Capital Markets - Nigeria

Door opened for Nigerian pension funds to invest offshore

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The new Pensions Reform Act 2014, which repealed the Pension Reform Act 2004, came into effect on July 1 2014. It has significantly relaxed the restriction on offshore investments by Nigerian pension fund administrators (PFAs) of pension fund assets.

The previous act restricted the ability of PFAs to use pension fund assets to invest outside Nigeria. Section 74 of the previous act provided that a PFA could invest pension fund assets in units of any investment funds or securities and – subject to the existing Central Bank of Nigeria foreign exchange rules – that the National Pension Commission could recommend to the president the approval of the investment of pension fund assets in investment funds or securities outside Nigeria. This meant that without the president's approval, a PFA could not invest pension fund assets outside the country.

The national contributory pension fund scheme was established by the previous act, which further provided that this newly established fund would be subject to stringent restrictions and used to enhance investment in Nigerian securities and boost the Nigerian economy.

Section 87(1) of the new act provides that:

> *"A Pension Fund Administrator may invest the pension funds in units of any investment outside Nigeria within the categories of investment set out in section 86 of the Act."*

The categories of investment permitted by Section 86 include:

- bonds, bills and other securities issued or guaranteed by the government and the Central Bank;
- bonds, bills and other securities issued by state and local governments;
- bonds, debentures, redeemable preference shares and other debt instruments issued by corporate entities and listed on a stock exchange registered under the Investment and Securities Act;
- ordinary shares of public limited companies listed on a securities exchange registered under the Investment and Securities Act;
- bank deposits and bank securities;
- investment certificates of closed-end investment funds or hybrid investment funds listed on a securities exchange registered under the Investment and Securities Act with good track records of earning;
- units sold by open-end investment funds or specialist open-end investment funds registered under the Investment and Securities Act;
- real estate development investments; and
- specialist investment funds and such other financial instruments as the commission may occasionally approve.

However, the new act also provides that, subject to existing Central Bank foreign exchange rules, the commission may recommend to the president the approval of portfolio limits for the investment of pension fund assets outside Nigeria. This removes the requirement under the previous act to obtain the president's approval to invest pension fund assets outside Nigeria, but it has not entirely dispensed with presidential involvement – the president is now expected to approve only investment portfolio limits.

The impact of this development is difficult to assess as it is unclear whether or when the commission will seek the president's approval of the setting of such limits. Therefore, it is unlikely that the PFAs will feel able to make any such investments before these limits are set by regulation. Even after these limits are set, the impact may be muted, as it is unclear whether PFAs are interested in making offshore investments other than investments in securities of Nigerian entities issuing through offshore special purpose vehicles.

Nigerian PFAs are perceived as conservative and cautious of investing in new asset classes. Although permitted to invest in infrastructure, real estate and private equity funds, they appear to prefer traditional assets such as government and corporate bonds and listed equities.

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