

**REPORT OF THE COMMITTEE ON BANKING, INSURANCE & OTHER
FINANCIAL INSTITUTIONS**

ON

**A BILL FOR AN ACT TO AMEND THE ASSET MANAGEMENT
CORPORATION OF NIGERIA ACT, NO.2, 2019 TO EXTEND THE TENOR
OF THE RESOLUTION COST FUND; GRANT ACCESS TO THE SPECIAL
TRIBUNAL ESTABLISHED BY THE BOFIA, 2020 AND TO CONFER ON
IT THE POWERS TO TAKE POSSESSION, MANAGE, FORECLOSE OR
SELL, TRANSFER, ASSIGN OR OTHERWISE OF ASSET OR PROPERTY
USED AS SECURITY FOR ELIGIBLE BANK ASSETS AND FOR OTHER
MATTERS, 2021 (SB.669)**

SUBMITTED TO THE SENATE

APRIL, 2021

REPORT OF THE SENATE COMMITTEE ON BANKING, INSURANCE AND OTHER FINANCIAL INSTITUTIONS ON A BILL FOR AN ACT TO AMEND THE ASSET MANAGEMENT CORPORATION OF NIGERIA ACT, NO.2, 2019 TO EXTEND THE TENOR OF THE RESOLUTION COST FUND; GRANT ACCESS TO THE SPECIAL TRIBUNAL ESTABLISHED BY THE BOFIA, 2020 AND TO CONFER ON IT THE POWERS TO TAKE POSSESSION, MANAGE, FORECLOSE OR SELL, TRANSFER, ASSIGN OR OTHERWISE OF ASSET OR PROPERTY USED AS SECURITY FOR ELIGIBLE BANK ASSETS AND FOR OTHER MATTERS, 2021 (SB.669)

1.0 INTRODUCTION

The Senate at its sitting on Tuesday, 23rd March, 2021 read for the second time the Asset Management Corporation of Nigeria Act No. 2, 2019 (Amendment) Bill, 2021 and referred same to the Committee on Banking, Insurance and Other Financial Institutions for further legislative action. The Bill is jointly sponsored by Sen. Michael O. Bamidele and my humble self.

2.0 COMMITTEE MEMBERSHIP

1. Sen. Uba Sani	-	Chairman
2. Sen. Orji U. Kalu	-	Vice Chairman
3. Sen. Mohammed D. Goje	-	Member
4. Sen. Muhammad A. Aliero	-	Member
5. Sen. Yusuf A. Yusuf	-	Member
6. Sen. Aishatu A. Dáhiru	-	Member
7. Sen. Muhammad E. Bima	-	Member
8. Sen. Olubunmi A. Adetunmbi	-	Member
9. Sen. Uche L. Ekwunife	-	Member
10. Sen. Oyelola Y. Ashiru	-	Member
11. Sen. Oseni Yakubu	-	Member
12. Sen. Michael O. Bamidele	-	Member

13.Sen. Ezenwa F. Onyewuchi	-	Member
14.Sen. Istifanus D. Gyang	-	Member
15.Sen. Philip A. Tanimu	-	Member
16.Sen. Enyinnaya H. Abaribe	-	Member
17.Sen. Emmanuel Bwacha	-	Member
18.Sen. Peter O. Nwaoboshi	-	Member
19.Sen. Solomom O. Adeola	-	Member
20.Sen. Sadiq S. Umar	-	Member
21.Sen. Betty J. Apiafi	-	Member
22.Sen. Bello Mandiya	-	Member
23.Sen. Mohammed S. Musa	-	Member
24.Sen. Ifeanyi Ubah	-	Member
25.Sen. Mukhail Adetokunbo Abiru	-	Member
26.Sen. Henry Seriake Dickson	-	Member

3.0 SECRETARIAT

Abdullahi El-Rasheed	-	Clerk to the Committee
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4.0 OBJECTIVES OF THE BILL

The Amendment Bill seeks the following:

- To allow for more flexible industry determined tenor for one of the key funding options for AMCON in order to enable it carry out its functions effectively;
- To redefine some terms used in the original Act;
- To allow for resolution of the National Assembly before extension of tenors for the funding of AMCON; and

- To allow AMCON, with the approval of the Central Bank of Nigeria (CBN), propose extensions to this key funding aspect of AMCON referred to as the RESOLUTION COST FUND.

