

A BILL

FOR

AN ACT TO PROVIDE THE FRAMEWORK FOR HANDLING UNCLAIMED FINANCIAL ASSETS; TO ESTABLISH THE UNCLAIMED FINANCIAL ASSETS AGENCY AND THE UNCLAIMED FINANCIAL ASSETS TRUST FUND AND FOR OTHER CONNECTED PURPOSES

Sponsored by Hon. Abdulrahman Shuaibu Abubakar

[] Commencement

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

1 PART I - DETERMINATION OF UNCLAIMED ASSETS

2 1. Unless otherwise provided in this Act or by any other law, assets
3 shall be subject to the custody of the Agency as unclaimed assets, if the
4 conditions raising a presumption of abandonment under sections 4 to 18 are
5 satisfied and one or more of the following requirements are met-

Unclaimed assets
General
requirements

6 (a) The records of the holder do not reflect the identity of the person
7 entitled to the assets;

8 (b) The holder has not previously paid or delivered the assets to the
9 apparent owner or other person entitled to the assets;

10 (c) The last known address, as shown on the records of the holder,
11 of the apparent owner is in a country that does not provide by law for the
12 custodial taking of the assets or unclaimed assets law is not applicable to the
13 assets and the holder is domiciled in Nigeria.

14 2.-(1) Subject to subsection (4), any sum payable in Nigeria on a
15 travellers cheque is outstanding for more than two years after its issuance is
16 presumed abandoned unless the owner, within the two years, has
17 communicated in writing with the issuer concerning it or otherwise
18 indicated an interest as evidenced by a record prepared by the issuer.

Traveler's cheques,
Money orders, etc.

19 (2) Subject to subsection (4), any sum payable in Nigeria on a

1 money order or similar written instrument that is outstanding for more than two
2 years after its issuance is presumed abandoned unless the owner, within two
3 years, has communicated in writing with the issuer concerning it or otherwise
4 indicated an interest as evidenced by a record prepared by the issuer.

5 (3) A holder shall not deduct from the amount of a travellers cheque or
6 money order any charge imposed by reason of the failure to present the
7 instrument for payment unless-

8 (a) The issuer regularly imposes such charges and does not regularly
9 reverse or otherwise cancel them; and

10 (b) There is an enforceable written contract between the issuer and the
11 owner of the instrument under which the issuer may impose a charge.

12 (4) A sum payable in Nigeria on a traveller's cheque, money order, or
13 similar written instrument may not be subjected to the custody of the Agency as
14 unclaimed assets unless one or more of the following requirements are met-

15 (a) The records of the issuer show that the traveller's cheque, money
16 order or similar written instrument was purchased in Nigeria;

17 (b) The issuer has its principal place of business in Nigeria and the
18 records of the issuer do not show the country in which the travellers' cheque,
19 money order, or similar written instrument was purchased;

20 (c) The issuer has its principal place of business in Nigeria.

21 3.-(1) Any sum payable in Nigeria on a cheque, draft, or similar
22 instrument, on which a bank or financial institution is directly liable, including
23 a banker's cheque, which is outstanding for more than two years after it was
24 payable or after its issuance if payable on demand, is presumed abandoned,
25 unless the owner, within the immediately preceding two years, has
26 communicated in writing with the bank or financial institution concerning it or
27 otherwise indicated an interest as evidenced by a record prepared by the bank
28 or financial institution.

29 (2) A holder may not deduct from the amount of any instrument
30 subject to this section any charge imposed by reason of the failure to present the

1 instrument for payment unless-

2 (a) The issuer regularly imposes such charges and does not
3 regularly reverse or otherwise cancel them; and

4 (b) There is an enforceable written contract between the issuer and
5 the owner of the instrument under which the issuer may impose a charge.

6 4.-(1) Any demand, savings, or matured time deposit with a bank or
7 financial institution, including a deposit that is automatically renewable,
8 and any funds paid toward the purchase of a share, a mutual investment
9 certificate, or any other interest in a bank or financial institution is presumed
10 abandoned unless the owner, within the immediately preceding five years,
11 has met one or more of the following requirements-

Demand, savings
or matured time
deposit

12 (a) In the case of a deposit, increased or decreased its amount or
13 presented the passbook or other similar evidence of the deposit for the
14 crediting of interest;

15 (b) Communicated, in writing, with the bank or financial
16 institution concerning the assets;

17 (c) Otherwise indicated an interest in the assets as evidenced by a
18 record prepared by the bank or financial institution;

19 (d) Had another relationship with the bank or financial institution
20 concerning which the owner has met one or more of the following
21 requirements-

22 (i) Communicated, in writing, with the bank or financial
23 institution;

24 (ii) Otherwise indicated an interest as evidenced by a
25 memorandum or other record on file prepared by the bank or financial
26 institution and unless the bank or financial institution communicates in
27 writing with the owner with regard to the assets that would otherwise be
28 abandoned under this subsection at the address to which communications
29 regarding the other relationship regularly are sent.

30 (2) A holder may not impose with respect to assets described in

1 subsection (1) any charge due to dormancy or inactivity or cease payment of
2 interest unless-

3 (a) The holder regularly imposes such charges or ceases payment of
4 interest and does not regularly reverse or otherwise cancel them or
5 retroactively credit interest with respect to the assets; and

6 (b) There is an enforceable written contract between the holder and
7 the owner of the assets providing that the holder may impose a charge or cease
8 payment of interest.

9 (3) Any assets described in subsection (1) that are automatically
10 renewable are matured for purposes of subsection (1) seven years after the
11 expiration of its initial time period, but in the case of any renewal to which the
12 owner consents at or about the time of renewal by communicating in writing
13 with the bank or financial institution or otherwise indicating consent as
14 evidenced by a record prepared by the holder, the assets is matured upon the
15 expiration of the last time period for which consent was given.

16 (4) Where, at the time provided for delivery to the Agency under
17 section 22, a penalty or forfeiture in the payment of interest would result from
18 the delivery of the assets, the time for delivery shall be extended until the time
19 when no penalty or forfeiture would result.

