RIA SOVEREIGN INVESTMENT AUTHORITY (ESTABLISHMENT, ETC.) ACT, 2011

EXPLANATORY MEMORANDUM

Act establishes the Nigeria Sovereign Investment Authority to receive, manage and st in a diversified portfolio of medium and long-term revenue of the Federal ernment. State Government, Federal Capital Territory, Local Government and Area ncils to prepare for the eventual depletion of Nigeria's hydrocarbon resources, in unction with other investors for the development of critical infrastructure in Nigeria will attract and support foreign investment, economic diversification, growth and job tion and in exceptional circumstances set out in the Act, utilize certain liquid assets in Stabilisation Fund of the Authority to supplement other available fiscal stabilistion s to temporarily sustain duly budgeted public expenditure in the interests of roeconomic stability in Nigeria as a whole.

ERIA SOVEREIGN INVESTMENT AUTHORITY (ESTABLISHMENT, ETC.) ACT, 2011

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ERIA SOVEREIGN INVESTMENT AUTHORITY (ESTABLISHMENT, ETC.) ACT, 2011

A Bill

For

Act to establish the Nigeria Sovereign Investment Authority to receive, manage invest in a diversified portfolio of medium and long-term revenue of the eral Government, State Government, Federal Capital Territory, Local ernment and Area Councils to prepare for the eventual depletion of Nigeria's ocarbon resources for the development of critical infrastructure in Nigeria that attract and support foreign investment, economic diversification, growth and creation in Nigeria; and for related matters.

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria:

PART I-ESTABLISHMENT, FUNCTIONS, POWERS ETC. OF THE NIGERIA SOVEREIGN INVESTMENT AUTHORITY

Establishment of the Nigeria Sovereign Investment Authority.

(1) There is established the Nigeria Sovereign Investment Authority (in this Act referred to as "the Authority").

(2) The Authority:

(a) shall be a body corporate with perpetual succession and a common seal; and

(b) may sue and be sued in its corporate name.

(3) Subject to the limitations contained in this Act, the Authority may acquire, hold and dispose of moveable and immoveable property for the purpose of its functions and objects under this Act.

(4) Except as otherwise provided in this Act, the Authority shall be independent in the discharge of its functions and shall not be subject to the direction or control of any other person or authority.

Head Office of the Authority.

The Authority shall have its Head Office in the Federal Capital Territory.

Objects of the Authority.

The objects of the Authority are to:

(a) build a savings base for the Nigerian people;
(b) enhance the development of Nigerian infrastructure;
(c) provide stabilization support in times of economic stress; and
(d) carry out such other matters as may be related to the above objects.

Functions of the Authority.

(1) The Authority shall establish a ring-fenced:

(a) diversified portfolio of appropriate growth investments for the benefit of future generations of Nigerian citizens (the "Future Generations Fund") as further set out in Part IV of this Act and the investment policies and guidelines developed by the Authority;

(b) portfolio of investments specifically related to and with the object of assisting the development of critical infrastructure in Nigeria that will attract and support foreign investment, economic diversification and growth (the "Nigeria Infrastructure Fund") as further set out in Part V of this Act and the investment policies and guidelines developed by the Authority; and

(c) portfolio of investments to provide supplemental stabilization funding based upon specified criteria and at such time as other funds available to the Federation for stabilization need to be supplemented (the "Stabilisation Fund") as further set out in Part VI of this Act and the investment policies and guidelines developed by the Authority.

(2) In furtherance of the Funds established under sub-section (1) of this section and for the carrying out of its other functions, the Authority shall:

(a) receive, manage and invest the initial and future contributions on behalf of all Nigerians in each of the Future Generations Fund, the Nigeria Infrastructure Fund and the Stabilisation Fund pursuant to the allocations of contributions of the Federal Government, State Government, Federal Capital Territory, Local Governments and Area Councils made in accordance with section 31 of this Act;

(b) reinvest the profits and proceeds of its investments to

generate further risk-adjusted returns in service of the Federation except as provided in this Act;

(c) develop and foster skills in asset management, investment, operations, risk management and other related areas in addition to developing expertise in infrastructure project management and auditing capabilities in qualified Nigerian personnel in a manner consistent with the overall financial objectives of the Authority;

(d) implement best practices with respect to management independence and accountability, corporate governance, transparency and reporting on performance as provided in this Act, including with due regard as appropriate for the Santiago Principles or other similar principles or conventions as may be adopted by the Governing Council as representing international best practice;

(e) attract co-investment from other investors, including strategic investors, sovereign and internationally recognised investment funds and private companies, to enhance the Authority's capital and maximize risk adjusted returns; and

(f) obtain the best achievable financial returns on all capital and assets of the Authority having regard to:

(i) the need to protect and enhance the long-term economic value of that capital and those assets,

(ii) internationally recognized asset allocation and risk management principles and practices,

(iii) the cost of acquiring, dealing with, safe-keeping, transferring and monitoring of assets,

(iv) opportunities in the international equity, debt, private equity, real estate, infrastructure, fixed-income securities and all other asset classes generally utilized by best-in-class investment fund managers,

(v) opportunities and challenges in the international investment market,

(vi) the advantages of maintaining the sovereign nature of the Authority and, whenever possible and appropriate in making investments, benefit from any available sovereign immunity from imports, taxes, charges or other impediments to the Authority's financial returns,

(vii) the Authority's cost of capital and other costs,

(viii) any regulation, guideline or direction developed by the Authority in pursuance of the provisions of this Act;

(ix) the benefits of maintaining adequate liquidity to pursue its investment objectives, and

(x) any other factor reflective of best practices in investment and asset management which the Authority considers relevant to the achievement of its objects, including such more detailed factors as may be included in the investment policies and guidelines developed by the Authority from time to time and reported upon pursuant to this Act.

