

*Banking Act***CHAPTER 28**
BANKING ACT

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CHAPTER 28

BANKING ACT

PART I.—LICENSING OF BANKS

General

An Act to define banking, make provisions for the establishment, licensing, operation, control and supervision of banks. 1969 No. 1

[7th February, 1969] Commencement.

1. (1) No banking business shall be transacted in Nigeria—
- (a) except by a company duly incorporated in Nigeria which is in possession of a valid licence granted by the Minister authorising it so to do; and
- (b) unless before its incorporation in Nigeria the objects of the company as set out in its memorandum of association shall have been submitted to the Minister in writing through the Central Bank for his consideration, and the Minister has approved accordingly. 1972 No. 45
- (2) The foregoing subsection (1) shall not apply—
- (a) in relation to a bank (not being a bank to which paragraph (b) of this subsection refers), which was duly incorporated in Nigeria prior to the commencement of the Companies Act 1968, and which holds a valid licence granted under the Act repealed by this Act; 1968 No. 51.
- (b) in relation to a bank which was not, prior to the commencement of the Companies Act 1968 incorporated in Nigeria, and which at the commencement of this Act holds a valid licence, if—
- (i) the Nigerian branch or branches of the said bank shall, on or before 18th February, 1969 become incorporated in Nigeria under the Companies Act 1968 for the purposes of transacting banking business; and

(ii) the said bank has before that date applied to the Minister through the Governor of the Central Bank for a licence and such application has not been rejected by the said Minister.

(3) Any person who transacts banking business without a valid licence contrary to subsection (1) of this section shall be guilty of an offence and liable to a fine of ₦100 for each day during which the offence continues.

Licensing.

2. (1) Any company which desires to carry on banking business in Nigeria shall apply in writing through the Central Bank to the Minister for the grant of a licence and shall submit the following, that is—

- (a) a copy of the memorandum of association and articles of association or other instrument under which the company is incorporated duly verified by a statutory declaration made by a director, secretary, or other senior official of the company;
- (b) a copy of the latest balance sheet of the company; and
- (c) such other particulars as may be called for by the Central Bank.

1972 No. 45

(2) Upon receiving an application under subsection (1) of this section, the Central Bank shall require the Chief Bank Examiner appointed under section 21 of this Act to carry out a preliminary examination of the books and affairs of such company.

1972 No. 45

(3) The Central Bank shall consider the application and the report of the Chief Bank Examiner and make a recommendation to the Minister stating whether or not a licence should be granted and the conditions (if any) to be attached to the licence.

(4) If the Minister, notwithstanding the recommendation of the Central Bank, is of the opinion—

- (a) that it would be undesirable in the public interest that a licence should be granted; or
- (b) that it would be desirable that a licence should be granted,

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he shall make a report of the circumstances to the National Council of Ministers who may direct him to refuse or grant a licence as the case may require; and where an application is refused, the Minister need not give any reason for the refusal.

(5) Where a licence is subject to conditions, the licensed bank shall comply with those conditions.

(6) Any licensed bank which fails to comply with any of the conditions of its licence shall be guilty of an offence and shall be liable to a fine not exceeding ₦100 for each day during which the condition is not complied with.

3. (1) The Minister may at any time on the recommendation of the Central Bank and with the approval of the National Council of Ministers, vary or revoke any of the conditions of a licence or impose such conditions or additional conditions as the Minister may deem necessary.

Power to vary conditions of licences.

(2) Where the Minister proposes to vary, revoke or impose conditions in accordance with subsection (1) of this section, he shall before exercising such power give notice of his intention to the licensed bank concerned, and shall give the bank an opportunity to make representations to him and to submit reasons why the bank's licence should not be so amended.

(3) Any licensed bank which fails to comply with any conditions as varied or imposed by virtue of subsection (1) of this section, shall be guilty of an offence and shall be liable to a fine of ₦2,000.

Supplemental

4. No person licensed to carry on banking business in Nigeria may, after the coming into force of this Act, open or close branch offices anywhere in Nigeria or outside Nigeria except with the consent in writing of the Central Bank.

Opening and closing of branches.

5. Every licensed bank shall inform the Minister through the Central Bank of—

Restriction as to amalgamation, etc.

- (a) any proposed agreement, or arrangement, for any sale or disposal of its business by amalgamation or otherwise;

(b) any proposal for reconstruction, and the Minister may on the recommendation of the Central Bank approve or withhold approval of such agreement or arrangement or proposal for reconstruction.

Requirements as to minimum paid-up capital. 1979 No. 88

6. (1) No bank shall hold or be granted a licence unless—

- (a) as respects a bank which is not directly or indirectly controlled from abroad, its paid-up share capital is not less than ₦600,000;
- (b) as respects a bank which is directly or indirectly controlled from abroad, its paid-up share capital is not less than ₦1,500,000; and
- (c) as respects a merchant bank, its paid-up capital is not less than ₦2,000,000.

(2) The Central Bank may, after consultation with the Minister, specify the minimum ratio which licensed banks shall maintain between their respective paid-up capital and all retained earnings on the one hand and their loans and advances on the other.

(3) The Central Bank shall, as respects merchant banks, from time to time specify the ratio of—

- (a) deposits and call money held for other banks to be maintained in liquid assets;
- (b) loans and advances to the bank's total assets;
- (c) total loans and advances that may be repayable within one year.

(4) Except with the prior approval of the Central Bank, a bank which fails to maintain any ratio specified pursuant to subsection (2) or (3) of this section may not increase its loans and advances.

(5) For the purposes of subsection (1) of this section, a bank shall be deemed to be controlled from abroad—

- (a) if the composition of its board of directors consists wholly or mainly of persons who are not citizens of Nigeria; or
- (b) where the majority voting rights of that company are held by persons who are not citizens of Nigeria.

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(6) Any failure to comply with any of the foregoing provisions of this section shall be a ground for the revocation of the licence of the bank under this Act.

7. (1) Where any person carries on banking business under a licence validly granted under the Act repealed by this Act, and the licence was in force immediately before the commencement of this Act, that person shall not later than 6 months thereafter comply with the provisions of section 6 of this Act relating to the minimum paid-up capital required for the purposes of that section.

Certain savings as to licences validly granted under the repealed enactment, Cap. 19 of 1958 Edition.

(2) Any failure to comply with the provisions of subsection (1) of this section shall be a ground for the revocation of the licence under this Act.

8. (1) The Minister may on the recommendation of the Central Bank and with the approval of the National Council of Ministers by order published in the *Federal Gazette*, revoke any licence—

Revocation of licences. 1979 No. 88.

- (a) if the holder thereof ceases to carry on in Nigeria the type of banking business for which he was licensed or goes into liquidation or is wound up or otherwise dissolved; or
- (b) if the holder thereof fails to fulfil the prescribed conditions and regulations; or
- (c) in the circumstances and in the manner where under this Act failure to comply with any provisions thereof is a ground for the revocation of a licence.

(2) Where the Minister proposes to revoke any licence in accordance with subsection (1) of this section, he shall before revoking any such licence give notice of his intention to the licensed bank and shall give the bank an opportunity to make representations and to submit reasons why its licence should not be so revoked.

PART II—DUTIES OF LICENSED BANKS

General

9. Every licensed bank shall maintain a reserve fund and shall, out of its net profits each year and before any dividend is declared—

Maintenance of reserve fund.

- (a) transfer to the reserve fund, where the amount of the reserve fund is less than the paid-up share-capital, a sum equal to not less than twenty-five *per centum* of such profits; or
- (b) transfer to the reserve fund, where the amount of the reserve fund is equal to or in excess of the paid-up share-capital, twelve and a half *per centum* of the net profits of the bank,

but no transfer under the foregoing provisions of this section shall be made until any past losses have been made good.

Restriction
on dividends.

10. (1) No licensed bank shall pay any dividend on its shares until—

- (a) all its preliminary expenses, organisation, expenses, shares selling commission, brokerage, amounts of losses incurred and other capitalised expenses not represented by tangible assets have been completely written off;
- (b) after adequate provision for bad and doubtful debts has been made to the satisfaction of the Central Bank;
- (c) it has complied with any direction given by the Central Bank pursuant to subsection (2) or (3) of section 6 of this Act.

1979 No. 88

(2) For the purposes of this section, an issue of bonus shares out of profits shall be deemed to be a payment of dividends.

Disclosure of
interests by
directors.

11. (1) Every director of a licensed bank who is in any manner whatsoever, whether directly or indirectly interested in an advance, loan or credit facility or proposed advance, loan or credit facility, from that bank shall as soon as practicable declare the nature of his interest to the board of directors of the bank, and the secretary of the bank shall cause such declaration to be circulated forthwith to all directors.

(2) The requirements of subsection (1) of this section shall not apply in any case—

- (a) where the interest of the director consists only of being a member or creditor of a company which is

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interested in an advance, loan or credit facility from the licensed bank; and

(b) if the interest of the director may properly be regarded by the Central Bank as not being a material interest.

