

A BILL

FOR

AN ACT TO PROVIDE FOR THE MANAGEMENT, ADMINISTRATION,
OPERATION, REGULATION AND SUPERVISION OF PAYMENT, CLEARING
AND SETTLEMENT SYSTEMS IN NIGERIA AND FOR RELATED MATTERS

Sponsored by Hon. Jones Chukwudi Onyineri

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria as follows:

PART I - OBJECTIVE

1. The objectives of this Act are to:

Objectives

(a) create a legal, institutional and regulatory framework that
would ensure a transparent, effective and efficient management,
administration and operation of payments, clearing and settlement systems
in Nigeria;

(b) ensure safety and certainty in payment, clearing and settlement
systems;

(c) institutionalize best practices in payment systems management
in Nigeria;

(d) ensure nationally utilized and internationally recognized
payment systems encompassing the total payment processes from issuance
of instruction to final settlement; and

(e) provide uniform, comprehensive and effective mechanism for
the settlement of disputes arising from payment systems management.

PART II - AUTHORISATION OF PAYMENT SYSTEMS

2.-(1) A person, other than the Bank shall not commence or operate
a payment system except in accordance with an authorisation issued by the
Bank under the provisions of this Act.

Authorisation to
operate Payment
Systems

- 1 (2) The provision of subsection (1) of this section shall not apply to:
- 2 (a) the continued operation of an existing payment system provided
- 3 that the operator of such existing payment system shall apply to the Bank for
- 4 authorisation to continue with the payment system within a period not
- 5 exceeding six months from the date of commencement of this Act;
- 6 (b) a company accepting payments either from its holding company
- 7 or any of subsidiary companies or from any other company which is also a
- 8 subsidiary of the same holding company; or its
- 9 (c) any other person whom the Bank may, by notice exempt from the
- 10 provisions of this section in the interests of monetary policy, efficient operation
- 11 of the payment system, the size of any payment system or for any other reason.
- 12 (3) A person who contravenes the provisions of subsection (1) of this
- 13 section or fails to comply with the terms and conditions subject to which the
- 14 authorisation was issued under section 5 of this Act, commits an offence and
- 15 liable on conviction to imprisonment for a term of not less than one year but not
- 16 exceeding ten years or to a fine of not less than ten million Naira or both and for
- 17 a further fine of one hundred thousand Naira for each day the contravention or
- 18 failure continues.

Application for
authorisation

19 3.-(1) Any person desirous of being a payment system participant

20 shall apply to the Bank an authorisation under this Act.

21 (2) Any person desirous of being a service provider shall apply to the

22 Bank to be registered as a service provider in accordance with the rules made

23 by the Bank in that regard.

24 (3) An application under this section shall only be made by a company

25 duly incorporated in Nigeria.

26 (4) An application under subsections (1) and (2) of this section shall

27 be made in the prescribed form and manner and shall be accompanied by

28 relevant documents and fees as may be prescribed by the Bank, from time to

29 time

Inquiry by the
Bank

30 4. The Bank may, upon the receipt of an application for authorisation

1 under section 3 of this Act and before an authorisation is issued under this
2 Act, make such inquiries as it may consider necessary or authorise any
3 person on its behalf to conduct such inquiries for the purpose of satisfying
4 itself about the genuineness of the particulars furnished by the applicant, its
5 capacity to operate the payment system and the credentials of the applicant,
6 its directors and significant shareholders or for any other reason it may
7 consider necessary.

8 5.-(1) The Bank may, if satisfied that the application conforms with
9 the provisions of this Act, guidelines, directives, regulations and other
10 statutory instruments made pursuant to this Act, issue an authorisation to the
11 applicant.

Issuance of
authorisation

12 (2) The Bank in issuing an authorization to the applicant to operate
13 a payment system shall consider the:

14 (a) need for the proposed payment system or the services proposed
15 to be undertaken by it;

16 (b) technical standards or the design of the proposed payment
17 system;

18 (c) terms and conditions of operation of the proposed payment
19 system including any procedure for securing the system;

20 (d) manner in which transfer of funds may be effected within the
21 payment system;

22 (e) procedure for the netting of payment instructions or of effecting
23 the payment obligations under the payment system;

24 (f) financial and tax status of the applicant;

25 (g) experience and integrity of the applicant;

26 (h) interests of consumers, including the terms and conditions
27 governing their relationship with payments system providers;

28 (i) monetary, credit and risk management policies;

29 (j) compliance with international best practice; and

30 (k) any other factor as may be considered relevant by the Bank,

1 from time to time.

