

**AN EVALUATION OF THE OBLIGOR'S RIGHT OVER TROUBLED
ASSETS AND THE POWERS OF THE ASSET MANAGEMENT
CORPORATION OF NIGERIA UNDER THE AMCON ACT, 2019
(AS AMENDED)**

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ABSTRACT

At the base of lending and borrowing is the provision of collateral by the borrower. Once collateral is provided and perfected, the property used as collateral becomes encumbered and thus a troubled asset. The hitherto unfettered right of the borrower or a third party over the property, now mortgaged, is automatically at risk if the borrower defaults in repayment. The establishment of Asset Management Corporation of Nigeria (AMCON) was timely and its powers and duties enormous. The need to recover huge public funds invested to buy non-performing loans from commercial banks, in particular or paid to buy over or sustain other vital financially distressed and ailing entities of societal importance makes it imperative for assets acquired by AMCON from the original creditors secured by obligor's property to be disposed when the need arises. This is aimed at recouping huge public funds spent by AMCON in order to stabilize the creditor's business and by extension the Nigerian economy. The process of disposing the mortgaged property is mainly through litigation. It is on the premise of the forgoing that this paper aimed at examining the right of the obligor in the ensuing litigations towards the recovery of such asset. The objective of this paper amongst others is to examine the legal framework enabling AMCON to buy over troubled assets in Nigeria. The doctrinal research methodology was adopted in this paper as both the primary and secondary sources of law were relied upon. It was found that even though the obligor's right over his troubled asset is not raped but still sustained under the special proceedings, some obligors tend to frustrate the judicial process although they are seen as harsh provisions against the obligor's right. It was recommended that the time frame for institution and conclusion of any proceedings by or against AMCON should be strictly adhered to. Besides, although the essence of the AMCON Act and Rules are to ensure effective recovery proceedings, any aspect of these provisions that runs contrary to the constitution not already voided by the court should be amended.

Keywords: Investment Law, Asset Management, Nigeria.

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INTRODUCTION

The Asset Management Corporation of Nigeria (AMCON) was established with the objective of recapitalising distressed Nigerian banks. In addition, the objective was to enhance them with recapitalisation to make them capable of contributing positively to Nigeria's economic development. To realise this objective, AMCON issues zero coupon bonds to troubled banks in exchange for their non-performing loans after which the banks sell the bonds in the capital market to recapitalise and get more liquidity.²

The global crisis, which also affected Nigeria, left banks in a less favourable position. Although the crisis originated from the capital markets, the banking industry was hurt the most. The crisis affected eight (8) systemically important banks,³ and the apex bank, was required to intervene.⁴ As a regulatory response to the crisis, and with the objective of saving the Nigerian banking industry from complete collapse, the Central Bank of Nigeria (CBN) established AMCON. However, it is argued that the approach adopted by AMCON did not enhance the stability of Nigerian banks.⁵ Although the creation of AMCON is to be commended, there are still uncertainties amongst investors, businesses and other financial users as to the true financial health of Nigerian banks and how well capitalised they are.⁶ In light of this, there is a need to provide a more thorough and comprehensive analysis vis-à-vis the extent of which AMCON has achieved the purpose vis-à-vis the right of the debtor whose property is used as security for the loan from the onset.

THE RATIONALE OF AMCON

The objects of the AMCON are distinctly provided in the AMCON Act:

Assist eligible financial institutions to efficiently dispose of eligible bank assets in accordance with the provisions of the Act; efficiently manage and dispose of eligible bank assets acquired by the Corporation in accordance with the provisions of the Act; obtain the best achievable financial returns on eligible bank assets or other assets acquired by it in pursuance of the provisions of the Act having regard to...⁷

The Asset Management Corporation of Nigeria (AMCON) is conferred with far reaching functions and powers. These functions, include to acquire eligible bank assets from eligible finance institutions in accordance with the provisions of the Act,⁸ purchase or otherwise invest in eligible equities on such terms and conditions as the AMCON, with the approval of the Board of the Central Bank of Nigeria may deem fit,⁹ perform such other functions directly related to the management or the realization of eligible bank assets that the corporation has

² Adeshina Odedina, *The Impacts of AMCON on the Nigerian Capital Market*, "CP=Africa (20 January 2011) 1, <<http://www.cp-africa.com/2011/01/20/impacts-amcon-nigerian-capital-market/>>, accessed 20 September 2022.

