

COMMODITIES EXCHANGE BILL, 2011

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SCHEDULE

A BILL

FOR

AN ACT TO REGULATE COMMODITIES FUTURE TRADING IN NIGERIA;
PROVIDE FOR THE ESTABLISHMENT OF THE COMMODITIES FUTURE
TRADING COMMISSION AND FOR OTHER MATTERS

Sponsored by Hon. Uzoma Nkem-Abonta

[] Commencement

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

1 PART I - ESTABLISHMENT OF THE COMMODITIES FUTURE

2 TRADING COMMISSION

3 1.-(1) There is hereby established a body to be known as the
4 Commodities Future Trading Commission (in this Act referred to as “the
5 Commission”).

Establishment of
the Commodities
Futures Trading
Commission

6 (2) The Commission –

7 (a) shall be a body corporate with perpetual succession and a
8 common seal;

9 (b) may sue and be sued in its corporate name; and

10 (c) may acquire, hold or dispose of any property, moveable or
11 immovable, for the purpose of carrying out any of its functions under this
12 Act.

13 2.-(1) The Commission shall consist of –

Composition of
the Commission

14 (a) a Chairman;

15 (b) one person not below the rank of Director to represent the –

16 (i) Federal Ministry of Commerce,

17 (ii) Federal Ministry of Agriculture,

18 (iii) Federal Ministry of Solid Minerals Development,

19 (iv) Federal Ministry of Energy,

20 (v) Federal Ministry of Finance;

	1	(c) two full-time Commissioners who shall be persons with ability,
	2	experience and specialized knowledge in commodities future trading; and
	3	(d) the Director-General.
	4	(2) The Chairman and the Commissioners referred to in paragraphs
	5	(a) and (c) of this subsection (1) shall be appointed by the President upon the
	6	confirmation of the Senate.
	7	(3) The members of the Commission, other than the Director-General
	8	and the two full time Commissioners, shall be part-time members of the
	9	Commission.
Schedule	10	(4) The supplementary provisions set out in the Schedule to this Act
	11	shall have effect with respect to the proceedings of the Commission and the
	12	other matters contained therein.
Tenure of office of Commissioners	13	3. The Commissioners, other than the ex-officio Commissioners,
	14	shall each hold office in the first instance for a term of four years and may be re-
	15	appointed for a further term of four years and no more.
Cessation of membership	16	4. A Commissioner shall cease to hold office if—
	17	(a) he becomes of unsound mind;
	18	(b) he becomes bankrupt;
	19	(c) he is convicted of a felony or any offence involving dishonesty;
	20	(d) he is guilty of serious misconduct in relation to his duties; or
	21	(e) in the case of a person who has a professional qualification, he is
	22	disqualified or suspended from practicing his profession in any part of Nigeria
	23	by the order of any competent authority made in respect of him personally.
Remuneration and allowance	24	5. Member of the Commission appointed under subsection (1) (a) and
	25	(c) of section 2 of this Act shall be paid such remuneration and allowances as
	26	the President may, after consultation with the Minister, from time to time,
	27	direct.
Disclosure of interest	28	6.-(1) A member of the Commission who is directly or indirectly
	29	interested in—
	30	(a) the affairs of any company or enterprise, being deliberated upon

1 by the Commission, or

2 (b) any contract made or proposed to be made by the Commission,
3 shall, as soon as possible after the relevant facts have come to his
4 knowledge, disclose the nature of his interest to the Commission at a
5 meeting of the Commission.

6 (2) A disclosure made under subsection (1) of this section shall be
7 recorded in the minutes of the Commission and the member shall –

8 (a) not, after the disclosure, take part in any deliberation or decision
9 of the Commission with regard to the subject matter in respect of which his
10 interest is so disclosed;

11 (b) be excluded for the purpose of constituting a quorum of the
12 Commission for any deliberation or decision on the subject matter.

13 7. The members of the Commission shall subscribe to and be Code of ethics
14 bound by a code of ethics to be approved by the Minister for the
15 Commission.

16 PART II - FUNCTIONS AND POWERS OF THE COMMISSION

17 8. The Commission shall –

18 (a) regulate commodities future trading in Nigeria as defined in
19 this Act;

20 (b) register and regulate Commodities Exchanges, Trading
21 Facilities and Derivatives Exchanges;

22 (c) render assistance in all aspects including funding as may be
23 deemed necessary to promoters and investors wishing to establish
24 Commodities Exchanges and Trading Facilities;

25 (d) prepare adequate guidelines and organize training programmes
26 and disseminate information necessary for the establishment of
27 Commodities Exchanges and Trading Facilities;

28 (e) register and regulate corporate and individual commodity
29 future market operators as defined in section 29 of this Act;

30 (f) facilitate the establishment of a nation-wide system for

Functions and
powers of the
Commission

- 1 commodities futures trading in Nigeria in order to protect investors and
2 maintain fair and orderly markets;
- 3 (g) facilitate the linking of all markets in commodities through
4 modern communication and data processing facilities in order to foster
5 efficiency, enhance competition, and increase the information available to
6 brokers, dealers and investors;
- 7 (h) register and regulate central depository companies as well as
8 clearing and settlement companies;
- 9 (i) protect the integrity of the commodities market against abuses
10 arising from the practice of insider trading;
- 11 (j) act as a regulatory apex organization for the Nigerian commodity
12 futures market including the promotion and registration of self-regulatory
13 organizations and commodities future market trade associations to which it
14 may delegate its powers;
- 15 (k) call for information from and undertake, inspect, conduct
16 inquiries and audits of the Commodity Exchanges and Derivative Trading
17 Facilities as well as other intermediaries and self regulatory organizations;
- 18 (l) call for or furnish to any agency such information as may be
19 considered necessary by it for the efficient discharge of its functions;
- 20 (m) levy fees or other charges on any person for carrying out
21 commodities futures and derivatives business in Nigeria;
- 22 (n) conduct research into all or any aspect of the commodities futures
23 and derivatives industry;
- 24 (o) prevent fraudulent and unfair trade practices relating to the
25 commodities futures and derivatives industry;
- 26 (p) advise the Minister on all matters relating to the commodities
27 futures and derivatives industry;
- 28 (q) disqualify unfit individuals from being employed anywhere in the
29 commodities futures and derivatives industry;
- 30 (r) liaise effectively with the regulators and supervisors of other

1 commodities futures trading institutions locally and overseas; and
2 (s) perform such other functions and exercise such other powers
3 not inconsistent with this Act as are necessary or expedient for given full
4 effect to the provisions of this Act.

5 9. The Commission shall establish specialized departments for the
6 purpose of regulating –

Powers to
establish
department

7 (a) Commodity Exchanges, including Derivatives Trading
8 Facility;

9 (b) commodities futures market operators including corporate
10 members, commodity futures exchanges and individuals, professional
11 firms, that is, accountants, solicitors, engineers and other professionals who
12 undertake commodities business either as advisers and consultants and
13 other forms of business combinations under this Act.

14 PART III - STAFF

15 10. (1) There shall be, for the Commission, a Director-General
16 who shall –

Director-General
of the
Commission

17 (a) be appointed by the President;

18 (b) hold office for a period of five years in the first instance and
19 may be re-appointed for a further period of five years and no more, on such
20 terms and conditions as are contained in his letter of appointment;

21 (c) be the chief executive of the Commission.

22 (2) The Director-General shall, subject to the general control of the
23 Commission, be –

24 (a) responsible for keeping proper records of the proceedings of the
25 Commission; and

26 (b) the head of the secretariat and be responsible for –

27 (i) the day-to-day administration, and

28 (ii) direction and control of all other employees,

29 of the Commission.

1 attached by the person or organization making the gift are inconsistent with
2 the functions of the Commission.

3 15. The Commission shall be entitled to charge, retain and utilize Fees
4 for its purposes, fees collected for the services rendered by the Commission
5 under this Act.

6 16.-(1) The Commission may, with the consent or in accordance Borrowing, etc.
7 with any specific authority given by the Minister, borrow by way of loan or by the
8 overdraft such specified amount of money as may be required by the Commission
9 Commission for meeting its obligations and discharging its functions under
10 this Act.

