

# A BILL

## FOR

AN ACT TO REPEAL THE BANK OF INDUSTRY ACT, THE BANK FOR COMMERCE AND INDUSTRY ACT AND THE NATIONAL ECONOMIC RECONSTRUCTION FUND ACT AND ESTABLISHED THE NATIONAL DEVELOPMENT BANK OF NIGERIA AND FOR OTHER CONNECTED PURPOSES, BILL 20015

*Sponsor Senator Ibrahim Gobir*

[ ] Commencement

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

1 PART 1 - ESTABLISHMENT, ETC OF THE NATIONAL DEVELOPMENT

2 BANK OF NIGERIA

3 1. -(1) There is hereby established a body to be known as the  
4 National Development Bank of Nigeria (hereinafter referred to as ("The  
5 National Development Bank")), with corporate headquarters in the Federal  
6 Capital, Abuja.

Establishment of  
the National  
Development  
Bank of Nigeria

7 (2) The Bank shall be a body corporate with perpetual Succession  
8 and a common seal and may sue and be sued in its name.

9 2. -(1) There is hereby established for the Bank a Board  
10 (hereinafter referred to as "the Board") which shall be responsible for the  
11 policy and general administration of the Bank, with regards to the financial,  
12 economic and operational programmes implementation.

Establishment  
and Composition  
of the Board of  
Directors

13 (2) The Board shall consist of twelve (12) members, two (2) each  
14 from the six (6) geo-political zones comprising of:

- 15 (a) the Chairman;
- 16 (b) the Managing Director of the Bank;
- 17 (c) Executive Director (Operations);
- 18 (d) Executive Director (Finance & Admin.);

- 1 (e) Executive Director (West);
- 2 (f) Executive Director (East);
- 3 (g) Executive Director (North);
- 4 (h) Representative of Ministry of Commerce and Industries;
- 5 (i) Representative of Central Bank of Nigeria (CBN);
- 6 (j) Representative of Small and Medium Enterprises.
- 7 Development Agency of Nigeria (SMEDAN);
- 8 (k) Representative of Manufacturers Association of Nigeria;
- 9 (l) Representative of NACCIMA.
- 10 (3) The Chairman and members referred to in paragraph (2)a-1 of
- 11 Subsection (2) of this section shall be persons of proven Integrity and
- 12 professional competence and shall be appointed by the President, Commander-
- 13 in-Chief of Armed Forces of the Federal Republic of Nigeria, on the
- 14 recommendation of the Minister.
- 15 (4) The Board shall in addition to the responsibilities referred to in
- 16 subsection (1) of this section be responsible for:
- 17 (a) the issuance of policy directives for the Bank prescribing and
- 18 amending the lending limits in local or foreign currency or both as it may deem
- 19 fit from time to time;
- 20 (b) appoint the management staff for the Bank as it may deem
- 21 necessary, to assist the Managing Director in carrying out the functions of the
- 22 Bank as set out in this Act;
- 23 (c) Carry out of such other activities as are necessary and expedient
- 24 for the purposes of achieving the objectives of this Act.
- 25 (5) The members of the Board other than the Managing Director and
- 26 Executive Director shall be paid such allowances and incidental expenses as
- 27 may be approved by the Federal Government from time to time.
- 28 (6) The supplementary provisions set out in the Schedule to this Act
- 29 shall have effect with respect to the proceedings of the Board and the other
- 30 matters mentioned therein subject to the provision of this section.
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1                   3.-(1) Member of the Board other than ex-officio members shall      Tenure of Office  
2 hold office for a term of four years and may be re-appointed for one further  
3 term of four years and no more.

4                   (2) The office of a member of the Board appointed, otherwise than  
5 by office, shall become vacant if:

6                   (a) he resigns as a member of the Board by notice in writing under  
7 his hand addressed to the President, Commander-in-Chief of the Armed  
8 Forces through the Minister;

9                   (b) the President, Commander-in-Chief of the Armed Forces is  
10 satisfied that it is not in the interest of the Bank for the person appointed to  
11 continue in office and notifies the member in writing to that effect;

12                   (c) he is removed from office under section 4 of this Act.