5.0 METHODOLOGY

In order to carry out this assignment, the Committee resolved to adopt the following methodology:

- To hold a Stakeholders Engagement in order to collate inputs to enrich the contents of the Amendment Bill;
- To review the Amendment Bill under consideration as well as all the memoranda submitted by stakeholders during the hearing;
- To examine other issues that the Committee considers germane to the successful conduct of the assignment;
- To consult widely on the justifications for passing the amendment Bill into Law; and
- To take into account the contributions of Distinguished Senators during the Second Reading of the Bill.

6.0 COMMITTEE ACTIVITIES

The Committee in processing the Amendment Bill, requested for inputs from relevant Stakeholders and also invited the sponsor of the Bill to throw more light on the merits of the Amendment Bill.

Also, the Committee held an Interactive Session on Wednesday, 14th April, 2021 to elicit views of stakeholders on the Amendment Bill.

The following Stakeholders made written submissions and oral presentations at the Interactive Session:

1. Asset Management Corporation of Nigeria (AMCON);
2. Federal Ministry of Finance, Budget & National Planning;
3. Central Bank of Nigeria (CBN); and
4. Nigeria Deposit Insurance Corporation (NDIC).

7.0 FINDINGS

Mr. President, Distinguished Colleagues, the Committee, at the end of the analysis and review of Stakeholders submissions and presentations at the Interactive Session, made the following findings:

1. That the Amendment Bill is timely in view of the expiration of the tenor of the Resolution Cost Fund;
2. That the Resolution Cost Fund is the primary driver of AMCON operations and with its expiration, the Corporation will be unable to meet its obligations and perform its operations. Hence, the extension of the Resolution Cost Fund is necessary;
3. That the Corporation should be empowered to access the Special Tribunal established by the BOFIA, 2020 for dealing with financial related matters. This will further strengthen the Corporation in terms of enforcement and assets recovery as well as fastracking assets recovery related cases; and
4. That the Corporation should also be empowered to take possession, manage, foreclose or sell, transfer, assign or otherwise of asset or property used as security for eligible bank assets among others. This will provide for a quicker, easier and legitimate process of assets disposal.


8.0 RECOMMENDATION

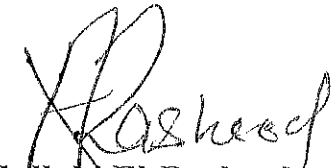
The Committee after a painstaking evaluation and analysis of submissions, observations and views expressed in support of the proposed legislation recommends the adoption of the following as contained in the report attached.

9.0 CONCLUSION

The Committee wishes to sincerely express its appreciation to the Senate for the opportunity to serve in this capacity.

I so submit.


Senator Uba Sani
Chairman


Abdullahi El-Rasheed
Clerk to the Committee

REPORT OF THE COMMITTEE ON BANKING, INSURANCE & OTHER FINANCIAL INSTITUTIONS ON A BILL FOR AN ACT TO AMEND THE ASSET MANAGEMENT CORPORATION OF NIGERIA ACT, NO.3, 2014 TO EXTEND THE TENOR OF THE RESOLUTION COST FUND AND FOR RELATED MATTERS, 2021 (SB.669)

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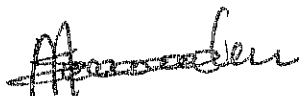