11 (2) The Commission may, subject to the provisions of this Act and
12 the conditions of any trust created in respect of any property, invest all or any
13 of its funds.

14 (3) The Commission may invest any of its funds in securities
15 prescribed by the Trustees Investment Act or in such other securities as may,
16 from time to time, be approved by the Minister.

17 (4) Subject to the provisions of the Land Use Act, and any special
18 or general direction, which the Minister may give in that behalf, the
19 Commission may acquire any land required for its purpose under this Act.

20 17. The Commission may, from time to time, apply the proceed of Application of
21 the Fund established in pursuance of section 13 of this Act to – the Funds of the
Commission

22 (a) meet the cost of administration of the Commission;

23 (b) reimburse members of the Commission or any committee set
24 up by the Commission for expenses authorized or approved by the
25 Commission in accordance with such rates as may be approved in that behalf
26 by the Minister;

27 (c) the payment of salaries, fees or other remuneration or
28 allowances, pensions and gratuities payable to the employees of the
29 Commission;

30 (d) the maintenance of any property acquired by or vested in the

1 Commission; and

2 (e) all or any of the functions of the Commission under this Act or any
3 matter connected with those functions.

Annual estimates,
accounts and
audit

4 **18.** (1) The Commission shall cause to be prepared not later than 30th
5 September in each year an estimate of the expenditure and income of the
6 Commission during the next succeeding year and when prepared, they shall be
7 submitted through the Minister to the President for approval.

8 (2) The Commission shall cause to be kept, proper accounts of the
9 Commission and proper records in relation thereto and when certified by the
10 Commission, the accounts shall be audited by auditors appointed by the
11 Commission from the list and in accordance with the guidelines supplied by the
12 Auditor-General for the Federation.

Annual report
to be submitted
to the National
Assembly

13 **19.** The Commission shall not later than three months before the end
14 of each year, submit to the relevant committees of both chambers of the
15 National Assembly a report on the activities and the administration of the
16 Commission during the immediate preceding year and shall include such
17 reports, audited accounts of the Commission and the auditor's report on those
18 accounts.

19 **PART V - REGISTRATION OF COMMODITY EXCHANGES AND DERIVATIVES**

20 **TRADING FACILITIES**

Registration of
Commodity
Exchanges and
Derivatives
Trading Facilities

21 **20.**-(1) No Commodity Exchange or Derivatives Trading Facility as
22 defined in section 72 of this Act shall commence operation unless it is
23 registered with the Commission in accordance with the provisions of this Act
24 and the rules and regulations made thereunder.

25 (2) An application for registration as a Commodity Exchange or
26 Derivatives Trading Facility shall be made to the Commission in the prescribed
27 form and in such a manner as may be specified by the Commission, from time
28 to time.

Conditions of
registration

29 **21.**-(1) The Commission may register a body corporate as a
30 Commodity Exchange or Derivatives Trading Facility if it is satisfied that the

1 rules of that body corporate make satisfactory provisions –

2 (a) for the exclusion from its membership of persons who are not of
3 good character and who do not possess a high degree of business integrity;

4 (b) for the expulsion, suspension or discipline of members of
5 conduct inconsistent with just and equitable principles in the transaction of
6 commodities business or for a contravention of or failure to comply with the
7 rules of the Commodity Exchange or Derivatives Trading Facility or the
8 provisions of this Act;

9 (c) with respect to the conditions governing dealings in
10 commodities by members;

11 (d) with respect to the class or classes of commodities which may
12 be dealt in by members;

13 (e) with respect to a fair representation of persons in the selection
14 of members of the Board of the Commodity Exchange or Derivatives
15 Trading Facility and the administration of its affairs and provide that one or
16 more members of the Board shall be representatives of listed companies and
17 investors; and

18 (f) generally, for carrying on of the business of the Commodity
19 Exchange or Derivatives Trading Facility in the public interest.

20 (2) The Commission in granting its approval under this section
21 shall ensure that interest of the public will be served by the granting of its
22 approval.

23 (3) The Commission may, with the approval of the Minister, revoke
24 the certificate of registration to a body corporate registered by it under this
25 section.

26 **22.** The Commission may with the approval of the Minister, revoke
27 the certificate of registration granted under section 21 of this Act if the body
28 corporate –

29 (a) ceases to operate as a Commodities Exchange or Derivatives
30 Trading Facility within the meaning of this Act;

Revocation of
certificate of a
Commodity
Exchange and
Derivatives
Trading Facility

1 (b) is undergoing a process of being wound up; or

2 (c) is operating in a manner detrimental to the public interest.

Approval of
amendments to
rules

3 **23.**-(1) Where an amendment is made, whether by way of rescission,
4 amendment, alteration or addition to the rules of a Commodity Exchange or
5 Derivative Trading Facility, the Board of the Commodity Exchange or
6 Derivatives Trading Facility shall forward a written notice of the amendment to
7 the Commission for approval.

8 (2) The Commission shall give notice in writing to the Commodity
9 Exchange or Derivatives Trading Facilities concerned as to whether or not the
10 Commission approves the whole or any specified part of the amendment in
11 question, and until such notice is given, the amendment shall be of no effect.

12 (3) Nothing in this section shall preclude the Commission, after
13 consultation with the Board of a Commodity Exchange or Derivatives Trading
14 Facility, from amending the rules of the Commodity Exchange or Derivatives
15 Trading Facility by a notice in writing specifying the amendments and the dates
16 those amendments shall come into force and have effect, but the Commission
17 may dispense with such consultation if it considers it necessary to do so for the
18 protection of investors.

19 (4) Any notice under this section may be served personally or by
20 registered post.

Commodity
Exchange or
Derivatives
Trading Facility
to give notice
of disciplinary
actions, etc.

21 **24.** Where a Commodity Exchange or Derivative Trading Facility
22 reprimands, fines, suspends, expels or otherwise takes disciplinary action
23 against a member of the Commodity Exchange or Derivative Trading
24 Facilities, the Commodity Exchange or Derivative Trading Facility shall,
25 within seven days give to the Commission, in writing, the particulars and name
26 of the member, the nature of and reason for the action taken, the amount of the
27 fine, if any, and the period of the suspension, if any.

Disciplinary
actions by a
Commodity
Exchange, etc.

28 **25.**-(1) The Commission may review any disciplinary action taken by
29 a Commodity Exchange or Derivatives Trading Facility under subsection (1)
30 of this section and may affirm or set aside a decision of Commodity Exchange

1 or Derivatives Trading Facility after giving the member and the Commodity
2 Exchange or Derivatives Trading Facility an opportunity of being heard.

3 (2) Nothing in this section shall preclude the Commission in any
4 case where a Commodity Exchange or Derivatives Trading Facility fails to
5 act against a member, from suspending, expelling or otherwise causing
6 disciplinary action to be taken against a member of the Commodity
7 Exchange or Derivatives Trading Facility provided that the Commission
8 shall give the member and the Commodity Exchange or the Derivatives
9 Trading Facility an opportunity of being heard.

10 (3) Any person who is aggrieved by the decision of a Commodity
11 Exchange or Derivatives Trading Facility or the Commission under this
12 section may, with one month after he is notified of the decision, appeal to the
13 Investment and Securities Tribunal.

14 **26.-(1)** The Commission may, where it is in the public interest,
15 issue directives to a Commodity Exchange or Derivatives Trading Facility
16 with respect to—

Powers to issue
directives to
Commodity
Exchange or
Derivatives
Trading Facility

17 (a) trading on or through the facilities of that Commodity
18 Exchange or Derivatives Trading Facility pertaining to any commodity
19 being traded on that Commodity Exchange or Derivative Trading Facility;

20 (b) the manner in which a Commodity Exchange or Derivatives
21 Trading Facility carries on its business including the manner of reporting
22 off-market purchases; or

23 (c) any other matter which the Commission considers necessary
24 for the effective administration of this Act,
25 and the Commodity Exchange or Derivatives Trading Facility shall comply
26 with the directives.

27 (2) A Commodity Exchange or Derivatives Trading Point which,
28 without reasonable excuse, fails to comply with a directive given under
29 subsection (1) of this section commits an offence and is liable on conviction
30 to a fine of not less than N100,000 and further fine of N5,000 for every day

1 during which the non-compliance continues.

