distribution, transmission, system operations, supply or trading in electricity in NESI.

Key Provisions of the Code

1. Board Composition Requirements

The Code provides that the board should reflect a balanced amalgamation of skills, diverse experience and gender representation with due consideration had to the licensee's business scope, magnitude, intricacies, and reach. While all these are in line with the provisions of the NCCG, which applies to all sectors, the Code makes additional provision for a minimum of 7 (seven) directors for large entities operating within NESI.

The Code provides that companies should have a minimum of 2 (two) executive directors, one of whom must be the Chief Executive Officer (CEO). Each board must also include at least one independent director, while for larger firms, the requirement is a minimum of 2 (two) independent directors.

2. Eligibility Criteria for Executive Management Positions

To be eligible for appointment into executive management

positions in an entity operating within NESI, a candidate must file documents showing that they meet the fitness requirements provided in the schedule to the Code for:

- i. executive management positions in companies engaged in generation, transmission, system operation, supply and distribution,² and
- ii. executive management positions in companies engaged in electricity trading.³

Candidates for these positions are to also provide:

- i. references from their last three (3) employers attesting to the applicant's character and suitability for the role;
- ii. appropriate clearance after undergoing comprehensive security checks by relevant security agencies: and
- iii. disclose all interests and be cleared of any conflict of interests.

3. Tenure and Rotation of Directors

Members of the board may serve on the board for a maximum period of 12 (twelve) years, divided into 3 (three) terms of 4 (four) years each. Additionally, in line with the provisions of CAMA,⁴ one-third of directors must retire periodically by rotation at each Annual General Meeting, but retiring directors may present themselves for reappointment.⁵

4. Limitation on Multiple Directorships

By the provisions of the Code, directors are prohibited from serving on more than two boards of companies within NESI. This is because simultaneous service on numerous boards may impede an individual's capacity to discharge their duties equitably and impartially, potentially leading to conflict of interest. This provision is different from what is obtainable under CAMA, 2020. CAMA provides that a person can hold more than one directorship provided it does not derogate from his fiduciary duties and is not in more than five(5) companies where such positions are held in public companies. It is however important to note

that the Code does not state if the restriction on multiple directorships prohibits directors within NESI from serving on the boards of other companies outside NESI, if they are still within the limits provided by CAMA.

The Code provides that the board and shareholders must thoroughly assess the suitability of nominees for appointments within the board, taking into account their other obligations and commitments.

5. Disclosure of Other Directorships

In line with the provisions of CAMA, 2020, prospective board nominees must disclose all other board roles during the nomination process. Additionally, the Code provides that upon such disclosure, the board will consider the nominee's other directorships and ascertain whether the nominee can effectively contribute to the board's performance and responsibilities prior to endorsing them for appointments. Sitting directors are also obligated to inform the board of any new potential appointments to other boards for due consideration.

6. Board Evaluation and Performance Assessment

Boards are required to conduct annual evaluations of their performance, including assessments of individual directors and board committees. This evaluation process is a strategy for enhancing and reinforcing the performance of the licensee and the board is to institute a framework for the regular evaluation of itself and its individual members. To fulfil the objectives of the Code, the evaluation process must be impartial and objective. In addition to these provisions, the Code provides for the evaluation of the chairman of the board, and states that the CEO's evaluation is carried out by the board or a designated committee comprising of non-executive directors.

Outcomes of the evaluation process are to guide the formulation of training initiatives for the board and individual directors and aid in identifying additional skills needed or targeted for future appointments to the board. A report of the evaluation process is to be included in the licensee's annual reports.

7. Establishment of Board Committees

While the provisions of CAMA empowers boards to have committees, the Code mandates its companies to establish key board committees, including Audit committee; Regulatory Compliance and Risk Management Committee; and Governance, Remuneration and Nomination Committee.

- **Audit Committee:** it is to be established in line with the provisions of CAMA with members who possess a sound understanding of financial reporting. Also, the chairman and CEO of the board cannot be members of this committee but may attend its meetings by invitation. The committee is to nominate the external auditor for appointment, approve the terms of engagement and remuneration of the external audit, and monitor and report on the independence of the external auditor.

- **Regulatory Compliance and Risk Management Committee:** this committee is to aid in reviewing the regulatory compliance, risk management process and substantial risks confronting the licensee. The committee should include executive and non-executive directors.
- **Governance, Remuneration and Nomination Committee:** when established, this committee has its responsibilities guided by a written term of reference or charter and they include, creating a job specification for the chairman's position, including an assessment of the time commitment required of candidates, assessing the skills, knowledge and experience required on the board, offering recommendations on the expertise of needed committee members and ensuring the board conducts an annual board evaluation.

8. Conflict of Interest Policy

Boards are mandated to develop and enforce a conflict-of-interest policy,

requiring directors to declare any personal interest in matters affecting the company. This includes directorship and or ownership in similar companies. Beyond that, the positions of the Chairman and CEO are also to be held by distinct individuals to ensure a system of proper checks and balances and promotion of company interest above personal interest. Individual members of the board should also not participate in decisions related to their own remuneration.

9. Stakeholder Engagement

Boards must establish mechanisms for engaging with stakeholders, including regular communication and feedback channels. The licensee's operations should be conducted in a manner that balances the interests of shareholders and other stakeholders. The board should also ensure it promotes open dialogue and engagement between itself and the shareholders to foster alignment and mutual comprehension of corporate goals. All these are also in line with the provisions of the NCCG.

10. Succession Planning

Companies are required to implement formal succession plans for key management positions to ensure business continuity. The board, in ensuring this, is to establish a governance, remuneration and nomination committee tasked with identifying suitable candidates for director and executive director positions in the licensee.

11. Compliance and Sanctions

Non-compliance with the Code's provisions may result in regulatory sanctions,

including penalties and potential license revocation. Licensees must indicate their degree of compliance with the code in the Annual Compliance Report to be filed with NERC.

12. Reporting Obligations

The Code provides a Corporate Governance Reporting Form to be filed annually with NERC by companies in the energy sector. The board of these companies is responsible for ensuring the accuracy and reliability of the compliance report.

Conclusion

The introduction of the Code of Corporate Governance for the Nigerian Electricity Supply Industry marks a significant milestone in sector-specific governance reform. While it draws from established frameworks such as CAMA and the NCCG, the Code tailors its provisions to address the unique governance challenges within NESI. By setting enforceable standards on board structure,

executive eligibility, conflict management, and performance evaluation, the Code seeks to institutionalize accountability and transparency across the electricity value chain. Ultimately, it lays the foundation for improved investor confidence, operational efficiency, and long-term sectoral sustainability.

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