



# **EKITI STATE BONDS, NOTES AND OTHER SECURITIES ISSUANCE LAW**

**NO. 9 OF 2011**

**EKITI STATE OF NIGERIA**





## Arrangement of Sections.

### Sections

- Authority to Raise Loans
- Application of Loan Receipts
- Issuance of Debt Security
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- Authority to open a debt service Fund Account
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- Investment of Monies in the Debt Service Fund
- Establishment of Sinking Funds
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**A LAW TO PROVIDE FOR ISSUANCE OF BONDS, NOTES AND OTHER  
SECURITIES IN EKITI STATE AND OTHER MATTERS CONNECTED  
THEREWITH.**

**NO. 9 OF 2011**

**EKITI STATE OF NIGERIA**

*(Commencement)*

ENACTED BY THE EKITI STATE HOUSE OF ASSEMBLY AS FOLLOWS:

- Authority to Raise Loans.

The Government is hereby authorized through the Ekiti State *Authority*  
*to*

Debt Management Office to raise loans and borrow any sums *Raise*  
*Loans*

of money required to finance the capital budget of the Government  
or to refinance the obligations of the Government in respect of  
the project as are determined by the Executive Council to  
be necessary and appropriate to provide for the Social and economic  
development of the State.

- Application of Loan Receipts

- Subject to the provisions of this Law, any monies received  
*Application*

in respect of any issuance of Debt Securities, any loan *of loan*





contracted by, or guaranteed on behalf of the State shall be

*Receipts*

- Applied solely for the purpose for which it was obtained and in accordance with the terms and conditions of the agreement under which it was obtained or;
- Paid into any public fund of the state either existing at the time or created for the purpose of the loan; or
- Paid into and form part of the Debt Service fund of the State.
- Where any amount has become payable out of the monies credited to any public fund of the State or the consolidated revenue fund of the State, or other public funds under subsection (1) of this section, the amount shall be deemed to be charge on such public fund or the consolidated revenue fund of the State as the case may be.
- Issuance of Debt Securities
  - The office, pursuant to section 1 above, may with the approval of

*Issuance*

the Executive Council, and subject to the provisions of this Law:

*of Debt*

*Receipts*

- Issue any form of Debt Security with fixed, variable, linked, floating or zero coupon rates, on such dates, including the tenor as it thinks fit; and
- Raise and borrow any sums of money required to finance the capital





budget of the Government or to refinance the obligations of the Government in respect of the projects.

- For the purpose of giving full effect to sub-section (1) of this section, the Commissioner upon approval by the Executive Council may direct the Accountant-General, to issue on behalf of the Government, the appropriate irrevocable undertaking or such other undertakings and or documents or authorizations as may be required for the purpose of raising any loan or borrowing any sum of money.
- The undertaking that may be issued pursuant to sub-section (2) of this section shall cease to be valid where:
  - The liabilities upon the debt with respect to which the undertaking was made have been fully settled; or
  - The period of validity of the undertakings, as stated therein, has expired.
- The Office shall maintain a record of undertakings issued under this section and shall also keep records of undertakings which have ceased to be valid pursuant to sub-section (3) of the section.
- The specific or aggregate amount that the office may raise or borrow through any debt security referred to in sub-section (1) of this section, shall be determined by taking into consideration the following:
  - The total revenue of the Government for the year preceding the year in which the debt securities are to be issued;
  - The current revenue of the Government and the projected revenue for the succeeding years;
  - The average economic growth rate the three years preceding the year of the issue;
  - The existing public debt portfolio; and
  - The gross domestic product of the state for the years preceding the issue.





- This issuance of any debt security made pursuant to sub-section (2) of this section shall be published by legal notice on the official gazette by the commissioner after such instrument has been issued in Nigeria and or Abroad.
- Any Legal Notice published pursuant to sub-section (6) of this section shall contain detailed and specific information and terms of the issue, including:
  - The sum of money to be raised by the issue;
  - The mode or modes of effecting the issue;
  - The rate of interest payable on the loan raised from the issued instruments;
  - The dates in each year on which the interest on the loan shall be payable;
  - The date of redemption of the registered instrument issued;
  - The purpose of raising the loan;
  - The market and the currency of issue; and
  - Any other information relating to the issue which is deemed necessary to effectively raise the required sums, and or provide preliminary information to subscribers, or as required by any other relevant law.
- Any Debt Security issued under this Law may or may not be listed

*Redemption*

on any equivalent trading floor in any jurisdiction.

*date of*

*Debt*

*Securities*

- The date for the redemption of any Debt Security issued pursuant to this Section shall not be later than twenty five (25) years from the date of the issuance of the Debt Security.





- (1) The Debt Securities to be issued pursuant to section 3 of this Law

*Method of*

may be issued by the office by means of:

*Issuance*

- Public offers;
- Auctions;
- Syndications;
- Private placements;
- Reverse enquiries; and
- Such other transaction or issuance mode as may be determined by the Commissioner.

- (2) The office may with the approval of the State Executive Council

*Arrangement for*

determine and specify in a Legal Notice that the Debt Securities  
*of Debt*

*Issuance*

will be issued in tranches or in certain sequence or in such order or

*Securities*

form over a specified period of time.

- (1) Upon the publication of the Gazette pursuant to section 3 (7) of this Law, the office shall, subject to further directions of the Commissioner, make all such arrangements as may be necessary and appropriate to issue the Debt Securities and raise loans.
- The Commissioner may, subject to the approval of the Executive Council, appoint such reputable issuing houses, financial advisers, brokers, accountants, legal advisers and any other professional adviser or party required to act in connection with any issuance under the provisions of this Law registered with the Securities and Exchange







Commission for the benefit of the holders of any debt security issued under this Law.

