

**CABOTAGE VESSEL FINANCING FUND  
(CVFF) GUIDELINES 2006.**

**ISSUED PURSUANT TO SECTION 44, PART VIII,  
COASTAL AND INLAND SHIPPING  
(CABOTAGE) ACT, 2003**

**BY THE**

**FEDERAL MINISTRY OF TRANSPORTATION**

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1. **Purpose of the Guideline:** The Guideline seeks to prescribe the procedure for the administration and implementation of the Cabotage Vessel Financing fund (CVFF) established under the Coastal and Inland Shipping (Cabotage) Act, 2003.

2. **Definitions**

For the purpose of this Guideline:

"Act" means the Coastal and Inland Shipping (Cabotage) Act, 2003;

"Actual Cost" means the aggregate amount to be paid by the applicant, hereafter referred to as the obligor;

"Bareboat Charter" has the meaning given to it in the Bareboat Regulations, 2006;

"Cargo" has the meaning given to it in the Act;

"Citizen of Nigeria" has the meaning given to it in the Act;

"Closing" means a meeting of various participants or their representatives in a Cabotage Vessel Financing Fund (CVFF)

arrangement, at which a loan or commitment to issue Guarantees is executed or at which all or part of the obligations are authenticated and issued, where after the proceeds are made available for a purpose set forth in this Guideline; "Coastal Trade" or Cabotage" has the meaning given to it in the Act;

"Contributory Parties" means the fund suppliers, beneficiaries, regulators and managers under the CVFF Scheme, and for this purpose shall include the following:

- (a) The Nigerian Maritime Administration and Safety Agency (NIMASA);
- (b) The Primary Lending Institution (PMS) and other lending institutions;
- (c) The Beneficiaries of the CVFF Scheme; and
- (d) Fund managers.

"Director General" Means the Chief Executive Officer of the Nigerian Maritime Administration and Safety Agency; "Eligible Applicant" means applicants who are qualified to seek financial assistance from the Fund. "Foreign Vessel" has the meaning given to it in the Act; "Fund" or

"CVFF" refers to Cabotage Vessel Financing Fund as established by the Act;

"Guarantee" means the contractual commitment of the Fund endorsed on each Obligation, to make payment to the Obligee or an agent of the unpaid interest on and the unpaid balance of the principal of such Obligation, including interest accruing between the date of default and the date of payment; "Guarantee Fee" means the fee payable to the fund in consideration for the issuance of the Guarantees;

"Hull" has the meaning given to it in the Act;

"Minister" has the meaning given to it in the Act; "Mortgage" means a first mortgage on any vessel or a first mortgage with respect to a Shipyard project; "Nigerian Vessel" has the meaning given to it in the Act., "Nigerian Waters" has the meaning given to it in the Act; "Obligation" means any note, loan, bond, debenture or other evidence of indebtedness, issued for any of the purposes specified in this Guideline;

"Obligee" means the holder of an Obligation.

"Obligor" means any party primarily liable for payment of principal of or interest on any loan or facility;

"Owner" in relation to a vessel, includes the person having for the time being, either by law or by contract, the rights of the owner of the ship as regards the possession and use thereof; "Primary Lending Institution" means institution so

approved by the Agency to participate as intermediary in loan processing and monitoring of the Fund;

"Superstructure" has the meaning given to it in the Act.

"Territorial Waters" has the meaning given to it in the Act'

“Vessel" includes any description of vessels, ship, boat, hovercraft or craft, including air cushion vehicles and dynamically supported craft designed, used or capable of being used solely or partly for marine navigation and used for the carriage on, through or under water of persons or property without regard to method or lack of propulsion; "Vessel Built in Nigeria" means Where all the major component of its hull and superstructure are manufactured or fabricated in Nigeria or assembled entirely in Nigeria.

### **3. PURPOSE AND BENEFICIARIES OF THE FUND**

**3.1 Financial Support:** The Fund shall be utilized by the Agency to offer financial assistance, create access to funding by financial institutions with the sole aim of increasing indigenous ship acquisition capacity.

Disbursement of the Fund shall be subject to the approval of the Minister of Transportation upon recommendation by NIMASA.

**3.2 Applicants/Beneficiaries:** Only Nigerian citizens and shipping companies wholly owned by Nigerian citizens as defined by the Act shall be eligible to apply and benefit from this Scheme.