2 (3) An authorisation issued under subsection (2) of this section shall
3 be in such form as may be prescribed by the Bank and shall:

4 (a) state the date on which it takes effect;

5 (b) state the conditions subject to which the authorisation shall be in
6 force;

7 (c) indicate the fees, if any, to be paid for the authorisation to be in
8 force;

9 (d) where it is considered necessary, require the applicant to furnish a
10 risk management framework, including allocation of liability for the proper
11 conduct of the payments system under the provisions of this Act; and

12 (e) continue to be in force unless the authorisation expires or is
13 revoked.

14 (4) Where an application for authorisation is granted, the Bank shall
15 give written notice of that fact to the applicant.

16 (5) Every application for authorisation shall be processed and
17 determined by the Bank within six months from the date of submission of
18 completion of documentation by the applicant to the Bank.

Refusal of an
authorisation

19 6.-(1) Where the Bank considers that the application for authorization
20 should be refused, it shall give notice stating the reasons for its refusal to the
21 applicant and the applicant may within thirty days make representation to the
22 Bank in respect of the notice.

23 (2) An applicant who fails to act in accordance with the provision of
24 subsection (1) of this section shall be deemed to have withdrawn its
25 application.

Revocation of
authorisation

26 7.-(1) Where a payments system participant:

27 (a) contravenes any of the provisions of this Act;

28 (b) fails to comply with any statutory instrument issued pursuant to
29 this Act;

30 (c) fails to comply with the orders or directions issued by the Bank;

1 (d) operates a payment system contrary to the conditions subject to
2 which the authorisation was issued;

3 (e) becomes insolvent, dissolved or wound up;

4 (f) operates a payment system in a manner detrimental to the
5 monetary policy of the country; or

6 (g) has its operating licence revoked by the Bank or any other
7 relevant regulatory authority pursuant to the provisions of the Banks and
8 Other Financial Institutions Act or any other law, the Bank may, by order
9 revoke the authorisation granted to the payment system participant under
10 this Act.

11 (2) The order of revocation issued under subsection (1) of this
12 section shall include necessary provisions to protect and safeguard the
13 interests of persons affected by such order of revocation.

14 (3) Where the Bank revokes the authorisation pursuant to
15 subsection (1) of this section, it shall communicate such revocation to all the
16 participants in the payments system by public notice published in the official
17 gazette.

18 8.-(1) A system participant shall not effect any change in its
19 payments system which would affect the structure or the operation of the
20 national payment systems without:

Change in the
payments system

21 (a) the prior approval of the Bank; and

22 (b) giving not less than 30 days' notice of the approved change to
23 other system participants.

24 (2) Where the Bank has any objection to the proposed change for
25 any reason, it shall communicate such objection to the system participant
26 within two weeks of receipt of the notice of the proposed change from the
27 participant.

28 (3) Notwithstanding the provisions of subsections (1) and (2) of
29 this section, the Bank may, in the interest of monetary policy of the country
30 or in the public interest, permit or direct a system participant to make

1 changes in a payments system and shall immediately notify other system
2 participants of such changes.

3 (4) For the purpose of subsection (1) of this section, a change which
4 would affect the structure or the operation of the national payment systems
5 shall be as prescribed by the Bank, from time to time.

6 PART III - PAYMENTS AND SETTLEMENTS

Payment
provisions

7 9.-(1) A person shall not introduce a payment instrument unless the:

8 (a) person is a system participant;

9 (b) instrument is registered with the Bank upon application made to it
10 by the person in a form prescribed by the Bank; or

11 (c) person is exempted under subsection (2) of this section.

12 (2) The Bank may, by notice in writing, exempt any person or
13 category of persons from the application of subsection (1) of this section,
14 where it is satisfied that such exemption is in the public interest and will not
15 cause undue risk to the national payments system and subject to such other
16 conditions as the Bank may prescribe

17 (3) A person who contravenes subsection (1) of this section commits
18 an offence and is liable on conviction to a term of not less than one year
19 imprisonment or to a fine of not less than three million Naira or both.

Third party
payment

20 10.-(1) A person shall not accept money or payment instructions, as a
21 regular feature of business, from any other person for purposes of making
22 payment on behalf of that other person to a third party to whom that payment is
23 due, unless the person accepting money or payment instructions is:

24 (a) a system participant or its agent; or

25 (b) a person or one of a category of persons exempted by the Bank
26 under subsection (3) of this section.

27 (2) Subsection (1) of this section shall not be construed as prohibiting
28 the acceptance of money or payment instructions, by:

29 (a) a holding company from its subsidiary or by a subsidiary from its
30 holding company, or by a subsidiary from another subsidiary of the same

1 holding company; or

2 (b) an agent of the holding company or subsidiary referred to in
3 paragraph (a) of this subsection.

