

The 2016 Survey of Compliance in **Nigeria's Pension Fund Management Industry**

PenOp



...innovative compliance

A survey undertaken by OpenSpaces Compliance Consultants (OpenSpaces) with the assistance of Pension Fund Operators of Nigeria (PenOp).



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The Survey Team



Dayo Joseph

Survey Editor

dayo@openspacesltd.com



Dapo Ako

dapo@openspacesltd.com



Yemi Johnson

yemi@openspacesltd.com

Welcome and Introduction

Welcome to the report of the first ever survey of compliance in Nigeria's Pension Fund management industry by OpenSpaces Compliance Consultants Limited (OpenSpaces) with the invaluable and kind assistance of the Pension Fund Operators Association of Nigeria (PenOp) who made the survey possible.

Nigeria's nascent pension management fund industry has since its inception in 2004 been recognised locally and internationally as a resounding success and as at September 30 2016, total assets under management respectively managed by the 21 Pension Fund Administrators (**PFAs**), 7 Closed Pension Fund Administrators (CPFAs) and under the custody of the 4 Pension Fund Custodians (**PFCs**) stood at N5.9 Trillion (per PENCOM's September 30 2016 summary report of assets under management).

A remarkable feat considering the circumstances which lead to the reform of the pension sector in 2004 and the relatively young age of the industry. It is testament to the collective hard work of the Operators i.e. The National Pension Commission (PENCOM), the CPFAs, **PFAs**, PFCs and PenOp.

1st ever survey of compliance in Nigeria's pension industry since the passing of the 2004 Pension Act

N5.9 Trillion respectively managed and administered by 21 PFAs, 7 CPFAs and 4 PFCs

The contents, analysis and opinions expressed in this survey are based on the responses of survey respondents and Openspaces analysis. they do not represent the views or opinions of PenOp and/or PENCOM.

About the Survey

Issues examined include PENCOT's role, senior management's perception of compliance and challenges faced by the compliance function

The survey, which is the 3rd in our series on compliance in Nigeria's financial services sector (**2012 – Survey of Compliance in the Banking Sector and 2013 – Survey of Compliance in the Capital Market**) is based on the responses received from the Compliance Officers of 16 respondents i.e. 13 PFAs and 3 PFCs out of the 21 PFAs and 4 PFCs registered with PENCOT that we contacted with the assistance of PenOp.

Respondents represent 64% of the industry and N4 Trillion pension assets under management

The 16 respondents represents 64% of the industry which is statistically valid and enables us to tease out some valid conclusions about the state of compliance in the Industry. Additionally, the respondents collectively manage and safeguard assets totalling circa N4 Trillion of the N5.9 Trillion pension funds under management.

Issues examined by the survey include attitude of senior management to compliance, the role of PENCOT to challenges faced by Compliance Officers.

Robust compliance culture is key to safeguarding contributors' funds and investing in alternative assets e.g. infrastructure funds

We undertook the survey to examine how compliance is regarded by Operators and indirectly, the state of compliance in the industry. A robust compliance culture is vital to ensuring the continued success of the pension industry. It is especially important given the recent calls to invest pension fund assets in infrastructure funds and alternative assets. Whilst the case for investing pension fund assets in these asset classes is valid, they are not without risks (as the 2008 financial crisis revealed) and without a robust compliance culture to act as a credible oversight and challenge to management, pension funds could be put at risk.

The survey provides a rich and substantive insight into Compliance within the industry and information that can be used by PENCOT, PenOp and the PFAs and PFCs to establish priorities, policies and strategic initiative that will not only strengthen the compliance and regulatory framework that meets international best practice.



Snapshot of the Survey – Key Findings

The survey confirmed that there is an awareness and appreciation of the role and responsibilities of the compliance function within the pension fund management industry. This is similar to the findings of our earlier surveys on compliance in the banking and capital markets sector respectively undertaken in 2011 and 2013. The survey also indicates a steady progress towards developing compliance as an independent function with 76% of our respondents' confirming independence to varying degrees.

