

SENATE COMMITTEE ON FINANCE

REPORT OF THE

REPORT OF THE SENATE JOOINT COMMITTEE ON
FINANCE; CUSTOMS, EXCISE & TARIFF; TRADE AND
INVESTMENT AND PUBLIC PROCUREMENT ON THE
FINANCE BILL 2020

SUBMITTED TO THE SENATE

DECEMBER, 2020

REPORT OF THE SENATE JOINT COMMITTEE ON FINANCE; CUSTOMS, EXCISE & TARIFF; TRADE & INVESTMENT AND PUBLIC PROCUREMENT ON THE FINANCE BILL 2020

1.0 INTRODUCTION:

The Senate at the plenary session on Tuesday 1st December, 2020 read the letter of Mr. President presenting the Finance Bill 2020. The Bill seeks to support the implementation of the 2021 Budget by proposing amendment of relevant fiscal and other statutes in response to the fiscal reforms of the Federal Government, to amend laws relating to the Public procurement, Fiscal Responsibility and Corporate law in order to make further provisions in connection with the Federal Government finance management, public revenue and other relevant matters.

The Senate at its sitting on Wednesday 2nd December, 2020, read the **Finance Bill 2020** the second time and referred same to the Committees on Finance; Customs, Excise & Tariff; Trade and Investments; and Public Procurement for further legislative action.

The twelve (12) Acts to be amended under the Finance Bill 2020 contains Six Four (64) Clauses. The Committee immediately swung into action, held several meetings with Members and critical

stakeholders and is expected to report to the Chamber within one (1) week.

2.0 MEMBERSHIP:

1. Senator Solomon O. Adeola - Chairman
2. Senator Francis A. Fadahunsi - Co-Chairman
3. Senator Francis Alimikhena - Co-Chairman
4. Senator Isa Shua'ibu Lau - Co-Chairman
5. Senator Isah Jibrin - Member
6. Senator Lawal Yahaya Gumau - Member
7. Senator Danladi Sankara Abdullahi - Member
8. Senator Ahmed Babba Kaita - Member
9. Senator Kashim Shettima - Member
10. Senator Yusuf A. Yusuf - Member
11. Senator James Manager - Member
12. Senator Matthew Urhoghide - Member
13. Senator Teslim Folarin - Member
14. Senator Gershon H. Bassey - Member
15. Senator Adamu M. Aliero - Member
16. Senator Patrick Ayo Akinyelure - Member
17. Senator Uche Lilian Ekwunife - Member
18. Senator Ike Ekweremadu - Member
19. Senator Ibrahim Gaidam - Member
20. Senator Abdulfatai Buhari - Member
21. Senator Olubunmi Ayodeji Adetunmbi - Member
22. Senator Akwashiki Godiya - Member
23. Senator Albert A. Bassey - Member
24. Senator Umar Sadiq - Member

25. Senator Michael A. Nnachi	-	Member
26. Senator George Sekibo	-	Member
27. Senator Obinna Ogba	-	Member
28. Senator Bamidele Opeyemi	-	Member
29. Senator Gabriel Suswam	-	Member
30. Senator Hassan M. Gusau	-	Member
31. Senator Sani Musa	-	Member
32. Senator Bello Mandiya	-	Member
33. Sen. Suleiman Abdu Kwari	-	Member
34. Senator Tolulope Odebiyi	-	Member
35. Senator Uba Sani	-	Member
36. Senator Ifeanyi Ubah	-	Member
37. Senator Sabo Muhammad	-	Member
38. Sen. Hezekiah Dimka	-	Member
39. Senator Tolu Odebiyi	-	Member
40. Senator Oyelola Y. Ashiru	-	Member
41. Senator Ali Ndume	-	Member
42. Senator Istifanus	-	Member
43. Senator Barinada Mpigi	-	Member
44. Senator Orji Uzor Kalu	-	Member
45. Senator Adebisi A. Tolulope	-	Member
46. Senator Mohammed E. Bima	-	Member
47. Senator Yakubu Oseni	-	Member
48. Senator Ibrahim Shekarau	-	Member
49. Senator Akon E. Atim	-	Member
50. Senator Kola B. Ademola	-	Member
51. Senator Elisha Clifford Ishaku	-	Member
52. Senator Tolulope Odebiyi	-	Member

