

A BILL

FOR

AN ACT TO REPEAL THE NIGERIA DEPOSIT INSURANCE CORPORATION ACT 2006 AND ENACT THE NIGERIA DEPOSIT INSURANCE CORPORATION 2017 AND FOR RELATED MATTERS

Sponsored by Hon. Olufemi Fakeye

[] Commencement

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

1 PART 1 - ESTABLISHMENT AND FUNCTIONS OF THE CORPORATION

Establishment of NDIC

2 1.-(1) There shall be establish a body known as the Nigeria Deposit
3 Insurance Corporation (hereinafter in this Act referred to as "the
4 Corporation").

5 (2) The Corporation:

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

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

9 (c) may, for the purposes of its functions under this Act and subject
10 to the Land Use Act, hold, acquire and dispose of any property movable or
11 immovable.

12 2. The Corporation shall have the following Public Policy
13 objectives:

Public Policy Objectives

14 -(1) Protecting small, uninformed and less financially
15 sophisticated depositors by providing an orderly means of compensation in
16 the event of either failure of their insured financial institutions or the
17 inability of such insured institutions to make payment to depositors.

18 (2) Contributing to the financial system stability in its role as a key
19 participant in the financial system safety-net, and

20 (3) Enhancing public confidence and systemic stability by

1 providing a framework for the resolution and orderly exit mechanism for
2 failing and failed insured institutions.

Mandate

3 3. The mandate of the Corporation is:

4 (a) Deposit payment Guarantee to depositors of all insured
5 institutions pursuant to the provisions of this Act;

6 (b) the effective supervision of Insured Institutions in collaboration
7 with the Central Bank of Nigeria as Regulator and lead Supervisor to reduce
8 the risk of bank failure and ensure that unsafe and unsound banking practices
9 are minimized;

10 (c) the prompt resolution of all distressed Insured Institutions; and

11 (d) the efficient liquidation of failed Insured Institutions.

Functions of
the Corporation

12 4.-(1) The Corporation shall have responsibility for -

13 (a) Insuring all deposit liabilities of licensed banks and such other
14 deposit taking financial institutions (hereinafter referred to as "insured
15 institutions") operating in Nigeria within the meaning of sections 16 and 20 of
16 this Act so as to engender confidence in the Nigerian banking system;

17 (b) Giving assistance to insured institutions in the interest of
18 depositors, in case of imminent or actual financial difficulties particularly
19 where suspension of payments is threatened to avoid damage to public
20 confidence in the banking system;

21 (c) Guaranteeing payments to depositors in the event of revocation of
22 operating licence of insured institutions or in the case of actual suspension of
23 payments by insured institutions up to the maximum amount as provided for in
24 section 20 of this Act;

25 (d) Assisting monetary authorities in the formulation and
26 implementation of banking policy so as to ensure sound banking practice and
27 fair competition among banks in the country; and

28 (e) Pursuing any other measures necessary to achieve the functions of
29 the Corporation provided such measures and actions are not repugnant to the
30 functions of the Corporation.

1 5. (1) Notwithstanding any provision contained in any other law,
2 no person other than the Corporation shall insure deposit liabilities or
3 guarantee payments to depositors of insured banks or such other insured
4 deposit taking financial institutions operating in Nigeria.

5 (2) No person other than an insured institution may advertise for
6 deposits.

7 (3) Any person who contravenes the provisions of subsection (1) or
8 (2) of this section commits an offence and is liable on conviction to:

9 (a) in the case of an individual, a fine of N100,000.00 or
10 imprisonment for a term not exceeding 5 years or to both such fine and
11 imprisonment;

12 (b) in the case of a corporate body, a fine of N500,000.00 for each
13 day the contravention continues.

14 6. The Corporation shall have its Head Office in the capital of the
15 Federal Republic of Nigeria and may open offices in any part of Nigeria and
16 appoint agents and correspondents as may be approved by the Board.

Head Office

17 PART II - ADMINISTRATION

18 7.-(1) The governing body of the Corporation shall be a Board of
19 Directors (hereinafter in this Act referred to as "the Board").

Composition of
the Board

20 (2) (i) The Board shall consist of the following members, that is:

21 (a) a Chairman;

22 (b) the Managing Director;

23 (c) two Executive Directors;

24 (d) two representatives of the Central Bank of Nigeria not below
25 the rank of Director, one of whom shall be the Director of Banking
26 Supervision;

27 (e) the Director of Home Finance, and

28 (f) six other members, one from each of the geo-political zones in
29 the country.

30 (3) The Chairman and Board members referred to above must not

1 be persons who own or control significant interests in any insured institution in
2 Nigeria.

3 (4) The President of the Federal Republic of Nigeria shall appoint the
4 Chairman and members of the Board referred to in paragraph (a), (b), (c) and
5 (f) subject to the confirmation of the Senate.

6 (5) The Chairman and the six members of the Board appointed under
7 sub-section (2)(f) of this Section shall be part-time members.

8 (6) The members of the Board who shall be citizens of Nigeria, shall
9 possess relevant skills, experience and qualifications.

10 (7) All members of the Board shall within one month of appointment
11 into the Board declare in writing to the Board their personal share holdings and
12 all significant interests as well as those of their family members or close
13 associates known to them in any insured institution in Nigeria.

14 (8) The supplementary provisions contained in the Schedule to this
15 Act shall have effect with respect to matters therein mentioned.

Tenure of Part
Time Members

16 8. The part-time members of the Board shall hold office for a period
17 of four years which is renewable for another period of four years only.

Disqualification
of Members of
the Board

18 9.-(1) Notwithstanding the provisions of this Act a person shall cease
19 to hold office as a member of the Board if-

20 (a) he becomes bankrupt, suspends payment or compounds with his
21 creditors;

22 (b) he is convicted of a felony or any offence involving dishonesty or
23 fraud;

24 (c) he becomes of unsound mind, incapable of carrying out his duties;

25 (d) he is guilty of a serious misconduct in relation to his duties;

26 (e) in the case of a person possessing professional qualifications, he is
27 disqualified or suspended other than at his own request from practicing his
28 profession in any part of the world by an order of a competent authority made in
29 that respect;

30 (f) he resigns his appointment by a letter addressed to the President of

1 the Federal Republic of Nigeria, through the Minister of Finance;

2 (g) he is discovered to have significant interest in any insured
3 institution in Nigeria; or

4 (h) he is found to have failed to disclose to the Board his interest or
5 the significant interest of any family member or close associate, known to
6 him in any insured institution at the time of his appointment.

7 (2) No director or employee of an insured institution under this Act
8 shall, whilst in office be appointed a Director of the Corporation.

9 (3) No member of the Board shall be removed for any reasons
10 other than those specified in Subsection (1) and (2) of this Section.

11 *Composition of Interim Management Board*

12 [4] Whenever the Board is dissolved or its tenure expires, and
13 pending the appointment of a new Board, the Minister shall in consultation
14 with the Governor of Central Bank of Nigeria constitute an Interim
15 Management Board for the Corporation to be made up of the following
16 members:

17 (a) The Permanent Secretary, Ministry of Finance, who shall be the
18 Chairman;

19 (b) the Managing Director;

20 (c) two Executive Directors of the Corporation; and

21 (d) two representatives of the Central Bank of Nigeria not below
22 the rank of Director, one of whom shall be the Director of Banking
23 Supervision.

24 (5) Pending the constitution of the Interim Management Board, the
25 Minister may give directives to the Corporation on matters exercisable by
26 the Board.

27 *Vacancy of Board Membership*

28 (6) If a part-time member of the Board is disqualified, deceased,
29 resigns or otherwise vacates office before the expiration of his term, the
30 President shall in accordance with section 5[4] appoint another person from

1 the same geographical zone to fill the vacancy.

2 *Conflicts of Interest*

3 (7) (i) No member of the Board appointed under this Act shall act as a
4 representative of any commercial, financial, agricultural, industrial or other
5 interests, or receive or accept directions there from in respect of duties to be
6 performed under this Act;

7 (ii) Every member of the Board shall fully and promptly disclose to
8 the Board any interest, whether personal, commercial, financial, industrial, or
9 other, which he may directly or indirectly hold or be connected with and which
10 becomes the subject of consideration by the Board, and shall excuse himself
11 from any Board deliberations and voting related thereto:

12 Provided that such an interest, if so disclosed, shall not disqualify
13 such member for the purpose of constituting a quorum.

14 (iii) Every officer and employee of the Corporation shall fully and
15 promptly disclose to the Corporation any material indebtedness or interest,
16 whether personal, commercial, financial, industrial, or otherwise, which he or
17 any dependent member of his family may directly or indirectly incur, hold or be
18 connected with, and any changes related thereto in an insured institution;

19 (iv) No member of the Board, officer or employee of the Corporation
20 shall accept any gift or advantage for himself or on behalf of any person with
21 whom he may have family, business or financial relationship if the acceptance
22 thereof would result in a diminishment of his impartial devotion to his duties
23 under this Act;

24 (v) Without prejudice to other disciplinary measures under Staff
25 Conditions of Service, any person who contravenes any of the provisions of
26 this section shall be guilty of an offence and shall be liable on conviction to a
27 fine not exceeding N5,000, 000.00 (five million naira only) or to imprisonment
28 for a term not exceeding five years, or to both.

The powers of
the Board

29 10.-(1) The Board shall have power-

30 (a) to superintend over the affairs of the Corporation;

1 (b) be responsible for the overall policy and administration of the
2 Corporation;

3 (c) to act in the name of the Corporation;

4 (d) to acquire, build, construct, lease offices and other premises for
5 the use of the Corporation;

6 (e) to make, alter and revoke rules, guidelines, circulars, and
7 regulations for carrying on the operations, activities, functions and business
8 of the Corporation under this Act;

9 (f) to employ and appoint officers, staff and employees who in the
10 opinion of the Board are required for carrying out the functions of the
11 Corporation including the examination of insured institutions;

12 (g) to the exclusion of any other authority, body or person, fix the
13 terms and conditions of service including remuneration and disciplinary
14 measures of the staff, officers and other employees of the Corporation;

15 (h) to advise the Central Bank of Nigeria on the need to close an
16 insured institution if in the opinion of the Board its continued operation will
17 jeopardize the interests of depositors;

18 (i) to serve notice on an insured institution of its intention to
19 remove the institution from its record of insured institutions;

20 (j) to assume, with the prior concurrence of the Central Bank of
21 Nigeria, the management of a failing insured institution;

22 (k) to recommend to the Central of Bank of Nigeria, the removal
23 from office of any officer or director who has committed any violation of the
24 law, rules or regulation of the Corporation or has engaged in an unsound
25 practice that may lead to dissipation of assets of, or financial loss to his or her
26 insured institution;

27 (l) to perform the functions of a liquidator or receiver for all failed
28 insured institutions;

29 (m) to extend from time to time the period within which a depositor
30 or other creditor is required under this Act to file his claim or receive

1 payment of insured deposit or other liquidation dividends in a failed insured
2 institution;

3 (n) to prosecute any person, or an employee, officer or director of an
4 insured institution who has committed any violation of the provisions of this
5 Act or the failed banks Act or any banking legislation; and

6 (o) to do such other things and enter into such other transactions
7 which in the opinion of the Board are reasonably incidental, supplementary or
8 conducive to the exercise of the powers and performance of the Corporation's
9 functions.

Appointment of
the Managing
Director and
Executive
Directors, etc.

10 **11.-(1)** There shall be appointed for the Corporation-

11 (a) a Managing Director, who shall be the Chief Executive of the
12 Corporation and shall be responsible for the day-to-day management of the
13 Corporation, and

14 [b] two Executive Directors who shall perform such duties as may be
15 assigned to them from time to time by the Board or the Managing Director.

16 (2) Any person appointed as the Managing Director or an Executive
17 Director shall not, while holding that office, hold any other office or be a
18 director in any Corporation, Company or any other establishment without the
19 prior approval of the Board.

20 (3) The Managing Director and Executive Directors appointed
21 pursuant to the provisions of this section shall hold office for a period of five
22 years and shall be eligible for re appointment for a further period of five years
23 only.

24 (4) Subject to sub-section (3) of this section, the Managing Director
25 and Executive Directors shall each hold office on such terms and conditions as
26 may be specified in their letters of appointment.

Employment of
Staff, etc.

27 **12.-(1)** The Board shall appoint a Secretary who shall-

28 (a) be responsible to the Managing Director;

29 (b) keep the Board's records;

30 (c) conduct its correspondence; and

1 (d) perform such other duties as the Board or the Managing
2 Director may from time to time determine.

3 (2) The Board shall appoint such number of officers and staff as
4 may appear expedient and necessary to the Board for the proper and efficient
5 conduct of the business and functions of the Corporation.

6 (3) The terms and conditions of service (including remuneration,
7 allowances and pension benefits in accordance with the Pension Reform
8 Act] of the Secretary and other staff of the Corporation shall be as may be
9 determined by the Board to the exclusion of any other authority or person..

10 PART III - CAPITAL AND FUNDS OF THE CORPORATION

11 13.-(1) The funds managed by the Corporation shall consist of-

Fund of the
Corporation

12 (a) assessed premiums paid by insured institutions in accordance
13 with this Act;

14 (b) income from the investments of the Corporation;

15 (c) monies borrowed from any source with the approval of the
16 Board; and

17 (d) monies from any other source as may be approved by the
18 Corporation.