2 (3) A Commodity Exchange or Derivative Trading Facility which
3 feels aggrieved by any directive of the Commission issued under subsection (1)
4 of this section may appeal to the Investment and Securities Tribunal within
5 thirty days of the date of the Commission's directive.

6 (4) Where the Commission is satisfied that an executive officer of a
7 Commodity Exchange or Derivatives Trading Facility has –

8 (a) willfully contravened, or

9 (b) without reasonable justification or excuse, failed to enforce
10 compliance by a member of the Commodities Exchange or Derivatives
11 Trading Facility with the provisions of this Act or any regulations made
12 thereunder or the rules of the Commodity Exchange or Derivatives Trading
13 Facility,

14 the Commission may remove that executive officer.

15 (5) The Commission may, in the public interest or for the protection of
16 investors, and after giving the executive officer an opportunity of being heard,
17 direct the Commodities Exchange or Derivatives Trading Facility in writing to
18 remove the executive officer, and where the Commodity Exchange or
19 Derivatives Trading Facility fails to comply with the direction of the
20 Commission under subsection (4) of this section, the Commission may remove
21 the executive officer from office.

Power of
Commission to
prohibit trading
in certain
commodities

22 27.-(1) Where the Commission thinks it is necessary for the
23 protection of persons buying or selling particular commodities of or made
24 available by a body corporate on a Commodity Exchange or Derivatives
25 Trading Facility it shall in particular in the public interest prohibit trading in
26 those commodities and give notice in writing to the Commodity Exchange or
27 Derivatives Trading Facility.

28 (2) If, after receiving the notice given under subsection (1) of this
29 section, the Commodity Exchange or Derivatives Trading Facility fails to take
30 action to prevent trading in the Commodities to which the notice relates and the

1 Commission still thinks it is necessary to prohibit trading in those
2 commodities the Commission may, by notice in writing to the Commodity
3 Exchange or Derivatives Trading Facility, prohibit trading in those
4 commodities during such period, not exceeding fourteen days, as may be
5 specified in the notice.

6 (3) Where the Commission gives notice to a Commodity Exchange
7 or Derivatives Trading Facility under subsection (2) of this section it shall –

8 (a) at the same time, send a copy of the notice to the body corporate
9 together with a statement setting out the reasons for giving the notice; and

10 (b) as soon as practicable not later than thirty days after giving the
11 notice, submit to the Minister a written report setting out the reasons for the
12 notice and shall send a copy of the report to the Commodities Exchange or
13 Derivatives Trading Facility, as the case may be.

14 (4) A body corporate affected by a notice given to a Commodity
15 Exchange or Derivatives Trading Facility under subsection (2) of this
16 section may request the Commission in writing to refer the matter to the
17 Investment and Securities Tribunal.

18 (5) The Commission shall, on receiving a request under subsection
19 (4) of this section, forthwith refer the matter to the Investment and Securities
20 Tribunal, which may vary or confirm the prohibition imposed by the
21 Commission.

22 (6) A Commodity Exchange or Derivatives Trading Facility which
23 permits trading in commodities in contravention of a notice under
24 subsection (2) of this section commits an offence and is liable on conviction
25 to a fine of N50,000 and to a further fine of N5,000 for every day during
26 which the contravention continues.

27 **28. In this part of this Act –**

28 “Commodity Exchange” includes a Commodity Exchange or an approved
29 commodities organization such as an over the counter market, metal
30 exchange, petroleum exchange, options, futures and derivatives exchanges

Interpretation
under this part

1 and such other forms of commodities organizations within the meaning of this
2 Act;
3 “trading in commodities” means trading in commodities on the floor of a
4 Commodity Exchange or Derivatives Trading Facility.

5 PART VI - REGISTRATION OF COMMODITY MARKET OPERATOR

Registration of
commodity
market operators

6 29.-(1) Subject to the provision of subsection (2) of this section, no
7 floor dealer, floor broker, sub-broker, transfer agent, futures commission
8 merchant, commodity pool operator, commodity trading adviser and such
9 other intermediaries associated with the commodities industry shall buy, sell or
10 deal in commodities except under and in accordance with the conditions of a
11 certificate of registration obtained from the Commission in accordance with
12 the regulations made under this Act.

13 (2) A market operator who, immediately before the commencement
14 of this Act, is associated with the commodities industry for which no
15 registration certificate was necessary prior to this Act, may continue to operate
16 as such for a maximum period of three months from the commencement of this
17 Act or if he has applied for registration under this Act, he shall continue to
18 operate within that period till the disposal of the application and thereafter in
19 accordance with the regulations made for registration under this Act.

20 (3) No depository, custodian of commodities, foreign institution
21 investor, or any other intermediary associated with the commodities market
22 shall buy, sell or engage in any commodities transaction except under and in
23 accordance with the conditions of a certificate of registration obtained from the
24 Commission upon compliance with the regulations made under this Act.

25 (4) An application for registration under this part of this Act shall be in
26 such manner and upon payment of such fees as may be prescribed by the
27 Commission from time to time.

28 (5) The Commission may, by order, suspend or cancel a certificate of
29 registration in such manner as may be prescribed but no order under this
30 subsection shall be made unless the person concerned has been given a

1 reasonable opportunity of being heard.

2 **30.** In this Part of this Act—

Interpretation
under this part

3 “commodity market operator” includes a floor dealer, floor broker, transfer
4 agent, futures commission merchant, commodity pool operator, commodity
5 trading adviser and such other commodity market intermediaries as may be
6 licenced by the Commission in accordance with the regulations made under
7 this Act.

8 **PART VII - CONDUCT OF COMMODITIES BUSINESS**

9 **31.** A floor dealer shall, in respect of a transaction of purchase of
10 commodities, forthwith give a contract note, in accordance with the
11 provisions of this section where the transaction –

Issue of
contract notes

12 (a) took place in the ordinary course of business at a Commodity
13 Exchange or Derivatives Trading Facility and the floor dealer entered into
14 the transaction otherwise than as principal to the person for whom the floor
15 dealer entered into the transaction;

16 (b) did not take place in the ordinary course of business at a
17 Commodity Exchange or Derivatives Trading Facility and the floor dealer
18 entered into the transaction otherwise than as principal to the person for
19 whom the floor dealer entered into the transaction and the person with whom
20 the floor dealer entered into the transaction;

21 (c) did not take place in the ordinary course of business at a
22 Commodity Exchange or Derivatives Trading Facility and the floor dealer
23 entered into the transaction as principal to the person with whom the floor
24 dealer entered into the transaction.

25 **32.** A contract note given by a floor dealer under section 31 of this
26 Act shall include –

Contents of
contract note

27 (a) the name or style under which the floor dealer carries on his
28 business as a floor dealer and the address of the principal place at which he
29 so carries on business;

30 (b) where the floor dealer is dealing as principal with a person who

1 *is not the holder of a floor dealer's licence, a statement that he is so acting;*

2 (c) the name and address of the person to whom the floor dealer gives
3 the contract note;

4 (d) the day on which the transaction took place and, if the transaction
5 did not take place in the ordinary course of business at a Commodities
6 Exchange or Derivative Trading Facility, a statement to that effect;

7 (e) the number, amount and description of the commodities which are
8 the subject of the contract;

9 (f) the price per unit of the commodity;

10 (g) the amount of the consideration;

11 (h) the rate and amount of commission (if any) charged;

12 (i) the amount of all stamp duties or other duties and taxes payable in
13 connection with the contract; and

14 (j) if an amount is to be added to or deducted from the settlement
15 amount in respect of the right to a benefit purchased or sold together with the
16 commodities, the first mentioned amount and the nature of the benefit.

17 (2) A commodity dealer shall not include in a contract note given
18 under subsection (1) of this section as the name of the person with or for whom
19 he has entered into the transaction, a name which he knows, or should
20 reasonably be expected to know, is not the name by which that person is
21 ordinarily known.