3.0 LIST OF ACTS TO BE AMENDED IN THE FINANCE BILL

The Bill specifically seeks to, among other things amend the following:

- 1) Capital Gains Tax Act
 - i. Personal Injury

- 2) Companies Income Tax Act
 - i. Charge of tax on interest relating to Foreign and Agricultural Loans and Certain Reliefs
 - ii. Nigerian Companies
 - iii. Companies engaged in shipping or air transport
 - iv. Insurance Companies
 - v. Profits Exempted
 - vi. Deductible Donations: Deductibility of Donations for Tax Purposes
 - vii. Minimum Tax
 - viii. Gas Utilisation (downstream operations)
 - ix. Self-Assessment Tax Payable
 - x. Returns and Provisional Accounts
 - xi. Service of Notice of Assessment
 - xii. Revision of Assessment in case of Objection
 - xiii. Time within which tax is to be paid
 - xiv. Interpretation
 - xv. Second Schedule - Qualifying Expenditure

- 3) Industrial Development (Income Tax Relief) Act
 - i. Publication of List of Pioneer Industries and Products and issuing of Pioneer Certificates
 - ii. Interpretation

- 4) Personal Income Tax Act
 - i. Business or Trade only partially carried on or deemed to be carried on in Nigeria
 - ii. Deductions allowed
 - iii. New trades
 - iv. Cessation of trades, etc.
 - v. Consolidated Relief Allowance: personal relief and relief for children and dependents
 - vi. Charge of Income Tax
 - vii. Interpretation – Definition of Board
 - viii. General Amendment
 - ix. Third Schedule

- 5) Tertiary Education Trust Fund (Establishment, Etc.) Act
 - i. Imposition of tertiary education tax
 - ii. Offences
 - iii. Penalties

- 6) Customs and Excise Duties Tariff, etc.
(Consolidated) Act
 - i. Goods liable to Excise Duty

- 7) Value Added Tax Act
 - i. Taxable Goods and Services
 - ii. Rate of Tax
 - iii. Interpretation (VAT)

- 8) Stamp Duties Act
 - i. Provision as to Duty upon Receipts

- 9) Electronic Transaction levy
 - i. Electronic Transaction Levy

- 10) Federal Inland Revenue Service (Establishment) Act
 - i. Functions of the Service
 - ii. Administration of tax laws
 - iii. Call for returns, books, documents and information
 - iv. Information and documents to be confidential
 - v. Official secrecy and confidentiality
 - vi. Interpretation (FIRSEA)
 - vii. Fifth Schedule

- 11) Nigeria Export Processing Zone Authority Act
 - i. Incentives & Related Matters

- 12) Oil and Gas Export Processing Zone Act
 - i. Incentives & Related Matters

- 13) Crisis Intervention Fund
 - i. Crisis Intervention Fund

- 14) Unclaimed Funds Trust Fund
 - i. Unclaimed Funds Trust Fund

- 15) Companies and Allied Matters Act, 2020
 - i. Unclaimed Dividends

- 16) Fiscal Responsibility Act
 - i. Aggregate Expenditure Ceiling
 - ii. Classification of Corporation Operating Surplus

- 17) Public Procurement Act
 - i. Scope of Application
 - ii. Approving Authority
 - iii. Accounting Officer
 - iv. Tenders Board

- v. Open Competitive Bidding
- vi. Invitation to Bid
- vii. Submission of Bids
- viii. Bid Opening
- ix. Mobilisation Fees
- x. Contract Performance Guarantee
- xi. Offence Relating to Public Procurement
- xii. Interpretation
- xiii. Citation
- xiv. Commencement Date

4.0 **METHODOLOGY:**

The Committee held meetings and adopted the following procedures to carry out the assignment:

1. Interaction with the sponsors of the Bill, Minister of Finance Budget and National Planning to shed more light on the general principles of the Bill;
2. Request for Stakeholders inputs/comments and observations on the Bill;
3. Conduct Public Hearing to enable Stakeholders and interested members of the public make oral presentations on the desirability or otherwise of the proposed amendments;
4. Review of related existing legislations to meet international best practices; and
5. Review stakeholders' input and consideration of the draft report.

