

CAP. N102

NIGERIA DEPOSIT INSURANCE CORPORATION ACT

CHAPTER N102 VOLUME 12

THE LAWS OF THE FEDERATION OF NIGERIA 2004

CHAPTER N 102

NIGERIA DEPOSIT INSURANCE CORPORATION ACT

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SCHEDULE

Proceedings of the Board

CHAPTER N102

NIGERIA DEPOSIT INSURANCE CORPORATION ACT

***An Act to establish amongst other things, the Nigeria Deposit Insurance Corporation for the purpose of insuring all deposit liabilities of licensed banks and other financial institutions.
[1988 No. 22]***

Commencement

(15th June 1998)

1. Establishment of the Nigeria Deposit Insurance Corporation

- (1) There is hereby established a body to be known as the Nigeria Deposit Insurance Corporation (hereinafter in this Act referred to as “the Corporation”)
- (2) The Corporation shall be a body corporate with perpetual succession and a common seal.
- (3) The Corporation may sue or be sued in its corporate name and 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.

[Cap L.5.]

2. Board of Directors etc.

- (1) The governing body of the Corporation shall be a Board of Directors (hereinafter in this Act referred to as “the Board”)
- (2) The Board shall consist of the following members who shall be appointed by the president, that is-
 - (a) the Chairman;
 - (b) the Managing Director;
 - (c) two executive directors;
 - (d) a representative of the Central Bank of Nigeria, not below the rank of a director;
 - (e) a representative of the Federal Ministry of Finance, not below the rank of a director, and
 - (f) three other members.
- (3) The Chairman and members of the Board referred to in paragraph (f) of subsection (2) of this section, shall be part-time members.
- (4) The supplementary provisions contained in the Schedule to this Act shall have effect with respect to the matters therein mentioned.

[Schedule.]

3. *Disqualification, etc. of members of the Board*

- (1) Notwithstanding the provisions of Section 13(4) of this Act, a person shall cease to hold office as a member of the Board if-
 - (a) he becomes bankrupt, suspends payment or compounds with his creditors
 - (b) he is convicted of a felony or any offence involving dishonesty or fraud;
 - (c) he becomes of unsound mind, or incapable of carrying out his duties;
 - (d) he is guilty of serious misconduct in relation to his duties; or
 - (e) in the case of a person possessed of professional qualification, he is disqualified or suspended other than at his own request from practising his profession in any part of the world by an order of a competent authority made in respect of that Director; or
 - (f) he resigns his appointment by a letter addressed to the Minister in which case the resignation shall take effect from the date of receipt of the letter by the Minister.
- (2) No employee or a Director of a licensed bank or financial institution insured under this Act shall, while in office, be appointed a Director of the Corporation.
- (3) Whenever the Board is dissolved the Minister shall appoint a Management Committee for the Corporation with the Managing Director as the Chairman to perform the functions of the Board temporarily.

4. *Powers of the Board*

The Board shall have power-

- (a) to manage and superintend the affairs of the Corporation;
- (b) for the overall policy and general administration and shall act in the name of the Corporation;
- (c) to acquire offices and other premises for the use of the Corporation;
- (d) to make alter and revoke rules and regulations for carrying on the business of the Corporation under this Act.
- (e) to appoint officers which in the opinion of the Board are required for carrying out the functions of the Corporation with particular reference to the examination of any insured bank or carrying out special examination of any insured bank;
- (f) to fix terms and conditions of service including remuneration of the employees of the Corporation;
- (g) to advise the Minister on the need to close an insured bank if in the opinion of the Board its continued operation will jeopardize the interests of depositors;
- (h) to serve notice on an insured bank of its intention to remove the bank from its record of insured banks after a cease and desist order has been issued and after three consecutive warnings to improve the insured bank operational standard and it has failed to do so;
- (i) to assume, with the approval of the Minister, the management of a failing bank and to advise the Minister on the actions it intends to take on the assets and liabilities of the bank;
- (j) to arrange for the sale of the assets and pay dividends to creditors of a failed bank as

- a receiver;
- (k) to appoint claim agents who shall be empowered to investigate and examine claims on insured deposits;
- (l) with the approval of the Minister, to serve a notice of removal from office on any officer or director who has committed any violation of the law, rules or regulations of the Corporation or has engaged in an unsound practice that may lead the bank to financial loss.
- (m) to prosecute any officer, or director who has committed any serious violation of the provisions of this Act; and
- (n) to do such other things and enter into such other transactions which in the opinion of the Board are necessary to ensure the efficient performance of its functions.

