

A BILL

FOR

AN ACT TO REPEAL THE NIGERIA DEPOSIT INSURANCE CORPORATION ACT, 2006 NO. 16 AND RE-ENACTMENT OF THE NIGERIA DEPOSIT INSURANCE CORPORATION ACT, 2017

Sponsors:

- | | |
|----------------------------|------------------------------|
| Sen. Rafiu Adebayo Ibrahim | Sen. Samuel Anyanwu |
| Sen. Umaru Kurfi | Sen. Dada Joseph Gbolahan |
| Sen. Philip A. Gyunka | Sen. Tijjani Yahaya Kaura |
| Sen. Adesoji Rilwan Akanbi | Sen. Mohammed Danjuma Goje |
| Sen. Peter Nwaoboshi | Sen. Abubakar A. Moallahyidi |
| Sen. Stella A. Oduah | Sen. Fatima Raji-Rasaki |
| Sen. Benjamin Uwajumogu | |

[] Commencement

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

1 PART I - ESTABLISHMENT AND FUNCTIONS OF THE CORPORATION

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

3 (2) The Corporation:

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

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

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

7 2. The Corporation shall have the following Public Policy objectives: Public Policy Objectives

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

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

7 (3) Enhancing public confidence and systemic stability by providing
8 a framework for the resolution and orderly exit mechanism for failing and
9 failed insured institutions.

Mandate

10 3. The mandate of the Corporation is:

11 (a) Deposit payment Guarantee to depositors of all insured
12 institutions pursuant to;

13 (b) the provisions of this Act;

14 (c) the effective supervision of Insured Institutions in collaboration
15 with the Central;

16 (d) Bank of Nigeria as Regulator and lead Supervisor to reduce the
17 risk of bank failure;

18 (e) and ensure that unsafe and unsound banking practices are
19 minimized;

20 (f) the prompt resolution of all distressed Insured Institutions and

21 (g) the efficient liquidation of failed Insured Institutions

Functions of
the Corporation

22 4.-(1) The Corporation shall have responsibility for:

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

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

1 (c) Guaranteeing payments to depositors in the event of revocation
2 of operating license of insured institutions or in the case of actual suspension
3 of payments by insured institutions up to the maximum amount as provided
4 for in section 20 of this Act;

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

8 (e) Pursuing any other measures necessary to achieve the functions
9 of the Corporation provided such measures and actions are not repugnant to
10 the functions of the Corporation.

11 5.-(1) Notwithstanding any provision contained in any other law,
12 no person other than the Corporation shall insure deposit liabilities or
13 guarantee payments to depositors of insured banks or such other insured
14 deposit taking financial institutions operating in Nigeria.

15 (2) No person other than an insured institution may advertise for
16 deposits.

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

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

22 (b) In the case of a corporate body, a fine of N500,000.00 for each
23 day the contravention continues.

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

Head Office

27 PART 11 - ADMINISTRATION

28 7.-[1] The governing body of the Corporation shall be a Board of
29 Directors (hereinafter in this Act referred to as "the Board").

Composition of
the Board

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

- 1 (a) a Chairman;
2 (b) the Managing Director;
3 (c) two Executive Directors;
4 (d) two representatives of the Central Bank of Nigeria not below the
5 rank of Director, one of whom shall be the Director of Banking Supervision;
6 (e) the Director of Home Finance, and
7 (f) Six other members, one from each of the geo-political zones in the
8 country.

9 (3) The Chairman and Board members referred to above must not be
10 persons who own or control significant interests in any insured institution in
11 Nigeria.

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

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

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

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

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

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

27 9.-(1) Notwithstanding the provisions of this Act a person shall cease
28 to hold office as a member of the Board if:

29 (a) he becomes bankrupt, suspends payment or compounds with his
30 creditors;

Tenure of part-
time members

Disqualification
of Members of
the Board

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

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

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

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

10 [(f) he resigns his appointment by a letter addressed to the
11 President of the Federal Republic of Nigeria, through the Minister of
12 Finance;

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

15 (h) He is found to have failed to disclose to the Board his interest or
16 the significant interest of any family member or close associate, known to
17 him in any insured institution at the time of his appointment.

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

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

22 (4) Whenever the Board is dissolved or its tenure expires, and
23 pending the appointment of a new Board, the Minister shall in consultation
24 with the Governor of Central Bank of Nigeria constitute an Interim
25 Management Board for the Corporation to be made up of the following
26 members:

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

29 (b) the Managing Director;

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

Constitution
of Interim
Management
Board for
Corporation

1 (d) Two representatives of the Central Bank of Nigeria not below the
2 rank of Director, one of whom shall be the Director of Banking Supervision.

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

Vacancy of
Board Members

6 (6) If a part-time member of the Board is disqualified, deceased,
7 resigns or otherwise vacates office before the expiration of his term, the
8 President shall in accordance with section 5(4) appoint another person from the
9 same geographical zone to fill the vacancy.

Conflicts of
Interest

10 (7) No member of the Board appointed under this Act shall act as a
11 representative of any commercial, financial, agricultural, industrial or other
12 interests, or receive or accept directions therefrom in respect of duties to be
13 performed under this Act:

14 (i) Every member of the Board shall fully and promptly disclose to the
15 Board any interest, whether personal, commercial, financial, industrial, or
16 other, which he may directly or indirectly hold or be connected with and which
17 becomes the subject of consideration by the Board, and shall excuse himself
18 from any Board deliberations and voting related thereto:

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

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

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

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

6 10.-(1) The Board shall have power:

The power of
the Board

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

8 (b) be responsible for the overall policy and administration of the
9 Corporation;

10 (c) To act in the name of the Corporation;

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

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

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

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

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

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

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

29 (k) to recommend to the Central of Bank of Nigeria, the removal
30 from office of any officer or director who has committed any violation of the

1 law, rules or regulation of the Corporation or has engaged in an unsound
2 practice that may lead to dissipation of assets of, or financial loss to his or her
3 insured institution;

4 (l) to perform the functions of a liquidator or receiver for all failed
5 insured institutions; (m) to extend from time to time the period within which a
6 depositor or other creditor is required under this Act to file his claim or receive
7 payment of insured deposit or other liquidation dividends in a failed insured
8 institution;

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

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

Appointment of
the Managing
Director and
Executive
Director, etc.

16 **11.-(1)** There shall be appointed for the Corporation:

17 (a) a Managing Director, who shall be the Chief Executive of the
18 Corporation and shall be responsible for the day-to-day management of the
19 Corporation, and

20 (b) two Executive Directors who shall perform such duties as may be
21 assigned to them from time to time by the Board or the Managing Director.

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

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

30 (4) Subject to sub-section (3) of this section, the Managing Director

1 and Executive Directors shall each hold office on such terms and conditions
2 as may be specified in their letters of appointment.

3 12.-(1) The Board shall appoint a Secretary who shall:

Employment of
staff, etc.

4 (a) be responsible to the Managing Director;

5 (b) keep the Board's records;

6 (c) conduct its correspondence; and

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

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

12 (3) The terms and conditions of service (including disciplinary
13 measures, remuneration, allowances and pension benefits in accordance
14 with the Pension Reform Act] of the Secretary and other staff of the
15 Corporation shall be as may be determined by the Board to the exclusion of
16 any other authority or person.