- All such advisers referred to in sub-section (2) of this section shall be duly registered with the Securities and Exchange Commission.
  
- Establishment of a Debt Service Fund
  - The State shall establish a Debt Service Fund for the Purpose  
*Establishment*  
Of accumulation of monies to make the required payments and *of a Debt*  
Meet obligations on principal and/or interest for all liabilities and *Service*  
*Fund*  
Debt obligations of the State.
  - Monies in the Debt Service Fund shall also be used as Security for the state's debt obligations and refinancing the existing obligations of the State.
  - Without prejudice to the generality of the provisions of this Law, monies credited to the Debt Service Fund pursuant to this section shall be used exclusively to discharge the State's debt obligations in respect of any Debt Security issued under this Law for as long as such obligations remain outstanding.
  
- Authority to open a Debt Service Fund Account
  - A Debt Service Fund Account shall maintained by the State in any *Authority*  
*to*  
bank duly licensed by the Central Bank of Nigeria and approved *open a*  
*Debt*  
for the purpose by the Executive Council *Service*  
*Fund*  
*Account.*





- The management of the amounts appropriated and credited to the Debt Service Fund Account is hereby granted to the Office
- The Office shall keep proper records and/or statements of account of all inflows and transfers out of the Debt Service Account and shall submit same to the Commissioner for audit purposes at the end of the State Fiscal year.
- Authority to effect Appropriation for Debt Service
  - All Revenue shall be paid into the Debt Service fund for the servicing of the obligations arising from the financing of the *Appropriation* projects. *Authority to effect*  
*For Debt Service*
  - The House of Assembly is further authorized to appropriate any portion of the State's monthly IGR to the Debt service fund. The said portion shall be proposed by the Executive Council and approved by the House of Assembly, and may be up to 25% (twenty-five percent) of the State's monthly IGR.
  - The House of Assembly shall have the powers to make such supplemental appropriations to the Debt Service Fund to meet the State's debt obligations in the event the appropriations under this section are not sufficient to effect principal and interest payments as required under the terms of issue of the Debt Securities.
- Investment of monies in the Debt Service fund.
  - Monies in the Debt Service Fund not immediately required *Investment of* for Debt servicing shall be invested in Permitted investments *Monies* in the





as selected by a fund manager or a trustee by the Office and  
*Service*

*debt*

approved by the Commissioner; provided that:

*Fund*

- The maturity date or the date on which such permitted Investments may be redeemed at the option of the fund manager or trustee shall coincide as nearly as practicable with (but shall in no event be later than) the date(s) on which such monies will become due and payable into the applicable sinking fund; and
- At no time shall monies in the Debt Service Fund be below an amount to be determined by the office. The Executive Council shall review this minimum from time to time at least once every fiscal year.
- Investment of amounts comprised in Debt Service Fund shall be made in the name of the Debt Service Fund.
- The return on any permitted investment made pursuant to this section shall form a part of the Debt Service Fund.
- Where the balances in the Debt Service Fund exceed the total public debt obligations of the State by a sum three (3) times the value of the said outstanding public debt obligations, the Governor may, upon the approval of the House of Assembly, invest half of such excess sums in infrastructural projects in the state as may be determined by the Executive Council.
- Save as provided herein, the Debt Service Fund shall only be utilized as specified in Section 7 (1) & (2) of this Law.
- The fund manager or trustee shall prepare and deliver to the Commissioner and the Office quarterly reports and financial statements in respect of the management of the Debt Service





Reserve Fund in a format in a format in a format determined  
by the Commissioner.

- Establishment of Sinking Funds.
  - The State shall establish a sinking fund in connection with a  
*Establishment*  
Particular tranche, series or issue of Debt Securities.
  - Any sum credited to the sinking fund established pursuant  
to sub-section shall be utilized solely for the purpose of making  
principal and interest payments on the particular tranche,  
series or issue of Debt Securities.
  - The State shall, as appropriate and on the specified dates pay  
out of the Debt Service Account into the Sinking Fund, the  
sums required to meet necessary payment obligation which have  
been specified in the terms and conditions of issue of that tranche  
of Debt Securities.
  - The dividends, interest, bonus and other profits of any investment  
of any part of a Sinking Fund shall be included by the Trustees so as  
to form part of that Sinking fund.
  - Each Sinking Fund shall, at all times, be completely segregated  
and set part from all other funds of the State and shall be a trust fund  
for the security and payment of the principal and any interest on the  
Debt Securities in respect of which it was established, as the same shall  
become due.

*Of Sinking  
Funds.*

- Expenses to be paid out of Sinking Fund.  
All expenses specifically incurred or incidental to the investment and  
*Expenses to be*  
management of any Sinking Fund and the redemption of the Debt  
*out of*

*paid*





Securities repayable out of such Sinking Fund shall be paid out of  
*Fund*

*Sinking*

the Sinking Fund.

- Suspension of Contributions to the Sinking Fund
  - Notwithstanding anything to the contrary in this Law if at any  
*Suspension of*  
time of Trustee is satisfied that the monies in the Sinking Fund  
*Contribution*  
established in respect of any Debt Securities will be sufficient with  
*Sinking*  
further accumulations of interest, but without further payments  
*Fund*  
of contributions, to enable the State to redeem any Debt Securities  
at the time fixed for their redemption, it shall inform the State  
accordingly.
  - Upon receiving a notification from the Trustee in accordance with  
Sub-section (1) of this Section, the Commissioner shall duly inform  
the Accountant-General and the Accountant-General shall suspend  
further payments of contributions to the Sinking Fund.
  - A detailed account of the monies standing to the credit of the State  
after suspension of contributions shall be made by the Trustee  
and the office and presented to the Executive Council and the  
House of assembly.
  - The contributions to the Sinking Fund shall recommence if the  
Trustee at anytime thereafter informs the state and the  
Accountant-General that it is no longer satisfied that the  
Sinking Fund with further accumulations of interest will be  
sufficient for the redemption of such Debt Securities repayable

*to the*





out of the Sinking Fund.

