

Proshare Research's **Memorandum.**

May 28, 2024

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Proshare Research's Memorandum to Nigeria's Senate Committee on Banking, Insurance, and Other Financial Institutions on the Proposed Amendment of NDIC Act No 63, 2023 (Amendment) Bill, 2024 (SB.277)

Date: May 28, 2024

To: Nigeria's Senate Committee on Banking, Insurance, and Other Financial Institutions

cc: Chartered Institute of Directors, Nigeria (CIoD)
Chartered Institute of Bankers of Nigeria (CIBN)
Nigeria Deposit Insurance Corporation (NDIC)

Subject: Memorandum on the Proposed Amendment of NDIC Act No 63, 2023 (Amendment) Bill, 2024 (SB.277)

We hereby submit as follows:

1. NDIC's Independence and Functional Mandate (Section 1(3) and 3 of the NDIC Act)

The current construct of the Nigeria Deposit Insurance Corporation (NDIC) appears more akin to the supervisory department within the Central Bank of Nigeria (CBN) than an independent institution. This may be related to the provision of Section 3 (subsection b & c) of the NDIC Act 2023, which requires that the Corporation, in concurrence with the CBN, supervise banks and resolve banking failure. This relationship risks undermining the objectivity and independence of NDIC's core functions of deposit protection, bank liquidation, and debt recovery from failed banks. NDIC Act 2023 stipulated that "the Corporation shall be independent in the performance of its functions." As modelled by the Federal Deposit Insurance Corporation (FDIC) in the United States, an effective deposit insurance system requires strict operational independence from central banking functions. The proposed amendment should ensure that NDIC operates independently of fiscal and monetary policy authorities. The precise delineation will enhance NDIC and CBN effectiveness and align the NDIC more closely with global best practices.

2. Legal Review of Fidelity Insurance in the Digital Age (Section 44 of the NDIC Act)

As financial transactions increasingly migrate to digital platforms, the existing legal framework governing cash-in-transit requires urgent review. The current laws do not adequately address the complexities and risks of the digital money movement. To mitigate these risks, it is imperative to incorporate provisions for cybersecurity insurance within the NDIC's mandate. Section 44 of the NDIC Act 2023, related to Fidelity insurance, should be made more specific rather than implied in such coverage. The endgame is to protect financial institutions' digital transactions and ensure comprehensive coverage and protection of depositors' funds by modernising the legal constructs around deposit protection to reflect the realities of digital finance.

3. Over-regulation and Its Impact on Banking Operations (Section 22 of the NDIC Act)

Over-regulation poses a significant threat to Nigeria's banking sector. The CBN's focus on monetary policy and price stability, which charges banks' cash reserve ratio (CRR) (at an effective rate of 45% of deposits), must be balanced against banks' need to create credit and facilitate intermediation. Provisions of Section 22 of the NDIC Act 2023, which requires all deposits of licensed banks or other deposit-taking financial institutions to be insured, is a stretch. Charging deposit insurance premiums on deposits already sterilised with the CBN as CRR is unjustifiable. It places an undue burden on banks and impedes their lending capacity. The proposed amendment should stipulate that deposit insurance premiums be calculated on the net deposit position of banks, excluding the portion held as CRR. This adjustment will promote a healthier banking environment conducive to growth and economic development.

4. Integration of NDIC and AMCON Functions (Section 24 – 30 AMCON ACT 2010, Part VIII-IX NDIC ACT)

The Asset Management Corporation of Nigeria (AMCON) and the NDIC share a common vision of financial stability but operate in silos, leading to inefficiencies. AMCON has primarily taken on the role of resolving toxic loan assets, while the NDIC focuses on depositor protection. Given AMCON's extensive experience and infrastructure in managing bad loans, it is only logical to repurpose AMCON as a specialised arm of the NDIC dedicated to

toxic (bad) loan resolution. This restructuring would streamline operations, reduce redundancy, and enhance the overall efficiency of managing non-performing loans within the banking sector (this would involve bringing AMCON staff from roughly 600 personnel to between 100 and 150). The proposed amendment should thus incorporate provisions for this strategic integration, ensuring a unified approach to financial system stability and depositor protection.

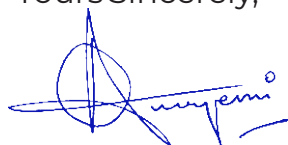
Conclusion

The proposed amendments to the NDIC Act No 63, 2023, offer an opportunity to strengthen Nigeria's financial system and correct overlaps. The amendments should prioritise ensuring the NDIC's independence, modernising legal frameworks for digital transactions, recalibrating regulatory measures to foster banking growth, and integrating AMCON's functions within the NDIC, enhancing the robustness and resilience of Nigeria's banking sector. We urge the Senate Committee on Banking, Insurance, and Other Financial Institutions to consider these recommendations in the legislative process.

Attachments:

- Between AMCON and NDIC: Recalibrating Regulatory Roadmaps
- Rethinking AMCON and NDIC: Addressing Over and Under Regulation, CRR Debits and New Mandates
- NDIC Reviews Maximum Deposit Insurance Coverage Level from N500,000 to N5m

Yours Sincerely,



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