Sen. Uba Sani
Chairman

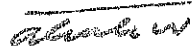


Sen. Orji U. Kalu
Vice Chairman

Sen. Mohammed D. Goje
Member




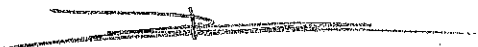
Sen. Muhammad A. Aliero
Member

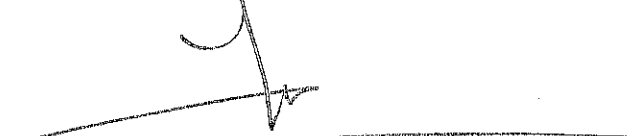

Sen. Yusuf A. Yusuf
Member

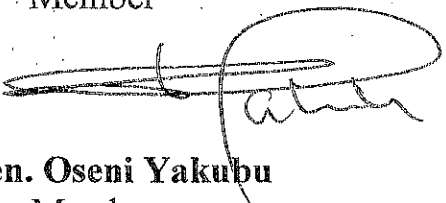
Sen. Aishatu A. Dahiru
Member



Sen. Muhammad E. Bima
Member

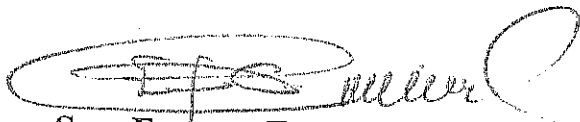

Sen. Olubunmi A. Adetunmbi
Member


Sen. Uche L. Ekwunife
Member

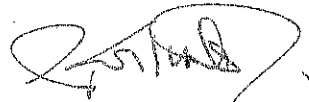

Sen. Oyelola Y. Ashiru
Member


Sen. Oseni Yakubu
Member

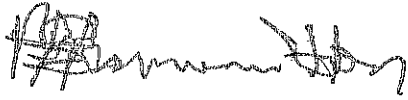

Sen. Michael O. Bamidele
Member



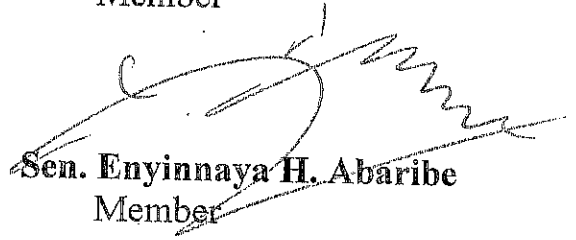
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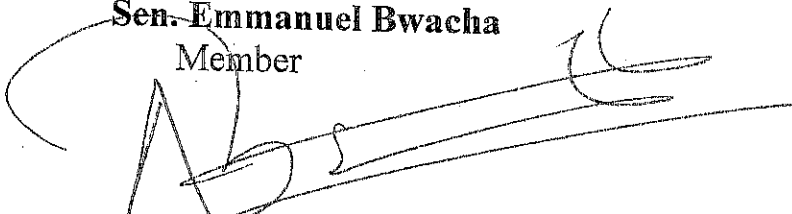


Sen. Philip A. Tanimu
Member



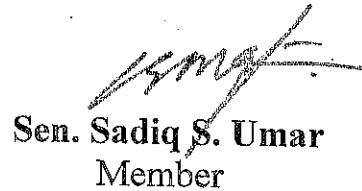
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Sen. Solomom O. Adeola
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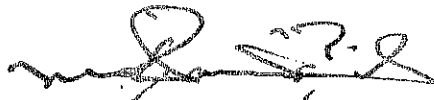
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Sen. Betty J. Apiafi
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Sen. Bello Mandiya
Member

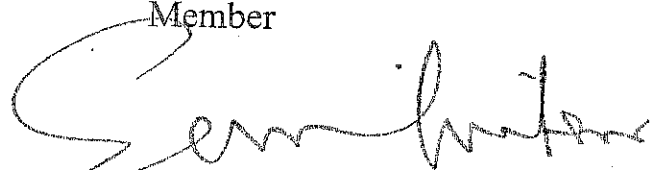


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Member



Sen. Mukhail Adetokunbo Abiru
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Member



