

CHAPTER 305

NIGERIAN EXPORT CREDIT GUARANTEE AND INSURANCE CORPORATION ACT

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SCHEDULE

CHAPTER 305

NIGERIAN EXPORT CREDIT GUARANTEE AND INSURANCE CORPORATION ACT

An Act to establish the Nigerian Export Credit Guarantee and Insurance Corporation to, amongst other things carry on the business of export credit guarantee and export credit insurance in Nigeria and other matters incidental thereto. 1988 No. 15.

[See Section 16(2)] Commence-
ment.

Establish-
ment, etc. of
the Nigerian
Export
Credit
Guarantee
and
Insurance
Corporation.

1. (1) There is hereby established a corporation by the name of the Nigerian Export Credit Guarantee and Insurance Corporation (hereinafter in this Act referred to as "the Corporation").

(2) The Corporation shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The resources of the Corporation shall include any currency which for the time being is legal tender in Nigeria and foreign currency.

(4) The authorised capital of the Corporation shall be ₦100 million divided into 100,000,000 shares of ₦1 each and shall be subscribed equally by the Federal Government and the Central Bank of Nigeria.

(5) The Minister may by notice published in the *Federal Gazette* and in the National Newspapers approve other shareholders on the resolution of the Board of the Corporation.

(6) The Corporation may, with the approval of the Minister, raise funds in foreign currency from any of the following sources, that is—

- (a) multilateral development banks and institutions such as the International Bank for Reconstruction and Development otherwise known as the World Bank;
- (b) Nigeria's External Reserves;
- (c) lines of commercial credit (either directly or in association with other persons); and
- (d) regional development banks.

(7) The Corporation may borrow such amounts in naira and foreign currency as it may from time to time require for its activities under this Act.

(8) The Corporation's other resources shall include—

- (a) premiums collected from policy-holders;
- (b) recoveries from paid claims;
- (c) incomes from investments;
- (d) guarantee fees or other fees;

- (e) interests and other returns from the management of its assets;
- (f) fixed and floating assets;
- (g) gifts and grants; and
- (h) such other resources as may arise from the Corporation's operations.

2. The objects of the Corporation shall be—

Objects of
the
Corporation.

- (a) to establish and carry on the business of export credit guarantee and export credit insurance with a head office in Nigeria and any other places of business in Nigeria as may be determined by the Board from time to time;
- (b) to design and implement schemes for export credit guarantee to parties carrying on business in Nigeria in connection with the export, or manufacture, treatment or distribution of goods for export, or the rendering of services or of any other matter which appears to the Corporation conducive to the purpose of encouraging trade with other countries;
- (c) to undertake and guarantee the insurance of export credit and for that purpose to enter, with or for the benefit of parties carrying on business in Nigeria, contracts of insurance against risk of monetary loss or other monetary detriment attributable to circumstances outside the control of the person suffering the loss or detriment and resulting from the failure to receive payment in connection with or otherwise arising out of acts or transactions in the course of or for the purpose of trade with persons in any country other than Nigeria;
- (d) to accept reinsurance of all kinds and to enter into reinsurance agreements with parties whether resident in or outside Nigeria against all or any risk or liability assumed by the Corporation under any arrangement, insurance policy or other schemes entered into by the Corporation;
- (e) to enter into guarantee agreements with other parties to guarantee payment in specified circumstances;

- (f) to provide insurance against loss whether on the export of goods or provision of service or on loans made to facilitate the export of such goods or services;
- (g) to lend and advance money or give credit to such persons or companies on such terms and conditions as may seem expedient, and in particular to customers, companies, corporations, firms and other bodies which have dealings with the Corporation and to give guarantee or become surety and give security for any such persons or companies;
- (h) subject to the provisions of any laws in force, to buy and sell foreign currency and exchange and to accept money for remittance to all countries.

Functions of
the
Corporation.

3. (1) For the purpose of recovering any sums owed to it under any export credit guarantee or insurance policy, the Corporation may acquire such interests, rights or property in the assets of any person concerned in such transactions in satisfaction thereof and may retain, invest, sell or otherwise dispose of any interests, rights or property so acquired.

(2) The Corporation may—

- (a) receive or recover such commissions and fees as may be agreed upon in consideration of any guarantee or under-writing;
- (b) invest and deal with the moneys of the Corporation not immediately required upon such securities and in such manner as it may from time to time determine;
- (c) establish and manage funds connected with the objects of the Corporation;
- (d) subject to this Act and the Land Use Act, acquire, hold and dispose of any movable or immovable property for the purpose of its objects and functions under this Act.

(3) The Corporation's other functions shall be—

- (a) to maintain divers and relevant information to facilitate credit verification and exchange such information with comparable organisations on a reciprocal or other agreed basis;

Cap. 202.