19 (2) There is hereby established separate Deposit Insurance Funds
20 (DIFs) for each category of insured institutions and for non- interest deposit
21 liabilities of insured institutions to be managed by the Corporation in trust
22 for depositors in which all assessed premiums paid to the Corporation by
23 insured Institutions shall be deposited and which funds the Corporation
24 shall utilize for the benefit of depositors of the respective insured
25 institutions.

26 14.-(1) The authorized capital of the Corporation shall be five
27 billion Naira.

Capital

28 (2) On a resolution of the Board, there shall be paid up such amount
29 as shall be subscribed by and paid-up at par in a proportion of 60 per cent and

1 40 percent by the Central Bank of Nigeria and the Federal Ministry of Finance.

2 (3) Notwithstanding the provision of subsection [1] of this section.
3 the authorized capital of the Corporation may be increased by such amount as
4 the Board may be resolution determine from time to time.

5 (4) On a resolution of the Board the amount subscribed and paid up as
6 stated above shall be refunded to the Central Bank of Nigeria and the Federal
7 Ministry of Finance.

General Reserve
Fund

8 15.-(1) Notwithstanding the provisions of any Act or Law, the
9 Corporation shall establish a General Reserve Fund and shall transfer thereto at
10 the end of each fiscal year its operating surplus for the year in order to cushion
11 the threat posed to the Deposit Insurance Funds by incidence of systemic
12 distress.

13 (2) Where the reserve fund is more than ten times the authorized
14 capital at the end of the year, 75 per cent of the net operational surplus before
15 tax shall be transferred to the reserve fund, 50 per cent of the remaining amount
16 after tax shall be applied to reduce the annual premium payable by insured
17 banks while the remaining 50 per cent shall be paid to the shareholders;

18 (3) The net operational surplus of the Corporation for each year shall
19 be determined after meeting all the current expenditure for that year, including
20 budgetary provisions stipulated under the Act and after making such other
21 provisions as the Board may deem fit including depreciation of assets,
22 contribution to staff pension and superannuation funds and all other
23 contingencies.

Bank Account
and Investment
of Funds of the
Corporation

24 16.-(1) The Corporation shall have power to invest money not
25 immediately required in Federal Government Securities or in such other
26 securities as the Board may from time to time determine.

27 (2) The incomes from the money invested as prescribed by subsection
28 (1) of this section shall be credited to the account of the Corporation.

29 (3) All administrative expenses shall be defrayed out of the income of
30 the Corporation.

- 1 17. There shall be chargeable to the Corporation- Expenditure
2 (a) all expenses incurred on behalf of the Corporation;
3 (b) all refunds of excess assessment;
4 (c) monies required for the payment of funds borrowed by the
5 Corporation;
6 (d) payment to an insured institution which assumes the deposit
7 liability of another insured institution; and
8 (e) Payment of insured deposits when the licence of an insured
9 institution is revoked or it has defaulted in payment of its obligations to
10 depositors

11 PART IV - DEPOSIT INSURANCE SCHEME

12 18.-(1) All licensed banks and such other financial institutions in Participating
Institutions
13 Nigeria engaged in the business of receiving deposits shall be required to
14 insure their deposit liabilities with the Corporation.

15 (2) Any licensed bank or such other deposit-taking financial
16 institution which contravenes the provisions of subsection (1) of this section
17 shall be guilty of an offence and be liable to a maximum fine of N500,000.00
18 (five hundred thousand naira) for each day the offence is committed.

19 (3) All principal officers of such a licensed bank or deposit-taking
20 financial institution which contravenes subsection (1) of this section shall be
21 guilty of an offence and be liable to 3 year imprisonment or a fine of not
22 more than N5,000,000.00 (five million naira) or to both such fine and
23 imprisonment.

24 (4) The Corporation shall have power to issue Certificates of
25 Deposit Guarantee to insured institutions that satisfy the prescribed
26 regulations issued by the Corporation pursuant to this section.

27 19. All deposits of a licensed bank or any other financial Insurable Deposit
28 institution shall be insured with the Corporation and premium paid on such
29 deposits accordingly, with the exception of the following, that is-

30 (a) Insider deposits, that is, deposits of staff including directors of

1 the insured institutions;

2 (b) Counter-claims from a person who maintains both deposit and
3 loan account, the former serving as a collateral for the loan;

4 (c) Such other deposits as may be specified from time to time by the
5 Board.

Assessment of
Insured Institutions
and Special
Contribution

6 **20.**-(1) Every insured institution being a licensed bank or deposit
7 taking financial institution to which this Act relates, shall be obliged to pay to
8 the Corporation, a premium which shall not exceed (15/16) fifteen sixteenth of
9 one per cent per annum for licensed banks and eight-sixteenth (8/16) of one per
10 cent per annum for other deposit-taking financial institutions of the total
11 deposit liabilities standing in its books as at 31st December of the preceding
12 year in the following manner:

13 (a) the deposit liabilities shall be as certified by the approved auditor
14 of the licensed bank or such other deposit-taking financial institution;

15 (b) the certified deposit liabilities shall be forwarded to the
16 Corporation on or before 31st January of every year; and

17 (c) the annual premium shall be payable not later than 2 months from
18 the date of the demand notice.

19 (2) Notwithstanding the provisions of sub-section 1 of this section,
20 and subject to the approval of the Board, the Corporation shall have the power
21 to vary the rate or basis of assessment of the premium payable to the
22 Corporation by insured institutions or to charge an insured institution or any
23 class of insured institutions premium at a rate or rates which reasonably reflect
24 the risk posed to the Corporation's Deposit Insurance Fund.

25 (3) The premiums payable under subsection (1) and (2) of this section
26 shall not be chargeable to depositors in any form.

27 (4) The Corporation shall have power to establish a separate Deposit
28 Insurance Fund (DIF) for each category of insured institution in which all
29 assessed premiums paid shall be deposited and which fund the Corporation
30 shall utilize for the respective insured institutions.

1 (5) Where the funds of the Corporation are not sufficient for giving
2 assistance to insured institutions within the meaning of section 2 1(b) of this
3 Act or otherwise insufficient for implementation of the objects of the
4 Corporation, every participating insured institution or category of insured
5 institution may be obliged without prejudice to subsection (1) and (2) of this
6 section to pay as special contribution out of its profits before tax, a sum equal
7 to its annual premium or such other sum as the Board may require not
8 exceeding 200% of its annual premium on such terms and conditions as the
9 Board may from time to time determine.

10 (6) Where an insured institution has assumed the deposit liabilities
11 of another insured institution, such deposit liabilities of the other institution
12 shall be added to its own total deposit liability for purpose of assessing its
13 premium payable to the Corporation.

14 (7) Any premium payable by an insured institution and which
15 remains unpaid for more than three months after a demand notice had been
16 served on such institution, shall attract interest at a rate equivalent to the
17 prevailing Monetary Policy Rate (MPR) of the Central Bank of Nigeria.

18 **21.-(1)** Without prejudice to the provisions of the Banks and Other
19 Financial Institutions Act 1991 as amended no insured bank shall pay any
20 dividend on its capital stock or on profit declared while it remains in default
21 in the payment of any premium or special contribution obligation due to the
22 Corporation.

Payment of
dividends by
insured institutions
while in default
of assessment

23 (2) The Corporation may recommend to the Central Bank of
24 Nigeria the removal from office of any director, manager, or officer of any
25 insured institution who is responsible for the declaration or payment of any
26 such dividend and the insured institution shall be liable to a fine of 5% of
27 total dividend so declared or paid

28 (3) Any insured institution in default of assessment shall not have
29 its annual financial statement approved for publication by the CBN.

30 **22.** No premium due from an insured institution to the

Prohibition of
set off

1 Corporation shall be reduced, adjusted or withheld on the basis of any set off or
2 claim that an insured institution may have against the Corporation.

Maximum
Claim

3 23.-(1) A depositor shall receive from the Corporation as provided
4 under section 2 (1) (c) of this Act, a maximum amount of ₦500,000.00 (five
5 hundred thousand naira) from the Deposit Insurance Fund of licensed banks
6 and Non -interest deposit liabilities fund or ₦200,000.00 (two hundred
7 thousand naira) from the Deposit Insurance Fund of other licensed deposit-
8 taking financial institutions in the event of the revocation of operating license
9 of such insured institution or actual suspension of payment to depositors of
10 such insured institution.

11 (2) Notwithstanding the provisions of sub-section (1) of this Section
12 and subject to the approval of the Board, the Corporation shall have power
13 from time to time to vary upwards the maximum amount which a depositor
14 shall receive from the Corporation as provided under sub-section (1) of this Act
15 in respect of deposits of insured institutions.

16 (3) For the purpose of subsection (1) of this section, all accounts held
17 in the same right and capacity in one insured institution shall be merged as one
18 account.

19 (4) The payment of the insured sum as provided for under this section
20 shall be without prejudice to the liquidation dividends to be paid to the
21 depositor once the assets of the failed insured institution has been realized.

Right to set-off
guarantor's
deposit

22 24. The Corporation shall have the power to set-off a loan owed by a
23 debtor of a failed or failing insured institution against the deposit of such
24 debtor or his guarantor held in the same bank in respect of all proven liabilities
25 due from the debtor to the insured institution.

Payment of
Insured Deposit

26 25.-(1) payment of the insured deposit in an insured institution shall
27 be made by the Corporation -

28 (a) within 30 days of the Corporation becoming the liquidator of such
29 insured institution where the licence of that institution is revoked; or

30 (b) with the concurrence of CBN, within 30 days, where due to its

1 insolvent status, the insured institution has suspended payment or is
2 otherwise unable to meet its obligation to depositors for a period of 90 days,
3 either by:

4 (a) cash, negotiable instrument, or

5 (b) making available to each depositor a transferred deposit in
6 another insured institution in an amount equal to the insured deposit of such
7 depositor, Provided that where the Corporation is:

8 (i) liable to make payment in pursuance of this section, it shall, at
9 its discretion, require proof of claim from all depositors with the insured
10 institution; and

11 (ii) not satisfied as to the validity of a claim for an insured deposit,
12 it may require the final determination by a court of competent jurisdiction
13 before paying such claim.

14 (2) The Corporation upon the payment of any depositor as
15 provided in subsection (1) of this section shall be subrogated to all rights of
16 the depositor against the failed insured institution to the extent of such
17 payment; and such subrogation shall include the right on the part of the
18 Corporation to receive the same dividends from the proceeds of the assets of
19 such failed insured institution and recoveries on account of shareholder's
20 liabilities as would have been payable to the depositor for any uninsured
21 portion of his deposit.

22 (3) Not later than 90 days after the failure of an insured institution,
23 the Corporation, if it finds that it is advisable in the interest of the depositors
24 or the public, shall appoint another insured institution to assume the insured
25 deposits of the failed insured institution.

26 26.-(1) The Corporation shall have power to withhold pending the
27 determination of culpability or otherwise by a tribunal or court of competent
28 jurisdiction, the payment of insured and excess uninsured deposit claims
29 obtained through or being used in connection with or held in furtherance of
30 criminal activities or where it is satisfied that the depositor had connived

Power to withhold
deposits/Discharge
of Corporation

1 with the failed insured institution's officials or had been a party to or had
2 knowingly benefited from the circumstances which gave rise to the failure of
3 an insured institution.

4 (2) The Corporation may withhold payment of such portion of the
5 insured deposit of any depositor in a failed insured institution as may be
6 required to provide for the payment of any liability of such depositor to the
7 failed insured institution or its liquidator/receiver, pending the determination
8 and payment of such liability by such depositor or any other person liable
9 thereof.

10 (3) Payment of an insured deposit to any person by the Corporation
11 shall discharge the Corporation, and payment of a transferred deposit to any
12 person by an insured institution in which a transferred deposit has been made
13 available shall discharge the Corporation and such other insured institution, to
14 the same extent that payment to such person by the failed institution would
15 have discharged it from liability from the insured institution.

16 (4) If, after the Corporation shall have given at least three months'
17 notice to pay to every depositor by mailing a copy thereof to his last known
18 address appearing in the records of the failed insured institution, and publish a
19 general notice in at least two National Dailies and two electronic media houses
20 with national coverage, notifying insured depositors of the particular failed
21 insured institution of the dates and venue for payment any depositor of the
22 failed insured institution who-

23 (a) fails to claim his insured deposit from the Corporation within six
24 years after the Notice of the corporation has been sent to the depositor and the
25 notice of payment to depositors is published in two National Dailies and
26 electronic media houses, shall forfeit such sums to the Corporation ; or
27 fails within such period to claim or arrange to continue the transferred deposit
28 with the new insured institution, all the rights of the depositor against the failed
29 insured institution or its shareholders or the receivership estate to which the

1 corporation may have become subrogated shall thereupon revert to the
2 Corporation.

3 (5) The amount of any transferred deposits not claimed within the
4 period stated in subsection (4) (b) of this section shall be refunded to the
5 Corporation.

6 (6) No Court proceedings shall be commenced against the
7 Corporation in respect of the obligation of the Corporation to make any
8 payment in relation to any deposit held by any person in any failed insured
9 bank or financial institution after the expiration of the period stipulated in
10 subsection 4 of this section or any extension that may be granted under
11 Section 7[m] of this Act.