17 PART 111 - CAPITAL AND FUNDS OF THE CORPORATION

18 13.-(1) The funds managed by the Corporation shall consist of:

Fund of the
Corporation

19 (a) assessed premiums paid by insured institutions in accordance
20 with this Act;

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

22 (c) monies borrowed from any source with the approval of the
23 Board; and

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

26 (2) There is hereby established separate Deposit Insurance Funds
27 (DIFs) for each category of insured institutions and for non- interest deposit
28 liabilities of insured institutions to be managed by the Corporation in trust
29 for depositors in which all assessed premiums paid to the Corporation by
30 insured Institutions shall be deposited and which funds the Corporation

1 shall utilize for the benefit of depositors of the respective insured institutions.

Capital

2 14.-(1)]The authorized capital of the Corporation shall be five billion
3 Naira.

4 (2) On a resolution of the Board, there shall be paid up such amount as
5 shall be subscribed by and paid-up at par in a proportion of 60 per cent and 40
6 per cent by the Central Bank of Nigeria and the Federal Ministry of Finance.

7 (3) Notwithstanding the provision of subsection (1) of this section,
8 the authorized capital of the Corporation may be increased by such amount as
9 the Board may be resolution determine from time to time.

10 (4) On a resolution of the Board the amount subscribed and paid up as
11 stated above shall be refunded to the Central Bank of Nigeria and the Federal
12 Ministry of Finance

General Reserve
Fund

13 15.-(1) Notwithstanding the provisions of any Act or Law, the
14 Corporation shall establish a General Reserve Fund and shall transfer thereto at
15 the end of each fiscal year its operating surplus for the year in order to cushion
16 the threat posed to the Deposit Insurance Funds by incidence of systemic
17 distress.

18 (2) Where the reserve fund is more than ten times the authorized
19 capital at the end of the year, 75 per cent of the net operational surplus before
20 tax shall be transferred to the reserve fund, 50 per cent of the remaining amount
21 after tax shall be applied to reduce the annual premium payable by insured
22 banks while the remaining 50 per cent shall be paid to the shareholders.

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

Bank account
and investment
of the Corporation

29 16.-(1) The Corporation shall have power to invest money not
30 immediately required in Federal Government Securities or in such other

1 securities as the Board may from time to time determine.

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

5 (3) All administrative expenses shall be defrayed out of the income
6 of the Corporation.

7 17. There shall be chargeable to the Corporation:

Expenditure

8 (a) all expenses incurred on behalf of the Corporation;

9 (b) all refunds of excess assessment;

10 (c) monies required for the payment of funds borrowed by the
11 Corporation;

12 (d) payment to an insured institution which assumes the deposit
13 liability of another insured institution; and

14 (e) Payment of insured deposits when the licence of an insured
15 institution is revoked or it has defaulted in payment of its obligations to
16 depositors.

17 PART IV - DEPOSIT INSURANCE SCHEME

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

Participating
Institutions

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

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

30 (4) The Corporation shall have power to prescribe conditions that

1 must be satisfied by all licensed banks and such other financial institutions in
2 Nigeria engaged in the business of receiving deposits to enable them insure
3 their deposit liabilities with the Corporation pursuant to regulations issued by
4 the Corporation including issuance of Certificates of Deposit Guarantee.

Assessment of
insured institutions
and special
contribution

5 19.-(1) Every insured institution being a licensed bank or deposit
6 taking financial institution to which this Act relates, shall be obliged to pay to
7 the Corporation, a premium which shall not exceed (15/16) fifteen sixteenth of
8 one per cent per annum for licensed bank and eight-sixteenth (8/16) of one per
9 cent per annum for other deposit-taking financial institutions of the total
10 deposit liabilities standing in its books as at 31st December of the preceding
11 year in the following manner:

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

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

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

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

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

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

30 (5) Where the funds of the Corporation are not sufficient for giving

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

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

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

17 20.-(1) Without prejudice to the provisions of the Banks and Other
18 Financial Institutions Act 1991 as amended no insured bank shall pay any
19 dividend on its capital stock or on profit declared while it remains in default
20 in the payment of any premium or special contribution obligation due to the
21 Corporation.

Payment of
Dividends by
Insured
Institutions while
in default of
assessment

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

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

29 21. No premium due from an insured institution to the Corporation
30 shall be reduced, adjusted or withheld on the basis of any set off or claim that

Prohibition of
set off

1 an insured institution may have against the Corporation.

Maximum
Claim

2 22.-(1) A depositor shall receive from the Corporation as provided
3 under section 2 (1) (c) of this Act, a maximum amount of N500,000.00 (five
4 hundred thousand naira) from the Deposit Insurance Fund of licensed banks
5 and Non -interest deposit liabilities fund or N200,000.00 (two hundred
6 thousand naira) from the Deposit Insurance Fund of other licensed deposit-
7 taking financial institutions in the event of the revocation of operating license
8 of such insured institution or actual suspension of payment to depositors of
9 such insured institution.

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

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

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

Right to set-off
guarantors

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

Payment of
Insured Deposit

25 24.-(1) payment of the insured deposit in an insured institution shall
26 be made by the Corporation:

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

29 (b) with the concurrence of CBN, within 30 days, where due to its
30 insolvent status, the insured institution has suspended payment or is otherwise

1 unable to meet its obligation or any part thereof to any depositor for a period
2 of 90 days, either by:

3 (a) cash, negotiable instrument, or

4 (b) making available to each depositor a transferred deposit in
5 another insured institution in an amount equal to the insured deposit of such
6 depositor,

7 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 **25.-(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 Deposit/
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 fails
27 within such period to claim or arrange to continue the transferred deposit with
28 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 26. The Corporation may after payment of insured deposits make Interim dividend
13 interim deposit payments in regard to claim of depositors of closed insured payment
14 institutions that comply with the following conditions:

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;

19 (c) to be determined by the Corporation but in any event not more
20 than the prevailing interbank rate can be fully reimbursed by the estimated
21 net realizable value of the assets;

22 (d) The closed insured institution has no severe embezzlements or
23 other;

24 (e) significant fraud or other abuses whose losses are difficult to
25 determine;

26 (f) The amount of the interim dividend payment to be made by the
27 Corporation;

28 (g) shall not exceed 30% of the total excess uninsured deposit
29 claim of any;

30 (h) closed insured institution.

1 PART V - NOTICE OF TERMINATION OF INSURED STATUS

Grievous violation
of obligations

2 27.-(1)Whenever it appears to the Corporation that an insured
3 institution or its directors or officers have committed a grievous violation of its
4 obligation under this Act have continued to conduct the business of the
5 insured institution:

6 (a) in an unsound manner;

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

15 (2) It shall be deemed a grievous violation of obligation under this Act
16 where an insured institution:

17 (a) persistently suffers liquidity deficiency;

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

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

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

23 (e) habitually fails to render returns to the Corporation or does not
24 submit upon request such other information for the efficient performance of the
25 function of the Corporation.

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

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

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

3 The Corporation shall before terminating the insured status of any insured
4 institution, consider and apply corrective measure in accordance with the
5 provisions of Section 32 of this Act.

6 28.-(1) Where the insured institution fails within reasonable time
7 to make amends, the Board shall:

Conditions for
Termination

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

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

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

18 29.-(1) Where the Board is satisfied that an insured institution is in
19 grievous violation of its obligation under this Act the Corporation in
20 consultation with the Central Bank of Nigeria may terminate the insured
21 status of the institution.

Procedure for
Termination of
insured status

22 [2] The Corporation shall cause a notice of termination to be
23 published in at least three National Dailies.

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

30 (4) After the termination of the status of an insured institution

1 under this Act, the insured deposit of each depositor in the institution on the
2 date of its termination, less all subsequent withdrawals from the deposits of
3 such depositor, shall continue to be covered for another period of one year, and
4 thereafter, such deposits shall cease to be covered.