4 (3) The Bank may, by notice in writing, exempt any person or
5 category of persons from the application of subsection (1) of this section,
6 where it is satisfied that such exemption is in the public interest and will not
7 cause undue risk to the national payments system and subject to such other
8 conditions as the Bank may prescribe.

9 (4) Subject to guidelines issued by the Bank, no person shall
10 deposit, deliver or pay any payment instrument into any account other than the
11 account of the beneficiary as stated on the face of the instrument.

12 (5) A system participant shall report any incidence of unauthorised
13 transfer of funds to the Bank within fourteen days of becoming aware of the
14 transfer.

15 (6) A person who contravenes the provisions of subsections (1) and
16 (4) of this section commits an offence and shall on conviction be liable:

17 (a) in the case of an individual, to a term of not less than one year
18 imprisonment or to a fine of not less than three million Naira or both, and

19 (b) in the case of a body corporate, to a fine of not less than fifteen
20 million Naira.

21 (7) The Bank shall impose on a system participant, who
22 contravenes the provision of subsection (5) of this section, a fine of the sum
23 of fifteen million Naira.

24 11.-(1) A person shall not deliver payment instructions unless the
25 person is an authorised system participant or its agent.

Clearing
provisions

26 (2) A person who contravenes the provisions of subsection (1) of
27 this section commits an offence and is liable on conviction:

28 (a) in the case of an individual, to a term of not less than one year
29 imprisonment or to a fine of not less than three Million Naira or both; and

30 (b) in the case of a body corporate to a fine of not less than fifteen

1 Million Naira.

2 (3) For the purposes of establishment and operation of clearing
3 houses for a sound and efficient operation of payment system, the provisions of
4 section 47 of the Central Bank of Nigeria Act, and any amendments thereto
5 shall apply.

Settlement systems
provisions

6 12.-(1) A person shall not participate in the settlement systems unless
7 such person is the Bank or a system participant.

8 (2) A person who contravenes subsection (1) of this section, commits
9 an offence and is liable on conviction to a term of not less than one year
10 imprisonment or to a fine of not less than three million Naira or both.

11 (3) A system participant shall discharge any payment or settlement
12 obligation in accordance with applicable settlement rules in money or by
13 means of an entry passed through the settlement system to the credit of the
14 settlement account of the beneficiary system participant.

15 (4) The timing for finality of settlement shall be as set out under the
16 applicable settlement rules referred to in subsection (3) of this section.

17 (5) A discharge of payment or settlement Obligation that has been
18 effected in terms of subsection (3) of this section is final and irrevocable.

19 (6) Notwithstanding the provisions of any other law, a settlement
20 instruction that has been finally and irrevocably effected in terms of subsection
21 (3) of this section may not be revoked, reversed, netted, set-off or set aside.

22 (7) The Bank may, prescribe such conditions, rules or procedures, as it
23 considers necessary regarding the issuing of settlement instructions and
24 discharging of settlement obligations including security in support of
25 settlements.

26 (8) The conditions, rules or procedures issued pursuant to the
27 provisions of subsection (7) of this section shall be incorporated in the
28 settlement agreements to be entered into between system participants and their
29 agents or between system participants themselves.

30 (9) In the event of winding up proceedings against a system

1 participant the Registrar of the Federal High Court shall forward or cause to
2 be forwarded to the Bank, a copy of the petition for winding-up within
3 fourteen days of its filing and any consequential Order thereof within
4 fourteen days of its issuance.

5 (10) Notwithstanding the provisions of the Companies and Allied
6 Matters Act, a winding-up Order shall not affect any settlement that has
7 become final and irrevocable prior to the service of the Order on the Bank.

8 13.-(1) Notwithstanding anything to the contrary in the Companies
9 and Allied Matters Act, any other law, subsidiary legislation, rule, procedure
10 or practice, where the authorisation of a system participant is revoked
11 pursuant to the provisions of section 7 of this Act; or a system participant is
12 wound up by an order of a court of competent jurisdiction, or a receiver or
13 liquidator is appointed for a system participant; any provision contained in a
14 written netting agreement to which the system participant is a party or any
15 netting rule or practice applicable to the system participant shall be binding
16 upon the liquidator or receiver in respect of:

Settlement and
Insolvency

17 (a) any payment or settlement instruction which has been delivered
18 to another payment system participant, a payment service provider or to the
19 Bank prior to the revocation, winding up order, or appointment of the
20 liquidator or receiver and which instruction:

21 (i) is subject to calculation and determination through clearing or
22 netting; or

23 (ii) may result in a payment or settlement obligation, which
24 obligation is to be discharged on or after the date of the revocation, the
25 winding-up order, or appointment of the receiver or liquidator, or the
26 discharge of which was overdue on the date of the winding-up order, or
27 appointment of the receiver or liquidator, as the case may be.

