

ASSET MANAGEMENT CORPORATION OF NIGERIA
(AMENDMENT) BILL, 2017
ARRANGEMENT SECTIONS

Section:

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A BILL

FOR

AN ACT TO AMEND THE ASSET MANAGEMENT CORPORATION ACT; AND
FOR RELATED MATTERS

Sponsored by Hon. Jones Chukwudi Onyererri

[] Commencement

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

1 1. The Asset Management Corporation of Nigeria Act (in this Act
2 referred to as the "Principal Act") is hereby amended as set out in this Bill. Amendment of
the Principal Act

3 2.-(i) Section 6(1) of the Principal Act is hereby amended by the Amendment of
Section 6
4 replacing Section 6(1)(v) with the following-

5 “6(1)(V) The Corporation shall pursuant to an order of the Federal
6 High Court obtained ex parte be entitled to do the following:

7 (a) To place any bank account or any other account comparable to a
8 bank account of a debtor of an eligible financial institution, under
9 surveillance;

10 (b) Obtain access to any computer system component, electronic or
11 mechanical device of any debtor with a view to establishing the location of
12 funds belonging to the said debtor. (c) Obtain information in respect of any
13 private account together with all bank financial and commercial records of
14 any debtor of any eligible financial institution;

15 (d) Banking secrecy and the protection of customer confidentiality
16 shall not be a ground for the denial of the power of the Corporation under this
17 section.”

18 (ii) Section 6(1)(v) is accordingly renumbered as 6(1)(w)

19 (iii) Section 6 of the Principal Act is amended by the inclusion of
20 Section 6(6) as follows-

21 “6(6) It shall be mandatory for all debtors to which this Act applies

1 whether personal or corporate, who are engaged in business with the Federal
2 Government of Nigeria or any of its Ministries, Departments or Agencies to
3 obtain prior clearance from the Corporation as a condition precedent to the
4 grant or approval of such contract or receipt of any payment due on such
5 contract.”

Amendment of
Section 9

6 3. Section 9 of the Principal Act is amended by the inclusion of
7 Section 9(3) as follows-

8 “9(3) The Board of Directors of the Corporation shall exercise the
9 discretion in respect of all questions relating to whether an application or
10 request brought pursuant to the provisions of the Freedom of Information Act is
11 in the overriding public interest or otherwise”.

Amendment of
Section 19

12 4. Section 19 of the Principal Act is amended by the inclusion of
13 Sections 19(3), 19(4) and 19(5) as follows-

14 “19(3) No enforcement proceedings or execution in respect of a
15 money judgment shall be commenced against the Corporation unless the prior
16 consent of the Attorney-General of the Federation has been obtained”

17 “19(4) All monies held by the Corporation, pursuant to the exercise of
18 its duties, powers and functions under this Act, shall be deemed to be in the
19 custody and control of the Corporation, notwithstanding that such monies are
20 held in a bank account”.

21 “19(5) Where any proceeding is pending in any court of competent
22 jurisdiction by or against the Corporation, the grant of any interim,
23 interlocutory or preservative order of attachment against the Corporation's
24 funds in any bank is hereby prohibited”.

Amendment of
Section 34

25 5. Section 34(2) of the Principal Act is amended by the provision of
26 Subsections 34 (2) (d) and (e) as follows-

27 “34(2)(d) The provision of this section shall be applicable to all
28 eligible bank assets including but not restricted to the assets acquired by the
29 Corporation before May 2015.”

30 “34(2)(e) Upon the acquisition of rights by the Corporation in an

1 eligible bank asset, the Corporation shall acquire all rights applicable to the
2 assets notwithstanding that only equitable rights are created in the assets and
3 the Corporation shall be entitled to exercise the powers of a legal estate
4 holder in a charge or legal mortgage".

5 6. Section 35 of the Principal act is amended by adding Amendment of
6 subsections (7) (8) and (9) as follows- Section 35

7 "35(7) Upon acquisition of an eligible bank asset, any cause of
8 action arising in consequence thereof shall not be affected by the statutes of
9 limitation of any State of the Federation or the Federal Capital Territory or
10 limitations prescribed in the Practice Directions of Courts in such states or
11 the Federal Capital Territory."

12 "35(8) No claim filed by the Corporation shall be invalidated by
13 reason of non-compliance with the provisions of any statute, rules of court
14 or Practice Directions as to time."

15 "35(9) Where the Corporation acquires an eligible bank asset, the
16 Corporation shall have and exercise the powers to sell or to concur with any
17 other person or institution in the sale of such asset either together or in lots,
18 by public auction or by private contract without recourse to a court order".

19 7. Section 43(3) of the Principal Act is amended as follows-

Amendment of
Section 43

20 "43(3) If after the expiration of the 30 days notice stated in
21 subsection (2) of this section, the Corporation has not responded, the party
22 concerned may issue a writ or other originating process against the
23 Corporation provided always that action shall not be commenced or
24 maintained against the Corporation or any of its shareholders, officers and
25 directors for anything done or intended to be done in good faith whether in
26 relation to a court action or otherwise, in the execution of duties, powers and
27 obligations imposed on the Corporation or any of its shareholders, directors
28 or officers."

29 8. Section 45 of the Principal Act is amended by creating
30 subsections 1 and 2. The Section is hereby renumbered as Section 45(1) and

Amendment of
Section 45

1 Section 45(2) as follows-

2 "45(2) A certificate of judgment obtained in a proceeding shall
3 constitute a registrable instrument of title of the interests of the Corporation in
4 all land registries in the Federation of Nigeria."

Amendment of
Section 55

5 9. Section 55 of the Principal Act is hereby deleted and replaced as
6 follows-

7 "55 The Corporation shall have full powers to appoint legal
8 practitioners to prosecute offences under this Act in the name and on behalf of
9 the Corporation".

Amendment of
Section 60

10 10. Section 60(1) of the Principal Act is amended by the inclusion of
11 Section 60(1)(d) as follows-

12 "(d) all fees, penalties, charges, levies and taxes which are payable to
13 any institution, agency, department or other authority of the Federal, state or
14 Local Government save Income tax, Value Added Tax, Withholding Tax which
15 are payable by the staff of the Corporation or the Corporation's obligors."

Amendment of
Section 61

16 11. Section 61 of the Principal Act is amended by defining
17 "information" after the word "hours" as follows-

18 "Information" includes statements oral, documentary, or
19 representations given by a customer of an eligible financial institution that are
20 false, forged or fraudulent and intended to prevent recovery of debts in loans
21 advance or guarantee."

Citation

22 12. This Bill may be cited as the Asset Management Corporation of
23 Nigeria (Amendment) Bill, 2017.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Asset Management Corporation Act.