Powers of the Authority.

(1) The Authority shall have powers to:

(a) open branches in Nigeria or abroad, create such affiliate or subsidiary companies in such jurisdictions as it may determine from time to time, and appoint such agents and correspondents as may be deemed desirable, in each case in the interests of achieving the Authority's objects;

(b) invest in, purchase, maintain, divest from, sell or otherwise realize assets and investments of any kind;

(c) cause its partially-owned subsidiaries and affiliates to issue bonds or other debt instruments, borrow or raise money (including money in a currency other than the Naira), issue bonds or other debt instruments and secure the payment of money in any manner that does not have recourse to the Authority or its wholly-owned subsidiaries and affiliates provided that the Authority and its wholly owned subsidiaries and affiliates shall have the power to incur any form of indebtedness, including but not limited to such indebtedness as concessionary

in furtherance of the objects of the Authority, with the prior written approval of the Minister;

(d) guarantee, with or without security, the indebtedness and performance of obligations of wholly-owned affiliates or subsidiaries of the Authority (provided that the Authority receives valuable and commensurate consideration for, or direct or indirect advantage from, the giving of the guarantee);

(e) pay for the Authority's reasonable operational expenses, which shall be detailed in each annual budget and operating plan (and annual reports made by the Authority as set out in this Act) and which shall be at all times in line with international best practice for efficiency and the creation of value for the beneficiaries of the Authority's activities, out of the proceeds of investments (without the necessity of declaring a dividend);

(f) engage on a competitive basis, from time to time, such consultants and advisers and other service providers as are necessary or expedient for the performance of its functions; and

(g) undertake, do or agree to do any activity, incur such expenditures and carry out such functions which in the opinion of the Board are necessary, incidental or conducive to the attainment of the objects and functions of the Authority.

(2) The Authority may carry out any of its functions and exercise any of its powers:

(a) within or anywhere outside Nigeria;
(b) alone or in conjunction with others; and
(c) by or through an agent, a subsidiary or affiliate of the Authority, joint venture, contractor, factor, or trustee.

Assets managers and custodians

(1) The Authority may at any time appoint asset managers outside the Authority to manage its assets as may be specified by the Board.

(2) Asset managers shall be selected on the basis of comprehensive assessment criteria, policies and procedures developed from time to time by the Authority, including but not limited to the Authority's portfolio scope, prudence, diversification, cost and

regular reporting consistent with the Authority's needs.

(3) No asset manager appointed by the Authority shall act as custodian in respect of the Authority's assets that it has responsibility for managing.

(4) The Board shall, in consultation with the Minister, ensure that custodianship of the Federation's assets is appropriately diversified, and appoint one or more custodians in respect of the Authority's assets and the Minister shall consult with the National Economic Council in this regard.

PART II – GOVERNING COUNCIL, BOARD OF DIRECTORS AND EXECUTIVE MANAGEMENT

Establishment of the Governing Council of the Authority.

(1) There shall be for the Authority the Governing Council (in this Act referred to as the "Governing Council").

(2) Except as otherwise provided under this Act, the Council shall provide advice and counsel generally to the Board having regard to the objects of the Authority under this Act.

(3) The Council shall, in the discharge of its duties, observe the independence of the Board and officers of the Authority.

(4) Unless otherwise stated in this Act, any resolution of the Council shall be passed by simple majority vote of the members of the Council.

Membership of the Governing Council.

(1) The Council shall consist of:

(a) the President of the Federal Republic of Nigeria (who may be represented by the Vice-President of the Federal Republic of Nigeria), who shall be the Chairman;

(b) each of the State Governors;

(c) the Attorney-General of the Federation;

(d) the Minister;

(e) the Minister in charge of the National Planning Commission;

(f) the Governor of the Central Bank of Nigeria;

(g) the Chief Economic Adviser to the President;

(h) the Chairman of the Revenue Mobilisation, Allocation and Fiscal Commission;

(i) 4 reputable individuals representing the private sector with cognate experience in finance, economics, investments, or other related areas of expertise;

(j) 2 representatives of civil society such as members of non-governmental organisations and professional organisation focused on civil rights;

(k) 2 representatives of Nigerian youth; and

(l) 4 eminent academics.

(2) In nominating the Council, due regard shall be given to equitable gender representation."

(3) With the exception of the members listed in subsection (4) (a), (b), (c), (d), (e), (f), (g) and (h) of this section, the members of the Council shall be appointed by the President on the recommendation of the Minister, who shall consult with the National Economic Council on an informal basis.

(4) The appointments in subsection (1)(j), (k), (l) shall be subject to confirmation by the Senate.

Tenure of office of members of Governing Council

(1) The President (or, as the case may be, the Vice-President) and the members of the Council, referred to in section 8(1) (b), (c), (d), (e), (f), (g) and (h) of this Act shall serve on the Council during such time as they are in office.

(2) Members of the Council referred to in section 8(1) (h), (i), (j), (k) and (l) of this Act shall serve for one term of 4 years only.

Removal of members of Governing Council

A member of the Council, referred to in section 8(4) of this Act, may be removed from office by the President if the member:

(a) has been convicted of a criminal offence;
(b) has been declared bankrupt;
(c) is suffering from prolonged ill health; or
(d) has been found wanting in the discharge of his or her duties on grounds of misconduct.