³ Oceanic Bank International Nigeria Plc; Intercontinental Bank Plc; Equatorial Trust Bank Ltd; Union Bank of Nigeria Plc; Spring Bank Plc; Finbank Plc; Afribank Nigeria Plc; and Bank PHB Plc.

⁴ Arinze Ngwube and Matthew Ogbuagu, "Global Financial Crisis and Nigeria Economy", *Global Journal of Management and Business Research: B Economics and Commerce*, Vol. 14, Iss. 10, 2014, 24-30, at 25.

⁵ Eromosele Abiodun, "Economic Crisis: How Nigeria Failed to Learn from History" *This Day* 4 May 2016 <www.thisdaylive.com/index.php/2016/5/04/economic-crisis0how-nigeria-failed-to-learn-from-history/> accessed 12 September 2022

⁶ "Policy shift on troubled banks: FG considers nationalisation", *Business Day Newspaper* 6 July 2011

⁷ 2010 as amended (AMCON Act) s 1(1).

⁸ (n 1) s 5(a).

⁹ *Ibid*

acquired including. Managing and disposing assets acquired with the proceeds or derived by the corporation from managing or disposing of eligible bank assets acquired by it,¹⁰ the securitization or refinancing of portfolios of eligible bank assets,¹¹ and holding realizing and disposing of collateral securing eligible bank assets.¹² The AMCON powers include to issue bonds or other debt instruments as consideration for the acquisition of eligible bank assets,¹³ initiate or participate on an enforcement, restructuring, reorganization, programme of arrangement or other compromise¹⁴ and enforce any security guarantee or indemnity.¹⁵ The foregoing notwithstanding, AMCON is given special powers including the right to circumvent the provisions of other legislation in cases of inconsistency.¹⁶

THE SPECIAL POWERS OF AMCON

The special powers of AMCON relates to the appointment of receiver and manager,¹⁷ custody and possession of property belonging to the debtor or to the debtor company to the order,¹⁸ attachment and freezing debtor bank or debtor company's bank accounts,¹⁹ bankruptcy proceeding²⁰ and winding-up proceeding.²¹ Recently, *the AMCOM Act* was amended to grant power of surveillance to the AMCON.²²

i) Receivership

The AMCON has the special power to act as or appoint a receiver for a debtor company whose assets have been charged, mortgaged or pledged as security for an eligible bank asset acquired by it.²³ It is important to state that the power vested on AMCON herself to act as a receiver is a departure from the provisions of the Companies and Allied Matters Act,²⁴ which disqualified a body corporate from being appointed a receiver. Instructively, the powers of a receiver appointed under the AMCON Act includes to realize the assets of the debtor company;²⁵ enforce the individual liability of the shareholders and directors to the debtor company;²⁶ and manage the affairs of the debtor company.²⁷ It is within the elective discretion of a receiver as to whether to manage the affairs of a debtor company or not.²⁸ Where it elects to manage the affairs of a Debtor Company or other debtor entity, notice of the election must be given by publication in at least two newspapers with nationwide circulation.²⁹ Consequently, the receiver is entitled to take over the management of the affairs of the debtor company or debtor entity in the name, and on behalf of the debtor company or the general body of creditors.³⁰

¹⁰ (n 1) s 5 (c).

¹¹ *Ibid* s 5(f)(ii).

¹² *ibid* s 5(f)(iii)

¹³ (n 1) s 6(a)

¹⁴ *Ibid* s 6(e).

¹⁵ *Ibid* s 6(k).

¹⁶ *Ibid* s 602

¹⁷ (n 7)

¹⁸ (n 8)

¹⁹ (n 9)

²⁰ (n 10)

²¹ (n 11)

²² (n 12)

²³ (n 11) s 48(1)

²⁴ Cap C20 LfN 200-1 (CAMA) s 3S7(1)(C)

²⁵ (n 1) s 48(2)(a).

²⁶ *Ibid* s 48(2)(b).

²⁷ *Ibid* s 48(2)(c).

²⁸ (n 1) s 48(2)(c)(-1).

