

A BILL**FOR**

AN ACT TO REPEAL THE FISCAL RESPONSIBILITY ACT, 2007 AND RE-ENACT THE FISCAL RESPONSIBILITY BILL, TO PROVIDE FOR PRUDENT MANAGEMENT OF THE NATION'S RESOURCES, ENSURE LONG TERM MACRO-ECONOMIC STABILITY OF THE NATIONAL ECONOMY, SECURE GREATER ACCOUNTABILITY AND TRANSPARENCY IN FISCAL OPERATIONS WITHIN THE MEDIUM TERM FISCAL POLICY FRAMEWORK AND THE ESTABLISHMENT OF THE FISCAL RESPONSIBILITY COMMISSION TO ENSURE THE PROMOTION AND ENFORCEMENT OF THE NATION'S ECONOMIC OBJECTIVES; AND FOR RELATED MATTERS

Sponsors: Hon. Ibrahim Babangida, Hon. Chris Emeka Azubogu

[] Commencement

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

PART 1 - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE FISCAL RESPONSIBILITY COMMISSION

1 **1.-(1) There is established a body to be known as the Fiscal**
2 **Responsibility Commission (in this Act referred to as "the Commission").**

Establishment of
the Commission

3 **(2) The Commission shall be a body corporate with perpetual**
4 **succession and a common seal and may sue and be sued in its corporate**
5 **name; and shall have the power to acquire and own properties for the**
6 **performance of its functions under this Act.**

7 **POWERS AND FUNCTIONS OF THE COMMISSION**

8 **2.-(1) For the purpose of performing its functions under the Act, the**
9 **Commission shall have power to:**

Powers of the
Commission

10 **(a) compel any person or government institution to disclose**
11 **information relating to public revenues and expenditure; and**

12 **(b) conduct investigations to ascertain whether any person has**

1 violated any provisions of this Act;

2 (c) request for and obtain information relating to public revenue,
3 expenditure and related matters from any person, department, public
4 institution or body, or agency, or arm of the Federal Government;

5 (d) request and be permitted by all government ministries,
6 departments, extra-ministerial departments, agencies, public bodies,
7 institutions, corporations and arms of government to inspect all documents,
8 records, minutes, entries, electronic systems, machine and objects which the
9 Commission shall deem necessary for the performance of its functions under
10 this Act;

11 (e) interview any person it deems necessary with regard to
12 government revenue and expenditure;

13 (f) cause statements to be made on oath and have power to search,
14 enter premises, seize documentation and records required as evidence pursuant
15 to the ex-parte orders of a competent court;

16 (g) monitor and enforce the remittance of revenue by all Corporations
17 and government agencies into the Consolidated Revenue Fund as is herein
18 provided and publish same at the commencement of every fiscal year;

19 (h) collaborate and cooperate with all or any of the Nigerian Police,
20 Economic and Financial Crimes Commission, Independent Corrupt Practices
21 and other Related Offences Commission or any other agency, public body,
22 ministry or extra-ministerial department in the performance of any of its
23 functions under this Act;

24 (i) without prejudice to the powers of the Auditor General of the
25 Federation, review or verify the financial records of any government agency,
26 corporation, ministry, department, extra-ministerial department etc;

27 (j) Make rules and issue guidelines for implementation of this Act;
28 and

29 (k) do other things which, in its opinion, are necessary for the efficient
30 performance of its functions under this Act.

1 (2) If the Commission is satisfied that a person has committed any
2 punishable offence under this Act or violated any provisions of this Act, the
3 Commission shall undertake the prosecution of the alleged offender.

4 (3) Every prosecution of an offender under this Act by the
5 Commission or its appointed Legal Practitioner shall be deemed to have
6 been done with the consent of the Attorney General of the Federation.

7 3.-(1) The Commission shall perform the following functions:

Functions of
the Commission t

8 (a) monitor and enforce the provisions of this Act and by so doing,
9 promote the economic objectives contained in section 16 of the
10 Constitution;

11 (b) disseminate such standard practices including international
12 good practice that will result in greater efficiency in the allocation and
13 management of public expenditure, revenue collection, debt control and
14 transparency in fiscal matters;

15 (c) undertake fiscal and financial studies, analysis and diagnosis
16 and disseminate the result to the general public;

17 (d) make rules for carrying out its functions under the Act; and

18 (e) perform any other function consistent with the promotion of the
19 objectives of this Act;

20 (f) enforce the submission of periodic returns on revenue
21 performance showing estimates, actual collection and remittances to the
22 Consolidated Revenue Fund of the Federal Government by corporations
23 and agencies accompanied by accurate documentary evidence of collections
24 and remittances;

25 (g) attend and monitor monthly monitoring meeting of all revenue
26 collectors in collaboration with the office of the Accountant General of the
27 Federation;

28 (h) monitor the operation of the Excess Crude Account and the
29 various Funds created under the Nigerian Sovereign Investment Authority
30 (Establishment, Etc.) Act, 2011.

1 (i) appoint for the Commission, such numbers of employees as it may
2 deem expedient and necessary for the proper and efficient performance of its
3 functions under this Act;

4 (j) determine the terms and conditions of service in the Commission,
5 including disciplinary measures for the employees of the Commission;

6 (k) develop and implement appropriate staff conditions of service for
7 its staff including fixing of remuneration, pension scheme and other fringe
8 service benefits;

9 (l) from time to time, in consultation with the Salaries and Wages
10 Commission, review the remuneration payable to the employees of the
11 Commission

12 (m) regulate its proceeding and make standing orders with respect to
13 the holding of its meetings, notices to be given, the keeping of minutes of its
14 proceedings and such other matters as the Commission may, from time to time
15 determine; and

16 (n) perform any other function consistent with the promotion of the
17 objectives of this Act.

18 (2) The Commission shall be independent in the performance of its
19 functions.

20 (3) The provisions of Public Officers Protection Act shall apply to the
21 members and staff of the Commission in the discharge of their functions under
22 this Act.

Establishment
of a Fund for
the Commission

23 4.-(1) The Commission shall establish and maintain a Fund from
24 which shall be defrayed all expenditure incurred by the Commission.

25 (2) There shall be credited to the Fund established pursuant to
26 subsection (1) of this section, the budgetary allocation from the Federal
27 Government and grants from other sources.