5. *Functions of the Corporation*

- (1) The Corporation shall have responsibility for -
 - (a) insuring all deposit liabilities of licensed banks and such other financial institutions operating in Nigeria within the meaning of sections 20 and 26 of this Act so as to engender confidence in the Nigerian Banking System.
 - (b) giving assistance in the interest of depositors, in case of imminent or actual financial difficulties of banks particularly where suspension of payments is threatened; and avoiding damage to public confidence in the banking system;
 - (c) guaranteeing payments to depositors, in case of imminent - or actual suspension of payments by insured banks or financial institutions up to the maximum amount as provided for in section 26 of this Act;
 - (d) assisting monetary authorities in the formulation and implementation of banking policy so as to ensure sound banking practice and fair competition among banks in the country;
 - (e) pursuing any other measures necessary to achieve the functions of the Corporation provided such measures and actions are not repugnant to the functions of the Corporation.

6. *Head Office of the Corporation, etc*

The Corporation shall have its Head Office at a place to be determined by the Board and may, subject to the approval of the Board, opens branches in other States of the Federation of Nigeria and appoint agents and correspondents in accordance with the decision of the Board.

7. *Power of the Minister to give directives*

The Minister may give to the Board directives of a general or special nature with regard to the functions of the Corporation and it shall be the duty of the Chairman, the Board and the Managing Director to comply with the directives.

8. *Fund of the Corporation*

- (1) The fund of the Corporation shall consist of-
 - (a) assessed premiums paid by insured banks and other financial institutions in accordance with section 20 of this Act;
 - (b) income from the investments of the Corporation;
 - (c) monies borrowed from any source with the approval of the Board; and
 - (d) Monies from any other sources as may be approved by the Corporation.
- (2) The Corporation shall, with the prior approval by a resolution of the Board, operate a current or other special accounts with the Central Bank of Nigeria.

9. *Capital and reserve fund*

- (1) The authorised capital of the Corporation shall be ₦100,000,000.
- (2) On a resolution of the Board, there shall be paid up such amount as shall be subscribed by and paid-up at par in a proportion of **60 per cent** and **40 per cent** by the Central Bank of Nigeria and the Federal Government of Nigeria respectively on the establishment of the Corporation.
- (3) The authorised capital of the Corporation may be increased by such amount as the Board may by special resolution determine from time to time.

10. *General reserve fund*

- (1) The Corporation shall establish a general reserve fund to which shall be transferred the Corporation's net operational surplus before tax if the reserve fund is less than ten times the paid-up capital.
- (2) Where the reserve fund is more than ten times the paid-up capital at the end of the year, **75 per cent** of the net operational surplus before tax shall be transferred to the reserve fund, **50 per cent** of the remaining amount after tax shall be supplied to reduce the annual premium payable by insured banks while the remaining **50 per cent** shall be paid to the shareholders.
- (3) The net operational surplus of the Corporation for each year shall be determined after meeting all the current expenditure for that year and after making such provisions as the Board may deem fit for depreciation of assets, contribution to staff and superannuation funds and all other contingencies.

11. *Bank Account and Investment of moneys of the Corporation*

- (1) The Corporation shall have power to invest money not immediately required in Federal Government securities or in such other securities as the Board may from time to time, determine.
- (2) The incomes from the money invested as prescribed by subsection (1) of this section shall be credited to the account of the Corporation.
- (3) All administrative expenses shall be defrayed out of the income of the Corporation.

12. *Expenditure*

- (1) There shall be chargeable to the Corporation-
 - (a) all expenses incurred on behalf of the Corporation;
 - (b) all payments of excess assessment;
 - (c) moneys required for the payment of moneys borrowed on behalf of the Corporation;
 - (d) payment to a bank which assumes the deposits of an insured bank; and
 - (e) payment to depositors when an insured bank or institution becomes insolvent.

13. *Appointment of the Managing Director, etc*

- (1) There shall be appointed for the Corporation the following, that is -
 - (a) the Managing Director, who shall be the Chief Executive of the Corporation and shall be responsible for the day to day management of the Corporation; and
 - (b) two Executive Directors who shall perform such duties as may be assigned to them from time to time by the Board or Managing Director.
- (2) The President, Commander-in-Chief of the Armed Forces shall appoint the Managing Director and the Executive Directors specified in subsection (1) of this section.
- (3) Any person appointed as the Managing Director or an Executive Director shall not, while holding that office, qualify to hold any office as a director in any bank, corporation, company or any other establishment without the approval of the Board.
- (4) The Managing Director and Executive Directors appointed pursuant to the provisions of this section shall hold office for a period of five years and shall be eligible for re-appointment for a further period of five years.
- (5) Subject to subsection (4) of this section, the Managing Director and Executive Directors shall each hold office on such terms and conditions as may be specified in their letters of appointment.

