

**KEYNOTE ADDRESS OF THE MANAGING DIRECTOR/CHIEF EXECUTIVE OF NDIC
AT THE CONFERENCE OF PROSECUTORS HOLDING ON FRIDAY 15TH JULY 2005
AT NDIC TRAINING CENTRE, 6TH FLOOR, MAMMAN KONTAGORA HOUSE 23A
MARINA LAGOS**

PROTOCOL

The Corporation is very pleased to once again host the Conference of Prosecutors. It gives me great pleasure to welcome such a gathering of erudite Learned Senior Advocates of the Nigerian Bar and their eminent colleagues. The conference this year is particularly symbolic as it is taking place on the heels of Federal Government reform programmes with emphasis on probity, transparency, accountability and due process. As you are aware, banks have a major role to play in the on-going economic reform programme of the Federal Government. If the Directors and management of failed banks had imbibed these laudable attributes, the failure of some of the banks could have been averted.

2. Distinguished and Learned gentlemen, I wish to recall that in 1994, in order to arrest the threat of systemic crisis in the banking sector, the Federal Government, amongst other measures, promulgated the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act (FBA) which established Tribunals to try directors, officers and customers of banks who were involved in fraud and other malpractices and also to recover debts owed to distressed banks. The Act mandated the Nigeria Deposit Insurance Corporation (NDIC) and the Central Bank of Nigeria (CBN) to implement its

provisions.

3. Pursuant to its mandate, the Corporation with the support of the Hon. Attorney-General of the Federation, the CBN and the Inspector-General of Police (IGP), the Failed Banks Inquiry (now Financial Malpractices Investigating Unit, (FMIU) and the Task Force on the Failed Banks Act, were established. The FMIU was responsible for investigating complaints on financial malpractices forwarded to the Banking Supervisory Authorities while the Task Force monitored the prosecution of cases after conclusion of investigation.

4. The success achieved by the Tribunals is widely acknowledged. Between 1994-1999, a period of 5 years, the 14 Tribunals tried and conclusively disposed of 45 criminal cases and 672 civil/debt recovery cases. Furthermore, there were 95 criminal and 1660 civil cases pending before the Tribunals before their dissolution. However, with the return to democratic rule in May, 1999, the Failed Banks Act was amended by the Tribunals (certain Consequential Amendment, etc) Act, No.62 of 1999, which abrogated the Tribunal. The jurisdiction of the Tribunal was accordingly transferred to the Federal High Court (FHC). Unfortunately, the report on progress of cases at the FHC is not encouraging. It will interest you to note that since 1999 to date, another period of 5 years, not one single case had been tried and determined conclusively on its merits in any of the FHC's handling failed bank matters. Rather, our experience is that the convictions obtained at the Tribunals are being challenged by the convicted

persons. It is noteworthy that a few convictions have been overturned on the ground that criminal charges were not properly drafted. As a result, the appellate courts held that some convictions were based on offences (for example, fraudulently granting unauthorised credit facilities) not known to the law.

5. In the light of our recent experiences, it is imperative that the Conference of Prosecutors should take a hard look at the causes of poor and ineffective prosecution under the Failed Banks Act and to come up with pragmatic and realistic measures to turn the tide. What are the challenges? Do we need to amend the Failed Banks Act, if so can the Conference identify the amendments required? Why the incessant adjournments? What is the answer to the challenge to the Hon. Attorney-General's Fiat? Is there any way round interlocutory appeals which, in my view do not serve any purpose other than to delay trials? How come convictions/charges are being struck out for being defective or unconstitutional? What is the solution to apprehension of absconded accused persons so that trials can proceed in those cases? Indeed, the issues are numerous but I am consoled by the fact that assembled in this forum are some of the finest legal brains in Nigeria and so I trust that you will come up with pragmatic solutions to the myriad of problems confronting us.

6. On its part, the Corporation has continued to explore avenues to improve the situation. In this regard, I met with the IGP recently and one of the results of that meeting is that the FMIU has been beefed up

with more officers who are professionally inclined. Also, the Police shall soon publish the names of absconded accused persons and with the assistance of INTERPOL, maintain a watch list of suspects who have escaped from the country.

7. I want to use this opportunity to inform the Conference of Prosecutors that the Management of the Corporation is anxiously awaiting the Communiqué of this Conference and I assure you that the Corporation will leave no stone unturned in its efforts to sanitize the banking sector. We shall closely collaborate with relevant stakeholders to ensure that financial institutions are prudently managed. The on-going bank consolidation programme requires sound governance in banking institutions. Effective prosecution of financial malpractices is necessary to reinforce the Supervisory Authorities' policy of zero tolerance for unethical behaviour and mismanagement.

8. I wish you very fruitful deliberations and I thank you for your attention.

G.A. Ogunleye, OFR
JULY 15, 2005

NIGERIA DEPOSIT INSURANCE CORPORATION