(3) For the purposes of subsection (1) of this section, a general notice given to the board of directors of a licensed bank by a director to the effect—

(a) that he is an officer or member of a company or firm specified in the notice; and

(b) that he is to be regarded as interested in any advance, loan or credit facility which may, after the date of the notice, be made to that company or firm,

shall be deemed to be sufficient declaration of interest in relation to any such advance, loan or credit facility, if—

(i) the notice specifies the nature and extent of his interest in a company or firm so specified;

(ii) such interest is not different in nature to or greater in extent than the nature and extent so specified in the notice at the time any advance, loan or credit facility is made; and

(iii) the notice is given at the meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.

(4) Every director of a licensed bank, who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with his duties or interests as director, shall declare at a meeting of the directors of the licensed bank the fact and the nature, character and extent of the conflict.

(5) The declaration referred to in subsection (4) of this section shall be made at the first meeting of directors held—

(a) after he became a director of the licensed bank; or

(b) if already a director, after he commenced to hold office or to possess the property.

(6) The secretary of the licensed bank shall cause to be brought up and read, any declaration made under subsection (1) or (4) of this section at the next meeting of the directors after it is made, and shall record any declaration made under this section in the minutes of the meeting at which it was made or at which it was brought up and read.

(7) Any director who contravenes subsection (1) or (4) of this section, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding ₦10,000 or to both such imprisonment and fine.

Restrictions
of interests
by bank
officials.
1972 No. 45

12. (1) No manager or other official of a licensed bank—

- (a) shall in any manner whatsoever, whether directly or indirectly, be interested in any advance, loan or credit facility; and if interested, he shall declare the nature of his interest to the bank;
- (b) shall grant any advance, loan or credit facility to any person unless it is authorised in accordance with the rules and regulations of the bank; and where adequate security is required by such rules and regulations, such security shall be obtained for the advance, loan or credit facility and shall be deposited with the bank;
- (c) shall benefit as a result of any advance, loan or credit facility granted by the bank.

(2) Every manager or other official, who contravenes or fails to comply with any of the foregoing provisions of this section, shall be guilty of an offence and shall on conviction be liable to a fine of ₦10,000 or to imprisonment for a term not exceeding three years; and in addition, any gains or benefits accruing to any person convicted under this section by reason of such contravention shall be forfeited to the Government of the Federation, and the gains or benefits shall vest accordingly in that Government in such manner as the court may at its discretion direct.

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13. (1) Every licensed bank shall maintain a holding of cash reserves, specified liquid assets, special deposits in the Central Bank and stabilisation securities, as the case may be, not less in amount than as may from time to time be prescribed by the Central Bank by virtue of section 40 of the Central Bank of Nigeria Act.

Minimum holding of cash reserves, specified liquid assets, special deposits and stabilisation securities, by licensed banks.

Cap. 47.

(2) Where there are both assets and liabilities due by or to other licensed banks, they shall be offset accordingly, and any surplus of assets or liabilities shall be included as specified liquid assets or demand liabilities, as the case may be:

Provided that in the case of long term advances to a licensed bank or by an overseas branch or office of a licensed bank, the advances may, with the approval of the Central Bank, be excluded from the demand liabilities of the licensed bank.

(3) Every licensed bank—

(a) shall furnish within a reasonable time any information required by the Central Bank to satisfy the Central Bank that the licensed bank is observing the requirements of subsection (1) of this section;

(b) shall not allow its holding of cash reserves, specified liquid assets, special deposits and stabilisation securities to be less than as from time to time prescribed by the Central Bank; and

(c) shall not, during the period of such deficiency, grant or permit increases in advances, loans or credit facilities to any person without the prior approval of the Central Bank.

(4) Any licensed bank which fails to comply with any of the provisions of subsection (3) of this section, shall be guilty of an offence and shall be liable to a fine of ₦100—

(a) for every day during which a default under paragraph (a) thereof exists;

(b) for every day during which a deficiency under paragraph (b) thereof exists; and

(c) for every offence under paragraph (c) thereof,

and the Central Bank may also during the period when the licensed bank fails to comply with any of the requirements

of subsection (3) as aforesaid, withdraw any privileges or facilities that are normally accorded to the licensed bank.

(5) For the purposes of this section, "specified liquid assets" provided they are freely transferable and free from any lien or charge of any kind shall, without prejudice to the provisions of section 30 of the Central Bank of Nigeria Act, consist of all or any of the following, namely—

- (a) notes and coins which are legal tender in Nigeria;
- (b) balances at the Central Bank;
- (c) net balances at any licensed bank (excluding uncleared effects) and money at call in Nigeria;
- (d) Treasury Bills and Treasury Certificates issued by the Federal Government;
- (e) inland bills of exchange and promisory notes rediscountable at the Central Bank;
- (f) stocks issued by the Federal Government with such dates of maturity as may be approved by the Central Bank;
- (g) negotiable certificates of deposit approved by the Central Bank;
- (h) such other negotiable instruments as may from time to time be approved by the Central Bank for the purposes of this subsection.;

Cap. 47.

1979 No. 88.

Restrictions
on certain
activities of
licensed
banks

14. (1) A licensed bank shall not, without the prior approval of the Central Bank—

- (a) grant to any person any advance, loan or credit facilities or give any financial guarantee or incur any other liability on behalf of such person so that the total value of the advances, loans, credit facilities, financial guarantees and other liabilities in respect of such person is at anytime more than thirty-three and one-third *per centum* of the sum of the paid-up capital and statutory reserves of the bank; and in the case of a merchant bank, more than the sum of its paid-up capital and statutory reserves:

Provided that the provisions of this paragraph shall not apply to transactions between licensed banks or between

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branches of a licenced bank or to the purchase of clean or documentary bills of exchange, telegraphic transfers or documents of title to goods the holder of which is entitled to payment for exports from Nigeria or to advances made against such bills, transfers or documents; and for the purposes of this paragraph, all advances, loans or credit facilities extended to any person shall be aggregated and shall include all advances, loans or credit facilities extended to any subsidiaries of that person;

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(b) grant any advances, loans or credit facilities against the security of its own shares;

(c) grant or permit to be outstanding, unsecured advances or loans, or unsecured credit facilities, of an aggregate amount in excess of ₦1,000—

(i) to its directors or any of them, whether such advances, loans or credit facilities are obtained by its directors jointly or severally;

(ii) to any firm, partnership or private company in which it or anyone or more of its directors is interested as director, partner, manager or agent, or to any individual, firm, partnership or private company of which any of its directors is a guarantor;

(iii) to any public company in which it or any one or more of its directors jointly or severally maintains an interest either directly or indirectly;

(d) grant or permit to be outstanding to its officials and employees, unsecured advances or loans, or unsecured credit facilities, which in aggregate amount for any one official or employee exceeds one year's salary of such official or employee;

1970 No. 3

(e) engage, whether on its own account or on a commission basis, in the wholesale or retail trade, including the import or export trade, except in so far as may exceptionally be necessary in the course of the banking operations and services of that licensed bank or in the course of the satisfaction of debts due to it, so however that nothing in this paragraph shall be construed as precluding a merchant bank from undertaking equipment-leasing business or debt factoring;

- (f) acquire or hold any part of the share capital of any financial, commercial, agricultural, industrial or other undertaking, except—
- (i) such shareholding as a licensed bank may, with the prior approval of the Central Bank, acquire in the course of satisfaction of debts due to it, which shareholding shall, however, be disposed of at the earliest suitable moment,
 - (ii) any shareholding approved by the Central Bank in any statutory corporation set up for the purpose of promoting the development of a money market or a securities market in Nigeria or of improving the financial machinery for financing of economic development,
 - (iii) all share-holdings approved by the Central Bank in other undertakings the aggregate value of which does not at any time exceed twenty-five *per centum* of the sum of the paid-up capital and statutory reserves of that bank,
 - (iv) all share holdings acquired by a merchant bank while managing an equity issue: Provided that the aggregate value of such acquisition does not at any time exceed the sum of the paid-up capital of that merchant bank or ten *per centum* of its total assets excluding contra items, whichever is the higher;
- (g) remit, either in whole or in part, the debts owed to it by any of its directors or past directors: Provided that the provisions of this paragraph shall not apply to any nominee company of a licensed bank which deals in stocks and shares for or on behalf of the bank's customers or clients or majority interests acquired by a merchant bank in a company while managing an equity issue;
- (h) own any subsidiary company which is not carrying on a banking business;
- (i) purchase, acquire or lease real estate, except as may be necessary for the purpose of conducting its business, including provisions for foreseeable future expansion or housing of its staff or other exceptional circumstances, where the agreement of the Central Bank is obtained;

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(j) sell, dispose or lease out any real estate, except with the prior approval of the Central Bank: Provided that a licensed bank may secure a debt on any real or other property, and in default of repayment may acquire such property and exercise any power of sale or as may be provided for in any instrument, or by law prescribed, immediately upon such default or soon thereafter as may be deemed proper. 1979 No. 88.