Remuneration of the

(1) Members of the Council shall not be paid for the performance

of their duties on the Council.

members of Governing Council

(2) Members of the Council are however entitled to reasonable sitting allowances, their individual travel expenses, and such other appropriate entitlements as the Board may determine from time to time consistent with best practice and the mission of the Authority to grow the Federation's resources.

Reporting obligation of the Authority

The Authority shall provide to the Council every 12 months a report, in writing, on the assets, liabilities, redemptions, realizations, sales, general performance by asset class and significant trends affecting the Authority's investment objectives.

Proceedings of the Governing Council

(1) The Council shall hold one annual meeting on a date that is not less than 4 and not more than 6 weeks following the issuance by the Authority of the report referred to in section 12 of this Act.

(2) The meeting of the Council shall be convened by the Secretary or at the request of the Chairman of the Board by notice in writing specifying the date, time and location of the meeting.

(3) At the annual meeting of the Council, the Board shall make a presentation of the information provided in accordance with section 12 of this Act and members of the Council shall have the opportunity to raise questions of, and give counsel to the Board.

Advisory Sub-Committee of the Governing Council

(1) The Council may constitute a sub-committee comprising members of the Council with demonstrated experience in the international investment industry to assist in the discharge of its functions under this Act.

(2) Any such committee constituted pursuant to subsection (1) of this section shall be entitled to meet with the Board twice a year to raise questions.

Establishment of the Board of Directors of the Authority

There shall be for the Authority the Board of Directors (in this Act referred to as "the Board") which shall be responsible for the attainment of the objects of the Authority, the making of the policy and general supervision of the management and affairs of the Authority and such other functions conferred upon it by any other provision of this Act.

Composition and appointment of the

(1) The Board shall consist of:

Board

(a) a non-executive Chairman;

(b) the Managing Director of the Authority;

(c) 2 other Executive Directors of the Authority;

(d) one non-Executive Director who is a distinguished legal practitioner with at least ten years post qualification experience; and

(e) 4 other non-Executive Directors.

(2) All appointments of individuals set out in subsection (1) of this section shall be made by the President on the recommendation of the Minister, who shall consult with the National Economic Council and such recommendation shall be made pursuant to subsection (3) of this section.

(3) For the purpose of making the recommendations for the appointments of individuals set out in subsection (1) of this section, the Minister shall constitute an independent committee (the "Executive Nomination Committee") of 5 persons, including the Minister to act as liaison for consultations with the National Economic Council and recommendations to the President, with proven qualifications and tested market experience to identify highly-qualified candidates for such positions.

Qualification for appointment to the Board

Except for the non-Executive Director to be appointed pursuant to section 16(1) (d) of this Act, a person shall not be appointed to the Board unless such a person is a holder of a university degree or its equivalent in economics, finance or a related subject and possesses at least 10 years relevant financial or related business experience at a senior management level.

Disqualification

A person shall not be appointed to the Board if he or she is:

(a) adjudged bankrupt, or suspends payment to, or composes or makes an arrangement with his or her creditors; or

(b) imprisoned or convicted of an offence involving fraud or dishonesty, or of any offence not involving fraud or dishonesty the maximum penalty for which exceeds imprisonment for six months; or

(c) disqualified or suspended from practicing his or her profession in Nigeria or any other country by order of a competent authority made in respect of him or her personally; or

(d) disqualified or restricted from being a director of any corporate institution by any law or regulatory body.

Resignation and Removal.

(1) A member of the Board may at any time resign his or her appointment by giving at least one month's prior notice in writing to the Authority through the Managing Director of his or her intention to do so.

(2) The Managing Director may at any time resign his or her appointment by giving at least one month's prior notice in writing to the President of his or her intention to do so.

(3) If any of the circumstances set out in section 18 of this Act applies at any time to a member of the Board or if he or she is determined by the Board to be in material breach of his or her duties to the Authority, the member of the Board in question may be removed from office by the President on the recommendation of the Minister upon the passage of a resolution of the Board finding such circumstances and recommending the removal of such member of the Board (whose individual vote shall, under no circumstances, be required for such resolution of the Board).

Terms of office of members of the Board

(1) The members of the Board appointed pursuant to section 16(1) (b) and (c) of this Act shall serve for as long as they occupy their executive management office.

(2) The members of the Board appointed pursuant to section 16 (1)(a) (d) and (e) of this Act shall serve for an initial term of 4 years.

(3) The member of the Board appointed pursuant to paragraph (a) of subsection (1) of section 16 of this Act shall serve for an initial term of four years.

(4) Upon the expiration of the initial term of any of the members of the Board appointed such member may be eligible for reappointment for another term of 4 years and no more.

Appointment of

There shall be for the Authority, a Managing Director appointed by

Managing Director of the Authority.

the President in accordance with the provisions of this Act, who shall:

(a) be appointed on such terms and conditions and, subject to section 27 (1) of this Act, paid such emoluments and allowances as may be specified in his or her letter of appointment; and

(b) be the Chief Executive Officer responsible for the execution of the policies formulated by the Board and the day-to-day administration of the Authority.

Appointment etc. of Secretary.

(1) The Board shall appoint for the Authority a Secretary on such terms, conditions, and remuneration as may be specified in his or her letter of appointment.

