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CIRCULAR TO ALL BANKS AND OTHER FINANCIAL INSTITUTIONS

INTERPRETATIVE GUIDANCE ON THE PRACTICAL OPERATION OF SECTIONS 34(2)(B) AND 40(2) OF THE BANKS AND OTHER FINANCIAL INSTITUTIONS ACT, 2020

The Central Bank of Nigeria ("CBN") has observed that the absence of a defined maximum duration period pursuant to the exercise of its powers under Sections 34(2)(b) and 40(2) of the Banks and Other Financial Institutions Act, 2020 ("BOFIA") has created some uncertainty for counterparties dealing with Nigerian banks and other financial institutions in respect of financial contracts. This uncertainty has the potential to impede the effective management of commercial risk.

Accordingly, the CBN wishes to provide interpretative and operational guidance on the practical application of Sections 34(2)(b) and 40(2) of BOFIA.

This Circular is intended to guide all banks, financial institutions, and counterparties to an Affected Contract on the operational approach the CBN will adopt when exercising the powers conferred on the CBN Governor by Sections 34(2)(b) and 40(2) of BOFIA.

For the purpose of this Circular, "**Affected Contract**" means any contract to which a bank or other financial institution is a party, and which is subject to the provisions of Sections 34(2)(b) or 40(2) of BOFIA.

Pursuant to the power granted to the CBN Governor by Section 56 of BOFIA and Section 33(1)(b) of the Central Bank of Nigeria Act, 2007, the CBN hereby issues this interpretative guidance:

(1) The suspension of:

(a) any payment or delivery obligation under an Affected Contract, pursuant to Section 34(2)(b) of the BOFIA, in relation to a failing bank or other financial institution; and

(b) the exercise of any termination right under an Affected Contract to which Section 40(1) of the BOFIA applies, pursuant to Section 40(2) of the BOFIA in relation to a

bank or other financial institution that is a subject or proposed subject of a resolution measure,

shall not exceed a period of **2 BUSINESS DAYS** commencing from the date on which the written order or notice of suspension is issued by the CBN Governor.

This Circular takes immediate effect.



Okey Umeano

Ag. Director, Financial Markets Department