28 (b) any payment or settlement obligation, which:

29 (i) has been determined through netting prior to the revocation, the
30 issue of the winding-up order or appointment of the receiver or liquidator; or

1 is to be discharged on or after the date of the revocation, the winding-up order,
2 appointment of the receiver or liquidator, or the discharge of which Ifv'8S
3 overdue on the date of the winding-up order, appointment of the receiver or
4 liquidator.

5 (2) Notwithstanding anything to the contrary in the Companies and
6 Allied Matters, any other law, subsidiary legislation, rule, procedure or
7 practice, any asset of a system participant which the system participant, prior to
8 the revocation or issue of its winding-up order, has provided:

9 (a) to the Bank or any other system participant as security in respect of
10 its settlement Obligation, may be utilised by the Bank or system participant to
11 the extent required for the discharge of that settlement obligation; or

12 (b) in terms of a written agreement with a payment service provider, to
13 the service provider as security in respect of its payment obligation, may be
14 utilised by the payment service provider to the extent required for the discharge
15 of that payment obligation.

16 PART IV - POWERS OF THE BANK

Power to supervise

17 14. The Bank shall have power to carry out supervisory duties in
18 respect of payment systems and system participants.

Power to call
for returns,
documents or
other information

19 15.-(1) The Bank may request from any system participant such
20 returns or documents as it may require or other information regarding the
21 operation of its payments system at such intervals, in such form and in such
22 manner as the Bank may, from time to time, require or as may be prescribed and
23 the system participant shall comply with the request.

24 (2) Subject to the provisions of subsection (4) of this section, any
25 document or information obtained by the Bank under this section shall be kept
26 confidential.

27 (3) My person who fails to comply with the provisions of subsection
28 (2) of this section commits an offence and is liable on conviction to:

29 (a) imprisonment for a term of not less than two years, or to a fine of
30 not less than five hundred thousand Naira or both; and

1 (b) the payment of a compensation to the victim of the disclosure,
2 of an amount commensurate to the damage suffered as a result of the
3 disclosure, where damages resulted.

4 (4) Notwithstanding anything contained in subsection (2) of this
5 section, the Bank may disclose any information or tender any document
6 obtained by it to any person or institution to whom the disclosure of such
7 information or tendering of such document is considered necessary for
8 protecting the integrity, effectiveness or safety of the national payments
9 system, or in the interest of banking or monetary policy or the operation of
10 the payments system generally or in the public interest or in compliance with
11 any legal requirement.

12 **16.-(1)** Where the Bank is of the opinion that:

Power to issue
directions

13 (a) a system participant is engaging in or is about to engage in any
14 act, omission or course of conduct that results in or is likely to result in
15 systemic risk being inadequately controlled; or

16 (b) any action under paragraph (a) is likely to affect the payments
17 system, the monetary policy or the credit policy of the country, it may
18 suspend the system participant or issue directions in writing to the system
19 participant within such time as the Bank may specify to:

20 (i) cease or desist from engaging in the act omission or course of
21 conduct relating to the systemic risk; or

22 (ii) perform such acts as may be necessary, in the opinion of the
23 Bank, to remedy the situation.

24 (2) A system participant and every person to whom a direction has
25 been issued by the Bank under this section shall comply with such directive
26 without any delay and furnish a report of compliance to the Bank within the
27 time specified by the directive.

28 (3) Without prejudice to the provisions of subsection (1) to this
29 section the Bank may, if satisfied that for the purpose of enabling it to
30 regulate the payments system or in the interest of management or operation

1 of any of the payments system or in the public interest it is necessary to do so,
2 lay down policies relating to the regulation of payments system including
3 electronic, non-electronic, cross - border, domestic and international payments
4 system affecting domestic transactions and give such directions in writing as it
5 may consider necessary to system participants or any other person either
6 generally or in particular, pertaining to the conduct of business relating to the
7 payments system.

8 (4) Notwithstanding the provisions of any other law or regulation, the
9 Bank may:

10 (a) prescribe the standards and technical specifications of payment
11 devices; and

12 (b) certify such payment devices or channels.

Power to make
regulations

13 17.-(1) The Bank may make regulations in line with the provisions of
14 this Act relating to:

15 (a) consumer protection;

16 (b) resolution of disputes between the parties as set out in section 33 of
17 this Act;

18 (c) cross border payments and settlement;

19 (d) any matter which is required or permitted by this Act to be
20 determined by the Bank; and

21 (e) all other matters which the Bank considers necessary or expedient
22 for the efficient functioning of the national payments, clearing and settlement
23 systems.

