

Extraordinary



National Assembly Journal

No. 18

Abuja - 14th November, 2022

Vol. 19

CONTENTS

INDEX TO LEGISLATIVE INSTRUMENTS

<i>Bill No.</i>	<i>Long Title</i>	<i>Page</i>
SB. 1055	A Bill for an Act to Repeal the Nigeria Deposit Insurance Corporation Act No. 16 of 2006 and Re-enact the Nigeria Deposit Insurance Corporation and for Related Matters, 2022 ...	C 1197 - 1271

Printed and Published by the National Assembly Press, Abuja, Nigeria

NASSP 18/1411/2022/900

Subscribers who wish to obtain the Journal after 1st January should apply to the Clerk, National Assembly, Abuja for amended Subscriptions.

NIGERIA DEPOSIT INSURANCE CORPORATION BILL, 2022

ARRANGEMENT OF CLAUSES

PART I - ESTABLISHMENT AND FUNCTIONS OF THE CORPORATION

1. Establishment of the Nigeria Deposit Insurance Corporation
2. Public Policy Objectives
3. Functions of the Corporation
4. Powers of the Corporation
5. Prohibition against proliferation of Deposit Insurance Schemes
6. Offices of the Corporation

PART II - ADMINISTRATION

7. Composition of the Board
8. Tenure and remuneration of part-time members of the Board
9. Disqualification of Members of the Board
10. Composition of Interim Management Committee
11. Filling of Vacancy in the Board
12. Conflicts of Interest
13. Responsibilities and Powers of the Board
14. Appointment of the Managing Director and Executive Directors,
etc
15. Appointment of Secretary and other staff, etc.

PART III - CAPITAL AND FUNDS OF THE CORPORATION

16. Capital
17. Deposit Insurance Funds
18. Operating Fund of the Corporation
19. General Reserve Fund
20. Bank Account and Investment of Funds of the Corporation.

PART IV - DEPOSIT INSURANCE SCHEME

21. Participating Financial Institutions
22. Insurable deposit
23. Assessment of insured institutions and special contribution

24. Prohibition of set-off
25. Maximum claim
26. Right to set-off obligor's deposit.
27. Application of Global Standing Instruction Scheme and statutory right to funds of obligors in insured institutions
28. Payment of insured deposit
29. Payment of Insured Deposit Pending Action in Court
30. Power to withhold deposits on discharge of the Corporation
31. Interim Dividend Payment

PART V -TERMINATION OF INSURED STATUS

32. Grievous Violation of obligations
33. Conditions for termination of insured status
34. Procedure upon termination of insured status
35. Conditions for participation after termination of insured status

PART VI - SUPERVISION OF INSURED INSTITUTIONS

36. Power of the Corporation to require information
37. Investigation in Respect of Related Entities of Insured Institutions.
38. Appointment, Powers and Functions of Examiners
39. Duties of insured institutions in relation to examination
40. Special examination
41. Report of examination
42. Confidentiality of Examination Report
43. Recommendation to Central Bank of Nigeria on Violations

PART VII- DUTIES OF INSURED INSTITUTIONS

44. Fidelity Insurance
45. Obligations in respect of unauthorized disclosure.
46. Returns on frauds and forgeries
47. Notification to the Corporation of Dismissed Staff and Employment of Dismissed Staff
48. Foreclosure of mortgages

PART VIII - FAILURE RESOLUTION OF INSURED INSTITUTIONS

- 49. Financial Assistance
- 50. Technical assistance
- 51. Mergers and Acquisitions
- 52. Purchase and Assumption
- 53. Acquisition of Insured Institution whose capital is lost
- 54. Bridge Banks

PART IX - LIQUIDATION OF INSURED INSTITUTIONS

- 55. Appointment as Liquidator
- 56. Inapplicability of Chapter 21 of the Companies and Allied Matters Act and Winding Up Rules, Etc
- 57. Action Following a Failure
- 58. Power to appoint agents
- 59. Right of disposal of collateral
- 60. Closure of Failed Insured Institutions
- 61. Limitation Law Not Applicable
- 62. Power of the Corporation as Liquidator
- 63. Power to take interim custody
- 64. Freezing powers
- 65. Special powers in Bankruptcy
- 66. Special Power to Track and Trace
- 67. Special Power to Obtain Information from Insured Institution
- 68. Special Powers in Winding Up
- 69. Protection of the Corporation in Respect of Judicial Proceedings
- 70. Prohibition of Assets Stripping
- 71. Pre-Liquidation Contracts
- 72. Priority of Claims
- 73. Stay of Pending Suits, etc.
- 74. Termination of Liquidation Activities
- 75. Inconsistency with Other Laws

76. Liability of Directors, Shareholders, Officers etc.

PART X - CRIMINAL PROSECUTION AND OFFENCES

77. Offences and Penalties

78. Civil Damages

79. Power to Compound Offences

80. Power to Investigate

81. Right to appear in Court

PART XI - ANNUAL ACCOUNTS

82. Accounts and Audit

83. Annual Report

PART XII - GENERAL

84. Liquidation Expenses

85. Advertisement

86. Exemption from Taxation

87. Exemption from Insurance Act

88. Power to Borrow

89. Relationship with the Central Bank of Nigeria

90. External Auditors of all Insured Institution and Reporting Requirements

91. Indemnity of the Corporation, etc.

92. Pre-action Notice

93. Service of Process

94. Designation of Special Judges

95. Institution of Action at the Special Tribunal established by BOFIA

96. Regulations

97. Liquidation of the Corporation

98. Repeal of the Nigeria Deposit Insurance Act No. 16 of 2006

99. Interpretation

100. Citation

A BILL

FOR

AN ACT TO REPEAL THE NIGERIA DEPOSIT INSURANCE CORPORATION ACT
NO. 16 OF 2006 AND RE-ENACT THE NIGERIA DEPOSIT INSURANCE
CORPORATION AND FOR RELATED MATTERS, 2022

Sponsored by Senator Uba Sani

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria:

1 PART I - ESTABLISHMENT AND FUNCTIONS OF THE CORPORATION

2 1.-(1) There is established the Nigeria Deposit Insurance
3 Corporation (hereinafter in this Bill referred to as "the Corporation").

Establishment
of the Nigeria
Deposit Insurance
Corporation

4 (2) The Corporation:

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

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

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

11 (3) The Corporation shall be independent in the discharge of its
12 functions.

13 (4) Further to subsection (3) of this section, the Corporation shall
14 develop, adopt and, as appropriate from time to time, amend, revoke or
15 supplement appropriate regulations, codes, guidelines and procedures to
16 regulate its operations in furtherance of the discharge of its functions.

17 (5) The regulations, codes, guidelines and procedures referred to in
18 subsection (4) of this section shall, without limitation to the generality of
19 subsection (4) of this section, govern the:

	1	(a) conduct of the business and operations of the Corporation in a
	2	manner that-
	3	(i) fosters accountability and good corporate governance;
	4	(ii) ensures transparency and consistency with the highest ethical
	5	standards; and
	6	(iii) ensures the maintenance of best practice;
	7	(b) expenditure and disbursement of the Corporation in accordance
	8	with the provisions of this Bill;
	9	(c) governance code for the Corporation;
	10	(d) code of conduct of members of the Board and staff of the
	11	Corporation; and
	12	(e) any other matter relevant to the operations of the Corporation as
	13	may be directed by the Board.
Public Policy Objectives	14	2. The Corporation shall have the following Public Policy Objectives:
	15	(a) protecting depositors by providing an orderly means of
	16	compensation in the event of failure of their insured institutions or the inability
	17	of such insured institutions to make payment to depositors;
	18	Provided that in the latter case such payment shall only be made with the
	19	concurrence of the Central Bank of Nigeria;
	20	(b) contributing to financial system stability through effective
	21	surveillance mechanisms in its role as a key participant in the financial system
	22	safety-net arrangement; and
	23	(c) enhancing public confidence and financial system stability by:
	24	(i) providing orderly exit mechanisms for failed insured institutions;
	25	and
	26	(ii) with the concurrence of the Central Bank of Nigeria, providing a
	27	framework for the resolution of failing insured institutions.
Functions of the Corporation	28	3. The functions of the Corporation are:
	29	(a) guaranteeing, pursuant to the provisions of this Bill, deposit
	30	liabilities of financial institutions licensed or authorized to accept deposits

1 from the public in accordance with the provisions of the Banks and Other
2 Financial Institutions Act, 2020 (hereinafter referred to as "insured
3 institutions");

4 (b) with the concurrence of the Central Bank of Nigeria,
5 supervising insured institutions to mitigate the risk of failure;

6 (c) with the concurrence of the Central Bank of Nigeria, resolution
7 of failing insured institutions; and

8 (d) prompt, efficient and orderly liquidation of failed insured
9 institutions.

10 4. In addition to such other powers as stated in this Bill, the Powers of the
11 Corporation shall have power to- Corporation

12 (a) insure deposit liabilities and guarantee payment to depositors of
13 insured institutions within the scope of section 22 of this Bill up to the
14 maximum amount provided in, or pursuant to, section 25 of this Bill in the
15 event of revocation of the operating license of an insured institution or in the
16 case of actual suspension of payments by an insured institution, Provided
17 that in the case of actual suspension of payments by an insured institution,
18 payment of insured deposit shall only be made with the concurrence of the
19 Central Bank of Nigeria;

20 (b) give assistance to insured institutions in the interest of
21 depositors in case of imminent or actual financial or technical difficulties,
22 particularly where suspension of payments is threatened, to avoid damage to
23 public confidence in the banking system;

24 (c) assist the Central Bank of Nigeria in the formulation and
25 implementation of banking policies to ensure sound banking practice and
26 fair competition among banks in the country; and

27 (d) undertake such other measures or perform such other activities
28 which in the opinion of the Board are necessary, incidental, or conducive to
29 the attainment of the public policy objectives of this Bill and the discharge of
30 the Corporation's functions.

30 (ii) the Director Other Financial Institutions Supervision Department;

1 (e) one representative of the Federal Ministry of Finance who shall
2 be the Director Home Finance in that Ministry; and

3 (f) six other members, one from each of the geo-political zones in
4 the Country.

5 (3) The members of the Board must not be persons with significant
6 interest in any insured institution in Nigeria.

7 (4) The President shall appoint the Chairman and other members of
8 the Board and the appointment of the members of the Board referred to in
9 paragraph (a), (b), (c) and (f) of subsection (2) of this section shall be subject
10 to the confirmation of the Senate.

11 (5) The members of the Board other than the Managing Director
12 and the two Executive Directors shall be part-time members.

13 (6) The members of the Board shall be citizens of Nigeria and:

14 (a) in the case of the Managing Director and Executive Directors,
15 shall be persons possessing not less than fifteen years' cognate experience in
16 banking and finance, economics, law, business administration, accounting
17 or other relevant discipline at a senior management level; and

18 (b) in the case of other members of the Board other than the
19 representatives of the Central Bank of Nigeria and the Federal Ministry of
20 Finance, shall be persons with relevant cognate experience.

21 (7) All members of the Board shall within one month of
22 appointment to the Board declare in writing to the Board their direct and
23 indirect shareholdings and interests in any insured institution including
24 those of their family members or close associates known to them.

25 (8) The supplementary provisions contained in the Schedule to this
26 Bill shall have effect with respect to matters therein mentioned.

27 **8.-(1)** The part-time members of the Board shall hold office for a
28 period of four years, renewable for another period of four years only.

29 (2) The part-time members of the Board shall be paid such
30 reasonable remuneration and allowances as approved by the Minister on the

Tenure and
remuneration of
part-time members
of the Board

	1	recommendation of the Board.
Disqualification of Members of the Board	2	9.-(1) Notwithstanding the provisions of this Bill, a person shall cease
	3	to hold office as a member of the Board if-
	4	(a) he becomes bankrupt, suspends payment or compounds with his
	5	creditors;
	6	(b) he is convicted of a felony or any offence involving dishonesty or
	7	fraud;
	8	(c) he becomes of unsound mind, or incapable of carrying out his
	9	duties;
	10	(d) he is guilty of a serious misconduct in relation to his duties;
	11	(e) in the case of a person possessing professional qualifications, he is
	12	disqualified or suspended other than at his own request from practising his
	13	profession in any part of the world by an order of a competent authority made in
	14	that respect;
	15	(f) he resigns his appointment by a letter addressed to the President,
	16	through the Minister of Finance;
	17	(g) he is discovered to have significant interest in any insured
	18	institution in Nigeria in contravention of section 7(3) of this Bill; or
	19	(h) he is found to have failed to disclose to the Board, his interest or
	20	the interest of any family member or close associate, known to him in any
	21	insured institution at the time of his appointment.
	22	(2) No director or employee of an insured institution shall, whilst in
	23	office, be appointed a director of the Corporation.
Composition of Interim Management Committee	24	10.-(1) Whenever the tenure of the Board expires or is otherwise
	25	terminated, and pending the appointment of a new Board, the responsibilities
	26	of the Board shall be discharged by an Interim Management Committee to be
	27	constituted by the Minister.
	28	(2) The Interim Management Committee shall comprise the
	29	following members-

1 (a) the Permanent Secretary, Federal Ministry of Finance, who
2 shall be the Chairman;

3 (b) the Managing Director of the Corporation;

4 (c) the two Executive Directors of the Corporation;

5 (d) the two representatives of the Central Bank of Nigeria; and

6 (e) the representative of the Federal Ministry of Finance.

7 **11.** If a member of the Board appointed under section 7(2)(a) and
8 (f) of this Bill dies, resigns, is disqualified or removed, or otherwise vacates
9 office before the expiration of his term, the President shall in accordance
10 with section 7(4) of this Bill appoint another person from the same
11 geopolitical zone of that member to fill the vacancy so occasioned, and the
12 person so appointed shall hold office for the remainder of the term of office
13 of that member.

Filling of Vacancy
I the Board

14 **12.-(1)** Each member of the Board owes fiduciary duties to the
15 Corporation and shall ensure that his personal interest does not conflict with
16 his duties under this Bill.

Conflicts of
interest

17 (2) No member of the Board shall make a secret profit in the course
18 of discharging his duties as a member of the Board.

19 (3) Every member of the Board shall fully and promptly disclose to
20 the Board any personal, commercial, financial, or other interest which he
21 may directly or indirectly hold or be connected with, and which becomes the
22 subject of consideration by the Board, and shall be ineligible to participate in
23 any Board deliberations and voting related thereto; Provided that such an
24 interest, if so disclosed, shall not disqualify such member for the purpose of
25 constituting a quorum.