Abdullahi El-Rasheed
Clerk to the Committee

REPORT OF THE SENATE COMMITTEE ON BANKING, INSURANCE AND OTHER FINANCIAL INSTITUTIONS

ON

A BILL FOR AN ACT TO AMEND THE ASSET MANAGEMENT CORPORATION OF NIGERIA ACT, NO. 2 , 2019 TO EXTEND THE TENOR OF THE RESOLUTION COST FUND; GRANT ACCESS TO THE SPECIAL TRIBUNAL ESTABLISHED BY THE BOFIA, 2020 AND TO CONFER ON IT THE POWERS TO TAKE POSSESSION, MANAGE, FORECLOSE OR SELL, TRANSFER, ASSIGN OR OTHERWISE OF ASSET OR PROPERTY USED AS SECURITY FOR ELIGIBLE BANK ASSETS AND FOR OTHER MATTERS, 2021 (SB.669).

CLAUSES	EXTANT ACT	PROVISIONS OF THE BILL	COMMITTEE RECOMMENDATION(S)	REMARKS
COMMENCEMENT	ENACTED by the National Assembly of the Federal Republic of Nigeria:	ENACTED by the National Assembly of the Federal Republic of Nigeria:		
1. Amendment of Asset Management Corporation of Nigeria Act, No. 2, 2019		(1) The Asset Management Corporation of Nigeria Act, No. 2, 2019 (in this Act referred to as the "Principal Act") is amended as set out in this Act.	Retained	
2. Effect of Acquisition of eligible bank asset by the Corporation	S.34(1)(a). Subject to Paragraph (c), (i) and (d), become vested with and acquire legal title to the eligible bank asset and all assets or property tangible by which such eligible bank asset is secured and be vested with power, to exclusion of all other creditors, to take possession of, manage, foreclose or sell, transfer, assign or otherwise dispose of the		Certificate of Sale/Transfer Section 34 of the Principal Act is amended by substituting for the existing subsections (1)(a) and (1)(b) with new subsections (1)(a) and (1)(b) as follows: “(1)(a) Subject to Paragraphs (c), (i) and (d), become vested	The Corporation will be provided with easier, legitimate and quicker process of disposing assets of obligors/debtors.

	<p>acquired eligible bank asset is secured in full or partial satisfaction of the debt owed to the Corporation by reason of the acquisition of the eligible bank asset notwithstanding that the security interest in such asset or property is equitable only;</p>		<p>with and acquire legal title to the eligible bank assets and all assets or property tangible or intangible belonging to, traced to and in which the debtor has interest in, whether or not such assets or property is used as security for the eligible bank asset, and the Corporation shall be vested with power, to the exclusion of all other creditors, to take possession of, manage, foreclose or sell, transfer, assign or otherwise dispose of the eligible bank asset and any tangible or intangible asset or property is used as security for the eligible bank asset, in full or partial satisfaction of the debt owed to the Corporation by reason of the acquisition of the eligible bank asset notwithstanding that the interest of the debtor in such</p>	
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	<p>S. 34(1)(b) in relation to an acquired eligible bank asset, the debtor, any guarantor or surety in connection thereto, become entitled, at the option of the Corporation, to exercise, to the exclusion of the eligible financial institution, all the rights and powers conferred on or exercisable by such eligible financial institution or a receiver or liquidator appointed by or at the instance of such eligible financial institution;</p>		<p>asset or property is equitable only".</p> <p>(1)(b). Any certification of sale or certificate of transfer of title executed by the Corporation in exercise of its powers under subsection (1) (a) above shall constitute a valid registrable instrument under all applicable land registration laws applicable in the Federation and in all Land and Corporate Registries in the Federation."</p>	
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<p>3. New Insertion Commencement of Action at Special Tribunal</p>			<p>The Principal Act is amended by inserting a new section 54 (1) and (2) as follows and renumber appropriately:</p> <p>"3. Commencement of Action at Special Tribunal</p> <p>(1) The Corporation in exercise of its discretion may decide to commence debt recovery actions at the Special Tribunal For Enforcement & Recovery of Eligible Loans set up under the provisions of S.102 of the Banks and Other Financial Institutions Act (Amendment 2020) and the Rules and Practice Direction of the Tribunal shall apply in such proceedings commenced by the Corporation.</p> <p>(2) Where the Corporation commences an action pursuant to subsection (1)</p>	<p>Cases relating to the Corporation in terms of asset recovery will be accommodated by the Special Tribunal established by the BOFIA, 2020.</p>
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			<p>above, the Corporation may apply to the Tribunal for special orders availed eligible financial institutions under the BOFIA and its Special Practice Directions. Without prejudice to the provisions of BOFIA and the Special Practice Directions of the Tribunal, AMCON may bring applications before the Tribunal pursuant to the provisions of the AMCON Act and the Tribunal shall be bound to hear such applications”.</p>	<p>The Corporation being accommodated by the Special Tribunal will help in fastracking the delivery of verdict/judgement on assets recovery matters.</p>
<p>4. Corporation not required as owner of security</p>	<p>S.45(2). A certificate of judgment obtained in a proceeding constitutes a registrable instrument of title of the interests of the Corporation in all land registries in the Federation”; and (b) renumbering the section appropriately.</p>		<p>4. Section 45 of the Principal Act is amended by substituting for the existing subsection (2), a new subsection (2) as follows:</p> <p>“(2) A certificate of Judgement obtained in a</p>	