12 27. The Corporation may after payment of insured deposits make
13 interim deposit payments in regard to claim of depositors of closed insured
14 institutions that comply with the following conditions:

Interim Dividend
Payment

15 (a) The net Realizable value of the assets of the closed insured
16 institution can be reasonably estimated;

17 (b) The estimated amount of the interim dividends and the interest
18 at a rate to be determined by the Corporation but in any event not more than
19 the prevailing interbank rate can be fully reimbursed by the estimated net
20 realizable value of the assets;

21 (c) The closed insured institution has no severe embezzlements or
22 other significant fraud or other abuses whose losses are difficult to
23 determine;

24 (d) The amount of the interim dividend payment to be made by
25 the Corporation shall not exceed 30% of the total excess uninsured deposit
26 claim of any closed insured institution.

27 PART V - NOTICE OF TERMINATION OF INSURED STATUS

28 28.-(1) Whenever it appears to the Corporation that an insured
29 institution or its directors or officers have committed a grievous violation of
30 its obligation under this Act or have continued to conduct the business of the

Grievous violation
of obligations

1 insured institution-

2 (a) in an unsound manner;

3 (b) intentionally or negligently permit any of the officers or agents of
4 the insured institution to violate any provisions of any law or regulation to
5 which an insured institution is subject, the Corporation shall in consultation
6 with the Central Bank of Nigeria serve on the Board of the insured institution a
7 warning notice stating that where the unsound practice continues, the name of
8 the insured institution shall be removed from the register of the insured
9 institutions and a copy of such warning notice forwarded to the Central Bank of
10 Nigeria.

11 (2) It shall be deemed a grievous violation of obligation under this Act
12 where an insured institution-

13 (a) persistently suffers liquidity deficiency;

14 (b) persistently contravenes the provisions of any legislation or
15 regulation relating to banking, economic and financial crimes;

16 (c) makes incomplete or incorrect statements to the Corporation;

17 (d) is in default with the payment of its annual premium or special
18 contribution as provided in section 17 of this Act;

19 (e) habitually fails to render returns to the Corporation or does not
20 submit upon request such other information for the efficient performance of the
21 function of the Corporation;

22 (f) makes incorrect statement to the Corporation as regards customers
23 deposits it has insured;

24 (g) fails to make adequate provisions for bad and doubtful debts up to
25 the amount recommended by the supervisory authorities or pays dividends in
26 defiance of this provision; or

27 (h) fails to write off bad debts as may be recommended by the
28 supervisory authorities.

29 The Corporation shall before terminating the insured status of any insured
30 institution, consider and apply corrective measure in accordance with the

1 provisions of Section 32 of this Act.

2 29.-(1) Where the insured institution fails within reasonable time
3 to make amends, the Board shall-

Conditions for
Termination

4 (a) give to the institution not less than 30 days written notice of its
5 intention to terminate the insured status of the institution;

6 (b) fix a time and place of hearing before a person designated by the
7 Board to conduct the hearing at which evidence may be produced and upon
8 such evidence the Board shall make its findings which shall be final.

9 (2) Where the insured institution is not represented or does not
10 make any representation to the Corporation pursuant to subsection (1) (b) of
11 this section or if the Corporation does not favourably consider such
12 representation made, the Corporation in consultation with the Central Bank
13 of Nigeria may proceed to terminate the insured status of the institution.

14 30.-(1) Where the Board is satisfied that an insured institution is in
15 grievous violation of its obligation under this Act the Corporation in
16 consultation with the Central Bank of Nigeria may terminate the insured
17 status of the institution.

Procedure for
termination of
insured status

18 (2) The Corporation shall cause a notice of termination to be
19 published in at least three National Dailies.

20 (3) Where the participation of an insured institution in the Deposit
21 insurance scheme is terminated, the Corporation shall immediately cause a
22 notice of such termination to be published in not less than three National
23 Newspapers, to the depositors and other creditors to whom liabilities are
24 owed and in furtherance thereto, bring the consequences of such termination
25 to their notice.

26 (4) After the termination of the status of an insured institution
27 under this Act, the insured deposit of each depositor in the institution on the
28 date of its termination, less all subsequent withdrawals from the deposits of
29 such depositor, shall continue to be covered for another period of one year,
30 and thereafter, such deposits shall cease to be covered.

1 (5) The Corporation shall not insure any additions to any deposits
2 specified in subsection (4) of this section or any new deposits in the institution
3 made after the date of termination of its status as an insured institution and the
4 institution shall not advertise for deposits or hold itself out as having its
5 deposits insured by the Corporation.

6 (6) The Central Bank of Nigeria may revoke the licence of any
7 insured institution whose insured status has been terminated by the
8 Corporation.

Conditions for
participation
after termination

9 31.-(1) An insured institution whose insured status is terminated in
10 accordance with this Act but whose licence has not been revoked by the CBN
11 may re-apply to participate in the scheme after it has satisfied all the conditions
12 required of it by the Board particularly after the Board had given consideration
13 to the following:

14 (a) the institution's financial position and its general operational
15 practice had improved satisfactorily since the termination order became
16 effective;

17 (b) the grounds for which the institution's participation in the Deposit
18 insurance scheme was terminated have been remedied; and

19 (c) the future earnings prospects and general character of its
20 management are satisfactory.

21 PART VI - SUPERVISION OF INSURED INSTITUTIONS

Power of the
Corporation to
require information

22 32.-(1) Every insured institution shall submit to the Corporation such
23 returns and information as may be required from time to time within the
24 stipulated period.

25 (2) In addition to the powers conferred on it under this Act, the
26 Corporation may require persons having access thereto, at all reasonable times
27 to supply to it information, in such form as the Corporation may from time to
28 time direct, relating to, or touching on or concerning matters affecting the
29 interest of depositors of insured institutions.

30 (3) Any person or insured institution which fails to comply with the

1 provisions of subsection (1) or (2) of this section shall be guilty of an offence
2 under this Act and shall be liable upon conviction to a fine of N500,000.00
3 and thereafter N100,000.00 for each day during which the offence
4 continues, counting from the day immediately after the date of failure to
5 make such return or provide such information.

6 [(4) Where any person lawfully required to supply information
7 necessary to achieve the objective and purpose of the Corporation-

8 (a) supplies any information which he knows to be false or supplies
9 it recklessly as to its truth or falsity; or

10 (b) without reasonable excuse, fails to supply any information
11 required by the Corporation, commits an offence, and is liable on conviction
12 to a fine not exceeding N500,000.00 for every such report.

13 (5) The Corporation under the auspices of Financial Services
14 Regulation and Coordinating Committee (FSRCC) may obtain information
15 from the relevant sector regulator regarding the activities of a regulated
16 entity under its purview relating to transactions with an insured institution

Supervision of
related entities
of insured
institutions

17 (6) Any holding company of any insured institution, any
18 subsidiary, or affiliate or associated company of any insured institution, or
19 any directors or officers of any such holding company, subsidiary, affiliate
20 or associated company, that provide information that is false, misleading,
21 inaccurate, or incomplete or that fail to comply with any requirement to
22 provide information under this Act shall be guilty of an offence and on
23 conviction liable to imprisonment for a term of not less than 5 years or to a
24 fine of N5million or to both such fine and imprisonment.

25 (7) Where an insured institution is deemed to be threatened with
26 insolvency on the basis of data submitted under [5], the Corporation may
27 under the auspices of Financial Services Regulation and Coordinating
28 Committee (FSRCC) investigate the business and the financial status of the
29 subsidiaries, affiliates and associated companies of the insured institution

30 (8) The Corporation may require any person, depositor, customer,

1 creditor or organization which had transaction with or related to a failing or
2 failed insured institution to provide information on such transaction to
3 determine whether or not such transaction contributed to the insolvency or
4 failure of the insured institution.

Appointment
of Examiners

5 **33.** The Board shall have power to appoint on the recommendation of
6 the Managing Director such number of examiners who shall-

7 (a) be officers of the Corporation with powers to examine
8 periodically, and under conditions of secrecy, and confidentiality the books
9 and affairs of every insured institution;

10 (b) have a right of access at all times to the books, accounts and
11 vouchers of the insured institution including its management information
12 system;

13 (c) be entitled to require and obtain information and explanations
14 from the officers and directors of an insured institution as may be deemed
15 necessary in the performance of their duties; and

16 (d) have access to any accounts, returns and information with respect
17 to any insured institution under the provisions of this Act, which are in the
18 possession of the Central Bank of Nigeria.

Functions of
Examiners

19 **34.-(1)** In the exercise of the functions of an examiner appointed
20 pursuant to section 28 (1) of this Act, the examiner shall exercise reasonable
21 care to prevent unreasonable hindrance to the day-to-day activities of an
22 insured institution and confine the investigation to matters of fact and data
23 deemed necessary for the examination.

24 (2) An insured institution shall produce to the examiner as and when
25 required, all books, accounts, documents, and such other information as the
26 examiner may deem necessary or request in the exercise of his functions.

27 (3) It shall be an offence under this Act for an insured institution, its
28 directors and officers to-

29 (a) wilfully refuse to produce any book, account, document or such
30 other information; or

1 (b) negligently, willfully or with intent to defraud gives
2 information which is false in any material particular.

3 (4) A person who commits an offence under this section shall be
4 liable on conviction -

5 (a) in the case of an offence against subsection (3) (a) of this
6 section, to a fine of N20,000 (twenty thousand naira) per day that he
7 withholds the information, document, book or account and the insured
8 institution to a fine of not more than N500,000 for every day that the said
9 information, document or book of account was withheld; or

10 (b) in the case of an offence against subsection (3) (b) of this
11 section, the director or officer involved to a maximum imprisonment of 3
12 years or a maximum fine not exceeding N1,000,000.00 or to both such fine
13 and imprisonment.

14 (5) An examiner shall forward a report of his findings to the
15 Managing Director of the Corporation who shall thereon present the report
16 to the Board and advise it of any circumstances in which the Board may
17 exercise any of its powers under the provisions of Sections 7 or 30 of this
18 Act.

19 35.-(1) The Management of the Corporation may at any time
20 appoint two or more qualified persons to conduct a special examination of
21 the books and affairs of an insured institution under conditions of secrecy
22 where the Management is of the opinion that an insured institution may-

Special
Examination

23 (a) be carrying on business in a manner detrimental to the interest
24 of its depositors and creditors;

25 (b) have insufficient assets to cover its liabilities to the public; or

26 (c) be contravening the provisions of this Act.

27 (2) Where an insured institution deems that it is-

28 (a) likely to become unable to meet its obligations; or

29 (b) about to suspend payments,

30 the insured institution shall cause the Corporation to be informed

1 accordingly of its intention to do so.

2 (3) Any insured institution which contravenes the provisions of
3 subsection (2) of this section commits an offence and is liable on conviction to
4 a maximum fine of N1,000,000.00 and any director whose responsibility it was
5 to inform the Corporation commits an offence and is liable on conviction to a
6 maximum fine of N200,000.

Report of
Examination

7 36.-(1) After the conclusion of any examination under the provisions
8 of this Act, the Corporation shall forward a copy of the report arising there from
9 together with its recommendations to the insured institution concerned with
10 instruction that it be presented by the Management of that institution to their
11 Board of Directors at a meeting specially convened within one month of
12 receiving the report for the purpose of considering the report and
13 recommendations thereon.

14 (2) The Insured Institution shall within two weeks of the presentation
15 to its Board of Directors convey to the Corporation the Board of Director's
16 reaction to the report and proposals for implementation of the
17 recommendations.

18 (3) Without prejudice to the provisions of Section 23 and 56 of this
19 Act, where an insured institution fails to implement the recommendations
20 contained in the report of examination after it had been warned by the
21 Corporation, or where circumstances exist where the Corporation should
22 impose further prompt corrective actions pursuant to the provisions of Section
23 32 of this Act, the Corporation shall recommend to CBN:

24 (i) the removal or suspension from office, of any director, officer or
25 employee found liable by the Corporation for non-implementation of
26 Examiners' recommendation or the circumstances that necessitated imposition
27 of corrective action;

28 (ii) to Issue an order blacklisting any director, officer or employee
29 found liable under paragraph (i) above and the director, officer or employee
30 blacklisted shall not be qualified for employment in any capacity in an insured

1 institution until the Corporation withdraws the order;

2 (iii) Every Report of Examination of an Insured institution issued
3 by the Corporation shall be Secret and Confidential and no person or
4 authority shall have right of access or production of such Report under any
5 law except the staff of the Insured institution, Corporation or CBN,
6 provided that:

7 (a) where a superior Court of record issues a Subpoena duces
8 tecum for its production in court in any civil or criminal proceedings before
9 that court on the application of any person or sui moto, the Court shall on the
10 application of the Corporation admit only Certified True Copies of the
11 relevant extract of the report certified by the Secretary to the Corporation
12 in proceedings held in chambers or under conditions of secrecy and
13 confidentiality, or

14 (b) the Corporation may at its discretion tender the report in court
15 in proceedings held in chambers or under conditions of secrecy and
16 confidentiality;

17 (c) where the insured institution has failed or its license has been
18 revoked the status of the Report as a 'classified matter' as defined under the
19 Official Secrets Act, shall lapse and the report of examination can be
20 tendered in open court.