24 (2) A person who contravenes any of the provisions of the regulations
25 made pursuant to subsection (1) of this section shall be liable to such penalties
26 as may be prescribed under the regulations.

Power to establish
Committee and
Payment Scheme
Boards

27 18.-(1) The Bank may establish, set out the terms of reference and
28 exercise oversight function over:

29 (a) a committee on payment systems strategy to provide advisory
30 support to it in the administration of this Act in respect of any matter relating to

1 payments system as may be required by the Bank; and

2 (b) Payment Scheme Boards for the efficient management of the
3 National Payment Systems in Nigeria.

4 (2) The Payment Scheme Boards shall be responsible for designing
5 and developing policy for payment or settlement schemes for the approval
6 of the Bank.

7 (3) Membership of a committee on payment systems strategy
8 established under sub-section (1) of this section shall be drawn from among
9 relevant agencies, regulatory authorities and any other person as the Bank
10 may determine.

11 (4) Membership of Payment Scheme Boards established under
12 sub-section (1) of this section shall be drawn from among system
13 participants and any other person as the Bank may determine.

14 (4) The Bank shall be responsible for resolving conflicts among the
15 various Payment Scheme Boards;

16 19.-(1) The Bank shall be responsible for:

General Powers
of the Bank

17 (a) the due administration and enforcement of the provisions of this
18 Act and other laws and regulations on payment systems

19 (b) facilitating the implementation of measures for the effective
20 regulation of payment systems in Nigeria;

21 (c) setting standards and strategic objectives for national payment
22 systems management in Nigeria; and

23 (d) ensuring interoperability and promotion of wider participation
24 within set risk management parameters.

25 (2) The Bank may, from time to time, prescribe the:

26 (a) format, mode, manner, value and the shape of payment
27 instructions;

28 (b) timings to be maintained by payment systems participants;

29 (c) manner of transfer of funds within the payments system, either
30 through paper, electronic means or in any other manner, between banks or

1 between banks and other system participants;

2 (d) conditions subject to which the system participants shall
3 participate in a payments system and the rights and obligations of the system
4 participants in the system; and

5 (e) specifications, modes and procedures for deployment of payments
6 system infrastructures.

7 (3) Without prejudice to the provisions of subsection (2) of this
8 section, the Bank may, from time to time, issue such guidelines, as it may
9 consider necessary for the proper and efficient management of the payments
10 system generally or with reference to any particular payment system.

11 (4) The Bank may impose charges and fees for approvals, services
12 and facilities provided by it.

13 (5) The Bank shall have the right to access any information relating to
14 the operation of any payment system by a system participant and the system
15 participant shall provide access to such information.

16 (6) Any officer of the Bank duly authorised in writing may, for the
17 purpose of ensuring compliance with the provisions of this Act or any Statutory
18 Instrument, enter any premises where a payment system is being operated and
19 may inspect any equipment, including any computer system or other
20 documents in the premises and may call upon the system participant, any
21 employee of such system participant or any other person working in such
22 premises to furnish such information or documents as may be required by such
23 officer.

24 (7) A system participant or its employee or any other person working
25 in such premises that:

26 (a) wilfully refuses to produce any book, account, document,
27 equipment or such other information;

28 (b) negligently, wilfully or with intent to defraud give information
29 which is false in any material particular; or

30 (c) refuses any officer of the Bank access to the premises or any

1 equipment, software or other documents in the premises; commits an
2 offence.

3 (8) A person who commits an offence under this section is liable on
4 conviction:

5 (a) in the case of an offence under subsection (4) (a) of this section,
6 to a fine of N20,000.00 for every day that he withholds the information,
7 document, book or account in the case of an individual and the system
8 participant to a fine of not more than N500,000.00 for every day that the said
9 information, document or book of account was withheld;

10 (b) in the case of an offence under subsection (4) (b) of this section,
11 to a maximum imprisonment of 3 years or to a fine not exceeding
12 N500,000.00 or to both such fine and imprisonment;

13 (c) in the case of an offence under subsection (4) (c) of this section,
14 to a fine of not less than N200, 000.00 in the case of an individual and the
15 system participant to a fine of not less than N500,000.00.