5.0 OBJECTIVES OF THE BILL:

The objectives of the Bill is to strategically amend the following:

5.1 Adopt Critical Counter-Cyclical Fiscal Policies to:

- i. Respond to current economic challenges of COVID-19 and decline in Oil Prices / Revenues
- ii. Defer Tax Rate increases till the Domestic Economy sufficiently recovers (e.g maintain VAT Rate at 7.5% in line with recent increases pursuant to Finance Act of 2019)
- iii. Reduce Compliance Burden on Tax Payers in line with Ease of Doing Biz. Reforms (e.g FIRS to engage with Regulators such as CBN first, to obtain data on Regulated Taxpayers such as Banks, before requesting any data readily available from CBN from the Banks, directly or through consultants)

5.2 Reform Fiscal Incentive Policies to:

- i. Reduce proliferation of Fiscal Incentives by carefully assessing Cost vs. Benefit of Tax Incentives
- ii. Prioritise Job Creation, Growth and Investment (e.g. reduce taxation of capital by cutting Minimum Tax Rate on Companies from 0.5% to 0.25%)

5.3 Closer Coordination of Monetary, Trade & Fiscal Policies

- i. Aligning existing Tax Incentives for Lending to Agriculture. with recent CBN Moratorium and Interest Rate Reduction for Agriculture and Real Sector Loans.
- ii. Reforms to Stamp Duty Levy on Banking Transactions.
- iii. Unclaimed Dividends and Unclaimed Bank Balance Reforms.

6.0 PUBLIC HEARING:

The Committee conducted a Public Hearing on Thursday, 10th December, 2020. The Hearing attracted an impressive turnout of Committee Members, Ministries, Departments and Agencies (MDAs), Critical Stakeholders, Civil Societies Organizations (CSOs), Non-Governmental Organization (NGOs) and Members of the Public. The Senate President, Senator Dr. Ahmed Ibrahim Lawan (CON), represented by the Deputy Senate President, Senator Ovie Omo-Agege, declared the Public Hearing open and also witnessed the presentations by some of the Stakeholders.

The following Stakeholders made presentations/submitted memoranda on the Bill:

1. Federal Ministry of Finance, Budget and National Planning;
2. Central Bank of Nigeria (CBN);
3. Nigeria National Petroleum Corporation (NNPC);
4. Federal Inland Revenue Service (FIRS);
5. Nigeria Customs Service (NCS);

6. Corporate Affairs Commission (CAC);
7. Fiscal Responsibility Commission (FRC);
8. Bureau of Public Procurement (BPP);
9. Independent Shareholders Association of Nigeria (ISAN);
10. Department of Petroleum Resources (DPR);
11. Nigerian Export Processing Zone Authority (NEPZA);
12. Oil & Gas Free Trade Zone;
13. Manufacturers Association of Nigeria (MAN);
14. Chartered Institute of Bankers of Nigeria;
15. Chartered Institute of Taxation of Nigeria (CITN);
16. The Institute of Chartered Accountants of Nigeria (ICAN);
17. KPMG Advisory Services;
18. Price Waterhouse Cooper (PWC);
19. Andersen Tax Nigeria;
20. Institute of Chartered Accountants of Nigeria (ICAN);
21. Nigeria Employers Consultative Association (NECA);
22. Security and Exchange Commission;
23. Cadbury Nigeria Plc;
24. Lagos State Ministry of Finance

6.0 OBSERVATIONS:

CAPITAL GAINS TAX ACT

- 1) The Committee observe that the 180 days recommended by the Bill will be cumbersome especially where there are multiple disposal of Assets.

COMPANY INCOME TAX ACT

- 2) The Committee observe that the value of in-kind donation made to the Government or any of its other designated agency could be different from the actual cost incurred by the donor.
- 3) The Committee observe that the 25% of assessable profit is too high for a voluntary donation.
- 4) The Committee observed that the new Section 27 (1c) introduced was too restrictive for the purpose of ease of doing business.
- 5) The Committee observed the Section 63(2) of the proposed amendment could be misconstrued as requiring company to prepare another sets of accounts.
- 6) The Committee observed that Section 63(7) was ambiguous and unnecessary.
- 7) The Committee observed that initial tax free period granted to this industries is relatively high.