(2) In paragraphs (c) and (d) of subsection (1) of this section, the expression "unsecured advances or loans, or unsecured credit facilities" means advances, loans or credit facilities made without security, or in respect of any advances, loans or credit facilities made with security, any part thereof which at any time exceeds the market value of the assets constituting the security, or where the Central Bank is satisfied that there is no established market value, the value of the assets as determined on the basis of a valuation approved by the Central Bank.

(3) In paragraphs (c) and (h) of subsection (1) of this section, the expression "director" includes the wife, husband, father, mother, son or daughter of a director.

(4) All directors of the bank shall be liable jointly or severally to indemnify the bank against any loss arising from any unsecured advances, loans or credit facilities, under paragraph (c) of subsection (1) of this section.

(5) Any licensed bank which, after the commencement of this Act, enters into any transaction inconsistent with any of the provisions of paragraphs (a) to (h) of subsection (1) of this section, shall be guilty of an offence and shall be liable to a fine of ₦100 for every day during which any such transaction continues.

(6) A merchant bank shall not—

(a) accept any deposit withdrawable by cheque except from its corporate clients; 1979 No. 88

(b) accept from any depositor total interest-bearing deposit of an amount lower than ₦50,000;

(c) except with the prior approval of the Central Bank, hold for more than six months any equity interest

acquired in a company while managing an equity issue.

(7) Any merchant bank which acts in contravention of or fails to comply with any of the provisions of subsection (6) of this section, shall be guilty of an offence and liable to a fine of ₦100 for each day during which the offence continues.

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(8) Nothing in this section shall be construed as permitting a licensed bank to grant to any commodity board established under any written law in Nigeria, any advance, loan or credit facility, or to give any financial guarantee, or to incur any other liability on behalf of such board.

Rates of interest on advances, etc.

15. (1) The rate of interest charged on advances, loans or credit facilities or paid on deposits by any licensed bank shall be linked to the minimum rediscount rate of the Central Bank subject to stated minimum and maximum rates of interest, and the minimum and maximum rates of interest when so approved shall be the same for all licensed banks: Provided that differential rates may be approved for the various categories of banks to which this Act applies.

1970 No. 3

(2) The interest rate structure of each licensed bank shall be subject to the approval of the Central Bank.

Books of Account

Keeping of books of account.

16. (1) Every licensed bank shall cause to be kept proper books of account with respect to all the transactions of the licensed bank.

(2) For the purpose of subsection (1) of this section, proper books of account shall not be deemed to be kept with respect to all transactions if such books as are necessary to explain such transactions and give a true and fair view of the state of affairs of the licensed bank are not kept by the bank.

(3) The books of account shall be kept at the principal administrative office in Nigeria of each licensed bank in the English language or any other language approved by the National Council of Ministers on the recommendation of the Minister.

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- (4) If any person—
- (a) being a director or officer of a licensed bank fails to take all reasonable steps to secure compliance with any of the provisions of this section; or
 - (b) has by his own wilful act been the cause of any default by the bank therefor,

he shall be guilty of an offence under this section and shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ₦1,000 or to both such imprisonment and fine.

(5) In any proceedings against a person under subsection (4) of this section, it shall be a defence to prove that he has reasonable grounds to believe that another person was charged with the duty of seeing that any of the requirements was complied with and that that person was competent and in a position to discharge that duty.

17. (1) Every licensed bank shall submit to the Central Bank—

- (a) not later than 28 days after the last day of each month, a statement in the appropriate form set out in the First Schedule to this Act or as modified in the case of a merchant bank, by the Central Bank;
- (b) such other periodical returns as may be prescribed by the Central Bank; and
- (c) on request, such information as may be required by the Central Bank.

Delivery of returns, etc. to Central Bank.

First Schedule.

(2) Every licensed bank shall submit to the Central Bank a statement in the form set out in the Second Schedule to this Act giving an analysis of advances and other assets of its office and branches in Nigeria within such period following the end of each month as the Central Bank may from time to time determine.

Second Schedule.

(3) The Central Bank may require a licensed bank to submit such further information as the Central Bank may deem necessary for the proper understanding of the statements furnished by that bank under subsections (1) and (2) of this section, and such information shall be submitted

within such a reasonable period as the Central Bank may require.

(4) Any licensed bank which maintains branches or offices outside Nigeria shall produce to the Central Bank, such statements relating to its offices or branches outside Nigeria in such form and at such times as the Central Bank may require.

(5) Any bank which fails to comply with any of the requirements of subsections (1), (2), (3) and (4) of this section, shall in respect of each such failure be guilty of an offence under this Act and shall be liable to a fine of ₦100 for each day during which the offence continues.

(6) It shall be the responsibility of the Central Bank to prepare and to publish consolidated statements aggregating the figures in the statements furnished under subsection (1) of this section for each class of banks licensed under this Act.

(7) The statements submitted by each licensed bank under subsection (1) or (2) of this section and any information submitted under subsection (3) or (4) thereof, shall be regarded as secret other than as between that bank and the Central Bank:

Provided that the Central Bank—

- (a) shall furnish any such information required by the Minister and shall inform the Minister if at any time in its opinion there is need for an examination of any licensed bank; and
- (b) may in support of its opinion convey to the Minister such information as it possesses concerning the state of the affairs of that bank.

18. (1) Not later than four months after the end of any financial year of a licensed bank, the licensed bank shall—

- (a) cause to be published in a daily newspaper printed in and circulating in Nigeria;
- (b) exhibit in a conspicuous position in each of its offices and branches in Nigeria; and
- (c) forward to the Minister and the Central Bank,

Publication
of profit and
loss account
and balance
sheet

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copies of its balance sheet and profit and loss account duly signed and containing the full and correct names of the directors of the bank.

(2) The balance sheet and profit and loss account of the licensed bank shall bear on their face, the report of an approved auditor and shall contain statements as to the matter mentioned in the Third Schedule to this Act.

Third
Schedule.

(3) For the purposes of subsection (2) of this section, an "approved auditor" is an auditor who is approved for the purposes of section 20 of this Act.

(4) Any licensed bank which fails to comply with any of the requirements of this section, shall in respect of each such failure be guilty of an offence and be liable to a fine of ₦200.

19. (1) Every balance sheet of every licensed bank shall give a true and fair view of the state of affairs as at the end of every financial year of such bank and every profit and loss account shall give a true and fair view of the profit or loss of such bank for the financial year.

Contents and
form of
accounts.

(2) Every balance sheet and every profit and loss account of every licensed bank forwarded to the Minister and the Central Bank in accordance with the provisions of section 18(1)(c) of this Act, shall apply with the requirements of the Third and Fourth Schedules to this Act.

Third and
Fourth
Schedules.

(3) Every balance sheet and every profit and loss account of every licensed bank published or exhibited in accordance with the provisions of section 18(1)(a) and (b) of this Act, may be so published or exhibited in abridged form agreed with the Central Bank.

1970 No. 3.

(4) Any person being a director of any licensed Bank who fails to take all reasonable steps to secure compliance as respects any account required under the provisions of this section, shall in respect of each offence be liable to imprisonment for a term not exceeding two years or to a fine of ₦1,000 or to both such imprisonment and fine.

(5) In any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable grounds to believe and did believe that

another person, who is competent and reliable, was charged with the duty of seeing that the said provisions were complied with and was in a position to discharge that duty.

(6) A person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the court, the offence was committed wilfully.

Appointment
and powers
of auditors.

Third, Fourth
and Fifth
Schedules.

20. (1) Every licensed bank shall appoint annually a person approved by the Minister, in this section referred to as "the approved auditor", whose duties shall be to make to the shareholders a report upon the annual balance sheet and profit and loss account of the bank and every such report, shall contain statements as to the matters mentioned in the Third, Fourth and Fifth Schedules to this Act.

(2) No person—

(a) having an interest in a licensed bank otherwise than as a depositor; or

(b) who is a director, officer or agent of a licensed bank; or

(c) which is a firm in which a director of a licensed bank is interested as partner or director,

shall be eligible for appointment as the approved auditor for any licensed bank.

(3) Any person appointed as an auditor—

(a) who subsequently acquires such interest; or

(b) becomes a director, officer or agent of that bank; or

(c) subsequently becomes a partner in a firm in which a director of a licensed bank is interested as partner or director,

shall cease to be such auditor.

(4) If any licensed bank—

(a) fails to appoint the approved auditor under subsection (1) of this section; or

(b) at any time fails to fill a vacancy for such person,

Banking Act

the Minister shall after consultation with the Central Bank appoint "the approved auditor" and shall fix the remuneration to be paid by the bank to such auditor.

(5) Every auditor of a licensed bank shall have a right of access at all times to the books and accounts and vouchers of the bank, and shall be entitled to require from the directors and officers of the bank, such information and explanation as he thinks necessary for the performance of his duties.