13                   4.-(1) If it appears to the Board that the Chairman or any other      Removal from  
14 member of the Board, other than an ex-officio Board. Member should be      office of Member  
15 removed from office on the grounds of misconduct or inability to perform  
16 the functions of his office, the Board shall make a recommendation to the  
17 Minister who shall investigate such recommendations and make appropriate  
18 recommendation to the President, Commander-in-Chief of the Armed  
19 Forces;

20                   (2) If the President, Commander-in-Chief of the Armed Forces  
21 approves the recommendation, the Minister shall in writing declare the  
22 office of the member vacant.

23                   5. In addition to the provision of Section 4 of this Act a member to      Disqualification  
24 which the section applies shall cease to hold office on The Board of the Bank      Appointment as  
25 if he:      Member

26                   (a) becomes of unsound mind or owing to ill health, is incapable of  
27 carrying out his duties;

28                   (b) is convicted of any offence involving dishonesty or any other  
29 offence the maximum penalty of which exceeds imprisonment for six  
30 months;

1 (c) is guilty of a serious misconduct in relation to his duties under this  
2 Act;

3 (d) is disqualified or suspended from practicing his profession in  
4 Nigeria by order of a competent authority made in respect of his personality;

5 (e) becomes bankrupt or suspends compounds with his creditors.

6 PART II - AIMS AND OBJECTIVES OF THE BANK

Aims and  
Objectives

7 6. The aims and objectives of the Bank shall be to:

8 (a) provide loans to small, medium and large industrial enterprises,  
9 especially but not restricted to Agro allied, fishing, poultry, piggery, livestock  
10 fattening, mining, quarrying, manufacturing and ancillary industrial support  
11 services;

12 (b) provide short, medium and long term financing to participating  
13 financial institutions for on-leading to small scale, medium and industrial  
14 enterprises and projects especially in the manufacturing, agro-allied enterprise  
15 including fishing and agriculture, bonded warehousing, stevedoring, mining,  
16 quarrying, industrial estates and ancillary industrial support services and  
17 where considered appropriate provide financing directly to any of such small  
18 scale, medium and large industrial enterprises for the attainment of any of the  
19 stated aims and objectives of the Bank under this Act;

20 (c) Facilitate the provision of loans with five to ten year maturity  
21 including a grace period of one to three years, depending on the nature of the  
22 enterprise or project and loanable funds available to the Bank;

23 (d) Provide working capital loans to eligible enterprises where the  
24 projects are unable to secure same from the banking system;

25 (e) Provide such loans either in Naira or in foreign currencies or both,  
26 depending on the sources of funds available to the Bank for the requirements of  
27 the eligible enterprise or project;

28 (f) Subject to the approval of the Minister, raise loans from the local  
29 and international capital markets and from bilateral or multilateral sources  
30 from time to time, as the market situation permits; and

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1 (g) Carry out any other activities as may be considered necessary  
2 for the attainment of the above stated aims and objectives and such other  
3 activities as may be deemed appropriate to ensure the continued existence of  
4 the Bank.

5 PART III - ELIGIBILITY FOR FUNDING BY THE BANK

6 7.-(1) Manufacturing, agro-allied enterprises, non-peasant Eligibility  
7 agriculture including fishing and aquaculture, bonded warehousing,  
8 stevedoring, mining, quarrying, industrial estates and ancillary industrial  
9 support services shall be eligible for loans under this Act if:

10 (a) the enterprise or project is financially viable and economically  
11 desirable;

12 (b) the enterprise has a majority equity holding by Nigerians;

13 (c) in the case of a manufacturing enterprise or project, at least 60  
14 per cent by value of its raw materials and other production inputs are  
15 derivable from the local economy;

16 PART IV - MANAGEMENT OF THE BANK

17 8.-(1) There shall be appointed by the President, Commander-in  
18 Chief of the Armed Forces, on the recommendation of the Minister, a  
19 Managing Director who shall be the Chief Executive of the Bank. Managing  
Director of the  
Bank

20 (2) The Managing Director shall, subject to the control of the  
21 Board, be responsible for the management of the Bank in addition to  
22 performing such other duties and functions as the Board may from time to  
23 time assign.