- Investment of Sinking Fund.

All monies appropriated as contributions to the Sinking Fund

*Investment of*

established for a particular Debt Security shall be paid to the  
*Fund*

*Sinking*

trustee appointment under this law and the Trustee may  
invest such monies in such securities as may be in the relevant  
Trust Deed.

- Deficiencies of Sinking Fund Chargeable on Revenue.

In circumstances where at any time the Sinking Fund is deemed

*Deficiencies in*

to be insufficient to make the principal and interest payments due  
*Fund*

*Sinking*

on any Debt Securities, the deficiency shall be paid first out of the  
*Chargeable on*

debt Service Fund is also deemed inefficient then from the Consoli-  
*Revenue*

dated Revenue Fund of the State.

- Appointment of Trustee.

- The commissioner shall, subject to the approval of the Executive

*Appointment*

council, appoint a registered corporate trustee company for the purpose  
*Trustee*

of acting on behalf of the holders of the debt securities with regards to





the debt securities issued under this Law.

- The regulation and operation of the trustee appointed pursuant to sub-section (1) of this section shall be in accordance with the investment securities act and the relevant trust deed.
- Any trustee appointed pursuant to this section shall be registered with the Securities and Exchange Commission.

- Power and Obligations of Trustees

- A trustee appointed under this Law shall be entitled to: *Power and Obligation*

*of Trustees.*

- Receive all or any part of the income and revenue pledged and assigned to, or for the benefit of the holder or holders of the Debt Securities issued hereunder, to hand, apply and dispose of the same; and
- Enforce any covenant made to secure or pay or in relation to the Debt Securities;
- There shall be a trust deeds of trust deeds which shall set forth the powers and duties and the remedies available to the trustee or trustees and limiting the liabilities thereof and describing what occurrences shall constitute events of default and prescribing the terms and conditions upon which such trustee or trustees or holder or holders of any specified amount or percentage of such debt securities may exercise such rights; and to enforce any and all such covenants and resort to such remedies as may be appropriate.





- The Office with the approval of the Executive Council shall appoint  
*Registrant*  
a registered with the Securities and Exchange Commission subject to any terms and conditions which it deems fit for the purposes of maintaining and administering a register of all transactions in debt securities entered pursuant to this Law.
  
- (1) The Registrar shall be responsible for maintaining registers in  
*Register of*  
which all transactions in debt securities entered into pursuant  
*Instrument*  
to the provisions of this Law shall be recorded.
  
- A register kept in accordance with the section shall be kept in such place as may be approved by the office, and shall among other things include the following:
  - The type of debt securities to which it relates;
  - The maturity date of such debt securities and its interest or coupon payment dates;
  - The names and addresses of the holder, for the time being, of the Debt Securities concerned;
  - The date on which the name of every holder is entered in respect of the instruments held in his name; and
  - The number and value of the debt securities held by each holder.
  
- The Registrar shall, upon request, provide to the office and or the Trustee holders, the registers, reports and or accounts which it maintains in respect of its function under the provisions of this Law or any information therein.







- The Registrar shall be closed for a period not exceeding twenty-one  
*Closing*  
(21) working days immediately preceding each date upon which *of the*  
*Register*  
interest on the Debt Securities fall due and not transfer of interests  
in the Debt Securities shall be registered during that period.
  
- (1) The entries in the register kept under the provisions of this law  
*Register a*  
shall be conclusive of the facts, matters, particulars and transact-  
*Conclusive*  
ions to which those entries relate.  
*Evidence of*  
*facts*  
*entered in*
  - Notwithstanding the provisions of ant other enactment, a copy  
of any entry in the register certified under the hand of the Registrar  
or any authorized officer of the State to be a true copy of the  
original entry shall be receivable in evidence in any judicial proceeding  
unless a judge shall otherwise direct.
  
- (1) The Debt Securities issued under this Law shall be transferable in  
the manner specified in the Legal notice published in respect of their issuance.  
(2) The title of the holder of ant debt security shall not be deemed to  
be transferred to any other person save upon the execution of an  
approved instrument of transfer or in accordance with the transfer  
process of any stock exchange and upon the registration of the  
transferee as the holder, in the Register.





(3) Interest or coupon payment which has fallen due in respect of any instrument but which has not been paid to the holder for the time being, shall not be payable to a transferee of that instrument unless the instrument of transfer expressly provides for the payment of such interest to that transferee's name has been registered in the Register.

**23.** (1) No person shall be registered as the transferee of any Debt  
*Registration of*

*Liens* Security except upon surrender in accordance with the

*Transfer*

offering documents or to the Registrar of any certificate issued in respect of such Debt Securities, and upon payment of the prescribed fee.

**24.** No notice of any trust in respect of any registered instruments shall  
*of*

*Notice*

be receivable by the office of the Commissioner.

*Trust*

*Inspection.*

- Notwithstanding anything contained in any other law, no person  
*Restriction on*  
shall be entitled to inspect or to receive information derived from any  
*information to*  
register, book or other document kept or maintained by or on behalf  
*registered*  
of the Government in relation to registered instruments, save on the  
*instrument*





payment of such fee and under such circumstances, terms and conditions as may be prescribed by the office.