²⁹ *Ibid* s 40(4)

³⁰ *Ibid* s 45(5)

Furthermore, the appointment of a receiver appears a vehicle for lifting the veil of incorporation. Hence, the usual opposition to the appointment of receiver by acquired debtor companies. This is illustrated by the cases of Arik Air, Capital Oil and Gas Ltd and Silverbird Group of Companies.³¹ Fundamentally, it is pertinent to state that the powers of a receiver appointed under the AMCON Act is exercisable over all the assets and entire undertaking of the debtor company notwithstanding that only a part of the assets of the debtor company was charged, mortgaged or pledged as security in relation to the eligible bank asset acquired by AMCON.³² Ordinarily, a creditor is only able to exercise receivership powers over assets charged to it directly or where an all-assets debenture exists.³³ Hence, the power of a receiver under the AMCON Act is unique and far-reaching.

Furthermore, the appointment of a receiver /manager automatically suspends all judgments, claims, debt enforcement procedures existing or being pursued against the debtor company from a period of one (1) year from the date of the publication of the notice or the period that the receiver continues to manage the affairs of the debtor company.³⁴ However, the suspended provision do not extend to claims relating to wages and other entitlements of existing staff of debtor company or the debtor entity, and professional advisers.³⁵ Also, the suspension *provision cease* to apply if a receiver within 30 days of the publication of notice of management fails to prepare a detailed and comprehensive plan for the rehabilitation of the debtor company or *de* entity.³⁶

Unfortunately, neither the AMCON Act nor the Regulation, if any, provided the procedural *steps* acquiring the rehabilitation plans. It is left to speculation what happens to the detailed, comprehensive rehabilitation plan. Is the rehabilitation plan held by the receiver for his own use or is notice of it made by publication in national newspapers so as to obtain consensual resolution? The special powers of appointment of a receiver is necessarily conclusive in ensuring that AMCON successfully meets its objects and mandate. The exercise of power of the receiver and special power of AMCON need to be balanced with the rights of the debtor company or debtor entity.

ii) Custody and Possession of Debtor's Property

The AMCON where it has reasonable cause to believe that a debtor or debtor company is the *bona fide* owner of any property may apply to the Federal High Court by motion *ex-parte* for an order granting possession of the property to it.³⁷ This is ordinarily known as 'interim forfeiture order'. It is pertinent to state that AMCON within 14 days from the date of the interim forfeiture order must commence debt recovery action against the debtor or Debtor Company in respect of whose property the interim forfeiture order was made.³⁸ Where AMCON fails or neglects to commence debt recovery action within the prescribed time, the

³¹ Nnamdi Dimgba and Others, 'Troubled Assets Solution: in search of the Best Approach' (2018) 9 *GRBPL* No. 1-2.

³² (n 1) s 4S(3)

³³ (n 30); I O Smith. *Nigerian Law of Secured Credits* (Lagos: Ecowatch Publications (Nigeria) Limited 2001) 337

³⁴ (n 1) s 48(7).

³⁵ *Ibid* proviso to s 48(7).

³⁶ *Ibid* s 48(8)(a)

³⁷ (n 1) s 49(1)

³⁸ *Ibid* s 49 (3)

order will lapse.³⁹ This is a particularly important power as it enables AMCON to move in a stealthy manner without tipping off otherwise crafty debtors.⁴⁰ Upon a favourable judgment, the interim forfeiture order becomes final and permanent.

iii) Attachment and Freezing of Debtor's Bank Account

AMCON is conferred with special powers where it has reasonable cause to believe that a debtor or debtor company has funds in any account with any eligible financial institution, to apply to the Federal High Court by motion *ex-parte* for an order freezing the debtor or Debtor Company's account.⁴¹ As a corollary, AMCON shall within 14 days from the date of the order commence debt recovery action against a debtor or debtor company whose account has been frozen, failing which the order freezing the account shall lapse.⁴² However, upon a favourable judgment, the *interim* freezing order becomes final and permanent.