28 (3) The annual budget of the Commission shall be a charge on the
29 Consolidated Revenue Fund of the Federation and shall, upon the assent of the
30 Appropriation Act, be immediately deposited in the Commission's fund by

1 statutory transfer.

2 (4) The Commission shall also be entitled on quarterly basis to 3%
3 of the funds remitted into the Consolidated Revenue Fund of the Federation
4 by corporations pursuant to this Act as monitoring fee.

5 5.-(1) The Commission shall consist of:

Composition of
the Commission

6 (a) a Chairman, who shall be the Chief Executive and accounting
7 officer of the Commission;

8 (b) one member representing:

9 (i) The organised private sector,

10 (ii) Civil Society engaged in causes relating to probity,
11 transparency and good governance,

12 (iii) Organised labour.

13 (c) a representative of the Federal Ministry of Finance of a level not
14 below the rank of a Director; and

15 (d) a Secretary who shall be the head of administration of the
16 Commission.

17 (2) All members of the Commission shall be persons of proven
18 integrity and must possess appropriate qualifications with not less than 10
19 years cognate post qualification experience.

20 (3) The Chairman and Secretary of the Commission, other than the
21 ex-officio members, shall be appointed by the President subject to
22 confirmation by the Senate.

23 (4) The ex-officio members of the Commission, other than the
24 Chairman and the Secretary shall be part time members.

25 (5) There shall be established for the Commission a Secretariat that
26 shall be headed by a Secretary who shall be responsible for the
27 administration of the Secretariat and the keeping of the books and records of
28 the Commission under the supervision and control of the Chairman.

29 6. The Chairman, Secretary and ex-officio members of the
30 Commission shall hold office for a term of 5 years.

Tenure of Office

Cessation of
membership

1 7.-(1) Notwithstanding the provision of section 6 of this Act, a
2 member of the Commission shall cease to hold office if:

3 (a) he becomes bankrupt or makes a compromise with his creditors;

4 (b) he is convicted of a felony or any offence involving dishonesty,
5 corruption or fraud by any court whether in Nigeria or elsewhere;

6 (c) he becomes incapable of carrying out the functions of his office
7 either by reason of infirmity of mind or body;

8 (d) the President is satisfied that it is not in the interest of the
9 Commission or the interest of the public that the member should continue in
10 office and the President removes him from office.;

11 (e) he has been found guilty of violation of the code of conduct or
12 serious misconduct in relation to his duties;

13 (f) he resigns his appointment by a notice under his hand, addressed to
14 the President; or

15 (g) in the case of a person who becomes a member by virtue of the
16 office he occupies, he ceases to hold such office for whatever reason.

17 (2) Where a vacancy occurs in the membership of the Commission, it
18 shall be filled by the appointment of a successor to hold office for the remainder
19 of the term of office of the predecessor, provided that the successor shall
20 represent the same interest as his predecessor.

Emoluments
etc of members

21 8.-(1) There shall be paid to the Chairman and Secretary of the
22 Commission such salaries, allowances and benefits as the Revenue
23 Mobilisation Allocation and Fiscal Commission may from time to time
24 approve.

25 (2) There shall be paid to the ex-officio (part time) members of the
26 Commission such sitting allowance and benefits as may be determined by the
27 Revenue Mobilisation and Fiscal Commission may, from time to time,
28 approve.

Submission of
annual report to
the National
Assembly

29 9. The Commission shall prepare and submit to the National
30 Assembly not later than 30th June in each financial year; a report of its

1 activities including all cases of contravention investigated during the
2 preceding financial year, and shall include in the report a copy of its audited
3 accounts for the preceding financial year.

4 PART II - THE MEDIUM TERM EXPENDITURE FRAMEWORK

5 10.-(1) The Federal Government after consultation with the states
6 shall: Medium Term
Expenditure

7 (a) not later than six months from the commencement of this Act,
8 cause to be prepared and laid before the National Assembly, for their
9 consideration a Medium-Term Expenditure Framework for the next three
10 financial years; and

11 (b) thereafter, the Federal Government, through the Ministry of
12 Finance, not later than six months before commencement of the next
13 financial year, cause to be prepared a Medium Term Expenditure
14 Framework for the next three financial years.

15 (2) The framework so prepared, shall be submitted to the Federal
16 Executive Council for consideration and Federal Executive Council shall
17 thereafter, through the Ministry of Finance, submit the framework to the
18 National Assembly for consideration and approval.

19 (3) The framework so laid shall be considered for approval with
20 such modifications, if any, as the National Assembly finds appropriate by a
21 resolution of each House of the National Assembly.

22 (4) The Ministry of Finance shall submit a copy of the framework
23 approved by the Federal Executive Council to the Commission not later than
24 3 working days from the date of its submission to the National Assembly.

25 (5) The Medium-Term Expenditure Framework shall contain:

26 (a) a Macro-Economic Framework setting out the macroeconomic
27 projections, for the next three financial years, the underlying assumptions
28 for those projections and an evaluation and analysis of the macroeconomic
29 projections for the preceding three financial years;

30 (b) a Fiscal Strategy Paper setting out:

- 1 (i) The Federal Government's medium term financial objectives,
- 2 (ii) The policies of the Federal Government for the medium term
- 3 relating to taxation, recurrent (non-debt) expenditure debt expenditure, capital
- 4 expenditure, borrowings and other liabilities, lending and investment,
- 5 (iii) The strategic economic, social and developmental priorities of
- 6 the Federal Government for the next three financial years,
- 7 (iv) An explanation of how the financial objectives, strategic,
- 8 economic, social and developmental priorities and fiscal measures set out
- 9 pursuant to sub-paragraph (i), (ii) and (iii) of the paragraph relate to and
- 10 comply with the economic objectives set out in section 16 of the Constitution.
- 11 (c) an expenditure and revenue framework setting out:
- 12 (i) Estimates of aggregate revenues for the Federation for each
- 13 financial year, based on the predetermined Commodity Reference Price
- 14 adopted and tax' revenue projection and the expected share of Federal
- 15 Government Revenue,
- 16 (ii) Aggregate expenditure projection for the Federal government for
- 17 each financial year in the next three financial years,
- 18 (iii) Aggregate tax expenditure floor for the Federation for each
- 19 financial year in the next three financial years. Provided that, the estimates and
- 20 expenditures provided under paragraph (d) of this subsection shall be:
- 21 (a) Based on reliable and consistent data certified in accordance with
- 22 section 13 (2) (b) of this Act;
- 23 (b) Targeted at achieving the macro-economic projection set out in
- 24 paragraph (a) of this subsection; and
- 25 (c) Consistent with and derive from the underlying assumptions
- 26 contained in the Macro-economic framework, the objectives, policies,
- 27 strategic priorities and explanations in the Fiscal Strategy Paper;
- 28 (d) a consolidated Debt Statement setting out and describing the fiscal
- 29 significance of the debt liability of the Federal Government and measures to
- 30 reduce any such liability;