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

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

Conditions for
participation
after termination

12 30.-(1) An insured institution whose insured status is terminated in
13 accordance with this Act but, whose licence has not been revoked by the CBN
14 may re-apply to participate in the scheme after it has satisfied all the conditions
15 required of it by the Board particularly after the Board had given consideration
16 to the following:

17 (a) the institution's financial position and its general operational
18 practice had improved satisfactorily since the termination order became
19 effective;

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

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

24 PART VI - SUPERVISION OF INSURED INSTITUTIONS

Power of the
Corporation to
require information

25 31.-(1) Every insured institution shall submit to the Corporation such
26 returns and information as may be required from time to time within the
27 stipulated period.

28 (2) In addition to the powers conferred on it under this Act, the
29 Corporation may require persons having access thereto, at all reasonable times
30 to supply to it information, in such form as the Corporation may from time to

1 time direct, relating to, or touching on or concerning matters affecting the
2 interest of depositors of insured institutions.

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

9 (4) Where any person lawfully required to supply information
10 necessary to achieve the objective and purpose of the Corporation:

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

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

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

Supervision of
related entities
of insured
institutions

20 (6) Any holding company of any insured institution, any
21 subsidiary, or affiliate or associated company of any insured institution, or
22 any directors or officers of any such holding company, subsidiary, affiliate
23 or associated company, that provide information that is false, misleading,
24 inaccurate, or incomplete or that fail to comply with any requirement to
25 provide information under this Act shall be guilty of an offence and on
26 conviction liable to imprisonment for a term of not less than 5 years or to a
27 fine of N5 million or to both such fine and imprisonment.

28 (7) Where an insured institution is deemed to be threatened with
29 insolvency on the basis of data submitted under (5), the Corporation may
30 under the auspices of Financial Services Regulation and Coordinating

1 Committee (FSRCC) investigate the business and the financial status of the
2 subsidiaries, affiliates and associated companies of the insured institution.

3 (8) The Corporation may require any person, depositor, customer,
4 creditor or organization which had transaction with or related to a failing or
5 failed insured institution to provide information on such transaction to
6 determine whether or not such transaction contributed to the insolvency or
7 failure of the insured institution.

Appointment
of Examiners

8 32. The Board shall have power to appoint on the recommendation of
9 the Managing Director such number of examiners who shall:

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

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

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

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

Functions of
Examiners

22 33.-(1) In the exercise of the functions of an examiner appointed
23 pursuant to section 28 (1) of this Act, the examiner shall exercise reasonable
24 care to prevent unreasonable hindrance to the day-to-day activities of an
25 insured institution and confine the investigation to matters of fact and data
26 deemed necessary for the examination.

27 (2) An insured institution shall produce to the examiner as and when
28 required, all books, accounts, documents, and such other information as the
29 examiner may deem necessary or requesting the exercise of his functions.

30 (3) It shall be an offence under this Act for an insured institution, its

1 directors and officers to:

2 (a) wilfully refuse to produce any book, account, document or such
3 other information: or

4 (b) Negligently, willfully or with intent to defraud gives
5 information which is false in any material particular.

6 (4) A person who commits an offence under this section shall be
7 liable on conviction:

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

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

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

22 34.-(1) The Management of the Corporation may at any time
23 appoint two or more qualified persons to conduct a special examination of
24 the books and affairs of an insured institution under conditions of secrecy
25 where the Management is of the opinion that an insured institution may:

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

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

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

30 (2) Where an insured institution deems that it is:

Special
Examination

1 (a) likely to become unable to meet its obligations; or
2 (b) about to suspend payments the insured institution shall cause the
3 Corporation to be informed accordingly of its intention to do so.

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

Report of
Examination

9 35.-(1) After the conclusion of any examination under the provisions
10 of this Act, the Corporation shall forward a copy of the report arising there from
11 together with its recommendations to the insured institution concerned with
12 instruction that it be presented by the Management of that institution to their
13 Board of Directors at a meeting specially convened within one month of
14 receiving the report for the purpose of considering the report and
15 recommendations thereon.

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

20 (3) Without prejudice to the provisions of Section 23 and 56 of this
21 Act, where an insured institution fails to implement the recommendations
22 contained in the report of examination after it had been warned by the
23 Corporation, or where circumstances exist where the Corporation should
24 impose further prompt corrective actions pursuant to the provisions of Section
25 32 of this Act, the Corporation shall recommend to CBN:

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

30 (ii) to Issue an order blacklisting any director, officer or employee

1 found liable under paragraph (i) above and the director, officer or employee
2 blacklisted shall not be qualified for employment in any capacity in an
3 insured institution until the Corporation withdraws the order;

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

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

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

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

23 36.-(1) Without prejudice to the provisions of this Act, whereupon
24 the examination by the Corporation as to the condition of any insured
25 institution, it shall be disclosed that:

Prompt
corrective action

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

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

1 (c) where such violation may lead to insolvency or dissipation of the
2 assets of the insured institution, the Corporation shall submit the report of the
3 examination to the management of the bank with specific directives to address
4 the situation by taking corrective measures in consultation with the Central
5 Bank of Nigeria.

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

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

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

15 (a) take the action recommended by the Corporation, or;

16 (b) provide a plan acceptable to the Corporation for responding to the
17 situation presented, the Corporation may take the recommended enforcement
18 action.

19 PART VII - DUTIES OF INSURED INSTITUTIONS

Fidelity
insurance

20 37. All insured institutions shall have fidelity insurance coverage up
21 to such level as may be prescribed from time to time by the Corporation.

Obligations in
respect of
unauthorized
disclosure

22 38.-(1) The members of Board, staff and agents of an insured
23 institution shall keep strictly confidential and make no unauthorized disclosure
24 or use of any information which they may either directly or indirectly receiving
25 such capacity of the activities of an insured institution and the result thereof of
26 the Corporation and of the circumstance of the participating insured institution
27 and their customers, even after they cease to be members or staff or agents of
28 that insured institution.

29 (2) The obligation specified in subsection (1) of this section is also
30 hereby imposed upon directors, employees of and any agent or other persons

1 engaged by the Corporation.

2 (3) The provisions of subsection (1) of this section shall not apply
3 to communications made to the Corporation, the Central Bank of Nigeria,
4 external auditors of the insured institution the Bankers Committee or the
5 Federal Ministry of Finance in connection with the purposes of the
6 Corporation.

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

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

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

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

Returns on
frauds and
forgeries

1 39.-(1) An insured institution shall render to the Corporation,
2 monthly returns of frauds, forgeries or outright theft occurring during such
3 month and shall include a detailed report of such events.

Notification t
the Corporation
of dismissed
staff and
employment

4 40.-(1) An insured institution shall notify the Corporation of any staff
5 dismissed, terminated or advised to retire on the ground of fraud or financial
6 malpractice.

7 (2) the persons affected under subsection (1) of this section shall not
8 be employed in an insured institution without the insured institution first
9 notifying the Corporation.

10 (3) Any insured institution, which acts in contravention of any of the
11 provisions of subsection (1) and (2) of this section shall be guilty of an offence
12 under this Act and liable to a fine of N100,000.00.

Restriction on
Mortgage Assets

13 41.-(1) No failing or failed insured institution shall mortgage pledge,
14 sell or dispose of any land, building or interest in any real property belonging to
15 the Insured Institution without first obtaining the consent of the Corporation.