While the special powers conferred on AMCON with regards to obtaining *ex-parte* orders for forfeiture of property and freezing of debtor's account, significantly strengthens and ensures that the best value is derived from the undertaking of the debtor, these powers may not be effectual in Nigeria considering the slow and murky court processes in Nigeria. *Ex-parte* order being a decision or ruling of a trial Court is usually subjected to appeal by a dissatisfied debtor or debtor company. The delays suffered in hearing of appeals will definitely hinder the efficacy of these special powers.

iv) Bankruptcy Proceedings

The AMCON has the special power to apply for a receiving order against a debtor who fails to pay an adjudged debt sum within 30 days from the date of the order for payment made in a debt recovery action pursuant to the provisions of the AMCON Act.⁴³ Notably, it is not necessary for the debtor to commit any act of bankruptcy; or for the AMCON to file a bankruptcy petition; or for any of the conditions precedent for the grant of a receiving order specified under the Bankruptcy Act to be satisfied before the grant of a receiving order in this case,⁴⁴ for the debtor to be adjudged bankrupt.⁴⁵

Where a debtor is adjudged bankrupt, the Federal High Court may, on the application of the AMCON, appoint the official receiver or authorise AMCON itself to assume the office of trustee of the property of the debtor.⁴⁶ Suffice to state that any act or thing done pursuant to the provisions of the AMCON Act are deemed done under the Bankruptcy Act.⁴⁷

Although, the investiture on AMCON of special power in bankruptcy proceedings is laudable, it is incontrovertible that debt recovery through bankruptcy petition is rarely utilized in Nigeria. The reason stems from the cumbersome process, and outdated provisions.⁴⁸

³⁹ *Ibid*

⁴⁰ Nweke (n 30) 2

⁴¹ (n 1) s 50(1)

⁴² *Ibid* s 50(2)

⁴³ (n 1) s 51 (I).

⁴⁴ *Ibid* s 51 (2).

⁴⁵ *Ibid* s 51(3)

⁴⁶ *Ibid* s 51 (4).

⁴⁷ Cap B2 LFN 2004 (BA).

⁴⁸ Osaro Eghobamien. "Nigeria: Bankruptcy Law; A for Urgent Reform" <<http://www.mondag.com>> accessed 13 July 2022; U C Kalu & Gloria E. Agaezichi. "The Legality of Financial Bailout: The Imperative of a Legal Framework for State/Municipal Bankruptcy in Nigeria

v) Winding-up Proceedings

AMCON is also vested with special powers to apply to the Federal High Court for a winding-up order against a debtor company. This special power is invoked where the court gives a decision against a body corporate in a debt recovery action under the AMCON Act, and such sum is not liquidated or paid over to the AMCON within 90 days from the date of the order for payment.⁴⁹ It is pertinent to state that the provisions of the CAMA apply with such modifications as necessary to give full effect to the provisions of the AMCON Act in relation to winding-up proceedings.

However, it is difficult to discern the import of the special powers in winding-up proceeding created in the AMCON Act. One of the grounds for winding up a company by the Federal High Court is when the company is unable to pay its debts.⁵⁰ Among the incidents that mark inability to pay debts is where an execution or other process issued on a judgment, Act or order of any court in favour of a creditor is returned unsatisfied in whole or in part,⁵¹ within six weeks of the judgment or Act or order.⁵² In light of the above, the special power in winding up proceeding is needless and fraught with challenges as commercial realism often renders winding-up proceedings inefficient and inappropriate.⁵³

vi) Surveillance

The recent amendment to the AMCON Act empowers the AMCON to place any bank account or any other account comparable to a bank account of debtor of an eligible financial institution under surveillance.⁵⁴ To this end, AMCON will also have access to any computer system component, electronic or mechanical device of any debtor with a view to establishing the location of funds belonging to the debtor, and obtain information in respect of any private account together with all bank financial and commercial record of any debtor of any eligible financial institution.⁵⁵ Fundamentally, the protection of customer confidentiality is a ground for the denial of the exercise of this power.

In order to protect the AMCON, there is a prohibition of the grant of any interim, interlocutory or preservative order of attachment against AMCON's funds in any bank by any court of competent jurisdiction in pending proceeding or otherwise. Although these provisions are yet to be tested in the courts, it is submitted in this paper that the power of surveillance would impede the fundamental right to privacy, and the exercise of judicial powers enshrined in the Constitution of the Federal Republic of Nigeria.⁵⁶ Thus, it is further submitted in this paper that the power of surveillance in the AMCON (Amendment) Act 2019, is inconsistent with the provisions of the CFRN 1999, and would be declared void,⁵⁷ to the extent of this inconsistency upon litigation. It is important to state that the restriction and derogation provision of the CFRN 1999, may not avail in this circumstance.

4. The Nigerian Experience

⁴⁹ (n 1) s 52(1).

⁵⁰ (n 22) s 408(d).

⁵¹ *Ibid* s 409(b).

⁵² *Ibid* s 567(1).