14. *Employment of staff, etc.*

- (1) The Board shall appoint such number of officers and servants as may appear expedient and necessary to the Board for the proper and efficient conduct of the business and functions of the Corporation.
- (2) The Board shall appoint a Secretary who shall be responsible to the Managing Director, and shall keep the Board's records and conduct its correspondence and perform such other duties as the Board or the Managing Director may from time to time determine.
- (3) The terms and conditions of service (including remuneration, allowances and pension benefits) of the Secretary and other staff of the Corporation shall be as may be determined by the Board.

15. *Participating Institutions*

- (1) As from the commencement of this Act -
 - (a) all licensed banks and such other financial institutions in Nigeria engaged in the business of receiving deposits shall be required to insure their deposit liabilities with the Corporation;
 - (b) any licensed bank or such other financial institution which contravenes the provisions of paragraph (a) of subsection (1) of this section shall be guilty of an offence and liable on conviction to a fine of ₦1,000 for each day the offence is committed;
 - (c) all licensed banks or such other financial institutions in existence and carrying on business before the commencement of this Act shall comply with the provisions of this Act.
- (2) Without prejudice to the provisions of subsection (1) of this section, all licensed banks or financial institutions shall as from the end of their first year after the commencement of this Act be subject to the provisions of this Act.

16. *Appointment of Examiners*

- (1) The Board shall have power to appoint on the recommendation of the Managing Director such number of examiners who shall-
 - (a) be officers of the Corporation with powers to examine periodically, and under conditions of secrecy, the books and affairs of every insured bank;
 - (b) have a right of access at all times to the books, accounts and vouchers of the insured bank;
 - (c) be entitled to require and obtain information and explanations from the officers and directors of an insured bank as may be deemed necessary in the performance of their duties; and
 - (d) have access to any accounts, returns and information with respect to any bank insured under the provisions of this Act which are in the possession of the Central Bank of Nigeria.

17. *Functions of Examiners*

- (1) In the exercise of the functions of an examiner appointed pursuant to subsection (1) of section 16 of this Act, the examiner shall exercise reasonable care to prevent unreasonable hindrance to the day to day activities of an insured bank and confine the investigation to matters of fact and data deemed necessary for the examination.
- (2) An insured bank shall produce as and when required, all books, accounts, documents and all information as the examiner may deem fit in the exercise of the functions.
- (3) It shall be an offence under this Act for an insured bank to -
 - (a) willfully refuse to produce any book, account, document or information; or
 - (b) negligently, willfully or with intent to defraud give any information which is

- false in any material particular.
- (4) A person guilty of an offence under this section shall be liable on conviction -
 - (a) in the case of an offence against paragraph (a) of subsection (3) of this section, to a fine of $\times 200$ in respect of each day in which the offence continues; or
 - (b) in the case of an offence against paragraph (b) of subsection (3) of this section, to a fine of $\times 1,000$.
 - (5) An examiner shall forward a report of his findings to the Managing Director who shall thereon forward a copy to the Board and inform the Board of any circumstances in which the Board may exercise any of its powers under the provisions of sections 4 or 18 of this Act.

18. *Special Examination*

- (1) Subject to the approval of the Minister, the Board may at any time direct the Managing Director or appoint two or more qualified persons to make a special examination of the books and affairs of an insured bank under conditions of secrecy where the Board is of the opinion that an insured bank -
 - (a) may be carrying on business in a manner detrimental to the interest of its depositors and creditors;
 - (b) may have insufficient assets to cover its liabilities to the public; or
 - (c) may be contravening the provisions of this Act.
- (2) Where an insured bank deems that -
 - (a) it is likely to become unable to meet its obligations; or
 - (b) it is about to suspend paymentsthe insured bank shall cause the Corporation to be informed accordingly of the intention to do so.
- (3) Any insured bank which contravenes the provisions of subsection (2) of this section shall be guilty of an offence and liable on conviction to a fine of $\times 10,000$.
- (4) Not later than one month after the conclusion of an examination under this section, the examiner shall submit a full report thereon to the Managing Director who shall submit a copy of the report and his comments to the Minister for his consideration after the report shall have been examined by the Board of the insured bank at a meeting specially convened for that purpose.

19. *Offences and Penalties, etc*

- (1) Any person who, being a Director or an officer of a licensed bank or other financial institution who -
 - (a) fails to take all reasonable care to secure compliance with the provisions of this Act; or
 - (b) fails to take all reasonable care to secure the authenticity of any statement submitted pursuant to the provisions of this Act, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding $\times 50,000$ or to both such fine and imprisonment.