- (1) The Commissioner may make regulations for the purpose of giving *Power to make* effect to the provisions of this Law subject to the approval of the *Regulations* House of Assembly.
- (2) Regulation made under sub-section (1) of this section may provide for all or any of the following matters:
  - (i) the issue, transfer, forfeiture and redemption of Debt Securities;
  - (ii) the payment by way of interest or otherwise of such amount as may be determined by or under the regulations;
  - (iii) the fees to be paid in respect of anything to be issued or done under the provisions of this Law;
  - (iv) all matters required by this Law to be prescribed, not being specifically reserved to the House of Assembly or the Governor and all matters incidental or connected with such matters.
- The Ekiti State Registered Bonds Law, No 2 of 2001 is hereby repealed.
- In this Law, unless the context otherwise requires:  
**“Accountant- General”** means the Accountant-General of Ekiti State or any other person appointed by the Government and charged with the responsibility of administering the State’s Consolidated Revenue Account and preparing financial statements for Ekiti State.





“**Commissioner**” means the Commissioner for the time being charged with the responsibility for matters relating to finance in Ekiti State.

“**Debt Securities**” means any registered bond, bearer bonds, promissory notes, syndicated notes or such other securities or debt instruments or other obligation authorized to be issued and secure by the State pursuant to this Law and payable as provided in this Law.

“**Debt Securities Fund**” means a dedicated internally segregated savings fund into which Revenue appropriated by the State for the repayment of public debts and such other Debt Securities as are issued pursuant to the provisions of this Law or other debt issuance law of the State shall be paid.

“**Executive Council**” means the Executive Council of the Ekiti State government, comprising of the Governor, the Deputy Governor, the Commissioners appointed by the Governor and such other officials as are invited into the Council by the Governor.

“**Gazette**” means the Official gazette of Ekiti State Government in which Laws, subsidiary legislations and other statutory instruments are regularly published by the Ekiti State Government.

“**Government**” means the Government of Ekiti State.

“**Governor**” means Governor of Ekiti State.

“**House of Assembly**” means the House of Assembly of Ekiti State.





“**Investment and Securities Act**” means Investment and Securities Act No. 29 of 2007.

“**Office**” means the Ekiti State debt Management office established by the Ekiti State Debt office (Establishment, etc.) Law, 2011 for the management, Conduct and implementation of any debt issuance programme of the Ekiti State Government for the purpose of financing its capital budget, or public investment projects and commitments, or the restructuring of any existing debts.

“**Permitted Investments**” means the following

- Direct obligation of the Federal Government of Nigeria and Securities fully and unconditionally guaranteed as to the timely payment of principal and coupon by the Federal Government of Nigeria (“**FGN**” **Securities**).
- Direct obligation of any State of the Federal Republic of Nigeria which has a minimum investment grade rating of [.] from a rating agency registered by the Commission at time of Purchase;
- Deposit Accounts, Commercial papers or banker’s acceptances, or instruments (in each case having maturities of not more than 365 days following the date of Purchase) of any bank duly licensed by the **CBN** to operate in Nigeria, provided that such bank is assigned a minimum Corporate rating of A or its equivalent by a rating agency registered with the Commission and a minimum of a BB- or a comparable rating by an international recognized rating agency.

“**project**” means any of the capital projects, facilities, places, buildings or undertaking within the State which are, or will be developed, maintained or operated for socio-economic, industrial, commercial or business purposes and approved by the Executive Council and financed with part or all the proceeds of Debts Securities and includes, without limitation, capital projects, real property, land, buildings, structures,





fixtures, machinery and/or operation of a project upon completion provided that a project does not include any facility, place or building used or to be used primarily for devotional activities or religious worship.

**“Register”** means a register or such registers as shall be maintained by the Registrar appointed by the Office in which details of any Debt Securities and Transactions of Debt Securities issued pursuant to this Law Instruments.

**“Registrar”** means any person appointed by the office for the purpose of maintaining any Register; issuing and delivering certificate and other instruments of title to holders of Debts Securities verifying instruments of title, and recording in the Register details of any transactions in such Debt Securities.

**“Securities and Exchange Commission”** means the Securities and Exchange Commission established by the Investments and Securities Act No. 29 of 2007.

**“The State”** means Ekiti State of Nigeria.

**“Sinking Fund”** means a specific fund established whenever it is necessary to do so in connection with a particular issue of instruments, into which contribution shall be made from the Debt Service fund in accordance with the terms and conditions of issue of the particular instrument.

**“Trustee”** means any Trustee appointed under this Law to represent and oversee the interests of the holders of Debt Securities.

*Citation 28.* This Law may be cited as the Ekiti State Bonds, Notes and other Securities Issuance Law, 2011.





## **SCHEDULE 1**

### **REGULATION TO PROVIDE FOR THE CREATION OF A SINKING FUND UNDER THE STATE DEBT ISSUANCE PROGRAMME AND FOR CONNECTED PURPOSES.**

The Honourable Commissioner for Finance of Ekiti State pursuant to the power conferred by the Ekiti State Bonds, Notes, and other Securities Issuance Law, 2011 hereby makes the following Regulations:

- **Establishment of Sinking Funds**
  - The State shall establish a Sinking Fund in connection with a tranche, series or issue of Debt Securities Issuance Law, No 9 of 2011.
  - Any sums credited to the Sinking Fund established pursuant to sub-section (1) of this section shall be utilized solely for the purpose of making principal and interest payments on the particular tranche, series or issue of Debt Securities.
  - The State shall, as appropriate and on the specified dates pay out of the consolidated revenue Fund of the State into the Sinking Fund, the sums required to meet necessary payment obligations which have been specified in the terms and conditions of issue of that tranche of Debt Securities.
  - The dividends, interest, bonus and other profits of any investment of any part of a sinking fund shall be included by the Trustee so as to form part of that Sinking Fund.
  - Each Sinking Fund shall, at all times, be completely segregated and set apart from all other funds of the State and shall be a trust fund for the Security and payment of the principal and any interest on the Debt Security in respect of which it was established, as the same shall become due.