The survey also provided the following findings:

- 56% of Compliance Officers surveyed had less than 5 years cognate compliance experience. This is perhaps one of the most significant finding as it indicates a need for investment in training and capacity development by all the industry stakeholders.
- Respondents responses on senior management's perception of compliance ranged from being viewed as a cost and a burden imposed by the regulator. These views combined with a lack of support in implementing their recommendations and inadequate support, strongly suggests a need for robust engagement with senior management on compliance issues.
- All Compliance officers who responded to the survey report directly to their CEO with clear evidence of Senior Management and Board participation in the oversight of compliance. This is a good development as it indicates that the Compliance function has direct access to the CEO.

However, without safeguards, direct reporting to the CEO has the potential to compromise the independence and authority of the Compliance Officer especially if the CEO is responsible for deciding the remuneration of the Compliance Officer.

- PENCUM is well regarded by the Compliance Officers, however, more support is required in the following areas - **safeguarding independence of the Compliance Officer, Training and Development and robust enforcement** of PENCUM rules.
- The majority of PFAs firms are small sized with 54% of the firms polled having less than 100 employees. Consequently, It is not surprising that 97% of our respondents confirmed that they have less than 5 compliance officer.



General awareness and appreciation of the role of compliance in the pension fund management industry

Industry might be ripe for consolidation as majority of PFAs are small to medium sized firms

Senior management's perception of compliance needs to be improved

Training and development of compliance officers should be a key focus for PENCUM and PenOp

Direct reporting to CEO, by Compliance Officers, could compromise their authority and independence

Adequate support and guidance received from PENCUM but with room for improvement

Detailed findings of the Survey

1. Role and responsibilities of the Compliance Officer

Role of the Compliance Officer

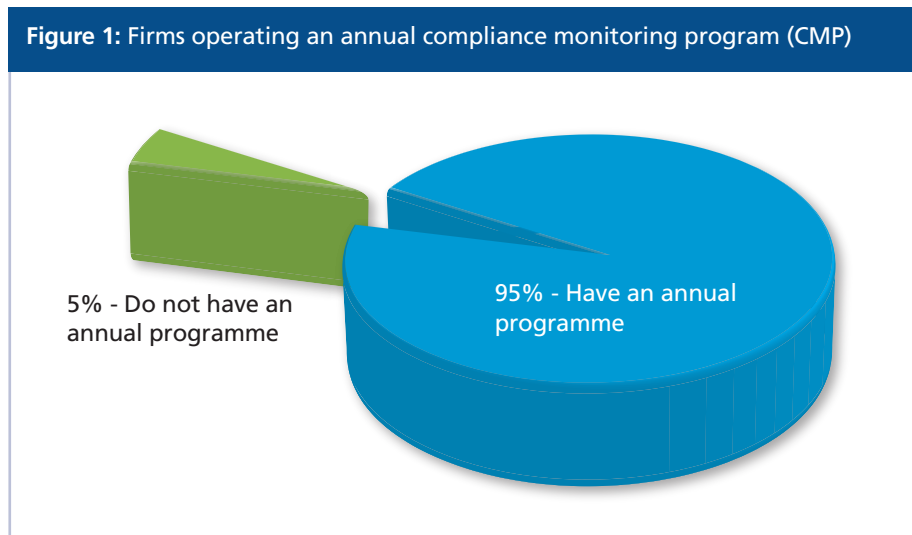
Overall, all respondents viewed their role in a positive light and agreed that their role included the following:

- Advising senior management on PENCOR rules and regulation
- Compliance monitoring to ensure compliance with rules and regulations
- Training

2. The Compliance Monitoring Programme (CMP)

1.95% of firms implement an annual compliance-monitoring program.

Key findings under this heading included the following:

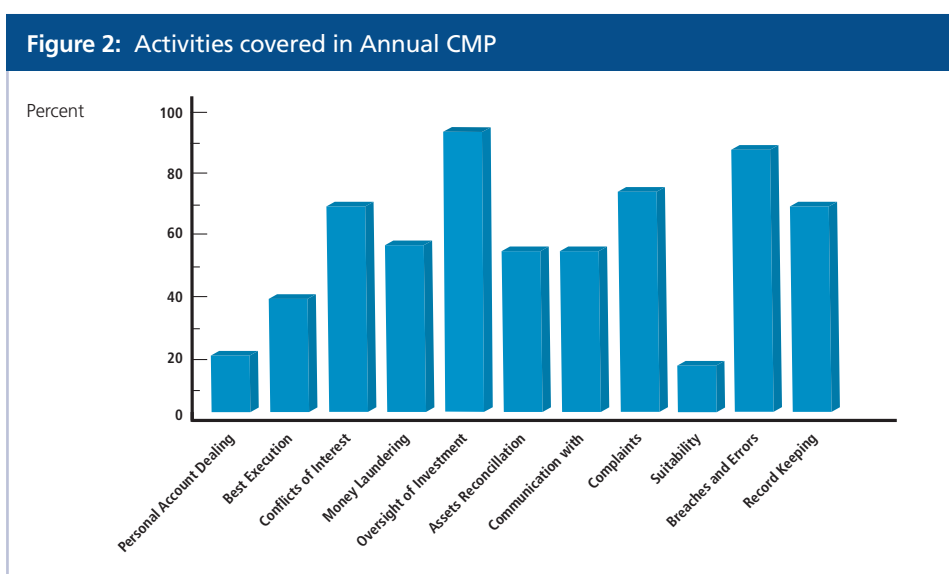


2. The Compliance Monitoring Programme (CMP)

Contents of the CMP

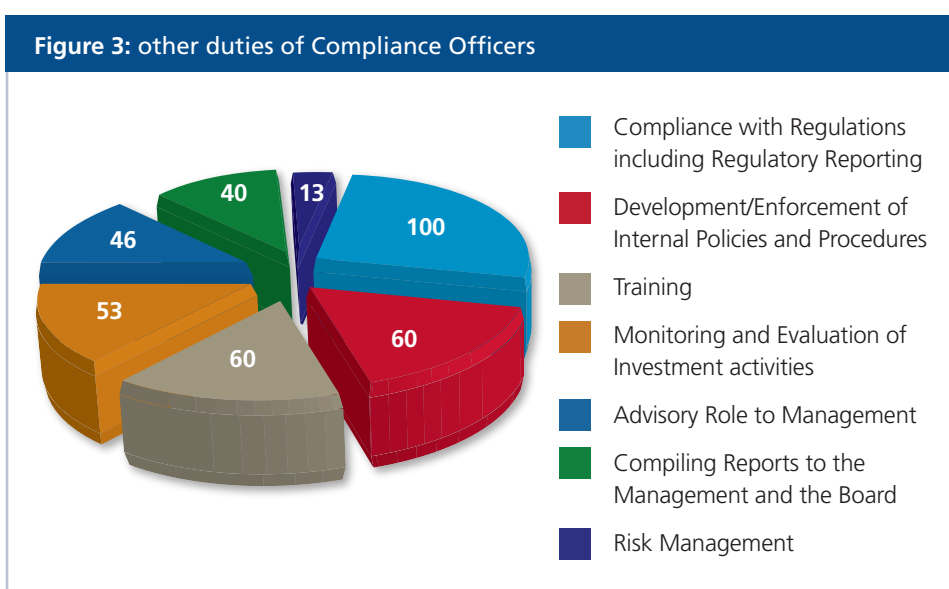
We observed that the scope of the CMP appeared comprehensive and covered issues that are that the CMP of a pension fund management company should typically have based on the current regulatory framework.

Figure 2 below illustrates the range of issues covered in CMP and the percentages of respondents with active monitoring and oversight in these areas.



However, only 60% of respondents appeared to be engaged in the development of internal policies and procedures compared to 100% who focused on regulatory reporting and monitoring of compliance with regulation as shown in Figure 3.

This gives indication that the Compliance Officer's drive to ensure timely submissions of regulatory reporting and adherence to regulations is not in direct correlation to the development of internal policies and procedures necessary to ensure application of the regulations.



Only 60% of Compliance Officers are involved in developing internal policies and procedures

95% of respondent have an annual compliance monitoring programme (CMPs)

87% of CMPs approved by CEO. This could compromise independence

Scope of industry CMP broadly in line with international standards

3. Visibility of the Compliance Officer

All respondent report directly to CEO

66% of respondents are members of their executive management team

Compliance officers generally hold regular meetings with their CEOs and or senior management

