

Examination of the law relating to protection of bank deposits, liquidation and winding-up of banks in Nigeria

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Abstract

This paper is written against the background of frequent bank failures, mergers and winding-up of banks which have caused a great deal of apprehension in the minds of bank customers, depositors and creditors in Nigeria. The paper therefore is aimed at interrogating the legislative intervention in this regard and in particular the role that the Nigeria Deposit Insurance Act has played in mitigating the uncertainty and hardship that has been occasioned by incessant bank failures in the country. The method of research here is the use of the NDIC Act and other related legislation as primary sources of research in addition to secondary sources such as works authored by legal scholars. The paper has found that legislative intervention has reduced the incidents of bank failure and also offered a number of protections to bank customers and their deposits. The paper has however, discovered shortcomings in the law that need to be amended if bank deposits are to be accorded adequate protection in the event of liquidation or winding up. It has therefore recommended, among other things, the proportionate repayment of bank deposits in the event of liquidation, intensification of the work of bank examiners, and increased penal sanctions on bank directors and senior management staff whose actions cause bank failure. The overall implication of the study is that when its recommendations are implemented there would be greater confidence and stability in the banking sector which would in turn boost economic growth in the country.

Keywords: insured institution, liquidation, winding-up, bank deposits, bank examiner.

JEL Classification: K22, K34

1. Introduction

A bank is a financial establishment for the deposit, loan, exchange, or issue of money and for transmission of funds.² The traditional role of banks consists of financial intermediation, provision of an efficient payment system and an agency for implementation of government monetary policies.³ Banks are today considered the most regulated institution in any nation. This is owing to the strategic position that the banking sector occupies in economic development and, secondly, due to imperfections in the market mechanism that mobilizes and allocates financial resources to socially desirable economic activities which ultimately commands a

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² B. A Garner (2009) *Black's Law Dictionary*, 9th ed. St. Paul, Minnesota: West Publishers.

³ A Adebayo (1999) *Economics: A Simplified Approach*, 2nd ed. Lagos: African International Publishing Ltd; L. Afolabi (1998) *Monetary Economics*. Lagos: Perry Barr Ltd.

regimentation of banking operations.⁴ The banking sector in Nigeria witnessed enormous uncertainty and instability in the 1980s and 1990s owing to rampant bank failures and pervasive out-growth of bubble companies all of which not only impacted negatively on the capital market but as well on economic growth in general. At this time, the banking sector was characterized by low capital base, high rate of non-performing loans, insolvency and illiquidity, poor asset quality, weak corporate governance and a banking system that could not support the real sector of the economy. These factors combined to push the banking sector into deep financial distress which necessitated several rounds of legislative reforms designed to manage the distress.⁵ Besides this, it became apparent that the financial system had become embroiled in structural and operational weaknesses that strongly militated against its capacity to promote economic growth.⁶

Some of the bold steps taken by the federal government to reverse these trends included the structural adjustment programme (SAP) introduced in 1986. The SAP embodied quite a number of economic policies, including the deregulation of the financial sector, liberalization of the banking sector, privatization and commercialization of public parastatals and enterprises, and comprehensive legislative reforms to mitigate, if not eliminate, sharp practices, fraud and misapplication of fund in the banking sector as well as protect bank deposits and customers. The most significant legislative reform in this regard was the enactment of the Nigeria Deposit Insurance Corporation Act, 1988. This Act was later to be repealed and replaced by the Nigerian Deposit Insurance Corporation Act, 2006. Before then, in 1983, the Central Bank of Nigeria in compliance with section 2(c) of the Central Bank of Nigeria Act mandating it to promote monetary stability and a sound financial system in Nigeria, set up a committee that recommended the establishment of a Depositors Protection Fund. Accordingly, the Nigeria Deposit Insurance Corporation was established on 15 June, 1988, through section 1 of the Nigeria Deposit Insurance Act enacted that year to further strengthen the safety net for the then newly liberalized banking sector. As it stands today, the Nigeria Deposit Insurance Act, 2006, is the principal legislation in the country that is primarily focused on the protection of bank deposits and the liquidation and winding up of banks. How the Act has succeeded or failed in accomplishing this objective is the subject of examination in this paper.

