

A BILL

FOR

AN ACT TO ESTABLISH NIGERIA COMMODITY EXCHANGE AND FOR RELATED MATTERS

Sponsored by Hon Oluwole Oke

[] Commencement

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

1 PART 1 - ESTABLISHMENT AND OBJECTIVES OF NIGERIA

2 COMMODITY EXCHANGE

3 1.-(1) There shall be established a body to be known as the Nigeria
4 Commodity Exchange (hereinafter referred to as "the Exchange").

Establishment
of the Nigeria
Commodity
Exchange

5 (2) The Exchange:

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

8 (ii) may sue and be sued in its corporate name.

9 (3) The Exchange may acquire, hold or dispose of any moveable or
10 immoveable property for the purpose of its functions under this Act.

11 2. The objective of the Exchange shall be to-

Objectives of
the Exchange

12 (a) provide an Automated Trading System (ATS) and organised
13 market that will be globally accessible, for the Nigerian Agricultural
14 Produce, Solid Mineral Products, Energy Products and Financial
15 Instruments and where Nigerian farmers and small scale miners and
16 financial market operators could get appropriate prices for their produce and
17 products and protection against adverse price movements, ensure enhanced
18 income and improved standard of living;

19 (b) provide spot and derivative markets for the agricultural
20 produce, the Nigerian farmers, commodity traders, processors, small scale
21 miners and all other Institutions whose activities relate to commodity

1 trading, where they can mitigate adverse price movement and achieve steady
2 income;

3 (c) provide spot and derivative markets for public debts, Treasury
4 Bills interest rates, stocks and stock indices and foreign currencies;

5 (d) ensure that farmers and small scale miners produce quality
6 tradable commodities for trading on the exchange at fair and appropriate
7 prices;

8 (e) provide accurate price information on Nigerian agricultural
9 produce to farmers, commodity traders and processors and on solid minerals
10 and energy products on regular basis to relevant agencies and individuals;

11 (f) sensitise the Nigerian public on the benefits of Commodity
12 Exchange and futures market operations in the 3rd Schedule of this Act;

13 (g) promote capacity building and institutional strengthening of
14 commodity brokers and commodity market actors, establish standards, rules
15 and guidelines for the operations of commodity brokers and all other
16 institutions whose activities relate to commodity trading and exchange;

17 (h) eliminate to the barest minimum, the impediments in commodity
18 marketing in Nigeria and improve the incomes accruable to farmers and other
19 operators in the primary industry and promote quality assurance and ensure
20 improved access to external markets for Nigerian agricultural produce through
21 trading of all agro commodities that are meant for export on the floor of the
22 Exchange;

23 (i) promote productivity in the agricultural and solid mineral sectors,
24 through appropriate price discovery mechanisms and improved access to
25 better markets.

Board
Membership

26 **3.** There shall be for the Exchange a Board, which shall comprise of-

27 (a) a part-time Chairman, to be appointed by the President;

28 (b) A Director General who shall be appointed by the President as the
29 Chief Executive Officer with at least 15 -year cognate professional experience
30 in commodity exchange operations.

1 (c) two (2) full-time Executive Directors to be appointed by the
2 President by reason of their ability, experience or specialised knowledge on
3 securities or Commodity Exchange matters or business or professional
4 attainment, and in his opinion, capable of making useful contributions to the
5 operations and development of the Exchange.

6 (d) part-time members, who shall be representatives each of-

7 (i) Central Bank of Nigeria,

8 (ii) Federal Ministry of Commerce and Industry,

9 (iii) Federal Ministry of Agriculture,

10 (iv) Ministry of Solid Minerals Development,

11 (v) Federal Ministry of Power,

12 (vi) Federal Ministry of Finance,

13 (vii) Federal Ministry of Justice,

14 (viii) Commodity Associations,

15 (ix) Manufacturers Association of Nigeria and

16 4.-(1) The Chairman and other part time members of the Board Tenure of
17 shall, hold office for a term of four years and may be re-appointed for a Office
18 further term of four (4) years and no more.

19 (2) In the event of a vacancy in the Board, the President shall,
20 appoint a new member to complete the tenure of the member he is
21 succeeding.