Life or endowment
Insurance policy
or Annuity contract

20 5.-(1) Funds held or owing under any life or endowment insurance
21 policy or annuity contract that has matured or terminated are presumed
22 abandoned if unclaimed for more than two years after the funds became due
23 and payable as established from the records of the insurance company holding
24 or owing the funds.

25 (2) Where a person other than the insured or annuitant is entitled to the
26 funds referred to in subsection (1) and the address of the person is not known to
27 the insurance company or it is uncertain from the records of the insurance
28 company who is entitled to the funds, it shall be presumed that the last known
29 address of the person entitled to the funds is the same as the last known address
30 of the insured or annuitant according to the records of the insurance company.

1 (3) For purposes of this Act, a life or endowment insurance policy
2 or annuity contract not matured by actual proof of the death of the insured or
3 annuitant according to the records of the insurance company shall be
4 deemed matured and the proceeds due and payable if one or more of the
5 following requirements are met-

6 (a) The insurance company knows that the insured or annuitant has
7 died;

8 (b) The insured has attained, or would have attained if he were
9 living, the limiting age under the mortality table on which the reserve is
10 based;

11 (c) the policy was in force at the time the insured attained, or would
12 have attained, the limiting age; and neither the insured nor any other person
13 appearing to have an interest in the policy within the preceding two years,
14 according to the records of the insurance company, has assigned, readjusted,
15 or paid premiums on the policy, subjected the policy to a loan, corresponded
16 in writing with the insurance company concerning the policy, or otherwise
17 indicated an interest as evidenced by a record prepared by the insurance
18 company.

19 (4) For purposes of this Act, the application of an automatic
20 premium loan provision or other non-forfeiture provision contained in an
21 insurance policy shall not prevent a policy from being matured or terminated
22 under this section if the insured has died or the insured or the beneficiary of
23 the policy otherwise has become entitled to the proceeds of the policy before
24 the depletion of the cash surrender value of the policy by the application of
25 those provisions.

26 (5) Where any law or the terms of the life insurance policy require
27 the insurance company to give notice to the insured or owner that an
28 automatic premium loan provision or other non-forfeiture provision has
29 been exercised and the notice, given to an insured or owner whose last
30 known address according to the records of the insurance company is in

1 Nigeria, is undeliverable, the insurance company shall make a reasonable
2 search to ascertain the policyholder's correct address to which the notice shall
3 be delivered.

4 (6) Notwithstanding any other law, where the insurance company
5 learns of the death of the insured or annuitant and the beneficiary has not
6 communicated with the insurance company within sixty days after the death of
7 the insured or annuitant, the insurance company shall take reasonable steps to
8 pay the proceeds to the beneficiary.

9 (7) Every change of beneficiary form issued by an insurance company
10 under any life or endowment insurance policy or annuity contract to an insured
11 or owner who is a resident of Nigeria shall request all of the following
12 information-

13 (a) The name of each beneficiary, or if a class of beneficiaries is
14 named, the name of each current beneficiary in the class;

15 (b) The address of each beneficiary;

16 (c) Relationship of each beneficiary to the insured;

17 (d) A copy of at least one identification document of each beneficiary,
18 including a national identity card or passport.

Demutualization
of Insurance
Company, etc.

19 6.-(1) Assets distributable in the course of the demutualization of an
20 insurance company shall be presumed abandoned where-

21 (a) In the case of any funds, two years after the date of the
22 demutualization, the funds remain unclaimed and the owner has not otherwise
23 communicated with the holder or its agent regarding the assets as evidenced by
24 a record with the holder or its agent.

25 (b) in the case of any stock, two years after the date of the
26 demutualization, instruments or statements reflecting the distribution are
27 either mailed to the owner and returned as undeliverable or not mailed to the
28 owner because of an address on the books and records of the holder that is
29 known to be incorrect and the owner has not otherwise communicated with the
30 holder or its agent regarding the assets as evidenced by a memorandum or other

1 record on file with the holder or its agent.

2 (2) A holder of unclaimed assets described in subsection (1) shall
3 file an initial one-time report of unclaimed demutualization proceeds not
4 later than six months after this Act comes into force.

5 (3) In this section, "demutualization" means the payment of
6 consideration for the relinquishment of a mutual membership interest in a
7 mutual insurance company, whether or not undertaken in conjunction with a
8 plan of demutualization, liquidation, merger, or other form of
9 reorganization.

10 7. A deposit made by a subscriber with a utility to secure provision
11 of services or any sum paid in advance for utility services to be furnished,
12 that remains unclaimed by the owner for more than two years after
13 termination of the services for which the deposit or advance payment was
14 made shall be presumed abandoned.

Deposit for utility
Services

15 8. Except to the extent otherwise ordered by a court, any sum that
16 a holder has been ordered to refund by a court that remains unclaimed by the
17 owner for more than two years after it became payable in accordance with
18 the final determination providing for the refund, whether or not the final
19 determination requires any person entitled to a refund to make a claim for
20 the refund, is presumed abandoned.

Determination or
order by court of
refund by holder

21 9.-(1) Any stock, share, or other intangible ownership interest in a
22 business entity, the existence of which is evidenced by records available to
23 the entity, is presumed abandoned and, with respect to the interest, the entity
24 is the holder, if both of the following apply-

Ownership
interest, etc.

25 (a) The interest in the entity is owned by a person who for more
26 than three years has not claimed a dividend, distribution, or other sum
27 payable as a result of the interest, or who has not communicated with the
28 entity regarding the interest or a dividend, distribution, or other sum payable
29 as the result of the interest, as evidenced by a memorandum or other record
30 on file with the entity prepared by the entity;

1 (b) The entity does not know the whereabouts of the owner at the end
2 of the three year period.

3 (2) The return of official shareholder notifications or communications
4 as undeliverable is evidence that the entity does not know the location of the
5 owner.

6 (3) This section applies to both the underlying stock, share, or other
7 intangible ownership interest of an owner, and any stock, share, or other
8 intangible ownership interest of which the business entity is in possession of
9 the certificate or other evidence or indication of ownership, and to the stock,
10 share, or other ownership interest of dividend and non-dividend paying
11 business entities whether or not the interest is represented by a certificate.