26 (4) No member of the Board shall accept any gift or advantage for
27 himself or on behalf of any person with whom he may have a family,
28 business, or financial relationship if the acceptance thereof would impair, or
29 may reasonably be viewed as likely to impair, his impartiality in the
30 performance of his duties under this Bill.

Responsibilities
and Powers of the
Board

1 (5) Any member of the Board who contravenes any of the provisions
2 of this section shall be guilty of an offence and shall be liable on conviction to a
3 fine of not less than N5,000,000 or to imprisonment for a term not less than five
4 years, or to both fine and imprisonment.

5 **13.-(1)** The Board shall be responsible for-

6 (a) the attainment of the public policy objectives of this Bill;

7 (b) the overall policy and general supervision of the affairs of the
8 Corporation toward the efficient and effective discharge of the Corporation's
9 functions; and

10 (c) such other matters as may be prescribed by any other provision of
11 this Bill.

12 (2) Without prejudice to the generality of subsection (1) of this
13 section, and in addition to such other powers vested in the Board by other
14 provisions of this Bill, the Board shall have power to-

15 (a) superintend over the affairs of the Corporation;

16 (b) act in the name of the Corporation;

17 (c) acquire and approve the acquisition of offices and other premises
18 for the use of the Corporation;

19 (d) make, alter and revoke rules, guidelines, circulars, and regulations
20 for attaining the public policy objectives and discharging the functions,
21 carrying on the operations, activities, and business of the Corporation under
22 this Bill;

23 (e) appoint officers and staff who in the opinion of the Board are
24 required for carrying out the functions of the Corporation, including the
25 examination of insured institutions;

26 (f) to the exclusion of any other authority, body or person, fix the
27 terms and conditions of service of the employees of the Corporation, including
28 remuneration, allowances and pension benefits in accordance with the Pension
29 Reform Act;

30 (g) make, alter, or revoke disciplinary rules and procedures and

1 measures for the staff, officers and other employees of the Corporation; and
2 (h) do such other things and enter into such other transactions
3 which in the opinion of the Board are reasonably incidental, supplementary
4 or conducive to the exercise of powers of the Corporation and the
5 performance of the Corporation's functions.

6 **14.-(1)** There shall be appointed for the Corporation-

7 (a) a Managing Director, who shall be the Chief Executive Officer
8 of the Corporation and shall be responsible for the day-to-day management
9 of the Corporation; and

Appointment of
the Managing
Director and
Executive Directors,
etc.

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

13 (2) A person appointed as the Managing Director or an Executive
14 Director shall not, while holding that office, hold any other office or be a
15 director in any corporation, company, or any other establishment without
16 prior approval of the Board.

17 (3) The Managing Director and Executive Directors appointed
18 under this section shall hold office for a period of five years and may be
19 eligible for reappointment for a further period of five years only.

20 (4) Subject to subsection (3) of this section, the terms and
21 conditions of service, including remuneration and allowances, of the
22 Managing Director and Executive Directors shall be as approved by the
23 Minister on the recommendation of the Board.

24 **15.-(1)** The Board shall appoint a Secretary who shall-

25 (a) be responsible to the Board through the Managing Director;

26 (b) keep the Board's records;

27 (c) conduct its correspondence; and

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

Appointment of
Secretary and
other staff, etc.

30 (2) The Secretary to the Board of the Corporation shall be a legal

1 practitioner or a member of the Institute of Chartered Secretaries and
2 Administrators of Nigeria with a minimum of 10 years' post-qualification
3 experience.

4 (3) The Board may appoint such number of officers and staff as may
5 appear expedient and necessary to the Board for the proper and efficient
6 conduct of the business and functions of the Corporation.

7 PART III - CAPITAL AND FUNDS OF THE CORPORATION

Capital

8 **16.**-(1) The authorized capital of the Corporation shall be
9 N50,000,000,000.

10 (2) On a resolution of the Board, there shall be paid up such amount as
11 shall be subscribed by and paid-up at par in a proportion of sixty percent and
12 forty percent by the Central Bank of Nigeria and the Federal Ministry of
13 Finance, respectively.

14 (3) Notwithstanding the provision of subsection (1) of this section,
15 the authorised capital of the Corporation may be increased by such amount as
16 the Board may by resolution determine from time to time.

Deposit Insurance
Funds

17 **17.**-(1) There is hereby established the following deposit insurance
18 funds for each corresponding category of insured institution:

19 (a) the Deposit Insurance Fund (DIF) for Deposit Money Banks and
20 Mobile Money Operators;

21 (b) the Non-Interest Deposit Insurance Fund (NIDIF) for non-interest
22 banks and windows;

23 (c) the Special Institutions Insurance Fund (SIIF) for Microfinance
24 Banks and Primary Mortgage Banks;

25 (d) the Non-Interest Special Institutions Insurance Fund (NISIIF) for
26 non-interest Microfinance and Primary Mortgage Banks; and

27 (e) the Payment Service Bank Insurance Fund (PSBIF) for Payment
28 Service Banks.

29 (2) Without prejudice to the provisions of subsection (1) of this
30 section, the Corporation may with the approval of the Board establish such

1 additional deposit insurance funds for such other category of insured
2 institutions as the Board may from time to time stipulate and a reference to
3 deposit insurance funds in this section of this Bill shall include deposit
4 insurance funds established in pursuance of this subsection (2).

5 (3) The deposit insurance funds established under or in pursuance
6 of this section of this Bill shall each be funded up to the minimum target fund
7 size prescribed for each category of funds pursuant to subsection (4) of this
8 section, from the respective sources prescribed in subsection (6) of this
9 section.

10 (4) The Board shall prescribe the minimum target fund size for
11 each of the deposit insurance funds established under or in pursuance of this
12 section and the timeframe within which such minimum target fund size must
13 be attained;

14 Provided that the Board shall within such periods as the Board may
15 determine review and if thought fit revise the minimum target fund size from
16 time to time.

17 (5) For the purpose of subsection (4) of this section, the Board shall
18 prescribe the target ratio for each of the deposit insurance funds by reference
19 to the total deposits of the corresponding category of insured institutions or
20 such other basis as may be determined by the Board from time to time.

21 (6) There shall be paid into each respective deposit insurance fund
22 established by or in pursuance of this section-

23 (a) all assessed premiums payable by insured institutions within
24 the corresponding category of insured institutions;

25 (b) all special contributions payable in pursuance of subsection (7)
26 of section 23 of this Bill by insured institutions within the corresponding
27 category of insured institutions;

28 (c) such portion of the income on investment of each deposit
29 insurance fund as the Board may in its exclusive discretion from time to time
30 determine is necessary to maintain such deposit insurance fund at its

1 prescribed minimum target fund size; and

2 (d) such portion of the Corporation's general reserves as the Board
3 may in its discretion from time to time determine is necessary-

4 (i) to maintain each deposit insurance fund at its minimum target fund
5 size; or

6 (ii) to meet the deposit insurance payment obligation of the
7 Corporation to depositors of any category of insured institutions when the sum
8 standing to the credit of the corresponding deposit insurance fund is
9 insufficient to meet the deposit insurance payment obligation of the
10 Corporation to such depositors.

11 (7) The deposit insurance funds established by or in pursuance of this
12 section of this Bill, shall be managed by the Corporation in trust for depositors
13 of the corresponding category of insured institutions and shall be utilized with
14 the approval of the Board to the exclusion of any other person or authority
15 exclusively for-

16 (a) meeting the deposit insurance and/or deposit guarantee payment
17 obligations of the Corporation under this Bill to depositors of the
18 corresponding category of insured institutions in accordance with this Bill,
19 including payment to an insured institution which assumes the deposit liability
20 of another insured institution;

21 (b) in pursuance of sections 4(b) and 49 of this Bill, giving assistance
22 to insured institutions of the corresponding deposit insurance fund in an
23 aggregate amount not exceeding ten percent or such other percentage of the
24 sums standing to the credit of each such deposit insurance fund as may be
25 prescribed from time to time by the Board; and

26 (c) all refunds of excess premium assessment or special contributions
27 as approved by the Board.

Operating Fund
of the Corporation

28 **18.-(1)** There is hereby established for the Corporation an Operating
29 Fund which shall consist of-

1 (a) the capital of the Corporation provided pursuant to section 16 of
2 this Bill;

3 (b) income from the investments of the Corporation other than
4 income from the investment of the deposit insurance funds established
5 under or in pursuance of section 17 of this Bill;

6 (c) such portion of income from investment of the deposit
7 insurance funds established under or in pursuance of section 17 of this Bill
8 which the Board has not appropriated to the relevant deposit insurance fund
9 in pursuance of 17(6)(c) of this Bill; and

10 (d) monies borrowed from any source with the approval of the
11 Board; and

12 (e) monies from any other source as may be approved by the Board.

13 (2) There shall be chargeable to the Operating Fund established
14 under subsection (1) of this section-

15 (a) all expenses, other than those stipulated under section 17(7) of
16 this Bill, incurred by the Corporation as approved by the Board or in
17 pursuance of such expenditure policy approved by the Board;

18 (b) monies required for the payment of funds borrowed by the
19 Corporation including interest on such borrowed funds;

20 (c) allowances and remuneration payable to members of the Board;

21 (d) remunerations and other allowances payable to the Secretary to
22 the Board and other staff of the Corporation;

23 (e) the cost of administration of the Corporation in accordance with
24 the budget approved by the Board;

25 (f) the payment for all consultancies, contracts, including
26 mobilization, fluctuations, variations, legal fees and cost on contract
27 administration as approved by the Board or in pursuance of the expenditure
28 or procurement plan approved by the Board;

29 (g) all expenses necessary to meet capital expenditure approved by
30 the Board of the Corporation;

General Reserve
Fund

1 (h) all expenses necessary to maintain any property acquired by or
2 vested in the Corporation; and

3 (i) the payment of any such other expenditure (other than those
4 stipulated under section 17 of this Bill) necessary for the discharge of the
5 Corporation's functions.

6 (3) The Operating Fund of the Corporation shall be managed in
7 accordance with the rules made by the Board.

8 **19.-(1)** Notwithstanding the provisions of any enactment, the
9 Corporation shall establish a General Reserve Fund and shall, subject to
10 subsection (2) of this section, transfer thereto at the end of each fiscal year its
11 net operating surplus for the year in order to-

12 (a) satisfy payment obligations to depositors in the event that any
13 deposit insurance fund established by or in pursuance of section 17 of this Bill
14 is insufficient for that purpose; and

15 (b) render assistance to insured institutions in accordance with the
16 provisions of this Bill.

17 (2) Subject, to the provisions of section 17(6)(d) of this Bill and
18 provided that the minimum target fund size prescribed by the Board in
19 pursuance of Section 17(4) of this Bill has been attained, where the General
20 Reserve Fund is more than ten times the authorized capital at the end of the
21 year-

22 (a) seventy-five percent of the net operating surplus shall be
23 transferred to the General Reserve Fund;

24 (b) fifty percent of the remaining twenty-five percent of the net
25 operating surplus may be applied to reduce the annual premium payable by
26 insured institutions and if not so applied, shall be transferred to the General
27 Reserve Fund, and

28 (c) the remaining fifty percent of the remaining twenty-five percent of
29 the net operating surplus shall be paid to the shareholders.

1 (3) The net operating surplus of the Corporation for each year shall
2 be determined after-

3 (a) providing for meeting the minimum target fund size for each of
4 the deposit insurance fund established by or in pursuance of section 17 of
5 this Bill;

6 (b) meeting all the current expenditure for that year; and

7 (c) making such other provisions as the Board may deem fit
8 including depreciation of assets, contribution to staff pension and
9 superannuation funds and all other reasonable contingencies.

10 **20.**-(1) The Corporation shall have power to invest money not
11 immediately required in Federal Government Securities or in such other
12 securities as the Board may from time to time determine.

Bank Account
and Investment
of Funds of the
Corporation

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

16 (3) All administrative expenses shall be defrayed out of the
17 Operating Fund established pursuant to section 18.

18 **PART IV - DEPOSIT INSURANCE SCHEME**

19 **21.**-(1) All licensed banks and such other financial institutions in
20 Nigeria licensed to engage in the business of receiving deposits shall be
21 required to insure their deposit liabilities with the Corporation.

Participating
Financial Institutions

22 (2) Any licensed bank or such other deposit-taking financial
23 institution which contravenes the provisions of subsection (1) of this section
24 shall be guilty of an offence and be liable on conviction to a fine of not less
25 than-

26 (a) N50,000,000 and a further N5,000,000 for each day the offence
27 is committed, in the case of a Deposit Money Bank; and

28 (b) N5,000,000 and a further N200,000 for each day the offence is
29 committed in the case of other deposit-taking financial institutions.

30 (3) All principal officers of such a licensed bank or other deposit-

	1	taking financial institution which contravenes subsection (1) of this section
	2	shall be guilty of an offence and be liable on conviction to three years
	3	imprisonment or a fine of not less than N5,000,000 or to both such fine and
	4	imprisonment.
Insurable deposit	5	22. All deposits of a licensed bank or any other licensed deposit-
	6	taking financial institution shall be insured with the Corporation and premium
	7	paid on such deposits accordingly, with the exception of the following-
	8	(a) insider deposits, that is, deposits of staff including directors of the
	9	insured institutions;
	10	(b) counterclaims from a person who maintains both deposit and loan
	11	account, the former serving as a collateral for the loan;
	12	(c) inter-bank placements; or
	13	(d) such other deposits as may be specified from time to time by the
	14	Board.
Assessment of insured institutions and special contribution	15	23. -(1) Every insured institution shall be obliged to pay to the
	16	Corporation an annual premium as assessed in accordance with the provisions
	17	of this section.
	18	(2) Subject to subsection (4) of this section, the assessment of
	19	premium shall be on a risk-based basis by reference to total deposit liabilities
	20	standing in its books as at 31st December of the preceding year.
	21	(3) For the purposes of subsections (1) and (2) -
	22	(a) the deposit liabilities shall be as certified by the approved auditor
	23	of the insured institution;
	24	(b) the certified deposit liabilities shall be forwarded to the
	25	Corporation on or before 31st January of every year; and
	26	(c) the annual premium shall be payable not later than 2 months from
	27	the date of the demand notice.
	28	(4) Notwithstanding the provisions of subsection (2) of this section,
	29	and subject to the approval of the Board, the Corporation shall have the power
	30	to vary the rate or basis of assessment of the premium payable to the

1 Corporation by insured institutions or to charge an insured institution or any
2 class of insured institutions premium at a rate or rates as may be determined
3 by the Board from time to time.