22 5. Notwithstanding the provisions of section 4(1) of this Act a Cessation of
23 member of the Board of the Exchange shall cease to hold office if - Membership

24 (a) resigns his appointment as a member of the Board by notice,
25 under his hand, addressed to the President;

26 (b) becomes of unsound mind;

27 (c) becomes bankrupt or makes a compromise with his creditors;

28 (d) is convicted of a felony or of any offence involving dishonesty
29 or corruption;

30 (e) becomes incapable of carrying on the functions of his office

	1	either arising from infirmity of mind or body; or
	2	(f) the President is satisfied that it is not in the interest of the Exchange
	3	or in the interest of the public for the person to continue in office and notifies
	4	the member in writing to that effect.
Allowances of members	5	6.-(1) The Chairman, Director-General and the Executive Directors
	6	of the Exchange shall be paid such emoluments, allowances and incidental
	7	expenses as may be stipulated by the conditions of service of the Exchange or
	8	determined by the appropriate Agency of the Federal Government of Nigeria
	9	from time to time
	10	PART II - COUNCIL OF THE EXCHANGE
Appointment of Council	11	7. There shall be a Council of the Exchange appointed by the Board,
	12	which shall be vested with the power to meet and deliberate on all matters
	13	relating to trading operations at the Exchange and make appropriate
	14	recommendations to the Board.
Council Composition	15	8. The Council shall be made up of Members of the Management of
	16	the Exchange and other members which shall comprise of not less than
	17	nineteen (19) and not more than twenty one (21) members and shall be
	18	constituted as much as possible in the following manner;
	19	(a) Equity owners (the promoters) - 40%
	20	(b) Members of the Exchange - 30%
	21	(c) Certified Warehouses - 10%
	22	(d) Registered Commodity Associations - 15%
	23	(e) Financial Institutions - 5%
Delegation of Function under the second schedule	24	9. The Council shall discharge its functions through standing
	25	Committees provided under the 2nd schedule of the Act and other Committees
	26	of the Exchange and reserves the right to ratify all decisions of the Committees
	27	before they are carried out.
Rotation of Council Membership	28	10. Membership of the Council of the Exchange and its standing
	29	committees shall be rotated amongst all categories of members; ordinary
	30	trading members, Certified Warehouses, Registered Commodity Associations

1 and Financial Institutions to ensure the fullest participation of all categories
2 of commodity market operators.

3 **11.** The Meeting of the Council of the Exchange shall be presided
4 over by a Chairman appointed by the Board of the Exchange and in his
5 absence a member of the Council shall be appointed to preside and it shall be
6 the responsibility of the Chairman of the Board, to ensure that membership
7 of the Council is truly representative and democratic. Council meeting

8 **12.** Any member so nominated into the Council shall hold office
9 for a term of three years and may be eligible for re-appointment for another
10 term of three years and no more.

11 **13.** The Council shall operate within the overall supervision of the
12 Board.

13 **14.** All members of the Council shall be entitled to receive sitting
14 allowance and no other remunerations. Sitting allowance
of council members

15 **15.** The Council shall meet from time to time to consider the
16 recommendations and/or ratify decisions of the standing committees or
17 other committees, on matters relating to membership applications, Finance,
18 Clearing and Settlement, Arbitration, Commodity Contract specification
19 and listing on the Exchange. Ratification of
Standing
Committees'
decisions

20 **16.** No Member shall be eligible to be nominated as a member of
21 Council if the member- Eligibility of
Council members

22 (a) does not satisfy the requirement prescribed in that behalf by the
23 Rules and Regulations of the Exchange;

24 (b) It has at any time been declared as defaulter or failed to meet its
25 liabilities in the ordinary course of business and/or has compounded with its
26 creditors; or

27 (c) has been expelled or suspended or indicted by the Council, the
28 Securities and Exchange Commission (SEC) and the Investment and
29 Securities Tribunal (IST).

	1	PART III - FUNCTIONS AND POWERS OF THE EXCHANGE
Functions of the Exchange and Ancillary services under the fifth schedule	2	17. The functions of the Exchange shall be to-
	3	(a) regulate and supervise the activities of Commodity Dealing Firms,
	4	their employees, warehouse operators and other institutions providing
	5	ancillary services on the Exchange in the 5th Schedule of this Act.
	6	(b) establish standards, rules, regulations and issue guidelines for the
	7	Exchange traded commodities and contracts;
	8	(c) carry out public awareness and education on the establishment and
	9	benefits of trading Nigerian Agricultural Produce and Solid Minerals on
	10	organised markets;
	11	(d) serve as the sole trading platform through which all public
	12	procurement of grains shall be conducted by all Ministries, Departments and
	13	Agencies (MDAs) of Government to enhance accountability and transparency;
	14	(e) serve as a trading platform for all agro processors and commodity
	15	merchants that are buying or selling contracts in commodities of five (5) metric
	16	tons and above;
	17	(f) train and conduct examinations for Nigerians that are desirous of
	18	becoming qualified commodity brokers that would be licensed by the
	19	Exchange to trade on its Automated Trading System, promote capacity
	20	building and institutional strengthening of Commodity Dealing Firms,
	21	Warehouse, Collateral Managers and other institutions providing ancillary
	22	services in the Exchange;
	23	(g) receive and investigate complaints of impropriety leveled against
	24	any registered operators in the market, their employees or agents and any
	25	opportunity involved in the commodities or contracts traded in the Exchange;
	26	(h) promote negotiability of and trading in warehouse receipts on the
	27	Exchange; and
	28	(i) perform such other duties which, in the opinion of the Exchange
	29	are necessary or expedient for the discharge of its functions under this Act.