CUSTOMS, EXCISE AND TARIFF ACT (CETA)

- 8) The Committee observes that the word 'services' is too wide and could be misinterpreted as applicable to a wide range of services.
- 9) The Committee observes that the automobile policies which covers the new levy and duty was extensively debated and deliberated at the Public Hearing and submitted as part of the memorandum to the Committee by the Ministry of Finance and Customs service was omitted.

- 10) The Committee observes that the airline Industry that where granted Presidential waivers were been subjected to duty and levy by the Nigeria Customs thereby creating bottle neck for smooth operation in the Industry.

STAMP DUTY ACT

- 11) The Committee observed that the Central Bank may be over boarden with additional responsibility of imposition administration and collection and remittance of the electronic levy.
- 12) The Committee observes that the sharing formular which should largely be to the state of derivation was not included in the Bill.

FEDERAL INLAND REVENUE SERVICE

ESTABLISHMENT ACT

- 13) The Committee observed that Section 254) of the proposed amendment will deter the FIRS from carrying out its duties and function as specified in the FIRS Establishment Act due to the cumbersome nature of requirement to obtain approval from other regulating agencies that may not be forthcoming.

UNCLAIMED TRUST FUND

- 14) The Committee observes under the unclaimed fund trust fund that the basic ingredients of ensuring the setting up of a proper

unclaimed trust fund was missing in the proposed Bill and this include

1. The composition of the Governing Council
2. Function of the Debt Management Office
3. Powers of the Governing Council.

FISCAL RESPONSIBILITY COMMISSION

- 15) The Committee observes that the classification of corporation operating surplus gives the Minister excessive powers regarding revenue generating agencies without any recourse to the National Assembly.
- 16) The Committee equally observe that the remittance of balance of the operating surplus to the Consolidated Revenue Fund by the Revenue Agencies equally grant the Minister in charge of Finance excessive power without any recourse to the National Assembly through the issuance of regulations.
- 17) Again the Committee equally observes that the quarterly reconciliation of the direct deduction and aggregate annual deduction reports starts and ends in the Ministers' office.

VALUE ADDED TAX ACT

- 18) The Committee observed at the Public Hearing that the Aviation Industry / Commercial operators and agricultural equipment were

being subjected to VAT on their engineering and spare parts despite Presidential Waivers been granted to the aviation sector.

- 19) The Committee observed the tractor plough and other agricultural equipment rental or hereby farmers were been subjected to VAT.

7.0 RECOMMENDATIONS:

CAPITAL GAIN TAX

- 1) The Joint Committee recommends 2 returns should be filed per year on the 30th of June and 31st December of every Tax year.

COMPANY INCOME TAX

- 2) The Committee recommend that the deduction should be based on the actual cost of the in kind donation instead of the value which may be different from what the donor actually incurred.
- 3) The Committee recommends that Section 25(9) of CITA proposed be reduced from 25% to 15% of assessable profits to reduce the amount of deductions available for this voluntary donations made to State or Local Government
- 4) The Committee recommends penalty or fine to be disallowed should be restricted to those imposed by legislation enacted by the National Assembly or States Houses of Assembly with the aim of removing the restriction that will be occasion by the proposal in the Bill with the aim of ease of doing business.

- 5) Section 2 recommend that Section 63 (2) is deleted with a new Section 63(2) which states the Books records required to be maintained under sub-section 1 of this Section shall be in the English Language and shall be for the purpose of Tax Account and be consistent with the format that may be prescribe by the Service.
- 6) The Committee recommends that Section 7 of the proposed amendments be deleted and Section 8 of the proposed Bill is the new Section 7.

INDUSTRIAL DEVELOPMENT INCOME TAX RELIEF (IDITRA)

- 7) The Committee recommend deduction in the Tax Relief periods from initial 5 years to 4 years and additional 3 years to 2 years as this will enable the government to start taxing the relevant organization after a total period of 6 years of tax holiday.