(6) The report of the approved auditor shall be read together with the report of the board of management at the annual general meeting of the shareholders and two copies of each report together with the auditor's report to the management and the auditor's analysis of doubtful advances on the form provided in the Fifth Schedule to this Act, shall be sent to the Central Bank who shall transmit a copy of each such report to the Minister.

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(7) For the purposes of this section, the approved auditor shall be an auditor who is a member of one of the professional bodies for the time being declared by the Minister by notice in the *Federal Gazette* to be approved for such purposes.

(8) No auditor shall be approved for the purposes of this section unless—

- (a) he is resident in Nigeria; and
- (b) he is carrying on in Nigeria full-time professional practice as a public accountant and auditor.

PART III

POWERS OF THE CENTRAL BANK

21. (1) There shall be a Chief Bank Examiner, who—
- (a) shall be an officer of the Central Bank appointed by the bank with power to examine periodically, under conditions of secrecy, the books and affairs of each and every licensed bank;
 - (b) shall have a right of access at all times to the books and accounts and vouchers of the bank; and

Appointment
and powers
of
Examiners.

(c) shall be entitled to require from the officers and directors of the bank such information and explanation as he thinks necessary for the performance of his duties, and the Chief Bank Examiner shall be given and shall have access to any accounts, returns or information regarding banks licensed under this Act that are in the possession of the Federal Minister of Finance and Economic Development.

(2) There may in the same manner be appointed one or more fit persons as Deputy or Assistant Examiner who shall have and may exercise the powers of a Chief Bank Examiner under this Act.

(3) In examining the affairs of any licensed bank in accordance with subsection (1) of this section, it shall be the duty of the Chief Bank Examiner at all times, to avoid unreasonable hindrance to the daily business of that bank and to confine the investigation to matters strictly relevant to the examination.

(4) Every licensed bank shall produce to the examiners at such times as the examiners may specify all books, accounts, documents and oral information which they may require.

(5) If any book, account, document or information—

(a) is not produced in accordance with subsection (4) of this section; or

(b) is false in any material particular,

the licensed bank shall be guilty of an offence, and shall be liable—

(i) in the case of an offence against paragraph (a) of this subsection, to a fine of ₦100 in respect of each day in which the offence continues, or

(ii) in any other case under paragraph (b) thereof, to a fine of ₦1,000.

(6) The Chief Bank Examiner shall forward a report of his findings to the Governor of the Central Bank, who shall forward a copy of the Examiner's report to the Minister and inform the Minister of any circumstances in which the Minister may exercise any powers under section 23 of this Act.

Banking Act

(7) Nothing in the foregoing provisions or elsewhere under this Act or any other enactment shall preclude the Central Bank from appointing one or more other officials of the Central Bank as examiners, apart from those mentioned in subsections (1) and (2) of this section, from ascribing to such officials such other designations as it deems fit, and from directing or requiring all or any of the officials to exercise all or any of the powers of the Chief Bank Examiner under subsection (1) of this section.

22. (1) The Minister may at any time require the Governor of the Central Bank to require the Examiner appointed in accordance with section 21 of this Act, or one or more other qualified persons whom the Governor shall appoint, to make a special examination under conditions of secrecy of the books and affairs of any licenced bank—

Special
examination.

(a) where, after consultation with the Central Bank, the Minister has reason to believe that a licensed bank—

(i) may be carrying on its business in a manner detrimental to the interest of its depositors and other creditors, or

(ii) may have insufficient assets to cover its liabilities to the public, or

(iii) may be contravening the provisions of this Act;

(b) where application is made—

(i) by shareholders holding not less than one-third of the total number of shares for the time being issued and paid-up, or

(ii) by depositors holding not less than one-half of the gross amount of the deposits of the bank;

Provided however that the applicants under this paragraph submit to the Minister such evidence as he may consider necessary to justify an examination, and provided also that they furnish adequate security for payment of the costs of the examination;

(c) where the licensed bank suspends payments or informs the Minister or the Governor of the Central Bank of its intention to do so.

(2) Where a licensed bank considers—

(a) that it is likely to become unable to meet its obligations; or

(b) that it is about to suspend payments,

it shall forthwith inform the Central Bank of its intention to do so, and any failure to make such report shall be an offence under this Act.

(3) As soon as may be after the conclusion of an examination under this section, the Chief Bank Examiner shall submit a full report thereon to the Governor of the Central Bank who shall forward a copy of the report together with his comments to the Minister, and the Minister may at his discretion communicate to the Head Office of the licensed bank concerned or to the applicants such information arising from the report as the Minister deems fit.

(4) The Minister shall have power to order that all expenses of and incidental to an examination shall be paid by the bank examined, and shall also have power in respect of examination made under paragraph (b) of subsection (1) of this section to order that the expenses shall be defrayed by the applicants.

Powers after
examination.

23. If, in the opinion of the Minister, an examination shows that a licensed bank is carrying on its business in a manner detrimental to the interests of its depositors and other creditors, or has insufficient assets to cover its liabilities to the public, or is contravening the provisions of this Act, the Minister may take such one or more of the following steps from time to time as may seem to him necessary, that is to say—

(a) require that the licensed bank shall, forthwith, take such steps as the Minister may consider necessary to rectify the matter, and these may include any or all of the following steps, that is—

(i) require that the bank shall call a meeting of its directors for the purpose of considering any matter relating to or arising out of the affairs of the bank, or require that an officer of the bank shall discuss any such matter with an officer of the Central Bank.

(ii) require that the bank shall make, within such time as may be specified, such changes in the management as the Minister may consider necessary,

(iii) appoint a person who in his opinion has had proper training and experience to advise the licensed bank in the proper conduct of its business and fix the remuneration to be paid by the licensed bank to such person; or

(b) report the circumstances to the National Council of Ministers which, unless satisfied that the bank is taking adequate measures to put its affairs in order, may direct the Minister to make an order—

(i) revoking the bank's licence and requiring its business to be wound-up, or

(ii) requiring the Central Bank to assume control and carry on the business of the licensed bank,

except that the Minister shall not so report the circumstances without giving the bank reasonable prior notice of his intention to do so and an opportunity of submitting a written statement in reply.

24. (1) Where the Central Bank has assumed control of the business of a licensed bank in pursuance of paragraph (b) of section 23 of this Act, the Central Bank shall, subject to subsection (2) of this section, remain in control of, and continue to carry on, the business of that bank in the name and on behalf of the bank until such time as—

Control of
licensed
banks.

(a) the deposits with the bank have been repaid or the Central Bank is satisfied that suitable provision has been made for their repayment; and

(b) in the opinion of the Central Bank, it is no longer necessary for the Central Bank to remain in control of the business of the Bank.

(2) Where the Central Bank has assumed control of the business of a licensed bank as aforesaid, the High Court may—

- (a) upon application by the licensed bank; and
- (b) if the High Court is satisfied that it is no longer necessary for the protection of depositors of the bank that the Central Bank should remain in control of the business of the licensed bank,

order that the Central Bank shall cease to control the business of the bank as from a date specified in the order.

(3) Where the Central Bank has assumed control of the business of a licensed bank as aforesaid or ceases to control the business of a licensed bank in accordance with this section, the Central Bank shall notify that fact in the *Federal Gazette*.

Licensed bank under control of Central Bank to co-operate with Central Bank.

25. (1) Where the Central Bank has assumed control of the business of a licensed bank in pursuance of paragraph (b) of section 23 of this Act, the licensed bank shall submit its business to the control of the Central Bank and shall provide the Central Bank with such facilities as the Central Bank requires to carry on the business of that bank.

(2) Any licensed bank which fails to comply with subsection (1) of this section or with any requirements of the Central Bank under the said section 23 of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding ₦200 for each day during which such default continues.

Power for winding up.

26. (1) Where by section 23 of this Act, the Minister makes an order revoking the licence of a bank and requiring the business of that bank in Nigeria to be wound up, that bank shall within fourteen days after the making of the order apply to the High Court for an order winding up the affairs of that bank under supervision of that court and the court shall take up the hearing of the application in priority to all other matters.

(2) If the bank fails to apply to the High Court within the time prescribed by subsection (1) of this section, the Minister may in his discretion—

Banking Act

- (a) apply to the High Court for any necessary order; or
- (b) without waiting for the expiration of the time prescribed, appoint the official receiver (within the meaning of section 419 of the Companies and Allied Matters Act) or any other fit person to be a provisional liquidator, and the provisional liquidator shall have the powers conferred by and be deemed to have been appointed a provisional liquidator by the High Court for the purposes of that Act. Cap. 59.

(3) The provisions of this section shall have effect, and section 408 of the Companies and Allied Matters Act shall be construed, as if the making of an order under section 23 of this Act to revoke the licence of a bank had been included as a ground for winding-up by the High Court under that section.

(4) The liquidator of a licensed bank shall forward to the Central Bank copies of all returns which he is required to make under the Companies and Allied Matters Act. Cap. 59.

(5) The Central Bank may, at any time by notice in writing, require the liquidator of a licensed bank to furnish, within such time as may be specified in the notice or such further time as the Central Bank may allow, any statement or information relating to or connected with the winding-up of the bank, and it shall be the duty of every liquidator to comply with such requirements.