16 (9) The Bank may, for the purposes of carrying out its functions
17 under this Act, conduct or cause to be conducted such audits and inspections
18 of a payment system operated by a system participant and it shall be the duty
19 of the system participant to assist the Body to carry out such audit or
20 inspection,

21 (10) The Bank may enter into agreement or arrangement with other
22 relevant bodies in Nigeria or in other countries for mutual co-operation and
23 for the purpose of promoting the safety and efficiency of payment, clearing
24 and settlement systems,

25 20.-(1) The Bank may, in writing and on such conditions as it
26 considers necessary:

Delegation of
power by the
Bank

27 (a) delegate to any officer of the Bank or to any other person any
28 power conferred on the Bank by this Act; or

29 (b) authorise any officer of the Bank or any other person to perform
30 any duty imposed on the Bank by this Act,

1 (2) My delegation of a power or authorisation to perform a duty under
2 subsection (1) of this section does not prevent the Bank from exercising that
3 power or performing that duty,

4 (3) The Bank may at any time and in writing withdraw or revoke any
5 power delegated or duty assigned by it under subsection (1) of this section,

Cooperation with
other Authorities

6 **21.** The Bank may enter into agreement or arrangement with any
7 agency or regulatory authorities in Nigeria or in other countries for mutual co-
8 operation and for the purpose of promoting the safety and efficiency of
9 payment, clearing and settlement systems.

10 **PART V - INDEMNITY AND RESOLUTION OF DISPUTES, ETC**

Protection against
Adverse Claim

11 **22.** No action shall lie against the Bank nor any of its officers or other
12 persons appointed or authorised to perform any function under this Act in
13 respect of anything done or omitted to be done by them in good faith in the
14 exercise or performance of any power, authority or function conferred or
15 imposed on him under this Act.

Indemnity

16 **23.** An officer of the Bank or scheme boards established pursuant to
17 this Act shall not be personally liable for any loss or damage arising out of any
18 act done or omitted to be done in good faith under this Act, unless such damage
19 or loss is due to the officer's negligence or failure to comply with the provisions
20 of this Act.

Resolution of
disputes

21 **24.-(1)** Where a dispute arises between the system participants or
22 between payment service providers or between system participants and
23 payment service providers, it shall be settled by the parties in accordance with
24 the regulations made pursuant to section 17 of this Act.

25 (2) Where a dispute arises between system participants or service
26 providers and payers or beneficiaries, it shall be settled through arbitration,
27 conciliation, mediation or any other Alternative Dispute Resolution
28 mechanism as may be agreed by the disputing parties.

29 (3) Where the parties are unable to settle the dispute in accordance
30 with subsection (1) and (2) of this section, the parties may refer the dispute to

1 the Office of the Nigerian Financial ombudsman for settlement.

2 25. Notwithstanding anything to the contrary in this Act or in any Retention of
3 law relating to the retention of records and for the purpose of this Act, the records
4 Bank, system participants and service providers shall retain all records
5 obtained or generated in the course of payments, clearings or settlements for
6 a minimum period of six years from the date of the conclusion of transaction.

7 26. All electronic transactions under the payment systems shall be Requirement for
8 digitally signed or encrypted in a manner that may be determined by the digital signature
9 Bank in accordance with international best practice.

10 PART VI - OFFENCES AND PENALTIES

11 27.-(1) My person who in any application for authorisation or in Offences and
12 any return or other documents or in respect of any information required to be penalties
13 furnished under any provision of this Act, wilfully makes a statement which
14 is false in any material particular, knowing it to be false or wilfully omits to
15 make a material statement commits an offence and shall be liable on
16 conviction to imprisonment for a term of not less than one year but not
17 exceeding three years or to a fine of not be less than one million Naira or
18 both.

19 (2) My person who fails to produce or furnish any statement,
20 information, returns or other documents, which is the person's duty to
21 produce or furnish, or to answer any question relating to the operation of a
22 payments system which is required by an officer making inspection under
23 this Act, commits an offence and liable on conviction to a fine of not less
24 than one million Naira or to imprisonment for a term of not less than one year
25 or both.

26 (3) The Bank may withdraw any authorization granted under this
27 Act where:

28 (a) direction issued under this Act is not complied with within the
29 period stipulated by the Bank and where no such period is stipulated, within
30 a reasonable time; or

1 (b) a penalty imposed by the Bank under this Act or regulation is not
2 settled within a period of thirty days from the date it was imposed.

3 (4) Where any provision of this Act is contravened, in respect of
4 which no penalty has been specified, the person shall on conviction be liable:

5 (a) in the case of an individual, to a fine of not less than five million
6 Naira and in the case of a continuing contravention or default, a further fine of
7 ten thousand Naira for each day, during which the contravention or default
8 continues; and.

9 (b) in the case of a body corporate, to a fine of not less than fifteen
10 million Naira and in the case of a continuing contravention or default, a further
11 fine of twenty thousand Naira for each day, during which the contravention or
12 default continues.