21 37.-(1) Without prejudice to the provisions of this Act, whereupon
22 the examination by the Corporation as to the condition of any insured
23 institution, it shall be disclosed that-

24 (a) an insured institution or its directors or staff have engaged, are
25 engaging or are about to engage in unsafe and unsound practices in
26 conducting the business of the institution;

27 (b) or have violated or are violating any provision of any law or
28 regulation to which the insured institution is subject; and

29 (c) where such violation may lead to insolvency or dissipation of
30 the assets of the insured institution, the Corporation shall submit the report

Prompt corrective
action

1 of the examination to the management of the bank with specific directives to
 2 address the situation by taking corrective measures in consultation with the
 3 Central Bank of Nigeria.

4 (2) If such corrective action is not fully implemented within (30)
 5 days from the submission of the report, or any other time given, the
 6 Corporation shall in consultation with the Central Bank of Nigeria initiate such
 7 further corrective actions as it may deem necessary to redress the situation.

8 (3) The Corporation may recommend in writing to the Central Bank
 9 of Nigeria to take any enforcement action in respect of an insured institution
 10 as provided under this Act.

11 (4) If the Central Bank of Nigeria does not, within 30 days of the date
 12 of receipt of a recommendation under clause (3) above:

13 (a) take the action recommended by the Corporation; or

14 (b) provide a plan acceptable to the Corporation for responding to the
 15 situation presented,

16 the Corporation may take the recommended enforcement action.

17 PART VII - DUTIES OF INSURED INSTITUTIONS:

Fidelity Insurance

18 38. All insured institutions shall have fidelity insurance coverage up
 19 to such level as may be prescribed from time to time by the Corporation.

Obligations in
 respect of
 unauthorized
 disclosure

20 39.-(1) The members of Board, staff and agents of an insured
 21 institution shall keep strictly confidential and make no unauthorized disclosure
 22 or use of any information which they may either directly or indirectly receive in
 23 such capacity of the activities of an insured institution and the result thereof of
 24 the Corporation and of the circumstance of the participating insured institution
 25 and their customers, even after they cease to be members or staff or agents of
 26 that insured institution.

27 (2) The obligation specified in subsection (1) of this section is also
 28 hereby imposed upon directors, employees of and any agent or other persons
 29 engaged by the Corporation.

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

1 communications made to the Corporation, the Central Bank of Nigeria,
2 external auditors of the insured institution the Bankers Committee or the
3 Federal Ministry of Finance in connection with the purposes of the
4 Corporation.

5 (4) The provisions of subsection (1) of this section shall not apply
6 to communications in connection with the admission or exclusion of an
7 insured institution from the Deposit Insurance Fund (DIF).

8 (5) An insured Institution or its directors or officers shall be
9 obliged to comply fully to the satisfaction of the Corporation with any
10 directives issued to it by the Corporation following investigation conducted
11 as a result of any complaints lodged by depositors of such institution and
12 any insured institution, or officer, director or employee of an insured
13 institution who fails to comply fully to the satisfaction of the Corporation
14 with any directives issued to it by the Corporation shall be guilty of an
15 offence under this Act.

16 (6) The Corporation shall have power to summon in writing any
17 person, customer, shareholder, promoter, contributory, officer, director or
18 employee of an insured institution who in the opinion of the Corporation is
19 in a position to testify to any matter being investigated by the Corporation to
20 give testimony in the matter and provide documents, where necessary and
21 any person, customer, shareholder, promoter, contributory, officer, director
22 or employee of an insured institution who fails to appear when
23 so summoned shall be guilty of an offence under this Act.

24 (7) Any person customer, shareholder, promoter, contributory,
25 officer, director or employee of an insured institution who is found guilty of
26 an offence under this section shall on conviction be liable to a fine of
27 N1,000,000.00 or to imprisonment for a term of 3 years, or to both such
28 fine and imprisonment.

29 40.-(1) An insured institution shall render to the Corporation,
30 monthly returns of frauds, forgeries or outright theft occurring during such

- 1 month and shall include a detailed report of such events.
- Notification to
the Corporation
of dismissed Staff
and Employment
of dismissed Staff
- 2 **41.**-(1) An insured institution shall notify the Corporation of any staff
3 dismissed, terminated or advised to retire on the ground of fraud or financial
4 malpractice.
5 (2) the persons affected under subsection (1) of this section shall not
6 be employed in an insured institution without the insured institution first
7 notifying the Corporation.
8 (3) Any insured institution, which acts in contravention of any of the
9 provisions of subsection (1) and (2) of this section shall be guilty of an offence
10 under this Act and liable to a fine of N100,000.00.
- Restriction on
Mortgage Assets
- 11 **42.**-(1) No failing or failed insured institution shall mortgage
12 pledge, sell or dispose of any land, building or interest in any real property
13 belonging to the Insured Institution without first obtaining the consent of the
14 Corporation.
15 (2) Any mortgage, pledge, sale or disposal in contravention of
16 section 36A(1) of this Act shall be void without any discretion and in addition
17 any Director or Officer of such institution who approved, is involved or in any
18 way participated in such contravention shall be guilty of an offence and on
19 conviction liable to pay a fine of not less than N5 million or 3 years
20 imprisonment or both such fine and imprisonment.
- Foreclosure of
Mortgages
- 21 **43.**-(1) Every insured institution shall, with respect to loan facilities-
22 (a) secured by legal or equitable mortgage on real property, within
23 such period as the Corporation may direct, register the mortgage with the
24 Registrar of the Federal High Court within the jurisdiction where the property
25 is located;
26 (b) secured by legal or equitable mortgage or any other security
27 interest on a moveable property, within such period as the Corporation may
28 direct, register the mortgage or any other security interest with any other
29 registry established for the registration of security interest in moveable

1 property. and a certificate evidencing such registration shall be filed with the
2 Corporation

3 (2) Any Director or Officer of any insured institution who failed,
4 refused or neglected to register any mortgage in contravention of Section
5 43(1) of this Act shall be guilty of an offence and on conviction liable to pay
6 a fine of not less than N5 million or 3 years imprisonment or both such fine
7 and imprisonment.

8 (3) Notwithstanding the provisions of any law or contract or deed
9 to the contrary where the Corporation or the Central Bank of Nigeria has
10 classified the loan facility secured by such registered mortgage or any other
11 form of security registered under subsection (1) of this Section as "past due"
12 or "lost" under the Prudential Guidelines issued for licenced banks by the
13 CBN for licensed banks and the borrower who has been served a 14 days'
14 notice to redeem the security by the insured institution or the Corporation,
15 where the insured institution is failing or has failed, has neglected, refused or
16 failed to redeem the security by payment of all sums as follows:

17 (a) The insured institution or the Corporation where the Insured
18 institution is failing or has failed shall file in the Federal High Court where
19 the mortgage is registered, a Motion to Foreclose supported by an affidavit
20 stating forth the grounds upon which the Order for foreclosure is sought
21 and stating that the Loan facility has been classified past due or lost, as the
22 case may be, by the relevant regulatory authority and that the Mortgagor has
23 failed, refused or neglected to redeem the mortgage despite being served
24 with the 7 days notice to redeem which has expired and attaching thereto
25 the certificate of registration of the Mortgage and a Report of Valuation on
26 the property by an Estate Surveyor registered with the Nigeria Institute of
27 Estate Surveyors and Values (NIESV) and the judge shall enter the action
28 for hearing in what shall be called the "Foreclosure List";

29 (b) Except where a Motion to Foreclose is filed pursuant to a
30 counter claim by the insured institution or the Corporation where the

1 Insured institution is failing or has failed. every Motion to Foreclose
2 originating the action shall contain the return date and shall be delivered to
3 the Register for service in as many copies as shall be required by the registrar:

4 (c) the Mortgagor upon personal service on him of the Motion to
5 Foreclose or through counsel or by substituted service with the leave of the
6 court, shall within 5 days of such service, file a counter affidavit admitting
7 the debt or a part thereof or denying the debt outstanding and stating the facts
8 upon which he seeks a decision of the Court on the matter;

9 (d) on the return date, the Court shall where the Mortgagor neglects to
10 file a counter affidavit after reviewing the affidavit evidence or where the
11 Mortgagor files a counter affidavit, after reviewing the affidavit and counter
12 affidavit evidence, give judgment by an order of foreclosure of the
13 Mortgage and directing disposal of the Mortgage property by public auction
14 or private treaty at a price not below the Forced Sale Value disclosed in the
15 Valuation Report to liquidate the judgment sum, where the Court is satisfied
16 that the Mortgage was duly registered and has not been redeemed or the
17 Court may make any other orders including judgment for a part only of the
18 outstanding sum on the mortgage and admitting the balance to proof by any
19 other evidence with or without an order to foreclose on the mortgage, or
20 decline to make an order of foreclosure of the Mortgage or strike out or dismiss
21 the Motion to Foreclose or make any other order as the court deems fit in the
22 circumstances;

23 (e) the Court may call for oral evidence and or address by counsel
24 where it feels so compelled but shall not make any interlocutory orders relating
25 or touching upon the loan facility or the Mortgage at any stage of the
26 proceeding until judgment;

27 (f) An appeal against the judgment of the court shall lie as of right to
28 the Court of Appeal and where the judgment of the Court is for an order to
29 Foreclose, the right to appeal shall not be exercisable except upon payment into
30 court by the Mortgagor /Appellant of the total judgment sum premised on the

1 order of foreclosure including interest thereof and no court of law shall
 2 have jurisdiction to order stay of execution of any order to Fore close issued
 3 by the Court under this Act;

4 (g) in case of any conflict between the above provisions and the
 5 rules of the Federal High court, or any other Court, or of any law, the
 6 above provisions shall apply.

7 PART VIII - FAILURE RESOLUTION OF INSURED INSTITUTIONS

8 44. The failure resolution mechanism to be adopted by the
 9 Corporation to address the problems of a failing or failed insured institution
 10 shall be any or a combination of any of the options listed hereunder without
 11 prejudice to any other options that the Corporation may adopt pursuant to
 12 any other law enabling it on that behalf and the Corporation may be guided
 13 by the following factors, amongst some other factors which the Corporation
 14 may determine from time to time, when adopting a failure resolution
 15 mechanism-

Policy objectives
on failure resolution

16 (a) Minimization of financial and economic costs as well as
 17 contagion risks;

18 (b) Ensure a minimum level of protection to depositors, in
 19 particular the small uninformed and less sophisticated depositors.

20 (c) No bail out of shareholders;

21 (d) The size of the bank, extent of the distress, policy of
 22 Government and whether the problem is Systemic or localized; and
 23 (e) Implementation in a timely and transparent manner.

24 45.-(1) Pursuant to Section 2(1)(b) of this Act, the Corporation
 25 shall at the request of an insured institution and under such conditions as
 26 may be specified by the Corporation assist the insured institution if the
 27 Corporation determines-

Financial
Assistance

28 (a) The insured institution has difficulty to meet its obligations to
 29 its depositors and other creditors;

- 1 (b) The insured institution persistently suffers liquidity deficiency; or
2 (c) The insured institution has accumulated losses which have nearly
3 or completely eroded the shareholders fund;
4 (d) That such assistance is required to resolve the failure of an insured
5 institution.

6 (2) The Corporation may take one or a combination of any of the
7 following action to provide liquidity support to assist an insured institution:

- 8 (a) Grant loans on such terms as may be agreed upon by the
9 Corporation and the insured institution;
10 (b) Give guarantee for a loan taken by the insured institution;
11 (c) Accept an accommodation bill with interest for a period not
12 exceeding 90 days maturity exclusive of days of a grace and subject to
13 renewal of not more than seven time;
14 (d) Purchase the equity and or such assets and or assume any such
15 liabilities of the insured institution;
16 (e) Issue bonds, certificates, debentures, debt instruments and other
17 securities to purchase or assume such assets, equity or liabilities of the insured
18 institution;
19 (f) Take or carry out any other measure to provide financial assistance
20 to the insured institutions:

21 Provided that interest rates applicable to facilities extended to the
22 insured institution shall not exceed the Monetary Policy Rate of the Central
23 Bank of Nigeria.

24 *Insured Institutions Resolution Fund*

25 (3) The Corporation shall establish a Fund to be referred to as Insured
26 Institution Resolution Fund (IIRF) which shall be funded through annual
27 budgetary provision of not more than 25% of the budgeted income for each
28 year for the purpose of implementing the provision of Section 37 to Section 41
29 of this Act.

1 46.-(1) the Corporation in consultation with the CBN may;

2 (a) Assume Control of the insured institution as Conservator and
3 take over its management;

4 (b) Change Management of the insured institution by directing
5 specific changes to be made to the Management;

6 (c) appoint new Management;

7 (d) remove management within such time and in such manner as
8 the Corporation may direct from time to time;

9 (e) Replace Management with supervisory officials;

10 (f) impose Holding Actions, , direct the insured institution and its
11 directors to carry out specified actions or refrain from doing certain actions;

12 (g) carry out organizational and operational changes including
13 staff rationalization requiring shareholders to recapitalize the bank,
14 shutting down of some branches, sale of subsidiaries or other business units,
15 downsizing, rightsizing, appointment of consultants, writing off certain
16 assets, applying debt to equity swaps, consideration of certain securities and
17 instruments as capital; employment of bail- in measures, write down of
18 capital;

19 (h) take any other measures to restructure the insured institution.