16 (2) Any mortgage, pledge, sale or disposal in contravention of section
17 36A (1) of this Act shall be void without any discretion and in addition any
18 Director or Officer of such institution who approved, is involved or in any way
19 participated in such contravention shall be guilty of an offence and on
20 conviction liable to pay a fine of not less than N5 million or 3 years
21 imprisonment or both such fine and imprisonment.

Foreclosure of
Mortgages

22 42.-(1) Every insured institution shall, with respect to loan facilities:

23 (a) secured by legal or equitable mortgage on real property, within
24 such period as the Corporation may direct, register the mortgage with the
25 Registrar of the Federal High Court within the jurisdiction where the property
26 is located;

27 (b) secured by legal or equitable mortgage or any other security
28 interest on a moveable property, within such period as the Corporation may
29 direct, register the mortgage or any other security interest with any other
30 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 and
21 stating that the Loan facility has been classified past due or lost, as the case
22 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 the
25 certificate of registration of the Mortgage and a Report of Valuation on the
26 property by an Estate Surveyor registered with the Nigeria Institute of Estate
27 Surveyors and Values (NIESV) and the judge shall enter the action for
28 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 Insured

1 institution is failing or has failed, every Motion to Foreclose originating the
2 action shall contain the return date and shall be delivered to the Register for
3 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 counselor by substituted service with the leave of the
6 court, shall within 5 days of such service, file a counter affidavit admitting the
7 debt or a part thereof or denying the debt outstanding and stating the facts upon
8 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 Mortgage
13 and directing disposal of the Mortgage property by public auction or private
14 treaty at a price not below the Forced Sale Value disclosed in the Valuation
15 Report to liquidate the judgment sum, where the Court is satisfied that the
16 Mortgage was duly registered and has not been redeemed or the Court may
17 make any other orders including judgment for a part only of the outstanding
18 sum on the mortgage and admitting the balance to proof by any other evidence
19 with or without an order to foreclose on the mortgage, or decline to make an
20 order of foreclosure of the Mortgage or strike out or dismiss the Motion to
21 Foreclose or make any other order as the court deems fit in the circumstances;

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

26 (f) An appeal against the judgment of the court shall lie as of right to
27 the Court of Appeal and where the judgment of the Court is for an order to
28 Foreclose, the right to appeal shall not be exercisable except upon payment into
29 court by the Mortgagor / Appellant of the total judgment sum premised on the
30 order of foreclosure including interest thereof and no court of law shall have

1 jurisdiction to order stay of execution of any order to Fore close issued by
2 the Court under this Act;

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

6 PART VIII - FAILURE RESOLUTION OF INSURED INSTITUTIONS

7 43. The failure resolution mechanism to be adopted by the Corporation to address the problems of a failing or failed insured institution shall be any or a combination of any of the options listed hereunder without prejudice to any other options that the Corporation may adopt pursuant to any other law enabling it on that behalf and the Corporation may be guided by the following factors, amongst some other factors which the Corporation may determine from time to time, when adopting a failure resolution mechanism:

Policy objectives
on failure
resolution

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

10 (b) Ensure a minimum level of protection to depositors, in
11 particular the small;

12 (c) uninformed and less sophisticated depositors;

13 (d) No bailout of shareholders;

14 (e) The size of the bank, extent of the distress, policy of
15 Government;

16 (f) whether the problem is Systemic or localized; and

17 (g) Implementation in a timely and transparent manner;

18 44.-(1) Pursuant to Section 2(1)(b) of this Act, the Corporation shall at the request of an insured institution and under such conditions as may be specified by the Corporation assist the insured institution if the Corporation determines:

Financial
Assistance

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

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- 1 (b) The insured institution persistently suffers liquidity deficiency;
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 renewal
13 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 insured
22 institution shall not exceed the Monetary Policy Rate of the Central Bank of
23 Nigeria.

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

Insured
institutions
resolutions fund

Technical
Assistance

29 45.-(1) the Corporation in consultation with the CBN may:

30 (a) Assume Control of the insured institution as Conservator and take

1 over its management;

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

4 (c) appoint new Management,

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

7 (e) Replace Management with supervisory officials;

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

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

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

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

Mergers and
Acquisitions

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

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

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

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

30 (a) The Corporation shall have power to charge, dispose, transfer

1 or alienate all or some of the assets of a failing or failed institutions to a healthy
2 insured institution;

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

6 (c) the assets of the failing or failed insured institution shall be
7 transferred or purchased by a healthy insured institution in consideration of the
8 assumption of all or some of the liabilities of the failing or failed insured
9 institution;

10 (d) the Corporation may receive such assets from the failing or failed
11 insured institution as collateral for any advance to the assuming institution or
12 purchase the assets from the failing or failed insured institution and any asset
13 [including land] of the failing or failed institution shall be transferred or be
14 vested in the assuming institution or the Corporation.

Acquisition of
insured institution
whose capital is
lost

15 (4) (i) The Corporation in consultation with the Central Bank of
16 Nigeria shall have power to acquire a failing or failed insured institution whose
17 shareholders' paid up capital is lost or unrepresented by available assets for a
18 nominal consideration of one naira only by an Order published in the Official
19 Gazette;

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

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

25 (iv) where the Corporation has acquired or is in the process of the
26 acquisition of an insured institution as part of efforts to resolve the distress
27 condition of such institution, any court order, declaration or injunction to
28 restrain or nullify such acquisition shall be void provided that an order as to
29 damages may be issued where the court makes a finding of mala fide against
30 the Corporation.

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

3 46.-(1) Notwithstanding the provisions of the Companies and
4 Allied Matters Act or any other enactment, where the Corporation has
5 assumed the management and control of a failing or undercapitalized
6 insured institution pursuant to the provisions of this Act or the BOFIA, the
7 Corporation in consultation with the Central Bank of Nigeria may:

The Corporation
as Conservator

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

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

14 (iii) merge the failing or undercapitalized insured institution with
15 another insured institution or transfer all or part of the assets or all or part of
16 the liability of such failing or undercapitalized insured institution with
17 another insured institution;

18 (iv) take such action as may be:

19 (a) necessary to put the insured institution in a sound and solvent
20 condition;

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

23 (v) the Corporation as conservator may place the insured
24 institution in Liquidation and proceed to realize upon the assets of the
25 institution as liquidator under this Act

26 (2) Where the Corporation has commenced resolution of a failing
27 or failed insured Institution, any Court order, Declaration or injunction
28 against the Insured institution, the Corporation or any officer of the insured
29 institution or the Corporation that has the effect of restraining, preventing or
30 hindering the Corporation's measures to resolve the failing or failed insured

1 institution shall be null and void

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

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

14 (5) The Corporation when acting as Conservator of an insured
15 institution shall have and exercise all the powers and privileges conferred on it
16 as Liquidator.

Bridge Banks

17 47.-(1) The Corporation in consultation with the Central Bank of
18 Nigeria, may organize and incorporate, and the Central Bank shall issue
19 banking license to one or more banks, to be referred to as bridge banks which
20 shall be insured institutions to assume such deposits and or liabilities, and shall
21 purchase such assets of a failing or failed insured institution and perform any
22 other function or business as the Corporation may, determine.

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

25 (3) Notwithstanding the provisions of the Companies and Allied
26 Matters Act, the Central Bank of Nigeria Act, the Banks and Other Financial
27 Institutions Act or any other law, the bridge bank shall not be subject to any
28 requirement relating to issued or paid up capital, and the Corporation may
29 make available to the bridge bank, upon such terms and condition, and in such
30 form and amounts, as the Corporation may determine, funds for the operation

1 of the bridge bank.