Offences by
bodies corporate

13 28.-(1) Where an offence is committed by a body corporate under this
14 Act:

15 (a) the body corporate shall on conviction be liable to a fine of not less
16 than N20,000,000; and

17 (b) any person, who at the time of the contravention was in-charge of,
18 or was responsible for the conduct of the business of the company, shall be
19 liable and punished in accordance with the provisions of the relevant sections
20 of this Act.

21 (2) Nothing contained in subsection (1) of this section shall render
22 any person liable to punishment if he proves that the contravention took place
23 without his knowledge or that he exercised all due diligence to prevent the
24 contravention.

Administrative
penalties

25 29.-(1) The Bank may impose an administrative penalty of not less
26 than three million Naira or twice the amount involved in such contravention or
27 default on any person contravening or committing a default under this Act.

28 (3) Where the contravention or default referred to in subsection (1) of
29 this section is a continuing one, the Bank may impose a further penalty of
30 twenty thousand Naira for each day that the contravention or default continues.

PART VII - MISCELLANEOUS

30.-(1) A civil action may only be commenced against the Bank or any of its authorized at the expiration of a period of thirty days after a written notice of intention to commence the action has been served on the Bank by the intending plaintiff or his agent and the notice shall clearly and explicitly state the:

- (a) cause of action;
- (b) particulars of the claim;
- (c) relief which he claims; and
- (d) the name and place of abode of the intending plaintiff.

(2) The notice referred to in subsection (1) of this section, summons or other documents required or authorized to be served on the Bank or any of its authorized officers under this Act or any other enactment or law, may be served by:

- (i) delivering it to the Governor of the Central Bank of Nigeria, or
- (ii) sending it by registered post addressed to the Governor of the Central Bank of Nigeria at its head office.

31.-(1). The Office of the Attorney-General of the Federation shall prosecute the offences under this Act.

(2) No prosecution in respect of any offence under this Act shall be instituted without the consent in writing of the Attorney-General of the Federation.

32. The Federal High Court (in this Act referred to as "the Court") shall have jurisdiction to try offences, hear and determine proceedings arising under this Act.

33. In any action or suit against the Bank, no execution shall be levied or attachment process issued against any property of the Bank unless not less than three months' notice of the intention to execute or attach has been given to the Bank.

Civil proceedings

Prosecuting
authority

Jurisdiction

Restriction on
execution against
property of the
Bank

Interpretation

- 1 34. In this Act, unless the context otherwise requires:
- 2 "Bank" or "the Bank" means the Central Bank of Nigeria established under the
- 3 Central Bank of Nigeria Act;
- 4 "bank" means a bank licensed under the Banks and other Financial Institutions
- 5 Act or any other legislation;
- 6 "Banks and other Financial Institutions Act" means Banks and Other Financial
- 7 Institutions Act, Cap B3, Laws of the Federation of Nigeria, 2004;
- 8 "beneficiary" means the person to whom payment is due;
- 9 "business day" means any day other than a Saturday, Sunday or public holiday
- 10 in Nigeria;
- 11 "Central Bank of Nigeria Act" means the Central Bank of Nigeria Act, (No.7),
- 12 2007;
- 13 "clear" or "clearing" means the exchange of payment instructions between
- 14 system participants with a view to reconciling, confirming, perfecting or
- 15 honouring payment instructions and switching;
- 16 "clearing system" means a system whereby system participants can exchange
- 17 data, documents and payment instruments including instructions relating to
- 18 funds or securities transfers to any other system participant;
- 19 "Companies and Allied Matters Act" means the Companies and Allied Matters
- 20 Act, Cap. C20, Laws of the Federation of Nigeria, 2004;
- 21 "digital certificate" means an electronic signature encrypted for giving the user
- 22 a unique identifier;
- 23 "electronic funds transfer" means any transfer of funds which is initiated by a
- 24 person by way of instruction, authorisation or order to a bank to debit or credit
- 25 an account maintained with that bank through electronic means and includes
- 26 point of sale transfers, automated teller machine transactions, direct deposits or
- 27 withdrawal of funds, transfers initiated by telephone, internet and card
- 28 payments;
- 29 "Governor" and "the Deputy Governor" means the Governor and Deputy
- 30 Governors of the Bank appointed under the Central Bank of Nigeria Act;

1 "holding company" means a holding company as provided in section 338(5)

2 (a) of the Companies and Allied Matters Act;

3 "money" means notes and coins issued in accordance with section 20 of the

4 Central Bank of Nigeria Act and any other currency being legal tender in
5 Nigeria;

6 "national payments system" means the combination of all payment systems
7 in Nigeria;