2. Protection of bank deposits

The protection of bank deposits is guaranteed by the establishment of an insurance scheme for bank customers and their deposits. This insurance scheme

⁴ C.S. Okaro (2013) *Banking Law and Regulations*. Awka: ABIMAC Publishers; L. Afolabi (1999) *Law and Practice of Banking*. Ibadan: H.E.B (Nigeria) Plc.

⁵ G.C. Okpara (2016) "Speculative Financial Bubbles, Volatility and the Nigerian Economy" 22nd *Inaugural Lecture of Abia State University* Uturu, Nigeria, 22nd June, 2016. pg. 5.

⁶ E.D. Balogun, (2007) "Banking Sector Reforms and the Nigerian Economy Performance: Pitfalls, and Future Policy Options." Munich Personal REPE Archive. Online at <http://mpira.ub.unimuenchen.de/3804.MPRA.Paper> (visited on 1.09.2017), No. 3804.

protects them against bank failures and any unforeseen misadventure or fraudulent activity of bank operators. To accomplish this economic objective the National Assembly enacted the Nigeria Deposit Insurance Corporation (NDIC) Act. Section 1 of the Act establishes the Nigeria Deposit Insurance Corporation, which is a body corporate with perpetual succession and common seal. The corporation may sue or be sued in its corporate name and may also acquire and dispose of any property whether moveable or immoveable. Section 3 of the Act stamps the exclusive authority of the corporation to insure bank deposits when it provides that *notwithstanding any provision contained in any other law, no person other than the Corporation shall insure deposit liabilities or guarantee payments to depositors of insured institutions operating in Nigeria*. Again, section 15(1) of the NDIC Act obligates all licensed banks and such other financial institutions in Nigeria engaged in the business of receiving deposits to insure their deposit liabilities with the Corporation.⁷

Section 2 of the NDIC Act details the functions of the Nigeria Deposit Insurance Corporation to include insuring all deposit liabilities of licensed banks and such other deposit-taking financial institutions operating in Nigeria; giving assistance to insured institutions in the interest of depositors in case of imminent or actual financial difficulties particularly where suspension of payments is threatened, to avoid damage to public confidence in the banking system; guaranteeing payments to depositors in case of imminent or actual suspension of payments by insured institutions; assisting monetary authorities in the formulation and implementation of banking policy so as to ensure sound banking practice and fair competition among insured institutions in the country; and pursuing any other measures necessary to achieve the functions of the corporation. There is no doubt that these objectives are geared towards securing and consolidating general confidence in the banking sector. This when achieved would enhance bank patronage and by that increase mobilizable savings towards economic development. However, there are a number of problems that might pose a challenge to the realization of these objectives. Sections 2(1)(b) and 2(1)(d) of the NDIC Act speak of giving assistance to insured institutions and giving assistance to monetary authorities respectively without defining the nature of assistance that the insured institutions, considering the premiums they pay, may demand of the corporation as of right; or the nature of assistance that monetary authorities may require of it as a matter of duty. This ambiguity allows the corporation a needless space to swim to points of convenience at will to the detriment of those who might make demands on it under the Act.

Furthermore, section 20 of the NDIC Act makes bank depositors quite uneasy. By section 20(1) of the Act, the corporation may pay only a maximum limit of two hundred thousand naira to each depositor in an insured bank and one hundred thousand naira to a depositor in any other deposit-taking financial institution. This is notwithstanding the level or volume of funds that the customer

⁷ Sections 15(2) and 15(3) punish any such licensed bank or other financial institution and their principal officers violating the mandatory requirements with penal sanction.