(2) The Secretary shall be responsible for:

(a) issuing notices of meetings of the Board and the Governing Council;

(b) keeping records of the proceedings of the Board and the Governing Council; and

(c) carrying out other duties as the Managing Director or the Board may, from time to time, direct.

Appointment, remuneration, discipline etc. of other Staff.

(1) The Authority may appoint such other staff, who shall be pensionable, for the proper and efficient performance of the functions of the Authority under this Act.

(2) The Authority shall pay its staff such remuneration, allowances and other benefits as may be fixed by the Board consistent with best practice and the mission of the Authority to grow the Federation's resources and, as required, approved by the President.

(3) The Authority may, subject to the approval of the Board, make rules relating generally to the conditions of service of staff of the Authority, and without prejudice to the generality of the foregoing, the rules may provide for:

(a) the appointment and disciplinary control of all employees of the Authority; and

(b) appeals by the staff against dismissal or other disciplinary measures.

(4) Rules made under subsection (3) of this section need not be published in the Gazette but the Authority shall cause the rules to be brought to the notice of all affected persons in such manner as it may, from time to time, determine.

Delegation.

(1) The Board may delegate any part of its functions, in each case on such terms and conditions, in relation to such matters and such extent as they deem fit, to committees of the Board or, unless reserved to the Board by this Act, to the management of the Authority.

(2) The Board of the Authority shall at a minimum constitute a compensation committee, risk management committee and an audit committee, each of which shall be comprised of non-Executive Directors of the Board.

Independence of the Board.

(1) The Board shall be independent in the exercise of its responsibilities under this Act.

(2) Without prejudice to the provision of subsection (1) of this section and except as expressly provided in this Act, the Council may not, by resolution or otherwise, require the directors to take, or to refrain from taking, any specified action.

Conflict of interest and corporate responsibility.

(1) In the discharge of their responsibilities, members of the Board shall act in utmost good faith, with care, skill and diligence.

(2) Members of the Board have fiduciary obligations to the Authority, and shall not act in any circumstance where their personal interests conflict with the interests of the Authority.

Cap. C20 LFN, 2004

(3) Members of the Board shall adhere to all the duties and obligations specified for directors under the Companies and Allied Matters Act.

(4) Members of the Board shall submit a written statement of disclosure of interests and statement of absence of conflicts with the Authority's investments and annual investment plan annually to the Board.

Remuneration and cost allowances.

(1) Members of the Board shall be paid such reasonable remuneration and cost allowances for service as Directors and attendance at meetings of the Board or its committees, as the compensation committee may from time to time determine consistent with best practice and the mission of the Authority

to grow the Federation's resources.

(2) All remuneration and cost allowances of the Board shall be reported in the annual report of the Authority.

The supplementary provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Board.

Proceedings of the Board.
Schedule

PART III – FINANCIAL PROVISIONS: FUNDING, DISTRIBUTION, ACCOUNTS, AUDIT AND REPORTING

Initial funding.

(1) The initial funds provided by the Federal, State, Federal Capital Territory, Local Governments and Area Council of the Federation pursuant to decision of the National Economic Council to be managed by the Authority shall be the Naira equivalent of the sum of USD 1 billion.

(2) Each of the Federal Government, State Government, Federal Capital Territory, Local Government and Area Councils shall contribute a percentage of such initial funding equal to each such Government's share of Federation revenue in accordance with the formula stated in the Allocation of Revenue (Federation Account, etc.) Act.

Cap. A15 LFN, 2004

Further funding.

(1) Subsequent funding shall be derived from Residual Funds from the Federation Account transferred to the Authority in the manner specified in this Act provided that the derivation portion of the revenue allocation formula shall not be included as part of this funding.

(2) Promptly upon revenues being received into the Federation Account each month, the Authority shall be funded from all amounts of Residual Funds above the Budgetary Smoothing Amount.

Funding allocation.

The initial and subsequent funding of the Authority shall be allocated to each of the Future Generations Fund, the Nigeria Infrastructure Fund and the Stabilisation Fund by resolution of the Board, provided that a minimum of 20% of such funding shall be allocated to the:

(a) Future Generations Fund until the amount of funds in the Future Generations Fund reach a ceiling percentage of gross domestic product, with such percentage to be determined every 2 years through an actuarial

assessment by recognized professionals and academics chosen through a process of public or selective tendering implemented by the Board of the components of future demand for the proceeds of the Future Generations Fund, including but not limited to demographic and growth trends;

(b) Nigeria Infrastructure Fund until the amount of funds in the Nigeria Infrastructure Fund reach a ceiling percentage of gross domestic product with such percentage to be determined every 2 years through a professional assessment by recognized professionals and academics chosen through a process of public or selective tendering implemented by the Board of components of infrastructure demand and capacity requirements in view of relevant factors that will require the proceeds of the Nigeria Infrastructure Fund; and

(c) Stabilisation Fund.

Ownership.

(1) All ownership interest in the Authority shall be held by the Federal Government. State Government. Federal Capital Territory and Local Government and Area Councils of the Federation on behalf of the people of Nigeria.

(2) The Authority shall issue documentary evidence to the Federal Government, State Government, Federal Capital Territory, Local Government and Area Councils of the amount of their respective contributions.

(3) The Federal Government, State Government, Federal Capital Territory, Local Government and Area Councils of the Federation shall not transfer, redeem, assign, dispose of, sell, mortgage, pledge or otherwise encumber any interest of any kind in the Authority.

Prohibition on transfer of interest.