22 (3) A reference in this section to a commodity dealer dealing or
23 entering into a transaction as principal includes a reference to a person –

24 (a) dealing or entering into a transaction on behalf of a person
25 associated with him;

26 (b) dealing in commodities on behalf of a body corporate in which he
27 has a controlling interest; or

28 (c) where he carries on business as a commodity dealer on behalf of a
29 body corporate in which his interest and the interest of his directors together
30 constitute a controlling interest.

1 (4) For the purpose of this section –

2 (a) a commodity dealer who is a member of a Commodity
3 Exchange or Derivatives Trading Facility shall not be taken to have entered
4 into a transaction as principal by reason only that the transaction was entered
5 into with another dealer who is a member of a Commodities Exchange or
6 Derivatives Trading Facility; and

7 (b) a transaction takes place in the ordinary course of business at a
8 Commodity Exchange or Derivatives Trading Facility in the prescribed
9 circumstances or is a transaction that is a prescribes transaction for the
10 purposes of this section.

11 (5) Notwithstanding the provisions of subsection (3) of this
12 section, a person is not associated with another person for the purposes of
13 this section by reason only that he is a director of a body corporate of which
14 the other person is also a director whether or not the body corporate carries
15 on a business of dealing in commodities.

16 33.-(1) Where a person who is a floor dealer, commodity trading
17 adviser, floor dealer's representative or commodity trading adviser's
18 representative, sends circulars or similar written communications with
19 respect to commodities or a class of commodities, he shall cause to be
20 included in each circular or other communication, in type not less than that
21 used in the remainder of the circular or other communication, a concise
22 statement of the nature of any interest in, or any interest in the acquisition or
23 disposal of those commodities or commodities included in that class which
24 he or a person associated with him has as the date on which the first
25 mentioned person last sends the circular or other communication.

Certain persons
to disclose certain
interests in
commodities

26 (2) For the purposes of subsection (1) of this section –

27 (a) the interest of a person in the disposal of commodities includes
28 any financial benefit or advantage which will, or is likely to, accrue directly
29 or indirectly to the person on or arising out of the disposal of the
30 commodities; and

1 (b) without limiting the generality of paragraph (a) of this subsection,
2 a person who has entered into an underwriting agreement in respect of
3 commodities shall be deemed to have an interest in the acquisition or disposal
4 of those commodities.

5 (3) Where a person –

6 (a) has subscribed for or purchased commodities for the purpose of
7 offering all or any of them to the public for purchase, and

8 (b) offers any of those commodities for purchase,

9 he shall not make a recommendation, whether orally or in writing and whether
10 expressly or by implication, with respect to the commodities offered for the
11 purpose unless he has informed each person to whom the recommendation is
12 made that he acquired the commodities for that purpose.

13 (4) Where –

14 (a) commodities have been offered for subscription or purchase, and

15 (b) a person has subscribed for or purchased or is willing or may be
16 required to subscribe for or purchase, any of those commodities under an
17 underwriting or sub underwriting agreement by reason that some or all of the
18 commodities have not been subscribed for or purchased,

19 he shall not, during the period of ninety days after the close of the offer, make an
20 offer to sell those commodities, otherwise than in the ordinary course of trading
21 on a Commodities Exchange or Derivatives Trading Facility, or make a
22 recommendation with respect to those commodities unless the offer or
23 recommendation complies with the provisions of subsection (5) of this section.

24 (5) An offer or recommendation shall not be made under subsection
25 (4) of this unless it contains or is accompanied by a statement to the effect that
26 the offer or recommendation relates to commodities which he has acquired, or
27 is willing or may be required to acquire under an underwriting or sub-
28 underwriting agreement by reason that some or all of the commodities have not
29 been subscribed for or purchased.

30 (6) A person who is a commodity dealer, commodity trading adviser,

1 dealer's representative or commodity trading adviser's representatives shall
2 not send to any person any circular or other communication or written offer
3 or recommendation to which subsection (1), (3) or (4) of this section applies
4 unless the circular or other communication or written offer or
5 recommendation –

6 (a) if the first-mentioned person is a natural person, is signed by
7 that person;

8 (b) if the first-mentioned person is a body corporate, is signed by a
9 director, executive officer or secretary of the body corporate.

10 (7) Where a person who is a commodity dealer, commodity trading
11 adviser, dealer's representative or trading adviser's representative, sends to
12 any person a circular or other communication or a written offer or
13 recommendation to which subsection (1), (3), (4), or (5) of this section
14 applies, the first-mentioned person shall preserve a copy of the circular or
15 other communication or of the written offer or recommendation, duly signed
16 by the person concerned mentioned in subsection (5) for a period of seven
17 years.

18 (8) Reference in this section to an offer of commodities shall be
19 construed as including a reference to a statement that is not an offer but
20 expressly or impliedly invites a person to whom it is made to offer to acquire
21 commodities.

22 (9) For the purposes of this section, a circular or other
23 communication or written offer or recommendation signed by the secretary
24 of a body corporate shall be deemed to have been signed by the body
25 corporate.

26 (10) The Commission may, if it is in the public interest, exempt a
27 commodity or any class of commodities from the application of this section.

28 (11) Any person who contravenes the provisions of this section
29 commits an offence and is liable on conviction to a fine of not less than
30 N100,000 or to imprisonment for a term not exceeding three years or to both

Dealings as
principal

1 such fine and imprisonment.

2 **34.** (1) Subject to subsection (4) of this section, a commodity dealer
3 shall not as a principal deal in any commodity with a person who is not a
4 commodity dealer unless he is acting in the transaction as principal and not as
5 agent.

6 (2) A reference in this section to a commodity dealer dealing or
7 entering into a transaction as principal includes a reference to a person –

8 (a) dealing or entering into a transaction on behalf of a person
9 associated with him;

10 (b) dealing in commodities on behalf of a body corporate in which he
11 has a controlling interest; or

12 (c) where he carries on business as a dealer, a body corporate in which
13 his interest and the interest of his directors together constitute a controlling
14 interest.

15 (3) A commodity dealer who, as a principal, enters into a transaction
16 of sale or purchase of commodities with a person who is not a commodity
17 dealer, shall state in the contract note that he is acting in the transaction as
18 principal and not as agent.

19 (4) The provisions of subsection (1) of this section shall not apply in
20 relation to a transaction entered into by a dealer who is a member of a
21 Commodities Exchange or Derivatives Trading Facility and specializes in
22 transactions relating to odd lots of commodities being a transaction of sale or
23 purchase of an odd lot of commodities.

24 (5) Where a commodity dealer fails to comply with subsection (1) or
25 (3) of this section in respect of a contract for sale of commodities by him, the
26 purchaser of the commodities may, if he has not disposed of them, rescind the
27 contract by a notice of rescission in writing given to a commodity dealer not
28 later than thirty days after the receipt of the contract note.

29 (6) Where a dealer fails to comply with subsection (1) or (3) of this
30 section in respect of a contract for the purchase of commodities by him, the

1 vendor of the commodities may, in like manner, rescind the contract.

2 (7) Nothing in subsections (5) and (6) of this section shall affect
3 any right which a person has apart from that subsection.

4 (8) A person who contravenes or fails to comply with any of the
5 provisions of this section commits an offence and is liable on conviction to a
6 fine of not less than N50,000 or to imprisonment for a term not exceeding six
7 months or to both such fine and imprisonment.

8 **35.-(1)** A commodity dealer shall not give an unsecured credit to an
9 employee or to a person who is associated with the employee if the –

Dealings by
employees of
holders of
licences

10 (a) unsecured credit is given for the purpose of enabling or
11 assisting the person to whom the unsecured credit is given to purchase or
12 subscribe for any commodity; or

13 (b) person giving the unsecured credit knows or has reason to
14 believe that the unsecured credit will be used for the purpose of purchasing
15 or subscribing for commodities.

16 (2) A person who contravenes or fails to comply with any of the
17 provisions of subsection (1) of this section commits an offence and is liable
18 on conviction to a fine of not less than N200,000 or to imprisonment for a
19 term not exceeding two years or to both such fine and imprisonment.

20 **36.-(1)** A dealer shall not, except as permitted by subsection (3) of
21 this section enter into, as principal or on behalf of a person associated with
22 him, a transaction of purchase or sale of commodities to be traded on the
23 floor of a Commodity Exchange or Derivatives Trading Facility if a client of
24 the dealer who is not associated with the dealer has instructed the dealer to
25 purchase or sell, respectively, commodities of the same class and the dealer
26 has not complied with the instruction.