(e) a statement describing the nature and fiscal significance of contingent liabilities and quasi fiscal activities and measures to offset the crystallization of such liabilities; and

(f) consolidated debt profile and limit for the Federal, State and Local Governments.

11. The estimates of:

Aggregate
expenditure ceiling

-(1) Aggregate expenditure and the aggregate amount appropriated by the National Assembly for each financial year shall not be more than the estimated aggregate revenue plus a deficit, not exceeding three per cent of the estimated Gross Domestic Product or any sustainable percentage as may be determined by the National Assembly for each financial year.

(2) Aggregate expenditure for the financial year may exceed the ceiling imposed by the provisions of subsection (1) of this section, if in the opinion of the President there is a clear and present threat to national security or sovereignty of the Federal Republic of Nigeria.

12.-(1) The Minister shall be responsible for the preparation of the Medium Term Expenditure Framework.

Preparation of
the Medium Term
Expenditure
Framework

(2) In preparing the draft Medium-Term Expenditure Framework, the Minister:

(a) shall hold public consultation, on the Macro-economic Framework, the Fiscal Strategy Paper, the Revenue and Expenditure Framework, the Strategic, economic, social and developmental priorities of government, and such other matters as the Minister deems necessary:

Provided that such consultations shall be open to the public, the press and any citizens or authorized representatives of any organization, group of citizens, who may attend and be heard on any subject matter properly in view;

(b) shall seek inputs from the following:

(i) National Economic Council;

(ii) National Planning Commission;

- 1 (iii) Joint Planning Commission;
2 (iii) National Council on Developmental Planning;
3 (iv) National Assembly;
4 (v) Central Bank of Nigeria;
5 (vi) National Bureau of Statistics;
6 (vii) Revenue Mobilisation Allocation and Fiscal Commission;
7 (ix) Fiscal Responsibility Commission; and
8 (x) Any other relevant statutory body as the Minister may determine;

9 (c) shall consider and reflect as may be deemed appropriate the input
10 of the bodies and persons referred to in paragraphs (a) and (b) of subsection (2)
11 of this section.

Time limit for
presentation of
medium Term
Expenditure
Framework to
Federal Executive
Council and
National Assembly

12 **13.-(1)** The Minister shall before the end of the second quarter of each
13 financial year, present the Medium-Term Expenditure Framework to the
14 Federal Executive Council for consideration and approval.

15 (2) The Federal Executive Council shall, not later than the end of July
16 each financial year consider and approve the Medium-Term Expenditure
17 Framework for the next three years.

18 (3) The Medium-Term Expenditure Framework as approved by the
19 Federal Executive Council shall, not later than mid-August each financial year,
20 be presented by the Minister of Finance to National Assembly for
21 consideration and adoption.

22 (4) The National Assembly shall, before the last day of August each
23 financial year, consider and approve the Medium-Term Expenditure
24 Framework:

25 Provided that where the National Assembly fails to consider, approve
26 the Medium-Term Expenditure Framework one week after the deadline set by
27 this subsection, its approval shall be dispensed with, and the framework shall
28 take effect as presented to the National Assembly.

29 (5) The Minister shall submit a copy of the Medium-Term

1 Expenditure Framework approved by the Federal Executive Council to the
2 Commission.

3 14. Not later than 30 days of its approval by the National Assembly
4 or otherwise coming into effect, the Medium -Term Expenditure
5 Framework as approved shall be published in the Gazette, Ministry of
6 Finance website and the mass media by the Minister.

Publication of
Medium Term
Expenditure
Framework in
the Gazette etc.

7 15.-(1) Subject to subsection (2) of this section, the President may
8 cause adjustments to be made to a medium term expenditure framework (2)
9 Any adjustment to the approved Medium Term Expenditure Framework
10 shall be limited to:

Adjustments to
the Medium-Term
Expenditure
Framework

11 (a) The correction of manifest error; and

12 (b) Changes in the fiscal indicators, which in the opinion of the
13 President are significant.

14 16. States and Local Governments which so desire shall be
15 assisted by the Federal Government to manage their fiscal affairs within the
16 medium term framework.

Assistance to
States and Local
Governments

17 PART III - THE ANNUAL BUDGET

18 17. Notwithstanding anything to the contrary contained in this Act
19 or any other written law, the Medium term Expenditure Framework shall:

Annual Budget
to be derived from
Medium Term
Expenditure
Framework

20 (1) Be the basis for the preparation of the estimates of revenue and
21 expenditure required to be prepared and laid before the National Assembly
22 under section 81 (1) of Constitution.

23 (2) The sectoral and compositional distribution of the estimates of
24 the expenditure referred to in subsection (1) of this section shall be
25 consistent with the medium term developmental priorities set out in the
26 Medium Term Expenditure Framework.

27 18.-(1) The Federal Ministry of Finance shall, not later than the end
28 of September each financial year, present the budget for the next financial
29 year for the consideration and approval of the Federal Executive Council.

Time limit for
Budget
preparation

30 (2) a Fiscal Risk Appendix evaluating the fiscal and other related

1 risks to the annual budget and specifying measures to be taken to offset the
2 occurrence such risks.

Application of
Part III to States
and Local
Governments

3 **19.** In preparing their annual budget, States and Local Governments
4 may adopt the provisions of this Part with such modification as may be
5 appropriate and necessary.