CUSTOM AND EXCISE TARIFF ACT (CETA)

- 8) The Committee recommend that the word 'service' be changed to telecommunication in order to be specific on the section been targeted instead of leaving it open to all of the services industries.
- 9) The Committee recommend the inclusion of the new duty and levy been proposed and presented at the public hearing in view of the economic hardship by the Minister of Finance and CG Custom

Services in order to improve the revenue generation by the Custom Services and reduce loss of revenue to neighbouring countries.

- 10) The Committee also recommend the inclusion of free duty and levy for commercial airline operators in line with presidential waivers and approval already granted by the President.

VALUE ADDED TAX

- 11) The Committee recommends that good and services exempt should include commercial aircraft, engine, spare part, airline transportation ticket, hire rental on lease of tractors ploughed and order agricultural equipment or implements should be included as parts of goods and services exempted from VAT.

STAMP DUTY

- 12) Committee recommend that the Minister in charge of finance subjects to the approval of the National Assembly, shall make regulation for the imposition, administration, collection and remittance of the electronic levy.
- 13) The Committee equally recommend the sharing of the formular of the electronic levy between States and Federal Government with States Government taking 85% and Federal Government being the collecting agents on behalf of the States collects 15%.

FEDERAL INLAND REVENUE ESTABLISHMENT ACT

- 14) The Committee recommend that the service may deploy proprietary technology to automate tax administration process including tax assessment and information gathering provided it gives 30 days notice to the tax payer.

UNCLAIMED FUND TRUST FUND

- 15) The Committee recommend the composition of the governing council which include:
- i. Minister in charge of Finance as Chairman
 - ii. Established Private Sector experts as Co-Chairman
 - iii. Governor of Central Bank,
 - iv. Director General of SEC,
 - v. Managing Director of NDIC,
 - vi. Two representatives of the Shareholders Association,
 - vii. Representatives of Bankers Committee,
 - viii. representatives of registrar of companies and;
 - ix. DG Debt Management Office as Secretary / Head of Administration of the Trust Fund.
- 16) The Power of Governing Council shall –
- i. approve policies, strategies and procedures to be adopted by the Governing Council for the achievement of its objectives;
 - ii. review, from time to time, the economic and political impact of the management strategies and public engagement strategies

relating to the transparency and accountability of the Trust Fund;

- iii. appoint, as and when necessary, technical committees comprised of persons with requisite technical competence from the private or public sector to advise the Governing Council on such matters as may be determined from time to time;
- iv. receive bi-annual reports from the Debt Management Office of failure by any company or deposit money bank to transfer the unclaimed dividends or unutilised amounts in a dormant bank account to the Trust Fund, which failure shall constitute an offence under this Act and the company or deposit money bank shall be liable upon conviction, to a fine of not less than thrice the value of the unclaimed dividends and unutilised funds in a dormant bank account plus accumulated interest on the amount not transferred at the Central Bank of Nigeria's Monetary Policy Rate.
- v. perform such other functions as may, from time to time, be n
The Committee recommend that the classification of corporation or proration operating surplus as it relates to cost to revenue ratio and operating surplus.

17) The Debt Management Office shall –

1. maintain a reliable database of all unclaimed dividends and dormant bank balances constituting the debt owed by the Trust

Fund which shall be verified and reconciled with the Securities and Exchange Commission, and the Central Bank of Nigeria on a bi-annual basis;

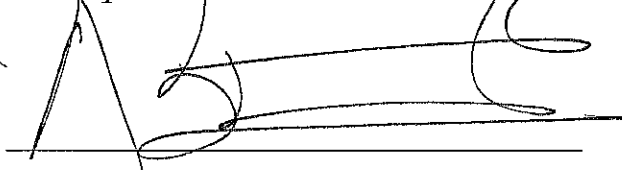
2. liaise with the relevant Registrars of Companies, deposit money banks or the National Deposit Insurance Corporation, as the case may be, to make adequate arrangement for the repayment of the verified interest and capital obligations due to the relevant shareholders, depositors or their legal beneficiaries, as the case may be.
3. prepare and submit the financial statement of the Trust Fund to the Office of the Auditor-General for the Federation for audit;
4. prepare and implement a plan for the efficient management of the obligations of the Trust Fund, which plan shall include setting guidelines, modalities and other arrangements, which may include an annual sinking fund, for the servicing of the interest and capital obligations of the Trust Fund;
5. set guidelines for managing Federal Government financial risks and currency exposure with respect to all loans;
6. collect, collate, disseminate. information, data and forecasts on debt management related to the Trust Fund with the approval of the Governing Council;
7. carry out such other function, which may be mandated by an Act of the National Assembly.