The Authority may hold all deposited funds in, and allocated across, such currencies as the Board may from time to time determine, consistent with the objects of the Authority as set out in this Act and any regulation made by the Authority, from time to time.

Declaration of distributions.

The Board may, upon unanimous vote, declare a distribution out of uninvested and uncommitted available funds of the Authority provided that such distribution :

(a) is paid out of the realized profits of the Authority at such time as the Authority shall have:

(i) realized a net profit in each of the Funds for at least five in the year following enactment of this Act, and

(ii) made a net profit in each of the Funds in the year in which such dividend is to be paid;

(b) any such distribution shall be declared and paid only after the Authority has set aside sufficient funds to meet the Authority's anticipated operational needs as set out in its business and investment plans; and

(c) such a distribution shall not be equal to more than 60 % of the profits of the Authority at the time of the distribution.

Payment of distributions.

(1) The payment of distributions declared by the Board shall be approved by resolution of the Council before they are paid.

(2) Distributions by the Authority shall be paid into the Federation Account, but shall not form part of revenues received into the Federation Account for the purpose of section 30(2) of this Act, as amended from time to time, and shall be distributed to the Federal Government, State Government, Federal Capital Territory, Local Government and Area Councils in proportion to their respective contributions to the Authority.

Accounting records.

The Authority shall cause to be kept proper books of accounts with respect to all the transactions and business of the Authority in conformity with International Financial Reporting Standards or such other internationally recognised financial reporting standards, as applied in the Federal Republic of Nigeria and Nigerian generally accepted principles of accounting.

Annual Report.

(1) Not later than 3 months after the end of each financial year of the Authority, which shall be determined by the Board, the Authority shall submit a report (the "Annual Report") to the President, the Minister, the Central Bank of Nigeria, the National Economic Council, the National Assembly and each State House of Assembly of its activities during the financial year concerned.

(2) The Authority shall make the Annual Report, together with quarterly financial reports and key policy documents prepared by the Authority, accessible to the public.

(3) The Annual Report will be summarized and such summary printed at the Authority's expense in the 2 most widely-circulated newspapers in Nigeria.

Audit.

(1) The Authority shall carry out an annual internal audit of its operations and financial statements in accordance with International Financial Reporting Standards, as applied in the Federal Republic of Nigeria and Nigerian generally accepted principles of accounting.

(2) The Authority's operations and financial statements shall be audited annually in accordance with International Financial Reporting Standards, as applied in the Federal Republic of Nigeria and Nigerian generally accepted principles of accounting by an internationally recognized accounting firm, through such firm's local Nigerian branch approved by the Auditor General for the Federation.

PART IV – FUTURE GENERATIONS FUND

Investment Plan for the Future Generations Fund.

(1) The Authority shall each year develop a rolling five-year investment plan for the Future Generations Fund pursuant to such strategies, regulations, policies and guidelines as it may determine from time to time to be most effective to achieve the objective of providing future generations of Nigerians with a solid savings base for such time as the hydrocarbon reserves of Nigeria are exhausted, with due regard to macroeconomic factors.

(2) To preserve the effectiveness of the Authority's ability to make investments, the investment plan may be subject to strict short-term, tailored confidentiality restrictions and its distribution temporarily limited until such investments are made as may be considered appropriate by the Authority and the Authority shall however, publish its investment plans, policies and procedures, in the manner prescribed by the Board.

Reinvestment of future generations funds proceeds, interest and dividends.

The Authority shall, subject to the provisions of this Act with respect to distributions and with respect to the reasonable costs and expenses of the Authority, reinvest all realized proceeds and dividends from and interest on portfolio investments of the Future Generations Fund into new or existing assets of the Future

Generations Fund.

PART V – NIGERIA INFRASTRUCTURE FUND

Investment Plan for the Nigeria Infrastructure Fund.

(1) The Authority shall each year develop a rolling five-year investments plan for the Nigeria Infrastructure Fund pursuant to such strategies, regulations, policies and guidelines as it may determine from time to time to be most effective to achieve the objective of supporting, through investment predicted upon financial returns to the Authority, the development in Nigeria of basic, essential and efficient infrastructure such as power generation, distribution and transmission, agriculture, dams, water and sewage treatment and delivery, roads, port, rail, airport facilities and similar assets in order to stimulate the growth and diversification of the Nigerian economy, attract enhanced foreign investment and create jobs for Nigerians.

(2) The Authority may make financial investments with funds of the Nigeria Infrastructure Fund pending investments in infrastructure.

(3) To preserve the effectiveness of the Authority's ability to make strategic co-investments with companies in the infrastructure sector, or to acquire strategic stakes in international companies active in the sector, implement various commodity hedging and other strategies, and avoid potential inappropriate trading and commercial activities in connection with such investments, the business plan may be subject to strict confidentiality restrictions by the Board and its distributions limited until such investments are made as may be considered appropriate by the Authority prior to making such investments, after which disclosure of such investments shall be made pursuant to this Act.

(4) The Authority shall review and analyse against criteria of financial return all written proposals of the Federal Government, State Government, Federal Capital Territory, Local Government, and Area Councils submitted to the Authority and the Authority shall issue appropriately detailed parameters and procedures for the submission of such proposals.

(5) The Authority may invest up to a maximum of 10 % of the funds in the Nigeria Infrastructure Fund available for investment in any fiscal year in social infrastructure projects

which promote economic development in under-served sectors or regions in Nigeria that may present less favourable economic return potential (the "Development Projects").