6 **PART IV - BUDGETARY PLANNING OF CORPORATIONS AND OTHER**
7 **RELATED AGENCIES**

Preparation of
estimates of
revenue and
expenditures by
corporations etc.

8 **20.-(1)** All Government corporations, agencies and government
9 owned companies (in this Act referred to as "the Corporations") shall, not later
10 than 6 months from the commencement of this Act and not later than the end of
11 the second quarter of every year, cause to be prepared and submitted to the
12 Minister their estimates of revenue and expenditure for the next three financial
13 years.

14 (2) Each of the bodies referred to in subsection (1) of this section shall
15 submit to the Minister not later than the end of August in each financial year:

16 (a) an annual budget derived from the estimates submitted in
17 pursuance of subsection (1) of this section;

18 (b) projected operating surplus which shall be prepared in line with
19 accrual accounting practices; and

20 (c) estimated revenue shall be broken down by the corporations into
21 monthly collection targets, including, where applicable, a separate description
22 of measures to combat corruption, fraud, evasion of taxes or diversion of
23 government revenue.

24 (3) The Minister shall cause the estimates submitted in pursuance of
25 subsection (2) of this section to be attached as part of the Appropriation Bill to
26 be submitted to the National Assembly:

27 Provided that, where appropriate, the Minister shall consult
28 with the corporation revise such estimates.

Remittance of
revenue by
Corporations

29 **21.-(1)** Notwithstanding anything to the contrary contained in this Act
30 or any other written law governing a corporation, every corporation, agency

1 and government owned company shall remit 80% of its Operating Surplus
2 into the Consolidated Revenue Fund of the Federation within 30 days after
3 the end of the statutory deadline for publishing its audited financial Report.
4 Provided that if the Minister at any time, by appropriate circular, directs the
5 payment of any amount by Agencies, Corporations and government owned
6 companies into the Consolidated Revenue Fund of the Federal Government,
7 compliance with such a circular by a Corporation shall be taken into
8 cognizance in determining the amount payable by it as operating surplus as
9 stipulated herein.

10 (2) Each corporation shall, not later than three months after the end
11 of its financial year, cause to be prepared and published its audited financial
12 reports in accordance with such rules as may be prescribed from time to
13 time.

14 22. The provisions of sections 21 and 22 shall cease to apply to any
15 of the corporations from the date of privatization, Provided Always that the
16 Commission shall monitor and ensure that all profits or dividend payments
17 due to the Federal Government from any privatized entity in which the FG is
18 a shareholder are duly remitted into the Consolidated Revenue Fund.

Cessation of
application

19 PART V - BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

20 23.-(1) The Federal Government, through the Office of the
21 Accountant General, shall cause to be drawn up, an Annual Cash Plan for
22 each financial year.

Annual cash plan

23 (2) The Annual Cash Plan shall be prepared in advance of the
24 financial year setting out projected monthly cash flows and shall be revised
25 quarterly to reflect actual cash flows.

26 (3) A copy of the Annual Cash Plan shall be submitted to the
27 Commission by the Office of the Accountant General within one week of its
28 preparation or amendment.

29 24.-(1) The Minister, shall within 30 days of the enactment of the
30 Appropriation Act, prepare and publish a disbursement Schedule derived

Disbursement
schedule

1 from the Annual Cash Plan for the purpose of implementing the Appropriation
2 Act.

3 (2) The Minister shall cause the disbursement schedule prepared
4 pursuant to subsection (1) of this section to be published in the official gazette,
5 the Ministry's website and mass media.

6 (3) The Minister shall cause a copy of the disbursement schedule to be
7 submitted to the Commission in accordance with the rules.

Power of
Minister to
approve virement

8 **25.-(1)** The sums appropriated for a specific purpose shall be used
9 solely for the purpose specified in the Appropriation Act.

10 (2) Without prejudice to subsection (1) of this section, the Minister
11 may in exceptional circumstances and in the overall public interest,
12 recommend for the approval of the National Assembly virements from sub-
13 heads of account, without exceeding the amount appropriated to such head of
14 account.

Power to restrict
further
commitments

15 **26.-(1)** Where by the end of three months, after the enactment of the
16 Appropriation Act, the Minister determines that the targeted revenues may be
17 insufficient to fund the heads of expenditure in the Appropriation Act, the
18 Minister shall, within the next 30 days of such determination, take appropriate
19 measures to restrict further commitments and financial operation according to
20 the criteria set in the fiscal Risk Appendix.

21 (2) Where the target revenue are re-established, either in part or in
22 full, the appropriations for which further commitments were restricted shall be
23 restored proportionately.

24 (3) The provisions of the subsections (1) and (2) of this section shall
25 not apply to statutory or constitutional expenditures.

Restriction on
the grant of tax
relief

26 **27.-(1)** Any proposed tax relief shall be accompanied by an
27 evaluation of its budgetary and financial implications in the year it becomes
28 effective and in the three subsequent years, and shall only be approved by the
29 Minister, if it does not adversely impair the revenue estimates in the annual
30 budget or if it is accompanied by countervailing measure during the period

1 mentioned in this subsection through revenue increasing measures such as
2 tax rate raises and expansion of the tax base.

3 (2) The provisions of this section shall not apply to:

4 (a) changes in the rates of the taxes mentioned in section 163 of the
5 Constitution; and

6 (b) debt cancellation in an amount lower than the cost of collection.

7 28.-(1) The Budget Office of the Federation, shall monitor and
8 evaluate the implementation of the Annual Budget, assess the attainment of
9 fiscal targets and report thereon on a quarterly basis to the Fiscal
10 Responsibility Commission and the Joint Finance Committee of the
11 National Assembly.

Responsibility of
the budget office
to monitor and
report on
implementation

12 (2) The Minister of Finance shall cause the report prepared
13 pursuant to subsection (1) of this section to be published in the mass and
14 electronic and on Ministry of Finance website, not later than 30 days after
15 the end of each quarter.

16 29. In the implementing their annual budgets, States and Local
17 Governments may adopt the provisions of this part with such modifications
18 as may be appropriate and necessary.

Application of
Part V to states
and local
governments

19 PART VI - PUBLIC REVENUE

20 30. Any fund due to the Federation from any tier of government
21 may be set off by the federation on or towards payment or remittance of any
22 sum due to that tier of government from the Federation.