has deposited in the bank or other financial institution.⁸ The balance of the deposit which is referred to under section 21(2) as the *uninsured portion of the customer's deposit* would then be charged to the bank's assets upon liquidation.⁹ But even this does not solve the entire problem for the customer, as the question regarding a situation where the failed bank's assets cannot match the volume of outstanding uninsured deposit still lingers. Again, section 20(3) directs that all accounts held in the same right and capacity in one failed insured institution shall be merged as one account. The Act, unfortunately, does not clarify what *right and capacity* means or their intendment. A reasonable interpretation is that right and capacity referred to is the right and capacity as a customer or depositor. If this is the case, then all accounts held by a customer as such excluding group or joint accounts, are liable to be consolidated or merged for purposes of payment of insured deposit. This requirement only exacerbates the frustration and apprehension of bank depositors and is unfair and unjust. Again, by section 16 of the NDIC Act, the corporation shall not insure insider deposits of staff and directors of insured institutions and counter-claims from a person who maintains both deposit and loan account, the former serving as a collateral for the loan. This is commendable and necessary to avoid insider trading and deposit manipulations. However, section 16(c) gives the Board of the corporation established under section 5 of the Act the power to exclude any other deposits from among the list of deposits insurable under the Act. This discretion only allows the Board to enforce the Act in an unpredictable manner and does not, in the end, help the confidence of depositors sought to be boosted.

To accomplish the objectives of the Act, the Board of the corporation is empowered under section 7 to appoint qualified and competent officers to carry out the functions of the corporation including examination of insured institutions; advising the Central Bank of Nigeria on the need to close a failed insured institution if its continued operation will jeopardize the interests of depositors; assuming, with the prior concurrence of the Central Bank, the management of a failing insured institution; performing the functions of a liquidator or receiver for all failed insured institutions; and prosecuting any officer or director of an insured institution who has violated the provisions of the Act. By section 10(2) of the Act, the corporation shall have power to establish a separate Deposit Insurance Fund (DIF) for each category of insured institution in which all assessed premium paid under section 17 shall be deposited and utilized for the respective insured institutions. Still on funding, section 11 stipulates that the authorized capital of the corporation shall be five billion naira subject to upward review by the Board and the share capital shall be subscribed by the Central Bank and the Federal Ministry of Finance at the proportion of sixty percent and forty percent respectively.

⁸ Note, however, that section 20(2) gives the corporation the power to increase the maximum ceiling for such payment.

⁹ Section 20(4) provides that the payment of the insured sum as provided for under section 20 shall be without prejudice to the liquidation dividends to be paid to the depositor once the assets of the failed insured institution has been realized.

To further secure depositors' funds, section 17(3) of the NDIC Act insists that premiums payable by insured banks and other deposit-taking financial institutions shall not be chargeable to depositors whatsoever. Again, section 17(5) provides that where the funds of the corporation are not sufficient for giving assistance to insured institutions or where there is insufficient funds for implementation of the objects of the corporation, every participating insured institution or category of insured institution may be obliged to pay as special contribution out of its profits before tax, a sum equal to its annual premium or such other sum as the Board may require but not exceeding two hundred percent of its annual premium on such terms and conditions as the Board may from time to time determine¹⁰. Furthermore, where an insured institution has assumed the deposit liabilities of another insured institution, such deposit liabilities of the other institution shall be added to its payable premium. These provisions guarantee, on the one hand, that bank deposits are not impacted negatively by the premiums paid by banks; and that there is certainty of discharge of deposit liabilities to customers, on the other. This, of course, aids the accomplishment of the cardinal objective of the Act which is to build confidence in the banking system. This special contribution is also good because it is a means of rallying desperately need funds to revive an ailing bank in the overall interest of depositors. Similarly, section 18 of the Act prohibits insured institutions from paying any dividends on its capital stock or from its declared profit while it remains in default in the payment of any premium obligation or special contribution due to the corporation. Again, no premium due from an insured institution to the corporation shall be reduced, adjusted or withheld on the basis of any set-off or claim that an insured institution may have against the corporation¹¹.