- (2) Without prejudice to section 174 of the Constitution of the Federal Republic of Nigeria 1999 (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), the Corporation may compound any offence punishable under this Act by accepting such sums of money as it thinks fit, not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of that offence.

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- (3) All moneys received by the Corporation under the provisions of subsection (2) of this section shall be paid into the Consolidated Revenue Fund of the Federation.
- (4) All offences under this Act shall be tried by a court of competent jurisdiction in the place where the offence is alleged to have been committed.

20. *Insurable deposit*

All deposits of a licensed bank or any other financial institution shall be insured with the Corporation with the exception of the following, that is -

- (a) insider deposits, that is, deposits of staff including directors of licensed bank or financial institution;
- (b) counter-claims from a person who maintains both a deposit and loan accounts, the former serving as a collateral for the loan; or
- (c) such other deposits as may be specified from time to time by the Board.

21. *Assessment of insured banks and special contribution*

- (1) Every licensed bank or other financial institution to which this Act relates, shall be obliged to pay to the Corporation, a premium which shall be fifteen sixteenth *15/16 of one per cent per annum* of the total deposit liabilities standing in its books as at 31st December of the preceding year in the following manner, that is -
- (a) the deposit liabilities shall be as certified by the approved auditor of the licensed bank or such other financial institution;
- (b) the certified deposit liabilities shall be forwarded to the Corporation on or before 31st January of every year; and
- (c) the annual premium shall be payable not later than 2 months from the date of the demand notice.
- (2) The premiums payable under subsection (1) of this section shall not be chargeable to depositors in any form whatsoever; and shall be deemed payable on the coming into force of this Act.
- (3) Where the funds of the Corporation are not sufficient for measures of assistance within the meaning of subsection 1(b) of section 5 of this Act or otherwise required for the implementation of the object of the Corporation, all participating banks or such other financial institutions shall be obliged without prejudice to subsection (1) of this section to pay special contribution up to the amount of an annual premium to the Corporation.
- (4) A participating bank may be permitted to provide out of profits before tax a sum

- equal to the annual premium payable to the Corporation.
- (5) Where a participating bank has assumed the deposit liabilities of another bank, such deposit liabilities of the other bank shall be added to its own balance sheet figure of total deposit liabilities for purposes of assessing its premium payable to the Corporation.
 - (6) Any premium payable by a licensed bank or other financial institution and which remains unpaid for more than three months after a demand notice has been served on such licensed bank or financial institution, shall attract an interest at the prevailing interest rate payable on a savings deposit account.

22. *Removal of an insured bank, etc*

- (1) Whenever it appears to the Corporation that an insured bank or its director or trustees have committed a grievous violation of its obligation or have continued to conduct the business of the bank -
 - (a) in an unsound manner;
 - (b) intentionally or negligently permit any of the officers or agents of the insured bank to violate any provisions of any law or regulation to which an insured bank is subject,the Corporation shall serve on the Board of the insured bank a warning notice stating that where the unsound practice continues, the name of the bank shall be removed from the register of insured banks and forward a copy of such warning notice to the Central Bank of Nigeria and the Minister.
- (2) It shall be deemed a grievous violation of obligation under this Act where an insured bank -
 - (a) persistently suffers liquidity deficiency;
 - (b) persistently contravenes the provisions of the Banks and Other Financial Institutions Act and any rules and regulations made thereunder, the monetary policy guidelines and the provisions of this Act;
[Cap. B3.]
 - (c) makes incomplete or incorrect statements to the Corporation;
 - (d) is in default with the payment of its annual premium or special contribution as provided in section 21 of this Act;
 - (e) continues to hold itself out as an insured bank after its insurance with the Corporation has been terminated for default;
 - (f) habitually fails to render returns to the Corporation or does not submit upon request such other information for the efficient performance of the functions of the Corporation;
 - (g) makes incorrect statements to the Corporation as regards customers deposits it has insured.
 - (h) fails to make adequate provisions for bad and doubtful debts up to the amount recommended by the Corporation or pays dividends in defiance of this provision; or
 - (i) fails to write off bad debts as may be recommended by the Corporation.