- **Expenses to be paid out of Sinking Fund**

All expenses specifically incurred or incidental to the investment and management of any Sinking Fund and the redemption of the Debt Securities repayable out of such Sinking Fund shall be paid out of the Sinking Fund.

- **Suspension of Contributions to the Sinking Fund**

- Notwithstanding anything to the contrary in this Regulation, if at any time the Trustee is satisfied that the monies in the Sinking Fund established in respect of any Debt Securities will be sufficient with further accumulations of interest, but without further payments of contributions, to enable the State to redeem any Debt Securities at the time fixed for their redemption, it shall inform the State accordingly.
- Upon receiving a notification from the trustee in accordance with sub-section (1) of this section, the Commissioner shall duly inform the Accountant-general and the Accountant-General shall suspend further payments of contributions to the Sinking Fund.
- A detailed account of the monies standing to the credit of the State after suspension of contributions shall be made by the Trustee and the Debt Management Office of the State and presented to the Executive Council and the House of Assembly.
- The Contributions to the Sinking Fund shall recommence if the Trustee at anytime thereafter informs the State and the Accountant-General that it is no longer satisfied that the Sinking Fund with further accumulations of interest will be sufficient for the redemption of such Debt Securities repayable out of the Sinking Fund.

- **Investment of Sinking Fund**

All monies appropriated as contributions to the Sinking Fund established for a particular Debt Security shall be paid to the Trustee appointed under this Regulation, and the Trustees may invest such monies in such securities as may be permitted in the relevant trust deed.







- **Deficiencies in Sinking Fund Chargeable on Revenue**

In circumstances where at any time the Sinking Fund is deemed to be insufficient to make the principal and interest payments due on any Debt Securities, the deficiency shall be paid out of the consolidated revenue Fund of the State.

- **In this Regulation:**

“**Accountant - General**” means the Accountant-General of Ekiti State or any other person appointed by the Government and charged with the responsibility of administering the State’s consolidated revenue Account and preparing financial statements for Ekiti State.

“**Commissioner**” means the Commissioner for the time being charge with the responsibility for matters relating to financing in Ekiti State.

“**Consolidated Revenue Fund of the State**” means the total revenue and assets of the Government maintained in an account by that name including all statutory allocations from the consolidated Revenue Fund of the Federation and all internally generated revenue.

“**Debt Securities**” means any registered bond, bearer bonds promissory notes, syndicated notes or such other securities or debt instruments as may be issued by the Ekiti State Debt Management Office on behalf of the Government, pursuant to Law.

“**Debt Management Office**” means the Ekiti State Debt Management Office established by the Ekiti State Government for the management of the State’s internal and external debts and the management, conduct and implementation of any debt issuance programme of the Ekiti Sate Government for the purpose of the financing of its capital budget or public investment projects and commitment or the restructuring of any existing debt;

“**Government**” means the Government of Ekiti State.

“**Loan**” includes both internal and external borrowings of the Government

“**State**” means Ekiti Sate of Nigeria.

“**Sinking Fund**” means a specific fund established whenever it is necessary to do so in connection with a particular issue of instruments, into which contributions shall be made





from the Consolidated Revenue Fund of the State in accordance with the terms and conditions of issue of the particular instrument.

“Trustee” means any Trustee appointed under this Regulation to represent and oversee the interests of the holders of Debt Securities.

## SCHEDULE II

### REGULATION TO PROVIDE FOR THE ESTABLISHMENT OF THE STATE DEBT MANAGEMENT OFFICE AND FOR CONNECTED PURPOSES.

The Honourable Commissioner for Finance of Ekiti State pursuant to the powers conferred by the Ekiti State issuance of Bonds, Notes and other Securities Law 2011 hereby makes the following regulations.

#### COMMENCEMENT (.....)

1-(1) There is established a body to be known as the Ekiti State Debt Management office (in this Regulation referred to as Office) *Established of the State Debt*

#### *Management*

(2) The office: *office.*

(i) shall be a body corporate with perpetual succession and a common seal.

(ii) may sue and be sued in its corporate name; and

(iii) may acquire, hold and dispose of property whether moveable or immovable for the purpose of exercising its function under this regulation.

2-(i) There is established for the office of a Board to be known as the Ekiti State Debt management Office Board (in this Regulation Referred to a “Board”) which shall consist of: *Establishment and Composition of the Board.*





- The Commissioner for Finance who shall be the Chairman;
- The Attorney general and Commissioner for justice, who shall be the Vice-Chairman;
- The Secretary to the State Government;
- The Accountant – General of the State;
- The Executive Secretary: and
- A representative of the private sector appointed by the Governor who shall be a person competent in financial matters;

(2) The Executive Secretary shall serve as the Secretary to the Board.

**First Schedule** (3) The supplementary provisions set out in the First Schedule to this regulation shall have effect with respect to the proceedings of the Board and other matters.

**Tenure of Office** 3-(i) Subject to the confirmation of the House of Assembly, the members of the Board shall hold office for a period of four (4) years and may be determined by the Governor.

**And Allowances**

**Of members of the Board.**

(2) Members of the Board shall be paid such allowances as may be approved by the Governor.

**Removal of** 4. Notwithstanding the provision of section 3 (1) of this regulation, a member of the Board shall cease to hold office if he has:

**Members of the Board.**

- Resigned his appointment as a member of the Board by a notice under his hand, addressed to the Governor;
- By reason of mental or bodily infirmity become incapable of discharging his duties;
- Been convicted of an offence which involves dishonesty or moral turpitude;





- Become bankrupt or made a compromise with his creditors; and
- The Governor may remove any member of the Board if he is satisfied that it is in public interest to do so.