20 *Mergers and Acquisitions*

21 (2) The Corporation in consultation with the CBN may:

22 (a) merge, facilitate or induce a merger of a failing or failed
23 insured institution with another healthy insured institution;

24 (b) facilitate or induce the Acquisition of a failing or failed insured
25 institution by another healthy insured institution;

26 (c) restructure an insured institution through acquisition,
27 management and disposal of the equity or the assets or the liabilities of the
28 failing or failed insured institution either directly, indirectly through or by
29 another insured institution or an asset management firm.

Purchase and Assumption

1
2 (3) The Corporation in consultation with the Central Bank of Nigeria
3 may undertake a purchase of assets and assumption of liabilities transaction
4 with respect to a failing or failed insured institution as follows:

5 (a) The Corporation shall have power to charge, dispose, transfer or
6 alienate all or some of the assets of a failing or failed institutions to a healthy
7 insured institution;

8 (b) the Corporation may advance to or receive from the assuming
9 institution an amount equal to the difference between the assumed liabilities
10 and the transferred or purchased assets;

11 (c) the assets of the failing or failed insured institution shall be
12 transferred or purchased by a healthy insured institution in consideration of the
13 assumption of all or some of the liabilities of the failing or failed insured
14 institution;

15 (d) the Corporation may receive such assets from the failing or failed
16 insured institution as collateral for any advance to the assuming institution or
17 purchase the assets from the failing or failed insured institution and any asset
18 [including land] of the failing or failed institution shall be transferred or be
19 vested in the assuming institution or the Corporation.

Acquisition of Insured Institution whose capital is lost

20
21 (4)(i) The Corporation in consultation with the Central Bank of
22 Nigeria shall have power to acquire a failing or failed insured institution
23 whose paid up capital is lost or unrepresented by available assets for a nominal
24 consideration of one naira only by an Order published in the Official Gazette;

25 (ii) the acquired insured institution shall from the date stated in the
26 Official Gazette belong to the Corporation which shall hold same in trust for
27 the depositors and other creditors of the insured institution;

28 (iii) the Corporation may restructure the acquired institution for sale
29 to suitable investors and or wind up and liquidate the insured institution;

30 (iv) where the Corporation has acquired or is in the process of the

1 acquisition of an insured institution as part of efforts to resolve the distress
2 condition of such institution, any court order, declaration or injunction to
3 restrain or nullify such acquisition shall be void provided that an order as to
4 damages may be issued where the court makes a finding of mala fide
5 against the Corporation.

6 (5) the Corporation may take such other measures that are
7 reasonably necessary for resolution of a failing or failed insured institution.

8 47.-(1) Notwithstanding the provisions of the Companies and
9 Allied Matters Act or any other enactment, where the Corporation has
10 assumed the management and control of a failing or undercapitalized
11 insured institution pursuant to the provisions of this Act or the BOFIA, the
12 Corporation in consultation with the Central Bank of Nigeria may:

The Corporation
as Conservator

13 (i) exercise all the powers and privileges conferred on the
14 Corporation under this Act and any other legislation as may be considered
15 appropriate by the Corporation;

16 (ii) have power to inject equity into the insured institution or invite
17 eligible investors to inject equity on such terms as the Corporation may
18 determine;

19 (iii) merge the failing or undercapitalized insured institution with
20 another insured institution or transfer all or part of the assets or all or part of
21 the liability of such failing or undercapitalized insured institution with
22 another insured institution;

23 (iv) take such action as may be-

24 (a) necessary to put the insured institution in a sound and solvent
25 condition;

26 (b) appropriate to carry on the business of the institution and
27 preserve and conserve its assets and properties.

28 (v) the Corporation as conservator may place the insured
29 institution in Liquidation and proceed to realize upon the assets of the
30 institution as liquidator under this Act.

1 (2) Where the Corporation has commenced resolution of a failing or
2 failed insured institution, any Court order, Declaration or injunction against
3 the Insured institution, the Corporation or any officer of the insured institution
4 or the Corporation that has the effect of restraining, preventing or hindering
5 the Corporation's measures to resolve the failing or failed insured institution
6 shall be null and void.

7 (3) Where the Corporation has assumed control of an insured
8 institution pursuant to the provision of this Act or BOFIA, no action, suit or
9 proceedings shall be proceeded with or commenced against such insured
10 institution or the Corporation except by the leave of Court given on such
11 terms as the Court may impose.

12 (4) Where the Corporation has assumed control of an insured
13 institution in its capacity as conservator or liquidator any garnishee order Nisi
14 or Absolute or attachment, sequestration, distress or execution put in force
15 against the bank account or estate or effects of any insured institution or the
16 Corporation in respect of any judgment debt or other liabilities owed by such
17 insured institution or any other judgment debtor shall be null, void and of no
18 effect.

19 (6) The Corporation when acting as Conservator of an insured
20 institution shall have and exercise all the powers and privileges conferred on it
21 as Liquidator.

Bridge Banks

22 **48.-(1)** The Corporation in consultation with the Central Bank of
23 Nigeria, may organize and incorporate, and the Central Bank shall issue
24 banking license to one or more banks, to be referred to as bridge banks which
25 shall be insured institutions to assume such deposits and or liabilities, and shall
26 purchase such assets of a failing or failed insured institution and perform any
27 other function or business as the Corporation may, determine.

28 (2) The Corporation shall appoint, remove and fix the remuneration
29 of the Board of Directors and Management of the bridge bank.

30 (3) Notwithstanding the provisions of the Companies and Allied

1 Matters Act, the Central Bank of Nigeria Act, the Banks and Other Financial
2 Institutions Act or any other law, the bridge bank shall not be subject to any
3 requirement relating to issued or paid up capital, and the Corporation may
4 make available to the bridge bank, upon such terms and condition, and in
5 such form and amounts, as the Corporation may determine, funds for the
6 operation of the bridge bank.

7 (4) The Central Bank of Nigeria, the Corporate Affairs
8 Commission, the Securities and Exchange Commission, the Nigerian Stock
9 Exchange and any other Regulatory/Supervisory Authorities may, at the
10 request of the Corporation, grant forbearance, exemptions and waivers to
11 the bridge bank in respect of its operations.

12 (5) The operation of a bridge bank shall unless extended as provide
13 herein, terminate at the end of two (2) years from the date it was issued
14 licence and the Corporation may in its discretion extend the period of
15 operation of a bridge bank for maximum of three additional one year
16 periods.

17 (6) The status of a bridge bank shall terminate upon the earliest of:

18 (a) the merger or consolidation of the bridge bank with an insured
19 institution that is not a bridge bank;

20 (b) the sale of a majority of the equity of the bridge bank to any
21 persons, other than the Corporation and another bridge bank;

22 (c) the assumption of all or substantially all deposits and other
23 liabilities or the acquisition of all or substantially all of the assets of the
24 bridge bank by an insured institution that is not a bridge bank, or

25 (d) the expiration of the period provided in subsection (5) of this
26 Section or the earlier dissolution of the bridge bank by the Corporation at
27 any time.

28 (7) The Corporation shall be appointed liquidator of a bridge bank
29 whose status has been terminated.

30 (8) Following the merger or consolidation or sale of the equity or

1 assumption of the deposits or acquisition of the assets of the bridge bank as
2 provided in subsection [6] of this Section, the resulting entity shall for all
3 purposes be an insured institution.

4 PART IX - LIQUIDATION OF FAILED INSURED INSTITUTIONS

Power of the
Corporation to
act as Liquidator

5 49.-(1) Whenever the licence of an insured institution is revoked by
6 the Central Bank of Nigeria, the Corporation shall by notice published in the
7 Gazette appoint itself as the Liquidator of such failed institution with powers
8 specified under this Act and in addition to and not in derogation of the powers
9 conferred and the duties imposed by this Act on the Corporation as Liquidator,
10 Conservator or Supervisor, the Corporation to the extent not inconsistent with
11 such powers and duties shall have any other power conferred and any duty
12 [which is related to the exercise of such power] imposed on a Liquidator under
13 the Companies and Allied Matters Act provided that in the case of:

14 (a) such power being exercised subject to the sanction of the court, or
15 committee of inspection or any other authority, the Corporation shall have
16 power to exercise such power absolutely without such limitation;

17 (b) any conflict, the powers conferred herein shall prevail.

18 (2) Notwithstanding the fact that the license of an insured institution
19 has not been revoked, the Corporation in agreement with CBN, may by notice
20 published in the Gazette appoint itself Liquidator of an insured institution
21 whenever the Corporation determines that 1 or more of the following grounds
22 exist with respect to that insured institution:

23 (a) insolvency in that the assets of the institution are less than the
24 institution's obligations to its depositors and other creditors;

25 (b) an unsafe and unsound condition to transact business including
26 substantial insufficient capital or otherwise;

27 (c) the likelihood that the institution will not be able to meet the
28 demands of its depositors or pay its obligations in the normal course of
29 business;

30 (d) the institution has actually suspended payment to its depositors;

1 (e) termination of the insured status of the institution;

2 (f) the institution has close its doors or any of its branches to the
3 public or has ceased to operate, without adequate provision being made for
4 payment of its depositors;

5 (g) the insured institution or its directors or officers have been
6 found to conceal information or conceal records or render false or
7 inaccurate returns to the Corporation;

8 (h) insured institution has been found to have violated banking
9 laws or regulations relating to money laundering or whose effect is likely to
10 result in its insolvency.

11 (4) Where the Corporation has appointed or is about to appoint
12 itself liquidator pursuant to the provisions of this section, any court order
13 that has the effect of restraining the Corporation from appointing itself
14 liquidator or having appointed itself, from so acting or declaring such
15 appointment unlawful, illegal, null or void or rendering such appointment
16 ineffective; shall be null, void and of no effect provided that the court may
17 award special damages limited to the amount of actual loss suffered where
18 the court holds that the self appointment of the Corporation as the Liquidator
19 was done in bad faith.

20 (5) The Corporation shall-

21 (a) have power to prescribe and publish In the Official Gazette of
22 the Federal Republic of Nigeria, the Regulations, Guidelines and Rules as
23 the Corporation determines to be appropriate to govern the winding up and
24 liquidation of insured institutions;

25 (b) the provisions of Part XV - Winding Up of Companies under
26 the Companies and Allied Matters Act 1990 or any amendment thereto and
27 the Companies Winding up Rules made pursuant thereto shall not apply to
28 the winding up of insured institutions by the Corporation;

29 (c) have and exercise all the powers, benefits and authority
30 conferred on a Liquidator or any company in liquidation and shall have

1 power to apply to the court for any relief or order which a Liquidator or any
2 company in Liquidation may obtain under the said Part XV of Companies and
3 Allied Matters Act 1990 with such modifications as are stipulated under this
4 Act and the guidelines issued pursuant thereto.

5 (6) The Corporation as Liquidator of an insured institution shall have
6 power to:

7 (a) wind up and liquidate the insured institution in an orderly manner;

8 (b) bring or defend any action or other legal proceedings in the name
9 of such insured institution with the addition of the phrase "in-Liquidation" after
10 the name of such insured institution;

11 (c) carry on the business of such insured institution so far as may be
12 necessary for its beneficial winding up;

13 (d) sell the property of the insured institution of whatever nature by
14 public auction or private contract with power to transfer the whole thereof to
15 any person or to sell same in parcels;

16 (e) enter into any agreement for the purchase of all or some of the
17 assets and the assumption of all or some of the liabilities of the insured
18 institution;

19 (f) exercise any of the powers and authorities conferred on the
20 Corporation and perform any of the obligations to be performed, under this
21 Act;

22 (g) make such other dispositions of any matter concerning such
23 institution as the corporation determines is in the best interest of the institution
24 the depositors of such institution and the Corporation;

25 (h) by operation of law succeed to all rights, titles, powers and
26 privileges of the insured institution, and of any shareholder, depositor, officer,
27 account holder or director of such institution with respect to the institution and
28 the assets of the institution but shall not be held personally liable for the debts
29 or liabilities of such institution;

30 (i) Compromise debts and liabilities capable of resulting in debts, all

1 claims, present or future, certain or contingent and in particular grant
2 concession, interest waiver to a debtor of a failing or failed insured
3 institution on such terms as may be agreed, and take any security for the
4 discharge of any such call, debt, liability or claims and give a complete
5 discharge in respect thereof;

6 (j) take over, manage and dispose of the assets of and operate the
7 insured institution with all the powers of the members or shareholders, the
8 directors and the officers of the institution and conduct all business of the
9 institution; collect all obligations and money due the institution, perform all
10 functions of the institution in the name of the institution which is consistent
11 with the appointment as Liquidator;

12 (k) with the consent of the CBN to organize a new insured
13 institution to take over such assets or such liabilities as the Corporation may
14 determine to be appropriate or merge the insured institution with another
15 insured institution or transfer any asset or liabilities of the institution in
16 default without any approval, assignment or consent with respect to such
17 transfer;

18 (l) pay all valid obligations of the insured institution in accordance
19 with the provisions of this Act and any guidelines and prescriptions issued
20 by the Corporation regulating procedures for filing, settling, determination,
21 disallowance, proof, priority, and payment of claims including
22 administrative review;

23 (m) act as or appoint a Receiver for a company that is indebted to
24 the insured institution and the Guarantor of such debtor with respect to
25 loans, advances or other credit facility granted by the insured institution
26 whether or not the assets of the debtor or that of the Guarantor have been
27 charged, mortgaged or pledged as security for such credit facility and the
28 Receiver shall have all the powers of a Receiver as stipulated in the
29 Companies and Allied matters Act;

30 (n) Offer for sale to Asset Management firm or any other persons

1 the loans and other risk assets of a failed insured institution and may accept
2 any bond or other instruments as consideration for the sale of any such assets;

3 (o) publish in the media the names of the debtors of a failed insured
4 institution as disclosed in the records of the insured institution, and no liability
5 shall attach to the Corporation or the media firm as a result of such publication.