24 (3) A person shall not be qualified for appointment as the Managing  
25 Director of the Bank unless he has;

26 (a) not less than 12 years post-qualification experience in the  
27 industry; and

28 (b) spent at least 5 years of the 12 years referred to in sub paragraph

29 (c) of this paragraph at senior management level;

30 (c) a recognized professional qualification in banking and finance

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1 or related course.

2 (4) The Managing Director and other employees of the Bank shall be  
3 paid such remuneration and allowances and such other benefits as the Board  
4 may from time to time determine.

Other staff of  
the Bank

5 9. Subject to the provision of paragraph (c) of subsection 4 of section  
6 2 of this Act, the Board shall, from time to time, appoint for the Bank such  
7 number of management staff as appears to it expedient and necessary for the  
8 proper and efficient performance of functions conferred on the Bank under this  
9 Act.

Secretary

10 10.-(1) There shall be for the Bank, a Secretary who shall be:

11 (i) appointed by the Board: and

12 (ii) be responsible to the Board through the Managing Director.

13 (2) A person shall not be qualified to hold the office of Secretary of the  
14 Bank unless he is qualified for admission as a Solicitor and advocate in Nigeria  
15 and has been so qualified for not less than ten years.

16 (3) The Secretary shall be responsible for:

17 (a) convening, on the authority of the Chairman, meeting of the  
18 Board;

19 (b) recording the minutes of all the meetings of the Board and such  
20 other meetings as the Board may direct;

21 (c) acting as Secretary to any Committee of the Board;

22 (d) maintaining and keeping minutes books and register of members  
23 and Directors of the Board;

24 (e) keeping in safe custody the documents relating to the Bank's  
25 properties;

26 (f) keeping in safe custody all agreements entered into by the Bank  
27 and any third party;

28 (g) performance of such other duties as the Board or Managing  
29 Director may, from time to time, determine.

## PART V - OPERATIONS OF THE BANK

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11.-(1) the Bank shall provide short, medium and long-term financing to eligible enterprises or projects.

Responsibilities  
of Bank with  
respect to loans  
to eligible  
Enterprises

(2) The Bank shall be entitled to provide the working capital required by eligible enterprises or projects.

(3) Where the Bank has made funds available to an eligible enterprise. The Bank shall be responsible for the appraisal of such loan applications to ensure that such loan applications meet the requirements of this Act.

(4) Further to the provision of subsection (3) of this section, the Bank shall ensure disbursement to and periodic monitoring of the projects and recovery of all loans made directly to projects.

12.-(1) The Bank shall be a successor in title to:

Successor in  
title

(i) National Economic Reconstruction Fund;

(ii) Bank of Industry Limited;

(iii) Nigerian Bank of Commerce and Industry.

(2) In exercising the power conferred by virtue of the provision subsection (1) of this section, the Bank shall, manage the enterprise so taken over, discharge all existing financial commitments of the Development financial institutions referred to in sub-section (1).

(3) The Bank shall in the process of taking over the enterprises or projects referred to in subsection (1) of this section enter into agreements with the Project Promoters, other financial institutions concerned, vesting the projects and all the collateral and securities pledged to the Bank, for direct supervision and monitoring of the loans.

(4) The Bank shall in pursuance of its recovery efforts under this Act, have power to institute in its name any legal action before any court or tribunal and shall have recourse to all remedies available under the law to recover all outstanding loans or investments in enterprise or projects funded by any of the Financial Institutions named in sub-section 15(1).

1 (5) The Bank shall where necessary and with the prior approval of the  
2 Board, syndicate loans for projects that are economically desirable but which  
3 may be outside the eligibility conditions as provided for under this Act.

4 PART VI - FINANCIAL PROVISIONS

Expenditures of  
the Bank

5 13.-(1) The Bank shall be self-financing and shall accordingly be  
6 responsible for servicing all of its loan portfolio.

7 (2) All administrative expenses of the Bank shall be defrayed from the  
8 resources of Bank.

Sourcing of  
Foreign Currencies

9 14.-(1) In order to meet its foreign obligations promptly and also to  
10 cause timely arrangements for treasury operations, the management of the  
11 Bank shall be entitled to procure the foreign currency required for such  
12 purposes and to hold the foreign exchange so acquired in income-bearing  
13 securities or deposits, and repay its loan in accordance with scheduled  
14 repayment dates from the foreign currency so held.