(6) The Authority may, itself, make investments in Development Projects in accordance with the process and procedures outlined in subsection (7) of this section or it may appoint an asset or fund manager with appropriate experience in projects of this kind to source, evaluate and invest in such Development Projects on behalf of the Authority.

(7) The Authority shall:

(a) make such rules, procedures and regulations as it deems necessary in respect of the submission and evaluation parameters for such Development Project; and

(b) evaluate the economic returns and summarise the non-financial social welfare enhancing attributes of each Development Project and deliver such evaluation and summary to a committee set up for this purpose by the National Economic Council who shall decide whether the Authority may invest in such Development Project or not.

(8) The Authority shall utilize any sector and engineering advisors or professionals as it may deem advisable to ensure the economic and service delivery viability of each potential infrastructure investment:

PROVIDED that the Authority shall seek to develop appropriate in-house capabilities in this regard over time.

Integration of investment policy with national priorities.

(1) The Authority shall ensure that the Nigeria Infrastructure Fund is invested in a manner which is coordinated to the extent feasible with, and is technically consistent with the infrastructure priorities and plans developed by the appropriate ministries and agencies with responsibility over the particular infrastructure asset sector.

(2) Potential investments shall be evaluated at least as strictly as international investments, and the broad risk-weighted potential benefits to the Federation as a whole shall prevail over more focused local or regional priorities.

Financial return target.

The Authority may apply a lower target internal rate of return to investments made by the Nigeria Infrastructure Fund than to other investments made by the Authority as long as such economic but comparatively suboptimal returns are realized in projects that are determined by the Authority, any technical advisor and consultant as it may deem desirable, and the ministry or agency with subject-matter competence for the infrastructure sector in question, to be highly desirable for, and highly likely to serve, the economic development and diversification of Nigeria.

Reinvestment of Nigeria Infrastructure Fund, proceeds, interest and dividends.

The Authority shall, subject to the provisions of this Act with respect to dividends and with respect to the reasonable costs and expenses of the Authority, reinvest all realized proceeds and dividends from and interest on portfolio investments of the Nigeria Infrastructure Fund in new or existing assets of the Nigeria Infrastructure Fund.

Prohibition on guarantees.

The Authority shall not provide any guarantee or surety, whether of payment or of performance, to or on behalf of the interest, rights or obligations of any person, company or entity involved or participating in or related to an infrastructure project, other than a wholly-owned subsidiary or affiliate of the Authority.

Co-investment priority.

(1) The Authority may co-invest with companies in the development of infrastructure projects in Nigeria.

(2) The Authority, in making such co-investments as referred to in sub-section (1) of this section, shall exercise any voting right its equity share may entitle it to in a financially prudent and economically focused manner.

PART VI – STABILISATION FUND

Stabilisation objective.

(1) The Authority shall ensure that the Stabilisation Fund is invested prudently and in a way that supports the objective of the Fund to be available to stabilise federation revenues and consistent with section 5 of this Act and may invest in or sell all such assets, and use such derivative instruments for the purposes of hedging or efficient asset management, as the Authority determines may serve such objective.

(2) At the direction of the Minister, upon a proper demonstration of urgency and satisfaction of the criteria set out in section 48 of this Act, the Authority shall have the right to utilize capital and assets in the Stabilisation Fund to supplement resources

available to stabilize the national economy.

Stabilisation availability trigger.

The Minister may, at the end of any financial quarter, request, and the Authority shall upon such request pay from the Stabilisation Fund, an amount equal to the difference, if negative, between the actual quarterly Federation Account revenues generated through the sale of Benchmark Hydrocarbons and the Projected Federation 'Hydrocarbon Revenues for such quarter, provided that such amount will only be drawn after the depletion of the Budgetary Smoothing Amount.

PART VII – COMMUNICATIONS POLICIES AND PROCEDURES.

Communications.

(1) The Authority shall develop policies and procedures for communicating its investment objectives in a manner generally consistent with the guiding objectives underpinning the Santiago Principles.

(2) The Authority's communications shall have due regard to the Authority's potential influence on financial and other markets.

PART VIII – DIRECTORS' AND OFFICERS' INSURANCE AND INDEMNITIES

Insurance and indemnity

(1) The Authority shall obtain Directors' and officers' liability insurance policies in line with international standards for the benefit of the Directors and officers of the Authority.

(2) The Authority shall indemnify each Director and officer of the Authority out of the Authority's assets or insurance for and against all losses, charges, claims, expenses and liabilities incurred by such director or officer in the actual or purported execution or discharge of his or her duties, or in relation to him or her defending any criminal or civil proceedings in which judgement is given in his or her favour or in which he or she is otherwise acquitted or the proceeding are otherwise disposed of without any finding or admission of any material breach of duty on his or her part or in which the court grants him or her, in such capacity as a relevant Director or officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Authority's or any affiliated company's affairs.

PART IX – MISCELLANEOUS

Regulations, guidelines and procedures

(1) The Authority shall develop, adopt and, as appropriate from time to time, amend, revoke or supplement appropriate regulations, codes, internal guidelines and procedures consistent with this Act, in furtherance of the Authority's objects and in connection with the performance of any of the Authority's functions under this Act, including without limitation a manual of policies and procedures.