To qualify for loan or guarantee under the scheme, in addition to any other requirements set out by the Fund or NIMASA, an applicant shall:

- (i) Prepare bankable feasibility reports which report shall be subject to independent verification by NIMAS A and the PLIs.
- (ii) Pay all prescribed fees;
- (iii) Provide acceptable equity participation as may be required for each project application;
- (iv) Satisfy the Fund of its managerial and operational ability;
- (v) Agree with a Primary Lending Institution (PLI) on the PLFs involvement in the loan requested; (vi) Provide acceptable security/collateral; and
- (vii) Provide other requirements as the Fund may demand.

Applications for credit facilities under this Fund shall be routed to NIMASA through any of the participating PLIs.

All applications shall be subjected to the specified risk acceptance criteria and only qualifying applications shall be allowed access to the Funds. Each qualifying individual applicant or several applicants whether related by management or ownership can only be availed a facility not exceeding USD25 million or its equivalent.

#### 4. PARTIES TO THE FUND

The Federal Ministry of Transportation, Nigerian Maritime Administration and Safety Agency and the Primary Lending Institutions ("PLIs") particularly commercial banks and the Fund applicants shall be the primary parties to the Fund.

The success of this scheme would depend largely on the Primary Lending Institutions. N I M A S A shall set out and publish qualification criteria of Commercial Bank(s) participation as a primary lending institution. This would ensure that only banks that have the capacity and commitment to the purpose of this FUND and the drive of NIMASA are included under the scheme.

Without prejudice to NIMASA's qualification criteria, the following shall constitute the minimum qualifying criteria for a bank to be

appointed a PLI under the CVFF scheme. The bank:

- (a) Must have an existing relationship with NIMASA;
- (b) Must have shareholders fund in excess of N25 billion; and
- (c) Must have proof of substantial financial support in terms of credits extended to indigenous maritime operators.

## 5. SOURCES OF FUNDING

Section 43 of the Act provides that the following shall be paid into the Fund:

- (a) A surcharge of two (2) percent of the contract sum q performed by any vessel engaged in Cabotage trade;
- (b) A sum as shall, from time to time, be determined and approved by the National Assembly;
- (c) Monies generated under the Act including tariffs, fines and fees for licenses and waivers; and
- (d) Such further sums accruable by the Fund by way of interest paid on and the



repayment of the principal sums of any Loan granted from the Fund.

The two (2) percent surcharge on contract sum shall be calculated and collected as specified in the Cabotage Guidelines.

## 6. **STRUCTURE OF FUND**

The frame work for operation of the Fund shall include:

(a) **Federal Ministry of Transportation:** The Federal Ministry of Transportation who shall be responsible for issuing and reviewing this CVFF Guideline subject to the provisions of the Act. The Federal Ministry of Transportation shall review annually the application and operation of the Fund by NIMASA

(b) **Secretariat Cabotage Unit:** The Secretariat shall:

(i) Co-ordinate the administration of the Fund;

(ii) Together with the PLIs process loan application and recommend for same approval;

- (iii) Evolve the criteria for appointment of Banks as Primary Lending Institutions;
- (iv) Publish periodic and annual reports on operation of the Fund.
- (c) **Primary Lending Institutions (PLIs):** The functions of these institutions shall include:
  - (i) Liaising with NIMASA in determining the Risk Acceptable Criteria for the utilization of the CVFF funds or issuing of guarantees;
  - (ii) Participation in the financing and management of specific projects where necessary to further secure repayment of the loan or obligation;
  - (iii) Active involvement in On-lending, monitoring and entire loan management; and
  - (iv) Any other financial advisory or ancillary services as the Fund may determine.

## **7. OPERATION OF THE FUND**

**7.1 Type of Fund Application:** The Fund shall be applied in a manner that will achieve the objective

of the Act. In addition to project viability, consideration for financial assistance shall include the need for:

- (a) The facilitation of the acquisition and ownership of vessels to be employed in the domestic/coastal trade by indigenous companies and Nigerian citizens;
- (b) Facilitation of vessel charters;
- (c) The development of shipyard/maritime infrastructure to facilitate vessel construction, repairs and maintenance;
- (d) Other shipping auxiliary projects relating to the development of local tonnage capacity and shipyards.

**7.2 Vessel Type:** The Fund Shall Support the acquisition, construction or repairs of all types of vessels used in the coastal trade.

**7.3 Security Interest:** No loan application shall be processed unless and until the applicant had secured and submitted such security as NIMASA and the PLIs may from time to time determine.

**7.4 Fund Determinants:** In pursuance of its risk reduction strategy, the Fund shall:

- (a) Establish an annually updated system of

risk categories for loans or obligations guaranteed or to be guaranteed under the Fund.