PART IV

GENERAL AND SUPPLEMENTAL

27. (1) Save with the consent of the Minister, no person other than a licensed commercial bank shall use or continue to use the word "bank" or any of its derivatives, either in English or in any other language, in the description or title under which such person is carrying on business in Nigeria. Use of the word "bank" in company's name.

(2) Every licensed commercial bank shall use as part of its description or title the word "bank" or some one or more of its derivatives, either in English or in some other language.

(3) Subsection (1) of this section shall not apply to any association of licensed banks formed for the protection of their mutual interests.

(4) Any licensed commercial bank which acts in contravention of this section, shall be guilty of an offence and shall be liable to a fine of ₦100 for every day during which the offence continues.

(5) In this section, the reference to a "licensed commercial bank" is a reference to a bank that is licensed as a commercial bank within the meaning of this Act.

General
restriction as
to
advertisement
for deposits.

28. (1) No person other than a licensed bank shall, after the commencement of this Act, issue any advertisement inviting the public to deposit money with it.

(2) Where any licensed bank proposes, after the commencement of this Act, to issue any advertisement for deposits of money with it, then the bank shall deliver to the Central Bank the text of the proposed advertisement and the bank's latest published accounts, and shall thereafter comply with such directives and conditions as the Central Bank may prescribe, and such texts shall be regarded as confidential information.

(3) Any person who issues an advertisement in contravention of any of the foregoing provisions of this section, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years or a fine not exceeding ₦400.

(4) Any person who in the ordinary course of his business issues an advertisement to the order of another person, being an advertisement the issue of which by that other person constitutes an offence under this section, shall not himself be guilty of the offence, if he proves that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by any other person under his direction or control.

(5) In this Act, "advertisement" includes any form of advertising, whether in publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph or by way of sound broadcasting or television or loudspeakers or other public address systems, and references to the issuing of an advertisement shall be construed accordingly; and for the purposes of this Act, an advertisement issued by any person by way of display or exhibition in a public place shall be treated as issued by him on every day on which he causes or permits it to be so displayed or exhibited.

(6) For the purposes of this Act, an advertisement which contains information calculated to lead directly or indirectly to the deposit of money by the public shall be treated as an advertisement inviting the public to deposit money.

(7) For the purposes of this Act, an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other person; and for the purposes of any proceedings under this Act, an advertisement inviting the public to deposit money with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by that person.

29. No licensed bank shall incur any liability to any of its customers by reason only of failure on the part of that bank to open for business during a strike: Provided that the said bank has, within twenty-four hours of the continuance of the strike, obtained the approval of the Central Bank for any continued closure of the bank. Strikes.

30. (1) If the President is satisfied that any trade union any of the members of which are employed in a licensed bank is or has been engaged in acts calculated to disrupt the economy of the country he may by order published in the *Federal Gazette* proscribe that trade union and that trade union (hereafter in this section referred to as "the proscribed union") shall as from the date of the order cease to exist. Power to
proscribe
trade unions.

(2) A proscribed union shall not later than fourteen days from the date of an order under subsection (1) of this section, surrender its certificate of registration to the Registrar who shall take such steps in relation to the distribution of the assets of the union as he deems necessary or in accordance with the registered rules of the union.

(3) No person who immediately before the date of an order under this section was an official of a proscribed union shall at any time after that date be an official of any trade union any of the members of which are employed by a bank.

(4) If the certificate of registration of a proscribed union is not delivered to the Registrar as required by subsection (2) of this section, every person who immediately before the proscribing of the union was an official thereof shall be guilty of an offence and shall be liable on conviction to a fine of ₦500 or imprisonment for two years.

(5) Any person who contravenes subsection (3) of this section, shall be guilty of an offence and shall on conviction be liable to imprisonment for five years.

(6) In this section—

“official” in relation to a trade union means any person holding an official position in that trade union and accordingly includes in particular any president, secretary or treasurer thereof and every member of its committee of management however described;

“Registrar” means the Registrar of Trade Unions appointed under section 48 of the Trade Unions Act.

Cap. 437.

Prohibition
of receipt of
commission
by staff.

31. Any director, officer or employee of a licensed bank or other persons being persons receiving remuneration from such licensed bank, who asks for or receives, consents or agrees to receive any gift, commission, emolument, service, gratuity, money, property or thing of value for his own personal benefit or advantage or for that of any of his relations, from any person other than from that bank—

(a) for procuring or endeavouring to procure for any person any advance, loan or credit facility from the licensed bank; or

Banking Act

- (b) for the purchase or discount of any draft, note, cheque, bill of exchange or other obligations by that bank; or
- (c) for permitting any person to overdraw any account with that bank,

shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding ₦2,000 or to both such imprisonment and fine.

32. (1) Any person who is a director, manager, secretary or other officer concerned in the management of a licensed bank shall cease to hold office—

- (a) if he becomes bankrupt, suspends payments, or compounds with his creditors; or
- (b) if he is convicted of an offence involving dishonesty or fraud.

Exclusion of certain individuals from management of licensed banks.

(2) No person who has been a director of, or directly concerned in the management of a licensed bank which has been wound up by a High Court shall, without the express authority of the Minister, act or continue to act as a director of, or be directly concerned in the management of, any licensed bank.

(3) Any person acting in contravention of subsection (1) or (2) of this section, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding ₦2,000 or to both such imprisonment and fine.

PART V

MISCELLANEOUS

33. (1) Where any offence against any provision of this Act has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer thereof or was purporting to act in such capacity shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his

Offences by companies, etc. and by servants and agents.

consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any clerk, servant, or agent, or of the clerk or servant of such agent:

Provided that such act, omission, neglect or default was committed by such clerk or servant in the course of his employment, or by such agent when acting in the course of his employment, in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Penalties:
directors and
managers.

34. Any person who, being a director or manager of a licensed bank—

- (a) fails to take all reasonable steps to secure compliance by the bank with the requirements of this Act; or
- (b) fails to take all reasonable steps to secure the correctness of any statement submitted under the provisions of this Act,

shall be guilty of an offence under this Act and shall be liable to imprisonment for a term not exceeding two years or to a fine of ₦1,000 or to both such imprisonment and fine.

Penalties for
offences not
otherwise
provided for

35. Any licensed bank which contravenes or fails to comply with any of the provisions of this Act for which no offence or penalty is expressly provided, shall be guilty of an offence and shall be liable to a fine not exceeding ₦2,000.

Powers as to
offences and
the Attorney-
General's
list

36. The Governor of the Central Bank may compound any offence punishable under this Act by accepting such sums of money as he thinks fit, not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence.

Banking Act

(2) Any moneys paid to the Governor pursuant to subsection (1) of this section, shall be paid into the Consolidated Revenue Fund of the Federation.

(3) No prosecution in respect of any offence under this Act shall be instituted without the consent in writing of the Attorney-General of the Federation.

37. Notwithstanding the provisions of any other written law, a Chief Magistrate's court shall have full jurisdiction to try any offence against this Act and to impose the full penalty prescribed. Jurisdiction.

38. (1) Neither the Government of the Federation nor the Central Bank, nor any officer of that Government or body, shall 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 or intended execution of, any power conferred upon that Government, the Central Bank or such officer, by this Act. Protection against adverse claims.

(2) For the purposes of this section, a Minister and any public officer shall be deemed to be an officer of the Government of the Federation, and the Governor and the Deputy Governor of the Central Bank and any director or employee thereof and any person holding any office therein or appointed by the Central Bank under paragraph (a) of section 23 of this Act, shall be deemed to be an officer of the Central Bank.

39. Where a licensed bank becomes unable to meet its obligations or suspends payments, the assets of such bank in the Federation shall be available to meet all deposit liabilities of the bank in the Federation, and such deposit liabilities shall have priority over all other liabilities of the bank. Priority of local deposit liabilities.

40. (1) The provisions of this Act shall not apply to— Exemptions.
 (a) the Central Bank established under the Central Bank of Nigeria Act; Cap. 47.

- Cap. 273. (b) the fund established under the National Provident Fund Act;
- Cap. 142. (c) the Nigerian Industrial Development Bank Limited;
- (d) the Federal Savings Bank established under the Federal Savings Bank Act;
- (e) the Nigerian Housing Development Society Limited;
- (f) the Nigerian Agricultural Bank Ltd.

(2) The list of exceptions in subsection (1) of this section may be amended, by such additions or omissions as may be deemed necessary, by the Minister by order published in the *Federal Gazette*.

Application
of Cap. 59.

41. The provisions of this Act are without prejudice to the provisions of the Companies and Allied Matters Act, in so far as they relate to banks and to winding-up by the court:

Provided that where any of the provisions of that Act is inconsistent with any provision of this Act this Act shall prevail.

Regulations.