- (3) Where the insured bank fails within a reasonable time to make amendments, the Board shall -
 - (a) give to the bank not less than thirty days written notice of its intention to terminate the status of the bank as an insured bank; and
 - (b) fix a time and place of hearing before a person designated by the Board to conduct the hearing at which evidence may be produced, and upon such evidence the Board shall make its findings which shall be final.
- (4) Where the bank is not duly represented at the hearing by an authorised representative, it shall be deemed to have consented to the termination of its status as an insured bank and the Corporation shall inform the Central Bank of Nigeria and the Minister.
- (5) The Corporation shall cause a notice of such termination to be published in the national newspapers.
- (6) Where the participation of a bank in the Corporation is terminated, the bank shall immediately cause a notice of such termination to be published in the national newspapers, to the creditors to whom liabilities are owed and in furtherance thereto, bring the consequences of such termination to their notice.
- (7) After the termination of the status of an insured bank under subsection (3) of this section, the insured deposit of each depositor in the bank on the date of its termination, less all subsequent withdrawals from the deposits of such depositor, shall continue to be covered for another period of two years, and thereafter such depositor shall cease to be covered where the net assets are sufficient to meet the insured deposit.
- (8) The Corporation shall not insure any additions to any deposits specified in subsection (7) of this section or any new deposits in the bank made after the date of termination of its status as an insured bank and shall not advertise or hold itself out as having insured deposits.
- (9) Where an insured bank is closed on account of its inability to meet the demands of its depositors, the Corporation shall have the powers and rights to recover any debts owed to the closed bank or any asset (including properties belonging to the closed bank) but which are in possession of any other person or institution.
- (10) Where the insured status of a bank is terminated by reason of its inability to meet the demand of its depositors, the Minister shall appoint the Corporation as the receiver for the bank.

23. *Conditions for participation after removal*

- (1) A bank whose status as an insured bank is terminated in accordance, with section 22 of this Act may re-apply to participate in the Corporation after the terminated bank has satisfied all the conditions required of it by the Board particularly after the Board has given consideration to the following, that is -
 - (a) the financial position and its general operational practice since the termination order became effective;
 - (b) that the grounds for which the bank's participation in the Corporation was terminated have been satisfied; and

- (c) the future earning prospects and general character of its management are satisfactory.
- (2) Pursuant to subsection (1) (b) of section 5 of this Act, the Corporation shall at the request of an insured bank and under such conditions as may be specified by the Corporation assist the bank if it -
 - (a) has difficulty to meet its obligations to its depositors and other creditors; or
 - (b) persistently suffers liquidity deficiency; or
 - (c) has accumulated losses which have nearly or completely eroded the shareholders fund.
- (3) The Corporation may take one or a combination of actions or any of the following to assist a failing bank, that is -
 - (a) grant loans on such terms as may be agreed upon by the Corporation and failing bank;
 - (b) give guarantee for a loan taken by the insured bank;
 - (c) accept an accommodation bill with interest for a period not exceeding 90 days maturity exclusive of days of grace and subject to renewals of not more than four times;
 - (d) subject to the approval of the Minister on the recommendation of the Central Bank of Nigeria -
 - (i) take over the management of the bank until its financial position has substantially improved; or
 - (ii) direct specific changes to be made in the management of the bank within such time as the Corporation may specify; or
 - (iii) arrange a merger with another bank or contract to have the deposit liabilities assumed by another insured bank; in which case, the receiving bank shall assume all the recorded deposit liabilities of the failing bank.
- (4) The receiving bank shall receive those assets of the failing bank that are acceptable and an amount equal to the difference between the assumed deposit liabilities and acceptable assets shall be advanced to the receiving bank by the Corporation.
- (5) The Corporation shall receive the unacceptable assets from the failing bank and regard such assets as collateral of the advance to the receiving bank or purchase the unacceptable assets from the failing bank.

24. *Closure of failed bank*

For the purpose of this Act, an insured bank shall with the approval of the Minister be deemed to have been closed on account of inability to meet the demands of its depositors in any case in which it has been closed for the purpose of liquidation, without adequate provision being made for payment of its depositors.

25. *Action following a failure*

- (1) It shall be the duty of the Corporation to cause notice to be given, by advertisement in such national newspapers requiring all depositors with the bank facing liquidation

- to forward their claims to the Corporation.
- (2) The receiver appointed for the purpose of this section shall have power -
 - (a) to realise the assets of the failed bank;
 - (b) to enforce the individual liability of the shareholders and directors thereof; or
 - (c) to wind up the affairs of such failed bank as herein otherwise provided.
 - (3) The receiver shall pay to the Corporation such portion of the amount realised from such liquidation as it shall be entitled to receive on account of its subrogation to the claims of depositors and it shall pay to depositors and other creditors the net amount available for distribution to them.
 - (4) The receiver so appointed may pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to subsection (1) of this section and no liability shall attach to the Corporation itself or such other receiver by reason of any such payment, for failure to pay dividend to a claimant whose claim is not proved at the time of any such payment.

26. *Maximum claim*

A depositor shall receive from the Corporation as provided under subsection (1) (c) of section 5 of this Act a maximum amount of ₹50,000 of assessable deposit of an insured bank in the event of a failure.