Forecast and
collection of
public revenue

23 31.-(1) The Minister shall, at least 30 days before the deadline for
24 the submission of its budget proposals place at the disposal of the National
25 Assembly, the revenue estimates for the following year, including the net
26 current revenue and the respective memorandum items,

Revenue forecast

27 (2) The Minister shall cause the documents mentioned in
28 subsection one of this section to be submitted to the Commission within
29 seven days of its submission to the National Assembly.

Executive to
breakdown
estimated revenue

1 **32.** Estimated revenue shall be broken down by the Minister into
2 Monthly collection targets, including, where applicable, a separate description
3 of measures to combat tax fraud and evasion.

4 **PART VII - SAVINGS AND ASSET MANAGEMENT**

5 **33.**-(1) Where the reference commodity price rise above the
6 predetermined level, the resulting excess proceeds shall be saved in
7 accordance with the provisions of subsection (2) of this section.

8 (2) The saving of each Government in the Federation in pursuance to
9 sub section (1) of this section shall be deposited in a separate account which
10 shall form part of the respective Governments Consolidated Revenue Fund to
11 be maintained at the Central bank of Nigeria by each Government.

12 (3) The central Bank of Nigeria shall, in consultation with the
13 Minister of Finance, the State Commissioners of Finance, and Local
14 Government Treasurers, invest, for and on behalf of the Governments in the
15 Federation, the saving of each Government and such investment can be
16 undertaken in a consolidated manner, provided that, the shares of each
17 Government and income due to them from the investment are clearly
18 identified.

19 (4) The Central Bank of Nigeria in the discharge of its obligation
20 under subsection (3) of this section shall, observe the limits and conditions
21 imposed by safety and prudential considerations and the need to maintain
22 macro-economic stability and such safety and prudential conditions are to be
23 agreed upon with the Minister of Finance, State Commissioners of Finance and
24 Local Government Treasurers.

25 (5) No Government in the federation shall have access to the savings
26 made in pursuance to subsection (2) of this section, unless the reference
27 commodity price falls below the predetermined level for a period of three
28 consecutive months.

29 (6) The augmentation referred to in sub section (5) of this section shall
30 be limited to such sums that will bring the revenue of government to the level

1 contained in its budget estimates.

2 (7) Notwithstanding the provisions of subsections (5) and (6) of
3 this section and subject to agreement by Federal and State Governments in
4 the Federation, a proportion of the savings may be appropriated in the
5 following year for capital projects and programmes.

6 PART VIII - PUBLIC EXPENDITURES

7 34.-(1) A proposal to create, expand or improve government action
8 which will result in an expenditure increase shall be accompanied by:

Conditions for
increasing
government
expenditure

9 (a) an estimate of the budgetary or financial impact in the year it
10 becomes effective and in the two subsequent years; and

11 (b) a statement by the person requesting for the expenditure, stating
12 how the increase or action is covered or relevant to the Appropriation Act
13 and the Medium-term Expenditure Framework.

14 (2) The provisions of this section shall not apply to expenditures
15 deemed inconsequential and shall apply to State and Local Government
16 only to the extent to which they have adopted these provisions.

17 35. The granting of any advantage or increase of remuneration, the
18 creation of posts or allocation of career structures and employment of new
19 personnel on any account by bodies and entities including foundations
20 established and maintained by the Federal Government shall only be
21 effected if there is a prior budgetary allocation sufficient to cover the
22 estimated expenditure.

Conditions for
increasing
personnel
expenditure

23 36. All contracts with regard to the execution of annual budget;
24 shall comply with the rules and guidelines on:

All contracts to
comply with rules
and guidelines

25 (a) procurement and award of contracts; and

26 (b) due process and certification of contract.

27 37. In incurring public expenditures, States and Local
28 Governments may adopt the provisions of this Part with such modifications
29 as may be appropriate and necessary.

Application of
Part VIII to States
and Local
Governments

PART IX - DEBT AND INDEBTEDNESS

Framework for
debt management

1
2 38.-(1) The framework for debt management during the financial year
3 shall be based on the following rules:

4 (a) Government at all tiers shall only borrow for capital expenditure
5 and human capital development, provided that, such borrowing shall be on
6 concessional terms with low interest rate and with a reasonable long
7 amortization period subject to the approval of the appropriate legislative body
8 where necessary; and

9 (b) Government shall ensure that the level of public debt as a
10 proportion of national income is held at a sustainable level as prescribed by the
11 national Assembly from time to time on the advice of the Minister.

12 (2) Notwithstanding the provisions of subsection 1 (a) of this section
13 and subject to the approval of the National Assembly, the Federal Government
14 may borrow from the capital market.

Limits on
consolidated
debt of Federal,
State and Local
Governments

15 39.-(1) The President shall within 90 days from the commencement of
16 this Act and with advise from the Minister of Finance subject to approval of
17 National Assembly, set overall limits for the amounts of consolidated debt of
18 the Federal, State and Local Governments pursuant to the provisions of items 7
19 and 50 of Part I of the Second Schedule of the constitution and the limits and
20 conditions approved by the National Assembly, shall be consistent with the
21 rules set in this Act and with the fiscal policy objectives in the Medium term
22 fiscal Framework.

23 (2) Outstanding judgement debts not paid shall be considered part of
24 the consolidated debts for the purpose of application of the respective limits set
25 in pursuance of this section.

26 (3) For the purpose of verifying compliance with the limits specified
27 pursuant to this section, the Commission shall at the end of each quarter,
28 determine the amount of the Consolidated debt of each tier of government.

29 (4) The Commission shall publish, on a quarterly basis, a list of the
30 Governments in the federation that have exceeded the limits of consolidated

1 debt, indicating the amount by which the limit was exceeded.

2 (5) Where at the end of any quarter, the consolidated debt of the
3 Federal, State or Local Government exceeds the respective limits, it shall be
4 brought within the limit, not later than the end of the three subsequent
5 quarters with a minimum of 25 per cent reduction in the first quarter.

6 (6) Violators of the limits specified pursuant to this section shall:

7 (a) be prohibited from borrowing from internal or external sources,
8 except for the refinancing of existing debts; and

9 (b) bring the debt within the established limit by restricting funding
10 commitments accordingly.