**Function of  
the Office**

5. The Office Shall:

(a) issue, on behalf of the State, such Debt Securities as the State may approve from time to time;

(b) Borrow on behalf of the Government, from any individual or institutional bodies as may be approved by the State.

- Maintain a reliable database of all Debt Securities, loans taken or guaranteed by the Government or any of its agencies and all contingent liabilities related to it.
- Prepare and submit to the Government, a forecast of loan service obligations for each financial year;
- Prepare and implement a plan for the efficient management of the state's debt obligations at sustainable levels compatible with desired economic activities for growth and development; and participate in negotiations aimed at realizing those objectives;
- Verify and service debts guaranteed or taken directly by the Government;
- Reconcile and where applicable service debts taken by local governments where such debts are authorized and guaranteed by the Government;
- Set guidelines for managing Government financial risks and financial exposure with respect to all loans and instrument;
- Advise the government on the restructuring and refinancing of all debt obligations;
- Advise the Government on the terms and conditions on which monies are to be borrowed;





- Submit to the Government, for consideration in the annual budget, a forecast of the State's borrowing capacity;
- Prepare a schedule of any other Government obligation such as trade debt and other contingent liabilities and provide advice on policies and procedures for their management;
- Ensure that charge of grants, guaranteed debt and contingent liabilities are registered and updated regularly;
- Provide timely and accurate information on the Government's debt to assist policy makers
- Assess lending terms from various sources and negotiate best possible terms for future borrowing;
- Establish and maintain relationships with international and local financial institutions, creditors and institutional investors in Government debts;
- Collect and collate data on debt management and disseminate information with the approval of the Board;
- Advise and propose funding mechanisms for infrastructural projects that may be referred to it;
- The Office shall consult with the Central bank of Nigeria with respect to the general objectives of its debt management functions as they relate to the existing monetary policy in Nigeria.
- Carry out such other functions which are required for the effective implementation of its functions under this Regulation.
- **Power of the Office**  
The Office shall have power to:
  - Issue and manage the State loans as prescribed under any regulation and or upon such and conditions as may be approved by the Executive Council;
  - Issue from time to time, guidelines for the smooth operation of any debt, bond and or securities issuance programme of the State;





- Do such other things which, in the opinion of the Board, relate to the management of the debts of the State.
- **Functions of the Board**

The Board shall:

  - (a). approve policies, strategies and procedures to be adopted by the office for the achievement of its objectives;
  - (b) review, from time to time, the economic and political impact on the State of debt management strategies;
  - (c) appoint, as and when necessary, technical committees comprising of persons with requisite technical competence from the private or public sector to advise the Office on such matters as may be determined from time to time;
  - (d) recommend, for the approval of the Governor, members of any debt issuance programme or restructuring Committee; and
  - (e) perform such other functions as may, from time to time, be necessary to achieve the objectives of the Office.

## **8. Appointment of Executive Secretary**

- (1) There shall be appointed for the office an Executive Secretary who shall be appointed by the Governor on the recommendation of the Head of Service.
- (2) The Executives Secretary shall:
  - (a) be a career officer of proven integrity with experience in Financial Administration, Debt Management and or/ planning;
  - (b) be responsible to the Board for the day to day running of the office.
  - (c) hold office in accordance with terms and conditions guiding such appointments in the Civil Service of Ekiti State.

## **9. Appointment of Staff of Office**

- (1) The Board may appoint for the office, such other number of employees as may be expedient and necessary for the proper and efficient of other performance of the functions of the office.





- (2) The terms and conditions of service (including remunerations, Allowances, benefits and pensions) of the employees of the office shall be as in force in the Civil Service of the State.
- (3) The Staff of the Board may be drawn from mainstream of the civil service of the State either on posting, transfer or on secondment.
- (4) The Board shall have power to employ any number of staff from the public service or private sector as may be required.

#### **10. Establishment of Management Team**

- (1) There is established for the office a management team who shall comprise of the Executive secretary and the Heads of departments of the Office.
- (2) The management team shall, under the direction of the Director be responsible for the implementation of the policies of the Board and the day-to-day administration of the office.

#### **11. Establishment of fund for the office**

- (1) There is hereby established, for the office, a fund from which all expenses expenditure incurred by the office shall be defrayed.
- (2) There shall be paid to the fund.
  - (a) any allocation to the office from the consolidated revenue fund of the State;
  - (b) such monies as may, from time to time, be granted or lent to the Office by the Federal Government, a state Government or a Local Government;
  - (c) all monies raised for the purpose of the office by way of gifts, loans, grant-in-aid, testamentary disposition or otherwise; and
  - (d) all monies and assets that may, from time to time, accrue to the office.
- (3) The fund shall be managed in accordance with the rules made by the Board and without prejudice to the generality of the power to make rules under this subsection; the rules shall in particular contain provision-
  - (a) specifying the manner in which the assets or the Fund of the office are to be held, and regulating the making of payments into and out of the fund; and





(b) requiring the keeping of proper accounts and records for the purpose of the fund in such form as may be specified in the rules.

## **12. Expenditure of the Office**

The office shall apply proceeds of the Fund to:

- The cost of administration of the Office;
- The payment of salaries, fees, remuneration and allowance payable to the members of the Board and the employees of the office;
- The payment for all consultancies, legal fees, financial advisers, contract for the construction of property for the Office or for the effective running of the office and cost on contract administration;
- The payment for all purchases; and
- Undertaking such other activities as are connected with all or any of the functions of the office under this Regulation or any other Regulation.

**13.** (1) The office may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making gift.

(2) The office shall not accept any gift if the conditions attached by the person or organization making gift are inconsistent with the functions of the office under this regulation, and are such that would influence the decisions and or functions of the office.