27. *Payment of insurable deposit*

- (1) Where an insured bank fails on account of inability to meet the demands of its depositors, payment of the insured deposit in such bank shall be made by the Corporation as soon as possible either -
 - (a) by cash; or
 - (b) by making available to each depositor a transferred deposit in a new bank in the same area, or in another insured bank in an amount equal to the insured deposit of such depositors:
provided that -
 - (i) where the Corporation is liable to make payment in pursuance of this section it shall, at its discretion, require proof of claim from all depositors with the insured bank; and
 - (ii) where the Corporation is not satisfied as to the validity of a claim for an insured deposit, it may require the final determination by a court of competent jurisdiction before paying such claim.
- (2) The Corporation upon the payment of any depositor as provided in subsection (1) of this section shall be subrogated to all rights of the depositor against the failed bank to the extent of such payment; and such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such bank and recoveries on account of shareholders' liability as would have been payable to the depositor's claim for any uninsured portion of his deposit.
- (3) Not later than three months after the failure of an insured bank, the Corporation, if it finds that it is advisable in the interest of the depositors or the public, shall appoint

another insured bank to assume the insured deposits of the failed bank.

28. *Corporation as a receiver and power to appoint agents*

- (1) Subject to the approval of the Minister, the Corporation shall act as a receiver of a failed insured bank and appoint an agent or agents to assist it in the performance of these duties, and all fees, compensation and expenses of liquidation and administration thereof shall be fixed and paid by the Corporation from the realised assets of the failed bank.
- (2) Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of a transferred deposit to any person by the new bank or by an insured bank in which a transferred deposit has been made available shall discharge the Corporation and such new bank or other insured bank, to the same extent that payment to such person by the failed bank would have discharged it from liability for the insured bank.
- (3) The Corporation may withhold payment of such portion of the insured deposit of any depositor in a failed bank as may be required to provide for the payment of any liability of such depositor as a shareholder of the failed bank, or of any liability of such depositor to the failed bank or its receiver, which is not offset against a claim due from such bank, pending the determination and payment of such liability by such depositor or any other person liable thereof.
- (4) If, after the Corporation shall have given at least three months notice to the depositor by mailing a copy thereof to his last known address appearing on the records of the failed bank, any depositor in the failed bank who -
 - (a) fails to claim his insured deposit from the Corporation within eighteen months after the appointment of the receiver for the failed bank; or
 - (b) fails within such period to claim or arrange to continue the transferred deposit with the new bank or with the liability thereof, all the rights of the depositor against the failed bank, its shareholders or the receivership estate to which the Corporation may have become subrogated, shall thereupon revert to the Corporation.
- (5) The amount of any transferred deposits not claimed within the period stated in subsection 4 (b) of this section shall be refunded to the Corporation.

29. *Obligation of the Board of a failing bank*

- (1) The Board of a failed bank shall be obliged to offer the assets of the bank for sale to the Corporation or as security for loans from the Corporation.
- (2) The proceeds of every such sale or loan shall be expended for the same purpose and in the manner as other funds realised from the liquidation of the assets of the bank.

30. *Advertisement*

An insured bank may use the Corporation for purposes of advertisement without prior approval from the Corporation.

31. *Payment of dividends by insured banks while in default of assessment*

Without prejudice to the provisions of Section 17 of the Banks and Other Financial Institutions Act, no insured bank shall pay any dividend on its capital stock while it remains in default in the payment of any assessment due to the Corporation, and any director or officer of any insured bank who participates in the declaration or payment of any such dividend shall be guilty of an offence under this Act and liable on conviction to a fine of not less than ₦2,000

[Cap. B. 3.]

32. *Fidelity insurance*

Any licensed bank or such other financial institution which insures its deposits with the Corporation shall be required to provide fidelity bond coverage.

33. *Obligations, in respect of unauthorised disclosure*

- (1) The members of Board and staff of an insured bank shall keep strictly confidential and make no unauthorised disclosure or use of any information which they may either directly or indirectly receive in such capacity of the activities of the insured bank and the result thereof of the Corporation and of the circumstance of the participating banks and their customers, even after they cease to be members or staff of that bank.
- (2) The obligation specified in subsection (1) of this section shall also be imposed upon employees of an other persons engaged by the Corporation.
- (3) The provisions of subsection (1) of this section shall not apply to communications made to the Central Bank of Nigeria, the Bankers Committee or the Federal Ministry of Finance and Economic Development in connection with the purposes of the Corporation.
- (4) The provisions of subsection (1) of this section shall not apply to communications in connection with the admission or exclusion of a banking institution.