4 (5) The rate or basis of assessment of the premium payable to the
5 Corporation by insured institutions shall be published in the Official
6 Gazette.

7 (6) The premiums payable under subsections (1) and (2) of this
8 section shall not be chargeable to depositors in any form.

9 (7) Where the funds of the Corporation are not sufficient for giving
10 assistance to insured institutions within the meaning of section 4(b) of this
11 Bill or otherwise insufficient for implementation of the public policy
12 objectives of this Bill, every participating insured institution or any category
13 of insured institutions may be obliged without prejudice to subsections (1)
14 and (2) of this section to pay as special contribution out of its profits before
15 tax, a sum equal to its annual premium or such other sum as the Board may
16 require, not exceeding two hundred percent of its annual premium, on such
17 terms and conditions as the Board may from time to time determine.

18 (8) Any premium payable by an insured institution and which
19 remains unpaid for more than three months after a demand notice had been
20 served on such institution, shall attract interest at a rate equivalent to the
21 prevailing Monetary Policy Rate (MPR) of the Central Bank of Nigeria or
22 any other applicable rate as may be specified by the Board.

23 (9) Where in the opinion of the Board the certified total deposit
24 liabilities of an insured institution submitted in pursuance of paragraph (b)
25 of subsection (3) of this section is materially understated, the Corporation
26 shall have power to reassess such total deposit liabilities and the premium
27 payable thereon.

28 (10) A reassessment by the Corporation in pursuance of subsection
29 (9) of this section shall, except for manifest error, be final and conclusive.

30 (11) Where the amount of any premium payable by an insured

1 institution is unpaid, the unpaid amount shall be recoverable as a debt due to the
2 Corporation.

3 (12) Where an insured institution is in default of premium or special
4 contribution, the Central Bank of Nigeria, at the written request of the
5 Corporation, shall:

6 (a) in the case of a deposit money bank, debit the account of the
7 insured institution to the tune of the amount so unpaid and any accrued interest
8 thereon for the benefit of the Corporation;

9 (b) in the case of other deposit-taking financial institutions, cause the
10 relevant correspondent bank to debit the account of such institution to the tune
11 of the amount so unpaid and any interest thereon for the benefit of the
12 Corporation.

Prohibition of
set-off

13 **24.** No premium due from an insured institution to the Corporation
14 shall be reduced, adjusted, or withheld on the basis of any set-off or claim that
15 an insured institution may have against the Corporation.

Maximum claim

16 **25.-(1)** In the event of the revocation of the operating license of an
17 insured institution or actual suspension of payment to depositors of such
18 insured institution, a depositor shall receive from the Corporation, in
19 pursuance of section 4(a) and in circumstances stipulated in section 17(7)(a) of
20 this Bill, a maximum amount of-

21 (a) ₦500,000, in the case of a depositor of an insured institution other
22 than a Microfinance Bank; and

23 (b) ₦200,000, in the case of a depositor of a Microfinance Bank;

24 Provided that in the case of actual suspension of payment, the
25 Corporation shall only make payment under this section with the concurrence
26 of the Central Bank of Nigeria.

27 (2) Notwithstanding the provisions of subsection (1) of this section
28 and subject to the approval of the Board, the Corporation shall have power
29 from time to time, to vary upwards the maximum amount which a depositor
30 shall receive from the Corporation as provided under subsection (1) of this Bill

1 in respect of deposits of failed insured institutions.

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

5 (4) The payment of the insured sum as provided for under this
6 section shall be without prejudice to the liquidation dividends to be paid to
7 the depositor once the assets of the failed insured institution have been
8 realised.

9 **26.** The Corporation shall have the power to set-off a loan owed by
10 an obligor of a failed or failing insured institution against the deposit of such
11 obligor held in such failing or failed insured institution or any other failed
12 insured institution in liquidation in respect of all proven liabilities due from
13 the obligor to the insured institution.

Right to set-off
obligor's deposit

14 **27.-** (1) Without prejudice to the provisions of section 26 of this
15 Bill, the Corporation shall be entitled to exercise on behalf of a failed insured
16 institution, the rights which the failed insured institution has under the
17 Global Standing Instruction scheme operated by the Central Bank of
18 Nigeria under any enactment or regulation in force.

19 (2) For the purpose of effecting the Global Standing Instruction
20 mandate, the Corporation acting as liquidator shall have access to the Bank
21 Verification Numbers of obligors in the Industry Customer Account
22 Database, through the Nigeria Interbank Settlement System, as well as
23 connectivity to the Nigeria Central Switch for and on behalf of failed insured
24 institutions.

Application of
Global Standing
Instruction Scheme
and statutory right
to funds of obligors
in insured institutions

25 (3) Without prejudice to the provisions of subsections (1) and (2) of
26 this section, and subject to any prior encumbrances, the Corporation as
27 Liquidator of a failed insured institution shall be entitled to deposits held in
28 any bank account maintained by an obligor with any other insured
29 institution in satisfaction of any debt owed to a failed insured institution.

30 (4) For the purpose of subsection (3) of this section, without

Payment of
insured deposit

1 recourse to the obligor, any insured institution shall upon a written demand by
2 the Corporation made at any time, cause the account of the specified obligor in
3 the written demand maintained with that insured institution to be debited
4 forthwith with the amount stated in the written demand and cause the said
5 amount to be paid over to the Corporation forthwith.

6 **28.-(1)** Payments of the insured deposit in an insured institution shall
7 be made by the Corporation-

8 (a) within thirty days of the Corporation becoming the liquidator of
9 such insured institution where the licence of that institution is revoked; or

10 (b) with the concurrence of Central Bank of Nigeria, within thirty
11 days, where due to its insolvent status, the insured institution has suspended
12 payment or is otherwise unable to meet its obligation to depositors for a period
13 of ninety days.

14 (2) the payment in subsection (1) of this section shall be made either
15 by:

16 (a) cash;

17 (b) negotiable instrument; or

18 (c) making available to each depositor a transferred deposit in another
19 insured institution in an amount equal to the insured deposit of such depositor:
20 provided that where the Corporation is-

21 (i) liable to make payment in pursuance of this section, it shall, at its
22 discretion, require proof of claim from all depositors with the insured
23 institution; and

24 (ii) not satisfied as to the validity of a claim for an insured deposit, it
25 may require the final determination by a court of competent jurisdiction before
26 paying such claim.

27 (3) The Corporation upon the payment of any depositor as provided in
28 subsection (1) of this section shall be subrogated to all rights of the depositor
29 against the failed insured institution to the extent of such payment; and such
30 subrogation shall include the right on the part of the Corporation to receive the

1 same dividends from the proceeds of the assets of such failed insured
2 institution and recoveries on account of shareholder's liabilities as would
3 have been payable to the depositor for any uninsured portion of his deposit.

4 (4) The right of subrogation conferred on the Corporation under
5 subsection (3) of this section and 57(3)(a) of this Bill shall be exercisable by
6 the Corporation against a failed insured institution notwithstanding the
7 restoration of the failed insured institution's operating licence or its
8 returning to solvency.

9 (5) Not later than thirty days after the failure of an insured
10 institution, the Corporation, if it finds that it is advisable in the interest of the
11 depositors or the public, shall appoint another insured institution to assume
12 the insured deposits of the failed insured institution.

13 **29.-(1)** Where the operating licence of an insured institution is
14 revoked or where an insured institution has suspended payment or is
15 otherwise unable to meet its obligation to depositors, the insured deposit
16 shall become payable and the Corporation shall become obligated to pay
17 insured deposits to the depositors of such insured institutions in accordance
18 with the provisions of sections 25 and 28 of this Bill;

Payment of Insured
Deposit Pending
Action in Court

19 Provided that where an insured institution has suspended payment
20 or is otherwise unable to meet its obligation to depositors, payment of
21 insured deposit shall only be made with the concurrence of the Central Bank
22 of Nigeria;

23 (2) Notwithstanding the provisions of this Bill or any other
24 enactment, no restorative, prohibitive or like order shall be granted against
25 the Corporation in relation to payment of insured deposits to depositors of an
26 insured institution, and the remedy of any claimant or applicant against the
27 Corporation in any such action, suit or proceedings shall be limited to the
28 amount of actual loss suffered which shall not exceed-

29 (a) in the case of a depositor, the maximum insured deposit;

30 (b) in the case of a shareholder, the nominal value of the shares of

Power to withhold
deposits on discharge
of the Corporation

1 the shareholder in the insured institution;
2 (c) in the case of a group of shareholders, the nominal value of the
3 aggregate of the shares of the shareholders in the insured institution.

4 **30.-(1)** The Corporation shall have power to withhold, pending the
5 determination of culpability or otherwise by a tribunal or court of competent
6 jurisdiction, the payment of insured and uninsured deposit claims obtained
7 through or being used in connection with or held in furtherance of criminal
8 activities or where it is satisfied that the depositor had connived with or in any
9 way assisted officials of the failed insured institution or had been a party to or
10 had knowingly benefited from the circumstances which gave rise to the failure
11 of an insured institution.

12 (2) The Corporation may withhold payment of such portion of the
13 insured deposit of any depositor in a failed insured institution as may be
14 required to provide for the payment of any liability of such depositor to the
15 failed insured institution or its liquidator or receiver, pending the determination
16 and payment of such liability by such depositor or any other person liable
17 therefor.

18 (3) Payment of an insured deposit to any person by the Corporation
19 shall discharge the Corporation, and payment of a transferred deposit to any
20 person by an insured institution in which a transferred deposit has been made
21 available shall discharge the Corporation and such other insured institution, to
22 the same extent that payment to such person by the failed insured institution
23 would have discharged it from liability from the insured institution.

24 (4) If, after the Corporation has given at least three months' notice to
25 pay to every depositor by mailing a copy to his last known address appearing in
26 the records of the failed insured institution, or publishing a general notice in at
27 least two national dailies and two electronic media houses with national
28 coverage, notifying insured depositors of the particular failed insured
29 institution of the dates and venue for payment, any depositor of the failed
30 insured institution who-

1 (a) fails to claim his insured deposit from the Corporation within
2 six years after the notice of the Corporation has been sent to the depositor or
3 the notice of payment to the depositors is published in two national dailies
4 and electronic media houses, shall forfeit such sums to the Corporation; or

5 (b) fails within such period to claim or arrange to continue the
6 transferred deposit with the new insured institution, all the rights of the
7 depositor against the failed insured institution or its shareholders or the
8 receivership estate to which the Corporation may have become subrogated
9 shall thereupon revert to the Corporation.

10 (5) The amount of any transferred deposit not claimed within the
11 period stated in subsection (4) (b) of this section shall be refunded to the
12 Corporation.

13 (6) No court proceedings shall be commenced against the
14 Corporation in respect of the obligation of the Corporation to make any
15 payment in relation to any deposit held by any person in any failed insured
16 institution after the expiry of the period stipulated in subsection (4) of this
17 section.

18 **31.-(1)** The Corporation may after payment of insured deposits
19 make interim dividend payments from proceeds of realized assets of the
20 failed insured institution.

Interim Dividend
Payment

21 (2) The Corporation may only make advance payments of interim
22 dividend otherwise than out of proceeds of realized assets, to depositors of
23 failed insured institutions that comply with the following conditions:

24 (a) the net realizable value of the assets of the failed insured
25 institution can be reasonably estimated;

26 (b) the estimated amount of the advance payment and the interest at
27 a rate to be determined by the Corporation but in any event not more than the
28 prevailing Monetary Policy Rate can be fully reimbursed by the estimated
29 net realizable value of the assets;

30 (c) the failed insured institution has no incidents of significant

1 embezzlement or other significant fraud or other abuses whose losses are
2 difficult to determine;

3 (d) the amount of the advance payment to be made by the Corporation
4 shall not exceed 30% of the total excess uninsured deposit claims of any failed
5 insured institution

6 PART V - TERMINATION OF INSURED STATUS

Grievous Vilation
of obligations

7 **32.-(1)** Whenever it appears to the Corporation that an insured
8 institution or its directors or officers have committed a grievous violation of its
9 obligation under this Bill or have continued to conduct the business of the
10 insured institution-

11 (a) in an unsound manner;

12 (b) in a manner that intentionally or negligently permits any of the
13 officers or agents of the insured institution to violate any provisions of any law
14 or regulation to which an insured institution is subject, the Corporation may
15 serve on the Board of the insured institution a warning notice stating that where
16 the unsound practice or violation continues, the name of the insured institution
17 may be removed from the register of insured institutions.

18 (2) A copy of the warning notice issued under subsection (1) of this
19 section shall be forwarded to the Central Bank of Nigeria.

20 (3) It shall be deemed a grievous violation of obligation under this Bill
21 where an insured institution-

22 (a) persistently suffers liquidity deficiency;

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

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

26 (d) is in default of its annual premium payment or special contribution
27 as provided in section 23 of this Bill;

28 (e) habitually fails to render returns to the Corporation as required
29 under this Bill or does not submit upon request any other information for the
30 efficient performance of the function of the Corporation;

1 (f) makes incorrect statement to the Corporation as regards
2 customers' deposits it has insured;

3 (g) fails to make adequate provisions for bad and doubtful debts up
4 to the amount recommended by the Central Bank of Nigeria; or

5 (h) fails to write off bad debts as may be recommended by the
6 Central Bank of Nigeria.

7 (4) Where despite being served with a warning notice in pursuance
8 of sub-section (1) of this section, in the opinion of the Board, the unsound
9 practice continues unabated, the Corporation, with the concurrence of the
10 Central Bank of Nigeria and subject to the provisions of section 33 of this
11 Bill, may terminate the insured status of such insured institution.

12 **33.-(1)** Where the insured institution fails within a reasonable time
13 to make amends after it has been served with a warning notice pursuant to
14 section 32 of this Bill, the Board shall-

Conditions for
termination of
insured status

15 (a) give to the institution not less than thirty days' written notice of
16 its intention to terminate the insured status of the institution; and

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

20 (2) Where the insured institution is not represented or does not
21 make any representation to the Corporation pursuant to subsection (1) (b) of
22 this section, or if the Corporation does not favourably consider such
23 representation made, the Corporation with the concurrence of the Central
24 Bank of Nigeria may proceed to terminate the insured status of the
25 institution.

26 **34.-(1)** Where the participation of an insured institution in the
27 Deposit Insurance Scheme is terminated, the Corporation shall immediately
28 cause a notice of such termination to be published in the official gazette and
29 not less than three newspapers with nationwide circulation, to the depositors
30 and other creditors to whom liabilities are owed and bring the consequences

Procedure upon
termination of
insured status

1 of such termination to their notice.