1	18. The Exchange shall have power to:	Powers of the Exchange
2	(a) approve and license Commodity Dealing Firms, Warehouses	
3	and other institutions providing ancillary services in the Exchange inspect	
4	and approve warehouses that would be used as delivery points for contracts	
5	specified and traded in the Exchange;	
6	(b) request or call for information from any dealing firm, their	
7	employees or any other person or institutions, on matters relating to	
8	commodities or contracts traded in the Exchange;	
9	(c) charge and collect such fees, levies or penalties, as may be	
10	specified by the Exchange impose administrative sanctions or fines on	
11	erring members of the Exchange and any other institutions providing	
12	ancillary services in the Exchange;	
13	(d) establish and acquire offices and other premises for its use in	
14	such locations as it may deem necessary, for the proper performance of its	
15	functions under this Act;	
16	(e) do such other things, which in its opinion are necessary, to	
17	ensure the efficient performance of its functions under this Act.	
18	PART IV - STAFF OF THE EXCHANGE	
19	19. -(1) The Director-General who shall be Chief Executive Officer	
20	of the Exchange shall be appointed by the President, on the recommendation	
21	of the Minister.	
22	(2) The Director-General and the two (2) Executive Directors,	Tenure of office
23	shall hold office for a term of five(5) years, on such terms and conditions as	
24	the President may on the recommendation of the Minister determine, and	
25	may be re-appointed for another term of five years and no more.	
26	(3) Subject to such general directions as the Board may give, the	Functions of the Director-General
27	Director-General shall be responsible for the day-to-day administration of	
28	the Exchange and the implementation of the decisions of the Board.	
29	(4) subject to such general directions as the Director-General may	
30	give, the Executive Directors shall be responsible for the day-to-day	

	1	administration of the Divisions they head and shall report directly to the
	2	Director-General.
Secretary Legal Adviser and functions	3	20. -(1) There shall be for the Exchange a Secretary/Legal Adviser,
	4	who shall be appointed by the Exchange.
	5	(2) The Secretary who shall be the Legal Adviser shall possess
	6	requisite professional legal qualifications and other associated professional
	7	qualifications as well as at least 10 years cognate experience:-
	8	(a) be responsible to the Director-General and the Board;
	9	(b) be responsible for the Board Secretariat of the Exchange;
	10	(c) be in-charge of the Legal Department; and
	11	(c) perform such other duties as may be assigned to him from time to
	12	time by the Director-General.
	13	21. -(1) The Exchange shall employ such other staff as it deems
	14	necessary, for the effective and efficient discharge of its functions under this
	15	Act.
Power to fix employees remunerations	16	(2) The Exchange shall pay its employees, such remuneration,
	17	allowances and other benefits, as may be determined by the Board from time to
	18	time.
Staff Regulations	19	22. -(1) The Exchange may make staff regulations relating generally
	20	to the conditions of Service of employees of the Exchange, and without
	21	prejudice to the generality of the foregoing, the regulations may provide for the
	22	appointment, promotion and discipline of all employees of the Exchange.
	23	23. The Board may, on the recommendation; of the Director General
	24	create such department(s) in the Exchange as it may deem fit for the proper and
	25	efficient discharge of the functions of the Exchange.
	26	PART V - FINANCIAL PROVISIONS
Funds of the Exchange, and Guarantee fund under the forth Schedule	27	24. -(1) The funds of the Exchange shall consist of-
	28	(a) fund from which all its expenses will be defrayed; and
	29	(b) guarantee fund established under the forth schedule of this Act.
	30	(2) The fund established under paragraph (a) of subsection (1) of this

1 section Shall, consist of-

- 2 (a) the initial take-off grant from the Federal Government;
 3 (b) annual subvention from the Federal Government;
 4 (c) fees, fines and commissions charged by the Exchange;
 5 (d) income from any investment of the Exchange
 6 (e) all sums of money or income accruing to the Exchange, by way
 7 of testamentary disposition and endowments.