34. *Mergers, Consolidation and conversion by the Corporation*

Subject to the approval of the Minister, the Corporation shall have power to direct that -

- (a) a failing bank insured with the Corporation pursuant to this Act shall merge or consolidate with any other insured bank or financial institution subject to the provisions of subsection (5) of section 23 of this Act;
- (b) any insured bank or financial institution merged or consolidated with a failing bank pursuant to paragraph (a) of this section shall pay any deposit made to the failing bank or settle any other financial liabilities of the failing bank;
- (c) any asset (including land) of the failing bank shall be transferred or be vested in the insured bank or financial institution concerned with the merger or consolidation.

35. *Exemption from Insurance Act*

The Corporation shall be exempted from the provisions of the Insurance Act.

[Cap. 117]

36. *Power to borrow*

- (1) The Corporation shall have power to borrow from the Central Bank of Nigeria such moneys as its may deem fit for the discharge of its functions under this Act.
- (2) The Central Bank of Nigeria may guarantee in such manner and upon such terms as it may deem fit the redemption and the repayment of any interest on any debenture stocks raised by the Corporation.

37. *Relations with the Central Bank of Nigeria*

- (1) The Corporation shall have access to the report of examination by the Bank Examiners of the Banking Supervision Department of the Central Bank of Nigeria.
- (2) The Corporation shall make a report of its examination and any other information essential to safe and sound banking practice available to the Central Bank of Nigeria.
- (3) The Banking Supervision Department of the Central Bank of Nigeria shall forward to the Corporation its comments on First and Second Schedules returns of insured banks as well as their liquidity positions.
- (4) The Banking Supervision Department of Central Bank of Nigeria shall be required to inform the Corporation on all the contraventions committed by any licensed bank insured under the provisions of this Act.
- (5) The Corporation shall co-operate with the Central Bank of Nigeria on matters affecting any of the insured banks.

38. *External auditors of all insured banks and reporting requirement*

- (1) No duty to which an auditor of an insured bank or a person appointed under Subsection (1) of section 29 of the Banks and Other Financial Institutions Act is subject, shall be contravened by reason of his communicating in good faith to the Corporation whether or not in response to a request made by it, any information or opinion on a matter to which this section applies and which is relevant to safe and sound banking practice.

[Cap. B. 3]

- (2) An auditor of an insured bank shall recognise the Corporation's responsibility for the protection of the interest of depositors and shall bring to the notice of the Corporation -
 - (a) any extreme situation such as evidence of imminent financial collapse;
 - (b) evidence of an occurrence which has led or is likely to lead to a material diminishing of the insured bank's net asset;
 - (c) evidence that there has been a significant weakness in the accounting and

- (d) other records or the internal control systems of the insured bank;
 - (e) evidence that the management of the insured bank has reported financial information to the Corporation which is misleading in a material particular;
 - (f) where he believes that a fraud or other misappropriation has been committed by the directors or the management of the insured bank or has evidence of the intention of directors or senior management to commit such fraud or misappropriation; or
 - (g) where there has been an occurrence which causes the auditor to no longer have confidence in the competence of the directors or the senior management to conduct the business of the insured bank in a prudent or safe and sound manner so as to protect the interest of the depositors such as acting in an irresponsible or reckless manner in respect of the affairs of the insured bank.
- (3) Any auditor of an insured bank who acts in contravention of or fails deliberately or negligently to comply with any of the provisions of subsection (2) of this section shall be guilty of an offence and liable on conviction to a fine of not less than ₦50,000.

39. *Returns on frauds and forgeries*

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

40. *Notification to the Corporation of dismissed, etc, staff and employment of dismissed staff*

- (1) An insured bank shall notify the Corporation of any staff dismissed, terminated or advised to retire on the ground of fraud.
- (2) Persons affected under subsection (1) of this section shall not be employed in an insured bank without the insured bank first notifying the Corporation.
- (a.) Any insured bank which acts in contravention of or fails to comply with any of the provisions of subsections (1) and (2) of this section shall be guilty of an offence under this Act and liable on conviction to a fine of not less than ₦50,000.00.

41. *Power of the Corporation to require information*

- (1) Every insured bank shall submit to the Corporation such returns and information as may be required from time to time within the stipulated period
- (2) Any insured bank which fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence under this Act and shall be liable on conviction to a fine of ₦500.00 for each day during which the offence continues
- (3) In addition to the powers conferred on it under this Act, the Corporation may require persons having access thereto, at all reasonable times to supply to it information, in such form as the Corporation may from time to time direct, relating to, or touching on or concerning matters affecting the interest of depositors of insured banks.

