

NIGERIA DEPOSIT INSURANCE CORPORATION ACT

ARRANGEMENT OF SECTIONS

PART I

Establishment and Functions of the Corporation

SECTION

1. Establishment of the Nigeria Deposit Insurance Corporation.
2. Functions of the Corporation.
3. Prohibition against proliferation of Deposit Insurance Scheme.
4. Head Office.

PART II

Administration

5. Composition of Board.
6. Disqualification of members of the Board.
(3) Central Bank of Nigeria.
7. Powers of the Board.
8. Appointment of Managing Director and Executive Directors, etc.
9. Appointment of Secretary and other staff.

PART III

Capital and Funds of the Corporation

10. Funds of the Corporation.
11. Capital.
12. General reserve fund.
13. Bank account and investment of the funds of the Corporation.
14. Expenditure.

PART IV

Deposit Insurance Scheme

15. Participating institutions.
16. Insurable deposit.
17. Assessment of insured institutions and special contribution.
18. Payment of dividends by insured institutions while in default of assessment.
19. Prohibition of set-off.
20. Maximum claim.
21. Payment of insured deposit.
22. Power to withhold deposits on discharge of the Corporation.

PART V

Notice of Termination of Insured Status

SECTION

- 23. Violation of obligations.
- 24. Conditions for termination.
- 25. Procedure for termination of insured status.
- 26. Conditions for participation after termination.

PART VI

Supervision of Insured Institutions

- 27. Power of the Corporation to require information.
- 28. Appointment of examiners.
- 29. Functions of examiners.
- 30. Special examination.
- 31. Report of examination.
- 32. Prompt corrective action.

PART VII

Duties of insured institutions

- 33. Fidelity insurance.
- 34. Obligations in respect of unauthorised disclosure.
- 35. Returns on frauds and forgeries.
- 36. Notification to the Corporation of dismissed staff and employment of dismissed staff.

PART VIII

Restructuring of Failing insured institution

- 37. Financial assistance.
- 38. Management and restructuring of failing insured institutions.
- 39. Bridge banks.

PART IX

Liquidation of Failed insured Institutions

- 40. Power of the Corporation to act as liquidator.
- 41. Action following a failure.
- 42. Power to appoint agents.
- 43. Closure of failed insured institutions.
- 44. Limitation Law not applicable.

PART X

Criminal Prosecution and Offences

- 45. Offences and penalties.
- 46. Power to compound offences.
- 47. Right to appear in court.

PART XI

Financial Provisions

SECTION

- 48. Accounts and audit.
- 49. Annual report.

PART XII

General Provisions

- 50. Advertisement.
- 51. Exemption from Insurance Act.
- 52. Power to borrow.
- 53. Relationship with the Central Bank of Nigeria.
- 54. External auditors of all insured institutions and reporting requirements.
- 55. Indemnity of the Corporation.
- 56. Regulations.
- 57. Liquidation.
- 58. Repeal of Cap. 310 L.F.N. as amended.
- 59. Interpretation.
- 60. Citation.

SCHEDULE

Proceedings of the Board

An Act to repeal the Nigeria Deposit Insurance Corporation Act, 1988 and to enact the Nigeria Deposit Insurance Corporation Act, 2006; and for related matters.

[Commenced]

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

PART I

Establishment and Functions of the Corporation

1. Establishment of the Nigeria Deposit Insurance Corporation

(1) There is established a body to be known as the Nigeria Deposit Insurance Corporation (in this Act referred to as "the Corporation").

(2) The Corporation-

- (a) Shall be a body corporate with perpetual succession and a common seal;
- (b) may sue or be sued in its corporate name; and

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

[Cap. L5.]

2. Functions of the Corporation

- (1) The Corporation shall have responsibility for-
- (a) insuring all deposit liabilities of licensed banks and such other deposit-taking financial institutions (hereinafter referred to as "insured institutions") operating in Nigeria within the meaning of sections 16 and 20 of this Act so as to engender confidence in the Nigerian banking system;
 - (b) giving assistance to insured institutions in the interest of depositors, in case of imminent or actual financial difficulties particularly where suspension of payments is threatened to avoid damage to public confidence in the banking system;
 - (c) guaranteeing payments to depositors, in case of imminent or actual suspension of payments by insured institutions up to the maximum amount as provided for in section 20 of this Act;
 - (d) assisting monetary authorities in the formulation and implementation of banking policy so as to ensure sound banking practice and fair competition among insured institutions in the country; and
 - (e) pursuing any other measure necessary to achieve the functions of the Corporation provided such measures and actions are not repugnant to the objects of the corporation.

3. Prohibition against proliferation of Deposit Insurance Scheme

(1) Notwithstanding any provision contained in any other law, no person other than the Corporation shall insure deposit liabilities or guarantee payments to depositors of insured institutions operating in Nigeria.

(2) Any person who contravenes the provisions of this section commits an offence and is liable on conviction to--

- (a) in case of an individual a fine of ₦ 100,000.00 or imprisonment for a term not exceeding 5 years or to both such fine and imprisonment;
- (b) in case of corporate body, a fine of ₦500,000.00 for each day the contravention continues.

4. Head Office

The Corporation shall have its Head Office in the capital of the Federal Republic of Nigeria and may open offices in any part of Nigeria and appoint agents and correspondents as may be approved by the Board.

PART II

Administration

5. Composition of the Board

(1) The governing body of the Corporation shall be a Board of Directors in this Act referred to as "the Board").

(2) The Board shall consist of the following members:

- (a) the Chairman;
- (b) the Managing Director;
- (c) two Executive Directors;
- (d) A representative of-
 - (i) The Central Bank of Nigeria not below the rank of a Director;
 - (ii) The Federal Ministry of Finance not below the rank of a Director; and
- (e) six other members, one from each of the six geo-political zones of the country.

(3) The Chairman and Board members shall not be persons who own or control significant interests in any insured institution in Nigeria.

(4) The President of the Federal Republic of Nigeria shall appoint the Chairman and members of the Board subject to the confirmation of the Senate.