8 **25.** The Exchange shall cause to be kept, proper accounts and Account and audit
 9 records in relation thereto and such account shall, not later than four (4)
 10 months after the end of the year, be audited by auditors appointed by the
 11 Exchange from the list and in accordance with the guidelines supplied by the
 12 Auditor General of the Federation.

13 **26.** The Exchange may submit other reports to the President, on Estimates
 14 matters of expediency or urgency, relating to its functions under this Act as
 15 the Exchange may, from time to time determine.

16 **27.**-(1) The Exchange may accept gifts of land, money or other Power to accept
 17 property or things, upon such terms and conditions, if any, as may be gifts
 18 specified by the person or organization making the gift.

19 (2) The Exchange shall not accept any gift, if the conditions
 20 attached by the person or organization making the gift are inconsistent with
 21 the aims and objectives of the Exchange under this Act.

22 **28.** The Exchange may, with the approval of the Board, borrow Power to borrow
 23 money by way of overdraft or loan, for the purpose of carrying out its
 24 functions under the Act.

25 **29.** The Exchange shall have power to expend money from the Power to expend
 26 established fund in meeting all its financial obligations in the performance money
 27 of its functions under this Act.

28 **30.** In this Act, unless the context otherwise requires- Interpretation
 29 "Act" means the Nigeria Commodity Exchange Act;
 30 "Bank" means banking institution recognised under the laws of the

1 Federation of Nigeria and any other institution that has powers similar to those
2 exercised by licensed banks provided under the Banking Act;

3 "Board" means the Board of Directors of Nigeria Commodity Exchange
4 appointed by the President of the Federal Republic of Nigeria;

5 "Broker" means any person engaged in the business of effecting Transaction in
6 Securities and Commodities for his own account and for the account of others;

7 "Buy" includes all contracts to buy or acquire;

8 "Chairman" means the Chairman of the Board of Nigeria Commodity
9 Exchange;

10 "Clearing House" means an organization where the claims and liabilities of
11 members and registered non-members to each other in respect of contracts in
12 listed commodities transacted on the Exchange are received, cleared, and
13 settled. However, pending the establishment of a clearing house, its functions
14 shall be performed by the Clearing and Settlement Department of the
15 Exchange;

16 "Committee" means any of the four standing committees constituted by the
17 Board under the Rules and Regulations of the Nigeria Commodity Exchange;

18 "Commodities" means agricultural produce, solid minerals, energy products as
19 well as financial instruments;

20 "Contracts" means a contract executed on the Exchange to buy or sell
21 commodities or financial instruments for delivery as specified in the contract;

22 "Council" means Council of Nigeria Commodity Exchange as appointed by
23 the Board of Directors to deliberate on all matters relating to trading operations
24 at the Exchange and make appropriate recommendations to the Board;

25 "Director" means a member of Board of Directors of Nigeria Commodity
26 Exchange as appointed by the President;

27 "Director General" means the Chief Executive Officer of the Nigeria
28 Commodity Exchange appointed by the President;

29 "Executive Director" means a full time director of the Exchange and a member

1 of the Board of Directors of Nigeria Commodity Exchange as appointed by
2 the President;

3 "Division" means a group of Departments of the Exchange having related
4 functions;

5 "Institutional Trading Member" means a member who has the right to
6 directly execute transactions on the trading floor of the Exchange only for its
7 own account and these are financial institutions, processors and merchants
8 executing trades on the Exchange either directly or through their subsidiary
9 companies that have been licensed by the Exchange and the Securities and
10 Exchange Commission (SEC) to engage in the business of commodity
11 trading;

12 "Members" means members of Nigeria Commodity Exchange who have the
13 right to directly or through their subsidiary companies that have been
14 licensed by the Exchange and the Securities and Exchange Commission to
15 engage in the business of commodity trading;

16 "Minister" means Minister of the Federal Republic of Nigeria in charge of
17 Industry, Trade and Investment, which is the supervisory ministry of the
18 Nigeria Commodity Exchange.