- (4) Where any person lawfully required to supply information necessary to achieve the objective and purpose of the Corporation -
- (a) supplies any information which he knows to be false or supplies it recklessly as to its truth or falsity; or
 - (b) without reasonable excuse (the proof of reasonableness to lie on him) fails to comply with any requirement of the Corporation,
- the supply or failure to supply, as the case may be, as therein provided, shall be an offence under this section punishable upon conviction by a fine of not less than ₦2,000 or not more than ₦5,000 for every false report and by a fine of not less than ₦500 or not more than ₦1,000 for every day during which the failure to comply continues.

42. *Accounts and audit*

- (1) The Managing Director shall submit to the Board for approval not later than 30th September of each year an estimate of its expenditure and income during the next succeeding year
- (2) The Corporation shall keep proper accounts in respect of each financial year, and proper records in relation to those accounts and shall cause the accounts to be audited within 6 months after the end of the financial year.
- (3) For the purpose of subsection (1) of this section the financial year of the Corporation shall be from 1st January to 31st December of every year or such other period as may be determined by the Board.
- (4) The accounts of the Corporation shall be audited by auditors appointed from time to time on such terms as may be determined by the Board and in accordance with the guidelines supplied by the Auditor-General of the Federation.

43. *Annual report*

It shall be the duty of the Management of the Corporation to prepare and submit to the Board, not later than three months after the end of each financial year, a report which shall be in such form as the Board may direct and shall relate to the activities of the Corporation during the immediately preceding financial year and thereafter a copy each shall be submitted to the Governor of the Central Bank of Nigeria and the Minister.

44. *Regulations*

Any power to make regulations, rules or orders conferred by this Act shall include -

- (a) power to make provisions for such incidental and supplementary matters as the authority making the instrument considers expedient for the purposes of the instrument; and
- (b) power to make different provisions for different circumstances.

45. Liquidation

- (1) The Corporation shall not be placed in liquidation except pursuant to the provisions of a law or enactment in that behalf and then in such manner as that law or enactment may specify.

46. Interpretation

- (1) In this Act, unless the context otherwise requires -
“**bank**” means any person who carries on the business of banking which includes the acceptance of deposits;
“**Board**” means the Board of Directors of the Corporation;
“**competent court**” means a High Court of the State including the High Court of the Federal Capital Territory, Abuja and the Federal High Court;
“**Corporation**” means the Nigeria Deposit Insurance Corporation established pursuant to section 1 of this Act;
“**deposit**” means monies lodged by the general public with any persons for safe-keeping or for the purpose of earning interest or dividend whether or not such monies are repayable upon demand, upon a given period of notice or upon a fixed date;
“**financial institutions**” means any person in Nigeria who transacts banking business but who is not a licensed bank;
“**insured bank**” means a licensed bank and other deposit taking non-banking financial institution, the deposits of which are insured in accordance with the provisions of this Act;
“**Minister**” means the Minister charged with responsibility for matters relating to finance;
“**receiver**” means the Nigeria Deposit Insurance Corporation or such other person appointed by the Corporation to act as a receiver;
“**State**” means any of the States of the Federation.

47. Short Title

This Act may be cited as the Nigeria Deposit Insurance Corporation Act.

SCHEDULE

Section 2(4)

Proceedings of the Board

1. The Board may make standing orders regulating the proceedings of the Board or of any committee thereof; and shall meet not less than once in each of any six months in every year.

2. The quorum of the Board shall be three, which shall include the representative of the Central Bank of Nigeria and the Ministry of Finance and Economic Development.
3.
 - (1) Subject to the provisions of any applicable standing orders, the Board shall meet whenever summoned by the Chairman; and if the Chairman is required so to do by notice given to him by not less than three other members, shall summon a meeting of the Board to be held within twenty-one days from the date on which the notice is given.
 - (2) At any meeting of the Board, the Chairman shall preside or in his absence, the members present at the meeting shall appoint one of their members to preside at that meeting.
 - (3) Where the Board wishes to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit; but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
 - (4) Notwithstanding any thing to the contrary, the first meeting of the Board shall be summoned by the President, Commander-in-Chief of the Armed Forces who may give such directives as to the procedure to be followed at that meeting as he may deem fit.
4.
 - (1) The Board may appoint one or more committees to carry out on behalf of the Board, such of its functions as the Board may determine.
 - (2) A Committee appointed under this paragraph shall consist of the number of persons determined by the Board and not more than one-third of those persons may be persons who are not members of the Board; and a person other than a member of the Board shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.
 - (3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

5.
 - (1) The fixing of the seal of the Corporation shall be authenticated by the signature of the Chairman and of some other member authorised generally or specially by the Board to act for that purpose.
 - (2) Any contract or instrument which if made or executed by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Board by any person generally or specially authorised to act for that purpose by the Board.
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CHAPTER N 102

NIGERIA DEPOSIT INSURANCE CORPORATION ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