15 (2) For the attainment of the aims and objectives of this Act the Bank  
16 shall be entitled to participate in foreign debt auction conducted by the Central  
17 Bank of Nigeria or any of its agents.

18 (3) With particular reference to the provision of section 17 of this Act,  
19 the Bank is hereby conferred with the status of an authorized foreign exchange  
20 dealer and shall accordingly be entitled to participate directly in any approved  
21 foreign exchange market scheme and to purchase foreign currency directly  
22 from the Central Bank of Nigeria at the bidding session or at any foreign  
23 exchange market organized by the Central Bank of Nigeria, for the purpose of  
24 purchasing foreign currency.

Interest rate

25 15.-(1) The Naira interest chargeable by the Bank shall be three per  
26 cent Re-discount rate.

27 (2) The Naira interest rate for each loan shall be fixed for the duration  
28 of the loan.

29 (3) The Bank shall charge the borrowers or the projects, as the case

1 may be, not more than three percentage points above the cost of borrowed  
2 funds.

3 (4) Interest rates chargeable by the Bank on foreign currency loans  
4 shall differ -from currency to currency, depending on the rates charged by  
5 the. source of the foreign currency.

6 (5) The interest rate chargeable on foreign currency loans shall be  
7 two and a half per cent above the cost of borrowing.

8 (6) Any profit made by the Bank shall be applied towards enabling  
9 the Bank to meet its future obligations and to enhance its resource base and  
10 scope of operation.

11 16.-(1) Without prejudice to other sources of funds, the Bank shall Funding  
12 Operate with:

13 (i) Capital funding as may from time to time be provided by the  
14 following:

15 (a) Federal Government;

16 (b) Central Bank of Nigeria;

17 (c) Bankers Committee

18 (d) Manufacturers Association of Nigeria.

19 (ii) or any other such funding sources as may be acceptable to the Board;

20 (2) The Board may, as considered appropriate, and based on the  
21 individual peculiarities of the sources of funding referred to in subsection  
22 (1) above, produce different guidelines for the utilization of the funds made  
23 available by the above-stated sources.

24 17.-( 1) The Bank shall be audited not later than two months after Auditing of the  
Bank's operations  
25 the end of each financial year by an auditor appointed by the Board from the  
26 list of qualified auditors submitted by the Auditor-General of the Federation.

27 (2) The audited accounts, the auditor's report and the comments of  
28 the management of the Bank thereon shall be submitted to the Federal  
29 Government not later than 3 months after the receipt of the accounts and  
30 reports;

## 1 PART VII - MISCELLANEOUS PROVISIONS

Reports

2 18.-(1) The management of the Bank shall submit quarterly reports on  
3 its operations to the Board.

4 (2) The Board shall submit reports on the activities of the Bank every  
5 31st of December of each year to the Government through the Minister.

Proceedings of  
the Board

6 19. -(1) The Board shall meet for the performance of its functions  
7 under this Act not less than four times in each year or whenever summoned by  
8 the Chairman or if the Chairman is required to do so by notice given to him by  
9 not less than three other members, he shall summon a meeting of the Board to  
10 be held within fourteen days from the date the notice is given.

11 (2) The Board shall have power to regulate its own proceedings and  
12 may make Standing Orders not inconsistent with this Act for that purpose and  
13 subject to such Standing Orders, may function notwithstanding any vacancy in  
14 its membership on the absence of a member.

15 (3) Where upon any special occasion, the Board desires to obtain the  
16 advice of any person on any particular matter, the Board may co-opt that person  
17 to be a member for as many meetings as may be necessary and that person shall,  
18 while so co-opted, have all the privileges of a member except that he shall not  
19 be entitled to vote or count towards a quorum.

Transitional  
Provisions

20 20. -(1) The members of the Board referred to in section 2 (2) (c) - (g)  
21 shall include the former Managing Directors of the predecessor Banks referred  
22 to in section 15(1). Provided that the President, Commander In Chief of the  
23 Armed Forces may decline to re-appoint such former Managing Director(s) as  
24 new Executive Director(s) for any reason the President deems fit.