⁵³ (n 46).

⁵⁴ (n 12)

⁵⁵ Sunday Isuwa and Mark Itsibor, 'Debtors' Accounts under Surveillance as PMB Signs New AMCON Act'; leadership.ng> accessed 8 August 2022.

⁵⁶ 1999 as amended (CFRN 1999) ss 6(6), 37.

⁵⁷ (n 42) s 1(3)

As noted above, the primary obligation of any borrower under a loan agreement is to repay the creditor in accordance with the terms of the loan agreement.⁵⁸ In a typical loan agreement, this fundamental obligation is contained in the borrower's covenant to repay.⁵⁹ The terms of repayment in a typical loan agreement would capture the amount and time within which to repay the principal sum, any interest payable, and events that trigger mandatory pre-payments and loan acceleration by which the debtor becomes contractually obligated to repay the whole or a specified part of the outstanding loan.⁶⁰

Consequently, where a debtor defaults or where certain events occur, a creditor ordinarily becomes entitled to enforce the borrower's covenant to repay and exercise the right to enforce or realise its security interest in any asset used to secure the loan - subject to any permitted cure periods specified in the loan agreement.⁶¹ Legally, a creditor can enforce a debtor's covenant to pay by instituting an action for debt recovery.⁶² Alternatively, the creditor may institute insolvency proceedings against the debtor to recover debts owed.⁶³

However, both options (instituting an action for debt recovery and bringing an insolvency proceeding) are fraught with challenges as commercial realism often renders the remedies of a debt recovery action or insolvency proceedings inefficient, inappropriate and sometime even unattractive to a creditor. In a situation where the debtor falls into financial difficulties and defaults on its repayment obligations because of liquidity constraints or an industry wide recession, while the company remains a going concern and fundamentally viable, insolvency proceedings may not be the most appropriate step in the interest of the creditor,⁶⁴ because the value that accrues to the company as a going concern will, in most cases, be higher than the value that can be extracted from insolvency sales of the assets or undertakings of the company.⁶⁵

The risks attending the enforcement of a debtor's covenant to repay by way of an action include: (a) the cost of litigation; (b) the risk that litigation may become protracted; (c) the risk that even where judgment is obtained, the assets of the debtor against which execution may be levied to satisfy such judgment may be insufficient to satisfy the judgment; and (d) the risk that the debtor's assets may be subject to prior existing third party security interests or even third party security interests acquired after the commencement of recovery action

⁵⁸ McKnight A., *The International Law of Finance*, Oxford University Press (OUP), 2008, para. 3.10.1 at p. 115

⁵⁹ *Ibid*

⁶⁰ Olaniwun Ajayi, 'Troubled Assets Resolution - Legal Aspects of Finance in Emerging Markets Series', Volume II, LexisNexis, pp. 155-159

⁶¹ *Ibid*

⁶² Chose in action can only be enforced by an action. See *Torkington v Magee* (1902) 2 KB 427 at 430, Per Channell, J.

⁶³ R. Goode, *Legal Problems of Credit and Security*, (4th Ed., Sweet & Maxwell) para. 3.04 at p. 99; see also I. O. 11. Smith, *Practical Approach to Law of Real Property*, (Ecowatch Publications Nigeria Ltd 1999) 265.

⁶⁴ This much is important given that where insolvency proceedings is used as a mode of debt recovery, it opens the floodgate for all other creditors of the debtor to prove their debts on all descriptions, including contingent debt and

operates to trigger the insolvency priority rules under which unsecured creditors amongst themselves rank *pari*

passu but rank behind other statutorily preferred creditors. See sections 492, 493 of Companies and Allied Matters Act (CAMA) and sections 35 and 36 of the Bankruptcy Act.

⁶⁵ Olaniwun (n 54)

against the debtor but before execution is levied for the satisfaction of the judgment in favour of the creditor.

Consequently, creditors will generally only take the risks involved in deploying adversarial remedies, such as taking a debt recovery action, insolvency proceedings or enforcement of security as a last resort. In place of pursuing adversarial debt recovery options against a debtor, creditors may look to restructure the obligor's payment obligations.