(5) The Chairman and members of the Board shall be part-time members.

(6) The part-time members of the Board shall be experienced persons with relevant background.

(7) All members of the Board shall within one month of appointment onto the Board declare in writing to the Board their personal share holdings and all significant interests as well as those of their family members or close associates known to them in any insured institution in Nigeria.

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

[Schedule.]

6. Disqualification of members of the Board

(1) Notwithstanding the provisions of this Act, a person shall cease to hold office as a Member of the Board if-

- (a) He becomes bankrupt, suspends payment or compounds with his creditors;
- (b) He is convicted of a felony or any offence involving dishonesty or fraud;
- (c) He becomes of unsound mind, or incapable of carrying out his duties;
- (d) He is guilty of a serious misconduct in relation to his duties;
- (e) In the case of a person possessing professional qualifications, he is disqualified or suspended other than at his own request from practising his profession in any part of the world by an order of a competent authority made in that respect;
- (f) he resigns his appointment by a letter addressed to the President of the Federal Republic of Nigeria, through the Minister of Finance;
- (g) He is discovered to have significant interest in any insured institution in Nigeria; or

(h) he is found to have failed to disclose to the Board, his interest or the significant interest of any family member or close associate, known to him in any insured institution at the time of his appointment.

(2) No director or employee of an insured institution under this Act shall, whilst in office, be appointed a Director of the Corporation.

(3) *Central Bank of Nigeria*

Whenever the Board is dissolved, the Minister of Finance shall, in consultation with the Governor of Central Bank of Nigeria (CBN) constitute a Management Committee for the Corporation to be made up of the following members, one of whom shall be appointed-

- (a) the Chairman;
- (b) the Managing Director;
- (c) the Executive Director;
- (d) a representative each of
 - (i) C.B.N.; and
 - (ii) The Federal Ministry of Finance,

to perform the functions of the Board until a new Board is constituted.

7. Powers of the Board

(1) The Board shall have power-

- (a) to superintend over the affairs of the Corporation;
- (b) to be responsible for the overall policy and administration of the Corporation;
- (c) to act in the name of the Corporation;
- (d) to acquire offices and other premises for the use of the Corporation;
- (e) to make, alter and revoke rules and regulations for carrying on the business of the Corporation under this Act;
- (f) to appoint officers who in the opinion of the Board are required for carrying out the functions of the Corporation including the examination of insured institutions;
- (g) To fix terms and conditions of service including remuneration of the employees of the Corporation;
- (h) To advise the Central Bank of Nigeria on the need to close a failed insured institution if in the opinion of the Board its continued operation will jeopardise the interests of depositors;
- (i) To serve notice on a failed insured institution of its intention to remove the institution from its record of insured institutions;
- (j) to assume, with the prior concurrence of the Central Bank of Nigeria, the management of a failing insured institution;
- (k) with the concurrence of the Central Bank of Nigeria, serve a notice of removal from office on any officer or director who has violated any of the laws, rules or

Regulations of the Corporation or has engaged in an unsound practice that may lead to dissipation of assets or financial loss to his insured institution;

- (l) to perform the functions of a liquidator or receiver for all failed insured institutions;
- (m) to extend from time to time the period within which a depositor is required under this Act to file his claim for the payment of insured deposit in a failed insured institution;
- (n) to prosecute any officer or director of an insured institution who has violated any of the provisions of this Act; and
- (o) to do such other things and enter into such other transactions which in the opinion of the Board are reasonably incidental, supplementary or conducive to the exercise of the powers and performance of the Corporation's functions.

8. Appointment of the Managing Director and Executive Directors, etc.

(1) There shall be appointed for the Corporation-

- (a) a Managing Director, who shall be the Chief Executive of the Corporation and shall be responsible for the day to day management of the Corporation; and
- (b) two Executive Directors who shall perform such duties as may be assigned to them from time to time by the Board or the Managing Director.

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

(3) The Managing Director and Executive Directors appointed under this section shall constitute the Executive Committee of the Board, and shall hold office for a period of five years and may be eligible for reappointment for a further period of five years.

(4) Subject to subsection (3) of this section, the Managing Director and Executive Directors shall each hold office on such terms and conditions as may be specified in their letters of appointment.

9. Appointment of Secretary and other staff, etc.

(1) The Board shall appoint a Secretary who shall-

- (a) Be responsible to the Managing Director;
- (b) Keep the Board's records;
- (c) Conduct its correspondence; and
- (d) Perform such other duties as the Board or the Managing Director may from time to time determine.

(2) The Board shall appoint such number of officers and staff as may appear of the Secretary and other staff of the Corporation, expedient and necessary to the Board for the proper and efficient conduct of the business and functions of the Corporation.

(3) The terms and conditions of service (including remuneration, allowances and pension benefits in accordance with the Pension Reforms Act), of the Secretary and other staff of the Corporation shall be as may be determined by the Board.

[2004 No.2.]

PART III

Capital and Funds of the Corporation

10. Funds of the Corporation

- (1) The funds of the Corporation shall consist of-
- (a) assessed premiums paid by insured institutions in accordance with this Act;
 - (b) income from the investments of the corporation;
 - (c) monies borrowed from any source with the approval of the Board; and
 - (d) monies from any other source as may be approved by the corporation

(2) The Corporation shall have power to establish a separate Deposit Insurance Fund (DIF) for each category of insured institution in which all assessed premiums paid shall be deposited and which fund the Corporation shall utilise for the respective insured institutions.

11. Capital

(1) The authorised capital of the Corporation shall be five billion naira.

(2) On a resolution of the Board, there shall be paid up such amount as shall be subscribed by and paid-up at par in a proportion of 60 percent and 40 percent by the Central Bank of Nigeria and the Federal Ministry of Finance.

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

12. General reserve fund

(1) The Corporation shall establish a general reserve fund to which shall be transferred the Corporation's net operational surplus before tax if the reserve fund is less than ten times the authorised capital.