2 (2) After the termination of the status of an insured institution under
3 this Bill, the insured deposits of each depositor in the institution on the date of
4 its termination, less all subsequent withdrawals from the deposits of such
5 depositor, shall continue to be covered for another period of one year, and
6 thereafter, such deposits shall cease to be covered.

7 (3) The Corporation shall not insure any addition to any deposit
8 specified in subsection (3) of this section or any new deposit in the institution
9 made after the date of termination of its status as an insured institution and the
10 institution shall not advertise for deposits or hold itself out as having its
11 deposits insured by the Corporation.

12 (4) The Central Bank of Nigeria may revoke the licence of any insured
13 institution whose insured status has been terminated by the Corporation.

Conditions for
participation after
termination of
insured status

14 **35.** An insured institution whose insured status is terminated in
15 accordance with this Bill but whose licence has not been revoked by the Central
16 Bank of Nigeria may re-apply to participate in the scheme after it has satisfied
17 all the conditions required of it by the Board particularly after the Board had
18 given consideration to the following:

19 (a) the institution's financial position and its general operational
20 practice has improved satisfactorily since the termination order became
21 effective;

22 (b) the grounds for which the institution's participation in the Deposit
23 Insurance Scheme was terminated have been remedied; and

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

26 PART VI - SUPERVISION OF INSURED INSTITUTIONS

Power of the
Corporation to
require information

27 **36.-(1)** Every insured institution shall submit to the Corporation such
28 returns and information as may be required from time to time for the proper
29 discharge of the Corporation's functions within the stipulated period.

30 (2) Any insured institution which fails to comply with the provisions

1 of subsection (1) of this section shall be guilty of an offence under this Act
2 and shall be liable on conviction to a fine of not less than N1,000,000 and
3 thereafter N250,000 for each day the offence continues, counting from the
4 day immediately after the date of failure to make such return.

5 (3) In addition to the powers conferred on it under this Act, the
6 Corporation in pursuance of the attainment of the public policy objectives or
7 the discharge of its functions, may require persons having access thereto, at
8 all reasonable times to supply to it information, in such form as the
9 Corporation may from time to time direct, relating to, or touching on or
10 concerning matters affecting the interest of depositors of insured
11 institutions.

12 (4) Where any person lawfully required to supply information
13 necessary to achieve the public policy objectives and functions of the
14 Corporation-

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

17 (b) without reasonable excuse, fails to supply any information
18 required by the Corporation, such person commits an offence and is liable on
19 conviction to a fine not exceeding N1,000,000 and in the case of
20 contravention of paragraph (b) of this subsection (4), an additional fine not
21 less than N250,000 for each day the offence continues, starting from the day
22 immediately after the date of failure to supply such information.

23 37.-(1) The Corporation under the auspices of Financial Services
24 Regulation and Coordinating Committee (FSRCC) may obtain information
25 from the relevant sector regulator regarding the activities of a regulated
26 entity under its purview relating to transactions with an insured institution.

Investigation in
respect of related
entities of Insured
Institutions

27 (2) Any holding company of any insured institution, any
28 subsidiary, or affiliate or associated company of any insured institution, or
29 any director or officer of any such holding company, subsidiary, affiliate or
30 associated company, that provides information that is false, misleading,

1 inaccurate, or incomplete, or that fails to comply with any requirement to
2 provide information under this Bill, shall be guilty of an offence and be liable
3 on conviction:

4 (a) in the case of a corporate body, to a fine of not less than
5 N100,000,000; and

6 (b) in the case of an individual, to imprisonment for a term of not less
7 than five years.

8 (3) Where an insured institution is deemed to be threatened with
9 insolvency on the basis of data submitted under subsection (1) of this section,
10 the Corporation may under the auspices of the FSRCC investigate the business
11 and the financial status of the subsidiaries, affiliates and associated companies
12 of the insured institution.

13 (4) The Corporation may require any person, depositor, customer,
14 creditor or organization which had a transaction with or related to a failing or
15 failed insured institution to provide information on such transaction to
16 determine whether or not such transaction contributed to the insolvency or
17 failure of the insured institution.

Appointment,
Powers and
Functions of
Examiners

18 **38.-(1)** The Managing Director shall, for the purpose of attaining the
19 public policy objectives or proper discharge of the functions of the
20 Corporation, have power to appoint such number of examiners who shall be
21 officers of the Corporation.

22 (2) The examiners appointed under subsection (1) of this section shall
23 have-

24 (a) power to examine periodically, and under conditions of secrecy,
25 the books and affairs of every insured institution;

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

28 (c) power to require and obtain information and explanations from the
29 officers, directors and auditors of an insured institution as they may deem
30 necessary in the performance of their duties; and

1 (d) access to any accounts, returns and information with respect to
2 any insured institution under the provisions of this Bill, which are in the
3 possession of the Central Bank of Nigeria.

4 (3) In the exercise of the powers and discharge of functions under
5 subsection (2) of this section, an examiner shall exercise reasonable care to
6 prevent unreasonable hindrance to the day-to-day activities of an insured
7 institution and confine the investigation to matters of fact and data deemed
8 necessary for the examination.

9 (4) Subject to subsection (5) of this section, the Corporation and
10 the Central Bank of Nigeria may from time to time develop a framework for
11 the purpose of streamlining the conduct and minimizing the disruptive effect
12 of examinations.

13 (5) The supervision and examination of insured institutions by the
14 Corporation pursuant to this section and sections 39 and 40 of this Bill shall
15 be subject to the concurrence of the Central Bank of Nigeria.

16 (6) An examiner shall forward a written report of his findings to the
17 Managing Director of the Corporation who shall thereupon inform the
18 Board of any circumstances in which the Corporation shall notify, and may
19 make appropriate recommendations to, the Central Bank of Nigeria
20 pursuant, and subject, to the provisions of sections 32, 33, and 43 of this Bill.

21 **39.-(1)** An insured institution shall produce to the examiner as and
22 when required, all books, accounts, documents, management information
23 systems and all information as the examiner may deem necessary or request
24 in the exercise of his functions.

Duties of insured
institutions in
relation to
examination

25 (2) Any insured institution, its director or officer that-

26 (a) wilfully refuses to produce any book, account, document or
27 such other information;

28 (b) negligently, willfully or with intent to defraud, gives
29 information which is false in any material particular; or

30 (c) refuses examiners access to their premises or any hardware or

1 software utilised in its business, commits an offence.

2 (3) A person who commits an offence under this section shall be liable
3 on conviction-

4 (a) in the case of an individual who commits an offence under
5 subsection (2)(a) of this section, to a fine of N100,000 for every day that he
6 withholds the information, document, book or account and in the case of an
7 insured institution to a fine of not more than N1,000,000 for every day that the
8 said information, document, or book of account was withheld; or

9 (b) in the case of an offence under subsection (2)(b) of this section-

10 (i) to imprisonment for a term of 3 years or a fine of not more than
11 N10,000,000, or to both such fine and imprisonment, in the case of an
12 individual; and

13 (ii) to a fine of N50,000,000 in the case of a Deposit Money Bank and
14 N10,000,000 for other deposit-taking financial institutions.

Special
examination

15 **40.**-(1) The Executive Management of the Corporation may at any
16 time appoint two or more qualified persons to conduct a special examination or
17 investigation of the books and affairs of an insured institution under conditions
18 of secrecy where the Executive Management of the Corporation is of the
19 opinion that an insured institution may-

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

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

23 (c) be contravening the provisions of this Bill.

24 (2) An examiner appointed to conduct a special examination in
25 pursuance of subsection (1) of this section shall forward a written report of his
26 findings to the Managing Director of the Corporation who shall thereupon
27 inform the Board of any circumstances in which the Corporation shall notify,
28 and may make appropriate recommendations to, the Central Bank of Nigeria
29 pursuant, and subject, to the provisions of sections 32, 33, and 43 of this Bill.

30 (3) Where an insured institution deems that it is-

1 (a) likely to become unable to meet its obligations; or
2 (b) about to suspend payments, the insured institution shall notify
3 the Corporation forthwith.

4 (4) Any insured institution which contravenes the provisions of
5 subsection (3) of this section is liable on conviction to a fine of:

6 (a) N50,000,000 in the case of a Deposit Money Bank; and

7 (b) N10,000,000, in the case of other deposit-taking financial
8 institutions;

9 (5) Any director whose responsibility it was to inform the
10 Corporation shall be personally liable to a fine of N5,000,000 in addition to
11 any other sanction that may be imposed on such director.

12 **41.**-(1) After the conclusion of any examination under the
13 provisions of this Bill, the Corporation shall-

Report of
examination

14 (a) present the written report arising therefrom together with its
15 recommendations to the board of directors of the insured institution at a
16 meeting specially convened for that purpose within such time as the
17 Corporation may direct; or

18 (b) forward a copy of such report to the Chairman and the
19 Managing Director of the insured institution concerned with instruction that
20 it be presented by the Management of that institution to their board of
21 directors at a meeting specially convened within one month of receiving the
22 report for the purpose of considering the report and implementing the
23 recommendations contained therein.

24 (2) The insured institution shall within two weeks of the
25 presentation to its board of directors convey to the Corporation the board of
26 directors' reaction to the written report and proposals for implementation of
27 the recommendations.

28 (3) Where an insured institution fails to implement the
29 recommendations contained in the written report of examination after it had
30 been warned by the Corporation, the Corporation shall notify, and may make

1 appropriate recommendations to, the Central Bank of Nigeria pursuant, and
2 subject, to the provisions of sections 32, 33 and 43 of this Bill.

3 (4) Any written examination report, including working papers,
4 appendices or any extract thereof, prepared and certified by the Corporation or
5 by the Central Bank of Nigeria, indicating that any person is indebted to a
6 failing or failed insured institution shall be prima facie proof of such
7 indebtedness.

Confidentiality
of Examination
Report

8 **42.**-(1) Every Report of Examination of an insured institution issued
9 by the Corporation shall be kept confidential, and no person or authority shall
10 have right of access or production of such Report under any law except the
11 insured institution, the Corporation or the Central Bank of Nigeria, provided
12 that:

13 (a) a superior court of record may order the production of the relevant
14 extracts of the report certified as a true copy by the Secretary to the Board of the
15 Corporation, in proceedings before that court held in chambers or under
16 conditions of secrecy and confidentiality; or

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

19 (c) where the insured institution has failed, or its licence has been
20 revoked, the report of examination can be tendered in open court.

Recommendation
to Central Bank
of Nigeria on
Violations

21 **43.** Without prejudice to the provisions of this Bill, where the
22 examination by the Corporation of any insured institution discloses, or the
23 Corporation otherwise becomes aware, that an insured institution or its
24 directors or staff have violated or are violating any provisions of any law or
25 regulation to which the insured institution is subject, or have engaged, are
26 engaging or are about to engage in unsafe and unsound practices in conducting
27 the business of the institution, the Corporation shall promptly notify the
28 Central Bank of Nigeria of such violation and may make appropriate
29 recommendations.

1 PART VII - DUTIES OF INSURED INSTITUTIONS

2 **44.** All insured institutions shall have fidelity insurance coverage Fidelity Insurance
3 up to such level as may be prescribed from time to time by the Corporation.

4 **45.-(1)** The members of Board, staff and agents of an insured Obligations in
5 institution shall keep strictly confidential and make no unauthorized respect of
6 disclosure or use of any information in relation to the activities or condition unauthorized
7 of an insured institution or in relation to its customers which they may either disclosure
8 directly or indirectly receive in such capacity, even after they cease to be
9 members or staff or agents of that insured institution.

10 (2) The obligation specified in subsection (1) of this section is also
11 hereby imposed upon Members of the Board and employees of, and agents
12 or other persons engaged by, the Corporation.

13 (3) The provision of subsection (1) of this section shall not apply to
14 communications made to the Corporation, the Central Bank of Nigeria,
15 external auditors of the insured institution, the Bankers' Committee, or the
16 Federal Ministry of Finance in connection with the functions of the
17 Corporation.

18 (4) The provisions of subsection (1) of this section shall not apply
19 to communications made to the Corporation in connection with the
20 admission or exclusion of an insured institution from a deposit insurance
21 fund established by or in pursuance of the provisions of this Bill.

22 (5) Any person who contravenes the provisions of subsection (1) of
23 this section shall be guilty of an offence and on conviction be liable to a fine
24 of N5,000,000 or to imprisonment for a term not exceeding three years or to
25 both such fine and imprisonment.

26 **46.** An insured institution shall render to the Corporation, monthly Returns on frauds
27 returns of frauds, forgeries or outright theft occurring during such month and forgeries
28 and shall include a detailed report of such events.

29 **47.-(1)** An insured institution shall notify the Corporation of any Notification to the
30 staff dismissed, terminated or advised to retire or resign on the ground of Corporation of
Dismissed Staff
and Employment
of Dismissed Staff

1 fraud, forgery or financial malpractice.

2 (2) The persons affected under subsection (1) of this section shall not
3 be employed in an insured institution.

4 (3) Any insured institution which acts in contravention of this section
5 shall be guilty of an offence and be liable upon conviction to a fine of not less
6 than N5,000,000 and an additional N100,000 for each day during which the
7 contravention continues.

8 (4) Where an insured institution contravenes this section with the
9 knowledge or connivance of any director, manager, secretary or any other
10 officer of the insured institution, such officer shall be liable upon conviction to
11 a fine of not less than N2,000,000.

12 (5) Any contract of employment or similar agreement entered into in
13 contravention of subsection (2) of this section shall be void and the insured
14 institution shall forthwith dispense with the service of such person.

Foreclosure of
mortgages

15 **48.** Notwithstanding the provisions of any law or contract or deed to
16 the contrary where an obligor fails, neglects or refuses to repay a debt owed to
17 a failing or failed insured institution that is secured by a legal or equitable
18 mortgage, the Corporation shall have power to take possession of, manage,
19 foreclose, sell, transfer, assign or otherwise dispose of the property, in full or
20 partial satisfaction of the debt owed to the failing or failed insured institution
21 subject to the right or interest of other secured creditors.

22 **PART VIII - FAILURE RESOLUTION OF INSURED INSTITUTIONS**

Financial
Assistance

23 **49.**-(1) Pursuant to Section 4(b) of this Bill, the Corporation shall, at
24 the request of an insured institution or the Central Bank of Nigeria, under such
25 conditions as may be specified by the Corporation, and upon notice to the
26 Central Bank of Nigeria in the case of a request by an insured institution, assist
27 the insured institution if the Corporation determines that-

28 (a) the insured institution has difficulty meeting its obligations to its
29 depositors and other creditors;

30 (b) the insured institution persistently suffers liquidity deficiency;

1 (c) the insured institution has accumulated losses which have
2 nearly or completely eroded the shareholders' fund; or

3 (d) such assistance is required to prevent the insured institution
4 from failing.