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

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

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

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

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

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

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

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

25 (8) Following the merger or consolidation or sale of the equity or
26 assumption of the deposits or acquisition of the assets of the bridge bank as
27 provided in subsection [6] of this Section, the resulting entity shall for all
28 purposes be an insured institution.

1 PART IX - LIQUIDATION OF FAILED INSURED INSTITUTIONS

Power of the
Corporation to
Act as Liquidator

2 48.-(1) Whenever the licence of an insured institution is revoked by
3 the Central Bank of Nigeria, the Corporation shall by notice published in the
4 Gazette appoint itself as the Liquidator of such failed institution with powers
5 specified under this Act and in addition to and not in derogation of the powers
6 conferred and the duties imposed by this Act on the Corporation as Liquidator,
7 Conservator or Supervisor, the Corporation to the extent not inconsistent with
8 such powers and duties shall have any other power conferred and any duty
9 [which is related to the exercise of such power] imposed on a Liquidator under
10 the Companies and Allied Matters Act provided that in the case of:

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

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

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

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

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

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

27 (d) the institution has actually suspended payment to its depositors,

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

29 (f) the institution has close its doors or any of its branches to the public
30 or has ceased to operate, without adequate provision being made for payment

1 of its depositors;

2 (g) the insured institution or its directors or officers have been
3 found to conceal information or conceal records or render false or inaccurate
4 returns to the Corporation;

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

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

17 (4) The Corporation shall

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

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

26 (c) have and exercise all the powers, benefits and authority
27 conferred on a Liquidator or any company in liquidation and shall have
28 power to apply to the court for any relief or order which a Liquidator or any
29 company in Liquidation may obtain under the said Part XV of Companies
30 and Allied Matters Act 1990 with such modifications as are stipulated under

1 this Act and the guidelines issued pursuant thereto, and

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

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

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

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

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

13 (e) enter into any agreement for the purchase of all or some of the
14 assets and the assumption of all or some of the liabilities of the insured
15 institution;

16 (f) exercise any of the powers and authorities conferred on the
17 Corporation and perform any of the obligations to be performed, under this
18 Act;

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

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

27 (i) Compromise debts and liabilities capable of resulting in debts, all
28 claims, present or future, certain or contingent and in particular grant
29 concession, interest waiver to a debtor of a failing or failed insured institution
30 on such terms as may be agreed, and take any security for the discharge of any

1 such call, debt, liability or claims and give a complete discharge in respect
2 thereof;

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

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

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

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

27 (n) Offer for sale to Asset Management firm or any other persons
28 the loans and other risk assets of a failed insured institution and may accept
29 any bond or other instruments as consideration for the sale of any such
30 assets;

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

4 (p) publish in the media or the official gazette the names of debtors of
5 the insured institution appearing in the records of the insured institution and no
6 liability shall attach to the Corporation or the publishing agent for such
7 publication;

8 (q) issue summons to any director, staff, employee, shareholder or
9 customer of a failed insured institution to appear and attend any interview,
10 hearing or investigation being conducted by the Corporation to determine the
11 cause of failure of an insured institution or any matter relating to the business or
12 operations or affairs of a failed insured institution;

13 (r) take over the property and assets of the failed insured institution
14 that are secured or mortgaged to any person that have not been sold by the
15 mortgagee or security holder and proceeds paid to the secured creditor prior to
16 the date of commencement of liquidation of the failed insured institution by the
17 Corporation and to dispose of such assets and property and pay proceeds
18 thereof to depositors and other creditors - in accordance with the rules on
19 priority of claims established by the law.

20 (6) The Corporation as Liquidator may, where it has reasonable cause
21 to believe that:

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

26 (b) a debtor or Guarantor of a debtor has deposits or other funds in any
27 account with any other insured institution, by Notice served on the Institution,
28 require the institution to freeze the account, stop further transactions on the
29 account and furnish the Corporation with any information on the account as
30 may be directed by the Corporation.

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

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

12 (c) the court may on the application of the Corporation make an
13 order for the disposal of the property and payment of the proceeds to the
14 Corporation or payment of the proceeds of the account into the failed
15 Insured institution's liquidation account secured by a guarantee given by the
16 Corporation while the debt recovery case is still pending in the interest of
17 depositors of the insured institution and on the merits of the application;

18 (d) where any director or officer of any insured institution fails to
19 comply with any Notice for freezing of account the Corporation may
20 recommend to the Central Bank of Nigeria the suspension or removal from
21 office of such director or officer and such director or officer shall be
22 personally liable to payment of penalty not exceeding ten thousand Naira for
23 every day during which he failed to comply and the insured institution shall
24 be liable to payment of penalty of 4 (four) times the amount, in the account
25 or withdrawn from the account as a result of failure to comply with the
26 Notice, whichever is higher.

27 (iii) (a) Where a debtor has defaulted in making payment of any
28 sums adjudged against him within one month of the date of the judgment
29 whether or not an appeal had been filed against the judgment or an order for
30 stay of execution granted in respect of such judgment, the Corporation may

1 apply to the Court to issue a receiving order against such debtor and it shall not
2 be necessary for the debtor to commit an act of bankruptcy or for the
3 Corporation to file a bankruptcy petition or for any of the conditions precedent
4 for the grant of a receiving order specified under the Bankruptcy Act to be
5 satisfied before the court shall grant the receiving order against the debtor and
6 where a receiving order is made against a debtor under this Act the court may
7 adjudge the debtor bankrupt;

8 (b) the court may on the application of the Corporation appoint the
9 official receiver or authorize the Corporation to assume the office of trustee of
10 the 'property of the debtor and the Corporation shall have all the powers of a
11 trustee under the bankruptcy act; and

12 (c) any debtor adjudged bankrupt under this Act shall be deemed to
13 have been adjudged bankrupt under the Bankruptcy Act which shall have effect
14 as modified under this Act and the trustee appointed herein shall have power to
15 seek the directive of the court in respect of anything or act to be done under the
16 Bankruptcy Act.

17 (iv) Where a judgment debtor is unwilling to pay its debt owed to a
18 failed insured institution and has filed application for stay of execution pending
19 appeal the Court shall not grant an order to stay execution of the judgment.
20 Pending the appeal except the Judgment debtor pays into court the judgment
21 sum.

22 (7) (1) Where the Corporation has commenced Liquidation of an
23 insured institution any garnishee order Nisi or Absolute or attachment,
24 sequestration, distress or execution put in force against the bank account or
25 estate or effects of such insured institution or the Corporation in respect of any
26 judgment debt or other liabilities owed by such insured institution or any other
27 judgment debtor shall be void, null and of no effect whatsoever:

28 (i) Where an insured institution is being wound up by the Corporation,
29 no action, suit or proceedings shall be proceeded with or commenced against
30 such insured institution or the Corporation except with the leave of Court given

1 on such terms as the Court may impose;

2 (ii) A creditor who had issued execution against any goods or land
3 of the insured institution or attached any debt due to the institution shall not
4 be entitled to retain the benefit of the execution or attachment against the
5 Corporation unless he had completed the execution or attachment before the
6 Commencement of liquidation of such insured institution;

7 (iii) For the purpose of this section an execution against the goods
8 shall be taken to be completed by seizure and sale and an attachment of debt
9 shall be deemed to be completed by receipt of payment by the Judgment
10 creditor and an execution against land shall be deemed to be completed by
11 seizure and in case of an equitable interest, by the appointment of a Receiver
12 while commencement of liquidation shall be from the date of revocation of
13 the operating licence of the insured institution or publication of self -
14 appointment in the gazette;