8 "Jetting" means the determination by the system participant of the amount
9 of money or securities due, payable or deliverable, as a result of setting off or
10 adjusting the payment obligations or delivery obligations among the system
11 participants, including the claims and obligations arising out of the
12 termination by the system participant, on the insolvency, dissolution or
13 winding up of any system participant or such other circumstances as the
14 system participant may specify in its rules, regulations or bye-laws of the
15 transactions admitted for settlement at a future date so that only a net claim
16 would be demanded or a net obligation be owned;

17 "Officer(s)" means officers and employees of the Central Bank of Nigeria;

18 "Operating licence" means any licence granted by a regulatory authority to
19 run a business or an enterprise;

20 "payer" means the person making payment to a beneficiary;

21 "payment clearing house" means an arrangement between two or more
22 system participants governing the clearing of payment instructions between
23 those system participants;

24 "payment device" means any terminal used for payment and settlement
25 including Automated Teller Machine and Point of Sale terminals;

26 "payment instruction" means any instruction, authorisation or order in any
27 form, including electronic means, to effect a payment;

28 "payment instrument" means an instrument, authority or a process enabling
29 a payer to issue a payment instruction and includes electronic currency or
30 any electronic means of effecting payment;

- 1 "payment obligation" means an indebtedness that is owned by one system
2 participant to another system participant as a result of clearing or settlement of
3 one or more payment instructions relating to funds, securities or foreign
4 exchange or derivatives or other transactions;
- 5 "payment scheme" means a set of interbank rules, practices and standards
6 necessary for the functioning of the payment services;
- 7 "payment scheme board" means a body established under this Act;
- 8 "Payment Scheme Board" means any group of persons charged with the
9 responsibility of designing and developing policy for any payment or
10 settlement scheme;
- 11 "payment service provider" means a person who provides services involving
12 direct interaction with the payment systems, settlement systems, clearing
13 systems and payment system arrangements, as the Bank may authorise from
14 time to time;
- 15 "payment system" means a set of instruments, arrangements, banking
16 procedures and interbank fund transfer systems that ensure circulation of
17 money and includes mechanism for clearing and settlement of obligations to
18 make payment, but does not include:
- 19 (a) physical movement of cash;
- 20 (b) a system that does not make any provision for the transfer of funds
21 by payers or recipients of funds;
- 22 (c) a securities settlement system operated by persons registered
23 under the Investments and Securities Act; or
- 24 (d) any other system whose primary purpose is not that of enabling
25 persons to transfer funds;
- 26 "payment systems arrangement" means procedures and services for the
27 processing of payment transactions;
- 28 "payment system operator" means a company who operates an authorised
29 payments system;
- 30 "payment systems services" means all services involving interaction with the

- 1 payment, clearing and settlement systems, and payment system
2 arrangements as the Bank may authorise from time to time;
- 3 "person" means individuals and entities whether corporate or incorporate;
- 4 "person in charge of business of a body corporate" includes director,
5 manager, secretary or other principal officers of the company;
- 6 "security" means any asset as may be determined by the Bank, pledged by a
7 system participant as collateral for meeting its settlement obligations;
- 8 "settlement" means payment or discharge of outstanding obligation that a
9 system participant owes to another system participant including security
10 settlement;
- 11 "settlement instruction" means an instruction given to the settlement system
12 by or on behalf of a system participant to effect settlement of a payment
13 obligation or to discharge any other obligation of one system participant to
14 another system participant;
- 15 "settlement obligation" means an indebtedness that is owed by a system
16 participant to another system participant as a result of a settlement
17 instruction;
- 18 "settlement system" means a system established, operated or designated by
19 the Bank to facilitate the transfer of funds for the discharge of payment and
20 settlement obligations between system participants;
- 21 "settlement system operator" means the Bank, Nigeria Inter-Bank
22 Settlement System NIBSS) or any other settlement system operator as the
23 Bank may designate from time to time;
- 24 "subsidiary" means a subsidiary company as defined in section 338(1) (a) of
25 the Companies and Allied Matters Act, and includes a subsidiary company
26 of a subsidiary;
- 27 "system participant" means a bank or any other person who provides
28 services in the payments system as payment system operator, settlement
29 system operator, service provider or settlement system participant.

Short title 1 **35.** This Bill may be cited as the Payment Systems Management Bill,
 2 2017.

EXPLANATORY MEMORANDUM

(This Memorandum does not form part of the this Act, but is intended to explain its purport) This Act seeks to create legal, institutional and regulatory framework to ensure transparency, effective and efficient management, administration and operation of payments, clearing and settlements systems in Nigeria, provide uniform, comprehensive and effective mechanism for settlement of disputes arising from payments system management; create certainty and predictability and institutionalize best practices in payments system management in Nigeria.