19 "Ordinary Trading Member" means a member who has the right to directly
20 execute transactions on the trading floor of the Exchange and the right to
21 have commodity or financial contracts executed on the trading floor of the
22 Exchange either for his own account or for the account of his clients;

23 "Person" means an individual, a corporation, partnership, an association, a
24 business trust or incorporated organization;

25 "President" means the president and Commander-In-Chief of the Federal
26 Republic of Nigeria;

27 "Rules and Regulations" means terms of control, the guidelines and all other
28 requirements prescribed by the Exchange for regulating the activities and
29 responsibilities of members of Exchange and prescribed by the relevant
30 authority from time to time and these rules and regulations shall be subject to

1 the provisions of the Investment and Securities Act of 2007 No. 29 2007 and
2 gazetted;
3 "Sale and Sell" each includes any transaction to sell, transfer or otherwise to
4 dispose of;
5 "Securities" means any note, shares, stock, treasury bills, certificates,
6 government bonds, debenture, (anticipation or any profit sharing agreement or
7 any oil or gas or other mineral royalty or leaves any subscription, to a security
8 or in general any instrument known as "security" but shall not include currency
9 or any note, draft bills of Exchange or bankers acceptance which has a maturity
10 at the tenure of issuance of not exceeding nine months exclusive of days of
11 grace or any renewal thereof the maturity of which is likewise limited;
12 "Financial Instrument" means Short Term Money Market Instruments with
13 maturity of up to one year period such as, treasury bills, commercial papers,
14 certificate of deposits etc. or Capital Market Instruments (Long Term) with
15 initial maturity of more than one year such as, corporate bonds or debentures,
16 Government debts and municipal/public sector utility bonds, etc.
17 "Trading Floor" means such spaces, systems and networks as the Exchange
18 may from time to time determine and which shall be reserved for trading in
19 contracts in commodities and/or financial instruments;

Short title

20 **31.** This Bill may be cited as Nigeria Commodity Exchange Bill,
21 2019.

FIRST SCHEDULE

ADMISSION OF DEALING MEMBERS

24 1. The Exchange shall operate from its offices in Abuja and Kano and
25 may open more floors later in major agricultural and solid mineral producing
26 belts as well as major commercial cities in Nigeria.

27 2. The Exchange shall register the following categories of members
28 for dealing in commodity contracts on its trading floor -

29 (a) Ordinary Trading Member;

30 (b) Institutional Trading Member;

1 3. Any firm, joint stock company, banks, co-operative society or
2 corporation having a place of business in Nigeria; intending to carry on
3 business of growing, buying and selling of commodities or financial
4 instruments may apply to the Exchange for admission to any of its
5 membership categories. in the form prescribed from time to time by the
6 Council.

7 4. The applicant shall state the class of membership in which the
8 applicant desires to be included. The applicant shall agree to comply with
9 the Rules and Regulations, which may be for the time being in force and as
10 amended from time to time.

11 5. Every applicant for membership of the Exchange shall be of
12 good character and financial standing and the applicant shall have such
13 general knowledge as the Council may from time to time deem necessary for
14 admission and inclusion in the class of membership desired by the applicant.

15 6. Upon receipt of an application for membership of the Exchange,
16 the Market Development Division of the Exchange shall scrutinize the
17 application to ensure that all necessary requirements are attached and write
18 the applicant to provide the missing documents, if any.

19 7. The name of the applicant whose application is found to be in
20 order shall be posted on the notice board of the Exchange for seven calendar
21 days so that any member of the Exchange may submit objections, if any, to
22 the Board or Council in writing against the admission of the applicant.

23 8. After the expiration of seven calendar days from the posting of
24 the applicant's name on the notice board, the Market Development Division
25 of the Exchange shall scrutinize the application and assess the written
26 objection so received. Every applicant shall present to the Division such
27 additional facts and details, in such form and within such time as the
28 Membership and Finance Committee may require towards scrutinizing the
29 application and assessing the written objections.

30 9. Thereafter, the applications shall be placed before the

1 Membership and Finance Committee for further scrutiny and approval by the
2 Council.

3 10. The favourable vote of at least two-thirds of the total strength of
4 the Board or Council shall be necessary to admit an applicant who or that has
5 been endorsed "Recommended for admission" by the Membership and
6 Finance Committee.

7 11. The favourable vote of at least two-thirds of the total strength of
8 the Council shall be necessary to admit an applicant who or that has been
9 endorsed "Disapproved" by the Membership and Finance Committee.

10 12. Candidates for admission, if required by the Council and/or by
11 the Membership and Finance Committee shall appear personally before any of
12 the meetings of the Council and/or Membership and Finance Committee or any
13 committee thereof to answer all question that may be put to them.

14 13. The Council in accordance with the Rules and Regulations of the
15 Exchange shall admit an applicant for membership to only one of the two (2)
16 classes of membership of the Exchange.

17 14. An applicant for membership of the Exchange who or that has
18 been rejected by the Council shall have the right to appeal to the Board within
19 fourteen (14) calendar days for reconsideration of such decision and the Board
20 shall have the right to seek such material facts that may be necessary for the
21 reconsideration.