15 (iv) A purchaser in good faith under a sale by the court in the course
16 of execution being levied on any property of the insured institution before
17 the commencement of liquidation shall acquire good title against the
18 Corporation;

19 (v) where any goods of an insured institution are taken in execution
20 and before the sale thereof or the completion of the execution by receipt or
21 recovery of the full amount of levy, notice is served on the sheriff of court by
22 the Corporation that the Corporation has become the liquidator of the
23 insured institution, the sheriff shall deliver the goods and any money seized
24 or received in part satisfaction of the execution to the Corporation provided
25 the Corporation satisfies the charge for costs of execution;

26 (vi) When acting as Deposit Guarantor, conservator or liquidator of
27 an insured institution under this Act the Corporation shall have power to act,
28 independently in the interest of the depositors, other creditors and the
29 shareholders of such insured institution without undue influence from any
30 Agency of Government;

1 (vii)(a) where the Corporation has taken over management of the
2 affairs of any insured institution as Conservator or Liquidator of such
3 institution, any Declaration, Injunction or Order of court issued against the
4 Corporation or any of its officers that has the effect of restraining, prohibiting
5 or preventing the Corporation from acting, performing or carrying out its
6 statutory obligations and functions as Conservator or liquidator of such insured
7 institution shall be void, provided that an order as to damages may be issued
8 where the court makes a finding of mala fide against the Corporation;

9 (viii) the Corporation shall have power to avoid the transfer of an
10 interest in any property or asset of an insured institution that was fraudulently
11 transferred by such insured institution within five years of the commencement
12 of the liquidation of that insured institution and shall have power to trace and
13 recover from subsequent transferees provided that such transferees are not
14 purchasers in good faith;

15 (ix) the Corporation shall have power to enforce any contract
16 agreement or deed entered into by the insured institution facing liquidation
17 with any person notwithstanding that such contract, agreement or deed
18 provides for termination in the event of insolvency or liquidation of such
19 insured institution;

20 (x) no person without the consent of the Corporation shall:

21 (a) exercise the right or have power to terminate any contract,
22 agreement or deed or declare a default in any such contract, agreement or deed
23 to which the insured institution is a party nor;

24 (b) obtain possession of or exercise control over any asset or property
25 of such insured institution nor;

26 (c) affect any contractual rights of the insured institution within 90
27 days of the commencement of liquidation of such insured institution;

28 (xi) The Corporation shall have power to in the course of recovering
29 the debt owed to any failed insured institution by any debtor enforce liability
30 for repayment of that debt on any assets or property of any incorporated

1 company which is found to have been acquired, formed, incorporated or
2 registered by the debtor or the debtor's agent, principal, privy, associate,
3 director or shareholder after incurring the debt whether or not for the
4 purpose of avoiding repayment of the debt;

5 (xii) the Corporation shall have power to repudiate contracts,
6 agreements or deeds to which the insured institution is a party which the
7 Corporation determines to be burdensome and that repudiation of such
8 contracts, agreements or deeds would promote the orderly administration of
9 the insured institutions affairs, provided that any person aggrieved by the
10 exercise of such power shall have the right to file action in court for special
11 damages limited to actual loss suffered as a result of such repudiation from
12 the date of commencement of liquidation to the date of repudiation of such
13 contract, deed or agreement, against the Corporation as liquidator thereof;

14 (xiii) the Corporation shall not have power to avoid legally
15 enforceable security interests created over the property and assets of a
16 debtor to the insured institution including legal mortgages and other charges
17 except the Corporation determines that such interests were created:

18 (a) in contemplation of insolvency of the debtor or the insured
19 institution; or

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

22 (xiv) No agreement which diminishes the Corporation's interest in
23 any asset of an insured institution shall be valid in law unless it is in writing,
24 was executed contemporaneously by the insured institution and the counter
25 party, was approved by the Board of Directors of the Insured institution and
26 has been continuously a record of the insured institution and has been
27 enforced prior to commencement of liquidation of the insured institution;

28 (xv) the Corporation and the insured institution shall be exempt
29 from federal, state and local Government taxes, rates, and levies except real
30 property taxes;

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

5 (8) (i) The Corporation shall conclude winding up of an insured
6 institution which it is liquidating within 7 years of its commencement of
7 liquidation and may issue guidelines governing procedures for terminating
8 liquidation activities;

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

12 (9) The Corporation as Liquidator shall not be under any duty to make
13 any returns to the Corporate Affairs Commission as provided by the
14 Companies and Allied Matters Act but may provide such information as may
15 be requested by the Commission if it determines it is expedient to do so in the
16 interest of depositors of the insured institution.

17 (10) The failure resolution mechanism to be adopted by the
18 Corporation to address the problems of a failing or failed insured institution
19 shall be any or a combination of any of the options listed hereunder without
20 prejudice to any other options that the Corporation may adopt pursuant to any
21 other law enabling it on that behalf and the Corporation may be guided by the
22 following factors amongst some other factors which the Corporation may
23 determine from time to time when considering a failure resolution mechanism:

24 (a) Minimization of financial and economic costs as well as contagion
25 risks;

26 (b) ensure a minimum level of protection to depositors, in particular
27 the small uninformed and less sophisticated depositors (orphans and widows);

28 (c) No bailout of shareholders;

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

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

2 (11) where there is any inconsistency between the provisions of the
3 Companies and Allied Matters Act 1990 or any amendment thereto and the
4 provisions of this Act or any amendment thereto or the Regulations made
5 there under, the provisions of this Act or the Regulations made there under
6 shall prevail and the provisions of the Companies and Allied Matters Act
7 1990 or any amendment thereto shall be null and void to the extent of such
8 inconsistency.

9 (12) Where an insured institution suspends payment or is unable to
10 meet its obligation to its depositors or is under liquidation by the
11 Corporation, all the property, undertaking and assets of the insured
12 institution, [including those pledged or mortgaged to third parties but which
13 have not yet been realised by the secured creditors, shall be available to meet
14 all the deposit liabilities of the insured institution and such deposit liabilities
15 shall have priority over all other liabilities of the insured institution.

16 (13) Any disposition by any secured creditor, judgment creditor or
17 person, apart from the Corporation acting as Liquidator thereof, of any
18 property, whether or not pledged or mortgaged of an insured institution
19 under liquidation by the Corporation, shall be null, void and of no effect.

20 (14) The Corporation shall have power to by order published in the
21 Official Gazette Seal Off the business premises or offices of any debtor to an
22 insured institution where the court has issued an order for payment of a debt
23 owed to a failed insured institution and the debt remains unpaid for more
24 than 30 days whether or not an appeal against such order is pending in any
25 court and any order of court to stay payment of such judgment debt or
26 prohibit the sealing off of such business premises or offices shall be null,
27 void and of no effect.

28 (15) Where the Corporation has commenced liquidation of an
29 insured institution, or has assumed control of any insured institution as
30 conservator, and applies to the court for stay of any suit, application,

Stay of pending
suits

1 proceedings, execution, attachment, or action pending or instituted in any court
2 by or against such insured institution or the Corporation the Court shall,
3 whether or not leave had earlier been granted to commence or proceed with
4 such action or matter pursuant to this Act or any other law, grant such stay as to
5 all parties:

Judgment debt

6 (a) Where an insured institution is in Liquidation any judgment sum
7 obtained against the insured institution by a judgment creditor that has not been
8 satisfied prior to commencement of liquidation or that is obtained after
9 commencement of Liquidation shall not be enforceable against the estate of the
10 insured institution facing liquidation or the Corporation;

11 (b) every judgment debt against an insured institution under
12 liquidation or the Corporation as Liquidator of an insured institution which is
13 not subject to an appeal shall be filed with the Liquidator as an unsecured
14 creditor claim which shall be admitted to proof in accordance with the rules and
15 regulations governing administration of claims payment issued by the
16 Corporation;

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

22 (d) the interest applicable on any judgment debt against an insured
23 institution - under liquidation as stated in the judgment which is filed as proof
24 of claim with the Corporation as Liquidator of such institution shall cease to be
25 applicable from the date the Corporation commenced liquidation of such
26 insured institution.