FISCAL RESPONSIBILITY ACT

- 18) The Committee recommends that the classification of corporation operating surplus as it relates to the cost of revenue ratio and operating surplus of the Minister in charge of finance must upon the approval of the National Assembly may approve for that particular corporation.
- 19) The Committee also recommend that the balance of operating surplus paid into the Consolidated Revenue Funds and any other deductions from the Corporation account which may be effected by regulation issued by the Minister such regulation must be approved by the National Assembly.
- 20) The Committee also recommend that the quarterly reconciliation carried out by the Ministry of Finance on the corporation, the report of this quarterly reconciliation must be forwarded to the National Assembly.

7.1 CONCLUSION:

The Committee expresses appreciation to the Leadership of the Senate and also thank the entire Members of the Joint Committee and the Secretariat who worked assiduously to ensure timely completion of the report.

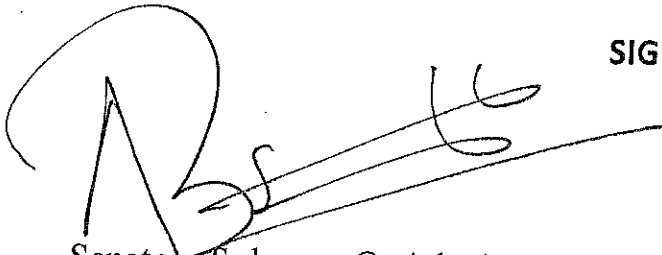


Senator Solomon O. Adeola, FCA

Chairman, Senate Committee on Finance

REPORT OF THE SENATE JOINT COMMITTEE ON FINANCE; TRADE AND INVESTMENT;
CUSTOMS, EXCISE AND TARIFF; PUBLIC PROCUREMENT ON THE FINANCE BILL 2020

SIGNATURE PAGE

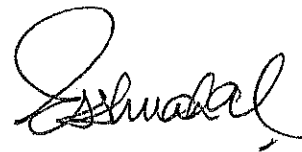


Senator: Solomon O. Adeola
Chairman, Finance

Senator Francis A. Fadahunsi
Chairman, Trade & Investment



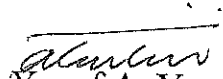
Senator Francis Alimikhena
Chairman, Customs