5 (2) The Corporation may take one or a combination of any of the
6 following actions to provide liquidity support to assist an insured
7 institution-

8 (a) accept an accommodation bill with interest for a period not
9 exceeding ninety days maturity exclusive of days of grace and subject to
10 renewal not more than seven times;

11 (b) purchase or invite eligible investors to purchase the equity and
12 or such assets and or assume any such liabilities of the insured institution;

13 (c) issue bonds, certificates, debentures, debt instruments and
14 other securities to purchase or assume such assets, equity or liabilities of the
15 insured institution;

16 (d) take or carry out any other measure to provide financial
17 assistance to the insured institution;

18 Provided that interest rates that may be applicable to facilities
19 extended to insured institutions in pursuance of this section shall not exceed
20 the Monetary Policy Rate of the Central Bank of Nigeria.

21 (3) The conditions to be specified by the Corporation in pursuance
22 of subsection (1) of this section, other than as to tenor and interest, shall be
23 with the concurrence of the Central Bank of Nigeria.

24 **50.-(1)**The Corporation, with the concurrence of or at the request
25 of the Central Bank of Nigeria, may:

Technical
assistance

26 (a) assume control of a failing insured institution and take over its
27 management;

28 (b) appoint new management for the insured institution,

29 (c) remove, replace or change principal officers of the insured
30 institution;

1 (d) replace the principal officers of the insured institution with
2 officials of the Corporation;

3 (e) impose holding actions, direct the insured institution and its
4 directors to carry out specified actions or refrain from doing certain actions;

5 (f) carry out organizational and operational changes including
6 without limitation staff rationalization, requiring shareholders to recapitalize
7 the bank, shutting down of some branches, sale of subsidiaries or other
8 business units, downsizing, rightsizing, appointment of consultants, writing
9 off certain assets, applying debt to equity swaps, consideration of certain
10 securities and instruments as capital; employment of bail-in measures, write
11 down of capital and restructuring of the business of the insured institution;

12 (g) take such action as may be-

13 (i) necessary to restore the failing insured institution to a sound and
14 solvent condition;

15 (ii) appropriate to carry on the business of the failing insured
16 institution and preserve and conserve its assets and properties;

17 (h) acquire, manage and dispose of impaired assets of failing insured
18 institutions, either directly or through an asset management company
19 established by the Corporation, and failing insured institutions shall, at the
20 request of the Corporation, be obliged to offer such impaired assets for sale to
21 the Corporation or the asset management company; and

22 (i) take any other measures to restructure the insured institution.

23 (3) For the purpose of paragraph (h) of subsection (1) of this section,
24 the Corporation, with the concurrence of the Central Bank of Nigeria, may
25 make rules, regulations and guidelines for designating assets of failing insured
26 institutions as impaired assets, regulating the regime for valuation and
27 acquisition of such impaired assets by the Corporation or an asset management
28 company established by the Corporation for that purpose, and regulating the
29 regime for the administration, realization, management and disposal of such
30 acquired impaired assets.

1 (4) The provisions of sections 26, 27, 63, 64, 66, 67, 68 and 69 of
2 this Bill shall apply mutatis mutandis to debts owed to the Corporation or to
3 an asset management company established by the Corporation by reason of
4 the acquisition of impaired assets in pursuance of subsection (1)(h) of this
5 section.

6 **51.**-(1) The Corporation, with the concurrence or at the request of Mergers and
Acquisitions
7 the Central Bank of Nigeria, may:

8 (a) merge, facilitate or induce a merger of a failing or failed insured
9 institution with another healthy insured institution

10 (b) facilitate or induce the acquisition of a failing or failed insured
11 institution by another healthy insured institution.

12 (c) restructure an insured institution through acquisition,
13 management and disposal of all or part of the equity or the assets or the
14 liabilities of the failing or failed insured institution either directly, indirectly
15 through or by another insured institution or an asset management company.

16 **52.**-(1) The Corporation, with the concurrence or at the request of Purchase and
Assumption
17 the Central Bank of Nigeria, may undertake a purchase of assets and
18 assumption of liabilities transaction with respect to a failing or failed insured
19 institution as follows:

20 (a) the Corporation shall have power to charge, dispose, transfer or
21 alienate all or some of the assets of a failing or failed institution to a healthy
22 insured institution;

23 (b) the Corporation may advance to or receive from the assuming
24 institution an amount equal to the difference between the assumed liabilities
25 and the transferred or purchased assets.

26 (c) the assets of the failing or failed insured institution shall be
27 transferred or purchased by a healthy insured institution in consideration of
28 the assumption of all or some of the liabilities of the failing or failed insured
29 institution;

30 (d) the Corporation may receive such assets from the failing or

	1	failed insured institution as collateral for any advance to the assuming
	2	institution or purchase the assets from the failing or failed insured institution
	3	and any asset (including land) of the failing or failed institution shall be
	4	transferred or be vested in the assuming institution or the Corporation.
Acquisition of Insured Institution whose capital is lost	5	53. -(1) The Corporation, with the concurrence or at the request of the
	6	Central Bank of Nigeria, may acquire a failing or failed insured institution
	7	whose paid up capital is lost or unrepresented by available assets for a nominal
	8	consideration of one naira only by an Order published in the Official Gazette.
	9	(2) The acquired insured institution shall from the date stated in the
	10	Official Gazette belong to the Corporation which shall hold same in trust for
	11	the depositors and other creditors of the insured institution.
	12	(3) The Corporation may restructure the acquired institution for sale
	13	to suitable investors and or wind up and liquidate the insured institution.
	14	(4) The Corporation may take such other measures that are reasonably
	15	necessary for resolution of an acquired insured institution.
Bridge Banks	16	54. -(1) The Corporation, with the concurrence of the Central Bank of
	17	Nigeria, may organise and incorporate, and the Central Bank shall issue a
	18	banking licence to one or more banks, to be referred to as bridge banks which
	19	shall be insured institutions to assume such deposits and/or liabilities, and shall
	20	purchase such assets of a failing insured institution and perform any other
	21	function or business as the Corporation may determine.
	22	(2) The Corporation shall appoint, remove and fix the remuneration of
	23	the Board of Directors and Management of such bridge bank.
	24	(3) Notwithstanding the provisions of the Companies and Allied
	25	Matters Act, 2020, the Central Bank of Nigeria Act, the Banks and Other
	26	Financial Institutions Act, 2020 or any other law, the bridge bank shall not be
	27	subject to any requirement relating to issued or paid-up capital, and the
	28	Corporation may make available to the bridge bank, upon such terms and
	29	conditions, and in such form and amounts, as the Corporation may determine,
	30	funds for the operation of the bridge bank.

1 (4) The Central Bank of Nigeria, the Corporate Affairs
2 Commission, the Securities and Exchange Commission, the Nigerian Stock
3 Exchange, the Federal Inland Revenue Service and any other regulatory or
4 supervisory authorities shall, at the request of the Corporation, grant to a
5 bridge bank forbearance, exemptions and waivers in respect of any fees
6 howsoever described (including incorporation, licensing and registration
7 fees), and all levies, duties, taxes or other imposts howsoever described.

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

13 (6) The status of a bridge bank shall terminate upon the earliest of-

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

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

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

21 (d) the expiration of the period provided in subsection (5) of this
22 section or the earlier dissolution of the bridge bank by the Corporation
23 before the expiration of the time herein provided or as extended by the
24 Corporation pursuant to this Bill.

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

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

Appointment as
Liquidator t

1 PART IX - LIQUIDATION OF INSURED INSTITUTIONS

2 **55.-(1)** Whenever the licence of an insured institution is revoked by
3 the Central Bank of Nigeria-

4 (a) in the case of an insured institution that is a bank, the Corporation
5 shall act as liquidator of such insured institution with effect from the date of
6 revocation of the licence of such insured institution;

7 (b) in the case of any other financial institution, the Central Bank of
8 Nigeria may by notice published in the Gazette appoint the Corporation as the
9 liquidator of such failed insured institution.

10 (2) The Corporation as liquidator in pursuance of either paragraphs
11 (a) or (b) of subsection (1) of this section shall have all powers of a liquidator
12 specified under this Bill and such other powers of a Liquidator under the
13 Companies and Allied Matters Act, 2020 and shall be deemed to have been
14 appointed by the court as a provisional liquidator by the Federal High Court
15 within the meaning and intendment of that Act; Provided that in the case of any
16 conflict on the powers conferred on the Corporation as liquidator in this Bill
17 and the powers conferred in the Companies and Allied Matters Act, 2020, the
18 powers conferred in this Bill shall prevail.

19 (3) An insured institution shall give at least seven days' notice to the
20 Corporation and the Central Bank of Nigeria of any meeting of the insured
21 institution in which it is proposed to consider a resolution for voluntary
22 winding-up of that institution and any director or officer of an insured
23 institution who fails to ensure compliance with this provision shall be liable on
24 conviction to a fine of N5,000,000 or a term of imprisonment of six months or
25 to both such fine and imprisonment.

26 (4) Notwithstanding the fact that the license of an insured institution
27 has not been revoked, where an insured institution commences voluntarily
28 winding up, the Corporation, where it reasonably believes that the protection of
29 the interest of depositors so requires, and with the concurrence of Central Bank
30 of Nigeria, may take over the winding up of such insured institution and act as

1 the liquidator of such insured institution in accordance with the
2 Corporation's powers under this Bill.

3 **56.-(1)** Subject to subsection (4) of this section, the provisions of
4 Chapter 21 of the Companies and Allied Matters Act, 2020, or any
5 amendment or replacement thereto, and the Companies Winding Up Rules
6 made pursuant thereto shall not apply to the winding up of insured
7 institutions.

Inapplicability of
Chapter 21 of the
Companies and
Allied Matters
Act and Winding
Up Rules, etc.

8 (2) The Chief Judge of the Federal High Court shall issue or cause
9 to be issued winding up rules for the expedited and accelerated winding up
10 of failed insured institutions and insured institutions that commence
11 voluntary winding up and matters relating thereto including but not limited
12 to provisional powers of the liquidator pending the making of the winding
13 up order.

14 (3) Immediately following the publication in the Gazette of the
15 revocation of the licence of an insured institution, where such insured
16 institution is a bank, and in other cases, immediately following the
17 publication in the Gazette of the appointment of the Corporation as the
18 liquidator of any other category of insured institution in pursuance of section
19 62(4) of the Banks and Other Financial Institutions Act, the Corporation
20 shall apply to the Federal High Court for an order to wind up the affairs of
21 such failed insured institution in respect of which it is a liquidator.

22 (4) The Corporation shall have and exercise all the powers,
23 benefits and authority conferred on a Liquidator or any company in
24 liquidation and shall have power to apply to the Court for any relief or order
25 which a Liquidator or any company in Liquidation may obtain under the
26 Companies and Allied Matters Act, 2020 and such application shall be made
27 with such modifications as to form and content as are stipulated under this
28 Bill or in the winding up rules issued in pursuance of subsection (2) of this
29 Section.

30 **57.-(1)** It shall be the duty of the Corporation to cause notice to be

Action Following
a Failure

1 given by advertisement in print and electronic media requiring all depositors of
2 the insured institution facing liquidation to forward their claims to the
3 Corporation.

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

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

7 (b) enforce the individual liability of the shareholders and directors
8 thereof in accordance with section 76 of this Bill; and

9 (3) The Corporation acting as liquidator:

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

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

19 (4) Every judgment debt against an insured institution under
20 liquidation or the Corporation as Liquidator of an insured institution which is
21 not subject to an appeal shall be filed with the Liquidator as an unsecured
22 creditor claim which shall be admitted to proof in accordance with the rules and
23 regulations governing administration of claims payment issued by the
24 Corporation.

25 (5) where a depositor of an insured institution is also a judgment
26 creditor in respect of that deposit, such depositor shall elect to file his claim
27 either as a depositor or as a creditor but where he submits a certified true copy
28 of the judgment evidencing the judgment debt, he shall be deemed to have
29 elected to file his claim as a judgment debtor and not a depositor.

30 (6) The interest applicable on any judgment debt against an insured

1 institution under liquidation as stated in the judgment which is filed as proof
2 of claim with the Corporation as Liquidator of such institution shall cease to
3 be applicable from the date the Corporation commenced liquidation of such
4 insured institution.

5 **58.** The Corporation may, when acting as Liquidator of a failed
6 insured institution or an insured institution that has commenced voluntary
7 winding up, appoint an agent to assist it in the performance of its duties, and
8 all fees, compensation and expenses of liquidation and administration
9 thereof shall be fixed and paid by the Corporation from the realized assets of
10 the failed institution.

Power to appoint
agents

11 **59.-(1)** Where the Corporation has in its possession or custody any
12 collateral or security pledged by an obligor who is indebted to more than one
13 failed insured institution, the Corporation shall have the right to dispose of
14 such collateral or security and apply the proceeds of the sale for the
15 repayment of any of the obligor's loan facilities other than that to which the
16 collateral or security relates, whether or not the facility to which the
17 collateral or security relates has been repaid; Provided that the right of the
18 Corporation under this section shall only accrue where the obligor fails to
19 repay such other loan facility twenty-one days after a letter of demand from
20 the Corporation.

Right of disposal
of collateral

21 (2) Notwithstanding the provisions of this Bill or any other
22 enactment, where the Court determines that the disposal in pursuance of
23 subsection (1) of this section was in error or done in bad faith, no restorative,
24 prohibitive or like order shall be granted against the Corporation in respect
25 of the disposal of such collateral or security by the Corporation, and the
26 remedy of any claimant or applicant against the Corporation in such an
27 action, suit or proceedings shall be limited to damages not exceeding the
28 value of the collateral.