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

Action following
a failure

30 49-(1) It shall be the duty of the Corporation to cause notice to be

1 given by advertisement in such national newspapers or other news media
2 requiring all depositors of the insured institution facing liquidation to
3 forward their claims to the Corporation.

4 (2) The Corporation acting as liquidator of the failed institution
5 shall have power to:

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

7 (b) enforce the individual liability of the shareholders and directors
8 thereof; and

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

11 (3) The Corporation acting as liquidator shall:

12 (a) pay to the Corporation such portion of the amount realized from
13 such liquidation as it shall be entitled to receive on account of its subrogation
14 to the claims of depositors and shall pay to depositors and other creditors the
15 net amount available for distribution to them;

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

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

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

Payment of
insured deposit
pending action
in court

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

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

Power to appoint
agents

14 50.-(1) The Corporation may when acting as Liquidator of a failed
15 insured institution appoint an agent or agents to assist it in the performance of
16 its duties, and all fees, compensation and expenses of liquidation and
17 administration thereof shall be fixed and paid by the Corporation from the
18 realized assets of the failed institution.

Right of disposal
of lien

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

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

29 (4) Where the Court determines that such disposal was in error or
30 done in bad faith it may make an order as to damages limited to the value

1 obtained from the sale of such collateral but shall not have jurisdiction to
2 make an order voiding, reversing, preventing, restraining or prohibiting the
3 disposal of such collateral or security and any such order if made shall be
4 null and void and of no effect.

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

Closure of failed
insured institutions

12 51.-(1) Except as provided in this Act, where the Corporation has
13 pursuant to the provision of this Act, assumed responsibility as Liquidator of
14 any Insured Institution, the court may issue any order as to damages on the
15 grounds that the revocation of the operating license of such insured
16 institution or the Corporation's self-appointment as liquidator was done in
17 bad faith. provided that any court order whose effect is to restrain the
18 Corporation from acting as Liquidator including restoration of the operating
19 license of such insured institution after it has been revoked by the Central
20 Bank of Nigeria shall be null and of no effect.

Challenging the
Liquidation of
an insured
institutions

21 52.-(1) The provisions of the Limitation Law of a State or the
22 Limitation Act of the Federal Capital Territory shall not apply to any debt
23 owed to a failing or a failed insured institution:

Limitation law
not applicable

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

Liability of
directors,
shareholders and
officers

1 of the Corporation and insured depositors;

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

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

12 (d) this section applies to a director, majority shareholder, officer,
13 employee, agent, attorney, accountant or auditor, appraiser or any other party
14 engaged by or providing services to an insured institution that fails prior to its
15 being declared failing or failed institution;

16 (e) directors, officers and staff of an insured institution responsible for
17 the processing, or grant or approval of a loan or advance to any customer of
18 such insured institution shall be held personally liable to repay such loan or
19 advance plus accrued interest where such loan or advance is:

20 (i) characterized by poor credit administration practices, poor
21 documentation, inadequate information, poor record keeping, poor accounting
22 records, inadequate or inaccurate statement of accounts,

23 (ii) classified as lost in any Examination report of the Central bank of
24 Nigeria or the Nigeria Deposit Insurance Corporation,

25 (iii) in contravention of any regulation or law relating to banking,

26 (iv) given without any collateral or security; or

27 (v) is not recoverable.

28 **CRIMINAL PROSECUTION AND OFFENCES**

29 **53.-(1)** Any person who being a Director, an officer or staff of an
30 insured institution who:

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

4 (b) fails to take all reasonable care to secure the authenticity of any
5 statement submitted pursuant to the provisions of this Act or any
6 Regulations made pursuant thereto, shall be guilty of an offence and liable
7 upon conviction to imprisonment of three years or a fine of not less than
8 N5,000,000 (five million naira only) or to both such fine and imprisonment.

9 (2) Any insured institution that reimburses or pays for a staff,
10 officer or director directly or indirectly a fine imposed under this Act shall be
11 guilty of an offence and be punishable on conviction by a fine of not more
12 than N5,000,000 (five million naira) and also forfeit the amount repaid or
13 reimbursed to the staff.

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

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

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

27 (c) violations of provisions relating to touching upon or
28 concerning the business, operations or transactions of insured institutions
29 under any enactment.

30 (4) the Court may upon a civil suit filed by the Corporation as

1 liquidator or conservator hold personally liable for gross negligence or conduct
2 that demonstrates breach of duty of care any officer, director, majority
3 shareholder, agent, employee, customer, auditor, or legal practitioner of an
4 insured institution and award compensatory and punitive damages thereto
5 determined to have resulted from the improvident or otherwise improper use,
6 application or investment of the insured institution's assets, including principal
7 losses and appropriate interest.

8 (5) Any Director or officer of the insured institution who grants,
9 allows to be granted or is any way involved in the granting of a loan, a
10 guarantee or credit facility to any person:

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

13 (ii) in contravention of the insured institution's regulations or policy
14 or this Act or any other law or regulation;

15 (iii) who is listed on CBN Credit Risk Management System (CRMS)
16 or Credit Bureau without the prior formal consent of the Corporation; or

17 (iv) who is indebted to a failed insured institution under liquidation by
18 the Corporation shall be guilty of an offence and be liable on conviction to 5
19 years imprisonment without an option of fine.

20 (6) Any director, officer employee customer or shareholder of any
21 failed insured institution who fails, refuses or neglects to appear before the
22 Corporation after being served with a summons to appear as provided under
23 this Act shall be guilty of an offence and be liable on conviction to 2 years
24 imprisonment without an option of fine.

25 (7) All principal officers of a licensed bank or other deposit taking
26 financial institution who contravene this Section shall be guilty of an offence
27 and be liable to 3 years imprisonment or a fine of not more than NS million or to
28 both such fine and imprisonment.

29 (8) Without prejudice to criminal prosecution as provided in this
30 Section, any person found guilty of violating the provision of any law referred

1 to in this section shall in addition to imprisonment upon conviction be:

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

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

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

12 (10) any person who obtains a loan or advance from any insured
13 institution for any purpose but neglects, fails or refuses to utilize such loan or
14 advance for that purpose shall be guilty of an offence and be liable on
15 conviction to 3 years imprisonment and refund of the loan or advance plus
16 accrued interest:

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

Civil penalty
damages

28 (b) In any proceeding related to any claim for monetary damages
29 against an insured institution's director, officer, employee, majority
30 shareholder, customer, service provider, agent, Legal Practitioner,

1 accountant, external auditor, consultant, or any other party employed by or
2 providing services to an insured institution, recoverable damages determined
3 to result from the mismanagement or poor management of such insured
4 institution or its assets or the improvident or otherwise improper use or
5 investment of an insured institutions assets shall include principal losses and
6 appropriate interest

Power to
compound
offences

7 54.-(1) Without prejudice to section 174 of the Constitution of the
8 Federal Republic of Nigeria, the Corporation may compound any offence
9 under this Act by accepting an amount not exceeding two thirds of such
10 maximum fines provided for the offence by this Act. Or any regulations made
11 pursuant to this Act.