Interpretation

25 21. In this Act, unless the context otherwise requires:  
26 "Board" means the Board of Development Bank of Nigeria established  
27 pursuant to Section 2 of this Act;  
28 "Bank" means the Development Bank of Nigeria referred to under Section 1 of  
29 this act;

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1 "Minister: means the Minister charged with responsibility for matters  
2 relating to Industry;

3 "Relevant authorities referred to under section 15 of this Act shall include  
4 the Nigeria Deposit Insurance Corporation established pursuant to the  
5 Nigeria Deposit Insurance Corporation act 1988.

6 **22.** -(1) Pursuant to the passage of this Act the Laws Establishing  
7 the three Development Finance Institutions are hereby repealed:

Repeal, Savings  
and transfer of  
liabilities

8 (i) The Bank of Industry;

9 (ii) The Nigerian Bank of Commerce and Industries and

10 (iii) The National Economic Reconstruction Fund.

11 (2) The rights, interest, obligations and liabilities of the three  
12 Development finance Institutions existing before the commencement of this  
13 Act under any contract or Instruments, or in Law or in Equity apart from any  
14 contract or instrument, shall by virtue of this act be assigned to and vested in  
15 the Bank referred to under section 1 of this act.

16 (3) Any such contract or instrument as mentioned in subsection (2)  
17 of this section shall be of the same force and effect against or in favour of the  
18 Bank and shall be enforceable fully and effectively.

19 **23.**-(1) This Act may be cited as the National Development Bank of  
20 Nigeria (establishment, etc) Bill, 2015.

Citation

## 1 SCHEDULE

2 *Section 2(7)*

3 1. Subject to this Act and section 27 of the interpretation Act, the  
4 Board shall have power to regulate its proceedings and may make standing  
5 orders with respect to the holding of its meetings, and those of its committees  
6 the notice to be given, the keeping of minutes of its proceedings, the custody  
7 and production for inspection of such minutes and such other matters as the  
8 Board may, from time to time, determine.

9 2.-(1) The Board shall meet not less than four times in each year or  
10 whenever it is summoned by the Chairman, and if the Chairman is requested to  
11 do so by notice given to him by not less than 3 other members, he shall summon  
12 a meeting of the Board to be held within 14 days from the date on which the  
13 notice is given.

14 (2) Every meeting of the Board shall be presided over by the  
15 Chairman and if the Chairman is unable to attend a particular  
16 meeting, the members present at the meeting shall elect one of their members to  
17 preside at the meeting.

18 3. The quorum at the meeting of the Board shall consist of the  
19 Chairman (or in an appropriate case, the person presiding at the meeting  
20 pursuant to paragraph 2 of this Schedule) and three other members at least two  
21 of whom shall be members appointed pursuant to paragraphs (a), (b), (c) and  
22 (d) of section 2(1) of this Act.

23 4. The Board shall meet for the conduct of business at such places and  
24 on such days as the Chairman may appoint.

25 5. A question put before the Board at a meeting shall be decided by  
26 consensus, and where this is not possible, by a majority of the votes of the  
27 members present and voting.

28 6. The Chairman shall, in the case of an equality of votes, have a  
29 casting vote in addition to his deliberative vote.

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1 *Miscellaneous*

2 7.-(1) The fixing of the seal of the Bank shall be authenticated by  
3 the signature of the chairman of the Board, Managing Director and the  
4 Secretary, or any other person authorized or specified to act for that purpose.

5 (2) Any contract or instrument which, if made or executed by a  
6 person not being a body corporate, would not be required to be under seal  
7 may be made or executed on behalf of the Bank by the chairman, Managing  
8 Director or the Secretary, or any person generally or specifically authorized  
9 to act for that purpose by the Board.

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

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

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Bank of Industry Act, the Bank of Commerce and Industry Act and the Economic Reconstruction Fund and establish the National Development Bank of Nigeria to provide for the development and growth of Nigeria Economy and to take over the duties hitherto performed by the Nigeria Bank for Commerce and Industry, the Bank of Industry and the National Economic Reconstruction Fund among other things.

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