42. The Minister may in consultation with the Central Bank make such regulations as may be required from time to time for carrying into effect the object of this Act, and he may by order published in the *Federal Gazette* amend, alter or vary the Schedules to this Act.

Interpreta-
tion.

43. (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, respectively, that is—

“bank” means any person who carries on banking business, and includes a commercial bank, an acceptance house, discount house, financial institution and merchant bank; and in this definition—

- (a) “commercial bank” means any person who transacts banking business in Nigeria and whose business includes the acceptance of deposits withdrawable by cheque;

1979 No. 88.

Banking Act

- (b) "acceptance house" means any person in Nigeria who transacts banking business and whose business mainly consists of granting acceptance facilities or whose operations are, in the opinion of the Central Bank, those of an acceptance house;
- (c) "discount house" means any person in Nigeria who transacts banking business and whose business mainly consists of trading in and holding commercial bills of exchange, Treasury Bills and other securities, or whose operations are, in the opinion of the Central Bank, those of a discount house;
- (d) "financial institution" means any person in Nigeria who transacts banking business but who is not a commercial bank, an acceptance house or a discount house;
- (e) "merchant bank" means any person in Nigeria who is engaged in wholesale banking, medium and long term financing, equipment leasing, debt factoring, investment management, issue and acceptance of bills and the management of unit trusts;

"banking business" means the business of receiving moneys from outside sources as deposits irrespective of the payment of interest and the granting of money loans and acceptance of credits or the purchase of bills and cheques or the purchase and sale of securities for account of others or the incurring of the obligation to acquire claims in respect of loans prior to the assumption of guarantees and other warranties for others or the effecting of transfers and clearings, and such other transactions as the Minister may, on the recommendation of the Central Bank, by order in the *Federal Gazette* designate as banking business; 1970 No. 3.

"Central Bank" means the Central Bank of Nigeria established under the Central Bank of Nigeria Act; Cap. 47.

"deposits" means moneys lodged by the general public with any person for safe keeping or for the purpose of earning interest or dividends whether or not such moneys are repayable upon demand, upon a given period of notice or upon a fixed date;

"director" includes any person by whatever name he may be referred to, carrying out or empowered to carry out sub-

Cap. 59. substantially the same functions of a director in relation to the direction of a company registered under the Companies and Allied Matters Act;

“licence” means a licence granted by or under Part I of this Act authorising the carrying on of banking business in Nigeria;

“licensed bank” means a bank holding a valid licence by or under Part I of this Act;

“Minister” means the Minister charged with responsibility for matters relating to banking;

Cap. 47. “prescribed” means prescribed by this Act or by the Central Bank of Nigeria Act, or by Regulations made under this Act or that Act.

(2) For the purposes of this Act, the following expressions, namely—

- 1979 No. 88.
- (a) “commercial bank”;
 - (b) “acceptance house”;
 - (c) “discount house”;
 - (d) “financial institution”;
 - (e) “merchant bank”,

have the meanings given respectively in the definition of “bank” in subsection (1) of this section.

(3) For the purpose of this Act, a person shall be deemed to be receiving moneys as deposits—

- (a) if that person accepts, from the general public, deposits as a feature of its business or if it issues an advertisement or solicits for such deposits; and
- (b) notwithstanding that it receives moneys as deposits which are limited to fixed amounts or that certificates or other instruments are issued in respect of any such amounts providing for the repayment to the holder thereof either conditionally or unconditionally of the amount of the deposits at specified or unspecified dates or for the payment of interest on the amounts deposited at specified intervals or otherwise, or that such certificates are transferable.

Banking Act

(4) Notwithstanding anything contained in this section to the contrary, the receiving of moneys against any issue of debentures offered to the public in accordance with any enactment in force within the Federation shall not be deemed to constitute receiving of moneys as deposits for the purposes of this Act.

44. (1) This Act may be cited as the Banking Act and shall apply throughout the Federation. Short title, extent and repeal.

(2) The Banking Act 1958 is hereby repealed, and any reference in this Act to "the Act repealed by this Act" shall be construed accordingly. Cap. 19. (1958).

SCHE
FIRST
NAME OF
MONTHLY STATEMENT OF ASSETS AND
(TO BE SUBMITTED IN ACCORDANCE WITH

LIABILITIES	₦	₦	₦
1. CAPITAL			
Authorised	.....	
Issued, paid-up and outstanding			
2. RESERVE FUND			.....
3. DEBENTURES			
4. BALANCE HELD FOR			
(a) Other banks in Nigeria			
(b) Offices and branches of this bank outside Nigeria			.....
(c) Other banks outside Nigeria			.....
5. MONEY AT CALL FROM OTHER BANKS			
(a) In Nigeria			.....
(b) Outside Nigeria			.....
6. DEPOSITS			
(a) Repayable on demand			.....
(b) Savings Accounts			.....
(c) Other deposits repayable as from the date of this return			
(i) within 3 months			.....
(ii) between 3 and 6 months			.....
(iii) between 6 and 12 months			.....
(iv) later than 12 months			.....
of which, in total, by Federal and State Govts.			.....
7. LOANS AND ADVANCES FROM			(.....)
(a) Central Bank of Nigeria			
(b) Other banks in Nigeria			.....
(c) Other banks outside Nigeria			.....
(d) Other creditors			.....
8. OTHER LIABILITIES			.....
9. LIABILITIES PER CONTRA			
Acceptances on account of customers confirmed documentary credits			.....
Guarantees, endorsements and other obligations on account of customers			.....
(Contingent liability in respect of bills rediscounted)			(.....)
(Other contingent liabilities)			(.....)
Bills for Collection			
(a) Payable in Nigeria			.....
(b) Payable outside Nigeria			.....
External Assets	₦		.....
External Liabilities	₦		.....
Net External Asset/Liability			.....

Date

Banking Act

DULES
SCHEDULE

Section 17(1)

BANK
LIABILITIES AS AT DAY OF
..... 19
SECTION 17 OF THE BANKING ACT

ASSETS

1. CASH IN HAND	N	N	N
(a) Notes	.....	.....	.....
(b) Coin	.....	.....	.....
2. BALANCES HELD WITH	.....	.....	.....
(a) Central Bank of Nigeria	.....	.....	.....
(b) Other banks	.....	.....	.....
(i) In Nigeria of which remittances in transit and uncleared effects	.....	.....	.....
(ii) Outside Nigeria (including foreign currencies and coins)	.....	.....	.....
3. MONEY AT CALL IN NIGERIA	.....	.....	.....
4. TREASURY BILLS IN NIGERIA/OUTSIDE NIGERIA	.....	.....	.....
5. TREASURY CERTIFICATES	.....	.....	.....
6. BILLS DISCOUNTED	.....	.....	.....
(a) Payable in Nigeria	.....	.....	.....
(i) From banks in Nigeria	.....	.....	.....
(ii) From non-bank sources	.....	.....	.....
Comprising bills	.....	.....	.....
(i) Maturing as from the date of this return	.....	.....	.....
(a) within 3 months	.....	.....	.....
(b) between 3 and 6 months	.....	.....	.....
(c) later than 6 months	.....	.....	.....
(ii) past-due (unpaid and unaccepted)	.....	.....	.....
(b) Payable outside Nigeria	.....	.....	.....
7. LOANS AND ADVANCES TO:	.....	.....	.....
(a) Other banks in Nigeria	.....	.....	.....
(b) Other banks outside Nigeria	.....	.....	.....
(c) Other Customers	.....	.....	.....
(i) Subsidiary companies of this bank in Nigeria	.....	.....	.....
(ii) Governments in Nigeria	.....	.....	.....
(a) Federal	.....	.....	.....
(b) State	.....	.....	.....
(c) Local	.....	.....	.....
(iii) Other Customers	.....	.....	.....
Repayable from the date of this return	.....	.....	.....
(i) within 3 months	.....	.....	.....
(ii) within 6 months	.....	.....	.....
(iii) within 12 months	.....	.....	.....
(iv) later than 12 months	.....	.....	.....
Securities	.....	.....	.....
(i) Unsecured	.....	.....	.....
(ii) Secured against real estate	.....	.....	.....
(iii) Otherwise secured	.....	.....	.....
Total outstanding	.....	.....	.....
8. INVESTMENTS	.....	.....	.....
(a) Government Securities	.....	.....	.....
(b) Stocks/Bonds	.....	.....	.....
(c) Public (Statutory Corporations)	.....	.....	.....
(d) Subsidiary of this bank	.....	.....	.....
(e) Others	.....	.....	.....
9. FIXED ASSETS	.....	.....	.....
(a) Bank Premises (including land and buildings)	.....	.....	.....
(b) Furniture and Fixtures	.....	.....	.....
(c) Other Real Estate	.....	.....	.....
(d) Other Fixed Assets	.....	.....	.....
10. OTHER ASSETS INCLUDING GOLD	.....	.....	.....
11. CUSTOMERS LIABILITIES (PER CONTRA)	.....	.....	.....
(a) Liabilities of customers for acceptances	.....	.....	.....
(b) Liabilities of customers for confirmed documentary credits	.....	.....	.....
(c) Liabilities of customers for guarantees, endorsements and other obligations	.....	.....	.....
12. OTHER ASSETS	.....	.....	.....