Dealers to give
priority to
client's orders

27 (2) A dealer who contravenes the provisions of this section
28 commits an offence and is liable on conviction to a fine of not less than
29 N200,000.

30 (3) The provisions of subsection (1) of this section shall not apply

1 in relation to the entering into of a transaction by a commodity dealer as
2 principal or on behalf of a person associated with him if—

3 (a) the instruction from the client of the commodities dealer requires
4 the purchase or sale of commodities on behalf of the client to be effected only
5 on specified conditions at which the commodities were to be purchased or sold
6 and the dealer has been unable to purchase or sell the commodities by reasons
7 of those conditions; or

8 (b) the transaction is entered into in prescribes circumstances.

Margin
requirements

9 **37.** For the purpose of preventing the excessive use of credit for the
10 purchase or carrying of commodities by dealers or member companies, the
11 commission may make regulations to provide for margin requirements, for the
12 amount of credit which may, from time to time, be extended and maintained on
13 all or specified commodities and transactions or class of commodities and
14 transactions and for matters connected therewith.

15 **PART VIII - TRADING IN COMMODITIES**

Margin trading
and market
rigging transactions

16 **38.-(1)** A person shall not create, or cause to be created, or do anything
17 which may create a false or misleading appearance of active trading in any
18 commodity on a Commodity Exchange or Derivatives Trading Facility or a
19 false or misleading appearance with respect to the market for or the price of any
20 such commodities.

21 (2) A person shall not, by means of purchases or sale of any
22 commodity that do not involve a change in the beneficial ownership of those
23 commodities, or by any fictitious transactions or devices, maintain, inflate,
24 depress, or cause fluctuations in the market price of any commodity.

25 (3) Without prejudice to the generality of subsection (1) of this
26 section, a person who—

27 (a) effects, takes part in, is concerned in or carries out, either directly
28 or indirectly, any transaction or sale or purchase of any commodity, being a
29 transaction which does not involve any change in the beneficial ownership of
30 the commodity;

1 (b) makes or causes to be made an offer to sell any commodity at a
2 specified price where he has made or caused to be made or proposes to make
3 or to cause to be made, or knows that a person associated with him has made
4 or caused to be made, an offer to purchase the same number, or substantially
5 the same number of commodities at a price which is substantially the same
6 as the first-mentioned price, or

7 (c) makes or causes to be made an offer to purchase any commodity
8 at a specified price where he has made or caused to be made or proposes to
9 make or to cause to be made, or knows that a person associated with him has
10 made or caused to be made or proposes to make or to cause to be made, an
11 offer to sell the same number of commodities at a price which is
12 substantially the same as the first-mentioned price,
13 shall be deemed to have created a false or misleading appearance of active
14 trading in Commodity Exchange or Derivatives Trading Facility.

15 (4) For an act referred to in subsection (3) of this section, it shall be
16 a defence if a person establishes that the purpose(s) for which he did the act
17 was not, or did not include, the purpose of creating a false or misleading
18 appearance of active trading in commodities on a Commodity Exchange or
19 Derivative Trading Facility.

20 **39.-(1)** A person shall not effect, take part in, be concerned in or
21 carry out, either directly or indirectly, two or more transactions in
22 commodities being transactions which have, or are likely to have, the effect
23 of raising or lowering the price of commodities on a Commodity Exchange
24 or Derivatives Trading Facility with intent to induce other persons to
25 purchase, sell or subscribe for such commodities.

26 (2) A person shall not effect, take part in, be concerned in or carry
27 out, either directly or indirectly, two or more transactions in commodities
28 being transactions which have, or are likely to have, the effect of
29 maintaining or stabilizing the price of commodities on a Commodity
30 Exchange or Derivatives Trading Facility with intent to induce other

Commodities
market
manipulations

1 persons to purchase, sell or subscribe for such commodities.

2 (3) A reference in this section to a transaction in relation to
3 commodities includes a reference to the making of an—

4 (a) offer to subscribe, sell or purchase commodities; and

5 (b) invitation however made which expressly or impliedly invites a
6 person to offer to subscribe, sell or purchase such commodities.

False or
misleading
statements

7 40. No person shall make a statement or disseminate information
8 which is false or misleading in a material particular and is likely to induce the
9 sale or purchase of the commodities by other persons or is likely to have the
10 effect of raising, lowering, maintaining or stabilizing the market price of
11 commodities if, when he makes the statement or disseminates the information
12 he—

13 (a) does not care whether the statement or information is true or false;

14 (b) knows or ought reasonably to have known that the statement or
15 information is false or misleading in a material particular.

Fraudulently
inducing persons
to deal in
commodities

16 41. No person shall—

17 (a) by making or publishing any statement, promise or forecast which
18 he knows to be misleading, false or deceptive, or

19 (b) by any dishonest concealment of material facts, or

20 (c) by the reckless making or publishing, dishonestly or otherwise, of
21 any statement, promise or forecast which is misleading, false or deceptive, or

22 (d) by recording or storing in, or by means of any mechanical,
23 electronic or device, create information which he knows to be false or
24 misleading in a material particular with intent to induce or attempt to induce
25 another person to deal in commodities.

26 (2) It is a defence to any liability under subsection (1) of this section if
27 it is established that, at the time when the person so recorded or stored the
28 information would be available to any other person.

Dissemination of
illegal information

29 42. A person shall not circulate or disseminate, or authorize or be
30 concerned in the circulation or dissemination of any statement or illegal

1 information to the effect that the price of any commodity will or is likely to
2 rise or fall or be maintained by reason of any transaction entered into or other
3 act or thing done in relation to such commodities if the person –

4 (a) or a person associated with that person has entered into any such
5 transaction or done any such act or thing; or

6 (b) has received or expects to receive directly or indirectly any
7 consideration or benefit for circulating or disseminating or authorizing or
8 being concerned in the circulation or dissemination of the statement or
9 information.

10 **43.** It shall be unlawful for any person directly or indirectly in
11 connection with the purchase or sale of any commodity to –

Prohibition of
fraudulent means

12 (a) employ any device, scheme or artifice to defraud;

13 (b) engage in any act, practice or course of business which operates
14 or would operate as a fraud or deceit upon any person; or

15 (c) make any untrue statement of a material fact or to omit to state a
16 material fact necessary in order to make the statements made in the light of
17 the circumstances under which they were made, not misleading.

18 **44.** Any person who contravenes the provisions of sections 38, 39,
19 40, 41 and 42 of this Act commits an offence and is liable on conviction to a
20 fine of not less than N500,000 or to imprisonment of a term not exceeding
21 three years or to both such fine and imprisonment.

Penalties

22 **45.** (1) Subject to section 47 of this Act, an individual who is an
23 insider of a company shall not buy or sell, or otherwise deal in the
24 commodities which are offered for sale or subscription if he has information
25 which he knows is unpublished price sensitive information in relation to
26 those commodities.

Prohibition of
dealing in
commodities by
insiders

27 (2) The provisions of subsection (3) of this section shall apply
28 where –

29 (a) an individual has information which he knowingly obtains
30 (directly or indirectly) from another individual who –

1 (i) is connected with a particular company, or was at any time within
2 the six months preceding the obtaining of the information, so connected, or

3 (ii) the former individual knows or has reasonable cause to hold the
4 information by virtue of being so connected; and

5 (b) the former individual knows or has reasonable cause to believe
6 that, because of the latter's connection and position, it would be reasonable to
7 expect him not to disclose the information except for the proper performance of
8 the functions attached to that position.

9 (3) The former individual mentioned in subsection (2) of this section—

10 (a) shall not himself deal in such commodities if he knows that the
11 information is unpublished price-sensitive information in relation to those
12 commodities; and

13 (b) shall not himself deal in such commodities if he knows that the
14 information is unpublished price-sensitive information in relation to those of
15 commodities and it related to any transaction (actual or contemplated)
16 involving the first company and the other company, or involving one of them
17 and commodities of the other, or to the fact that any such transaction is no
18 longer contemplated.