(b) The risk factors shall include the following:

(i) The period for which an obligation is guaranteed or the tenor of the loan;

(ii) The amount of loan or obligation which is guaranteed or to be guaranteed in relation to the total cost of the project to be financed;

(iii) The financial condition of an obligor or applicant for loan or guarantee;

(iv) If applicable, any loan or guarantee related to the project, other than the loan or guarantee covered by this Fund for which the risk factor 1s applied;

(v) If applicable, the projected employment of each vessel or equipment to be financed with the loan or obligation;

(vi) If applicable, the projected market that will be served by each vessel or equipment to be financed with the loan or guarantee;

- (vii) The contribution made by the applicant towards the acquisition of vessel or equipment to be financed or guaranteed;
- (viii) The collateral provided for the loan or guarantee backed by the Fund;
- (ix) The management and. operating experience of an obligor or applicant for a loan or guarantee obligation.
- (x) Whether a loan or guarantee issued from the Fund is or will be in effect during the construction period of the project;
- (xi) A risk factor for concentration risk reflecting the risk presented by an unduly large percentage of loans outstanding by any one borrower or group of affiliated borrowers; and
- (xii) Such other matters considered necessary for the operation of the Fund.

## **7.5 Procedure upon Receiving Loan Guarantee Application**

7.5.1 Applications for credit facilities under this Fund should be routed to NIMASA through any of the participating PLIs. Upon receiving an application for a loan request or guarantee under this Scheme,

NIMASA shall determine the applicant's or operator's eligibility to access the Fund. This shall be evidenced by a duly authorized certificate issued by NIMASA to the applicant and the certification shall be duly notified to the PLIs by NIMASA. NIMASA may disapprove the loan request or guarantee based on the assessment conducted in line with this Guideline and sound commercial principles.

7.5.2 It shall be the responsibility of the PLIs to carry out detailed credit review and ensure that all identified risk is covered.

7.5.3 Where the project is adjudged eligible for financing by the PLIs, NIMASA shall recommend such loan application to the Minister for his approval before disbursement. The authority of the Minister to approve a loan request or guarantee under this Guideline may not be delegated to any official below the position of a Permanent Secretary of the Ministry of Transportation.

7.6 **Monitoring:** The Fund shall monitor the financial conditions and operations of the obligor on a regular basis during the term of the guarantee. The fund shall document the results of the monitoring on quarterly basis depending upon the condition of the obligor. The Fund shall take appropriate steps to protect the loan or guarantee and the interest of the Fund while ensuring that Fund programme

objectives are achieved.

**7.7 Agreement with Obligor:** The Fund shall include provisions in loan agreements with obligors that provide additional authority to the Fund to take action to limit potential losses in connection with defaulted loans or loans that are in jeopardy due to the deteriorating financial condition of obligors. Provision in loan agreements shall include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligor's financial condition or the status of the vessel or shipyard project.

**7.8 Decision Period:** In circumstance where NIMASA in whatsoever manner is required to contribute to the loan or issue guarantee or commitment to guarantee, the Minister shall approve or deny any application for such request under this Guideline within 30 days after the date on which the request is received by the Minister. Where a decision is not made by the Minister within the specified period, the Director General shall be required to make a determination on the approval of the loan application.

**7.9 Interest Rate:** The fund shall operate under a counterpart arrangement between NIMASA and the PLIs. To ensure that Interest rate charges on the fund are as low as would encourage access to the

Fund and control the effective cost of borrowing by the applicants, NIMASA shall ensure that the Fund is placed in a PLI at a predetermined rate. NIMASA shall allow the PLIs a maximum band of spread to cover costs of processing, disbursement and monitoring of the advanced credits which cost shall exclude PLI's third party cost such as solicitors and advisors.

NIMASA shall also determine fees and charges applicable to beneficiaries and ensure all participating PLIs adhere strictly to the agreed fee schedules. Interest rates and fees shall be below the existing commercial or market rates. Any fees for guarantee granted and other services under this guideline shall be included in the amount of the actual cost of the obligation guaranteed under this Scheme.

7.10 Equity Contribution: Each applicant shall make an equity contribution of at least 15% of total project cost while CVFF and the PLIs shall finance not more than 85% of the total project's cost.

7.11 Fund Management & Reporting: A team of not more than 10 persons drawn from NIMASA'S Cabotage Unit, Ship Registry and Finance Department shall constitute the Fund Review Committee. Their function shall include review of the performance of the Fund vis-a-vis amount borrowed, performing loans, non-performing



Loans, overcharges, returns to NIMASA and any other duty as may be stipulated by NIMASA.