We declare that this statement is made up from the books of the bank, and that, to the best of our knowledge and belief, it is correct.

General Manager

Chief Accountant

Section 17(2)

SECOND SCHEDULE

REPORT ON LOANS AND ADVANCES

(To be submitted in accordance with section 17 of the Banking Act)

As at day of 19.....

Name of Reporting Bank

Address

SECTION A

Loans and Advances analysed by Sector Borrowers:

CODE			
Major	Minor		
0.		AGRICULTURE, FORESTRY, FISHING, ETC.	
	01	Agriculture (including live-stock, poultry, etc.)	₦
	02	Other .. .. .	.....
	03	Timber (logging) .. .. .	.....
	04	Fishing	₦
1.		MINING AND QUARRYING	
	01	Coal	₦
	02	Metallic mining (tin, ore, iron, zinc and lead) .. .. .	.....
	03	Crude petroleum and gas .. .. .	.....
	04	Other non-metallic mining (including quarrying and sandpits)	₦
2.		MANUFACTURING	
	01	Flour milling and bakeries	₦
	02	Meat and other food processing, canning and cold storage .. .. .	.....
	03	Beverages, tobacco and tobacco products .. .. .	.....
	04	Textile and apparel (including spinning, weaving, finishing textiles and tailoring) .. .. .	.....
	05	Footwear (excluding rubber footwear) .. .. .	.....
	06	Wood products (including furniture) .. .. .	.....
	07	Paper and paper products .. .. .	.....
	08	Printing, publishing etc.	₦
3.	01	Manufacturing of rubber products (including rubber footwear) .. .. .	.....
	02	Soaps, oils and detergents .. .. .	.....
	03	Petroleum and coal products .. .. .	.....
	04	Building materials, pottery, ceramics and glass .. .. .	.....
	05	Other non-metallic products .. .. .	.....
	06	Basic metal products (including smelting and fabricating)
	07	Miscellaneous manufacturing and processing	₦

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Major Minor

4.	REAL ESTATE AND CONSTRUCTION					
01	Owner occupied property
02	Commercial property:	₹
	02.1 Residential	..	..	..	..	..
	02.2 Non-Residential	..	..	..	..	₹ .....
03	Public construction	..	..	..	..	₹ .....
04	Other	..	..	..	..	₹ .....
5.	PUBLIC UTILITIES					
01	Electricity, water, harbour etc.	..	..	..	..	₹ .....
6.	GENERAL COMMERCE					
	<i>A. Exports</i>					
01	Cocoa	..	..	..	..	₹ .....
02	Groundnuts and groundnut oil	..	..	..	..	..
03	Palm produce	..	..	..	..	..
04	Cotton	..	..	..	..	..
05	Hides and skins	..	..	..	..	..
06	Rubber and products	..	..	..	..	..
07	Timber and products	..	..	..	..	..
08	Other agricultural exports	..	..	..	..	..
09	Non-agricultural exports	..	..	..	..	₹ .....
	<i>B. Imports and Domestic Trade</i>					
10	Imports	..	..	..	..	₹ .....
11	Domestic Trade	..	..	..	..	..
01	Wholesale merchant	..	..	..	..	..
02	Retail merchant	..	..	..	..	₹ .....
7.	TRANSPORTATION AND COMMUNICATIONS					
01	Rail transport	..	..	..	..	₹ .....
02	Road transport	..	..	..	..	..
03	Water transport	..	..	..	..	..
04	Air transport	..	..	..	..	..
05	Other Communications	..	..	..	..	₹ .....
8.	CREDIT AND FINANCIAL INSTITUTIONS					
01	Commercial banks and Acceptance Houses	..	..	..	..	..
02	Hire-purchase finance companies	..	..	..	..	..
03	Insurance companies	..	..	..	..	..
04	Building societies, finance co-operatives, real estate companies	..	..	..	..	..
05	Other financial institution	..	..	..	..	..
9.	GOVERNMENT					
01	Federal Government	..	..	..	..	..
02	State Governments	..	..	..	..	..
03	Local Governments	..	..	..	..	..
10.	GENERAL					
01	Personal and professional	..	..	..	..	..
02	Miscellaneous loans and advances	..	..	..	..	..
03	Total Section A	..	..	..	..	..

Major Minor

		SECTION B			
		MONEY AT CALL AND BILLS DISCOUNTED			
11.	<i>A. Money at Call</i>				
01	Call money scheme	..	..	..	.. ₦ .....
02	Finance companies	..	..	..	.. ..
03	Commercial banks:			₦	
	03.1 In Nigeria	..	..	..	.. ₦ .....
	03.2 Abroad	..	..	..	.. ₦ .....
04	Other	..	..	..	.. ₦ .....
		<i>B. Bills Discounted</i>			
05	Produce paper	..	..	..	.. ₦ .....
06	Other commercial paper			₦	
	06.1 Payable in Nigeria	..	..	..	.. ₦ .....
	06.2 Payable abroad	..	..	..	.. ₦ .....
07	Total Section B	..	..	..	.. ₦ .....

		SECTION C				
		LOANS AND ADVANCES BY TYPE OF SECURITY				
12.	01	Documentary bills	..	..	..	.. ₦ .....
	02	Plant, equipment and other real estate	..	..	..	.. ..
	03	Time and savings deposits, life insurance policies and other cash deposits	..	..	..	.. ..
	04	Corporate, and government securities and other financial assets	..	..	..	.. ..
	05	Personal guarantee	..	..	..	.. ..
	06	Otherwise secured	..	..	..	.. ..
	07	Unsecured	..	..	..	.. ..
	08	Total Section C	..	..	..	.. ₦ .....

		SECTION D				
		LOANS AND ADVANCES BY MATURITY				
13.	01	On call	..	..	..	.. ₦ .....
	02	Maturing within 3 months	..	..	..	.. ..
	03	Maturing between 3 months and 6 months	..	..	..	.. ..
	04	Maturing between 6 and 12 months	..	..	..	.. ..
	05	Maturing between 1 and 5 years	..	..	..	.. ..
	06	Maturing after 5 years	..	..	..	.. ..
	07	Total Section D	..	..	..	.. ₦ .....
	07.1	*Of which past-due and uncollected	..	..	..	.. ₦ .....

Banking Act

Major Minor

		SECTION E	
14.	LOANS AND ADVANCES BY METHOD OF REPAYMENT		
01	Overdraft	N	.....
02	Repayable by specifically agreed instalments	N	.....
03	Repayable in one single payment	N	.....
04	Total Section E	N	.....

		SECTION F			
15.	LOANS AND ADVANCES BY AMOUNT NUMBER AND TYPE OF BORROWERS				
	<i>Amount</i>	<i>Total Amount to Indigenous Persons</i>	<i>Total Amount to Others</i>	<i>Total Amount N</i>	<i>No. of Borrowers Indigenous Others</i>
01	Up to N100 .. .. .	.....	.....	.....	.....
02	Over N50 and up to N100 .. .. .	.....	.....	.....	.....
03	Over N200 and up to N500 .. .. .	.....	.....	.....	.....
04	Over N1,000 and up to N2,000 .. .. .	.....	.....	.....	.....
05	Over N2,000 and up to N10,000 .. .. .	.....	.....	.....	.....
06	Over N10,000 and up to N20,000 .. .. .	.....	.....	.....	.....
07	Over N20,000 and up to N100,000 .. .. .	.....	.....	.....	.....
08	Over N100,000 .. .. .	.....	.....	.....	.....
09	TOTAL .. .. .	.....	.....	.....	.....

Name and address of person to contact if questions arise concerning this report:

.....

.....

Signature of Authorised Officer

Title

Date

Preliminary

1. Paragraphs 2 to 11 of this Schedule apply to the balance sheet and paragraphs 12 to 16 apply to the profit and loss account.

GENERAL PROVISIONS AS TO BALANCE SHEET AND PROFIT AND LOSS ACCOUNT

Balance Sheet

2. The authorised share capital, issued share capital liabilities and assets shall be summarised, with such particulars as are necessary to disclose the general nature of the assets and liabilities, and there shall be specified—

- (a) any part of the issued capital that consists of redeemable preference shares and the earliest date on which the person has power to redeem those shares;
- (b) the amount of the share premium account;
- (c) particulars of any redeemed debentures which the person has power to re-issue.

3. There shall be stated under separate headings, so far as they are not written off—

- (a) the preliminary expenses;
- (b) any expenses incurred in connection with any issue of share capital or debentures;
- (c) any sums paid by way of commission in respect of any shares or debentures;
- (d) any sums allowed by way of discount in respect of any debentures.