22 15. No individual under twenty-one (21) years of age shall be eligible
23 for election to the membership of the Exchange. An applicant who is
24 incompetent to enter into a contract; or has been convicted for financial
25 impropriety; or who is declared a defaulter by any Commodity Exchange or
26 Stock Exchange or Clearing House; or who has compounded with his creditors
27 or is adjudicated insolvent; or whose registration with any regulatory authority
28 has been suspended or revoked shall not be elected or admitted as a member of
29 the Exchange.

30 16. Upon the election of the Board or Council to admit an applicant to

1 the membership of the Exchange, the Secretary, Board Secretariat shall
2 forthwith notify the member in writing.

3 17. Upon divestment of government equity holding in the
4 Exchange, to qualify for admission-

5 (a) An Ordinary Trading Member shall have subscribed to and held
6 at least two thousand five hundred (2,500) equity shares of the Exchange or
7 any other amount that might be approved by the Board and it shall have
8 contributed a specified amount to the guarantee fund and paid the required
9 admission fees;

10 (b) An Institutional Trading Member (i.e. Established Commodity
11 Merchants, Processors, Commercial Bank and any other financial
12 institutions) shall have subscribed to and held at least five thousand (5,000)
13 units of equity share of the Exchange or any other amount that might be
14 approved by the board and it shall also have contributed a specified amount
15 to the guarantee fund and paid the required admission fees; and

16 18. It shall be deemed a violation of the Rules and Regulations of
17 the Exchange for a member to make a false statement or mis-statement in or
18 upon a material point in the application, whenever it appears to the
19 membership and finance committee that falsification or mis-statement has
20 been made, the committee-

21 (a) Shall report the same to the Council for disciplinary action; and

22 (b) The Council may upon the report and the advice of the
23 Membership and Finance Committee withdraw the personal permission
24 given to the member of the Exchange to exercise the rights and privileges
25 attached thereto.

26 SECOND SCHEDULE

27 STANDING COMMITTEES:

28 1. The Board through the Council of the Exchange shall establish
29 the following standing committees:

30 (a) Membership and Finance Committee;

- 1 (b) Trading Committee;
- 2 (c) Clearing and Settlement Committee; and
- 3 (d) Arbitration and Vigilance Committee
- 4 The Membership and Finance Committee shall have jurisdiction over the
- 5 following:
- 6 (a) applications and applicants for membership;
- 7 (b) scrutiny and endorsement of applications received by the
- 8 Exchange;
- 9 (c) advice and recommendation to the Council on all matters regarding
- 10 membership privileges of the Exchange, including the withdrawal of
- 11 membership privileges of the Exchange;
- 12 (d) advice and recommendation to the Council on the manner in
- 13 which funds belonging to the members of the Exchange that are under the
- 14 management of the Exchange are deployed and invested in accordance with the
- 15 prudential norms laid down by the Board and the Securities and Exchange
- 16 Commission from time to time; and
- 17 (e) advice and make recommendation to the Council on the manner in
- 18 which liabilities of the Exchange in respect of transactions cleared by the
- 19 clearing department are extinguished, in accordance with the Rules and
- 20 Regulations.
- 21 3. The Trading Committee shall have jurisdiction over the-
- 22 (a) design of spot and derivative contracts in tradable commodities
- 23 and financial instruments for specification by the Council in respect of
- 24 contracts that are transacted on the Exchange, including the opening or listing
- 25 of contracts, the closing of contracts, the basis grade of the commodities
- 26 underlying the contracts, the quantity of such commodities underlying the
- 27 contracts, delivery terms and notices, payment and settlement of contracts in
- 28 commodities;
- 29 (b) manner in which contracts in commodities and/or financial
- 30 instruments are transacted on the Exchange including the working hours of the

1 Exchange in an emergency, procedure, facilities and systems for trading,
2 facilities and system for reporting, recording and dissemination of prices;
3 the determination or computation and dissemination of delivery order rates,
4 and the determination or computation and dissemination of daily rates;

5 (c) transaction fees that are to be paid by members of the Exchange
6 in respect of contracts executed on the Exchange, access fees and brokers
7 commission;

8 (d) appointment and certification of warehouses as certified
9 warehouses, the list of permitted and prohibited use of certified warehouse
10 receipts by members of the Exchange, the fees for certifications of a
11 certified warehouse, the annual fees to be paid by certified warehouse to the
12 Exchange, the security deposit by certified warehouses with the Exchange,
13 the guidelines for payment of rent by beneficial owners of commodities
14 stored in certified warehouse to the certified warehouses, and the
15 withdrawal of such certification; and

16 (e) procedures pertinent to inspection, sampling, weighing and
17 certification of commodities the procedures pertinent to issue, honouring,
18 extinguishments and reissue of certified warehouse receipts, the discount
19 pertinent to the ageing of commodities held in certified warehouses, and the
20 procedures including the premiums and discounts pertinent to deliveries of
21 commodities at certified warehouses pursuant to contractual obligations
22 entered into on the Exchange and cleared, registered and settled by the
23 clearing house or clearing and settlement department of the Exchange.