Each PM will send in reports on a semi-annual basis on the performance on their CVFF portfolio. The report shall give details of applicants, amount disbursed, loan repayment, defaults, portfolio size, funding structure, security and any other useful information.

**7.12 Consultants:** NIMASA may in the case of inadequate internal capacity engage the services of local consultants and professionals to render such services and advice as shall be required for the effective management and administration of the Fund and its products.

## **8. STATUTORY ELIGIBILITY CRITERIA FOR APPLICANTS**

**8.1 Nationality Requirement:** The vessels for purpose of Cabotage trade are to be built in Nigeria, owned and crewed by Nigerians. Applicants who do not meet the above requirement must obtain the requisite Ministerial waiver prior to applying for facility under the Fund.

**8.2 Flag Registration:** It is mandatory for vessels acquired in whatsoever manner from the financial assistance or guarantee of the Fund to be registered in the Nigerian Ship Registry. This requirement shall constitute a condition for grant of loan or

obligation under the Scheme.

8.3 Condition Survey: Where the application may involve a reconstructed or reconditioned vessel, the vessel shall be made available at a time and place acceptable for a condition survey to be conducted. The applicant shall pay the cost of the condition survey together with all expenses arising there from.

8.4 **Applicant's and Operator's Qualification:** The Fund shall not grant loans or issue guarantee Without prior determination that the applicant or persons identified as the operators of the vessel or project possess the necessary experience, ability and other qualifications to properly operate and maintain the vessel(s) or project which serve as security for the loan or guarantee.

The responsibility of determining the applicant's or operator's qualification shall be for NIMASA. This shall be evidenced by a duly authorized certificate issued by NIMASA to the applicant. This certification shall be reviewed annually and might form the basis of facility default in the event that the applicant fails to receive a clean bill of health from NIMASA. The certification shall be based on applicable domestic laws and regulations of the International Maritime Organization (IMO) and any other applicable laws.

## 9. FINANCIAL REQUIREMENTS

9.1 Every applicant shall submit information reflecting financial condition and other details as may be required. Information on the cost of project shall include a detailed statement of the estimated actual cost of construction or refurbishment of vessel(s) or project and any other costs associated with the project.

9.1.2 In the case of shipyard or similar maritime infrastructure project, there shall be a detailed statement of the actual cost of such technology, including those items which would normally be capitalized and those facilities required to be purchased in conjunction with the project.

9.2 **Additional Project Costs:** The applicant shall submit a detailed statement showing any costs associated with the project not included in 9.1 and 9.1.2 such as:

- (a) Insurance; and
- (b) Fees to related party for underwriting, legal, accounting and other services.

9.3 **Refinancing:** For the purposes of refinancing, it shall be restricted to 80% of the original cost of the equipment/vessel being refinanced or its market realizable values whichever is lower. Applicants, must ensure that the tenor of date of acquisition

from the date of the refinancing request should not ' exceed 12 calendar months.

**9.4 Financial Viability:** No loan or commitment to guarantee shall be granted unless the purpose of application is financially viable. Financial viability and the ability to repay the loan or obligations shall be the primary basis for loan approval or commitment to guarantee.

**9.5 Feasibility Reports:** NIMASA in collaboration with the PLIs shall issue detailed criteria for assessing economic and financial viability of a Project which will include, but not limited to the following:

- (a) Basic feasibility factors; and
- (b) Project feasibility

## 10. FEES

**10.1 Administrative and Investigation Fees:** Application for loan or guarantee may be required to pay administration fees, investigation fees and other charges.

- (a) Administration fees shall not exceed 0.5 per cent of loan requested. Investigation fees shall not exceed 1 .0 per cent of loan requested.

(b) The investigation fee shall cover the cost of the investigation of the project described in the application and the participants in the project, the appraisal of properties offered as security, where applicable.

(c) Where for any reason, the application is rejected or disapproved, 50 per cent of the investigation fee will be refunded.

10.1.2 Other charges approved by NIMASA shall be determined in a manner that shall be reasonable and capable of promoting the objective of the Fund towards the development of local shipping capacity.

**10.2 Credit for Processing or Filing Fees:** A fee or a sum fixed by NIMASA shall be charged as processing fee for all applications. Upon approval of application, the filing fee shall be credited as payment towards the investigation fee.

**10.3 Investigation of Applications:** The Fund shall charge and collect from the obligor such amounts as determined by this Guideline for the investigation of applications for loan or guarantee, for the appraisal of properties offered as security for a guarantee, for the issuance of commitments, for services in connection with the escrow fund authorized by this Guideline and for the inspection of such properties during

Construction, reconstruction or reconditioning.