19 (4) An individual who is for the time being prohibited by the
20 provisions of this section from dealing on an approved Commodity Exchange
21 or Derivatives Trading Facility in any commodity, shall not procure any other
22 person to deal in those commodities, knowing or having reasonable cause to
23 believe that person would deal in those commodities.

24 (5) An individual who is for the time being prohibited by the provision
25 of this section from dealing in any commodity by reason of his having any
26 information, shall not communicate that information to any other person if he
27 knows or has reasonable cause to believe that other person will make use of the
28 information for the purpose of dealing or of counseling or procuring any other
29 person to deal in those commodities.

1 **46.** (1) This section applies to any information which –

2 (a) is held by a public officer or former public officer by virtue of

3 his position or former position as a public officer, or is knowingly obtained

4 by an individual (directly or indirectly) from a public officer or former

5 public officer who he knows or has reasonable cause to believe the

6 information by virtue of any such position;

7 (b) it shall be reasonable to expect that an individual in the position

8 of a public officer or former position of a public officer not to disclose except

9 for the proper performance of the functions attaching to that position; and

10 (c) the individual holding it knows it is unpublished price-sensitive

11 information in relation to a particular commodity (hereinafter referred to as

12 “relevant commodity”).

13 (2) This section applies to a public officer holding information to

14 which this section applies and to any individual who knowingly obtained

15 any such information (directly or indirectly) from a public officer or former

16 public officer who that individual knows or has reasonable cause to believe

17 held the information by virtue of his position of former position as a public

18 officer.

19 (3) Subject to section 47 of this Act an individual to whom this

20 section applies shall not –

21 (a) deal in any relevant commodity;

22 (b) counsel or procure any other person to deal in any such

23 commodities, knowingly or having reasonable cause to believe that other

24 person, would deal in those commodities; or

25 (c) communicate to any other person the information held or (as the

26 case may be) obtained as mentioned in subsection (2) of this section if he

27 knows or has reasonable cause to believe that he or some other person shall

28 make use of the information for the purpose of dealing or of counseling or

29 procuring any other person to deal on a Commodity Exchange or

30 Derivatives Trading Facility in any such commodities.

Abuse of
information
obtained in
official capacity

1 (4) If it appears to the Minister that the members, officers or
2 employees of or persons otherwise connected with any body appearing to him
3 to exercise public functions, may have access to unpublished price-sensitive
4 information relating to commodities, he may by order declare that those
5 persons are public officers for the purposes of this section.

Actions not
prohibited by
section 45 and 46

6 47.-(1) The provisions of section 45 and 46 of this Act shall not
7 prohibit an individual by reason of his having any information from doing any
8 particular thing—

9 (a) otherwise than with a view to making of a profit or the avoidance
10 of a loss (whether for himself or another person) by the use of that information;

11 (b) if the information was—

12 (i) obtained by him in the course of a business of a floor broker in
13 which he was engaged or employed;

14 (ii) of a description which it would be reasonable to expect him to
15 obtain in the ordinary course of that business, and he does that thing in good
16 faith in the course of that business.

17 (2) An individual shall not, by reason only of his having information
18 relating to any particular transaction, be prohibited—

19 (a) subsection (2) or (3) (b) of section 45 of this Act from dealing on a
20 Commodity Exchange or Derivatives Trading Facility in any commodity;

21 (b) subsection (4) or (5) of section 45 of this Act from doing any other
22 thing in relation to the provisions mentioned in paragraph (a) of this
23 subsection; or

24 (c) section 46 of this Act from doing any other thing in order to
25 facilitate the completion or carrying out of the transaction.

Trustees and
personal
representatives

26 48.-(1) Where a trustee or personal representative is a body corporate
27 or an individual acting on behalf of that trustee or personal representative who,
28 with the exception of subsection (1) (a) of section 47 of this Act would be
29 prohibited by sections 45 and 46 of this Act from dealing or counseling or
30 procuring any other person from dealing in any commodity, deals in those

1 commodities or counsels or procures any other person from dealing in them,
2 shall be presumed to have acted with propriety and accordingly exempted
3 from the provisions of section 45 and 46 of this Act:

4 Provided that he acted on the advice of a person who –

5 (a) appears to him to be an appropriate person from whom to seek
6 such service; and

7 (b) did not appear to him to be prohibited by virtue of section 45 or
8 46 of this Act from dealing in those commodities.

9 (2) In this section, the expression “with propriety” means
10 otherwise than with a view to the making of a profit or the avoidance of a loss
11 (whether for himself or another person) by the use of the information in
12 question.

13 **49.** No transaction shall be void or voidable by reason only that it
14 was entered into in contravention of the provisions of section 45 or 46 of this
15 Act.

Effect of
contravention

16 **50.** An insider who contravenes any provision of section 45 of this
17 Act or any person who contravenes any provision of section 46 of this Act is
18 guilty of an offence and liable on conviction to –

Civil liability of
insider, etc.

19 (a) compensate any person for any direct loss suffered by that
20 person as a result of the transaction, unless the information was known or
21 with the exercise of reasonable diligence could have been known to that
22 person at the time of the transaction; and

23 (b) be accountable to the company for the direct benefit or
24 advantage received or receivable by the insider as a result of the transaction.

25 (2) An action to enforce a right created by subsection (1) of this
26 section may be commenced only within two years after the date of
27 completion of the transaction, which gave rise to the cause of action.

28 **51.** An individual who contravenes the provisions of section 45 or
29 46 of this Act commits an offence and is liable on conviction to a fine of
30 N500,000 or to imprisonment for a term of two years or both such fine and

Penalty for
contravention

1 imprisonment.

Meaning for
certain words
used in this part

2 **52.-(1)** In this part—

3 “related company” in relation to a company, means any body corporate which
4 is that company's subsidiary or holding company or a subsidiary of that
5 company's holding company.

6 (2) For the purpose of this Part—

7 (a) an individual is an insider of a company if he is, or at any time in
8 the preceding six months has been, knowingly connected with the company;

9 (b) an individual is connected with a company if, but only if—

10 (i) he is director of that company or a related company, or

11 (ii) he occupies a position as an officer (other than a director) or
12 employee of that company or a related company or a person involving a
13 professional or business relationship between himself (or his employer or a
14 company of which he is a director) and the first company or a related company
15 which in either case may reasonably be expected to give him access to
16 information which, in relation to commodities of either company, is
17 unpublished price-sensitive information, and which, it would be reasonable to
18 expect in his position not to disclose except for the proper performance of his
19 functions;

20 (c) any reference to unpublished price-sensitive information to any
21 commodity is a reference to information which—

22 (i) relates to specific matters or relating or of concern (directly or
23 indirectly) to that company, that is, is not of a general nature relating or of
24 concern to that company, and

25 (ii) is not generally known to those persons who are accustomed to or
26 would be likely to deal in those commodities but which would, if it were
27 generally known to them be likely materially to affect the price of those
28 commodities.

Criminal liability
under this Part

29 **53.** Any person who contravenes any of the provisions of this Part of
30 this Act commits an offence and is liable on conviction—

1 (a) in the case of a person not being a body corporate, to a fine of not
2 less than N500,000 or to imprisonment for a term not exceeding seven years;

3 (b) in the case of a person being a body corporate, to a fine not less
4 than N1,000,000.

5 **54.**-(1) A person who is liable under this Part of this Act shall pay
6 compensation at the order of the Commission as the case may be, to any
7 aggrieved person who, in a transaction for the purchase or sale of
8 commodities entered into with the first-mentioned person or with a person
9 acting for or on his behalf, suffers a loss by reason of the difference between
10 the price at which the commodities would have been likely to have been
11 dealt in such a transaction at the time when the first-mentioned transaction
12 took place if the contravention had not occurred.

Compensation to
be determined by
Commission

13 (2) The amount of compensation for which a person is liable under
14 subsection (1) of this section is the amount of the loss sustained by the
15 person claiming the compensation or any other amount as may be
16 determined by the Commission.

17 **55.**-(1) An action under this section of this Act for the recovery of a
18 loss shall not be commenced until after the expiration of 6 months after the
19 date of completion of the transaction in which the loss occurred.