24 4. The Clearing House Committee in collaboration with the
25 relevant committee of the Central Securities Clearing System shall have
26 jurisdiction over the-

27 (i) manner, in which contracts in commodities or financial
28 instruments are cleared, registered and settled by the clearinghouse;

29 (ii) agreements entered into by Trading Members of the Exchange
30 for the provision of clearing, registering and settlement services to members

- 1 and non members of the Exchange;
- 2 (iii) clearing fees that are to be paid by members of the Exchange and
3 the appropriation of guarantee fund contribution from clearing fees paid by
4 members of the Exchange;
- 5 (iv) clearing limits of Trading Members of the Exchange; and
6 (v) specification and determination of liability of the Exchange in
7 respect of transactions cleared by the clearing House.
- 8 5. The Trading Committee and the Clearing House Committee shall
9 jointly have the following jurisdiction-
- 10 (a) The specification of price limits within which ready delivery or
11 derivative contracts in commodities or financial instruments shall be
12 transacted on the Exchange, the suspension of trading in one or more ready
13 delivery contracts in commodities or financial instruments when pre-set price
14 limits are breached, and the condition for the relaxation or tightening of price
15 limits along with the new limits when necessary;
- 16 (b) Determination of losses, damages and penalties resulting from
17 any defaults including delivery defaults; and
- 18 (c) The action to be taken against defaulting members of the
19 Exchange.
- 20 6. Arbitration and Vigilance Committee shall have jurisdiction over
21 the following:
- 22 (a) the manner in which disputes regarding trading and clearing of
23 contracts between members of the Exchange are resolved and arbitration shall
24 be governed by the Arbitration Rules of the Exchange.
- 25 (b) the orderly functioning of the Exchange in accordance with the
26 Rules and regulations.
- 27 (c) investigation into violation by any member of the Exchange of any
28 provision of the Rules and Regulations, order or instructions issued thereunder
29 and under the Investment and Securities Act No. 29 2007, on its own initiative
30 or on receipt of complaints of such violations or upon the instructions of the

1 Board or Council; and

2 (d) making recommendation to the Board or Council regarding
3 disciplinary action as provided in the Rules and Regulations.

4 THIRD SCHEDULE

5 TRADING SEGMENT

6 The Exchange shall operate the following market segments in commodity
7 contracts:

8 (a) Spot Market Segment, where contracts In commodities or
9 financial instrument for immediate payment and delivery are admitted into
10 trading, subject to the trading regulations which the relevant authority may
11 prescribe from time to time;

12 (b) Futures and Options Market Segment, where derivative
13 contracts in underlying assets are admitted to trading, subject to the trading
14 rules and regulations, which may be prescribed by the relevant authority
15 from time to time and the NCX Act 2 ...

16 FOURTH SCHEDULE

17 ESTABLISHMENT OF GUARANTEE FUND

18 1. The Exchange shall through the Central Securities Clearing
19 System (CSCS) maintain a guarantee fund towards strengthening its
20 financial integrity.

21 2. The guarantee fund shall on the recommendation of the relevant
22 Committee or Department of the CSCS be invested in marketable securities
23 of the Government of Nigeria and other approved securities and immovable
24 assets with a significant useful life, and shall be used exclusively to meet the
25 clearing obligations of CSCS of any of the transactions carried out on
26 Nigeria Commodity Exchange, wherein the CSCS has substituted itself as
27 one of the parties to the transactions.

28 3. The guarantee fund shall not be classified under paid up equity
29 capital of the Exchange nor under its reserves.

30 4. Contribution to the guarantee fund by Ordinary and

1 Institutional Trading Members shall be accounted for separately by the CSCS
2 in respect of each Ordinary or Institutional Trading Member and shall at all
3 times be refundable to them on cessation of membership net of all the member's
4 financial obligation to the Exchange and other trading members. Contribution
5 to the guarantee fund shall not at any time be included for determining voting
6 rights or for paying dividends.

7 5. In the event of a merger or amalgamation of two or more Ordinary
8 or Institutional Trading Members, the guarantee fund contribution accounts of
9 the Members involved in the merger or amalgamation shall be consolidated
10 through the CSCS.