6 (7) The Corporation as Liquidator may, where it has reasonable cause
7 to believe that-

8 (i) (a) a debtor or Guarantor of a debtor is the bonafide owner of any
9 moveable or immoveable property, by notice served on the Inspector General
10 of Police, take interim custody of such property with the assistance of law
11 enforcement agencies;

12 (b) a debtor or Guarantor of a debtor has deposits or other funds in any
13 account with any other insured institution, by Notice served on the Institution,
14 require the institution to freeze the account, stop further transactions on the
15 account and furnish the Corporation with any information on the account as
16 may be directed by the Corporation;

17 (ii) (a) The Corporation shall within seven days of taking custody of
18 such property or within 3 days of issuing the notice freezing the account, apply
19 to the court by way of motion ex-parte for an order granting possession of the
20 property to the Corporation or freezing the account and the Court shall issue the
21 required order except it determines that the application is made in bad faith;

22 (b) the Corporation shall serve a certified true copy of the order
23 where granted on the debtor or Guarantor and where applicable, the insured
24 institution within 7 days of the date of the order and commence debt recovery
25 proceedings against such debtor [if none is already pending] within 21 days of
26 the service of the order failing which the order shall lapse;

27 (c) the court may on the application of the Corporation make an order
28 for the disposal of the property and payment of the proceeds to the Corporation
29 or payment of the proceeds of the account into the failed Insured institution's
30 liquidation account secured by a guarantee given by the Corporation while

1 the debt recovery case is still pending in the interest of depositors of the
2 insured institution and on the merits of the application.

3 (d) where any director or officer of any insured institution fails to
4 comply with any Notice for freezing of account the Corporation may
5 recommend to the Central Bank of Nigeria the suspension or removal from
6 office of such director or officer and such director or officer shall be
7 personally liable to payment of penalty not exceeding ten thousand Naira for
8 every day during which he failed to comply and the insured institution shall
9 be liable to payment of penalty of 4 (four) times the amount, in the account
10 or withdrawn from the account as a result of failure to comply with the
11 Notice, whichever is higher;

12 (iii) (a) Where a debtor has defaulted in making payment of any
13 sums adjudged against him within one month of the date of the judgment
14 whether or not an appeal had been filed against the judgment or an order for
15 stay of execution granted in respect of such judgment, the Corporation may
16 apply to the Court to issue a receiving order against such debtor and it shall
17 not be necessary for the debtor to commit an act of bankruptcy or for the
18 Corporation to file a bankruptcy petition or for any of the conditions
19 precedent for the grant of a receiving order specified under the Bankruptcy
20 Act to be satisfied before the court shall grant the receiving order against the
21 debtor and where a receiving order is made against a debtor under this Act
22 the court may adjudge the debtor bankrupt; and

23 (b) the court may on the application of the Corporation appoint the
24 official receiver or authorize the Corporation to assume the office of trustee
25 of the property of the debtor and the Corporation shall have all the powers of
26 a trustee under the bankruptcy act;

27 (c) any debtor adjudged bankrupt under this Act shall be deemed
28 to have been adjudged bankrupt under the Bankruptcy Act which shall
29 have effect as modified under this Act and the trustee appointed herein shall
30 have power to seek the directive of the court in respect of anything or act to

1 be done under the Bankruptcy Act.

2 (iv) Where a judgment debtor is unwilling to pay its debt owed to a
3 failed insured institution and has filed application for stay of execution pending
4 appeal the Court shall not grant an order to stay execution of the judgment
5 pending the appeal except the Judgment debtor pays into court the judgment
6 sum.

7 (8) (i) Where the Corporation has commenced Liquidation of an
8 insured institution any garnishee order Nisi or Absolute or attachment,
9 sequestration, distress or execution put in force against the bank account or
10 estate or effects of such insured institution or the Corporation in respect of any
11 judgment debt or other liabilities owed by such insured institution or any other
12 judgment debtor shall be void, null and of no effect whatsoever;

13 (ii) Where an insured institution is being wound up by the
14 Corporation, no action, suit or proceedings shall be proceeded with or
15 commenced against such insured institution or the Corporation except with
16 the leave of Court given on such terms as the Court may impose;

17 (iii) A creditor who had issued execution against any goods or land of
18 the insured institution or attached any debt due to the institution shall not be
19 entitled to retain the benefit of the execution or attachment against the
20 Corporation unless he had completed the execution or attachment before the
21 Commencement of liquidation of such insured institution;

22 (iv) For the purpose of this section an execution against the goods
23 shall be taken to be completed by seizure and sale and an attachment of debt
24 shall be deemed to be completed by receipt of payment by the Judgment
25 creditor and an execution against land shall be deemed to be completed by
26 seizure and in case of an equitable interest, by the appointment of a Receiver
27 while commencement of liquidation shall be from the date of revocation of the
28 operating licence of the insured institution or publication of self-appointment
29 in the gazette;

30 (v) A purchaser in good faith under a sale by the court in the course of

1 execution being levied on any property of the insured institution before the
2 commencement of liquidation shall acquire good title against the
3 Corporation;

4 (vi) where any goods of an insured institution are taken in
5 execution and before the sale thereof or the completion of the execution by
6 receipt or recovery of the full amount of levy, notice is served on the sheriff
7 of court by the Corporation that the Corporation has become the liquidator
8 of the insured institution, the sheriff shall deliver the goods and any money
9 seized or received in part satisfaction of the execution to the Corporation
10 provided the Corporation satisfies the charge for costs of execution;

11 (vii) When acting as Deposit Guarantor, conservator or liquidator
12 of an insured institution under this Act the Corporation shall have power to
13 act independently in the interest of the depositors, other creditors and the
14 shareholders of such insured institution without undue influence from any
15 Organ, Office, Ministry, Department or Agency of Government;

16 (viii) (a) where the Corporation has taken over management of the
17 affairs of any insured institution as Conservator or Liquidator of such
18 institution, any Declaration, Injunction or Order of court issued against the
19 Corporation or any of its officers that has the effect of restraining,
20 prohibiting or preventing the Corporation from acting, performing or
21 carrying out its statutory obligations and functions as Conservator or
22 liquidator of such insured institution shall be void, provided that an order as
23 to damages may be issued where the court makes a finding of mala fide
24 against the Corporation.

25 (ix) the Corporation shall have power to avoid the transfer of an
26 interest in any property or asset of an insured institution that was
27 fraudulently transferred by such insured institution within five years of the
28 commencement of the liquidation of that insured institution and shall have
29 power to trace and recover from subsequent transferees provided that such
30 transferees are not purchasers in good faith;

1 (x) the Corporation shall have power to enforce any contract
2 agreement or deed entered into by the insured institution facing liquidation
3 with any person notwithstanding that such contract, agreement or deed
4 provides for termination in the event of insolvency or liquidation of such
5 insured institution;

6 (xi) no person without the consent of the Corporation shall-

7 (a) exercise the right or have power to terminate any contract,
8 agreement or deed or declare a default in any such contract, agreement or deed
9 to which the insured institution is a party;

10 (b) obtain possession of or exercise control over any asset or property
11 of such insured institution; or

12 (c) affect any contractual rights of the insured institution within 90
13 days of the commencement of liquidation of such insured institution.

14 (xii) The Corporation shall have power to in the course of recovering
15 the debt owed to any failed insured institution by any debtor enforce liability
16 for repayment of that debt on any assets or property of any incorporated
17 company which is found to have been acquired, formed, incorporated or
18 registered by the debtor or the debtor's agent, principal, privy, associate,
19 director or shareholder after incurring the debt whether or not for the purpose
20 of avoiding repayment of the debt;

21 (xiii) the Corporation shall have power to repudiate contracts ,
22 agreements or deeds to which the insured institution is a party which the
23 Corporation determines to be burdensome and that repudiation of such
24 contracts , agreements or deeds would promote the orderly administration of
25 the insured institutions affairs, provided that any person aggrieved by the
26 exercise of such power shall have the right to file action in court for special
27 damages limited to actual loss suffered as a result of such repudiation from the
28 date of commencement of liquidation to the date of repudiation of such
29 contract, deed or agreement, against the Corporation as liquidator thereof;

30 (xiv) the Corporation shall not have power to avoid legally

1 enforceable security interests created over the property and assets of a
2 debtor to the insured institution or the institution including legal mortgages
3 and other charges except the Corporation determines that such interests
4 were created:

5 (a) in contemplation of insolvency of the debtor or the insured
6 institution; or

7 (b) with intent to hinder or defraud the insured institution or its
8 depositors, other creditors or shareholders.

9 (xv) No agreement which diminishes the Corporation's interest in
10 any asset of an insured institution shall be valid in law unless it is in writing,
11 was executed contemporaneously by the insured institution and the counter
12 party, was approved by the Board of Directors of the Insured institution and
13 has been continuously a record of the insured institution;

14 (xvi) the Corporation and the insured institution shall be exempt
15 from federal, state and local Government taxes, rates, and levies except real
16 property taxes;

17 (xvi) the Corporation shall not be liable to payment of penalties,
18 interest or fines imposed by any court, authority, government department,
19 agency, office, contract or agreement except special damages awarded by a
20 court of law as provided herein.

21 (9) (i) The Corporation shall conclude winding up of an insured
22 institution which it is liquidating within 7 years of its appointment and may
23 issue guidelines governing procedures for terminating liquidation activities;

24 (ii) The Corporation may establish a subsidiary that will take
25 custody of the residue of assets, if any, of failed insured institutions whose
26 liquidation has been terminated pursuant to this Act.

27 (10) The Corporation as Liquidator shall not be under any duty to
28 make any returns to the Corporate Affairs Commission as provided by the
29 Companies and Allied Matters Act but may provide such information as
30 may be requested by the Commission if it determines it is expedient to do so

1 in the interest of depositors of the insured institution.

2 (11) The failure resolution mechanism to be adopted by the
3 Corporation to address the problems of a failing or failed insured institution
4 shall be any or a combination of any of the options listed hereunder without
5 prejudice to any other options that the Corporation may adopt pursuant to any
6 other law enabling it on that behalf and the Corporation may be guided by the
7 following factors amongst some other factors which the Corporation may
8 determine from time to time when considering a failure resolution mechanism-

9 (a) Minimization of financial and economic costs as well as
10 contagion risks;

11 (b) ensure a minimum level of protection to depositors, in particular
12 the small uninformed and less sophisticated depositors [orphans and widows];

13 (c) No bail out of shareholders;

14 (d) the size of the bank extent of the distress, policy of Government
15 and whether the problem is systemic or localized; and

16 (e) implementation in a timely and transparent manner.

17 (12) where there is any inconsistency between the provisions of the
18 Companies and Allied Matters Act 1990 or any amendment thereto and the
19 provisions of this Act or any amendment thereto or the Regulations made
20 there under, the provisions of this Act or the Regulations made there under
21 shall prevail and the provisions of the Companies and Allied Matters Act 1990
22 or any amendment thereto shall be null and void to the extent of such
23 inconsistency.

24 13. Where an insured institution suspends payment or is unable to
25 meet its obligation to its depositors or is under liquidation by the Corporation,
26 all the property, undertaking and assets of the insured institution, [including
27 those pledged or mortgaged to third parties but which have not yet been
28 realised by the secured creditors], shall be available to meet all the deposit
29 liabilities of the insured institution and such deposit liabilities shall have
30 priority over all other liabilities of the insured institution.

1 (14) Any disposition by any secured creditor, judgment creditor
2 or person, apart from the Corporation acting as Liquidator thereof, of any
3 property, whether or not pledged or mortgaged of an insured institution
4 under liquidation by the Corporation, shall be null, void and of no effect.

5 *Stay of Pending Suits*

6 (15) Where the Corporation has commenced liquidation of an
7 insured institution, or has assumed control of any insured institution as
8 conservator, and applies to the court for stay of any suit, application,
9 proceedings, execution, attachment, or action pending or instituted in any
10 court by or against such insured institution or the Corporation the Court
11 shall, whether or not leave had earlier been granted to commence or
12 proceed with such action or matter pursuant to this Act or any other law,
13 grant such stay as to all parties.

14 *Judgment Debt*

15 (a) Where an insured institution is in Liquidation any judgment
16 sum obtained against the insured institution by a judgment creditor that has
17 not been satisfied prior to commencement of liquidation or that is obtained
18 after commencement of Liquidation shall not be enforceable against the
19 estate of the insured institution facing liquidation or the Corporation;

20 (b) every judgment debt against an insured institution under
21 liquidation or the Corporation as Liquidator of an insured institution which
22 is not subject to an appeal shall be filed with the Liquidator as an unsecured
23 creditor claim which shall be admitted to proof in accordance with the rules
24 and regulations governing administration of claims payment issued by the
25 Corporation;

26 (c) where a depositor of an insured institution is also a judgment
27 creditor in respect of that deposit, such depositor shall elect to file his claim
28 either as a depositor or as a creditor but where he submits a certified true
29 copy of the judgment evidencing the judgment debt, he shall be deemed to
30 have elected to file his claim as a judgment debtor and not a depositor;

1 (d) the interest applicable on any judgment debt against an insured
2 institution under liquidation as stated in the judgment which is filed as proof
3 of claim with the Corporation as Liquidator of such institution shall cease to
4 be applicable from the date the Corporation commenced liquidation of such
5 insured institution.