12 (4) At the time an interest is presumed abandoned under this section,
13 any dividend, distribution, or other sum then held for or owing to the owner as a
14 result of the interest, and not previously presumed abandoned, shall be
15 presumed abandoned.

Assets from
dissolved business
entity

16 **10.** Assets distributable in the course of dissolution of a business
17 entity that remain unclaimed by the owner for more than two years after the
18 date specified for final distribution is presumed abandoned.

Assets held in
fiduciary capacity

19 **11.** Assets held in a fiduciary capacity for the benefit of another
20 person are presumed abandoned unless the owner, within two years after they
21 have become payable or distributable, has increased or decreased the principal,
22 accepted any payment in respect thereof, communicated concerning the assets,
23 or otherwise indicated any other interest as evidenced by a record prepared by
24 the fiduciary.

Fiduciary capacity

25 **12.** For the purposes of this Act, a person who is deemed to hold
26 assets in a fiduciary capacity for a business entity alone is the holder of the
27 assets only insofar as the interest of the business entity in the assets is
28 concerned, and the business entity is the holder of the assets insofar as the
29 interest of any other person in the assets is concerned.

1 **13.** Unpaid wages including wages represented by unrepresented Unpaid wages
2 payroll cheques, allowances, bonuses and terminal benefits owing in the
3 ordinary course of the holder's business that remain unclaimed by the owner
4 for more than one year after becoming payable are presumed abandoned.

5 **14.** Assets that by their nature may lawfully be sold, held in a safe Assets held in safe
6 deposit box or any other safekeeping repository in Nigeria in the ordinary Deposit box or
7 course of the holder's business, and proceeds resulting from the sale of the repository
8 assets, that remain unclaimed by the owner for more than two years after the
9 lease or rental period on the box or other repository has expired, are
10 presumed abandoned.

11 **15.** Assets held for the owner by a court or a Government Assets held by
12 department that remains unclaimed by the owner for more than one year court in
13 after becoming payable or distributable is presumed abandoned. Government
department

14 **16.**-(1) Subject to this Act, the Minister may by order in the Gazette Minister to
15 prescribe such further class of assets and such further class of holders to be prescribe further
16 assets and holders respectively to which this Act applies. clauses of assets,
etc.

17 (2) The order referred to subsection (1) shall include such other
18 requirements as the Minister may deem necessary, including the period after
19 which assets referred to in subsection (1) may be presumed abandoned and
20 deemed unclaimed assets.

21 PART II - DEALING WITH UNCLAIMED ASSETS, DUTIES OF HOLDERS

22 AND CERTAIN POWERS OF THE AGENCY, ETC.

23 **17.**-(1) A holder of assets to which this Act applies shall make all Duty to locate
24 reasonable efforts to locate the owner and to notify the owner about those and notify owners
25 assets. of assets

26 (2) The reasonable efforts required under subsection (1) shall be
27 made in such manner and within such period as the Authority may prescribe.

28 (3) Without prejudice to the generality of subsections (1) and (2),
29 within a period not less than sixty days and not more than one year before
30 filing the report required by section 20, the holder in possession of assets

1 presumed abandoned and subject to the Agency's custody as unclaimed assets
2 under this Act shall send written notice to the apparent owner at his last known
3 address informing him that the holder is in possession of assets subject to this
4 Act where the holder has in its records an address of the apparent owner.

Report of
presumed
abandoned assets,
duties of assets
holder

5 **18.**-(1) A person holding assets presumed abandoned and subject to
6 the custody of the Agency as unclaimed assets under this Act shall make a
7 report concerning the assets to the Authority as provided in this section.

8 (2) The report referred to in subsection (1) shall be certified by the
9 chief executive officer of the holder and shall include all of the following-

10 (a) The name, if known, and last known address, if any, of each person
11 appearing from the records of the holder to be the owner of assets presumed
12 abandoned under this Act;

13 (b) In the case of unclaimed assets held or owing under any life or
14 endowment insurance policy or annuity contract, the full name and last known
15 address of the insured or annuitant and of the beneficiary according to the
16 records of the insurance company holding or owing the assets;

17 (c) In the case of the contents of a safe deposit box or other
18 safekeeping repository or of other tangible assets, a description of the assets
19 and the place where they are held and may be inspected by the Agency and any
20 amounts owing to the holder;

21 (d) The nature and identifying number, if any, or description of the
22 assets and the amount appearing from the records to be due;

23 (e) The date the assets became payable, demandable, or returnable,
24 and the date of the last transaction with the apparent owner with respect to the
25 assets;

26 (f) Other information the Agency may lawfully require.

27 (3) Where the person holding assets presumed abandoned and subject
28 to the Agency's custody as unclaimed assets under this Act is a successor to
29 other persons who previously held the assets for the apparent owner, or the
30 holder has changed its name while holding the assets, the holder shall file with

1 the report all known names, addresses and any other particulars of each
2 previous holder of the assets.

3 (4) Except as otherwise provided in this section, the report referred
4 to in subsection (1) shall be filed on or before the first day of November of
5 each year for the twelve-month period ending on the immediately preceding
6 thirtieth day of June.

7 (5) The Agency may extend the filing date provided for in
8 subsection (4) for up to sixty days after the deadline if an estimated payment
9 is paid on or before the deadline for the twelve-month period ending on the
10 immediately preceding thirtieth of June.

11 (6) A request for extension of time to file the report shall not be
12 deemed a request for an extension of time to remit payments.

13 (7) The Agency shall determine how estimated payments are to be
14 remitted to it by a holder under this Act.

15 19. For the purposes of this Act, the Agency may request a person
16 who the Authority reasonably believes is a holder of assets to provide such
17 information to the Agency as the Agency may require, within such time or at
18 such intervals as may be specified in the request.

Agency may
request for
information

19 20. A person who is required to file a report under section 20 shall
20 at the time of filing the report pay or deliver to, or hold to the order of the
21 Agency all abandoned assets that are required to be reported under that
22 section or any balance owing if an estimated payment was earlier made to
23 the Agency.