			proceeding or any document presented by the Corporation as evidencing title; whether legal, equitable or traced in a property constitutes an instrument of title of the interest of the Corporation in all land registries in the Federation."	
5. Interpretation	61. "tenor" when used in Part IX of this Bill means a period of 10 years from the calendar year 2010 but may be extended by not more than a maximum of 5 years by the National Assembly.	Section 61 of the Principal Act is amended by: a. substituting the definition of the word "tenor" with a new definition: "tenor" when used in Part IX of this Bill means a period of 5 years from the expiration of the current tenor but may be extended by a resolution of the National Assembly for such further period as the Corporation may determine with the approval of the Central Bank of Nigeria –	Retained	

	<p>"Court" means the Federal High Court, the High Court of a State or the High Court of the Federal Capital Territory or other superior court exercising original jurisdiction as may be applicable, save that for the purposes of sections 49 and 50 (1) of this Act, the "Court" means the Federal High Court".</p>	<p>b. inserting in alphabetical order a new definition:</p> <p>"dissolution date" means a date to be determined by the Board of Directors of the Corporation with the approval of the Central Bank of Nigeria".</p>	<p>Retained</p> <p>C. substituting for the existing definition of "Court" a new definition that is;</p> <p>"court" means the Federal High Court, the Special Tribunal for Enforcement & Recovery of Eligible Loans and other superior courts exercising appellate jurisdictions over the Federal High Court and the Special Tribunal for Enforcement & Recovery of Eligible Loans."</p>	
6. Citation	6. Citation	6. Citation This Act may be cited as the Asset Management	6. Citation This Bill may be cited as the Asset Management	

	This Act may be cited as the Asset Management Corporation of Nigeria Act, 2010.	Corporation of Nigeria (Amendment No.3) Act, 2021.	Corporation of Nigeria (Amendment No. 3) Bill, 2021.	
	<p>EXPLANATORY MEMORANDUM</p> <p>This Act also establishes for the Asset Management Corporation of Nigeria for the purpose of efficient resolving the non-performing loan assets of banks in Nigeria.</p>	<p>EXPLANATORY MEMORANDUM</p> <p>This Bill seeks to amend the Asset Management Corporation of Nigeria Act, No. 2, 2019 to extend the tenor of the Resolution Cost Fund and for related matters.</p>	<p>EXPLANATORY MEMORANDUM</p> <p>This Bill seeks to amend the Asset Management Corporation of Nigeria Act, No.2 2019 to extend the tenor of the Resolution Cost Fund; grant access to the Special Tribunal established by the BOFIA, 2020 and to confer on it the powers to take possession, manage, foreclose or sell, transfer, assign or otherwise of asset or property used as security for eligible bank assets and for other matters.</p>	