To promote transparency in banking operations, section 27(1) of the NDIC Act mandates every insured institution to submit to the corporation such returns and information regarding their operations and activities as may be required from time to time by the corporation and within the stipulated period. In addition, the corporation may require of any person, having access thereto, to supply to it information relating to or touching on or concerning matters affecting the interest of depositors of insured institutions.¹² And any such person aforementioned commits an offence under the Act if he supplies any information, which he knows to be false or supplies it recklessly as to its truth or falsity; or without reasonable excuse fails to supply any information required by the corporation.¹³ Similarly, the Board of the corporation is empowered under section 28 of the Act to appoint, on the advice of the Managing Director, a number of examiners to examine the books, accounts, vouchers, and management information system of the insured institution. And an insured institution shall produce to the examiner as and when required, all

¹⁰ By section 17(7) any premium payable under the Act but remains unpaid for more than three months shall attract interest rate equivalent to the prevailing Minimum Rediscount Rate (MRR) of the Central Bank.

¹¹ Section 19 of the NDIC Act.

¹² Section 27(3) of the NDIC Act.

¹³ Section 27(4) of the NDIC Act

such books, accounts, documents, management information systems and all information as the examiner may deem necessary or request in the exercise of his functions.¹⁴ By section 29(5) of the Act, an examiner shall forward a report of his findings to the Managing Director of the corporation who shall thereupon inform the Board of any circumstances in which the Board may exercise any of powers including the power to advise the Central Bank on the need to close a failed institution under section 7 or to conduct a special covert examination under section 30. After conclusion of such examination, the corporation forwards a copy of the examiner's report to the insured institution together with instructions for rectification of any observed anomalies.¹⁵ If full corrective measures are not taken by the insured bank within thirty days of making demand in that behalf by the corporation, the corporation together with the Central Bank may take further corrective or punitive measures.

The NDIC Act equally imposes a number of duties on insured institutions including the taking out of fidelity insurance and commitment against unauthorized disclosures.¹⁶ Moreover, section 35 mandates an insured institution to render to the corporation, monthly returns of frauds, forgeries or outright theft that occurred during such month including a detailed report of such events. An insured institution shall also notify the corporation of any staff dismissed, terminated or advised to retire or resign on grounds of fraud or financial malpractice.¹⁷ Aside of the penal sanction attached to a violation of the foregoing obligations, such disengaged staff of an insured institution shall not in future be employed in an insured institution without clearance from the corporation.¹⁸ This procedure when followed enhances transparency in the banking sector, fishes out bad eggs, enhances the confidence of depositors, and promotes a culture of saving. All of these are deciding factors in economic growth.

Again, the NDIC Act in section 37(1) mandates the corporation to render financial assistance to insured institutions at the request of any of them that has difficulty in meeting its obligations to its depositors and other creditors; persistently suffers liquidity deficiency; or has accumulated losses which have nearly or completely eroded the shareholders' fund.¹⁹ The corporation may render the assistance through the grant of loans on such terms as may be agreed upon by it and the insured institution; offering guarantee for a loan taken by the insured institution; or accepting an accommodation bill with interest for a period not exceeding ninety days maturity exclusive of days of grace and subject to renewals of not more than seven times. Section 37 of the NDIC Act is an indication that the Act is not intended to kill or stifle financial institutions but to give them life and promote their functionality and operational capacity so that they would continue to play their traditional role in boosting economic growth. To further strengthen the

¹⁴ Section 29(2) of the NDIC Act

¹⁵ Sections 31 and 32 of the NDIC Act

¹⁶ Sections 33 and 34 of the NDIC Act

¹⁷ Section 36(1) of the NDIC Act

¹⁸ Section 36(2) of the NDIC Act

¹⁹ The Corporation can specify and impose conditions for the financial assistance.

corporation to be able to offer help to financial institutions, section 57 gives it power to borrow money from the Central Bank which also is mandated to redeem and repay any interest on any debenture stocks raised by the corporation.