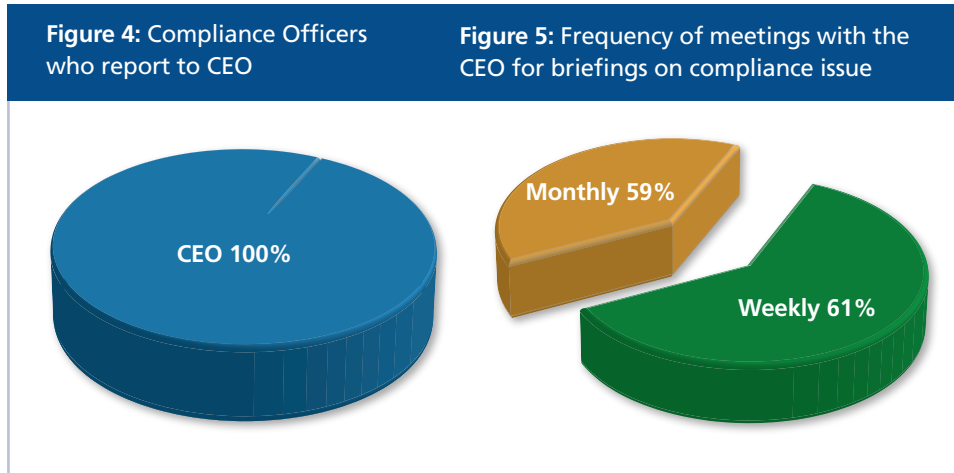
Clear evidence of board level engagement with compliance

Visibility of the compliance function

The effectiveness of a compliance function is in part determined by its visibility and its independence. Visibility of the compliance function extends beyond the physical presence of the function to how integrated “into the fabric” of the organization it is. In addition to being visible, a compliance function must be independent in order to discharge its function effectively and without fear or favour.

To ascertain the level of visibility and independence of the compliance function, we asked respondents a series of questions ranging from their involvement in their firm’s executive management team and the role of a Board level committee in providing compliance oversight. Overall, we were pleased to see that respondents were quite visible in their firm on the following basis:

- 100% of respondents reported to the CEO – See Figure 4
- All respondents had regular compliance briefings meetings with their CEO – 65% had a weekly meeting whilst 35% had monthly meetings – See Figure 5
- 63% of respondents were members of their firm’s management team
- 82% of respondents reported to their Board and had a board committee responsible for compliance oversight.

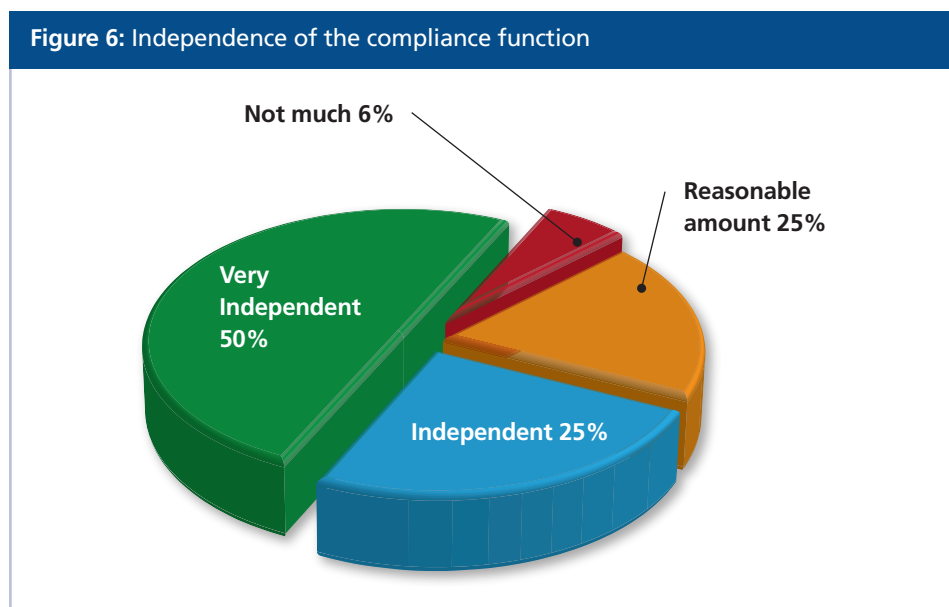


The high frequency of meetings with the CEO is very encouraging as only 66% of the Compliance Officers are member of the firm’s executive management team.

This is a clear indication that the Compliance Officer has regular opportunities to bring compliance related issues to the attention of senior management.

4. Independence of the Compliance function

75% of respondents indicated that they were independent (50% very independent, 25% independent) see Figure 6 below.