Payment or
delivery of
abandoned assets
to Agency

24 21.-(1) Upon the payment or delivery of assets to the Agency, the
25 Agency shall assume custody and responsibility for the safekeeping of the
26 assets.

Agency to assume
custody, rights of
assets holders, etc.

27 (2) A person who pays or delivers assets to the Agency in good faith
28 shall be relieved of all liability to the extent of the value of the assets paid or
29 delivered for any claim then existing or which may arise or be made in
30 respect to the assets after the payment or delivery to the Agency.

1 (3) Where the holder pays or delivers assets to the Agency in good
2 faith and another person claims the assets from the holder or another country
3 claims the money or assets under its laws relating to escheat or abandoned or
4 unclaimed assets, the Agency, upon written notice of the claim, shall defend the
5 holder against the claim and indemnify the holder against any liability on the
6 claim.

7 (4) For the purposes of this section, "good faith" means-

8 (a) That payment or delivery was made in a reasonable attempt to
9 comply with this Act;

10 (b) that the person delivering the assets was not a fiduciary then in
11 breach of trust in respect to the assets and had a reasonable basis for believing,
12 based on the facts then known to him, that the assets was abandoned for the
13 purposes of this Act; and

14 (c) That there is no indication that the records under which the
15 delivery was made did not meet reasonable commercial standards of practice in
16 the industry.

17 (5) Assets removed from a safe deposit box or other safekeeping
18 repository shall be received by the Agency subject to the holder's right under
19 this subsection to be reimbursed for the actual cost of the opening and to any
20 valid lien or contract providing for the holder to be reimbursed for unpaid rent
21 or storage charges.

22 (6) The Agency shall reimburse or pay the holder out of the proceeds
23 remaining after deducting the Agency's selling cost of an asset under this Act.

24 **22.** Before making any deposit to the credit of the Fund, the Agency
25 may deduct any of the following-

26 (a) Costs in connection with the sale of abandoned assets;

27 (b) Costs of mailing and publication in connection with any
28 abandoned assets;

29 (c) Reasonable service charges;

30 (d) Costs incurred in examining records of holders of assets and in

1 collecting the assets from those holders.

2 23. Where assets other than money is delivered to the Agency
3 under this Act, the owner shall be entitled to receive from the Agency any
4 dividends, interest, or other income realized or accruing on the assets at or
5 before liquidation or conversion of the assets into money.

Dividends,
interest or other
income

6 24.-(1) Except as provided in this section, the Agency, not later
7 than three years after the receipt of the abandoned assets referred to in
8 section 25, shall sell such assets, subject to a reserve price, to the highest
9 bidder at a public auction.

Sale of unclaimed
assets

10 (2) Any sale held under this section shall be preceded by at least
11 one publication of notice, at least three weeks in advance of sale, in at least
12 one newspaper of national circulation.

13 (3) Securities listed on a stock exchange shall be sold by the
14 Agency at prices prevailing at the time of sale on the exchange.

15 (4) Securities not listed on a stock exchange may be sold over the
16 counter at prices prevailing at the time of sale or by any such other method as
17 the Agency may consider appropriate.

18 (5) Unless the Agency considers it to be in the best interest of the
19 Fund to do otherwise, all securities presumed abandoned under this Act and
20 delivered to the Agency shall be sold within one year of the receipt of the
21 securities.

22 (6) The purchaser of assets at a sale conducted by the Agency under
23 this Act shall take the assets free of all claims of the owner or previous holder
24 of the assets and of all persons claiming through or under the owner or
25 previous holder.

26 (7) The Agency shall execute all documents necessary to complete
27 the transfer of ownership to the purchaser.

28 25. The Agency shall make available for public inspection at all
29 business hours, only the name of the owner or apparent owner and a general
30 description of the assets delivered to it under this Act.

Availability of
information to
the public

Claims or assets

1 **26.**-(1) A person claiming an interest in any assets paid or delivered to
2 the Agency under this Act, may file with the Agency a claim on such form as
3 may be prescribed for that purpose by the Agency.

4 (2) The Agency shall consider each claim referred to subsection (1)
5 within ninety days after it is filed and shall give written notice to the claimant of
6 its decision.

7 (3) The notice under subsection (2) may be given by mailing it to the
8 last address, if any, stated in the claim as the address to which notices are to be
9 sent.

10 (4) Where no address for notices is stated in the claim, the notice may
11 be mailed to the last address, if any, of the claimant as stated in the claim.

12 (5) Where a claim is allowed, the Agency shall pay over or deliver to
13 the claimant the assets or the amount the Agency actually received or the net
14 proceeds if it has been sold by the Agency.

Action to establish
claim in court

15 **27.**-(1) A person who is aggrieved by a decision of the Agency or
16 whose claim has not been acted upon within ninety days after its filing may
17 bring an action in court against the Agency.

18 (2) The action shall be brought within ninety days after the decision of
19 the Agency or within one hundred and eighty days after the filing of the claim
20 where the Agency has failed to Act on a claim.

Expiration of time
period specified
by contract statute
of court order

21 **28.** The expiration, before or after the commencement of this Act, of
22 any period of time specified by contract, statute, or court order, during which a
23 claim for assets can be made or during which an action or proceeding may be
24 commenced or enforced to obtain payment of a claim for money or to recover
25 assets, shall not prevent the assets from being presumed abandoned or affect
26 any duty to file a report or to pay or deliver abandoned assets to the Agency as
27 required by this Act and such assets shall be delivered to the Agency and dealt
28 with as unclaimed assets under this Act.

Report of
unclaimed assets,
examination of
records, etc.

29 **29.**-(1) The Agency may require a person who has not filed a report as
30 required by section 20 or a person who the Agency believes has filed an

1 incomplete, or false report, to file a certified report in a form specified by the
2 Agency.

3 (2) The report under section (1) shall state whether the person is
4 holding any unclaimed assets reportable or deliverable under this Act,
5 describe unclaimed assets not previously reported or as to which the Agency
6 has made inquiry, and specifically identify and state the amounts of assets
7 that may be in issue.