(2) Where the reserve fund is more than ten times the authorised capital at the end of the year, 75 percent of the net operational surplus before tax shall be transferred to the reserve fund, 50 percent of the remaining amount after tax shall be applied to reduce the annual premium payable by insured institutions while the remaining 50 percent shall be paid to the shareholders.

(3) The net operational surplus of the Corporation for each year shall be determined after meeting all the current expenditure for that year and after making such provisions as the Board may deem fit for depreciation of assets, contribution to staff pension and super annuation funds and all other contingencies.

13. Bank account and investment of funds of the Corporation

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

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

(3) All administrative expenses shall be defrayed out of the income of the Corporation.

14. Expenditure

There shall be chargeable to the Corporation-

- (a) all expenses incurred on behalf of the Corporation;
- (b) all refunds of excess assessment;
- (c) monies required for the payment of funds borrowed by the Corporation;
- (d) payment to an insured institution which assumes the deposit liability of another insured institution; and
- (e) payment to depositors when the licence of an insured institution is revoked.

PART IV

Deposit Insurance Scheme

15. Participating institutions

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

(2) Any licensed bank or such other deposit-taking financial institution which contravenes the provisions of subsection (1) of this section shall be guilty of offence and be liable to a maximum fine of ₦500,000.00 for each day the offence is committed.

(3) All principal officers of such licensed bank or deposit-taking financial institution which contravenes subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment for 3 years or a fine of not more than ₦5,000,000 (five million naira) or to both such fine and imprisonment.

16. Insurable deposit

All deposits of a licensed bank or any other financial institution shall be insured with the Corporation with the exception of the following:

- (a) insider deposits, that is, deposits of staff including directors of the insured institutions;
- (b) counterclaims from a person who maintains both deposit and loan account, the former serving as a collateral for the loan; or
- (c) such other deposits as may be specified from time to time by the Board.

17. Assessment of insured institutions and special contribution

(1) Every insured institution being a licensed bank or deposit-taking financial institution to which this Act relates, shall be obliged to pay to the Corporation, a premium which shall not exceed (15/16) fifteen-sixteenth of one percent per annum for licensed banks and (8/16) eight-sixteenth of one percent per annum for other deposit-taking financial institutions of the total deposit liabilities standing in its books as at 31st December of the preceding year in the following manner:

- (a) the deposit liabilities shall be as certified by the approved auditor of the licensed bank or such other deposit-taking financial institution;
- (b) the certified deposit liabilities shall be forwarded to the Corporation on or before 31st January of every year; and
- (c) the annual premium shall be payable not later than 2 months from the date of the demand notice.

(2) Notwithstanding the provisions of subsection (1) of this section, and subject to the approval of the Board the Corporation shall have the power to vary the rate or basis of assessment of the premium payable to the Corporation by insured institutions or to charge an insured institution or any class of insured institutions premium at a rate or rates which reflects the risk posed to the Corporation's Deposit Insurance Fund.

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

(4) The Corporation shall have power to establish a separate Deposit Insurance Fund (DIF) for each category of insured institution in which all assessed premiums paid shall be deposited and which fund the Corporation shall utilise for the respective insured institutions.

(5) Where the funds of the Corporation are not sufficient for giving assistance to insured institutions within the meaning of section 2 (1) (b) of this Act or otherwise insufficient for implementation of the objects of the Corporation, every participating insured institution or category of insured institution may be obliged without prejudice to subsections (1) and (2) of this section to pay as special contribution out of its profits before tax, a sum equal to its annual premium or such other sum as the Board may require not exceeding 200% of its annual premium on such terms and conditions as the Board may from time to time determine.

(6) Where an insured institution has assumed the deposit liabilities of another insured institution, such deposit liabilities of the other institution shall be added to its own total deposit liability for purpose of assessing its premium payable to the Corporation.

(7) Any premium payable by an insured institution and which remains unpaid for more than three months after a demand notice had been served on such institution, shall attract interest at a rate equivalent to the prevailing Minimum Rediscount Rate (MRR) of the Central Bank of Nigeria.

18. Payment of dividends by insured institutions while in default of assessment

Without prejudice to the provisions of the Banks and Other Financial Institutions

Act, 1991 as amended, no insured institution shall pay any dividend on its capital stock

or from profit declared while it remains in default in the payment of any premium obligation due or special contribution due to the Corporation and any director, manager, or officer of any insured institution who is responsible for the declaration or payment of any such dividend shall be guilty of an offence under this Act and shall be liable to a fine of 5% of the total dividend so declared or paid.

[Cap. B3.]

19. Prohibition of set-off

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

20. Maximum claim

(1) A depositor shall receive from the Corporation as provided under section 2 (1) (c) of this Act, a maximum amount of ₦200,000 from the Deposit Insurance Fund of licensed banks or ₦100,000.00 from the Deposit Insurance Fund of other licensed deposit-taking financial institutions in the event of the revocation of operating licence of that bank or other deposit taking financial institution.

(2) Notwithstanding the provisions of subsection (1) of this section and subject to the approval of the Board, the Corporation shall have power from time to time, to vary upwards the maximum amount which a depositor shall receive from the Corporation as provided under subsection (1) of this Act in respect of deposits of failed insured institutions.

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

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

21. Payment of insured deposit

(1) Where the licence of a failed insured institution is revoked, payment of the insured deposit in such institution shall be made by the Corporation within 90 days either by-

- (a) cash, negotiable instrument; or
 - (b) making available to each depositor a transferred deposit in another insured institution in an amount equal to the insured deposit of such depositor provided that where the Corporation is-
- (i) liable to make payment in pursuance of this section, it shall, at its discretion, require proof of claim from all depositors with the failed insured institution; and
 - (ii) not satisfied as to the validity of a claim for an insured deposit, it may require the final determination by a court of competent jurisdiction before paying such claim.

(2) The Corporation upon the payment of any depositor as provided in subsection (I) of this section shall be subrogated to all rights of the depositor against the failed insured

institution to the extent of such payment; and such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such failed insured institution and recoveries on account of shareholder's liabilities as would have been payable to the depositor for any uninsured portion of his deposit.