Limitation to
recovery

20 PART IX - MISCELLANEOUS

21 **56** Subject to the provisions of this Act, the Minister may give to
22 the Commission such directives as may appear to him to be just and proper
23 for the effective discharge of the functions of the Commission under this Act
24 and it shall be the duty of the Commission to comply.

Power of Minister
to issue directives

25 **57.** The Commission shall furnish the President through the
26 Minister reports pertaining to any proposed or existing programme for the
27 promotion and development of commodities futures trading in Nigeria.

Reports on
development of
the commodities
industry

28 **58.** The Commission may, by general or special order in writing,
29 delegate to any member, officer of the Commission or any other person
30 subject to such conditions, if any, as may be specified in the order, such of its

Delegation

	1	powers and functions under this Act as it may deem necessary.
Appeals from decisions of Commission	2	59.-(1) A person aggrieved by any action or decision of the
	3	Commission under this Act, may institute an action in the Investments and
	4	Securities Tribunal or appeal against such decisions in accordance with
	5	provisions of the Investments and Securities Act and any other relevant
	6	enactment.
Right to represent the Commission before court	7	60. Notwithstanding the provisions of any other law or enactment to
	8	the contrary, any legal practitioner employed by the Commission shall be
	9	entitled to represent the Commission before any court.
Protection of action taken in good faith	10	61. No suit, prosecution or other legal proceeding shall lie against any
	11	commissioner, officer or employee of the Commission for anything which is
	12	done in good faith or intended to be done under this Act or the rules or
	13	regulations made thereunder.
Penalty	14	62. Save as otherwise specifically provided under this Act, whosoever
	15	contravenes or attempts to contravene or aids or abets the contravention of the
	16	provisions of this Act or of any rules or regulations made thereunder, commits
	17	an offence and is liable on conviction to a fine not less than N100,000 or to
	18	imprisonment for a term not exceeding three years or to both such fine and
	19	imprisonment.
Offences by companies	20	63.-(1) Where an offence under this Act has been committed by a
	21	company, every person who at the time the offence was committed was in
	22	charge of and was responsible to the company for the conduct of the business of
	23	the company, as well as the company, shall be deemed to be guilty of the
	24	offence and shall be liable to be proceeded against.
	25	(2) Notwithstanding anything contained in subsection (1), where an
	26	offence under this Act has been committed by a company and it is proved that
	27	the offence has been committed with the consent or connivance of, or is
	28	attributable to any neglect on the part of any director, manger, secretary or other
	29	officer of the company, such director, manager, secretary or other officer shall

1 also be deemed to be guilty of the offence and shall be liable to be proceeded
2 against.

3 **64.** For the purposes of this section –

Interpretation

4 “company” means any body corporate and includes a firm or other
5 association of individuals; and

6 “director” in relation to a firm, means a partner in the firm.

7 **65.**-(1) If the Minister is of the opinion that it is necessary or
8 expedient to do so in the public interest, he may, by order published in the
9 Gazette, exempt any person or class of persons buying or selling
10 commodities or otherwise dealing with the commodities market from the
11 operation of the provisions of this Act.

Power to exempt

12 (2) The provision of this Act shall be in addition to, and not in
13 derogation of the provision of any other law or enactment for the time being
14 in force.

15 **66.**-(1) If any difficulty arises in giving effect to the provision of
16 this Act, the Minister may, by order published in the Gazette make such
17 provisions, not inconsistent with the provisions of this Act, as may appear to
18 be necessary for removing the impediment:

Power to remove
impediments

19 Provided that no order shall be made under this section after the expiry of ten
20 years from the commencement of this Act.

21 **67.**-(1) The Commission may make regulations –

Regulations

22 (a) providing for anything requiring to be prescribed under this
23 Act; and

24 (b) generally for carrying out the principles and objectives of this
25 Act.

26 (2) Any instrument issued under subsection (1) of this section shall
27 be under the signature of the Director-General of the Commission or any
28 other officer of the Commission as may be designated by him.

29 **68.**-(1) The Commission may appoint one or more committees to

Committees of
the Commission

1 carry out on its behalf such of its functions as the Commission may determine.

2 (2) A committee appointed under subsection (1) of this section shall
3 consist of such number of persons as may be determined by the Commission;
4 and a person other than a member of the Commission shall hold office on the
5 committee in accordance with such terms of his appointment.

6 (3) A decision of a committee of the Commission shall be of no effect
7 until it is confirmed by the Commission.

Seal of the
Commission

8 69.-(1) The fixing of the seal of the Commission shall be
9 authenticated by the signature of the Director-General of any person
10 specifically authorized by him to act in that capacity.

11 (2) Any contract or instrument which, if made or executed by a person
12 not being a body corporate, would not be required to be under seal may be made
13 or executed by or on behalf of the Commission by the Chairman or any person
14 specifically authorized to act for that purpose by the Commission.

15 (3) Any document purporting to be a document duly executed under
16 the seal of the Commission shall be received in evidence and shall, unless and
17 until the contrary is proved be presumed to be so executed.

18 (4) The validity of any proceeding of the Commission or of a
19 committee thereof shall not be adversely affected by any vacancy in the
20 membership of the Commission or committee, or by any defect in the
21 appointment of a member of the Commission or of a committee, or by reason
22 that a person not entitled to do so took part in the proceedings of the
23 Commission or committee.

Relevance of
other laws

24 70.-(1) Notwithstanding the provisions of this Act the relevant
25 provisions of the Investments and Securities Act shall be read with such
26 modification as to bring them into conformity with the provisions of this Act.

27 (2) If the provision of any other law, including the Investments and
28 Securities Act are inconsistent with the provisions of this Act, the provisions of
29 this Act shall prevail and the provisions of the Investments and Securities Act
30 or that other law shall, to the extent of the inconsistency, be void.

1 71.-(1) The Commission may, from time to time, make rules and
2 regulations for the purpose of giving effect to the provisions of this Act and
3 may in particular, without prejudice to the generality of the foregoing
4 provisions, make regulations—

5 (a) determining, from time to time, in consultation with the
6 Minister, what other business shall be included in the definition of
7 commodities business;

8 (b) prescribing the forms of returns and other information required
9 under this Act;

10 (c) prescribing the procedure for obtaining any information
11 required under this Act;

12 (d) requiring returns to be made within the period specified therein
13 by any company or enterprise to which this Act applies;

14 (e) prescribing any fees payable under this Act;

15 (f) prescribing that the provision of this Act shall not apply or shall
16 apply with such modifications (if any) as may be specified in the
17 regulations, to any person or class of persons or any commodity or class of
18 commodities or to any transaction;

19 (g) prescribing the activities which constitute “insider dealings”
20 the rules governing dealing in commodities by insiders and defining the
21 term “insider dealings”;

22 (h) providing for anything requiring to be prescribed under this
23 Act; and

24 (i) generally for carrying out the principles and objectives of this
25 Act.

26 (2) Any instrument issued under subsection (1) of this section shall
27 be under the signature of the Chief Executive of the Commission or any
28 other officer of the Commission as may be designated by him.

29 (3) Any regulation made under this Act shall come into force
30 fifteen days after receipt by the Minister or on publication in the Gazette or

1 *other official document unless the Minister before the effective date of any*
2 *regulation, orders that it be modified, amended or rescinded.*

3 (4) Notwithstanding the provisions of subsection (1) of this section,
4 the Commission may, from time to time, amend or revoke rules for purposes of
5 giving effect to the provisions of this Act and regulations made thereunder.

6 (5) Any regulations or rules made pursuant to this Part of this Act may,
7 where appropriate, prescribe penalties not exceeding a fine of N10,000 for
8 every day of default or imprisonment for six months or both such fine and
9 imprisonment for any violation of the regulation or rule.