8 (3) The Agency may, at reasonable times and upon reasonable
9 notice, examine the records of a person to determine whether the person has
10 complied with this Act.

11 (4) The Agency may conduct the examination referred to in
12 subsection (3) whether or not the person believes he or she is not in
13 possession of any assets reportable or deliverable under this Act.

14 (5) The Agency may enter into contract with any other person to
15 conduct the examination under this section on behalf of the Agency.

16 (6) Where an examination of the records of a person results in the
17 disclosure of assets reportable and deliverable under this Act, the Agency
18 may assess the cost of the examination against the holder at such daily rate as
19 the Minister may determine provided that the charges shall not exceed the
20 value of the assets found to be reportable and deliverable.

21 (7) The cost of examination made pursuant to subsection (3) shall
22 be imposed only against the holder.

23 (8) Where after this Act comes into force, a holder fails to maintain
24 the records required by section 31 and the records of the holder available for
25 the periods subject to this Act are insufficient to permit the preparation of a
26 report, the Authority may require the holder to report and pay an amount as
27 may reasonably be estimated from any available records.

28 30.-(1) A holder required to file a report under section 20, as to any
29 assets for which it has obtained the last known address of the owner, shall
30 maintain a record of the name and last known address of the owner for ten

Maintenance of
records, require
time periods

1 years after the assets becomes reportable, except to the extent that a shorter
2 time is provided in subsection (2) or by the Agency.

3 (2) An entity that sells in Nigeria its travellers cheques, money orders,
4 or other similar written instruments on which the business entity is directly
5 liable, or that provides those instruments to others for sale in Nigeria, shall
6 maintain a record of those instruments while they remain outstanding,
7 indicating the country and date of issue for three years after the date the assets
8 are reportable.

Failure to pay
or deliver assets
and penalties

9 31.-(1) A person who fails to pay or deliver assets within the time
10 prescribed by this Act shall pay to the Agency interest at the current prevailing
11 monthly rate above the adjusted prime rate per annum per month on the assets
12 or value of the assets from the date the assets should have been paid or
13 delivered.

14 (2) The adjusted prime rate shall be based on the Central Bank of
15 Nigeria average rate during the twelve- month period ending on thirtieth day of
16 September.

17 (3) The resulting current monthly interest rate based on the twelve-
18 month period ending thirtieth day of September shall become effective on the
19 first day of January of the following year.

20 (4) A person who wilfully fails to render any report or perform other
21 duties required under this Act shall be liable to pay penalty of not less than One
22 Hundred Thousand Naira but not more than One million Naira for each day the
23 report is withheld or the duty is not performed.

24 (5) A person who wilfully fails to pay or deliver assets to the
25 Authority as required under this Act shall be liable to pay a penalty equal to
26 twenty-five percent of the value of the assets that should have been paid or
27 delivered.

28 (6) A penalty payable under subsections (1), (4) and (5) of this section
29 shall be recoverable as civil debt.

1 32.-(1) This Act shall, on coming into force, apply to all assets that
2 would, but for the absence of this Act, be deemed unclaimed assets under the
3 provisions of this Act as if this Act had been in force at that earlier date on
4 which the assets would have become unclaimed assets under this Act.

Assets deemed
unclaimed before
this Act come
into force

5 (2) The initial report filed under this Act for assets that are subject
6 to this Act shall include all assets that would have been presumed abandoned
7 before this Act came into force as if this Act had been in effect during that
8 period and such assets shall be dealt with under the provisions of this Act.

9 33.-(1) The Agency shall make reasonable efforts to locate the
10 owner of assets in the custody of the Authority and notify him in accordance
11 with this Act.

Duty to locate
and notify owners
of assets

12 (2) In notifying an owner as required by subsection (1), the Agency
13 shall determine the most cost effective manner of making the notification
14 depending on the respective value of the assets concerned.

15 34. The Agency shall-

Unclaimed assets
database

16 (a) Maintain an electronic or other database of all unclaimed assets
17 submitted to it under this Act;

18 (b) Include in the database the prescribed particulars for each
19 unclaimed asset;

20 (c) Make the database available to the public, subject to any
21 restrictions imposed for purposes of protecting the privacy of owners.

22 35.-(1) Any regulatory authority responsible for the supervision of
23 a holder shall assist the Authority in the enforcement of the provisions of this
24 Act and generally ensure that the objectives of this Act are achieved.

Responsibility of
regulatory
authorities

25 (2) Subject to section 3, where there is conflict between the
26 provisions of this Act and the provisions of any other law on any matter
27 concerning unclaimed assets, the provisions of this Act shall prevail.

28 36.-(1) Subject to any other written law to the contrary, the Agency
29 shall have the right to any information that is in the custody or control of a
30 public body if that information can reasonably be expected to assist the

Access to
information and
retention of
records by the
Authority

1 Agency in locating the owner, or determining the correct owner, of an
2 unclaimed asset for the purposes of this Act.

3 (2) A public body that has custody or control of information to which
4 the Agency is entitled under subsection (1) shall disclose that information to
5 the Agency on request.

6 (3) Each public body shall meet the standards, as may be set by
7 regulation, with respect to-

8 (a) The collection and recording of information concerning any assets
9 that become unclaimed assets; and

10 (b) Retention of records containing that information.

11 PART III - THE UNCLAIMED FINANCIAL ASSETS AGENCY

Establishment of
the unclaimed
Financial Assets
Agency

12 37.-(1) There is hereby established an Agency to be known as the
13 Unclaimed Financial Assets Agency.

14 (2) The Agency shall be a body corporate with perpetual succession
15 and a common seal;

16 (3) The authority may sue and be sued in its corporate name and may
17 hold and dispose of property whether movable or immovable;

Composition of
the Board

18 38.-(1) There is hereby established for the Agency a management
19 Board which shall comprise of the following-

20 (a) A chairman;

21 (b) A representative of each of the following;

22 (i) Federal Ministry of Finance,

23 (ii) Central Bank of Nigeria,

24 (iii) Corporate Affairs Commission,

25 (iv) Securities and Exchange Commission,

26 (v) six persons with at least 20 years knowledge and experience in
27 matters relating to accounting and auditing, law, corporate or business
28 management and,

29 (vi) The Director General.