11 (7) Where non-compliance with the limit specified pursuant to this
12 section persist after the time limited by subsection (5) of this section, the
13 affected tier of Government shall also be prohibited from receiving grants
14 from any other Government in the Federation.

15 (8) Whenever the fundamentals of the proposals referred to in this
16 section are changed due to economic instability or change in monetary or
17 exchange policies, the President shall submit to the National Assembly a
18 request for a review of the current limits.

19 40.-(1) Servicing of external debts shall be the direct responsibility
20 of the Government that incurred the debt.

Servicing of
external debt

21 (2) The cost of servicing Federal Government guaranteed loans
22 shall be deducted at source from the share of the debtor Government from
23 the Federation Account.

24 PART X - BORROWING

25 41.-(1) Any Government in the Federation or its agencies and
26 corporations desirous of borrowing shall, specify the purpose for which the
27 borrowing is intended and present a cost-benefit analysis, detailing the
28 economic and social benefits of the purpose to which the intended
29 borrowing is to be applied and repayment programme.

Computation of
borrow and
verification of
compliance limits

30 (2) Without prejudice to subsection (1) of this section, each

1 borrowing shall comply with the following conditions:

2 (a) the existence of prior authorization in the Appropriation or other
3 Act or Law for the purpose for which the borrowing is to be utilized; and

4 (b) the proceeds of such borrowing shall solely be applied towards
5 long-term capital expenditures.

6 (3) Nothing in this section shall be construed to authorize borrowing
7 in excess of the limits set out in section 40 of this Act.

8 (4) The Commission shall verify on a quarterly basis, compliance
9 with the limits and conditions for borrowing by each Government in the
10 Federation.

11 (5) Without prejudice to the specific responsibilities of the National
12 Assembly and Central Bank of Nigeria, the Debt Management Office shall
13 maintain comprehensive, reliable and current electronic database of internal
14 and external public debts, guaranteeing public access to the information.

Lending by
financial
institutions

15 42.-(1) All banks and financial institutions shall request and obtain
16 proof of compliance from the Commission with the provisions of this Part
17 before lending to any Government in the Federation.

18 (2) Lending by banks and financial institutions in contravention of
19 this Part shall be unlawful.

Prohibition against
CBN ID its
relation with
government
agencies and
parastatals

20 43.-(1) The Central Bank of Nigeria in its relation with Government
21 agencies and Parastatals shall be subject to the following prohibitions:

22 (a) purchasing fresh issues of government securities on the date of its
23 primary issue in the market, except in the circumstances under subsection (2)
24 of this section;

25 (b) exchanging on a temporary basis, the debt securities of any
26 Government in the Federation for Federal public debt securities and forward
27 exchange; or

28 (c) granting guarantees on behalf of any Government in the
29 Federation.

30 (2) The Central Bank of Nigeria may only underwrite securities

1 issued by the Federal Government, which are rolled over to refinance
2 maturing securities.

3 (3) The underwriting permitted under subsection (2) of this section
4 shall be offset through a public auction at market determined rate.

5 44.-(1) Subject to the provisions of this Part, the Minister may with
6 the approval of the Federal Executive Council, grant guarantees on behalf of
7 any Government in the Federation. Power of the
Minister to grant
guarantees

8 (2) Any guarantee granted by the Minister shall be conditional
9 upon the provision of a counter guarantee in an amount equal to or higher
10 than the guarantee obligation, provided that there are no overdue obligations
11 from the requesting Government in the Federation to the guarantor and its
12 controlled corporations and such guarantee shall also be on compliance with
13 the following:

14 (a) Counter-guarantee shall only be accepted from State or Local
15 Governments; and

16 (b) The counter-guarantee required by the Federal Government
17 from State or Local Government or by State or Local Government, may
18 consist in the appropriation of tax revenue directly collected and resulting
19 from statutory transfers and the guarantor shall be authorised to retain such
20 revenue and use the respective amount to repay overdue debts.

21 (3) In the case of foreign currency borrowing, Federal Government
22 guarantee shall be a requirement and no State, Local Government or Federal
23 Agency shall, on its own borrow externally.

24 (4) Any guarantee provided in excess of the debts limits set
25 pursuant to section 43 of this Act shall be an offence.

26 PART XI - TRANSPARENCY AND ACCOUNTABILITY

27 45.-(1) The Federal Government shall ensure that its fiscal and
28 financial affairs are conducted in a transparent manner and accordingly
29 ensure full and timely disclosure and wide publication of all transactions and
30 decisions involving public revenues and expenditures and their implications Fiscal
Transparency

1 for its finances.

2 (2) The National Assembly shall ensure transparency and public
3 participation during the preparation and discussion of the Medium-Term
4 Expenditure Framework, Annual Budget and the Appropriation Bill.

Publication of
audited accounts

5 46.-(1) The federal Government shall publish its audited accounts not
6 later than six months following the end of the preceding financial year.

7 (2) Federal Government shall, not later than two years following the
8 commencement of this Act and thereafter, not later than 7 months following the
9 end of each financial year, consolidate and publish in the mass media and the
10 Ministry of Finance website, its audited accounts for the previous year.

11 (3) The publication of general standards for the consolidation of
12 public accounts shall be the responsibility of the office of the Accountant-
13 General of the Federation.

Publication of
a summarized
report on budget
execution

14 47. The Federal Government through its Budget Office within 30
15 days after the end of each quarter, publish a summarised report on budget
16 execution in such form as may be prescribed by the Fiscal Responsibility
17 Commission and not later than 6 months after the end of the financial year, a
18 consolidated budget execution report showing implementation against
19 physical and financial performance targets shall be published by the Minister
20 of Finance for submission to the National Assembly and disseminate to the
21 public.

22 PART XII - ENFORCEMENT

Offences and
Penalties

23 48.-(1) Any person who wilfully, whether directly or indirectly,
24 hinders or obstructs the Commission or its agent from performing the functions
25 or duties imposed by this Act commits an offence and shall upon conviction be
26 liable to a term of imprisonment of not less than three (3) months or a fine not
27 less than N500,000.00 (Five Hundred Thousand Naira) or to both fine and
28 imprisonment.