10 PART X - INTERPRETATION AND SHORT TITLE

Interpretation

11 72. In this Act, unless the context otherwise requires –

12 “agent” means a person authorized by another to act for or in place of him and
13 in relation to a floor dealer, include a person who is, or has been a banker of the
14 dealer at any given time;

15 “approved commodities organization” means a body corporate which is
16 approved by the Commission under this Act as a Commodities organization;

17 “associated persons” means a subsidiary, affiliate or agent of a member of any
18 self regulatory organization;

19 “auditor” means an auditor within the meaning of the Companies and Allied
20 Matters Act;

21 “broker” means any person engaged in the business of effecting transactions in
22 commodities for the account of others;

23 “Derivatives Trading Facility” means an Exchange registered by the
24 Commission pursuant to this Act, which constitutes, maintains or provides
25 market place for bringing together purchasers and sellers of commodities or for
26 otherwise performing, with respect to commodities, the functions commonly
27 performed by a Commodities Exchange;

28 “certificate of registration” means any certificate of licence issued by the
29 Commission as a part of its registration function under this Act;

30 “clearing and settlement companies” means any corporate body who acts as an

1 intermediary in making payments or deliveries or both in connection with
2 transactions in commodities and provides facilities for comparison of data
3 regarding the terms of settlement of commodities transactions on or for the
4 allocation of commodities settlement responsibilities;

5 “commodity trading adviser” means a person who –

6 (a) carries on a business of advising others concerning
7 commodities;

8 (b) as part of a regular business, issues or promulgates analyses
9 or makes reports concerning commodities; or

10 (c) pursuant to a contract or arrangement with a client,
11 undertakes on behalf of the client (whether on a discretionary authority
12 granted by the client or otherwise) the management of a portfolio of
13 commodities and commodities futures contract;

14 so however that the term commodity trading adviser shall not include –

15 (i) a bank as defined in the Banks and Other Financial
16 Institutions Act;

17 (ii) a company or society registered under the Insurance Act;

18 (iii) a solicitor and advocate or accountant in practice whose
19 carrying on of that business is solely incidental to the practice of his
20 profession;

21 (iv) a dealer or his employee or a dealer's representative or an
22 exempt dealer whose carrying on of that business is solely incidental to the
23 conduct of his business of dealing in commodities; or

24 (v) the proprietor of a newspaper and holder of a permit issues
25 under the Nigerian Press Council Act and where –

26 (a) insofar as the newspaper is distributed generally to the
27 public it is distributed only to subscribers to, and purchasers of, the
28 newspaper for value;

29 (b) the advise is given or the analyses or reports are issued or
30 promulgated only through newspaper;

1 (c) no person receives any commission or other consideration for
2 giving the advice or for issuing or promulgating the analyses of reports; and

3 (d) the advise is given and the analyses and reports are issued or
4 promulgated solely as incidental to the conduct of that person's business as a
5 newspaper proprietor;

6 "commodity trading adviser's representative" means a person, in the direct
7 employment of or acting for or by arrangement with any of the functions of a
8 commodity trading adviser (other than work primarily performed by
9 accountants, clerks or cashier whether his remuneration is by way of salary,
10 wages, commission, or otherwise; and includes any director or officer of a body
11 corporate who performs for such body corporate any of those functions
12 (whether or not his remuneration is as aforesaid);

13 "Commodity Exchange" means an approved commodities organization such
14 as a commodity exchange, metal exchange, petroleum exchange, options,
15 futures, over the counter and other derivatives exchanges;

16 "commodity market" means a market, or other place or facility at which or on
17 which commodities are traded;

18 "Commission" means the Commodities Futures Trading Commission referred
19 to in subsection (1) of section 1 of this Act;

20 "company" has the same meaning as is assigned to it in the Companies and
21 Allied Matters Act;

22 "dealer" means a person engaged in the business of buying and of selling
23 commodities for accounts through a broker, sub-broker or any person in so far
24 as he buys or sells commodities for his own account either individually or in
25 some fiduciary capacity but not as part of a regular business;

26 "dealer's representative" means a person, by whatever name described, in the
27 direct employment of, or acting for, or by arrangement with, a dealer, who
28 performs fro that dealer any of the functions of a dealer (other that work
29 ordinarily performed by accountants, clerks or cashiers) whether his
30 remuneration is by way of salary, wages, commission or otherwise; and

1 includes any director or officer of a body corporate who performs for the
2 body corporate any of those functions (whether or not his remuneration is
3 aforesaid);

4 “dealing in commodities” means (whether as principal or as agent) making
5 or offering to make with any person, or inducing or attempting to induce any
6 person to enter into or to offer to enter into –

7 (a) any agreement for or with a view to acquiring, disposing or
8 subscribing for, or underwriting of commodities; or

9 (b) any agreement for the purpose or pretended purpose of
10 securing a profit to any of the parties from the yield of commodities or by
11 reference to fluctuations in price of commodities;

12 “director” has the same meaning as is assigned to it in the Companies and
13 Allied Matters Act;

14 “executive officer” in relation to a body corporate, means any person by
15 whatever name called and whether or not he is a director of the body
16 corporate who is concerned or takes part in the management of the body
17 corporate;

18 “jobbers” are persons who carry on the business of acquiring or disposing
19 commodities on behalf of others;

20 “licence” includes –

21 (a) a commodity trading adviser's licence,

22 (b) a dealer's licence;

23 “member company” means a company which carries on business of dealing
24 in commodities and is recognized as a member company by a Commodity
25 Exchange or Derivative Trading Facility;

26 “Minister” means the Minister responsible for matters relating to
27 commerce;

28 “relevant authority” – in relation to a member company, means the
29 Commodity Exchange or Derivative Trading Facility by which the company
30 is recognized;

1 “relevant committee”– in relation to the National Assembly, means
2 committees of the National Assembly saddled with the responsibility of
3 oversight on commodities future trading;

4 “self-regulatory organization” means any registered Commodity Exchange,
5 Derivative Trading Facility, an association of commodity dealers, clearing
6 corporation or any other self-regulatory body approved by the Commission;

7 “sub-broker” means a person who has satisfied the conditions laid down by a
8 Commodity Exchange or Derivative Trading Facility for such status and who
9 id therefore authorized to deal in commodities on the Exchange under the
10 control and supervision of a dealing member;

11 “transfer agent” means any person who engages on behalf of an issuer of
12 commodities or on behalf of itself in –

13 (a) countersigning commodities upon issuance;

14 (b) monitoring the issuance of commodities with a view to preventing
15 unauthorized issuance, a function commonly performed by a person called a
16 registrar;

17 (c) registering the transfer of commodities;

18 (d) exchanging or converting commodities;

19 (e) offers to sell, purchase or exchange commodities regularly made
20 or accepted; or

21 (f) offers or invitations which are intended, or may reasonably be
22 expected, to result whether directly or indirectly, in the making or acceptance
23 of offers to sell, purchase or exchange commodities;

24 “underwriter” means a person who has purchases from an issuer with a view to
25 or offers or sells for an issuer in connection with the distribution of any
26 commodity or participates or has direct or indirect participation in any such
27 undertaking; but does not include a person whose interest is limited to a
28 commission from an underwriter or a dealer not in excess of the usual and
29 customary distributor's or seller's commission.

30 73. This Bill may be cited as the Commodities Exchange Bill, 2015.

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SCHEDULE

[Section 2(4)]

Proceedings of the Commission

1. -(1) Subject to this Act and section 27 of the Interpretation Act, the Commission may make standing orders regulating its proceedings or those of its committees.

(2) At any meeting of the Commission the chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their number to preside at that meeting.

(3) Where the Commission desires to obtain the advice of any person on a particular matter, the Commission may co-opt him as a member of such period as it thinks fit; but a person is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Commission and shall not count towards a quorum.

Committees

2.-(1) The Commission may appoint one or more standing or ad hoc committees to carry out on its behalf such of its functions as it may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily member of the Commission) as may be determined by the Commission; and a person other than a member of the Commission shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Commission shall be of no effect until it is confirmed by the Commission.

(4) The quorum of a meeting of the Commission shall be six.

(5) The chairman shall have casting vote.

3. A member of the Commission and any person holding office on a committee of the Commission who has a personal interest in any contract or arrangement entered into or proposed to be considered by the

- 1 Commission or a committee thereof shall forthwith disclose his interest to the
- 2 Commission and shall not vote on any question relating to the contract or
- 3 arrangement.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the regulation of commodities futures business in Nigeria and for the establishment of the Commodities Future Trading Commission.