10.3.1 The Fund may make a determination that aspect of an application under this Act requires independent analysis to be conducted by third party expert due to risk factors associated with markets, technology, financial structures, or other risk factors identified by the Fund. Any independent analysis conducted pursuant to this provision shall be performed by a party chosen by the Fund.

10.3.2 The Fund may charge and collect fees to cover the costs of such independent analysis. Any fee collected under this paragraph shall:

- (i) Be credited as an offsetting collection to the account that finances the administration of the loan or loan guarantee program;
- (ii) Shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and
- (iii) Shall remain available until expended.

## 11. **DEFAULTS**

11.1 **Rights of Obligee in the Loan Guarantees:** In the event of a default which has continued for thirty days in any payment by the obligor of principal or

interest due under an obligation guaranteed under this Guideline, the PLI or its agent shall have the right to demand payment at or before the expiration of such period as may be specified in the guarantee or related agreements but not later than ninety days from the date of such default.

11.1.2 The PLIs shall carry 100% risk exposure and NIMASA shall bear no credit risk. It shall be the responsibility of the PLIs to carry out detailed credit review and ensure that all identified risks are covered.

## 12. ESCROW FUND

12.1 **Creation:** If the proceeds of an obligation guaranteed under this guideline are to be used to finance the construction, reconstruction, or reconditioning of a vessel or vessels which will serve as security for the guarantee of the Fund, the Fund is authorized to accept and hold, in escrow under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this title, whose proceeds are to be used which is equal to:

(a) the excess of the principal account of all obligations whose proceeds are to be so used over the contributions of the Fund paid by or for the account of the obligor

for the construction, reconstruction, or reconditioning of the vessel or vessels;

(b) With such interest thereon, if any as the Fund may require provided, that in the event the security for the loan or guarantee of an obligation by the Fund relates both to a vessel or vessels to be constructed, reconstructed or reconditioned and to a delivered vessel or vessels, the principal amount of such obligation shall be prorated for purposes of this sub-section.

#### **12.2 Disbursement Prior to Termination of Escrow Agreement:**

This Fund shall, as specified in the escrow agreement, disburse the escrow fund to pay amounts the obligor is obligated to pay as interest on such obligations or for the construction, reconstruction, or reconditioning of the vessel or vessels used as security for the guarantee of the Fund under this title, to redeem such obligation in connection with a refinancing or to pay to the obligor at such times as may be provided for in the escrow agreement any excess interest deposit, except that if payments become due under the guarantee prior to the termination of the escrow fund at the time such payments become due (including realized income which has not yet been paid to the obligor) shall be paid into the Fund and:



- (a) Be credited against any amount due or to become due to the Fund from the obligor with respect to the guaranteed obligations; and
- (b) To the extent not so required be paid to the obligor.

**12.3 Disbursement upon Termination of Escrow Agreement:** If payments under the loan or guarantee have not become due prior to the termination of the escrow agreement, any balance of the escrow fund at the time of such termination shall be disbursed to repay the excess of the principal of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel or vessels which serve or will serve as security for such guarantee over contribution by the Fund to the actual cost of such vessel or vessels to the extent paid, and to pay interest on such prepaid amount of principal, and the remainder of such balance of the escrow fund shall be paid to the obligor.

**12.4 Investment of Fund:** The Fund may invest and reinvest all or any part of the escrow fund in obligations of the Fund with such maturities that the escrow fund will be available as required for purposes of the escrow agreement.

12.5 Payment of Income: Any income realized on the escrow fund shall, upon receipt, be paid to the obligor.

12.6 **Terms of Escrow Agreement:** The escrow agreement shall contain such other terms as the Fund may consider necessary to protect fully the interest of the Fund.

12.7 **Documented Proof of Progress Requirements:**

The Fund shall establish a transparent, independent, and risk-based process for verifying and documenting the purchase, progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Fund may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.

13. **SANCTIONS**

NIMASA shall stipulate appropriate sanctions against PLIs who contravene the criteria set by this Guideline. Applicants who make false representation and submit false documents to mislead NIMASA and the PLIs in their assessment of application shall in addition to other penalties be

permanently barred from Fund and other maritime initiatives further access to the capacity development

ISSUED BY

HONOURABLE MINISTER OF  
TRANSPORTATION FEDERAL MINISTRY OF  
TRANSPORTATION

APPROVED BY THE NATIONAL ASSEMBLY OF  
THE FEDERAL REPUBLIC OF NIGERIA

THIS 15<sup>TH</sup> DAY OF MARCH, 2007.