29 (2) Any person who gives false information to another person,
30 authority or the Commission, in response to a request or in the performance of a

1 function imposed by this Act or falsifies any document commits an offence
2 and shall upon conviction be liable to a term of imprisonment of not less than
3 Six (6) months or fine not less than N1,000,000.00 (One Million Naira) or to
4 both fine and imprisonment.

5 (3) Any person who, with intent to deceive or mislead, makes a
6 partial (instead of full) disclosure of information to the Commission or its
7 agent, Federal Ministry of Finance or Debt Management Office in response
8 to a request made in the performance of a function imposed by this Act
9 commits an offence and shall upon conviction be liable to a term of
10 imprisonment of not less than three (3) months or fine not less than
11 N500,000.00 (Five Hundred Thousand Naira) or to both fine and
12 imprisonment.

13 (4) Any person who refuses or fails, without lawful excuse, to give
14 information to the Commission or Federal Ministry of Finance or the Debt
15 Management Office of the Federation upon a request made in the
16 performance of a function imposed by this Act commits an offence and shall
17 upon conviction be liable to a term of imprisonment of not less than One
18 year or a fine of not less than N1,000,000.00 (One Million Naira) or both
19 fine and imprisonment.

20 (5) Any person who, without lawful excuse, fails to perform a duty
21 imposed upon or assigned to him or the office which he occupies by this Act
22 commits an offence and shall upon conviction be liable to a term of
23 imprisonment not less than three (3) months or fine not less than
24 N500,000.00 (Five Hundred Thousand Naira) or both fine and
25 imprisonment.

26 (6) Any person(s) who borrows or lends or is responsible for
27 borrowing or lending in contravention of the provisions of Part (X) of this
28 Act commits an offence and shall upon conviction be liable to imprisonment
29 for a term not less than six (6) months or with a fine not less than
30 N1,000,000.00 (One Million Naira) or with both fine and imprisonment.

1 (7) Any person who under-declares public revenue generated or
2 collected by any government institution, corporation, agency, or government
3 owned company commits an offence and shall upon conviction be liable to
4 refund the total amount under-declared, imprisonment for a term not less than
5 three years or with a fine not less than 10% of the total amount under- declared,
6 or with both fine and imprisonment.

7 (8) Any person who duplicates a project or item in the' budget, or
8 accepts and expends a grant regarding an item for which monies are
9 appropriated, released and spent from the budget, commits an offence and
10 shall upon conviction be liable to imprisonment for a term not less than one
11 year or with a fine not less than N1,000, 000.00 (One Million Naira) or with
12 both fine and imprisonment.

13 (9) Subject, only, to the provisions of the Constitution, any person
14 who spends or authorises the spending of any money collected or generated
15 without appropriation by the National Assembly, commits an offence and shall
16 upon conviction be liable to imprisonment for a term not less than three years or
17 with a fine not less than 10% of the total amount spent or with both fine and
18 imprisonment.

19 (10) Any person who transfers or spends any sum allocated for a
20 particular project, or service in an Appropriation Act, on another project or
21 service without approval of the National Assembly, commits an offence and
22 shall upon conviction be liable to imprisonment for a term not less than three
23 (3) months or a fine not less than N500,000.00 or to both imprisonment and
24 fine.

25 (11) Any person who assaults an officer, staff or agent of the
26 Commission while performing a function under this Act commits an offence
27 and shall upon conviction be liable to imprisonment for a term of two years
28 without an option of fine:

29 Provided that, in addition to the punishment provided herein, the
30 court shall have the power to award appropriate compensation to the staff or

1 officer so assaulted.

2 (12) Any person who aids or abates the commission of an offence
3 under this Act commits an offence and shall upon conviction be liable to the
4 same sanction as the principal offender.

5 (13) Any person who fails to remit funds pursuant to section 23 of
6 this Act commits an offence and shall upon conviction be liable to
7 imprisonment for a term not less than one (1) year or a fine not less than
8 N2,000,000.00 (Two Million Naira) or to both imprisonment and fine, and
9 shall in addition, remit the full amount so outstanding.

10 (14) Any person who partially remits funds pursuant to section 23
11 of this Act commits an offence and shall upon conviction be liable to
12 imprisonment for a term not less than six (6) months or a fine not less than
13 N1,000,000.00 (One Million Naira) or to both imprisonment and fine, and
14 shall in addition, remit the full amount so outstanding.

15 (15) Any person who contravenes any provision of this Act
16 commits an offence and shall where no other punishment has been provided
17 be liable to imprisonment for a term not less than three (3) months or a fine
18 not less than N500,000.00 (Five Hundred Thousand Naira).

19 49.-(1) Any person shall have legal capacity to enforce the Enforcement
20 provision of this Act by obtaining prerogative orders or other remedies at the
21 Federal High Court, without having to prove any injury (personal or
22 otherwise) or to show any special or particular interest in the cause of action.

23 (2) The court shall have the power to, whether under a criminal or
24 civil action brought pursuant to the provisions of this Act, order the recovery
25 of every proceed of corrupt enrichment or wrongful benefit obtained by or
26 conferred on any person from any public revenue, fund or other opportunity
27 that belongs to government.

28 (3) Every public fund recovered under this Act shall be paid into
29 the Consolidated Revenue Fund of the Federation.

1 50. The Federal High Court shall have exclusive jurisdiction to
2 entertain and determine action relating to matters covered by this Act.

3 PART XIII - MISCELLANEOUS PROVISIONS

4 51. Government securities, provided that they are duly listed on the
5 Stock Exchange, may be offered as collateral to guarantee loans or other
6 financial transactions under this Act for their economic values as defined by the
7 Ministry.

8 52. The proceeds derived from the sale or transfer of public properties
9 and rights over public assets shall not be used to finance recurrent or debt
10 expenditure, provided that, such proceeds may be used to liquidate existing
11 liabilities directly charged against such properties or assets.

12 53. The Federal Government may provide technical and financial
13 assistance to States and Local Governments that adopt similar fiscal
14 responsibility legislation along the same line in this Act for the modernization
15 of their respective tax, financial and asset administration.

Repeal and
Savings

16 54.-(1) The Fiscal Responsibility Act, 2007 is repealed.