11 6. An Ordinary or Institutional Trading Member may make voluntary
12 contributions to the guarantee fund from time to time in addition to the
13 compulsory appropriation made by the CSCS from the clearing fees charge
14 from the Member.

15 7. In respect of financial obligations arising out of transactions traded
16 and registered on the Exchange under its Rules and Regulations and this Bill,
17 the CSCS shall have the unilateral right to use any part or all of the guarantee
18 fund contribution of Ordinary or Institutional Trading Members to settle such
19 financial obligations.

20 FIFTH SCHEDULE

21 SUPERVISION AND EXAMINATION

22 1. The Exchange shall at least, once in a year-

23 (a) authorize an inspection or examination or investigation, as the
24 case may be, of its members, warehouse operators, inspection agents or
25 collateral managers for the purpose of the Exchange determining whether or
26 not the provision of this Act or of any regulation made thereunder are being
27 complied with; and

28 (b) without prejudice to the provisions of subsection (a) of this
29 section, the Exchange may at any time, authorize one or more of its officers or
30 agent to inspect, examine or investigate any aspect of the activities of any

1 member, warehouse operator, inspection agents or collateral manager.

2 2. The Exchange may appoint its officers or agent or any other
3 qualified person as examiners as it may consider expedient to carry out its
4 duties under this Act.

5 3.-(1) In the performance of its duties under this schedule, the
6 Exchange or its officers or agent shall have power to:

7 (a) Inspect, examine or investigate in accordance with Section
8 17(a) of this Act or any regulations made under this Act and under condition
9 of confidentiality, the books, activities and affairs of any person or body
10 relating to commodity business;

11 (b) Gain access at all times during working hours to the books,
12 accounts, documents and vouchers of any member, warehouse operator,
13 inspection agents and or collateral managers;

14 (c) Request from director; manager or officer of any member,
15 warehouse operator, inspection agent or collateral manager, information or
16 explanation as the Exchange may deem necessary in each case, to enable it
17 determine whether or not the provisions of this Act or any regulations made
18 thereunder are being complied with.

19 (2) In exercising the powers under subsection (i) of this section,
20 examiners shall exercise reasonable care to avoid undue hindrance to the
21 day-to-day activities of any member, warehouse operator, inspection agent
22 and/or collateral manager.

23 4.- (1) The Exchange shall, upon the completion of the
24 examination or investigation, forward a copy of its report to the member or
25 warehouse operator, inspection agent or Collateral Manager or such other
26 persons or body with the instruction that the report be placed before their
27 Board of directors.

28 (2) The Board of directors of members, warehouse operators,
29 inspection agents and/or collateral managers or such other bodies shall,
30 within 30 days of receiving the report mentioned in subparagraph (1) of this

1 paragraph, convene an extraordinary meeting to consider the report and submit
2 its reactions to the report and proposals for implementing any
3 recommendations to the Exchange.

4 (3) Any member, warehouse operator, inspection agent and/or
5 collateral manager who fails to comply with the provisions of paragraph (2) of
6 this section commits an offence and is liable to a fine of not more than N20,000
7 for each day during which the offence continues and if the offence continues
8 for more than 30 days, the Exchange may, in addition to the fine suspend the
9 license or certificate of registration of the member, warehouse operator and/or
10 collateral.

11 5. The Exchange may at any time order a special examination or
12 investigation of the books and affairs of a member, warehouse operator,
13 inspection agent and/or collateral manager where -

14 (a) it suspects or is satisfied that-

15 (i) It is in the public interest to do so,

16 (ii) the member, warehouse operator; inspection agent and/or
17 collateral manager is carrying on its business in a manner detrimental to the
18 interest of their clients,

19 (iii) the member, warehouse operator, inspection agent or collateral
20 manager does not have sufficient assets to cover its liabilities,

21 (iv) the member, warehouse operator inspection agent and/or
22 collateral manager has contravened the provision of this Act;

23 (b) an application is made thereto by a director, manager or
24 shareholder of the member, warehouse operator, inspection agent or collateral
25 manager to examine its company.

26 6. Every member, warehouse operator, inspection agent or collateral
27 manager shall produce and give the examiners such books, accounts,
28 documents, vouchers, information and explanation as the examiner may
29 request for the purpose of this Act.

EXPLANATORY MEMORANDUM

This Bill seeks to-

Establish the Nigeria Commodity Exchange to inter alia, provide an Automated Trading System (ATS) and organized market for the Nigerian Agricultural Produce, Solid Mineral Products, Energy Products and Financial Instruments where Nigerian farmers and other stakeholders can get appropriate prices for their produce and products and protection against adverse price movements, ensure enhanced income and improved standard of living for the Nation.