(2) Such regulations, codes, internal guidelines and procedures referred to in subsection (1) of this section shall govern the following matters:

(a) the conduct of the business and operations of the Authority in a manner that fosters accountability and good corporate governance, is transparent and consistent with the highest ethical standards and further ensures the maintenance of best practices;

(b) an environmental, health and safety policy that is designed to ensure compliance with all applicable legislation and industry standards in order to minimize the impact on the environment of its activities;

(c) monitoring standards for investments;

(d) risk management;

(e) treasury and cash management; and

(f) any other matter relevant to the operations of the Authority as a best-in-class investment fund as may be directed by the Managing Director or the Board.

(3) The Authority's initial regulations, internal guidelines and procedure, and any subsequent material change or supplement thereto shall be adopted only after consultation with the Minister.

Documentation

All investments made by the Authority shall be documented and the Authority's rights protected by appropriate contractual provisions approved by the legal and risk management personnel and advisors of the Authority.

Limitation of suits against the Authority, etc.

(1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any

suit instituted against any officer or employee of the Authority or any affiliate or subsidiary thereof. Cap. P41 LFN, 2004

(2) No suit shall lie against the Authority, its directors, the Board, the Managing Director, or any other officer or employee of the Authority or any of its affiliates or subsidiaries for any act done in pursuance of this Act or any other law or enactment, or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Act or such law or enactment, duty or authority, or be instituted in any court unless:

(a) it is commenced within 3 months next after the act, neglect or default complained of; or

(b) in the case of a continuation of damage or injury, within 3 months next after the ceasing of the act, neglect or default complained of.

Service of documents

A notice, summons or any other document required or authorised to be served upon the Authority under the provisions of this Act or any other law or enactment, may be served by delivering it to the Managing Director or by sending it by registered post and addressed to the Managing Director at the principal office of the Authority.

Restriction on execution against the property of the Authority

(1) In any action or suit against the Authority, no execution or attachment of process shall be issued against the Authority.

(2) Any sum of money which may be the judgment of any court awarded against the Authority shall, subject to any direction given by the court where notice of appeal of the said judgment has been given, be paid from the general reserve fund of the Authority.

No Waiver

Nothing in this Act shall be construed as a waiver of any regulatory or statutory power or function of the Central Bank of Nigeria or the Ministry of Finance.

Tax and investments exemptions

(1) The Authority and its wholly-owned subsidiaries and wholly affiliates shall be exempt from the provisions of any and all taxes, fees, imports or similar fiscal laws or regulations of the Federal Government, State Government, Federal Capital Territory, Local Government and Area councils of the Federal Republic of Nigeria, including without limitation, the Companies Income Tax Act Cap. C21 LFN 2004, the Capital Gains Tax Act Cap. C1 LFN 2004, the Stamp Duties Act Cap.

S8 LFN 2004, the Value Added Tax Act Cap. V1 LFN 2004 or other imposts, taxes on interest and dividends or any similar law or regulation.

(2) The Authority and any financial instruments established by it shall be exempt from the provisions of the Investments and Securities Act No.29 of 2007 and the Banks and Other Financial Institutions Act Cap. B3 LFN 2004; as may be amended from time to time.

(3) If any other enactment or law relating to the Authority or its operations is inconsistent with this Act, this Act shall prevail.

(4) Notwithstanding the provisions of section 57, nothing in this Act shall be construed as exempting employees of the Authority or its wholly owned subsidiaries and affiliates from payment of personal income tax in so far as such employment is not affected by an international treaty obligation of Nigeria.

Interpretation

3. In this Act:

"Annual Report" has the meaning set out in section 37(1) of this Act;

"Authority" has the meaning set out in section 1 (1) of this Act;

"Benchmark Hydrocarbons" means the Federation hydrocarbon included in the determination of the Projected Federation hydrocarbon Revenue;

"Board" has the meaning set out in section 15 (1) of this Act;

"Budgetary Smoothing Amount" means an amount equal to ten percent of monthly Residual funding up to a cumulative maximum amount at anyone time of 2.5 percent of the Projected Federation Hydrocarbon Revenue for the year of such funding;

"Development Projects" has the meaning set out in section 41(5) of this Act;

"Executive Nomination Committee" has the meaning set out in section 16(3) of this Act

"Funds" means collectively all of the Future Generations Fund, the Nigeria Infrastructure Fund and the Stabilisation Fund and any further funding vehicles established hereunder and, individually,

each of such funds;

"Future Generations Fund" has the meaning set out in section 4(1)(a) of this Act;

"International Reporting Financial Standard" means the principles based Standards, Interpretation and the Framework (1989) adopted by the International Accounting Standards Board;

"Managing Director" means the Managing Director and Chief Executive Officer of the Authority appointed in accordance with this Act;

"Minister" means the Minister of Finance of the Federal Republic of Nigeria;

"Nigeria Infrastructure Fund" has the meaning set out in Section 4(1)(b) of this Act;

"Oil Price Benchmark Rule" means the projected price for Benchmark Hydrocarbons utilized in the determination of Projected Federation Hydrocarbon Revenue:

"Projected Federation Hydrocarbon Revenue" means the projected revenue determined through the budgetary process attributable to the Federal Government, State Government, Federal Capital Territory, Local Government and Area Councils and calculated by applying the Oil Price Benchmark Rule to the Benchmark Hydrocarbon output in each case approved by the National Assembly;

"Residual Funds" means revenue received into the Federation Account other than the Projected Federation Hydrocarbon Revenue for the relevant period";

"ring-fenced" means, in the context of each of the Funds, the use of a structure that maintains a separation of the assets and liabilities of one Fund from the assets and liabilities of the other Funds;

"Santiago Principles" means the generally accepted principles and practices of Sovereign Wealth Funds made by the International Working Group of Sovereign Wealth Funds;

"Secretary" has the meaning set out in section 22(1) of this Act; and

"Stabilisation Fund" has the meaning set out in section 4(1)(c) of

this Act.