17 (2) The repealed of the enactment is subsection (1) of this section shall
18 not affect anything done or purported to have been done under the repealed
19 enactment.

Interpretation

20 55. In this Bill:

21 "Appropriation Act" means an Act or law passed by the National or State
22 Assembly or Local Government authorizing spending from the Consolidate
23 Revenue Fund and includes a Supplementary Appropriation Act or Law;

24 "Appropriation Bill" means the Bill referred to in sections 59 of the
25 Constitution of the Federal Republic of Nigeria, 1999;

26 "Arms of Government" means the Executive, Legislature and Judiciary;

27 "Borrowing" means any financial obligation arising from:

28 (a) any loan including principal, interest, fees of such loans;

29 (b) the deferred payment for property, goods or services;

30 (c) bonds, debentures, notes or similar instruments;

1 (d) letters of credit and reimbursement obligations with respect
2 thereto;

3 (e) trade or bankers' acceptance;

4 (f) capitalised amount of obligations under leases entered into
5 primarily as a method of raising financing or of financing the acquisition of
6 the asset leased;

7 (g) agreements providing for swaps, selling rates, ceiling and floor
8 rates, contingent participation or other hedging mechanisms with respect to
9 the payment of interest or the convertibility of currency; and

10 (h) a conditional sale agreement, capital lease or other title
11 retention agreement.

12 "Budget Call Circular" means a circular:

13 (i) requesting the submissions in a prescribed form, of the revenue
14 and expenditure estimates of ministries, extra-ministerial departments, and
15 other executing agencies of Government for the next financial year; and

16 (ii) giving details, guidelines and instructions on the preparation of
17 the estimates and expenditure in a manner consistent with the medium term
18 developmental priorities set out in the Medium-Term Expenditure
19 Framework;

20 "Capital Expenditure" means spending on an asset that last for more than
21 one financial year and expenses associated with the acquisition of such
22 assets;

23 "Concessional terms" means the terms of the loan must be at an interest rate
24 not exceeding 3 percent;

25 "Consolidated debt" means the aggregate of the outstanding financial
26 obligations of Government including those of its Parastatals and agencies
27 at any point in time arising from:

28 (i) borrowing money including principal, interest, fees of such
29 borrowed money,

30 (ii) the deferred payment for property, goods or services,

- 1 (iii) bonds, debentures, note or similar instruments,
2 (iv) letters of credit and reimbursement obligations with respect
3 thereto,
4 (v) Guarantees,
5 (vi) Trade or bankers' acceptances,
6 (vii) Capitalised amounts of obligations under leases entered into
7 primarily as a method of raising financing or of financing the acquisition of the
8 asset leased'
9 (viii) Agreements providing for swaps, ceiling rates, ceiling and floor
10 rates, contingent participation or other hedging mechanisms with respect to the
11 payment of interest or the convertibility of currency and
12 (ix) A conditional sale agreement, capital lease or other title retention
13 agreement "Corporation" includes a government agency and a government
14 owned company.
15 "Cost-benefit-analysis" means an analysis that compares the cost undertaking
16 a service, project or programme with the benefits that citizens are likely to
17 derive from it;
18 "Financial Institution" means banks and every institution or organization that
19 lends money, gives credit facility or guarantees the repayment of loans or credit
20 facilities on a commercial basis;
21 "Fiscal Risk Appendix" An explanatory attachment that provides a set of
22 indicator that can be used to measure local fiscal risk;
23 "Fiscal Risk Target" provides numerical target for each risk indicator with
24 which a fiscal entity will be considered fiscally healthy;
25 "Fiscal year" has the meaning ascribed by the constitution;
26 "Fiscal Policy Objectives" means the goals set by Government for attainment
27 of set targets for a given period;
28 "Government or any reference to a Government" shall, where appropriate,
29 include the executive, legislature and judiciary.
30 "Government Owned Company" means a statutory corporation, Government

- 1 agency and a company in which Government has controlling interest;
- 2 "Gross Revenue" under Part IV of this Act, means all revenue earned by or
- 3 accruing to a corporation from all sources less subventions from
- 4 government and grants from donors;
- 5 "Lending Institution" means a bank or financial institution "Medium- Term
- 6 Expenditure Framework" means the document referred to and the content of
- 7 which is prescribed in section 10 of this Act;
- 8 "Minister" means the Minister charged with the responsibility for finance;
- 9 "Net Debt" means the Consolidate Debt less what is owed to Government,
- 10 its Parastatals and agencies at any point in time;
- 11 "President" means the President of the Federal Republic of Nigeria;
- 12 "Public Debt Securities" means public debt represented by securities issued
- 13 by the Federal Government (including those of the Central Bank of Nigeria),
- 14 the State and
- 15 Local Governments;
- 16 "Public Expenditure" means outlays other than those resulting into debt
- 17 reduction;
- 18 "Public revenue" all moneys received by a Government in the Federation:
- 19 "Quarter" means one quarter of a financial year and quarterly shall be
- 20 construed accordingly;
- 21 "Recurrent Expenditure" means normal overhead and administrative
- 22 expenses and personnel cost including salaries, emoluments and other
- 23 benefits of employees;
- 24 "Reference Commodity Price" means such price as may be determined by
- 25 the President subject to the approval of the National Assembly;
- 26 "Refinancing of debt securities" means issuance of securities to repay the
- 27 existing debt;
- 28 "State financial institution" means any financial institution in which one or
- 29 more state governments have controlling interests;
- 30 "State" shall be construed to include the Federal Capital Territory;

- 1 "Tax expenditure projections" means the projected amount expected to be
2 utilized in the granting of tax relief or tax holiday;
3 "Tax revenue projections" means the projected collectible tax or revenue
4 within a particular planning period; and
5 "Tiers of Government" means the Federal, State and Local Governments;
6

Citation

56. This Bill may be cited as the Fiscal Responsibility Bill, 2017.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Fiscal Responsibility Act, 2007 and re-enact the Fiscal Responsibility Bill, to provide for prudent management of the nation's resources, ensure long term macro-economic stability of the National economy, secure greater accountability and transparency in fiscal operations within the medium term fiscal policy framework and the establishment of the Fiscal Responsibility Commission to ensure the promotion and enforcement of the nation's economic objectives.