(3) Not later than 90 days after the failure of an insured institution, the Corporation, if it finds that it is advisable in the interest of the depositors or the public, shall appoint another insured institution to assume the insured deposits of the failed insured institution.

22. Power to withhold deposits on discharge of the Corporation

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

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

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

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

- (a) fails to claim his insured deposit from the Corporation within six years after the notice of the Corporation has been sent to the depositor and the notice of payment to the depositors is published in two national dailies and electronic media houses, shall forfeit such sums to the Corporation; or
- (b) fails within such period to claim or arrange to continue the transferred deposit with the new insured institution,

all the rights of the depositor against the failed insured institution or its shareholders or the receivership estate to which the Corporation may have become subrogated shall thereupon revert to the Corporation.

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

(6) No court proceedings shall be commenced against the Corporation in respect of the obligation of the Corporation to make any payment in relation to any deposit held by any person in any failed insured bank or financial institution after the expiry of the period stipulated in subsection (4) of this section or any extension that may be granted under section 7 (k) of this Act.

PART V

Notice of Termination of Insured Status

23. Violation of obligations

(1) Whenever it appears to the Corporation that an insured institution or its directors or officers have committed a grievous violation of its obligation under this Act or have continued to conduct the business of the insured institution-

- (a) in an unsound manner;
- (b) intentionally or negligently permit any of the officers or agents of the insured institution to violate any provisions of any law or regulation to which an insured institution is subject,

the Corporation shall serve on the Board of the insured institution a warning notice stating that where the unsound practice continues, the name of the insured institution shall be removed from the register of the insured institutions and a copy of such warning notice forwarded to the Central Bank of Nigeria.

(2) It shall be deemed a grievous violation of obligation under this Act where an insured institution-

- (a) persistently suffers liquidity deficiency;
- (b) persistently contravenes the provisions of any legislation or regulation relating to banking, economic and financial crimes;
- (c) makes incomplete or incorrect statements to the Corporation;
- (d) is in default with the payment of its annual premium or special contribution as provided in section 17 of this Act;
- (e) habitually fails to render returns to the Corporation or does not submit upon request, any other information for the efficient performance of the function of the Corporation;
- (f) makes incorrect statement to the Corporation as regards customers' deposits it has insured;
- (g) fails to make adequate provisions for bad and doubtful debts up to the amount recommended by the supervisory authorities or pays dividends in defiance of this provision; or
- (h) fails to write off bad debts as may be recommended by the supervisory authorities.

(3) The Corporation shall, before terminating the insured status of any insured institution, consider and apply corrective measures in accordance with the provisions of section 32 of this Act.

24. Conditions for termination

- (1) Where the insured institution fails within a reasonable time to make amends, the Board shall-
- (a) give to the institution not less than thirty days' written notice of its intention to terminate the insured status of the institution; and
 - (b) fix a time and place of hearing before a person designated by the Board to conduct the hearing at which evidence may be produced, and upon such evidence, the Board shall make its findings which shall be final.

(2) Where the insured institution is not represented or does not make any representation to the Corporation pursuant to subsection (1) (b) of this section, or if the Corporation does not favourably consider such representation made, the Corporation may proceed to terminate the insured status of the institution and shall inform the Central Bank of Nigeria accordingly.

25. Procedure for termination of insured status

- (1) Where the Board is satisfied that an insured institution is in grievous violation of its obligation under this Act, it shall terminate the insured status of the institution.
- (2) The Corporation shall cause a notice of termination to be published in at least three national newspapers.
- (3) Where the participation of an insured institution in the Deposit Insurance Scheme is terminated, the Corporation shall immediately cause a notice of such termination to be published in not less than three national newspapers, to the depositors and other creditors to whom liabilities are owed and bring the consequences of such termination to their notice.
- (4) After the termination of the status of an insured institution under this Act, the insured deposit of each depositor in the institution on the date of its termination, less all subsequent withdrawals from the deposits of such depositor, shall continue to be covered for another period of one year, and thereafter, such deposits shall cease to be covered.
- (5) The Corporation shall not insure any addition to any deposit specified in subsection (4) of this section or any new deposit in the institution made after the date of termination of its status as an insured institution and the institution shall not advertise for deposits or hold itself out as having its deposits insured by the Corporation.
- (6) The Central Bank of Nigeria may revoke the licence of any insured institution whose insured status has been terminated by the Corporation.

26. Conditions for participation after termination

An insured institution whose insured status is terminated in accordance with this Act may reapply to participate in the Scheme after it has satisfied all the conditions required of it by the Board particularly after the Board has given consideration to the following and determine that:

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

- (b) the grounds for which the institution's participation in the Deposit Insurance Scheme was terminated have been remedied; and
- (c) the future earning prospects and general character of its management are satisfactory .

PART VI

Supervision of Insured Institutions

27. Power of the Corporation to require information

(1) Every insured institution shall submit to the Corporation such returns and information as may be required from time to time within the stipulated period.

(2) Any insured institution which fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence under this Act and shall be liable on conviction to a fine of ₦500,000.00 and thereafter ₦100,000.00 for each day the offence continues, counting from the day immediately after the date of failure to make such return.

(3) In addition to the powers conferred on it under this Act, the Corporation may require persons having access thereto, at all reasonable times to supply to it information, in such form as the Corporation may from time to time direct, relating to, or touching on or concerning matters affecting the interest of depositors of insured institutions.

(4) Where any person lawfully required to supply information necessary to achieve the objects and purpose of the Corporation-

- (a) supplies any information which he knows to be false or supplies it recklessly as to its truth or falsity; or
- (b) without reasonable excuse fails to supply any information required by the Corporation,

commits an offence, and is liable on conviction to a fine not exceeding ₦500,000.00 for every such report.