9. This Act may be cited as the Nigeria Sovereign Investment Authority (Establishment, Etc.) Act, 2011. Citation

Section 28

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

Proceedings of the Board

The Board may make rules as it deems appropriate for regulating its proceedings.

Meetings of the Board.

(1) Any two Directors or a Director and the Secretary may call a Board meeting by giving 14 days notice of the meeting to each of the Directors or by authorizing the Secretary to give such notice.

(2) Directors may waive their entitlement to such notice prior to or up to seven days after any meeting and at a minimum, the Board shall meet once each quarter.

(3) The Chairman of the Board (being the non-Executive Director approved by the President on the recommendation of the Minister in accordance with section 16 (1) (a) of this Act) shall chair the meetings of the Board, unless he or she is absent, in which case the attending Directors shall appoint a chair for such meeting.

(4) The Chairman of the Board shall have a deciding vote in the event the numbers of votes for and against a proposal at a meeting of the Board are equal.

(5) Unless a quorum of Directors is participating, no decision other than to call another meeting of the Directors may be made and the quorum for the transaction of business shall be not less than 7 Directors.

(6) Where the Board seeks advice of any person on a particular matter, the Board may invite that person to attend for such period as it deems fit, but a person who is invited by virtue

of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.

(7) In addition to meeting with all participants physically present, the Board may hold or continue a meeting by the use of any means of communication by which all the participants can hear and be heard at the same time and a member of the Board who participates in a teleconference meeting shall be taken for all purposes to have been present at the meeting and the Board may establish procedures for teleconference meeting (including recording the minutes of such meetings) in its minute book.

(8) The Board may pass a resolution without a meeting being held if all its members entitled to vote on the resolution sign and date on one or more copies a document containing a statement that they are in favour of the resolution in the document and any such resolution shall be deemed passed on the date of the last signature to be applied.

(9) The Secretary shall ensure that the Authority keeps a record, in writing, of every decision of the Board.

Conflict of Interest and Refusal.

(1) If a member of the Board has pecuniary interest or other beneficial interest in, and material to, a matter that falls to be considered by the Board, he or she shall:

(a) disclose to the other Directors of the Board the nature of his or her interest in advance of any consideration of the matter;

(b) not influence nor seek to influence a decision to be made in relation to the matter;

(c) take no part in any consideration of the matter; and

(d) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed.

(2) If a member of the Board declares an obligation or discloses an interest pursuant to paragraph 3(1)(a), the declaration or disclosure shall be recorded in the minutes of the meeting of the Board.

(3) No member of the Board or any employee of the Authority shall, in a personal capacity, either directly or indirectly be involved in the purchase of any assets of or being acquired by the Authority.

Seal of the Authority.

(1) The fixing of the seal of the Authority shall be authenticated by the signature of the Chairman or of any person specifically authorized to act for that purpose by the Board.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made by the Chairman or any person specifically authorised to act for that purpose by the Board.

(3) Any document purporting to be a document duly executed under the seal of the Authority shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS
THENTICATION ACT, CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004,
AT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE
TIONAL ASSEMBLY.

SALISU ABUBAKAR MAIKASUWA, mni
CLERK TO THE NATIONAL ASSEMBLY

25TH DAY OF MAY, 2011

I CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT, CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.

SALISU ABUBAKAR MAIKASUWA, mni
CLERK TO THE NATIONAL ASSEMBLY

25TH **DAY OF MAY, 2011**

Schedule to Nigeria Sovereign Investment Authority (Establishment, etc.) Bill, 2011

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVE
Nigeria Sovereign Investment Authority (Establishment, etc.) Bill, 2011	An Act to establish the Nigeria Sovereign Investment Authority to receive, manage and invest in a diversified portfolio of medium and long-term revenue of the Federal Government, State Government, Federal Capital Territory, Local Government and Area councils to prepare for the eventual depletion of Nigeria's hydrocarbon resources for the development of critical infrastructure in Nigeria that will attract and support foreign investment, economic diversification, growth and job creation and in exceptional circumstances set out in the Act, utilize certain liquid assets in the Stabilisation Fund of the Authority to supplement other available fiscal stabilistion funds to temporarily sustain duly budgeted public expenditure in the interests of macroeconomic stability in Nigeria as a whole.	This Bill seeks to establish the Nigeria Sovereign Investment Authority to receive, manage and invest in a diversified portfolio of medium and long-term revenue of the Federal Government, State Government, Federal Capital Territory, Local Government and Area councils to prepare for the eventual depletion of Nigeria's hydrocarbon resources for the development of critical infrastructure in Nigeria that will attract and support foreign investment, economic diversification, growth and job creation and in exceptional circumstances set out in the Act, utilize certain liquid assets in the Stabilisation Fund of the Authority to supplement other available fiscal stabilistion funds to temporarily sustain duly budgeted public expenditure in the interests of macroeconomic stability in Nigeria as a whole.	11th May, 2011	19th May, 2011

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by m to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2 Laws of the Federation of Nigeria, 2004.

SALISU ABUBAKAR MAIKASUWA, mni
Clerk to the National Assembly
25th Day of May, 2011

I ASSENT.

DR. GOODLUCK EBELE JONATHAN, GCFR
President of the Federal Republic of Nigeria
26th Day of May, 2011