- (b) to co-operate with similar organisations within and outside Nigeria in the areas of provision of—
 - (i) credit information,
 - (ii) debt collection,
 - (iii) reinsurance, and
 - (iv) training;
- (c) to maintain a foreign exchange revolving fund to be held in the Central Bank of Nigeria with the aim of making available loans in foreign exchange to exporters who need to import raw materials and spare parts to satisfy export orders;
- (d) to guarantee and insure for reward export credits involving non-resident external trade between any two countries other than Nigeria, including off-shore, entrepot and transit trade;
- (e) to guarantee consideration loans involving domestic trade which are likely to assist exports;
- (f) subject to section 4(b) of this Act, to develop and provide facilities involving investment guarantee and insurance;
- (g) to do such other things that are reasonable to facilitate the objects for which the Corporation is established.

(4) The Corporation may belong to any International or Regional Association of Credit and Investment Insurers.

4. The following risks shall be excluded from the facilities provided by the Corporation, that is— Uncovered risk.

- (a) losses arising from exporter's own default or negligence or his failure to comply with terms and conditions of the facilities provided to him whether he is exporting goods or services;
- (b) any risk which can be insured or is normally insurable in commercial insurance market such as marine, fire and similar risks;
- (c) losses arising from insolvency or default of any agent of the exporter or his agent or of a collecting bank;
- (d) losses arising from foreign exchange fluctuations;

- (e) failure or the inability of the foreign buyer to obtain authority to import or to pay for the goods in accordance with any regulations in force in the buyer's country as at the date of shipment.

Establishment and composition of the Board.

5. (1) There shall be established for the Corporation a Board which shall consist of the following members, that is—

- (a) the Deputy Governor responsible for Monetary and Banking Policy in the Central Bank of Nigeria to be the Chairman;
- (b) one other representative of the Central Bank of Nigeria;
- (c) a representative of the Bankers' Committee;
- (d) a representative of the Federal Ministry of Finance and Economic Development;
- (e) a representative of the Federal Ministry of Trade and Tourism;
- (f) a representative of the Federal Ministry of Justice;
- (g) a representative of the Federal Ministry of Industries;
- (h) a representative of the Nigerian Export Promotion Council;
- (i) three representatives of the private sector, drawn from the Manufacturers Association of Nigeria, the Nigerian Association of Chambers of Commerce, Industries, Mines and Agriculture and the organised export community;
- (j) a representative of the National Insurance Corporation of Nigeria;
- (k) a representative of the Nigerian Reinsurance Corporation; and
- (l) as from the appointed date, the Managing Director of the Corporation.

(2) The members of the Board who are public officers shall as much as possible be appointed by name and shall be officers not below salary grade level thirteen or equivalent in the public service of the Federation.

(3) An officer of the Corporation shall act as Secretary to the Board but until the Minister appoints a date under section

16 of this Act, an officer of the Central Bank of Nigeria shall act as Secretary to the Corporation.

(4) The provisions of the Schedule to this Act shall have effect with respect to the tenure of office of members of the Board and the other matters therein mentioned.

6. (1) The Board shall have powers—

General
powers of
the Board.

(a) to fix—

(i) premiums to be paid on each facility offered by the Corporation after considering a variety of factors including volume of transactions, spread of markets, payment terms, country risk and any other relevant factors,

(ii) credit limits for any given buyer or market,
and may delegate any of the powers under this paragraph to any body it deems fit;

(b) to pay claims arising from the Corporation's policies and to delegate such powers as it deems appropriate to any body;

(c) to prescribe guidelines for settlement of claims which the Corporation or its agent may apply;

(d) to vary the authorised capital of the Corporation;

(e) to call up any portion of the authorised capital;

(f) to determine the policies, facilities and services to be offered to the Corporation's clients, their duration, renewal arrangements, condition for each policy, terms of payment and other relevant conditions;

(g) to appoint officials and other employees of the Corporation to positions created by decision of the Board and on such terms and conditions including pensions as shall be laid down by the Board;

(h) to draw, make, accept, endorse, discount, execute, and issue promissory notes, bills of exchange, bills of lading, warrants, debentures, and other negotiable or transferable instruments; and

(i) to borrow or raise money and to ensure the repayments of any money borrowed, raised or owing in such manner as the Corporation may think fit, and in particular by

the issue of debentures or debenture stock, perpetual or otherwise, charge upon, and by mortgage, charge, lien, on the whole or any part of the Corporation's property or assets (both present or future), including its uncalled capital, and also by a similar mortgage, charge or lien to secure and guarantee the performance by the Corporation of any obligation or liability it may undertake.

(2) The Board may delegate any functions or activities under this Act to the Central Bank of Nigeria, or as from this appointed day, to the Managing Director, as it may deem appropriate including the payment of claims and the entry into obligation on behalf of the Board on the basis of guidelines supplied by the Board.

Power of the Board to use the resources of the Corporation.

7. (1) The Board shall use the resources accruing to the Corporation pursuant to section 1 of this Act for purposes connected with the objects and functions of the Corporation.

(2) The Board shall have power to use the funds of the Corporation to meet—

- (a) reinsurance premiums;
- (b) payment of claims;
- (c) payment for premises; and
- (d) other operational expenses (including wages and related overheads as well as repayment of principal and interest on borrowed funds).