28. Appointment of examiners

The Board shall have power to appoint on the recommendation of the Managing Director, such number of examiners who shall-

- (a) be officers of the Corporation with powers to examine periodically, and under conditions of secrecy, the books and affairs of every insured institution;
- (b) have a right of access at all times to the books, accounts and vouchers of the insured institution including its management information system;
- (c) be entitled to require and obtain information and explanations from the officers, directors and auditors of an insured institution as they may deem necessary in the performance of their duties; and
- (d) have access to any accounts, returns and information with respect to any insured institution under the provisions of this Act, which are in the possession of the Central Bank of Nigeria.

30. Special examination

(1) The Board may at any time appoint two or more qualified persons to conduct a special examination or investigation of the books and affairs of an insured institution under conditions of secrecy when the Board is of the opinion that an insured institution may-

29. Functions of examiners

(1) In the exercise of the functions of an examiner appointed pursuant to section 28 (1) of this Act, the examiner shall exercise reasonable care to prevent unreasonable hindrance to the day to day activities of an insured institution and confine the investigation to matters of fact and data deemed necessary for the examination.

(2) An insured institution shall produce to the examiner as and when required, all books, accounts, documents, management information systems and all information as the examiner may deem necessary or request in the exercise of his functions.

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

- (a) wilfully refuses to produce any book, account, document or such other information;
- (b) negligently, wilfully or with intent to defraud, gives information which is false in any material particular; or
- (c) refuses inspectors access to their premises or any hardware or software utilised in its business, commits an offence.

(4) A person who commits an offence under this section is liable on conviction-

- (a) in the case of an offence against subsection (3) (a) of this section, to a fine of ₦20,000.00 per day that he withholds the information, document, book or account and the insured institution to a fine of not more than ₦500,000.00) for every day that the said information, document or book of account was withheld; or
- (b) in the case of an offence against subsection (3) (b) of this section, the director or officer involved to a maximum imprisonment of 3 years or a maximum fine not exceeding ₦1,000.00 or to both such fine and imprisonment.

(5) An examiner shall forward a report of his findings to the Managing Director who shall thereupon inform the Board of any circumstances in which the Board may exercise any of its powers under the provisions of sections 7 or 30 of this Act.

- (a) be carrying on business in a manner detrimental to the interest of its depositors and creditors;
- (b) have insufficient assets to cover its liabilities to the public; or
- (c) be contravening the provisions of this Act.

(2) Where an insured institution deems that it is-

- (a) likely to become unable to meet its obligations; or
- (b) about to suspend payments,

the insured institution shall cause the Corporation to be informed of its intention to do so.

(3) Any insured institution which contravenes the provisions of subsection (2) of this section commits an offence and is liable on conviction to a maximum fine of ₦1,000,000 and any director whose responsibility it was to inform the Corporation commits an offence and is liable on conviction to a maximum fine of ₦ 200,000.

31. Report of examination

(1) After the conclusion of an examination under the provisions of this Act, the Corporation shall forward a copy of the report arising there from to the insured institution concerned with instructions that it be presented by the insured institutions management to the Board of Directors of the institution at a meeting specially convened within one month of receiving the report for the purpose of considering the report and recommendations.

(2) The insured institution shall within two weeks of the presentation to its Board of Directors convey to the Corporation the Board of Directors' reaction to the report and proposals for implementation of the recommendations.

32. Prompt corrective action

(1) Without prejudice to the provisions of this Act, where the examination by the Corporation as to the condition of any insured institution disclosed that-

- (a) an insured institution or its directors or staff have engaged, are engaging or are about to engage in unsafe and unsound practices in conducting the business of the institution; or
- (b) have violated or are violating any provisions of any law or regulation to which the insured institution is subject; or
- (c) where such violation may lead to insolvency or dissipation of the assets of the insured institution,

the Corporation shall submit the report of the examination to the management of the bank with specific directives to address the situation by taking corrective measures.

(2) If such corrective action is not fully implemented within 30 days from the submission of the report or any other time given, the Corporation shall in consultation with the Central Bank of Nigeria initiate such further corrective actions which it may deem necessary to redress the situation.

PART VII

Duties of Insured Institutions

33. Fidelity insurance

All insured institutions shall have fidelity insurance coverage up to such level as may be prescribed from time to time by the Corporation.

34. Obligations in respect of unauthorised disclosure

(1) The members of the Board, staff and agents of an insured institution shall keep strictly confidential and make no unauthorised disclosure or use of any information which they may either directly or indirectly receive in such capacity of the activities of an

insured institution and the result thereof of the Corporation and of the circumstance of the participating insured institution and their customers, even after they cease to be members or staff or agents of that insured institution.

(2) The obligation specified in subsection (1) of this section is also imposed upon directors, employees of, and any agent or other persons engaged by the Corporation.

(3) The provisions of subsection (1) of this section shall not apply to communications made to the Corporation, Central Bank of Nigeria, external auditors of the insured institutions, the Bankers' Committee or the Federal Ministry of Finance in connection with the purposes of the Corporation.

(4) The provisions of subsection (1) of this section shall not apply to communications in connection with the admission or exclusion of an insured institution from the Deposit Insurance Fund (DIF).

35. Returns on frauds and forgeries

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

36. Notification to the Corporation of dismissed staff and employment of dismissed staff

(1) An insured institution shall notify the Corporation of any staff dismissed, terminated or advised to retire or resign on the ground of fraud or financial malpractice.

(2) The persons affected under subsection (1) of this section shall not be employed in an insured institution without the insured institution first notifying the Corporation.

(3) Any insured institution which acts in contravention of any of the provisions of subsections (1) and (2) of this section shall be guilty of an offence under this Act and liable to a fine of not less than ₦100,000.00.

PART VIII

Restructuring of Failing Insured Institution

37. Financial assistance

(1) Pursuant to section 2 (1) (b) of this Act, the Corporation shall, at the request of an insured institution and under such conditions as may be specified by the Corporation, assist the insured institution if it-

- (a) has difficulty in meeting its obligations to its depositors and other creditors;
- (b) persistently suffers liquidity deficiency; or
- (c) has accumulated losses which have nearly or completely eroded the shareholders' fund.