6 (13) Except as provided in this Act, no Court may take any action to
7 restrain or affect the exercise of powers or functions of the Corporation as a
8 conservator or liquidator.

Action following
Failure

9 **50.**-(1) It shall be the duty of the Corporation to cause notice to be
10 given by advertisement in such national newspapers or other news media
11 requiring all depositors of the insured institution facing liquidation to forward
12 their claims to the Corporation.

13 (2) The Corporation acting as liquidator of the failed institution shall
14 have power to-

15 (a) realize the assets of the failed insured institution;

16 (b) enforce the individual liability of the shareholders and directors
17 thereof; and

18 (c) wind up the affairs of such failed institution as herein otherwise
19 provided.

20 (3) The Corporation acting as liquidator shall:

21 (a) pay to the Corporation such portion of the amount realized from
22 such liquidation as it shall be entitled to receive on account of its subrogation to
23 the claims of depositors and shall pay to depositors and other creditors the net
24 amount available for distribution to them.

25 (b) may pay dividends on proved claims at any time after the
26 expiration of the period of advertisement made pursuant to subsection (1) of
27 this section and no liability shall attach to the Corporation itself by reason of
28 any such payment or for failure to pay dividend to a claimant whose claim is not
29 proved.

1 *Payment of Insured Deposit Pending Action in Court*

2 (4) Where the operating licence of an insured institution is revoked
3 or where the insured Institution has suspended payment or is otherwise
4 unable to meet its obligation to depositors, the Corporation shall have power
5 to pay insured deposit to depositors from the Deposit Insurance Fund [DIF]
6 or the Special insured institutions fund (SIIF) in accordance with Section 21
7 of this Act.

8 (5) No pending action, suit, proceedings, application or order of
9 court shall prevent or restrain the payment by the Corporation of the insured
10 deposits to depositors of an insured institution or acting as conservator or
11 liquidator pursuant to the provisions of this Act.

12 (6) The right of Subrogation conferred on the Corporation under
13 Sections 21 (2) and 41 (3) (a) of the Act shall be exercisable against the
14 insured institution notwithstanding the restoration of the insured institutions
15 operating licence, or upon its returning to solvency and such insured
16 institution shall be liable to refund to the Corporation the amount of insured
17 deposits of the institution paid by the Corporation to the depositors prior to
18 the restoration of the insured institution's operating licence when it
19 suspended payment or was otherwise unable to meet its obligation to its
20 depositors as a result of insolvency.

21 (7) Any person aggrieved by the payment of insured deposit to
22 depositors of an insured institution pursuant to Section 21 of this Act shall
23 claim remedy in damages only which shall be limited to the amount of
24 insured deposit paid.

25 **51.-(1)** The Corporation may when acting as Liquidator of a failed
26 insured institution appoint an agent or agents to assist it in the performance
27 of its duties, and all fees, compensation and expenses of liquidation and
28 administration thereof shall be fixed and paid by the Corporation from the
29 realized assets of the failed institution.

Power to appoint
Agents

1 *Right of disposal of Lien*

2 (2) The Corporation shall have a right of lien over any collateral or
3 security in its custody whether or not pledged as security for a loan by a debtor
4 customer of a failed insured institution who has repaid the loan facility but is
5 also indebted to another failed insured institution being liquidated by the
6 Corporation

7 (3) The Corporation shall have the right to dispose of such collateral
8 or security and apply the proceeds of the sale for the repayment of such other
9 loan facility owed the other failed insured institution where the debtor fails to
10 repay such other loan facility after having been served a letter of demand to
11 repay the facility within a period of not less than 21 days by the Corporation.

12 (4). Where the Court determines that such disposal was in error or
13 done in bad faith it may make an order as to damages limited to the value
14 obtained from the sale of such collateral but shall not have jurisdiction to make
15 an order voiding, reversing, preventing, restraining or prohibiting the disposal
16 of such collateral or security and any such order if made shall be null and void
17 and of no effect.

18 *Closure of Failed Insured Institutions*

19 For the purpose of this Act, and without prejudice to Section 462 of CAMA
20 requiring statutory declaration of insolvency by a company under voluntary
21 winding-up, an insured institution shall be deemed to have been closed on
22 account of inability to meet the demands of its depositors in any case in which it
23 has been closed for the purpose of liquidation without adequate provision
24 being made to the satisfaction of the Corporation for payment of its depositors.

Challenging the
liquidation of an
insured institution

25 **52.-(1)** Except as provided in this Act, where the Corporation has
26 pursuant to the provision of this Act, assumed responsibility as Liquidator of
27 any Insured Institution, any court order whose effect is to restrain the
28 Corporation from acting as Liquidator including restoration of the operating
29 license of such insured institution after it has been revoked by the Central
30 Bank of Nigeria shall be null, void and of no effect. Provided however that any

1 order as to damages on the grounds that the revocation of the operating
2 license of such insured institution or the Corporation's self-appointment as
3 liquidator was in bad faith shall not be null, void and of no effect.

4 53.-(1) The provisions of the Limitation Law of a State or the
5 Limitation Act of the Federal Capital Territory shall not apply to any debt
6 owed to a failing or a failed insured institution.

Limitation Law
not applicable

7 *Liability of Directors, Shareholders and Officers*

8 (a) A director, majority shareholder, officer, employee, agent,
9 attorney, accountant or auditor, appraiser or any other party engaged by or
10 providing services to an insured institution that fails shall be held
11 personally liable in monetary damages where his or her actions caused or
12 contributed to the failure of such institution in civil action by, on behalf of,
13 or at the request or direction of the Corporation, acting as Liquidator,
14 conservator, supervisor or insurer and which action is prosecuted wholly or
15 partially for the benefit of the Corporation and insured depositors;

16 (b) the liability of directors of an insured institution that fails for the
17 grant of unauthorized credit facilities in violation of the provisions of any
18 law or regulation shall be unlimited and personal;

19 (c) In any proceedings related to any claim against a director,
20 majority shareholder, officer, employee, agent, attorney, accountant or
21 auditor, appraiser or other party engaged by or providing services to an
22 insured institution that fails, recoverable damages determined to result from
23 the improvident or otherwise improper use or investment of any insured
24 institutions assets shall include principal losses and appropriate interest,
25 profit or dividend;

26 (d) this section applies to a director, majority shareholder, officer,
27 employee, agent, attorney, accountant or auditor, appraiser or any other
28 party engaged by or providing services to an insured institution that fails
29 prior to its being declared failing or failed institution.

Offences and
Penalties

Criminal Prosecution and Offences

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54.-(1) Any person who being a Director, an officer or staff of an insured institution who-

(a) fails to take all reasonable care to secure compliance with the provisions of this Act or any regulations, guidelines, circulars, directives or rules made pursuant to the provisions of this Act;

(b) fails to take all reasonable care to secure the authenticity of any statement submitted pursuant to the provisions of this Act or any Regulations made pursuant thereto, shall be guilty of an offence and liable upon conviction to imprisonment of three years or a fine of not less than ₦5,000,000 (five million naira only) or to both such fine and imprisonment.

(2) Any insured institution that reimburses or pays for a staff, officer or director directly or indirectly a fine imposed under this Act shall be guilty of an offence and be punishable on conviction by a fine of not more than ₦5,000,000 (five million naira) and also forfeit the amount repaid or reimbursed to the staff.

(3) A Legal Practitioner employed by the Corporation shall have power to institute and undertake criminal proceedings against Directors, officers majority shareholders and customers of insured institutions before any court of law in Nigeria other than a court martial and to discontinue at any stage before judgment is delivered any such criminal proceeding, relating to, touching upon or concerning:

(a) violations of the provisions specified in this Act or any Regulations, made pursuant thereto;

(b) violations of the provisions specified in the Banks and Other Financial Institutions Act, the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act, the Companies and Allied Matters Act, the Foreign Exchange Act, the Money Laundering Act, the Criminal Code Act and the Penal Code Act;

(c) violations of provisions relating to, touching upon or concerning

1 the business, operations or transactions of insured institutions under any
2 enactment.

3 (4) the Court may upon a civil suit filed by the Corporation as
4 liquidator or conservator hold personally liable for gross negligence or
5 conduct that demonstrates breach of duty of care any officer, director,
6 majority shareholder, agent, employee, customer, auditor, or legal
7 practitioner of an insured institution and award compensatory and punitive
8 damages thereto determined to have resulted from the improvident or
9 otherwise improper use, application or investment of the insured
10 institution's assets, including principal losses and appropriate interest

11 (5) Any Director or officer of the insured institution who grants,
12 allows to be granted or is in any way involved in the granting of a loan, a
13 guarantee or credit facility-

14 (i) without security as required by the insured institution's
15 regulations or policy; or

16 (ii) in contravention of the insured institution's regulations or
17 policy or this Act or any other law or regulation shall be guilty of an offence
18 and be liable on conviction to the repayment of the unsecured loan,
19 guarantee or facility including interest and to 2 years imprisonment without
20 the option of fine.

21 (6) All principal officers of a licensed bank or other deposit taking
22 financial institution who contravene this Section shall be guilty of an
23 offence and be liable to 3 years imprisonment or a fine of not more than N5
24 million or to both such fine and imprisonment.

25 (7) Without prejudice to criminal prosecution as provided in this
26 Section, any person found guilty of violating the provision of any law
27 referred to in this section shall in addition to imprisonment upon conviction
28 be-

29 (a) liable to forfeiture of all assets derived from commission of the
30 offence; and

1 (b) Subject to penalty assessed as the loss suffered by the insured
2 institution as a result of the commission of such offence or which is related
3 directly to the amount involved in the offence committed.

4 (5) The Corporation shall have power to investigate in collaboration
5 with the Nigeria Police Force or other law enforcement agencies any person
6 suspected of being involved in the commission of banking malpractices or
7 banking offences which has caused or is capable of causing the failure of any
8 insured institution.

9 *Civil Penalty Damages*

10 (8) (a) A director or officer or majority shareholder or employee or
11 customer or service provider or agent or Legal practitioner or accountant or
12 external auditor or consultant of, or any other party employed by or providing
13 services to an insured institution may be held personally liable for monetary
14 damages in any civil action instituted, on behalf of, at the request or direction
15 of, or taken over, or by the Corporation acting as Liquidator or conservator of
16 such insured institution for mismanagement or poor management of such
17 insured institution or its assets or for breach of trust, negligence, gross
18 negligence or similar conduct that demonstrates breach of or disregard of duty
19 of care or other tortuous conduct as well as under any statute whether or not
20 resulting in the failure of such insured institution;

21 (b) In any proceeding related to any claim for monetary damages
22 against an insured institution's director, officer, employee, majority
23 shareholder, customer, service provider, agent, Legal Practitioner, accountant,
24 external auditor, consultant, or any other party employed by or providing
25 services to an insured institution, recoverable damages determined to result
26 from the mismanagement or poor management of such insured institution or
27 its assets or the improvident or otherwise improper use or investment of an
28 insured institutions assets shall include principal losses and appropriate
29 interest

Power to compound
offences

30 55.-(1) Without prejudice to section 174 of the Constitution of the

1 Federal Republic of Nigeria, the Corporation may compound any offence
2 under this Act by accepting an amount not exceeding two thirds of such
3 maximum fines provided for the offence by this Act. Or any regulations
4 made pursuant to this Act.

5 (2) All monies received by the Corporation under the provisions of
6 subsection (1) of this section shall be paid into the consolidated Revenue
7 Fund of the Federation.

8 (3) All offences under this Act shall be tried by a Court of
9 competent jurisdiction.

10 **56.-(1)** Subject to the provision of Section 174 of the Constitution
11 of the Federal Republic of Nigeria (which relates to the power of the
12 Attorney-General of the Federation to institute, continue or discontinue
13 criminal proceedings against any person in any court of Law), any Legal
14 Practitioner in the employment of the Corporation may with the consent of
15 the Managing Director, prosecute or defend criminal or civil or other
16 proceedings in the name of and on behalf of the Corporation or officers of
17 the Corporation in respect of matters relating to the activities, business or
18 operations of the Corporation or any insured institution under this Act in the
19 course of carrying out the objects and objectives of this Act.

Right to appear
in Court

20 (2) Notwithstanding the provisions of any enactment to the
21 contrary, a person appointed under Section (47) (1) of this Act who is a legal
22 practitioner shall, while so appointed be entitled to represent the
23 Corporation or its staff as legal practitioner for the purpose and in the course
24 of his employment, without prejudice to the power of the Corporation to
25 engage private legal practitioners in any proceedings.

26 PART XI - ANNUAL ACCOUNTS

27 **57.-(1)** The Managing Director shall submit to the Board for
28 approval not later than 30th September of each year an estimate of its
29 expenditure and income during the succeeding year.