29 (3) The rights of the Corporation under subsection (1) and (2) of
30 this section shall be subject to the right of secured creditors with a security

	1	interest in the asset or property which ranks equally or in priority to that held by
	2	the Corporation.
Closure of Failed Insured Institutions	3	60. For the purpose of this Bill, and without prejudice to Section 625
	4	of the Companies and Allied Matters Act, 2020 requiring statutory declaration
	5	of insolvency by a company under voluntary winding-up, an insured institution
	6	shall be deemed to have been closed on account of inability to meet the
	7	demands of its depositors in any case in which it has been closed for the
	8	purpose of liquidation without adequate provision being made to the
	9	satisfaction of the Corporation for payment of its depositors.
Limitation Law Not Applicable	10	61. The provisions of the Limitation Law of a State or the Limitation
	11	Act of the Federal Capital Territory shall not apply to any debt owed to a failing
	12	or a failed insured institution or to any civil action instituted by the Corporation
	13	against any person in respect of a failed or failing insured institution.
Power of the Corporation as Liquidator	14	62.-(1) The Corporation as Liquidator of an insured institution shall
	15	have power to-
	16	(a) wind-up and liquidate the failed insured institution in an orderly
	17	manner;
	18	(b) bring or defend any action or other legal proceedings in the name
	19	of such failed insured institution with the addition of the phrase "in-
	20	Liquidation" after the name of such failed insured institution or in the name of
	21	the Corporation disclosing thereto on the face of the process that it is the
	22	liquidator of the insured institution;
	23	(c) carry on the business of such failed insured institution so far as
	24	may be necessary for its beneficial winding up;
	25	(d) sell the property of the failed insured institution of whatever
	26	nature by public auction or private contract with power to transfer the whole
	27	thereof to any person or to sell same in parcels;
	28	(e) enter into any agreement for the purchase of all or some of the
	29	assets and the assumption of all or some of the liabilities of the failed insured
	30	institution;

1 (f) exercise any of the powers and authorities conferred on the
2 Corporation and perform any of the obligations to be performed, under this
3 Bill;

4 (g) make such other dispositions of any matter concerning such
5 failed insured institution as the Corporation determines it is in the best
6 interest of the depositors of such insured institution and the Corporation;

7 (h) by operation of law succeed to all rights, titles, powers and
8 privileges of the insured institution, and of any shareholder, depositor,
9 officer, account holder or director of such institution with respect to the
10 institution and the assets of the institution but shall not be held personally
11 liable for the debts or liabilities of such institution;

12 (i) Compromise debts and liabilities capable of resulting in debts,
13 all claims, present or future, certain or contingent and in particular grant
14 concession or interest waiver to a debtor of a failing or failed insured
15 institution on such terms as may be agreed, and take any security for the
16 discharge of any such call, debt, liability or claims and give a complete
17 discharge in respect thereof;

18 (j) take over, manage and dispose of the assets of and operate the
19 insured institution with all the powers of the members or shareholders, the
20 directors and the officers of the institution and conduct all business of the
21 institution; collect all obligations and money due to the institution, perform
22 all functions of the institution in the name of the institution which is
23 consistent with the appointment as Liquidator;

24 (k) pay all valid obligations of the failed insured institution in
25 accordance with the provisions of this Bill and any guidelines and
26 prescriptions issued by the Corporation regulating procedures for filing,
27 settling, determination, disallowance, proof, priority, and payment of claims
28 including administrative review;

29 (l) act as or appoint any person as receiver for an obligor with
30 respect to loans, advances or other credit facility granted by the failed

1 insured institution whether or not the assets of the obligor have been charged,
2 mortgaged or pledged as security for such credit facility and the receiver shall
3 have all the powers of a receiver as stipulated in the Companies and Allied
4 matters Act, 2020;

5 (m) offer for sale to an asset management firm or any other persons
6 the loans and other risk assets of a failed insured institution and may accept any
7 bond or other instruments as consideration for the sale of any such assets;

8 (n) publish in the media the names of the debtors of a failed insured
9 institution as disclosed in the records of the insured institution, and no liability
10 shall attach to the Corporation or the media firm as a result of such publication;

11 (o) by order published in the official gazette direct that all or any part
12 of the property of whatever title or description belonging to the failed insured
13 institution or purchased with funds belonging to the failed insured institution or
14 held by trustees on its behalf or held in the name of any other person instead of
15 the failed insured institution shall vest in the Corporation as Liquidator in its
16 official name and thereupon, the property to which the order relates shall vest
17 accordingly and shall be registered under the relevant titles deeds registration
18 enactment in favour of the Corporation as Liquidator and the Corporation as
19 liquidator may bring or defend in its official name any action or other legal
20 proceedings which relates to that property for the purpose of effectually
21 winding up the failed insured institution and recovering the property but shall
22 not suffer any liability in its corporate capacity by virtue of such order.

23 (2) Notwithstanding any provision contained in any other law, the
24 Corporation shall have power to recover, at any time, interest on a debt owed to
25 a failed insured institution and such interest shall continue to accrue after the
26 liquidation of the failed insured institution.

27 (3) The Corporation as Liquidator shall not be under any duty to make
28 any returns to the Corporate Affairs Commission as provided by the
29 Companies and Allied Matters Act, 2020 but may provide such information as
30 may be requested by the Commission if it determines it is expedient to do so in

1 the interest of depositors of the failed insured institution.

2 **63.**-(1) Where the Corporation has reasonable cause to believe that
3 an obligor is the bona fide owner of any movable or immovable property, it
4 may apply to the Court, before or at the time of filing of an action for debt
5 recovery or other like action or at any time after the filing of an action, and
6 before or after the service of the originating process by which such action is
7 commenced on the obligor, by motion ex-parte for an interlocutory order
8 granting possession of the property to the Corporation pending the hearing
9 and determination of the debt recovery or other action to abide the decision
10 in such action.

Power to take
interim custody

11 (2) The Corporation shall serve on the obligor a certified true copy
12 of the order of the Court issued under subsection (1).

13 (3) Notwithstanding anything to the contrary in any enactment, an
14 order made under subsection (1) shall subsist till judgement or final
15 determination of the action, unless expressly discharged by the Court.

16 **64.**-(1) Where the Corporation has reasonable cause to believe that
17 an obligor of a failed insured institution has funds in any account with any
18 insured institution, it may apply to the Court by motion ex parte, before or at
19 the time of filing of an action for debt recovery or other like action or at any
20 time after the filing of an action, and before or after the originating process
21 by which such action is commenced is served on the obligor, for an
22 interlocutory order freezing the account of the obligor.

Freezing powers

23 (2) Notwithstanding anything to the contrary in any enactment, an
24 order made under subsection (1) shall subsist till judgment or a final
25 determination of the action, unless expressly discharged by the court.

26 **65.**-(1) Where an obligor fails to comply in full within ninety days
27 with a written demand notice issued by the Corporation requiring the obligor
28 to pay a liquidated sum to the Corporation which the Corporation certifies
29 on the face of the demand as being owed by the obligor to a failed financial
30 institution, the Court shall, on the application of the Corporation made by

Special powers
in Bankruptcy

1 originating motion, make a receiving order against the obligor except where at
2 the hearing of the application the obligor proves to the satisfaction of the court
3 that he does not owe any liquidated sum at all to the failed insured institution or
4 that he has a counter-claim, set-off, or cross-demand which equals or exceeds
5 the liquidated sum owed to the failed insured institution.

6 (2) A receiving order made under subsection (1) is deemed to have
7 been, and shall have effect and force as a receiving order, made under the
8 Bankruptcy Act;

9 (3) For the purpose of subsection 2(1) of this section, it shall not be
10 necessary for the obligor to commit any act of bankruptcy or for the
11 Corporation to file a bankruptcy petition or for any of the conditions precedent
12 for the grant of a receiving order specified under the Bankruptcy Act to be
13 satisfied before the court shall grant the receiving order against the obligor;

14 (4) Notwithstanding the provisions of the Bankruptcy Act, where a
15 receiving order is made against an obligor under this Bill, the court may
16 adjudge the obligor bankrupt.

17 (5) Where a debtor is adjudged bankrupt under this Bill, the Court
18 may, on the application of the Corporation appoint the official receiver or
19 authorise the Corporation to assume the office of trustee of the property of the
20 obligor.

21 (6) A trustee appointed under this Bill shall have all the powers of a
22 trustee of an adjudged bankrupt under the Bankruptcy Act and shall discharge
23 his duties in accordance with that Act.

24 (7) Any act, directive or permission authorised or required to be done
25 or given by the Committee of Inspection or creditors under the Bankruptcy Act
26 may be done or given by the court on the application of the trustee.

27 (8) Any obligor adjudged bankrupt under this Bill shall be deemed to
28 have been adjudged bankrupt under the Bankruptcy Act which shall have
29 effect, with such modification as contained in this Bill and the trustee
30 appointed herein shall have power to seek the directive of the court in respect of

1 anything or act to be done under the Bankruptcy Act.

2 **66.**-(1) The Corporation shall, pursuant to an order of the Federal High Court, obtained ex parte: Special Power to
Track and Trace

3 (a) Obtain access to any computer system component, electronic or
4 mechanical device of an obligor of a failed insured institution with a view to
5 establishing the location of funds belonging to the obligor of a failed insured
6 institution, and

7 (b) Obtain information of any private account together with all
8 banking, financial and commercial records of any obligor of a failed insured
9 institution.
10

11 (2) Any rules of banking secrecy and the protection of customer
12 confidentiality shall not be grounds for the denial of the power of the
13 Corporation under subsection (1) of this section.

14 **67.**-(1) Notwithstanding anything to the contrary in any Special Power to
obtain information
from Insured
Institution
15 enactment, rule of law, banking practice or rule or contractual provision, the
16 Corporation may, for the purposes of recovering any money owed to a failed
17 insured institution by an obligor in pursuance of the role of the Corporation
18 as a liquidator, by written notice, require any insured institution to disclose
19 or furnish to the Corporation, within such time as may be specified in the
20 written notice, details of, and balances in, all accounts (howsoever
21 described) maintained by such obligor with the insured institution, and
22 details of all investments by way of deposits or in financial instruments
23 made by such obligor with or through the insured institution or the bank
24 identification number or other unique identifier of the obligor.

25 (2) Any insured institution which fails to comply with the
26 requirement of a written notice issued to it by the Corporation under
27 subsection (1) within the time specified in such written notice is liable to a
28 fine, payable to the Corporation, of N10,000,000 and a further N50,000 for
29 each day that the failure to comply continues.

30 (3) A director of an insured institution who fails to comply with the

1 requirement of a written notice issued to him by the Corporation under
2 subsection (1) of this section within the time specified in such written notice
3 commits an offence and is liable on conviction to three years' imprisonment;

4 Provided that a director of an insured institution shall not be liable
5 under this subsection, where such director, within a reasonable time of
6 becoming aware of such written notice, demands of the board of the insured
7 institution, in writing, that the insured institution comply with the requirements
8 of the written notice.

9 (4) Without prejudice to the provisions of this section, where an
10 insured institution fails to comply with the requirement of a written notice
11 issued to it by the Corporation under subsection (1) within the time specified in
12 such written notice, the Corporation may apply to the Court by motion ex parte
13 for an order compelling such insured institution to immediately comply with
14 the requirement of the written notice and the court, except it sees good reason to
15 the contrary, shall make an order compelling such insured institution to
16 comply with the written notice and award against such insured institution,
17 costs of at least N5,000,000 in addition to the fine under subsection (2) of this
18 section.

Special Powers
in Winding Up

19 **68.-(1)** Where an obligor that is a body corporate fails to comply in
20 full, within thirty days, with a written demand notice issued by the Corporation
21 requiring the obligor to pay a liquidated sum to the Corporation which the
22 Corporation certifies on the face of the demand as being owed by the obligor to
23 a failed insured institution, the Court shall, on the application of the
24 Corporation made by originating motion, make a winding-up order against the
25 obligor except where at the hearing of the application, the obligor proves to the
26 satisfaction of the court that it does not owe any liquidated sum at all to the
27 failed insured institution or that it has a counter-claim, set-off, or cross-demand
28 which equals or exceeds the liquidated sum owed to the failed insured
29 institution.

30 (2) Where a winding up order is made pursuant to subsection (1) of

1 this section, the Court, on the application of the Corporation, shall appoint
2 the official receiver or some other fit person to assume the office of the
3 liquidator to wind up the affairs of the obligor.

4 (3) Subject to subsection (1) of this section, any liquidator
5 appointed pursuant to this Bill shall have all the powers of a liquidator under
6 the Companies and Allied Matters Act, 2020 and shall perform his duties in
7 accordance with that Act.

8 (4) Any act, directive, or permission authorized or required to be
9 done by the committee of inspection or by the creditors under the
10 Companies and Allied Matters Act, 2020 may be done or given by the court
11 upon the application of the liquidator

12 (5) A winding-up order made against any obligor under this Bill
13 shall be deemed to have been made under the Companies and Allied Matters
14 Act, 2020 and the provisions of the Companies and Allied Matters Act, 2020
15 shall have effect, with such modifications as are contained in this Bill.

16 **69.**-(1) Notwithstanding the provisions of this Bill or any other
17 enactment, no restorative, prohibitive or like order shall be granted against
18 the Corporation in relation to payment of insured deposits to depositors of an
19 insured institution, or in relation to the Corporation acting in pursuance of
20 the provisions of Part VIII of this Bill or as a liquidator or provisional
21 liquidator pursuant to the provisions of this Bill, and the remedy of any
22 claimant or applicant against the Corporation in any such action, suit or
23 proceedings relating to or connected with the foregoing shall be damages
24 only which shall be limited to an amount which shall not exceed-

25 (a) in the case of a depositor, the maximum insured deposit;

26 (b) in the case of a shareholder, the nominal value of the shares of
27 the shareholder in the insured institution at the time the cause of action
28 arose; and

29 (c) in the case of a group of shareholders, the nominal value of the
30 aggregate of the shares of the shareholders in the insured institution at the

Protection of the
Corporation in
respect of Judicial
Proceedings

1 time the cause of action arose.

2 (2) No action, suit or proceedings shall be proceeded with or
3 commenced against such insured institution or the Corporation except with the
4 leave of Court given on such terms as the Court may impose.

5 (3) No garnishee order nisi or absolute or attachment, sequestration,
6 distress, or execution shall be made against-

7 (a) the Corporation in respect of any judgment debt or other liabilities
8 owed by such insured institution or any other judgment debtor; or

9 (b) the bank account or assets or effects of the failed insured
10 institution.

11 (4) A creditor who had issued execution against any goods or land of
12 the insured institution or attached any debt due to the insured institution shall
13 not be entitled to retain the benefit of the execution or attachment against the
14 insured institution unless he had completed the execution or attachment before
15 the commencement of liquidation of such insured institution.