(2) The Corporation may take one or a combination of any of the following actions to assist a failing insured institution:

- (a) grant loans on such terms as may be agreed upon by the Corporation and the failing insured institution;

- (b) give guarantee for a loan taken by the insured institution;
- (c) accept an accommodation bill with interest for a period not exceeding 90 days' maturity exclusive of days of grace and subject to renewals of not more than seven times:

Provided that interest rates applicable to facilities extended to the failing institution shall not exceed the Minimum Rediscount Rate of the Central Bank of Nigeria.

38. Management and restructuring of failing insured institutions

- (1) The Corporation, in consultation with the Central Bank of Nigeria, may-
 - (a) take over the management of the failing insured institution until its financial position has substantially improved;
 - (b) direct specific changes to be made in the management of the failing insured institution within such time as the Corporation may specify;
 - (c) arrange a merger with or acquisition by another insured institution or contract to have the deposit liabilities assumed by another insured institution; in which case-
 - (i) the receiving or acquiring insured institution shall assume all the recorded deposit liabilities of the failing insured institution;
 - (ii) the receiving insured institution shall receive those assets of the failing insured institution that are acceptable and an amount equal to the difference between the assumed deposit liabilities and acceptable assets shall be advanced to the receiving insured institution by the Corporation;
 - (iii) the Corporation may receive such assets from the failing insured institution as it may consider acceptable as collateral for the advance to the receiving insured institution or purchase the assets from the failing insured institution; and
 - (iv) subject to subparagraph (iii) above, any asset (including land) of the failing insured institution shall be transferred or be vested in the receiving insured institution or the Corporation;
 - (d) acquire, manage and dispose of impaired assets of a failing insured institutions, either directly or through an Assets Management Company and the Board of the failing insured institution shall be obliged to offer the assets of the failing insured institution for sale to the Corporation or the Assets Management Company or as security for loans from the Corporation or the Assets Management Company; or
 - (e) take such other measures that are reasonably necessary for the purpose of securing and restructuring the failing insured institution.

39. Bridge banks

- (1) The Corporation, in consultation with the Central Bank of Nigeria, may organise and incorporate, and the Central Bank shall issue a banking licence to one or more banks, to be referred to as bridge banks which shall be insured institutions to assume such deposits and/or liabilities, and shall purchase such assets of a failing insured institution and perform any other function or business as the Corporation may determine.

(2) The Corporation shall appoint, remove and fix the remuneration of the Board of Directors and Management of such bridge bank.

(3) Notwithstanding the provisions of the Companies and Allied Matters Act, the Central Bank of Nigeria Act, the Banks and Other Financial Institutions Act or any other law, the bridge bank shall not be subject to any requirement relating to issued or paid up capital, and the Corporation may make available to the bridge bank, upon such terms and conditions, and in such form and amounts, as the Corporation may determine, funds for the operation of the bridge bank.

[Cap. C20.]

(4) The Central Bank of Nigeria, the Corporate Affairs Commission, the Securities and Exchange Commission, the Nigerian Stock Exchange and any other regulatory or supervisory authorities may, at the request of the Corporation, grant forbearance, exemptions and waivers to the bridge bank in respect of its operations.

(5) The operation of a bridge bank shall unless extended as provided herein terminate at the end of 2 years from the date it was issued a licence and the Corporation may in its discretion extend the period of operation of a bridge bank to a maximum of three additional one year periods.

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

- (a) the merger or consolidation of the bridge bank with an insured institution that is not a bridge bank;
- (b) the sale of a majority of the equity of the bridge bank to any person other than the Corporation and another bridge bank; or
- (c) the assumption of all or substantially all deposits and other liabilities or the acquisition of all or substantially all of the assets of the bridge bank by an insured institution that is not a bridge bank; or
- (d) the expiration of the period provided in subsection (5) of this section or the earlier dissolution of the bridge bank by the Corporation before the expiration of the time herein provided or as extended by the Corporation pursuant to this Act.

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

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

PART IX

Liquidation of Failed Insured Institutions

40. Power of the Corporation to act as liquidator

(1) Whenever the licence of an insured institution is revoked by the Central Bank of Nigeria, the Corporation shall act as liquidator of such failed insured institution with powers conferred on a liquidator under the Companies and Allied Matters Act, 1990 and shall be deemed to have been appointed a provisional liquidator by the Federal High Court for the purpose of that Act.

[Cap. C20.]

(2) Immediately following the publication in the *Gazette* of the revocation of the licence of a failed insured institution the Corporation shall apply to the Federal High Court for an order to wind up the affairs of the failed insured institution.

(3) This section shall have effect and sections 408 and 410 of the Companies and Allied Matters Act, 1990 shall be construed as if the revocation of the licence of the failed insured institution had been included as a ground for winding-up by the Federal High Court, and as if the Corporation has been included as one of those that can present a winding-up petition before the Federal High Court under those sections.

(4) Section 427 (1) and (2) and section 428 (1) and (2) of the Companies and Allied Matters Act, 1990 shall not apply to the Corporation when acting as liquidator of a failed insured institution.

(5) The Companies' Winding-up Rules and any amendment thereto shall not apply to the winding-up of a failed insured institution by the Corporation as liquidator.

(6) The provisions of this Act shall apply without prejudice to the provisions of the Companies and Allied Matters Act, 1990 in so far as they relate to insured institutions and to winding-up by the Federal High Court and where any of the provisions of the Companies and Allied Matters Act, 1990 are inconsistent with the provisions of this Act, the provision of this Act shall prevail.

(7) Where in any action challenging the revocation of the licence of an insured institution or a petition for winding up the affairs of an insured institution or the appointment of the Corporation as liquidator, an application for an interim or interlocutory injunction is brought against the Corporation seeking to restrain the Corporation from paying depositors of a failed or failing institution, the trial court shall refer such application to the Court of Appeal for determination; provided that such a referral to the Court of Appeal shall not on its own operate as a stay of proceedings at the trial court; provided further that such application for interim interlocutory injunction shall be determined by such Appeal Court within 60 days of such referral, failing which it shall lapse.