30 (2) Members of the Board shall-

1 (a) Hold office for a term of four years and may be eligible for
2 reappointment for a further term of four years but no more;

3 (b) Be appointed by the President; and

4 (c) Be paid such remuneration and allowances as obtained in the
5 Public Service of the Federation.

6 (3) A member shall cease to hold office if he-

7 (a) Becomes of unsound mind;

8 (b) Becomes bankrupt or makes a compromise with his creditors;

9 (c) Is convicted of a felony or any offence involving dishonesty;

10 (d) Commits serious misconduct in relation to his duties; or

11 (e) Is involved in any corrupt practice.

12 (4) A member of the Board may be removed from office by the
13 President if he is satisfied that it is not in the interest of the Fund or the
14 interest of the public that the member continues in that office.

15 (5) Where a vacancy occurs in the membership of the Board it shall
16 be filled by the appointment of a successors to hold office for the remainder
17 of the term of his predecessor and the successors shall represent the same
18 interest.

19 (6) The supplementary provisions set out in the schedule to this Act
20 shall have effect with respect to the proceedings of the board and other
21 matters contained therein.

22 39. The objects and functions of the Agency shall be to-

23 (a) Enforce, and generally administer, the provisions of this Act;

24 (b) Receive all payments required by this Act to be made to the
25 Fund;

26 (c) Make payments out of the Fund to the rightful owners in
27 accordance with the provisions of this Act;

28 (d) Manage and invest the funds of the Agency;

29 (e) Advise the Minister on the national policy to be followed with
30 regard to unclaimed assets and to implement all government policies

Objects and
functions of the
Board

1 relating to it; and

2 (f) Perform such other functions as are conferred on it by this Act or by
3 any other written law.

Appointment of
the Director-
General, etc.

4 **40.**-(1) There shall be for the Agency a Director General who shall-

5 (a) Be the Chief Executive Officer;

6 (b) Be appointed by the President;

7 (c) Possess 20 years cognate experience and knowledge in matters
8 relating to business and financial management and administration; and

9 (e) Hold office on such terms and Conditions as to emoluments
10 condition, of service as may be Specified in his letter of appointment.

11 (2) The Director-General shall, subject to the general Control of the
12 Board, be responsible for-

13 (a) Keeping records of proceedings of the Board;

14 (b) Implementing the policies and decision, of the Board; and

15 (c) The direction and Control of other employees of the Fund.

16 (3) The Fund may-

17 (a) Employ either directly or on transfer or secondment from any civil
18 or public service in the Federation such number of employees as may in the
19 opinion of the Board. be required to assist the Board and the Director General
20 in the discharge of their functions under this Act; and

21 (b) Pay such remuneration (including allowances) as the Board may
22 with the approval of the National Salaries Income and Wages Commission
23 determine.

24 (4) Service in the Fund shall be approved service for the purpose of
25 the Pension Reform Act. 2004 and accordingly, Staff and employees of the
26 Fund shall be entitled to pension and benefit as prescribed under that Act.

27 (5) Without prejudice to the provisions of subsection (4) of this
28 section, nothing in this Act shall prevent the appointment to any office on terms
29 which preclude the grant of pensions and benefits in respect of that office.

30 (6) For the purpose of the application of the Provisions of the Pension

1 Reform Act any Power exercised by the Minister or other Agency of the
2 Federal Government, is vested in, and shall be exercised by the Fund.

3 41.-(1) The provisions of any enactment relating to the taxation of
4 companies or trust funds shall not apply to the Agency.

Exemption
from tax

5 (2) All moneys in the Fund which are not for the time being
6 required to be applied for the purposes of the Fund shall be invested in such
7 investments, being investments in which any trust fund (or part thereof) is
8 permitted by the Trustee Act to be invested, as may be determined by the
9 Agency with the approval of the Minister.

Investment of
funds

10 (3) All investments made under this section shall be held for and
11 on behalf of the Fund in the name of the Agency.

12 PART IV - THE UNCLAIMED FINANCIAL ASSETS TRUST FUND

13 42.-(1) There shall be a Fund known as the Unclaimed Assets Trust
14 Fund which shall vest in, and be operated and managed by, the Agency.

Establishment of
the Trust Fund

15 (2) There shall be paid-

16 (a) into the Fund, all moneys that become or are deemed to be
17 unclaimed assets and other payments required by this Act or by any other
18 written law to be paid into the Fund; and

19 (b) Out of the Fund-

20 (i) Payment due and payable to owners out of the Fund under the
21 Act;

22 (ii) Such amounts as may be approved by the Minister to defray
23 costs associated with the administration of the Agency and performance of
24 its functions under this Act.

25 (3) The Agency shall also establish and maintain a fund from which
26 all expenditures incurred by the Agency shall be defrayed which shall
27 consist.

28 (a) Initial take off grant and such sum as May, from time to time, be
29 provided by the Federal Government for the running of the expenses of the
30 Agency;

1 (b) Interest and returns on investment of recovered dividends and
2 abandoned deposits;

3 (c) Such fees as may be determined by the Agency; and

4 (d) Such other sums as may accrue to the Fund either in the execution
5 of its functions under this Act or in respect of any property vested in the
6 Agency.

Payment of claims 7 **43.**-(1) Where the Agency is satisfied that a person is the owner of all
8 or part of the assets that became unclaimed assets and paid into the Fund, the
9 Agency may pay out of the Fund to the owner an amount equal to the value of
10 that assets or part of that assets as the case may be.

11 (2) No interest or other earning accrues or is payable to an owner in
12 respect of the period after assets becomes unclaimed assets and delivered to the
13 Agency under this Act.

14 (3) A payment under this section to an owner shall discharge the
15 Agency from liability to the owner in respect of the assets that became
16 unclaimed assets and were actually paid into the Fund.

17 PART V - MISCELLANEOUS

Authority to
appoint agents, etc. 18 **44.** The Agency may appoint or license such agents and service
19 providers as it may deem necessary for the carrying out of the objects of this
20 Act.