4. (1) The following shall be classified under headings appropriately itemised—

- (a) Cash in hand,
- (b) Balance due to and from other banks,
- (c) Short-term investments falling within the terms of section 13(5) (d) and (e) of this Act,
- (d) Other Investments,
- (e) Loans and Advances,
- (f) Fixed Assets,
- (g) Other Assets,
- (h) Deposits,
- (i) Borrowings,
- (j) Other Liabilities,

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(k) Provisions and Reserves,

(l) Capital,

(m) Liabilities for Acceptances, Guarantees, etc.

(2) The method or methods used to arrive at the amount of each item of fixed assets shall be stated.

5. Loans and Advances shall be shown gross less the amount of provisions made in respect of debts doubtful of recovery. Where no provision is considered necessary a note to that effect shall appear on the balance sheet.

6. In respect of Balances due to and from other banks, a distinction shall be made between balances held in Nigeria and outside Nigeria.

7. Demand deposits, savings accounts and Time deposits shall be itemised under the heading "Deposits".

8. In respect of investments shown under "Other Investments" in paragraph 4(1) (d) above, a distinction shall be made between the quoted and unquoted investments.

9. (1) The method of arriving at the net amount of any fixed assets shall be the difference between—

(a) its cost or, if it stands in the person's books at a valuation, the amount of the valuation; and

(b) the aggregate amount provided or written-off since the date of acquisition or valuation, as the case may be, for depreciation or diminution in value.

For the purposes of this paragraph, the net amount at which any assets stand in the person's books at the commencement of this Act (after deduction of the amounts previously provided or written-off for depreciation or diminution in value) shall, if the figures relating to the period before the commencement of this Act cannot be obtained without unreasonable expense or delay, be treated as if it were the amount of a valuation of the said asset made at the commencement of this Act, and, where any of those assets are sold, the said net amount less the amount of the sales shall be treated as if it were the amount of a valuation so made of the remaining assets.

(2) The foregoing sub-paragraph shall not apply—

(a) to assets for which the figures relating to the period beginning with the commencement of this Act cannot be obtained without unreasonable expense or delay; or

(b) to assets the replacement of which is provided for wholly or partly—

(i) by making provision for renewals and charging the cost of replacement against the provision so made; or

(ii) by charging the cost of replacement direct to revenue.

(3) For the assets under each heading the amount of which in each case is arrived at in accordance with sub-paragraph (1) of this paragraph, there shall be shown—

- (a) the aggregate of the amounts referred to in paragraph (a) of that sub-paragraph; and
- (b) the aggregate of the amount referred to in paragraph (b) thereof.

10. The aggregate amounts respectively of statutory reserves, capital reserves, revenue reserves and provisions (other than provisions for depreciation, renewals or diminution in value of assets) shall be stated under separate headings:

Provided that the Central Bank may direct that a separate statement of the amount of provisions, shall not be required where the Central Bank is satisfied that such a statement is not required in the public interest and would prejudice the person, but subject to the condition that any heading stating an amount arrived at after taking into account a provision (other than as aforesaid) shall be so framed or marked as to indicate the fact.

11. The matters referred to in the following sub-paragraphs shall be stated by way of note, or in a statement or report annexed, if not otherwise shown—

- (a) the amount of any arrears of fixed cumulative dividends, on the person's shares and the period for which the dividends, or if there are more than one class of them, each class of them are in arrear, the amount to be stated before deduction of income tax, except that in the case of tax free dividends, the amount shall be shown free of tax and the fact that it is so shown shall also be stated;
- (b) the general nature of any other contingent liabilities not provided for and, where practicable, the aggregate amount or estimated amount of those liabilities;
- (c) where practicable the aggregate amount or estimated amount of contracts for capital expenditure so far as not provided for;
- (d) the basis on which foreign currencies have been converted into ₦, where the amount of the assets or liabilities affected is material;
- (e) the basis on which the amount if any, set aside for Income Tax is computed;
- (f) the amount of the net External Assets or Liabilities of the person;
- (g) the amount of deposits, if any, held by persons not ordinarily resident in Nigeria;
- (h) the total amounts respectively of loans and advances secured against real estate, otherwise secured and unsecured;
- (i) except in the case of the first balance sheet of the person after the commencement of this Act, the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet;
- (j) the market value of the investments.

*Banking Act**Profit and Loss Account*

12. There shall be shown—
- (a) the amount charged to revenue by way of provisions for depreciation, renewals or diminution in value of fixed assets;
 - (b) the amount charged to revenue by way of provision for debts doubtful of recovery;
 - (c) the amount of bad debts written-off where such amount is not charged to a provision created as in sub-paragraph (b) above;
 - (d) the amount of the interest on the person's borrowings, distinguishing between interest paid in respect of borrowings from banks and other creditors respectively in Nigeria and that paid in respect of borrowings from banks and other creditors respectively outside Nigeria;
 - (e) the amount of the charge for Nigerian income tax and other Nigerian taxation on profits, including, where practicable, as Nigerian income tax any taxation imposed elsewhere to the extent of the relief, if any, from Nigerian income tax;
 - (f) the amount, if any, provided for redemption of loans;
 - (g) the amount set aside or proposed to be set aside to, or withdrawn from, reserves;
 - (h) the aggregate amount of the dividends paid and proposed;
 - (i) the remuneration of the auditors if such remuneration is not fixed by the person in general meeting, the amount thereof shall be shown under a separate heading, and for the purpose of this paragraph, any sums paid by the person in respect of the auditors' expenses shall be deemed to be included in the expression "remuneration";
 - (j)
 - (i) the aggregate amount of directors' emoluments;
 - (ii) the aggregate amount of directors' or past directors' pensions; and
 - (iii) the aggregate amount of any compensation to directors or past directors in respect of loss of office.

For the purposes of this sub-paragraph, the expression "emoluments", in relation to a director, includes fees and percentages, any sums paid by way of expenses allowance in so far as those sums are charged to Nigerian income tax, any contribution paid in respect of him under any pension scheme and the estimated money value of any other benefits received by him otherwise than in cash.

13. The earnings of the company shall be classified under the headings, "INTERESTS", "TRANSFER CHARGES", "FOREIGN EXCHANGE", "OTHER INCOME".

14. The matters referred to in the following sub-paragraphs shall be stated by way of note, if not otherwise shown—

- (a) the basis on which the charge for Nigerian income tax is computed;
- (b) except in the case of the first profit and loss account laid before the person after the commencement of this Act, the corresponding amounts for the immediately preceding financial year for all items shown in the profit and loss account;
- (c) any material respects in which any items shown in the profit and loss account are affected—
 - (i) by transactions of a sort not usually undertaken by the person or otherwise by circumstances of any exceptional or non-recurrent nature;
 - or
 - (ii) by any change in the basis of accounting.

FOURTH SCHEDULE Sections 19 and 20

MATTERS TO BE EXPRESSLY STATED IN AUDITORS' REPORT

The auditors' report shall indicate the following matters—

- (a) whether they have obtained all the information and explanations which, to the best of their knowledge and belief, were necessary for the purposes of their audit;
- (b) whether, in their opinion, proper books of accounts have been kept by the person licensed under this Act, at Head Office, and at each of the person's branches, and in such form as explain, and give a true and fair view of, all the transactions of the person;
- (c) whether they have examined the books of the person at Head Office, and at each of the person's branches, and whether proper returns adequate for the purpose of their audit have been received from branches not visited;
- (d) whether, to the best of their knowledge and belief, there have been any contraventions of this Act and other related legislation during the period covered by the audited accounts and whether every such contravention has been reported to the Central Bank as required by law;
- (e) whether, in their opinion, the assets of the person have been properly valued, and whether adequate provisions have been made for losses and diminution in the value of the person's assets;
- (f) whether, in their opinion, and to the best of their information, and having regard to the explanations given to them, the audited accounts of the person are in agreement with the books of account kept and give the information required by this Act in the manner so required, and also give a true and fair view—
 - (i) in the case of the balance sheet, of the state of the person's affairs as at the end of its financial year;
 - (ii) in the case of the profit and loss accounts, of the profit or loss for its financial year.

Section 19

FIFTH SCHEDULE

AUDITOR'S ANALYSIS OF DOUBTFUL ADVANCES (LIMITED TO ADVANCES OVER ₦2,000) AS AT

Name of Customer	Date Advanced or Last Instalment of Advance Drawn	Original Amount of Advances	Rate of Interest (Insert X if Interest Stopped)	Date of Last Repayment	Balance Outstanding		Efforts made by the Bank to recover Advances	Realisable Value of Security Held (If any)	Estimate of Bad and Doubtful Debt		Remarks
					Capital	Interest Accumulated			Doubtful	Loss	
SECTION "A"											
SECTION "B"											
SECTION "C"											

NOTE:—
 SECTION "A" Advances which have not been fully recovered because of insufficient efforts on the part of the bank.
 SECTION "B" Advances which may either be fully or partly irrecoverable by reasons of the known financial position of the debtors.
 SECTION "C" Others (Advances granted to deceased persons and defunct companies should be included here).

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CHAPTER 28

SUBSIDIARY LEGISLATION

No Subsidiary Legislation