## **14. Annual Estimates and Expenditures**

(1) The Board shall not later than 30<sup>th</sup> September in each year submit to the Commissioner an estimate of the expenditure and income of the office during the next succeeding year;

(2) The Board shall cause to be kept proper accounts of the affairs of the Office in respect of each year, and shall cause the accounts to be audited not later







than six months after the end of each year by the Board and in accordance with the guidelines supplied by the Auditor – General of the State.

### **15. Annual Report.**

The Board shall prepare and submit to the commissioner not later than 30<sup>th</sup> June in each year, a report in such form as the Commissioner may direct on the activities of the Office during the immediately preceding year, and shall include in the report a copy of the audited accounts of the office for that year. Within fifteen (15) days of the receipt of such report, the Commissioner shall forward a copy each to the Governor and the State House of Assembly.

### **16. Borrowing**

(1) The office shall advise the Government annually, on any shortfall in financing obligations of the State for the succeeding financial year and the amounts as shall be necessary for the Government to borrow for bridging such gap either locally or abroad and or in naira or whatever other currencies may be financial prudent for the State.

(2) Any advice issued by the office under sub-section (1) of this section shall, among other things, form the basis of the State borrowing and debt issuance programme for the succeeding financial year.

### **17. Government Guarantee, etc.**

(1) the Government may, subject to the provision of this section, authorized and guarantee any loan to be taken by any local

(2) A Guarantee Agreement for external loans shall be executed on behalf of the Government, by the Commissioner or any other person designated by him in writing.

(3) Where any money is due to be paid by the Government in satisfaction of any obligation arising from a borrowing or a guarantee under this section, that money shall be deemed to be a charge on the Consolidated Revenue Fund of the State.





## **18. Internal Borrowing**

(1) Subject to the provision this section 6 of this Regulation, that office shall

(a) Determining.....

(i) the amounts and time schedule for the issuance of Government short-term and medium term securities in the Nigeria money market;

(ii) the repayment or roll-over of the existing or maturing issues;

(iii) the floating of Government long-term securities to raise appropriate funds in the capital market;

(iv) the payment of interest and redemption of securities at maturity from the Sinking Fund, or Consolidated Debt Securities Account or the Consolidated Revenue Fund of the State.

(b) Maintain the Register of holders of all debt securities issued by the State record the particulars of all holders and all transactions entered into with regard to such debt securities therein. For the purpose of carrying out the responsibility under this subsection the office with the approval of the Executive Council shall appoint a Registrar registered with the Securities and Exchange Commission upon such terms and conditions that it may prescribe;

(c) with the approval of the Executive Council, determine any other for of securities that may be created, issued or floated to achieve the debt management objectives of the Government;

(d) maintain a record of all guarantees by the Government, of any authorized loans, taken by any local government or other agency of Government;

(e) review and advise on the maintenance of statutory limits for all categories of loans or debt instruments at levels, compatible with economic activities required for sustainable growth and development in collaboration with the Accountant-General of the State;

(f) liaise or cooperate with other State Government or other relevant institutions within or outside Nigeria for the realization of the objectives of the office.





## **19. Approval for Grant Loans**

- (1) Approval for grants or loans to other State or any of its agencies may be granted in accordance with the procedures specified in the section.
- (2) Applications for grants or loans to other States shall be submitted by the Governor to the House of Assembly and may be approved subject to such terms and conditions as may be approved by a resolution of the House of Assembly.
- (3) An application specified in subsection (2) of this section shall indicate the:
  - (a) Objectives, as the case may be, underlying the request or proposal;
  - (b) terms and conditions of the grant or loan;
  - (c) benefits which the State stands to derive from the grant or loan; and
  - (d) state of the relations existing between the other state and the state, at the time of request or proposal.

## **20. Execution of Loan Agreement**

An agreement entered into for the purpose of section 19 of the Regulation shall be in writing and be executed on behalf of the State by the Commissioner or by such other person as the Commissioner may, from time to time designate.

- 21.** (1) Notwithstanding anything contained in any other regulation or enactment, no suit shall lie or be instituted in any court against any member of the Board, or any other officer, or employee of the office for any act done in pursuance or execution of this Regulation or any other regulation or enactment, or of any public duty or authority in respect of any alleged neglect or default in the execution of this regulation or such other Regulation or enactment, duty or authority unless.....
  - (a) it is commenced within three months next after the act, neglect or default complained of; or
  - (b) in the case of a continuation of damaged or injury, within six months next after cessation thereof.





## **22. Service Monetary Judgment against the Office to be paid from Fund of the Office.**

Any notice, summons, or other documents required or authorized to be served upon the Office under this Regulation or any other Regulation or enactment may be served by delivering it at the principal office of the Office.

- **Office to be paid from Fund of the Office**

Any sum of Money which may, by judgement of any court, be awarded against the office shall, subject to any direction given by the Court where notice of appeal of the said judgement has been given, be paid from the fund of the office.

- **Transitional Provision etc.**

- As from the commencement of this Regulation, the powers of any Ministry or Extra-Ministerial Department over any debt involving the Government shall, by virtue of this Regulation and without further assurance, be vested in the office established by this regulation and in accordance with the provisions of this regulation.
- Accordingly, any proceeding or cause of action pending or existing immediately before the commencement of this Regulation by or against any such Ministry or Extra-Ministerial Department over the management of any debt in respect of any right, interest, obligation or liability in relation to the management of a debt referred to in sub-section (1) of this section, may be continued or commenced, as the case may be, by or against the office, as if the office had been a party thereto.
- The determination of the Court of Law, Tribunal or other authority or person made in any proceeding or cause of action referred to in subsection (2), may be enforced by or against the office to the same extent that the proceeding, cause of action or determination could have been continued, commenced or enforced by or against that Ministry or extra-Ministerial Department if this Regulation had not been made.