Authority may
initiate proceedings
in court 21 **45.** All criminal and civil proceedings under this Act may, without
22 prejudice to any other power in that behalf, be instituted by Agency and, where
23 the proceedings are instituted or brought in a court, an officer of the Agency
24 authorised by the Board in that behalf may prosecute or conduct the
25 proceedings.

Powers of the
Agency to enter,
etc. 26 **46.**-(1) The Agency shall, for the purpose of ascertaining whether this
27 Act is being or has been complied with by any person, have power to enter any
28 premises or place at all reasonable times.

29 (2) An institution liable to inspection under this Act, and any
30 employee, shall furnish the Agency all such information and produce for

1 inspection all such documents as the Authority may reasonably require for
2 the purpose of performing its functions under this Act.

3 47.-(1)The Fund shall prepare and submit to the National Annual Estimates
4 Assembly through the Minister not later than 30th September of each year,
5 an estimate of its expenditure and income during the next succeeding year.

6 (2) The Fund shall- Accounts

7 (a) cause to be kept proper accounts and records of the transactions
8 of the Fund;

9 (b) Maintain effective control over its assets and liabilities incurred
10 in the discharge of its functions;

11 (c) Prepare in respect of each financial year a statement of account
12 in such form as the Auditor-General may direct.

13 (3) The Fund shall cause the accounts to be audited not later than Audit
14 six months after the end of each year

15 (4). The Fund shall submit to the Minister not later than 30th June Annual reports
16 of each financial year, a report of its activities during the preceding year and
17 it shall include in such report a copy of the audited accounts of the Fund for
18 that year and a copy of the Auditor's report on it.

19 48.-(1) A holder who- Offences and
20 penalty

21 (a) Fails to maintain a record required under this Act or the
22 Regulations made thereunder;

23 (b) In a record required or submitted, or in information provided,
24 under this Act or the Regulations, makes a statement that-

25 (i) Is false or misleading with respect to a material particular; or

26 (ii) Omits to state a material fact, the omission of which makes the
27 statement false or misleading, commits an offence.

28 (2) A person is not guilty of an offence under subsection (1) (b) if
29 the person did not know that the statement was false or misleading and, with
30 the exercise of reasonable diligence, could not have known that the
statement was false or misleading.

1 (3) Where a body corporate commits an offence under this section, an
 2 employee, officer, director or agent of the corporation who authorises, permits
 3 or acquiesces in the commission of the offence commits an offence.

4 (4) Subsection (3) shall apply whether or not the body corporate is
 5 prosecuted for the offence.

6 (5) A person who wilfully refuses after written demand by the Agency
 7 to pay or deliver assets to the Agency as required under this Act commits an
 8 offence.

9 (6) A person convicted of an offence under this section shall be liable
 10 to a fine of not less than Five Hundred Thousand Naira or to imprisonment for a
 11 term of not more than two years, or to both.

Penalties payable
 to the court

12 **49.**-(1) The Court before whom any person is convicted of an offence
 13 under this Act may, without prejudice to any civil remedy, order such person to
 14 pay to the Fund the amount of any other sum, together with any interest or
 15 penalty thereon, found to be due from such person to the Fund, and any sum so
 16 ordered shall be recoverable as a fine and paid into the Fund.

17 (2) All sums due to the Fund shall be recoverable as debts due to the
 18 Agency and without prejudice to any other remedy shall be a civil debt
 19 recoverable summarily.

Regulations

20 **50.** The Minister may, on the recommendation of the Board, make
 21 regulations necessary to carry out the provisions of this Act.

Interpretation

22 **51.** In this bill, unless the context otherwise requires-

23 "Apparent owner" means the person whose name appears on the records of the
 24 holder as the person entitled to assets held, issued, or owing by the holder;

25 "Assets" means financial assets to which this Act applies and includes any
 26 income, dividend or interest thereon;

27 "Agency" means the Unclaimed Assets Agency established by section 39;

28 "Bank" has the meaning assigned to it in the Banking and Other Financial
 29 Institutions Act;

30 "Board" means the board of the Agency;

1 "Director General" means the chief executive officer of the Agency
2 appointed under section 42;

3 "Financial institution" has the meaning assigned to it in the Banking Act;

4 "Fund" means the Unclaimed Assets Trust Fund established by section 44;

5 "holder" means any entity who, in respect to assets to which this Act applies,
6 holds such assets on behalf of an owner, is in possession of assets belonging
7 to another, is indebted to another on an obligation or is a trustee;

8 "Insurance Company" has the meaning assigned to it in the Insurance Act;

9 "Last known address" means a description of the location of the apparent
10 owner sufficient for the purpose of the delivery of mail;

11 "Minister" means the Minister for the time being responsible for matters
12 relating to finance;

13 "Owner" means a person having a legal or equitable interest in assets subject
14 to this Act and includes the legal representative of the owner;

15 "Unclaimed assets" means assets that-

16 (a) Have been presumed abandoned and have become unclaimed
17 assets under the provisions of this Act;

18 (b) Have been transferred to the Authority as unclaimed assets
19 under this Act;

20 (c) Have been deemed under any other law to be unclaimed assets
21 and payable to the Authority, and includes all income, dividend or interest
22 thereon but excludes any lawful charges thereon; and

23 "Utility" means a person who carries on the business of transmission, sale,
24 delivery, or supply of electricity, water or other utility services.

25 **52.** This Bill may be cited as the Unclaimed Financial Assets Bill, Citation
26 2016.

1 SCHEDULE

2 *Section 40(6)*

3 SUPPLEMENTARY PROVISIONS RELATING TO THE GOVERNING BOARD

4 *Proceedings of the Board.*

5 1.-(1) Subject to this act and Section 27 of the interpretation Act, the
6 Agency may make standing orders regulating its proceeding or those of any its
7 Committees.

8 (2) The quorum of the Agency shall be five members and the quorum
9 of any Committee of the Agency shall be determined by the Agency.