41. Action following a failure

(1) The Corporation shall cause notice to be given by advertisement in national newspapers or other news media requiring all depositors with the insured institution under liquidation to forward their claims to the Corporation.

(2) The Corporation acting as liquidator of the failed institution shall have power to--

- (a) realise the assets of the failed insured institution;
- (b) enforce the individual liability of the shareholders and directors thereof; and
- (c) wind up the affairs of such failed institution as herein otherwise provided.

(3) The Corporation acting as liquidator-

- (a) shall pay to the Corporation such portion of the amount realised from such liquidation as it shall be entitled to receive on account of its subrogation to the claims of depositors and shall pay to depositors and other creditors the net amount available for distribution to them;
- (b) may pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to subsection (1) of this section and no

liability shall attach to the Corporation itself by reason of any such payment or for failure to pay dividend to a claimant whose claim is not proved.

42. Power to appoint agents

The Corporation may, when acting as liquidator of a failed insured institution, appoint an agent or agents to assist it in the performance of its duties, and all feed, compensation and expenses of liquidation and administration thereof shall be fixed and paid by the Corporation from the realised assets of the failed insured institution.

43. Closure of failed insured institutions

For the purpose of this Act, and without prejudice to section 462 of Companies and Allied Matters Act, 1990 requiring statutory declaration of insolvency by a company under voluntary winding-up an insured institution shall be deemed to have been closed on account of inability to meet the demands of its depositors in any case where it has been closed for the purpose of liquidation without adequate provision being made to the satisfaction of the Corporation for payment of its depositors.

[Cap. C20.]

44. Limitation Law not applicable

The provisions of the Limitation Law of a State or the Limitation Act of the Federal Capital Territory shall not apply to any debt owed to a failing or a failed insured institution.

PART X

Criminal Prosecution and Offences

45. Offences and penalties

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

- (a) fails to take all reasonable care to secure compliance with the provisions of this Act; or
- (b) fails to take all reasonable care to secure the authenticity of any statement submitted pursuant to the provisions of this Act,

commits an offence and is liable on conviction to an imprisonment for a term not exceeding two years or a fine not more than ₦200,000 or to both such fine and imprisonment.

(2) Any insured institution that reimburses or pays for a staff, officer or director directly or indirectly a fine imposed under this Act commits an offence and is liable on conviction to a fine of not more than ₦5,000,000 and also forfeit the amount repaid or reimbursed to the staff.

46. Power to compound offences

(1) Without prejudice to section 174 of the Constitution of the Federal Republic of Nigeria 1999 the Corporation may compound any offence punishable under this Act by accepting an amount less than the fine provided for the offence by this Act.

(2) All monies received by the Corporation under the provisions of subsection (I) of this section shall be paid into the Consolidated Revenue Fund of the Federation.

(3) All offences under this Act shall be tried by a court of competent jurisdiction.

47. Right to appear in court

(1) Subject to the provisions of section 174 of the Constitution of the Federal Republic of Nigeria (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), any legal practitioner in the employment of the Corporation may with the consent of the Managing Director, prosecute or defend criminal or other proceedings in the name of and on behalf of the Corporation in respect of matters relating to the business or operations of any insured institution in the course of carrying out the objectives of this Act.

(2) Notwithstanding the provisions of any enactment to the contrary, a person appointed under section 47 (I) of this Act who is a legal practitioner shall, while so appointed be entitled to represent the Corporation as legal practitioner for the purpose and in the course of his employment, without prejudice to the power of the Corporation to engage private legal practitioners in any proceeding.

PART XI

Financial Provisions

48. Accounts and audit

(1) The Managing Director shall submit to the Board for approval not later than 30th September of each year, an estimate of its expenditure and income during the succeeding year.

(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.

49. Annual report

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 each, shall be submitted to the Governor of the Central Bank of Nigeria, the Auditor-General of the Federation and the Minister of Finance.

PART XII

General Provisions

50. Advertisement

An insured institution may advertise its insured status without prior approval from the Corporation.

51. Exemption from Insurance Act

The Corporation shall be exempted from the provisions of the Insurance Act, 2003 or any amendment thereof.

[Cap. 117.]

52. Power to borrow

(1) The Corporation shall have power to borrow from the Central Bank of Nigeria such monies as it may deem fit for the discharge of its functions under this Act.

(2) The Central Bank of Nigeria may guarantee in such manner and upon such terms as it may deem fit the redemption and the repayment of any interest on any debenture stocks raised by the Corporation.

53. Relationship with the Central Bank of Nigeria

(1) The Corporation shall have access to reports of examination conducted by the Central Bank of Nigeria.

(2) The Corporation shall make reports of its examination of insured institutions and any other information essential to safe and sound banking practice available to the Central Bank of Nigeria.

(3) The Central Bank of Nigeria shall make available to the Corporation relevant information on the insured institutions licensed by it.

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

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

54. External auditors of all insured institutions and reporting requirements

(1) No duty to which an auditor of an insured institution or a person appointed pursuant to the provisions of the Banks and Other Financial Institutions Act, 1991 or any amendment thereof, shall be contravened by reason of his communicating in good faith to the Corporation whether or not in response to a request made by it, any information or opinion on a matter to which this section applies and which is relevant to safe and sound banking and financial practice.

[Cap. B3.]

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

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

- (b) evidence of an occurrence which has led or is likely to lead to a material diminishing of the insured institutions' net asset;
- (c) evidence that there has been a significant weakness in the accounting and other records or the internal control system of the insured institution;
- (d) evidence that the management of the insured institution has reported financial information to the Corporation which is misleading in a material particular;
- (e) where he believes that a fraud or other misappropriation has been committed by the directors, management or staff of the insured institution or has evidence of the intention of directors or senior management to commit such fraud or misappropriation; or
- (f) where there has been an occurrence such as acting in an irresponsible or reckless manner in respect of the affairs of the insured institution which causes the auditor to no longer have confidence in the competence of the directors or the senior management to conduct the business of the insured institution in a prudent or safe and sound manner so as to protect the interest of the depositors.