On the part of insured banks, section 54(2) obligates their internal auditors to bring to the notice of the corporation any adverse development in the banks such as possibility of imminent financial collapse; evidence of an occurrence which has led or is likely to lead to a material diminishing of the insured institution's net asset; evidence that there has been a significant weakness in the accounting and of other records or the internal control system of the insured institution; evidence that the management of the insured institution has reported financial information to the corporation which is misleading in a material particular; detailed facts and circumstances where he believes that a fraud or other misappropriation has been committed by the directors, management or staff of the insured institution or evidence of the intention of directors or senior management to commit such fraud or misappropriation; or where there has been an occurrence such as acting in an irresponsible or reckless manner in respect of the affairs of the insured institution which causes the auditor to lose confidence in the competence of the directors or the senior management to conduct the business of the insured institution in a prudent or safe and sound manner so as to protect the interest of the depositors.²⁰ Any breach of the above duty by an internal auditor whether deliberately or negligently attracts a fine of a maximum of five million naira. The intendment of section 54 of the NDIC Act is good as it would keep the insured banks on their toes and constantly conscious of their obligations under the Act. It is good for the health of the banking sector and the overall safety of depositors' funds. But it is so surprising considering the critical role the auditors have to play as the secret police to and chief informant or whistle blowers on the insured banks, that the punishment for neglecting to perform their duties or misleading the corporation in respect of their duties is only a fine of five million naira. This fine at the current foreign exchange rate of four hundred naira to the dollar is grossly inadequate and can embolden the auditors to misrepresent facts to the corporation in favour of the insured banks who employed them and can fire them, aside of there being the possibility of collusion between insured banks and their auditors where the former would opt to pay the paltry fine for the later whenever, and if ever, his deceit is discovered by the corporation.

3. Liquidation and winding-up of banks

The Nigeria Deposit Insurance Corporation Act equally provides for the procedure for winding-up and liquidation of insured banks in a manner that offers substantial protection and security to depositors' funds. By section 2(1) of the Banks and Other Financial Institutions Act 1991,²¹ no person shall carry on any banking business in Nigeria except it is a company duly incorporated in Nigeria

²⁰ An insured bank auditors is appointed by the bank concerned under the authority of section 29 of the Banks and Other Financial Institutions Act, 1991.

²¹ The Banks and Other Financial Institutions Act is otherwise referred to as BOFI Act.

under the Companies and Allied Matters Act, 1990,²² and holds a valid banking licence under the BOFI Act. The governor of the Central Bank of Nigeria grants banking licence under section 3(3) of the BOFI Act and revokes it under section 12 of the Act on grounds that, among other things, the bank has gone into liquidation or is wound up or otherwise dissolved; or has insufficient assets to meet its liabilities. Similarly, the Board of the Nigerian Deposit Insurance Corporation is empowered under section 7 of the NDIC Act to advise the Central Bank on the need to close a failed insured institution if in the opinion of the Board its continued operation will jeopardize the interests of depositors; remove from office any officer or director who has violated any of the laws, rules or regulations relating to banking business or has engaged in an unsound practice that may lead to dissipation of assets or financial loss to his insured institution and, where necessary, prosecute such officer or director; and, above all, *perform the functions of a liquidator or receiver for all failed insured institutions*.

Section 40(1) of the BOFI Act provides that whenever the licence of an insured institution is revoked by the Central Bank of Nigeria, the corporation shall act as liquidator of such failed insured institution and shall be seized of the powers conferred on a liquidator under the Companies and Allied Matters Act, 1990, and shall be deemed to have been appointed as a provisional liquidator by the Federal High Court. After the Central Bank has published in the *Gazette* the revocation of the licence of a failed insured institution, the corporation shall apply to the Federal High Court for an order to wind-up the affairs of the failed insured institution.²³ Upon the winding up order being made, the corporation shall act as a liquidator to realize the assets of the failed insured institution; enforce the individual liability of the shareholders and directors; and wind up the affairs of such failed institution.²⁴ Following the winding up of the failed bank, the corporation is subrogated to the claims of depositors and shall pay to depositors and other creditors the net amount available for distribution to them. It may also pay dividends to shareholders on proved claims after the time allowed for depositors to lay their claims to the corporation has expired.²⁵ In this way, depositors and creditors are not shortchanged for the bank, its management and shareholders will bear the weighty brunt of its failure. This is a huge disincentive to indulge in malpractices, recklessly manage the affairs of the bank, or misapply depositors' funds. Finally, where the licence of a failed insured institution is revoked, payment of the insured deposit in such institution shall be made by the corporation within ninety days pursuant to section 21(1) of the NDIC Act either by cash, negotiable instrument; or by making available to each depositor a transferred deposit in another insured institution in an amount equal to the insured deposit of such depositor.