Accounts and
Audit

30 (2) The Corporation shall keep proper accounts in respect of each

1 financial year, and proper records in relation to those accounts and shall cause
2 the accounts to be audited within 6 months after the end of the financial year.

3 (3) For the purpose of subsection (1) of this section the financial year
4 of the Corporation shall be from 1st January to 31st December of every year or
5 such other period as may be determined by the Board.

6 (4) The accounts of the Corporation shall be audited by auditors
7 appointed from time to time on such terms as may be determined by the Board,
8 subject to the provision of Section 85 of the Constitution of the Federal
9 Republic of Nigeria.

Annual Report

10 58. The Management of the Corporation shall prepare and submit to
11 the Board, not later than three months after the end of each financial year, a
12 report which shall be in such form as the board may direct and shall relate to the
13 activities of the corporation during the immediately preceding financial year
14 and thereafter a copy each shall be submitted to the Governor of the Central
15 Bank of Nigeria, the Auditor General of the Federation and the Minister. Of
16 Finance.

17 PART XII - GENERAL

Advertisement

18 59. An insured institution may advertise its insured status without
19 prior approval from the Corporation.

Exemption from
Insurance Act

20 60. The Corporation shall be exempted from provisions of the
21 Insurance Act or any amendment thereof.

Power to borrow

22 (1) The Corporation shall have power to borrow from the Central
23 Bank of Nigeria such moneys as it may deem fit for the discharge of its
24 functions under this Act.

25 (2) The Central Bank of Nigeria may guarantee in such manner and
26 upon such terms as it may deem fit the redemption and the repayment of any
27 interest on any debenture stocks raised by the Corporation.

Relationship with
the Central Bank
of Nigeria

28 61.-(1) The Corporation shall have access to reports of examination
29 conducted by the Central Bank of Nigeria

30 (2) The Corporation shall make reports of its examination of insured

1 institutions and any other information essential to safe and sound banking
2 practice available to the Central Bank of Nigeria.

3 (3) The Central Bank of Nigeria shall make available to the
4 Corporation relevant information on the insured institutions licensed by it.

5 (4) The Central Bank of Nigeria shall be required to inform the
6 Corporation on all the contraventions committed by any insured institution
7 under the provisions of this Act.

8 (5) The Corporation shall co-operate with the Central Bank of
9 Nigeria on matters affecting any insured institution.

10 (6) The Corporation shall have power to enter into a memorandum
11 of understanding with any relevant agency in the discharge of its mandate.
12 Such agency shall include but is not limited to any member of the
13 international Association of Deposit Insurers (IADI).

14 62.-(1) No duty to which an auditor of an insured institution or a
15 person appointed pursuant to the provisions of Banks and Other Financial
16 Institutions Act 1991 or any amendment thereof is subject shall be
17 contravened by reason of his communicating in good faith to the
18 Corporation whether or not in response to a request made by it, any
19 information or opinion on a matter to which this section applies and which is
20 relevant to safe and sound banking and financial practice.

21 (2) An auditor of an insured institution shall recognize the
22 Corporation's responsibility for the protection of the interest of depositors
23 and shall bring to the notice of the Corporation-

24 (a) any adverse development such as possibility of imminent
25 financial collapse;

26 (b) evidence of an occurrence which has led or is likely to lead to a
27 material diminishing of the insured institutions net asset;

28 (c) evidence that there has been a significant weakness in the
29 accounting and other records or the internal control system of the insured
30 institution;

External Auditors
of all insured
institutions and
reporting
requirement

1 (d) evidence that the management of the insured institution has
2 reported financial information to the Corporation which is misleading in a
3 material particular;

4 (e) where he believes that a fraud or other misappropriation has been
5 committed by the directors, management or staff of the insured institution or
6 has evidence of the intention of directors or senior management to commit such
7 fraud or misappropriation; or

8 (f) where there has been an occurrence which causes the auditor to no
9 longer have confidence in the competence of the directors or the senior
10 management to conduct the business of the insured bank in a prudent or safe
11 and sound manner so as to protect the interest of the depositors such as acting in
12 an irresponsible or reckless manner in respect of the affairs of the insured bank.

13 (3) Any auditor of an insured institution who acts in contravention of
14 or fails deliberately or negligently to comply with any of the provisions of
15 subsection (2) of this section in any respect shall be guilty of an offence and
16 liable on conviction to a maximum fine of N5,000,000.00.

Indemnity of
the Corporation

17 63.-(1) The Corporation or any of its directors, officers or agents
18 shall not be subject to any action, claim, suit court proceedings, or demand by
19 or liability to any person in respect of anything done or omitted to be done in
20 good faith in pursuance or in execution of or in connection with the operations
21 business or activities of the Corporation or the execution of any power
22 conferred upon the Corporation, such director, officer or agent.

23 (2) No suit, action or court proceedings shall be commenced or
24 instituted against the Corporation before the expiration of a period of one (1)
25 month after written notice of intention to commence the suit shall have been
26 served upon the Corporation by the intending plaintiff or his agent and the
27 notice shall clearly and explicitly state the cause of action and the place of
28 abode for the intending plaintiff and the relief which he claims.

Services of
Process

29 (3) Every originating process or other process intended for service on
30 the Corporation may be served by giving the process to the Board Secretary or

1 the Director of the Legal Department at the Corporation's Head Office,
2 Abuja, FCT.

3 (4) The Chief Judge of the Federal High Court may designate any
4 judge of the Federal High Court to hear matters for the recovery of debts
5 owed to insured financial institution under the control and management of
6 the Corporation or under liquidation and criminal offences related thereto or
7 arising from the provisions of this Act, the Banks and Other Financial
8 Institutions Act, the Failed Banks [Recovery of Debt] and Other Financial
9 Malpractices in Banks Act, or any legislation containing banking and related
10 offences, to the exclusion of any other matter for such period as may be
11 determined by the Chief Judge.

12 64.-(1) The Corporation may make and publish in the Official Regulations
13 Gazette of the Federal Republic of Nigeria, Regulations, Guidelines,
14 Directives, bye-laws, circulars, Rules or Orders to give full effect to the
15 objects and objectives of this Act.

16 (2) The power to make regulations, rules or orders conferred on the
17 Corporation by this Act shall include-

18 (a) power to make provisions for such incidentals and
19 supplementary matters as the authority making the instrument considers
20 expedient for the purpose of the instrument;

21 (b) power to make different provisions for different circumstances
22 guiding the operations of the Deposit Insurance Scheme; and

23 (c) The Corporation may impose a penalty not exceeding
24 N1,000,000 (one million naira) on an insured institution or its directors or
25 officials or recommend to the Governor of the Central Bank of Nigeria to
26 suspend the licence of the insured bank or financial institution if the insured
27 bank or financial institution fails to comply with any provisions of this Act.

28 65. The Corporation shall not be placed in liquidation except Liquidation
29 pursuant to the provisions of a law or enactment in that behalf and then in
30 such manner as that law or enactment may specify.

Repeal of
Cap. 301 LFN
as amended

1 66.-(1) The Nigeria Deposit Insurance Corporation Act 2006 is
2 hereby repealed.

3 (2) Without prejudice to Section 6 of the Interpretation Act, the repeal
4 of the enactments referred to in subsection (1) of this Section shall not affect
5 anything done under or pursuant to those enactments;

6 (3) The rights, interests, obligations and liabilities of the Corporation
7 existing before the commencement of this Act under any contract or
8 instrument, or in law or in equity, shall by virtue of this Act be assigned to and
9 continue to be vested in the Corporation;

10 (4) Any such contract or instrument mentioned in subsection (3) of
11 this Section shall be of the same force and effect against or in favour of the
12 Corporation and shall be enforceable fully and effectively.

Interpretation

13 67. In this Act, unless the context otherwise requires-

14 (a) "bank" means any person who is licensed by the Central Bank of
15 Nigeria to carry on the business of acceptance of deposits;

16 (b) "Board" means the Board of Directors of the Corporation;

17 (c) "bridge bank" means a bank established by the Corporation in
18 accordance with Section 39 of this Act;

19 (d) "Close Associates" means Partner, Associate, Employer, or
20 Employee of the Board Member;

21 (e) "Corporation" means the Nigeria Deposit Insurance Corporation
22 established pursuant to section 1 of this Act;

23 (f) "Deposit" means monies lodged by depositors with any
24 institutions for safe keeping or for the purpose of earning interest, premium or
25 dividend. Whether or not repayable on demand, upon a given period of notice
26 or upon a fixed date, or at a time or in circumstances agreed upon by or on
27 behalf of the depositor making the lodgment and the insured institution
28 receiving it;

29 (g) "Excess Insured Deposit Claims" means deposits over and above
30 the insured amounts which are payable on realization of the assets of a failed

1 insured institution;

2 (h) "Failed insured institution" means an insured institution whose
3 operating licence has been revoked or which is critically undercapitalized
4 i.e its capital to risk weighted assets ratio is above 2 percent but below 5
5 percent or that is declared a failed bank by the Corporation or the CBN in
6 accordance with the criteria stipulated in the Prudential Guidelines issued
7 for licenced banks;

8 (i) "Failing bank" means an insured institution whose capital to risk
9 weighted assets ratio or regulatory capital is below the minimum prescribed
10 by CBN in accordance with the criteria stipulated in the Prudential
11 Guidelines issued for licenced banks;

12 (j) "Family Member" means Husband, Wife, Father, Mother,
13 Brother, Sister, Son, Daughter and their spouses;

14 (k) "Insured Institution" means a licensed bank or other deposit
15 taking financial institution, the deposits of which are insured in accordance
16 with the provisions of this Act;

17 (l) "Liquidator" means the Nigeria Deposit Insurance Corporation
18 or such other person appointed by the Corporation to act as Liquidator;

19 (m) "Minister" means the Minister charged with responsibility for
20 matters relating to finance;

21 (n) "Other deposit taking financial institutions" means
22 Microfinance banks and primary mortgage banks;

23 (o) "Partners "in Section 54(3) of this Act shall include directors of
24 a limited liability company carrying out audit functions in respect of an
25 insured institution.

26 (p) "Significant interest " Means shares of an aggregate value of not
27 less than 5% (five percent) of the total shareholding, whether held directly
28 by the person or through other person or a company in which he has
29 shareholding;

30 (q) "State" means any of the States of the Federation;

1 (r) "Supervisory Authorities" means the Corporation, Central Bank of
2 Nigeria and any other government body charged with regulation or supervision
3 of banks and other financial institutions;

4 (s) "Closed Insured Institution" has the same meaning with failed
5 insured institution."

6 (t) "Court" means any Court of competent jurisdiction including a
7 Federal or State High Court, Tribunal, or the National Industrial Court."

8 (u) "Failure of an Insured Institution" means a failing or failed insured
9 institution;

10 (v) "Majority Shareholder" means a shareholder who is having
11 controlling or the beneficial owner of an aggregate value of not less than 5%
12 [five percent] of the total shareholding in an insured institution, whether held
13 directly or through other persons or company in which the shareholder has
14 shareholding or other security interest.

Short Title

15 68. This Bill may be cited as the Nigeria Deposit Insurance
16 Corporation Bill, 2017.

17 SCHEDULE

18 *Proceedings of the Board*

19 The Board may make standing orders regulating the proceedings of the Board
20 or of any committee thereof and shall meet not less than four times in every
21 year.

22 The quorum of the Board shall be five which shall include the Managing
23 Director or one Executive Director, the representatives of the Central Bank of
24 Nigeria or the Ministry of Finance and three part-time members.

25 (1) Subject to the provisions of any applicable standing orders, the
26 Board shall meet whenever summoned by the Chairman and if the chairman is
27 required to do so by notice given to him by not less than three other members
28 shall summon a meeting of the Board to be held within twenty-one days from
29 the date on which the notice is given.

30 (2) At any meeting of the Board, the Chairman shall preside or in his

1 absence, the members present at the meeting shall appoint one of their
2 members to preside at that meeting.

3 (3) Where the Board wishes to obtain the advice of any person on a
4 particular matter, the Board may invite for such period as it thinks fit; but a
5 person who is invited by virtue of this sub-paragraph shall not be entitled to
6 vote at any meeting of the Board and shall not count towards a quorum.

7 (1) The Board may appoint one or more committees to carry out on
8 behalf of the Board, such of its functions as the Board may determine.

9 (2) A committee appointed under this paragraph shall consist of the
10 number of persons determined by the Board and not more than one-third of
11 those persons may be persons who are not members of the Board and a
12 person other than a member of the Board shall hold office on the committee
13 in accordance with the terms of the instrument by which he is appointed.

14 (3) A decision of a committee constituted under this Section shall
15 be of no effect until it is confirmed by the Board.

16 (1) The fixing of the Seal of the Corporation shall be authenticated
17 by the signature of the Chairman or Managing Director and any other person
18 authorized by the Board.

19 (2) Any contract or instrument which if made or executed by a
20 person not being a body corporate, would not be required to be under seal
21 may be made or executed on behalf of the Board by any person generally or
22 specially authorized to act for that purpose by the Board.

EXPLANATORY NOTE

*(This note does not form part of the above Act but it is intended
to explain its purport)*

This Act amongst other things repeals the Nigeria Deposit Insurance Corporation Act 2006 and replaces it with a new Act that provides for the Nigeria Deposit Insurance Corporation as the insurer of all deposit liabilities of licensed banks and other financial institutions.