Senator Isa Shua'ibu Lau
Chairman, Public Procurement



Senator Isah Jibrin
Member




Senator Yusuf A. Yusuf
Member

Senator Ike Ekweremadu
Member

Senator James Manager
Member

Senator Matthew Urhohide
Member



Senator Patrick A. Akinyelure
Member

Senator Kashim Shettima
Member

Senator Ibrahim Gaidam
Member

Senator Tolulope Odebiyi

Member



Senator Teslim Folarin

Member

Senator Abdulfatai Buhari

Member

Senator Sabo Muhammad

Member

Senator Ahmed Babba Kaita

Member

Senator Akwashiki Godiya

Member

Senator Lawal Y. Gumau

Member

Senator Uba Sani

Member

Senator Matthew Urhoghide

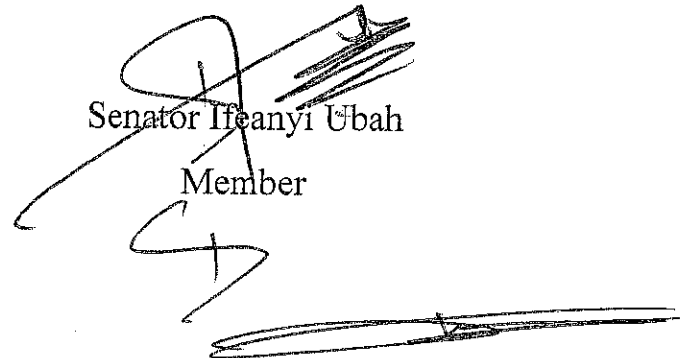
Member

Senator Adamu M. Aliero

Member

Senator Ifeanyi Ubah

Member



Senator Uche Lilian Ekwunife

Member

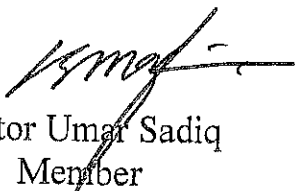
Senator Olubunmi A. Adetunmbi

Member

Senator Danladi Sanakara Abdullahi


Member



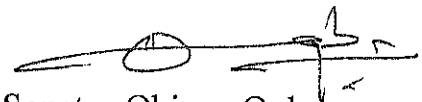


Senator Umar Sadiq
Member

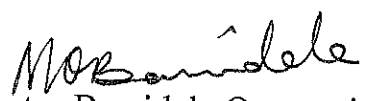
Senator George Sekibo
Member



Senator Michael A. Nnachi
Member



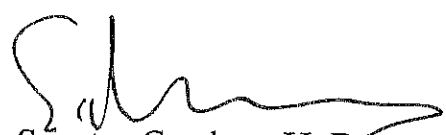
Senator Obinna Ogba
Member



Senator Bamidele Opeyemi
Member

Senator Gabriel Suswam
Member

Senator Elisha Clifford Ishaku
Member



Senator Gershom H. Bassey
Member

Senator Hassan M. Gusau
Member

Senator Sani Musa
Member

Sen. Suleiman Abdu Kwari
Member

Senator Bello Mandiya
Member

Sen. Hezekiah Dimka
Member



Senator Tolu Odebiyi
Member

Senator Oyelola Y. Ashiru
Member

Senator Ali Ndume
Member

Senator Istifanus
Member

Senator Barinada Mpigi
Member

Senator Orji Uzor Kalu
Member

Senator Adebisi A. Tolulope
Member

Senator Mohammed E. Bima
Member

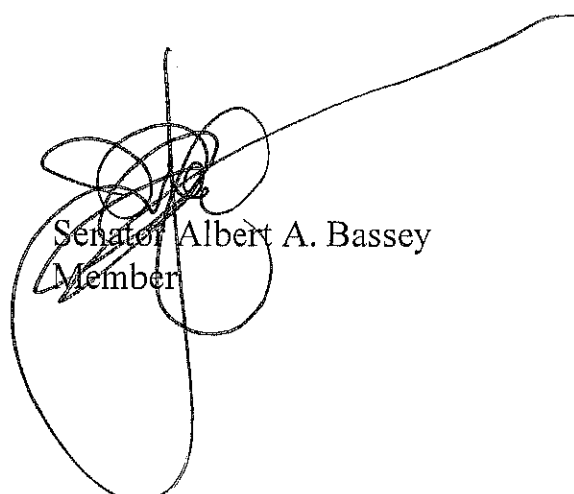
Senator Yakubu Oseni
Member

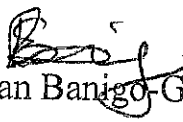
Senator Ibrahim Shekarau
Member

Senator Akon E. Atim
Member

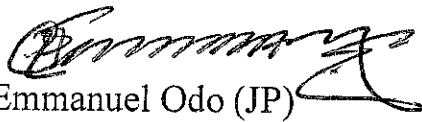
Senator Kola B. Ademola
Member

Senator Albert A. Bassey
Member

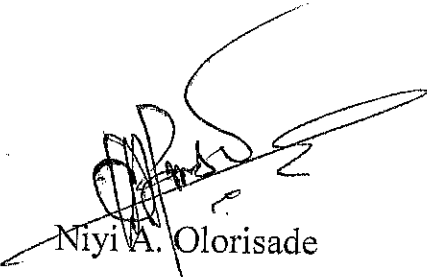
A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right. The signature is positioned over the printed name of Senator Albert A. Bassey.



Lilian Banigo-Gbeinzi
Clerk, Finance



Emmanuel Odo (JP)
Clerk, Trade & Investment



Niyi A. Olorisade
Clerk, Customs

Lawal Barau Bungudu
Clerk, Public Procurement