16 (5) For the purpose of subsection (4) of this section an execution
17 against the goods shall be taken to be completed by seizure and sale and an
18 attachment of debt shall be deemed to be completed by receipt of payment by
19 the judgment creditor and an execution against land shall be deemed to be
20 completed by seizure and in case of an equitable interest, by the appointment of
21 a receiver while commencement of liquidation shall be from the date of
22 revocation of the operating licence of the insured institution.

23 (6) A purchaser in good faith for value and without notice under a sale
24 by the Court in the course of execution being levied on any property of the
25 insured institution before the commencement of the resolution of the insured
26 institution shall acquire good title against the Liquidator.

27 (7) Where any goods of an insured institution are taken in execution
28 and before the sale thereof or the completion of the execution by receipt or
29 recovery of the full amount of levy, notice is served on the sheriff of court by
30 the Corporation that it has become the liquidator of the insured institution, the

1 sheriff shall deliver the goods and any money seized or received in part
2 satisfaction of the execution to the Corporation provided the Corporation
3 satisfies the charge for costs of execution.

4 **70.** The Corporation shall have power to avoid the transfer of an
5 interest in any property or asset of an insured institution that was
6 fraudulently transferred by such an insured institution within five years
7 before the commencement of the liquidation of that insured institution and
8 shall have power to trace and recover from subsequent transferees provided
9 that such transferees are not purchasers in good faith.

Prohibition of
Assets Stripping

10 **71.-(1)** The Corporation shall have power to enforce any contract
11 agreement or deed entered into by the insured institution in liquidation with
12 any person notwithstanding that such contract, agreement or deed provides
13 for termination in the event of insolvency or liquidation of such insured
14 institution.

Pre-Liquidation
Contracts

15 (2) Subject to the provisions of the Banks and Other Financial
16 Institutions Act, 2020, no person without the consent of the Corporation
17 shall:

18 (a) exercise the right or have power to terminate any contract,
19 agreement or deed or declare a default in any such contract, agreement or
20 deed to which the insured institution is a party;

21 (b) obtain possession of or exercise control over any asset or
22 property of such insured institution; and

23 (c) affect any contractual rights of the insured institution within
24 180 days of the commencement of liquidation of such insured institution.

25 (3) The Corporation shall have power to repudiate contracts,
26 agreements or deeds to which the insured institution is a party which the
27 Corporation determines to be burdensome and that repudiation of such
28 contracts, agreements or deeds would promote the orderly winding-up of
29 the insured institution's affairs, provided that any person aggrieved by the
30 exercise of such power shall have the right to file action in court for special

1 damages limited to actual loss suffered as a result of such repudiation from the
2 date of commencement of liquidation to the date of repudiation of such
3 contract, deed or agreement, against the Corporation as liquidator thereof.

4 (4) The Corporation shall not have power to avoid legally enforceable
5 security interests created over the property and assets of a debtor to the insured
6 institution or the institution including legal mortgages and other charges except
7 the Corporation determines that such interests were created:

8 (a) in contemplation of insolvency of the debtor or the insured
9 institution; or

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

12 (5) No agreement which diminishes the Corporation's interest in any
13 asset of an insured institution shall be valid in law unless it is in writing, was
14 executed contemporaneously by the insured institution and the counter party,
15 was approved by the Board of Directors of the insured institution and has been
16 continuously in the record of the insured institution.

17 (6) The Corporation shall not be liable to payment of penalties,
18 interest or fines imposed by any authority, government department, agency,
19 office, contract or agreement.

Priority of Claims

20 **72.** Where an insured institution is unable to meet its obligations or
21 suspends payment or where its management and control has been taken over by
22 the Central Bank or where its licence has been revoked, the assets of the insured
23 institution shall be available to meet all its deposit liabilities and such deposit
24 liabilities shall have priority over all other liabilities of the insured institution.

Stay of Pending
Suits, etc.

25 **73.-(1)** Where the Corporation has commenced liquidation of an
26 insured institution and applies to the court for stay of any suit, application,
27 proceedings, execution, attachment, or action pending or instituted in any
28 court by or against such insured institution or the Corporation, the Court shall,
29 whether or not leave had earlier been granted to commence or proceed with

1 such action or matter pursuant to this Bill or any other law, grant such stay as
2 to all parties.

3 (2) Where the Corporation has assumed control of an insured
4 institution pursuant to this Bill and applies to the court for stay of any suit,
5 application, proceedings, execution, attachment, or action pending or
6 instituted in any court by or against such insured institution or the
7 Corporation, the Court shall, whether or not leave had earlier been granted
8 to commence or proceed with such action or matter pursuant to this Bill or
9 any other law, grant such stay as to all parties until the Corporation
10 relinquishes control of the insured institution.

11 (3) Where an insured institution is in liquidation any judgment sum
12 obtained against the insured institution by a judgment creditor that has not
13 been satisfied prior to commencement of liquidation or that is obtained after
14 commencement of liquidation shall not be enforceable against the assets of
15 the insured institution facing liquidation or the Corporation.

16 **74.**-(1) The Corporation shall conclude winding up of an insured
17 institution as may be provided in the Winding-up Rules issued under the
18 provisions of Section 56 of this Bill.

Termination of
Liquidation
Activities

19 (2) The Corporation may establish a subsidiary to take custody of
20 the residue of assets, if any, of failed insured institutions whose liquidation
21 has been terminated pursuant to this Bill.

22 **75.** Without prejudice to the Banks and other Financial Institutions
23 Act, 2020, where the provisions of any other law are inconsistent with those
24 of this Bill, the provisions of this Bill shall prevail.

Inconsistency with
other Laws

25 **76.**-(1) A director, significant shareholder, officer, employee,
26 agent, attorney, accountant or auditor, appraiser or any other party engaged
27 by or providing services to an insured institution that fails shall be held
28 personally liable in monetary damages where his or her actions or inactions
29 caused or contributed to the failure of such institution in civil action by, on
30 behalf of, or at the request or direction of the Corporation, acting as

Liability of Directors,
Shareholders,
Officers etc.

1 liquidator, supervisor or insurer and which action is prosecuted wholly or
2 partially for the benefit of the Corporation and insured depositors.

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

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

13 (4) This section applies to a director, significant shareholder, officer,
14 employee, agent, attorney, accountant or auditor, appraiser or any other party
15 engaged by or providing services to an insured institution that fails prior to its
16 being declared failing or failed institution.

17 PART X - CRIMINAL PROSECUTION AND OFFENCES

Offences and
Penalties

18 77.-(1) Any person who, being a director, an officer, or staff of an
19 insured institution-

20 (a) fails to take all reasonable care to secure compliance with the
21 provisions of this Bill; or

22 (b) fails to take all reasonable care to secure the authenticity of any
23 statement submitted pursuant to the provisions of this Bill or any Regulations
24 made pursuant thereto, shall be guilty of an offence and is liable on conviction
25 to imprisonment for a term of not less than five years or a fine of not less than
26 N10,000,000 or to both such fine and imprisonment.

27 (2) Any person, being a Significant Shareholder, a director, an officer,
28 or staff of an insured institution, who-

29 (a) whilst he is in default in payment of any pecuniary obligation due
30 to any insured institution, fails or neglects to cause any dividend declared and

1 paid to him in respect of an insured institution to be applied towards
2 satisfaction of any such pecuniary obligation within two working days of the
3 receipt of any such declared dividend;

4 (b) allows any loan, advance, overdraft or credit facility taken by
5 him in any insured institution to be classified as a non-performing loan;

6 (c) shall be guilty of an offence and liable upon conviction to
7 imprisonment for a term of not less than five years or a fine of not less than
8 N10,000,000 or to both such fine and imprisonment.

9 (3) In addition to the penalty prescribed in subsection (2) of this
10 section, the following shall apply to a person convicted under that
11 subsection-

12 (a) in the case of (a) above, forfeit any dividend payment received
13 and such forfeited dividend payment shall be applied towards the repayment
14 of the due pecuniary obligation;

15 (b) in the case of (b) above, all dividends payable to such director or
16 significant shareholder by any insured institution, all the assets of the
17 Significant Shareholder or director and all shares or interests of such
18 significant shareholder or director in companies shall be available to
19 liquidate such facilities, which shall have priority over any other liabilities
20 of the Significant Shareholder or director including that of secured creditors
21 and judgment creditors.

22 (4) A significant shareholder or director who is granted any loan
23 advance, or credit facility in breach of the provisions of this Bill is guilty of
24 an offence and liable on conviction to a fine of an amount equivalent to not
25 less than twenty-five percent of the amount of such loan, advance or credit
26 facility or to imprisonment for a term of three years.

27 (5) All directors of an insured institution shall be liable jointly and
28 severally to the insured institution for any loss arising from a contravention
29 of the provisions of this section.

30 (6) For the purpose of subsection (4) of this section, the term

1 "Director" includes director's wife, husband, father, mother, brother, sister,
2 son, daughter, their spouses, a company in which the director is also a director
3 or shareholder, a company whose board, or managing director, is accustomed
4 to act in accordance with the advice, directions or instructions of the director
5 and all other related parties as may be determined by the Corporation.

6 (7) Any insured institution that reimburses or pays for a staff, officer
7 or director directly or indirectly a fine imposed under this Bill shall be guilty of
8 an offence and be punishable on conviction by a fine of not less than
9 N20,000,000 and also forfeit the amount repaid or reimbursed to the staff.

10 (8) Any director or officer of the insured institution who grants,
11 allows to be granted or is any way involved in the granting of a loan, a
12 guarantee or credit facility-

13 (a) without security as required by the insured institution's regulations
14 or policy; or

15 (b) in contravention of the insured institution's regulations or policy
16 or this Bill or regulation made thereunder shall be guilty of an offence and be
17 liable on conviction to the repayment of the unsecured loan, guarantee or
18 facility including interest and to two years' imprisonment without option of
19 fine.

20 (9) Any principal officer of an insured institution who contravenes the
21 provisions of this section shall be guilty of an offence and be liable to three
22 years' imprisonment or a fine of not more than N5,000,000 or to both such fine
23 and imprisonment.

24 (10) Without prejudice to criminal prosecution as provided in this
25 Section, any person found guilty of violating the provision of any law referred
26 to in this section shall in addition to imprisonment upon conviction be-

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

29 (b) Subject to penalty assessed as the loss suffered by the insured
30 institution as a result of the commission of such offence or which is related

1 directly to the amount involved in the offence committed.

2 **78.**-(1) A director or officer or significant shareholder or employee Civil Damages
3 or customer or service provider or agent or Legal practitioner or
4 accountant or external auditor or consultant, or any other party employed
5 by or providing services to an insured institution may be held personally
6 liable in monetary damages in any civil action instituted, on behalf of, at the
7 request or direction of, or taken over, or by the Corporation acting as
8 Liquidator of such insured institution for mismanagement or poor
9 management of such insured institution or its assets or for breach of trust,
10 negligence, gross negligence or similar conduct that demonstrates breach of
11 or disregard of duty of care or other tortuous conduct as well as under any
12 statute whether or not resulting in the failure of such insured institution.

13 (2) In any proceeding related to any claim for monetary damages
14 against an insured institution's director, officer, employee, significant
15 shareholder, customer, service provider, agent, Legal Practitioner,
16 accountant, external auditor, consultant, or any other party employed by or
17 providing services to an insured institution, recoverable damages
18 determined to result from the mismanagement or poor management of such
19 insured institution or its assets or the improvident or otherwise improper
20 use or investment of an insured institution's assets shall include principal
21 losses and appropriate interest.

22 **79.**-(1) Without prejudice to section 174 of the Constitution of the Power to Compound
23 Federal Republic of Nigeria, the Corporation may compound any offence Offences
24 punishable under this Bill by accepting an amount less than the fine
25 provided for the offence by this Bill.

26 (2) All monies receivable under the provisions of subsection (1) of
27 this section shall be paid to the Corporation.

28 (3) All offences under this Bill shall be tried by the Federal High
29 Court.

Power to
investigate

1 **80.-(1)** The Corporation shall have power to investigate in
2 collaboration with the Nigeria Police Force or other law enforcement agencies
3 any person suspected of the commission of an offence under this Bill or a
4 regulation made thereunder.

5 (2) The powers of the Corporation under subsection (1) of this section
6 shall include the power to summon any person to testify, provide information,
7 give account, or produce any document or other record in the possession or
8 under the control of that person.

9 (3) Any person summoned in pursuance of subsection (2) of this
10 section who fails to appear or fails to testify or provide information or give
11 account or produce a document or other record in his possession or under his
12 control or who provides false or misleading information, or forged or falsified
13 documents or other records shall be guilty of an offence and on conviction be
14 liable to a fine of N5,000,000 or to imprisonment for a term of three years or to
15 both such fine and imprisonment.

Right to appear
in Court

16 **81.-(1)** Subject to the provisions of section 174(1) of the Constitution
17 of the Federal Republic of Nigeria, any legal practitioner in the employment of
18 the Corporation may, with the consent of the Managing Director, prosecute or
19 defend criminal, civil or other proceedings in the name of and on behalf of the
20 Corporation in respect of matters relating to the activities, business or
21 operations of the Corporation or any failed insured institution under this Bill in
22 the course of carrying out the objectives of this Bill and the Failed Banks Act.

23 (2) Without prejudice to subsection (1) of this section, a Legal
24 Practitioner employed by the Corporation shall have power to institute and
25 undertake criminal proceedings against directors, officers, significant
26 shareholders and customers of failed insured institutions before any Court of
27 law in Nigeria other than a Court Martial and to discontinue at any stage before
28 judgment is delivered any such criminal proceeding, relating to, touching upon
29 or concerning violations of the provisions of this Bill or any Regulations made
30 thereunder, or under the Failed Banks Act.

(3) Notwithstanding the provisions of any enactment to the contrary, a person employed in the Corporation who is a legal practitioner shall, while so employed be entitled to appear in Court as a legal practitioner for the purpose and in the course of carrying out the objects and objectives of this Bill, without prejudice to the power of the Corporation to engage private legal practitioners in any proceedings.

PART XI - ANNUAL ACCOUNTS

82.-(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 succeeding year.

Accounts and
Audit

(2) The Corporation shall-

(a) keep proper accounts in respect of each financial year;

(b) keep proper records in relation to those accounts; and

(c) 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, subject to the provision of section 85 of the Constitution of the Federal Republic of Nigeria.

83. The Management of the Corporation shall 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 of such report shall be submitted to the Governor of the Central Bank of Nigeria, the Auditor-General of the Federation and the Minister.