(3) Any auditor of an insured institution who acts in contravention of or fails deliberately or negligently to comply with any of the provisions of subsection (2) of this section in any respect shall be guilty of an offence and liable on conviction to a maximum fine of ₦5,000,000.00

55. Indemnity of the Corporation

(1) The Corporation or any of its directors, officers or agents shall not be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution of or in connection with the execution of any power conferred upon the Corporation, director, officer or agent.

(2) No suit shall be commenced against the Corporation before the expiration of a period of 1 month after written notice of intention to commence the suit shall have been served upon the Corporation by the intending plaintiff or his agent and the notice shall clearly and explicitly state the cause of action and the place of abode for the intending plaintiff and the relief which he claims.

56. Regulations

(1) The Board may make regulations, rules or orders to give full effect to the provisions of this Act.

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

- (a) power to make provisions for such incidentals and supplementary matters as the authority making the instrument considers expedient for the purpose of the instrument; and
- (b) power to make different provisions for different circumstances guiding the operations of the Deposit Insurance Scheme.

(3) The Corporation may impose a penalty not exceeding ₦1,000,000 on an insured bank or other financial institution or its directors or officials or recommend to the Governor

of the Central Bank of Nigeria to suspend the licence of the insured bank or financial institution if the insured bank or financial institution fails to comply with any provision of this Act.

57. Liquidation

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

58. Repeal of Cap. 301 L.F.N. as amended

(1) The Nigeria Deposit Insurance Corporation Act, 1988 as amended is repealed.

(2) Without prejudice to section 6 of the Interpretation Act, the repeal of the Act referred to in subsection (1) of this section shall not affect anything done under or pursuant to that Act.

[Cap. 123.]

(3) The rights, interests, obligations and liabilities of the Corporation existing before the commencement of this Act under any contract or instrument, or in law or in equity, shall, by virtue of this Act, be assigned to and continue to be vested in the Corporation.

(4) Any contract or instrument mentioned in subsection (3) of this section shall be of the same force and effect against or in favour of the Corporation and shall be enforceable fully and effectively.

59. Interpretation

In this Act-

"bank" means any person who carries on the business of banking which includes the acceptance of deposits;

"Board" means the Board of Directors of the Corporation;

"bridge bank" means a new bank organised by the Corporation in accordance with section 39 of this Act;

"close associate" means partner, associate, employer, close friend or relation;

"competent court" means a High Court of the State including the High Court of the Federal Capital Territory, Abuja and the Federal High Court;

"Corporation" means the Nigeria Deposit Insurance Corporation established under section 1 of this Act;

"deposit" means monies lodged by depositors with any insured institution for safe keeping or for the purpose of earning interest, premium or dividend, whether or not repayable on demand, upon a given period of time, or upon a fixed date, or at a time or in circumstances agreed by or on behalf of the depositor making the lodgement and the insured institution receiving it except as otherwise extended under this Act;

"excess insured deposit" means deposits over and above the insured amounts which are payable on realisation of the assets of a failed insured institution;

"failed insured institution" means a failed insured institution whose licence has been withdrawn;

_ "failing insured institution" means an insured institution whose capital to risk weighed assets ratio or regulatory capital is below the minimum prescribed by the Central Bank of Nigeria.

"financial institution" means any person in Nigeria who transacts banking business but who is not a licensed bank;

"insured bank" means a licensed bank and other deposit-taking financial institution, the deposits of which are insured in accordance with the provisions of this Act;

"insured institution" has the same meaning as "insured bank";

"liquidator" means the Nigerian Deposit Insurance Corporation or such other persons appointed by the Corporation to act as a liquidator;

"Minister" means the Minister charged with responsibility for matters relating to Finance;

"other deposit-taking financial institutions" includes licensed Community Banks and licensed Primary Mortgage Institutions;

"partners" in section 54 (3) shall include Directors of a limited liability company carrying out audit functions in respect of an insured institution;

"significant interest" means shares of an aggregate value of not less than 5% of the total shareholding, whether held directly by the person or through other persons or a company in which he has shareholding;

"State" means any of the States of the Federation;

"supervisory authorities" means the Corporation, the Central Bank of Nigeria and any other Government body charged with regulation or supervision of banks and other financial institutions.

60. Citation

This Act may be cited as the Nigeria Deposit Insurance Corporation Act, 2006.

SCHEDULE
[Section 5 (7).]

Proceedings of the Board

1. The Board may make standing orders regulating the proceedings of the Board or of any committee thereof and shall meet not less than four times in every year.
 2. The quorum of the Board shall be five which shall include the Chairman, the Managing Director or one Executive Director, the representatives of the Central Bank of Nigeria as well as the Ministry of Finance and an External Member.
 3. (1) Subject to the provisions of any applicable standing orders, the Board shall meet whenever summoned by the Chairman and if the Chairman is required so to do by notice given to him by not less than three other members shall summon a meeting of the Board to be held within twenty-one days from the date on which the notice is given.
(2) At any meeting of the Board, the Chairman shall preside or in his absence, the members present at the meeting shall appoint one of their members to preside at the meeting.
(3) Where the Board wishes to obtain the advice of any person on a particular matter, the Board may invite such person for such period as it thinks fit; but a person who is invited by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
 4. (1) The Board may appoint one or more committees to carry out on behalf of the Board, such of its functions as the Board may determine.
(2) A committee appointed under this paragraph shall consist of the number of persons determined by the Board and not more than one-third of those persons may be persons who are not members of the Board and a person other than a member of the Board shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.
(3) A decision of a committee constituted under this paragraph shall be of no effect until it is confirmed by the Board.
 5. (1) The fixing of the seal of the Corporation shall be authenticated by the signature of the Chairman or Managing Director and any other person authorised by the Board.
(2) Any contract or instrument which if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Board by any person generally or specially authorised to act for that purpose by the Board.
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SUBSIDIARY LEGISLATION

No Subsidiary Legislation