(3) The fund involving foreign currency raised pursuant to section 1(6) of this Act and maintained under section 3(3)(c) of this Act shall be designated as the Foreign Exchange Revolving Fund and shall be used for direct lending to exporters for the purposes of financing the imports of raw materials in accordance with any guidelines which the Board may, from time to time, stipulate and approve.

Funds for paying country risks.

8. All claims settled by the Corporation arising from the political risks component of country risks shall be reimbursed from a contingency fund established by the Federal Ministry of Finance and Economic Development to meet political risks.

9. (1) As from the appointed date, there shall be for the Corporation a Managing Director who shall be the Chief Executive and shall be appointed by the President, Commander-in-Chief of the Armed Forces on the recommendation of the Governor of the Central Bank of Nigeria.

Appointment of Managing Director and other staff of the Corporation.

(2) The Managing Director shall be responsible for the day-to-day administration of the Corporation.

(3) Without prejudice to the generality of subsection (1) of this section, the Corporation shall have power—

- (a) to appoint such other staff as it may determine;
- (b) to pay its staff such remuneration and allowances as it may from time to time determine;
- (c) as regards any staff in whose case it decides so to do, to pay to or in respect of such staff such pensions and gratuities as are payable to persons of equivalent grade in the public service of the Federation; and
- (d) to give loans to its staff for purposes approved by the Corporation.

10. (1) The Corporation shall be exempted from the provisions of—

Exemption from certain enactments.

- (a) the Banking Act;
- (b) the Insurance Act; and
- (c) the Income Tax Management Act.

Cap. 28.

Cap. 183.

Cap. 173.

(2) Tax allowances shall be given in respect of premiums paid by exporters to the Corporation at a rate to be fixed from time to time by the Minister.

11. As from the appointed date, any member of the public service of the Federation or of a State may elect to transfer to the Corporation, in which case any previous service in the public service of the Federation or of a State shall count as service for the purposes of the Pensions Act.

Transfer of service.

Cap. 346.

12. Without prejudice to section 18(2) of the Exchange Control Act, exports to be covered by this Act shall not be subject to the maximum of six months credit provided in section 18(1)(a) of the said Act.

Application of section 18(2) of Cap. 113 to the Corporation.

Annual
report.

13. The Board shall publish each year a statement of its accounts and operations which shall be forwarded to the Minister not later than four months after the end of each year.

Transitional
provisions.

14. (1) Until the Minister appoints a date under section 16 of this Act, the affairs of the Corporation shall be managed on a day-to-day basis by the Central Bank of Nigeria established under the Central Bank of Nigeria Act.

Cap. 47.

(2) All costs incurred by the Central Bank of Nigeria in running the affairs of the Corporation shall be recovered from the resources and income of the Corporation.

Interpreta-
tion.

15. In this Act, unless the context otherwise requires—
“appointed date” means the date appointed by the Minister under section 16 of this Act.

Cap. 28.

“banks” means banks within the meaning of the Banking Act or any other banking enactment for the time being in force in Nigeria;

“Chairman” means Chairman of the Board;

“member” means member of the Board and includes the Chairman;

“Minister” means the Minister charged with responsibility for matters relating to finance and banking in Nigeria.

Short title
and
commence-
ment.

16. (1) This Act may be cited as the Nigerian Export Credit Guarantee and Insurance Corporation Act.

(2) This Act shall come into force—

(a) in the case of sections 5(1)(k), 9 and 11 of this Act, on such date as the Minister may, by order published in the *Federal Gazette*, appoint;

(b) in any other case, on the date this Act is made which is 20th April, 1988.

SCHEDULE

Section 5(5)

Tenure of Office of Members

1. (1) Subject to the provisions of this paragraph, a member of the Board, other than a public officer shall hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment for a further period of three years; thereafter he shall no longer be eligible for re-appointment.

(2) A member of the Board other than a public officer may resign his appointment by a letter addressed to the Minister and the resignation shall take effect from the date of the receipt of the letter by the Minister.

(3) The foregoing provisions of this section shall be without prejudice to the provisions of section 11 of the Interpretation Act which relates to appointments. Cap. 192.

Proceedings of the Board

2. The Board may make standing orders regulating the proceedings of the Board or of any committee thereof.

3. The quorum of the Board shall be five and the quorum of any committee of the Board shall be determined by the Board.

4. (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 six other members, he 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 number to preside at that meeting.

(3) Where the Board wishes to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

(4) Notwithstanding anything to the contrary, the first meeting of the Board shall be summoned by the Minister who may give such directions as to the procedure to be followed at that meeting as he may deem fit.

Committees

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

(2) A committee appointed under this paragraph shall consist of the number of persons determined by the Board and not more than one-third of those persons may be persons who are not members of the Board;

and a person other than a member of the Board shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.

(3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

6. (1) The fixing of the seal of the Corporation shall be authenticated by the signature of the Chairman and of some other member authorised generally or specially by the Board to act for that purpose.

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

**NIGERIAN EXPORT CREDIT GUARANTEE AND
INSURANCE CORPORATION ACT**

CHAPTER 305

SUBSIDIARY LEGISLATION

No Subsidiary Legislation