Blurred picture of independence

Compliance often viewed as a burden

Management often reluctant or slow to implement compliance recommendation

On the face of it, this indicates that the compliance function is overall independent in most firms, however, when viewed against the challenges faced by the compliance officer (see page 5) which indicated that independence of the compliance function (**75%**) and management support for compliance (**65%**) being the top 2 issues that respondents wanted PENCOM's support on, this picture becomes blurred.

Respondents were unanimous in their opinion that management did not view the compliance role as one that was integral to the business.

This finding i.e. independence and view of compliance as a burden is quite worrying when viewed against the important role that the compliance functions performs in safeguarding contributors' funds and which cannot be effectively discharged without the support of senior management. Commentary suggests that the regulators should seriously consider making the compliance officer role a senior management role as this would provide the required gravitas to the compliance role within the senior management structures of PFAs and PFCs.

5. Experience and expertise of the Compliance Officer

56% of Compliance Officers have 5 years or less cognate compliance experience

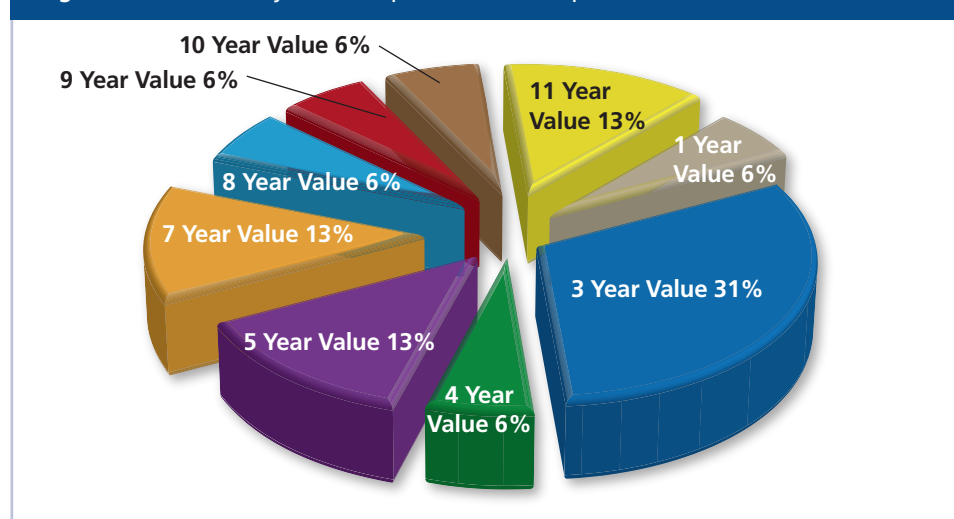
Capacity development of Compliance Officers should be a top priority of PENCOM and PenOp

The compliance function is only as effective as the knowledge and experience of the compliance officer. Compliance is still considered a relatively new profession in Nigeria and we thought it would be valuable to assess the experience and expertise of the respondents.

As indicated by the responses, the majority (56%) of Compliance officers have 5 years and less experience. 80% of respondent were the Chief Compliance Officers and or Head of Compliance of their firm.

This is indicative of a training and development need to equip compliance officers with the skills they need to be effective in their role. This is an area that the regulatory agencies and other stakeholders need to address.

Figure 7: Number of years of Experience of Compliance Officers



6. Challenges faced by the Compliance function

Challenges faced by compliance function include the following:

- *Weak tone at the top*
- *Inadequate resources*
- *Non - implementation of compliance recommendations*