²² The Companies and Allied Matters Act, 1990, is otherwise referred to as the CAMA.

²³ Section 40(2) of the NDIC Act.

²⁴ Section 41(2) of the NDIC Act. Note that institution is used interchangeably with bank.

²⁵ Section 41(3) of the NDIC Act. Note that under section 41(1) of the NDIC Act, the corporation shall cause notice to be given by advertisement in national newspapers or other news media requiring all depositors with the insured institution under liquidation to forward their claims to the corporation.

4. Shortcomings of the Nigeria Deposit Insurance Act

Apart from other shortcomings already discussed in the work, the most striking defect in the NDIC Act is in the area of payment of depositors' claims upon liquidation of a failed bank. Section 20(1) of the NDIC Act provides that upon liquidation of a failed institution, a depositor shall receive from the corporation a maximum amount of two hundred thousand naira from the Deposit Insurance Fund of licenced banks or one hundred thousand naira from the Deposit Insurance Fund of other licenced deposit-taking financial institutions.²⁶ This is grossly inadequate and unfair to depositors whose funds run into millions or even billions of naira. It would appear in retrospect and going by section 20(1) that such depositors may have made a mistake in trusting the banking system with such huge amounts of money when they would only be shortchanged for a bank failure that is none of their fault. The Act appears to have foreseen this dilemma when it quickly added in section 20(2) that the corporation shall from time to time vary upwards the maximum amount which a depositor shall receive from the corporation in respect of deposits of failed institutions. But this is ineffective and does not resolve the problem in substance so long as the repayment of such insured deposits are tied to the Deposit Insurance Fund created from premiums remitted by banks pursuant to section 17(1) and (4) of the NDIC Act. Even if the corporation pays depositors at the maximum possible rate allowable by the Deposit Insurance Fund, the impact would remain marginal and unhelpful and this is, again, notwithstanding that section 20(4) stipulates that the forgoing payment shall be without prejudice to the liquidation dividends to be paid to the depositor once the assets of the failed insured institution has been realized. This is the case because apart from section 9 of the Banks and Other Financial Institutions Act, requiring the Central Bank of Nigeria to determine from time to time the minimum paid-up share capital of each category of licenced banks, there is no law in the country that mandates financial institutions to acquire any volume of capital assets to offset their deposit liabilities in the event of liquidation or winding up. In essence, whatever claim the corporation cannot pay to the depositor is left in the realm of uncertainty and inadequacy of bank assets, and this is quite unsatisfactory. This defect in the law is made worse by section 20(3) of the NDIC Act that mandates all accounts held in the same right and capacity in one failed insured institution to be merged as one account. With reference to our earlier analysis of this section, the provision only exacerbates the problem and compounds the predicament of the depositor.

Furthermore, a number of the penal sanctions imposed by the NDIC Act are variously ambiguous, uncertain and inadequate. For instance, section 27(4) of the Act provides that where any person lawfully required to supply information necessary to achieve the objects and purpose of the corporation, supplies any

²⁶ The Deposit Insurance Fund is created under section 17(4) of the NDIC Act which gives the corporation the power to establish a separate Deposit Insurance Fund (DIF) for each category of insured institution in which all assessed premiums paid shall be deposited and which fund the corporation shall utilize for the respective insured institutions.