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

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

Right to appear
in Court

17 55.-(1) Subject to the provision of Section 174 of the Constitution of
18 the Federal Republic of Nigeria (which relates to the power of the Attorney-
19 General of the Federation to institute, continue or discontinue criminal
20 proceedings against any person in any court of Law), any Legal Practitioner in
21 the employment of the Corporation may with the consent of the Managing
22 Director, prosecute or defend criminal or civil or other proceedings in the name
23 of and on behalf of the Corporation or officers of the Corporation in respect of
24 matters relating to the activities, business or operations of the Corporation or
25 any insured institution under this Act in the course of carrying out the objects
26 and objectives of this Act.

27 (2) Notwithstanding the provisions of any enactment to the contrary, a
28 person appointed under Section (47) (1) of this Act who is a legal practitioner
29 shall, while so appointed be entitled to represent the Corporation or its staff as
30 legal practitioner for the purpose and in the course of his employment, without

1 prejudice to the power of the Corporation to engage private legal
2 practitioners in any proceedings.

3 PART XI - ANNUAL ACCOUNTS

4 56.-(1) The Managing Director shall submit to the Board for Accounts and
5 approval not later than 30th September of each year an estimate of its Audit
6 expenditure and income during the succeeding year.

7 (2) The Corporation shall keep proper accounts in respect of each
8 financial year, and proper records in relation to those accounts and shall
9 cause the accounts to be audited within 6 months after the end of the
10 financial year.

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

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

18 57. The Management of the Corporation shall prepare and submit Annual Report
19 to the Board, not later than three months after the end of each financial year,
20 a report which shall be in such form as the board may direct and shall relate
21 to the activities of the corporation during the immediately preceding
22 financial year and thereafter a copy each shall be submitted to the Governor
23 of the Central Bank of Nigeria, the Auditor General of the Federation and the
24 Minister of Finance.

25 PART XII - GENERAL

26 58. An insured institution may advertise its insured status without Advertisement
27 prior approval from the Corporation.

28 59. The Corporation shall be exempted from provisions of the Exemption from
29 Insurance Act or any amendment thereof. Insurance Act

30 (1) The Corporation shall have power to borrow from the Central

1 Bank of Nigeria such moneys as it may deem fit for the discharge of its
2 functions under this Act.

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

Relationship
with the Central
Bank of Nigeria

6 60.-(1) The Corporation shall have access to reports of examination
7 conducted by the Central Bank of Nigeria.

8 (2) The Corporation shall make reports of its examination of insured
9 institutions and any other information essential to safe and sound banking
10 practice available to the Central Bank of Nigeria.

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

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

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

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

External Auditors
of all insured
institutions and
reporting

22 61.-(1) No duty to which an auditor of an insured institution or a
23 person appointed pursuant to the provisions of Banks and Other Financial
24 Institutions Act 1991 or any amendment thereof is subject shall be contravened
25 by reason of his communicating in good faith to the Corporation whether or not
26 in response to a request made by it,

Requirements

27 any information or opinion on a matter to which this section applies and which
28 is relevant to safe and sound banking and financial practice.

29 (2) An auditor of an insured institution shall recognize the
30 Corporation's responsibility for the protection of the interest of depositors and

1 shall bring to the notice of the Corporation:

2 (a) any adverse development such as possibility of imminent
3 financial collapse;

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

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

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

12 (e) where he believes that a fraud or other misappropriation has
13 been committed by the directors, management or staff of the insured
14 institution or has evidence of the intention of directors or senior
15 management to commit such fraud or misappropriation; or

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

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

26 62.-(1) The Corporation or any of its directors, officers or agents
27 shall not be subject to any action, claim, suit court proceedings, or demand
28 by or liability to any person in respect of anything done or omitted to be done
29 in good faith in pursuance or in execution of or in connection with the
30 operations business or activities of the Corporation or the execution of any

Indemnity of the
Corporation

1 power conferred upon the Corporation, such director, officer or agent.

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

Service of
process

8 (3) Every originating process or other process intended for service on
9 the Corporation may be served by giving the process to the Board Secretary or
10 the Director of the Legal Department at the Corporation's Head Office, Abuja,
11 FCT.

12 (4) The Chief Judge of the Federal High Court may designate any
13 judge of the Federal High Court to hear matters for the recovery of debts owed
14 to insured financial institution under the control and management of the
15 Corporation or under liquidation and criminal offences related thereto or
16 arising from the provisions of this Act, the Banks and Other Financial
17 Institutions Act, the Failed Banks [Recovery of Debt] and Other Financial
18 Malpractices in Banks Act, or any legislation containing banking and related
19 offences, to the exclusion of any other matter for such period as may be
20 determined by the Chief Judge.

Regulations

21 63.-(1) The Corporation may make and publish in the Official Gazette
22 of the Federal Republic of Nigeria, Regulations, Guidelines, Directives, bye-
23 laws, circulars, Rules or Orders to give full effect to the objects and objectives
24 of this Act.

25 (2) The power to make regulations, rules or orders conferred on the
26 Corporation by this Act shall include:

27 (a) power to make provisions for such incidentals and supplementary
28 matters as the authority making the instrument considers expedient for the
29 purpose of the instrument; and

30 (b) power to make different provisions for different circumstances

1 guiding the operations of the Deposit Insurance Scheme;

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

7 64. The Corporation shall not be placed in liquidation except Liquidation
8 pursuant to the provisions of a law or enactment in that behalf and then in
9 such manner as that law or enactment may specify.

10 65.-(1) The Nigeria Deposit Insurance Corporation Act 2006 is Repeal of
Cap. 301 LFN
as amended
11 hereby repealed.

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

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

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

22 66. In this Act, unless the context otherwise requires: Interpretation

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

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

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

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

30 (e) "Corporation" means the Nigeria Deposit Insurance

1 Corporation established pursuant to section 1 of this Act;

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

8 (g) "Excess Insured Deposit Claims" means deposits over and above
9 the insured amounts which are payable on realization of the assets of a failed
10 insured institution;

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

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

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

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

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

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

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

1 (o) "Partners" in Section 54(3) of this Act shall include directors of
2 a limited liability company carrying out audit functions in respect of an
3 insured institution;

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

8 (q) "State" means any of the States of the Federation.

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

12 (s) "Closed Insured Institution" has the same meaning with failed
13 insured institution;

14 (t) "Court" means any Court of competent jurisdiction including a
15 Federal or State High Court, Tribunal, or the National Industrial Court;

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

18 (v) "Majority Shareholder" means a shareholder who is having
19 controlling or the beneficial owner of an aggregate value of not less than 5%
20 (five percent) of the total shareholding in an insured institution, whether
21 held directly or through other persons or company in which the shareholder
22 has shareholding or other security interest.

23 67. This Bill may be cited as the Nigeria Deposit Insurance Short title
24 Corporation Bill, 2017.

25 SCHEDULE

26 PROCEEDINGS OF THE BOARD

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

30 The quorum of the Board shall be five which shall include the Managing

1 Director or one Executive Director, the representatives of the Central Bank of
2 Nigeria or the Ministry of Finance and three part-time members.

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

8 (2) At any meeting of the Board, the Chairman shall preside or in his
9 absence, the members present at the meeting shall appoint one of their
10 members to preside at that meeting.

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

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

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

22 (3) A decision of a committee constituted under this Section shall be
23 of no effect until it is confirmed by the Board:

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

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

EXPLANATORY MEMORANDUM

*(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.