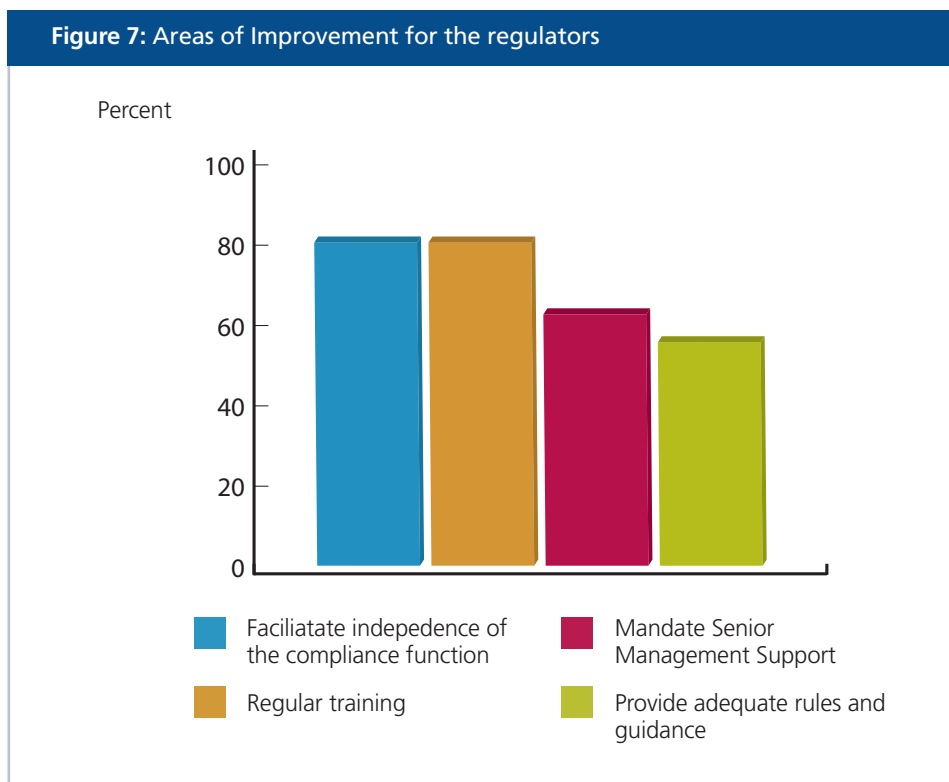
Respondents were able to address this issues through a free form text response rather than answering a series of questions. This provided us with a rich source of data to analyse and tease out the major challenges facing the compliance profession in the Pension sector.

From the responses, the major challenges that Compliance Officers face in the Pension sector are the following:

- Weak tone at the top – respondents did not feel that management was setting the right tone at the top and this had a negative impact on the firm's compliance culture;
- Perception of compliance as a cost centre and/or burden imposed by the PENCOM
- Flowing from b above, inadequate resources to undertake their function
- Reluctance to implement compliance recommendations
- Compliance not given the right level of seniority in the firm

7. The Role of PENCOM

The role of PENCOM in developing and strengthening the compliance function cannot be overstated. In response to a series of questions on PENCOM's role and effectiveness, survey respondents whilst indicating general satisfaction with PENCOM indicated the areas for improvement in the chart below.



- **Facilitating independence of the compliance function**

Despite 75% of the respondents confirming that the compliance function was independent in Figure 6, the results above in Figure 8 contradicts this in that majority of the respondents stated that the regulators could do more in facilitating independence of the compliance function.

- **Regular Training**

81% of the respondents would like the regulators to have a more aggressive approach to providing training to PFAs. There is a genuine concern that there is a lack of exposure of International Best Practices to Senior Management.

If the regulators provided more training to Senior Management as well as Compliance Officers of PFAs there would be a significant shift in the mindset of operators in regards to Compliance.

- **Senior Management Support**

Respondents were unanimous in their view that PENCOM has a significant role to play in improving senior management's perception of Compliance and obtaining the right level of senior management support for compliance.

Conclusion

The overall conclusion from the analysis of the survey data is that there is a good level of awareness and appreciation of the role of compliance in the pension fund management industry coupled with a adequate level of support and guidance received from PENCOTM, the industry's regulator.

However, similar to the findings of our surveys of compliance in the banking and capital market sectors, the compliance function in the industry, faces a number of challenges. These challenges range from having the adequate skill and experience, a fact borne out by our finding that more than half of the industry's compliance officers had less than 5 years' cognate compliance experience.

Another challenge is that of independence of the compliance officer. Whilst all compliance officers surveyed reported directly to the CEO, this could in fact compromise their independence especially if the CEO decides their remuneration.

It is our fervent hope that the data gathered and conclusions will provide all stakeholders with sufficient information and direction towards building a robust compliance framework and culture in PFAs and PFCs.





United Kingdom

68 King William Street
London
EC4N 7DZ
Email: info@openspaceltd.com
Tel: + 44 (0) 7720 683 711

Nigeria

22A Rasheed Alaba Williams Street,
Lekki Phase I,
Lagos State
Tel: +234 (1) 293 0459

openspaceltd.com