Annual Report

	1	PART XII - GENERAL
Liquidation Expenses	2	84. All expenses and fees of the Liquidator, including liquidation,
	3	litigation, valuation, investigation, administrative, criminal and civil actions,
	4	shall be paid in priority to all other claims except insured deposits.
Advertisement	5	85. An insured institution may advertise its insured status without
	6	prior approval from the Corporation.
Exemption from Taxation	7	86. The Corporation in its corporate capacity or as a liquidator of an
	8	insured institution or otherwise howsoever shall be exempted from all taxes,
	9	fees, penalties, charges, duties, levies, or other like imposts payable to any
	10	institution, agency, department or authority of the Federal Government, State
	11	Government, Federal Capital Territory, Local Government or Area Councils of
	12	the Federal Capital Territory, save income tax payable by staff of the
	13	Corporation, value added tax and withholding tax which are payable by any
	14	third parties under any contract entered into by such third parties with the
	15	Corporation.
Exemption from Insurance Act	16	87. The Corporation shall be exempted from the provisions of the
	17	Insurance Act, 2003 or any amendment thereof.
Power to Borrow	18	88. -(1) The Corporation shall have power to borrow from the Central
	19	Bank of Nigeria such monies as it may deem fit for the discharge of its
	20	functions under this Bill.
	21	(2) The Central Bank of Nigeria may guarantee in such manner and
	22	upon such terms as it may deem fit the redemption and the repayment of any
	23	interest on any debenture stocks raised by the Corporation.
Relationship with the Central Bank of Nigeria	24	89. -(1) The Corporation shall have access to reports of examination
	25	conducted by the Central Bank of Nigeria.
	26	(2) The Corporation shall make reports of its examination of insured
	27	institutions and any other information essential to safe and sound banking
	28	practice available to the Central Bank of Nigeria.
	29	(3) The Central Bank of Nigeria shall make available to the
	30	Corporation relevant information on the insured institutions licensed by it.

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

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

6 **90.-(1)** No duty to which an auditor of an insured institution or a
7 person appointed pursuant to the provisions of Banks and Other Financial
8 Institutions Act 2020 or any amendment thereof is subject shall be
9 contravened by reason of his communicating in good faith to the
10 Corporation whether or not in response to a request made by it, any
11 information or opinion on a matter to which this section applies and which is
12 relevant to safe and sound banking and financial practices.

External Auditors
of all Insured
Institution and
Reporting
requirements

13 (2) An auditor of an insured institution shall recognise the
14 Corporation's responsibility for the protection of the interest of depositors
15 and shall bring to the notice of the Corporation-

16 (a) any adverse development such as possibility of imminent
17 financial collapse;

18 (b) evidence of an occurrence which has led or is likely to lead to a
19 material diminishing of the insured institution's net asset;

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

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

26 (e) where he believes that a fraud or other misappropriation has
27 been committed by the directors, management or staff of the insured
28 institution or has evidence of the intention of directors or senior
29 management to commit such fraud or misappropriation; or

30 (f) where there has been an occurrence such as acting in an

1 irresponsible or reckless manner in respect of the affairs of the insured
2 institution which causes the auditor to no longer have confidence in the
3 competence of the directors or the senior management to conduct the business
4 of the insured institution in a prudent or safe and sound manner so as to protect
5 the interest of the depositors.

6 (3) Any auditor of an insured institution who acts in contravention of
7 or fails deliberately or negligently to comply with any of the provisions of
8 subsection (2) of this section in any respect shall be guilty of an offence and
9 liable on conviction to a maximum fine of N50,000,000, and where the
10 approved auditor is a firm, the individual partner or partners in charge of the
11 audit shall, in addition, be liable on conviction to imprisonment for a term not
12 exceeding five years and to the fine required to be paid by the firm under this
13 subsection.

Indemnity of the
Corporate, etc.

14 **91.** The Corporation or any of its directors, officers or agents shall not
15 be subject to any action, claim, suit, court proceedings, or demand by or
16 liability to any person in respect of anything done or omitted to be done in good
17 faith in pursuance or in execution of or in connection with the operations
18 business or activities of the Corporation or the execution of any power
19 conferred upon the Corporation, such director, officer or agent.

Pre-action Notice

20 **92.** No suit, action or court proceedings shall be commenced or
21 instituted against the Corporation before the expiration of a period of one (1)
22 month after written notice of intention to commence the suit shall have been
23 served upon the Corporation by the intending plaintiff or his agent and the
24 notice shall clearly and explicitly state the cause of action and the place of
25 abode for the intending plaintiff and the relief which he claims.

Service of Process

26 **93.** Every originating process or other process intended for service on
27 the Corporation shall be served by delivering the process to the office of the
28 Director, Legal Department at the Corporation's Head Office, Abuja, FCT.

Designation of
Special Judges

29 **94.** The Chief Judge of the Federal High Court may designate any
30 judge of the Federal High Court to hear matters for the recovery of debts owed

1 to an insured institution under the control and management of the
2 Corporation or under liquidation and criminal offences related thereto or
3 arising from the provisions of this Bill, the Banks and Other Financial
4 Institutions Act, 2020 the Failed Banks (Recovery of Debt) and Other
5 Financial Malpractices in Banks Act, or any legislation containing banking
6 and related offences, to the exclusion of any other matter for such period as
7 may be determined by the Chief Judge.

8 **95.** Without prejudice to section 94 of this Bill, the Corporation
9 may institute action for the recovery of debt with a value of N10,000,000
10 and above, owed to a failing or failed insured institution or the Corporation
11 or an asset management company established by the corporation in
12 pursuance of the acquisition of impaired assets in pursuance of section
13 50(1)(h) of this Bill before the "Special Tribunal for the Enforcement and
14 Recovery of Eligible Loans" established by Section 102 of Banks and Other
15 Financial Institutions Act, 2020, and accordingly the jurisdiction of the said
16 Tribunal is extended to cover such actions and such debt are deemed to be
17 eligible debt for the purpose of the jurisdiction of the said Tribunal.

Institution of
action at the Special
Tribunal established
by BOFIA

18 **96.-(1)** The Board may make regulations, rules or orders to give
19 full effect to the provisions of this Bill.

Regulations

20 (2) The power to make regulations, rules or orders conferred on the
21 Board by this Bill shall include-

22 (a) power to make provisions for such incidentals and
23 supplementary matters as the authority making the instrument considers
24 expedient for the purpose of the instrument; and

25 (b) power to make different provisions for different circumstances
26 guiding the operations of the Deposit Insurance Scheme.

27 (3) The Corporation may impose a penalty not exceeding
28 N10,000,000 on an insured institution or its directors or officials or
29 recommend to the Governor of the Central Bank of Nigeria to suspend the
30 licence of the insured institution if the insured institution fails to comply

	1	with any provisions and Regulations, pursuant to this Bill on matters relating to
	2	Deposit Insurance.
Liquidation of the Corporation	3	97. The Corporation shall not be placed in liquidation except pursuant
	4	to the provisions of an Act of the National Assembly enacted in that behalf and
	5	in such manner as that Act may specify.
Repeal of the Nigeria Deposit Insurance Act No. 16 of 2006	6	98.-(1) The Nigeria Deposit Insurance Corporation Act No. 16 2006
	7	is hereby repealed.
	8	(2) Without prejudice to section 6 of the Interpretation Act, the repeal
	9	of the Act referred to in subsection (1) of this section shall not affect anything
	10	done under or pursuant to that Act.
	11	(3) The rights, interests, obligations and liabilities of the Corporation
	12	existing before the commencement of this Bill under any contract or
	13	instrument, or in law or in equity, shall, by virtue of this Bill, be assigned to and
	14	continue to be vested in the Corporation.
	15	(4) Any contract or instrument mentioned in subsection (3) of this
	16	section shall be of the same force and effect against or in favour of the
	17	Corporation and shall be enforceable fully and effectively.
Interpretation	18	99. In this Bill, unless the context otherwise requires -
	19	(a) "bank" means any person who is licenced by the Central Bank of
	20	Nigeria to carry on the business of acceptance of deposit;
	21	(b) "Board" means the Board of Directors of the Corporation;
	22	(c) "Bridge bank" means a bank established by the Corporation in
	23	accordance with Section 54 of this Bill;
	24	(d) "Close Associates" means Partner, Associate, Employer, or
	25	Employee of the Board Member;
	26	(e) "Concurrence" means prior written agreement;
	27	(f) "Corporation" means the Nigeria Deposit Insurance Corporation
	28	established pursuant to Section 1 of this Bill;
	29	(g) "Court" means any Court of competent jurisdiction including a
	30	Federal or State High Court, Tribunal, National Industrial Court, or any other

1 Court created by the Constitution of the Federal Republic of Nigeria or an
2 Act of the National Assembly;

3 (h) "Deposit" means monies lodged by depositors with any
4 insured institution for safe keeping or for the purpose of earning interest
5 whether or not repayable on demand, upon a given period of time, or upon a
6 fixed date, or at a time or in circumstances agreed by or on behalf of the
7 depositor making the lodgement with the insured institution receiving it and
8 includes monies in an insured institution that may otherwise be described by
9 the Corporation as deposits, but shall not include without prejudice to the
10 generality of the following: (i) monies received by the insured institution as
11 agent or otherwise for purchase of securities, stock, shares of any company
12 or body, or a stakeholder; (ii) monies lodged in an insured institution by any
13 person for any purpose other than for safekeeping, or for earning interest;
14 (iii) application monies and other monies paid prior to allotment of shares by
15 an applicant on account of shares or other securities held in a separate
16 account as deposit by the issuing house under the Investments and Securities
17 Act; or any monies lodged in or received by an insured institution by any
18 person for any purpose which may otherwise be determined not to be a
19 deposit by the Corporation;

20 (i) "Deposit Money Bank" means a bank other than a specialized
21 bank under the Banks and Other Financial Institutions Act, 2020;

22 (j) "Dissolution" means the closing down of a company by
23 removing its name from the register of companies;

24 (k) "Excess Insured Deposit Claims" means deposits over and
25 above the insured amounts which are payable on realization of the assets of a
26 failed insured institution;

27 (l) "Executive Management" for the purpose of section 40 of this
28 Bill only, means the Managing Director and the two Executive Directors
29 acting by a majority vote;

30 (m) "Failed Insured Institution" means an insured institution

1 whose licence has been revoked or which is critically undercapitalized, that is,
2 its capital to risk weighted assets ratio is above two percent but below five
3 percent; or that is declared a failed insured institution by the Corporation or the
4 Central Bank of Nigeria in accordance with the criteria stipulated in the
5 Prudential Guidelines issued for licenced insured institutions;

6 (n) "Failing Insured Institution" means an insured institution whose
7 capital to risk weighted assets ratio or regulatory capital is below the minimum
8 prescribed by Central Bank of Nigeria in accordance with the criteria stipulated
9 in the Prudential Guidelines issued for licenced insured institutions;

10 (o) "Failure of an Insured Institution" means a failing or failed insured
11 institution;

12 (p) "Family Member" means Husband, Wife, Father, Mother,
13 Brother, Sister, Son, Daughter and their spouses;

14 (q) "Insured Institution" means all financial institutions in Nigeria
15 licensed or authorized to accept deposits from the public in accordance with the
16 provisions of the Banks and Other Financial Institutions Act, 2020;

17 (r) "Liquidator" means the Nigeria Deposit Insurance Corporation or
18 such other person appointed by the Corporation to act as Liquidator;

19 (s) "Minister" means the Minister charged with responsibility for
20 matters relating to finance;

21 (t) "Obligor" means the debtor or guarantor of a debt owed to an
22 insured institution;

23 (u) "Other financial institutions" has the same meaning ascribed
24 thereto under the Banks and Other Financial Institutions Act 2020;

25 (v) "Other deposit-taking financial institutions" includes licenced
26 Microfinance banks, licenced Primary Mortgage institutions, specialized
27 banks and any other deposit taking institution as may be designated by the
28 Central Bank of Nigeria;

29 (w) "Partners" in this Bill shall include directors of a limited liability
30 company carrying out audit functions in respect of an insured institution;

1 (x) "President" means the President of the Federal Republic of
2 Nigeria;

3 (y) "Principal officer" means a director, chief executive officer,
4 chief operating officer, chief financial officer, or such other officer of an
5 insured institution as may be so designated by the Corporation;

6 (z) "Significant Interest" means control over or beneficial
7 ownership of shares of an aggregate value of not less than five percent of the
8 total shareholding, whether held directly by the person or through another
9 person or a company in which he has shareholding;

10 (aa) "Significant Shareholder" means a person with Significant
11 Interest in an insured institution;

12 (bb) "State" means any of the States of the Federation.

13 **100.** This Bill may be cited as the Nigeria Deposit Insurance Citation
14 Corporation Bill, 2022.

1 SCHEDULE

2 *Section 7(8)*3 *Proceedings of the Board*

4 1. The Board may make standing orders regulating the proceedings
5 of the Board or of any committee thereof and shall meet not less than four times
6 in every year.

7 2. The quorum of the Board shall be five which shall include the
8 Chairman, the Managing Director or one Executive Director, the
9 representatives of the Central Bank of Nigeria as well as the Ministry of
10 Finance and an External Member.

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

15 4.-(1) Subject to the provisions of any applicable standing orders, the
16 Board shall meet whenever summoned by the Chairman and if the Chairman is
17 required so to do by notice given to him by not less than three other members
18 shall summon a meeting of the Board to be held within twenty-one days from
19 the date on which the notice is given.

20 (2) At any meeting of the Board, the Chairman shall preside or in his
21 absence, the members present at the meeting shall appoint one of their
22 members to preside at the meeting.

23 5.-(1) The Board may appoint one or more committees to carry out on
24 its behalf, such functions as the Board may determine.

25 (2) A committee appointed under this paragraph shall consist of the
26 number of persons determined by the Board and not more than one-third of
27 those persons may be persons who are not members of the Board and a person
28 other than a member of the Board shall hold office on the committee in
29 accordance with the terms of the instrument by which he or she is appointed.

30 (3) A decision of a committee constituted under this paragraph shall

1 be of no effect until it is ratified by the Board.

2 6.-(1) The fixing of the seal of the Corporation shall be
3 authenticated by the signature of the Chairman or Managing Director and
4 any other person authorised by the Board.

5 (2) Any contract or instrument which if made or executed by a
6 person not being a body corporate, would not be required to be under seal
7 and may be made or executed on behalf of the Board by any person generally
8 or specially authorised to act for that purpose by the Board.

EXPLANATORY NOTE

This Bill amongst other things repeals the Nigeria Deposit Insurance Corporation Act, 2006 and replaces it with a new Act that provides for the Nigeria Deposit Insurance Corporation as the insurer of all insurable deposit liabilities of insured institutions.