information which he knows to be false or supplies it recklessly as to its truth or falsity; or without reasonable excuse fails to supply any information required by the corporation, such a person commits an offence and is liable on conviction to a fine not exceeding five million naira for every such report. Accurate information at the disposal of the corporation is critical to the effective discharge of its functions under the Act. But here, a person who supplies false information to the corporation to favour the bank will only have to pay a fine not exceeding five million naira. Anything not exceeding five million naira may be a token or symbolic fine of one hundred naira or one thousand naira. Moreover, because there will be a criminal trial before conviction, such misinformation or false information will have to be established beyond a reasonable doubt. But the wordings of the section itself pre-emptorily frustrates proof beyond a reasonable doubt. First, knowledge of its falsity has to be proved under section 27(4)(a) and acting without reasonable excuse will also have to be established under section 27(4)(b). These are complicated subjects of proof in any criminal proceeding and at the end of all the energy, time and resources put into the trial by the prosecution, conviction may only result in a symbolic fine. This might discourage subsequent embarkation on similar prosecution by the corporation and the result would be that a great deal of false information might be deliberately projected to confuse, if not frustrate, the work of the corporation. Same argument goes for section 54(3) of the NDIC Act where an internal auditor of a bank seized with strategic duties, as earlier discussed in this paper, violates such duties and pays a maximum fine of five million naira without any additional punishment. Since the section provides only for maximum and not a minimum punishment, the court is at liberty to impose even a hundred or a thousand naira and the auditor can go on with his job in a business as usual manner.²⁷ These are scary possibilities that need to be remedied by a reform of the law.

5. Recommendations

To achieve an effective and efficient implementation of the Nigeria Deposit Insurance Act in a manner that is fair, just and equitable and also guarantees maximum security for bank deposits, certain aspects of the Act ought to be amended. Accordingly, section 20(1) of the Act should be amended to allow bank customers receive payments proportionate to the volume of their deposits in the event of liquidation or winding-up expressed in percentage. The present law where every depositor receives a maximum repayment of two hundred thousand naira is unfair and unjust and discourages high volume savings that might run into millions or even billions of naira. Second, section 20(3) of the Act providing that *all accounts held in the same right and capacity in one failed insured institution*

²⁷ Similar inadequate penal sanctions are found in SS. 30(3) and 36(3). However, we consider punishments in sections 3(2), 15(2), 27(2), 29(4)(a) and (b), 45(1) and (2) and 56(3) adequate chiefly because they impose both fine and terms of imprisonment as well as impose additional reasonable fines each day the violation is occurring.

shall be merged as one account is equally unfair and unjust. There are reasons why people open multiple accounts in one bank in the same *right and capacity*. The present law frightens such account holders from potentially reaping the benefits of such multiple accounts and discourages them from opening same. Such monies may find their way into ventures that do not help the economy as much as bank savings might do. For this and other reasons such accounts should be treated as equal and separate for purposes of repayment in the event of liquidation or winding-up. Third, section 29 of the Act should be amended to include a guideline for a closer monitoring of bank operations and intensification of the work of bank examiners and assessors. Fourth, penal sanctions under the Act such as the ones under sections 27(4), 30(3), 36(3) and 54(3) should be increased in order to be impactful and effective.

6. Conclusion

The Nigeria Deposit Insurance Act is a federal legislation which has the force of law throughout the federation of Nigeria. The Nigeria Deposit Insurance Corporation established under the Act has exclusive authorization to insure all bank deposits in the country. The corporation has very often come in handy and to the rescue of bank depositors in the event of bank failure or liquidation. The Act has injected enormous confidence in bank depositors regarding the security of their funds in the event of liquidation or winding-up. This has invariably boosted a savings culture that has impacted positively on the economy. However, certain aspects of the Act continue to pose a problem and constraint to the attainment of its objectives. This work has therefore examined both the positive contributions of the NDIC Act to economic development in the country and its existing challenges. The paper has, accordingly, offered a number of suggestions which when implemented would put the Act in a stronger position to contribute meaningfully to the growth of the Nigerian economy.

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