- **Rules**

The Office shall have powers to make rules for the operation of this Regulation including the issuance of.....

- Guidelines for obtaining loans, issuing bonds, securities or debt instruments, derivatives, swaps or hedge instruments by the Government or any of its agencies;
- Guidelines in respect of lending to public bodies, and
- Guidelines on any other matter as the Board may deem fit in each circumstance.

- **Interpretation**

In this regulation.....

“**Board**” means the Supervisory Board of the Office established under section 2 of this regulation;

“**Commissioner**” means the Commissioner for the time being charged with the responsibility for matters relating to finance in Ekiti State;

“**Consolidated Revenue Fund of the State**” means the total revenue and assets of the Government maintained in an account by the name including all statutory allocations from the Consolidated Revenue Fund of the Federation and all internally generated revenue;

“**Debt**” includes domestic and external debts;

“**Debt Securities**” means any registered bond, bearer bonds promissory notes, syndicated notes or such other securities or debt instruments as may be issued by the Ekiti State Debt Management Office on behalf of the Government, pursuant to this Regulation;





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“**Executive Secretary**” means the Executive Secretary of the Office, appointed pursuant to Section 8 of this Regulation;

- **Citation**

This Regulation may be cited as the Ekiti State debt Management Office (Establishment) Regulation and shall come into force on the .....



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## SCHEDULE

### SECTION 2 (3)

#### SUPPLEMENTARY PROVISION RELATING TO THE BOARD, ETC.

- **Quorum**
  - Subject to this Regulation and the interpretation, the Board may make standing orders regulating its proceeding or those of any of its committees
  - The quorum of the Board shall be chairman, the Vice-Chairman or the person presiding at the meeting and three (30) other members of the board, and the quorum of any committee of the Board shall be determined by the Board.
- **Notice of Meeting**
  - The Board shall meet not less than four times in each year and subject thereto, the Board shall meet whenever it is summoned by the chairman and if the chairman is required to do so by the notice given to him by not less than four (4) other members, he shall summon a meeting of the Board to be held within twenty-eight (28) days from the date on which the notice is given.
  - At any meeting of the Board, the Chairman shall preside, but if he is absent, the vice-chairman shall preside over the meeting, if the Vice-Chairman is absent, the members present at the meeting shall appoint one of them to preside over the meeting.
  - Where the Board desires to obtain the advice of any person on a particular matter, it may co-opt such person to the Board for such period as it deems fit; provided that a person who is in attendance by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.





- **Appointment of Committee** *...Ilẹ̀ Iyi, Ilẹ̀ Èyẹ̀*
  - The Board may appoint one or more committees to carry out, on its behalf such functions as it may determine.
  - A committee appoint under this paragraph shall consist of such number of persons as may be determined by the Board, and such person shall be a member of the committee in accordance with the terms of his appointment.
  - A decision of a committee shall be of no effect until it is confirmed by the Board.
- **Official Seal**
  - The fixing of the seal of the office shall be authentically by the signatures of the Chairman or any person generally or specifically authorized by the Board to act for that purpose and that of the Executive Secretary.
  - Any contract or instrument which if not 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 office by the Executive Secretary or any other person generally or specifically authorized by the Board to act for the purpose.
  - Any document purporting to be a document under the seal of the Office shall be received in evidence, and shall, unless and until the contrary is proved, be presumed to be so executed.
  - The validity of any proceeding of the Board of a committee shall not be adversely affected by:
    - A vacancy in the membership of the Board or Committee; or
    - A defect in the appointment of a member of the Board or Committee; or
    - Reason that a person not entitled to do so took part in the proceedings of the Board or Committee.

**“Executive Council”** means the Executive Council of the Ekiti State Government, comprising the Governor, the Deputy Governor, the Commissioners appointed by the Governor and such other officials as are invited into the Council by the Governor;







“**The Office**” means the Ekiti State Debt Management Office established by the Ekiti State Government for the management of the State’s internal and external debts and management, conduct and implementation of any debt issuance programme of the Ekiti State Government for the purpose of the financing of its capital budget or public investment projects and commitments for the restructuring of any existing debt;

“**Government**” means the Government of Ekiti State;

“**Governor**” means the Governor of Ekiti State;

“**Loan**” includes both internal and external borrowings of the Government;

“**Public Bodies**” includes State agencies and parastatals;

“**Register**” means a register or such registers as shall be maintained by the Ekiti State Debt Management Office in which details of any instruments including particulars of the holders thereof, transactions in any debt securities entered into by the Government and details of subsequent transactions in such instruments and securities shall be recorded;

“**Registrar**” means any person appointed by the office for the purpose of maintaining any Register; issuing and delivering certificate and other instruments of title to subscribers to any debt issuance programme of the State or instrument holders, verifying instruments of title, and recording in the register details of any transactions in such instrument;





“**State**” means Ekiti State of Nigeria;

“**Sinking Fund**” means a specific fund established whenever it is necessary to do so in connection with a particular issue of instruments, into which contributions shall be made from the Consolidated Debt Service Account in accordance with the terms and conditions of issue of the particular instrument.





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**This printed impression has been carefully compared by me with the Bill, which has been passed by the Ekiti State House of Assembly and found by me to be a true copy of the said Bill.**

.....  
**MR. BEN. AKINTUNDE FAMOYEGUN**

*Clerk of the House of Assembly*

.....  
**Rt. Hon. (Dr.) Adewale A. Omirin**  
*Speaker of the House*



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## **Governor's Assent**

**I hereby signify my assent to this Bill**

**DR. KAYODE FAYEMI**  
**Executive Governor of Ekiti State**

**MADE AT ADO EKITI THIS 4<sup>th</sup> DAY OF July, 2011**