10 2.-(1) The Agency shall meet not less than four times in each year and
11 subject thereto, the Agency shall meet whenever it is summoned by the
12 Chairman; and if the Chairman is required to do so by notice given to him by
13 not less than three other members, he shall summon a meeting of the Agency be
14 held within fourteen days from the date on which the notice is given.

15 (2) At any meeting of the Agency, the Chairman shall preside but if he
16 is absent, the members present at the meeting shall appoint one of their
17 members to preside at that meeting.

18 (3) Where the Agency desires to obtain the advice of any person on a
19 particular matter, the Agency may co-opt such a person for such a period as it
20 thinks fit; but a person who is attendance by virtue of this sub-paragraph shall
21 not count towards a quorum.

22 3.-(1) The Agency may appoint one or more Committees to carry out,
23 on behalf of the Agency, such of its functions as the Agency may determine.

24 (2) A Committee appointed under this paragraph shall consist of such
25 member of persons (not necessarily members of the Agency) as may be
26 determined by the Agency and shall not hold office on the Committee in
27 accordance with the terms of his appointment.

28 (3) A decision of a Committee of the Agency shall be of no effect until
29 it is confirmed by the Agency.

Miscellaneous

1
2 4.-(1) The fixing of the seal of the Agency shall be authenticated by
3 the signature of the Chairman, the Director General, or of any other person
4 authorized generally or specifically to act for that purpose by the Agency.

5 (2) Any contract or instruction which, if made or executed by a
6 person not being a body corporate, would not require to be under seal may be
7 made or executed on behalf of the Agency by the Chairman, Director
8 General, or any person generally or specially authorized to act for that
9 purpose by the Agency.

10 (3) Any document purporting to be a document duly executed
11 under the seal of the Authority, shall be received in evidence and shall,
12 unless and until the contrary is proved, be presumed to be so executed.

13 5. The validity of any proceeding of the Agency or of a Committee
14 thereof shall not be adversely affected by any vacancy in the membership of
15 the Agency or Committee, or by any defect in the appointment of a member of
16 the Authority, or of a Committee, or by reason that a person not entitled to do
17 so took part in the proceedings of the Agency or Committee.

EXPLANATORY MEMORANDUM

The bill seeks to provide a legislative framework for dealing with unclaimed financial assets due to the colossal sums of money represented by unclaimed assets held by financial and other institutions in Nigeria.

MEMORANDUM OF OBJECTS AND REASONS FOR THE BILLS

The objective of this Bill is to provide a legislative framework for dealing with unclaimed financial assets. The need for such legislative framework has been demonstrated by the colossal sums of money (running into billions on Naira) represented by unclaimed assets (money, dividends, etc) held by financial and other institutions in Nigeria.

Some important definition of terms under the bill include:

"Assets" means financial assets to which this Act applies and includes any income, dividend or interest thereon;

"Unclaimed assets" means assets that-

(a) Have been presumed abandoned and have become unclaimed assets under the provisions of this Act;

(b) Have been transferred to the Authority as unclaimed assets under this Act;

(c) Have been deemed under any other law to be unclaimed assets and payable to the Authority, and includes all income, dividend or interest thereon but excludes any lawful charges thereon; and

"Holder" means any entity who, in respect to assets to which this Act applies, holds such assets on behalf of an owner, is in possession of assets belonging to another, is indebted to another on an obligation or is a trustee;

"Owner" means a person having a legal or equitable interest in assets subject to this Act and includes the legal representative of the owner;

Part I contains preliminary provisions.

Part II contains wide-ranging provisions and general principles relating to unclaimed financial assets. These provisions relate to the period of time the expiry of which unclaimed assets shall be deemed to have been abandoned. In particular, it provides for how travellers' cheques and money orders which remain unclaimed for two years or more from the date of issue are to be dealt with. It provides that a deposit paid to a utility firm for the provision of services and which remains unclaimed for two years or more from the date of termination of service shall be deemed to have been abandoned.

Part II Also provides that any payment made pursuant to a court order which remains unclaimed for more than two years from the date of the order shall be deemed to have been abandoned.

Part III Provides for the manner in which unclaimed financial assets are to be dealt with and the duties incumbent upon holders of unclaimed assets. In particular, a duty is imposed on such a holder to make reasonable efforts to locate the owner of the unclaimed assets and notify such owner accordingly of the existence of the assets. Similarly, the holder of unclaimed assets which are

presumed to be abandoned is placed under an obligation to compile a report setting out various details pertaining to the assets and submit the same to the Unclaimed Financial Assets Authority. The Authority is also empowered under this Part to ask for information from the holder of unclaimed assets which are deemed to have been abandoned. A person filing a report under this Part is obligated to deliver the unclaimed assets to the Authority at the time of making the report and the Authority is thereby required to take custody of the unclaimed assets.

Under this Part, the Authority is empowered to sell unclaimed assets in its custody, upon expiry of three years from the time it took custody of the assets, by way of public auction. Similarly, a person claiming an interest in unclaimed assets in the custody of the Authority is allowed to lodge a claim with the Authority, and if the claim succeeds, the Authority is required to deliver the assets the subject of the claim to the claimant. A person who is aggrieved by the decision of the Authority or whose claim is not determined by the Authority may seek recourse in a court of law. The Authority is required to maintain a database of all the unclaimed assets vested on it under the Bill.

Part IV Provides for the establishment, powers and functions of the Unclaimed Financial Assets Authority. The Authority is established as a body corporate and its management is to be vested on a board whose composition is set out in this Part. Similarly, the objects and functions of the Authority are set out in this Part.

Part V Provides for the establishment of the Unclaimed Financial Assets Trust Fund which is to be administered by the Authority. There is to be paid into the Fund unclaimed assets which vests in the Authority under the Bill, and the moneys realised from the sale of such unclaimed assets by the Authority. Claims for unclaimed assets approved by the Authority are to be paid from the Fund, together with moneys to defray the costs of administration of the Authority.

Part VI Contains miscellaneous provisions. It among other things sets out offences under the Bill and their attendant penalties. It also empowers the Minister to make Regulations under the Bill on the recommendations of the Board of the Authority.