Restructuring refers to a situation where the creditor agrees with the debtor to make modifications to the repayment obligation of the debtor, by granting an accommodation to the debtor in exchange for the creditor forbearing from taking all or part of the payment enforcement options available to the creditor.⁶⁶ Commonly, restructuring may be achieved by extending the period of repayment, reducing the amount owed or exchanging a portion of the debt for equity in the debtor company with the principal aim being to convert a non-performing loan into a performing loan. Restructuring may be both consensual and quasi-consensual. From a Nigerian perspective, it is quasi-contractual when the agreement reached between the creditor and the debtor is accompanied by court sanction. While Nigeria does not have a formal, specific statutory regime for quasi-consensual resolution of assets, existing statutory provisions may however be employed to achieve this effect. Under Section 539 CAMA, the debtor company may enter into a scheme of arrangement or compromise with its creditor(s) which will then be sanctioned by the Court. In addition to having the force of court sanction, the scheme will be binding on the company, and if the company is in the course of being wound up, on the liquidator and contributories of the company.

In addition, and particularly, where the creditor has already commenced legal debt recovery action against the debtor, any accommodation or compromise reached between the parties can be embodied in terms of settlement, which when adopted by the Court, will be elevated to the status of a consent judgment. In such a circumstance, breach of the agreement embodied within the consent judgment will entitle the creditor to enforce the judgment like any other judgment of the court. Another option open to a creditor in lieu of pursuing adversarial debt recovery options against a debtor, is to dispose of its bundle of rights in the loan to third parties as it is always open to a creditor, in the absence of any contractual or statutory restriction, to transfer its bundle of rights in a loan or under a loan agreement and any security interest which it has over assets by which the loan is secured to a third party. As highlighted, the right to transfer may however be subject to a contractual or statutory restriction (such as consent requirements) on transfer. There are, generally speaking four ways in which a creditor's rights in a loan or security interest in assets by which the loan is secured can be disposed. These are: (a) by way of an assignment; (b) through a novation; (c) by means of securitization; and (arguably) (d) by agreeing to a third party refinancing of the debtor.

It must be noted, parenthetically, that it is doubtful whether there is any viable market for the secondary market disposal of impaired assets in Nigeria. Apart from AMCON, which is statutorily mandated to manage impaired bank assets; only the Standard Chartered Bank's

⁶⁶ Such risks may include: (i) the cost of litigation; (ii) the risk that litigation may become protracted; (iii) the risk that even where the judgment is obtained, the assets of the debtor against which execution may be levied to satisfy such judgment may be insufficient to satisfy the judgment; and (iv) the risk that the debtor's assets may not be available to satisfy the judgment debt. See further Olaniwun, (n 54) 157.

Alternative Investments Group (AIG) and Standard Bank's Distressed Debt Investment Services (DIS) have reportedly shown interest in managing impaired assets in Nigeria.

AMCON'S EXPERIENCE

Controversies abound as to the best or “optimal” resolution an AMC such as AMCON should adopt. A cursory examination of the existing literature in this field will reveal that some AMCs adopt a strategy of rapid disposal of acquired non-performing loans (NPLs) while others prefer to explore restructuring options. AMCON faces difficult commercial and asset resolution choices on a daily basis. Notably, Sections 34(1) and 35(1) of the AMCON Act (as amended) provide *inter alia* that AMCON shall “...exercise all the rights and powers...of the eligible financial institution from which the eligible bank asset was acquired”. And “...after the Corporation has acquired an eligible bank asset...the Corporation shall be entitled to exercise all rights and powers in relation to the eligible bank asset”. Like any creditor, AMCON is entitled to be repaid, and this right is embedded in the AMCON Act (as amended). This will therefore be the first option open to AMCON, and it is necessarily consensual. However, where the debtor is unable to repay, AMCON may desire to restructure the EBA and modify the debtor's obligations.

As noted above, restructuring may be entirely consensual. This happens when the accommodation and compromise between the creditor and debtor is entirely contractual. However, a creditor such as AMCON may also desire that the contractual agreement to restructure the debtor's indebtedness is accompanied by state sanction. As noted above, AMCON may achieve this objective by entering terms of settlement in court, in a dispute scenario, or may procure that the borrower enters into a scheme, which is subsequently sanctioned by the court.

Whilst AMCON is empowered to enter into a compromise with the aim of restructuring, Section 6(5) of the AMCON Act expressly precludes AMCON from entering into a compromise where such a compromise will result in a failure of AMCON to recover the price paid for the acquisition of the EBA. Such power can only be exercised by AMCON with the approval of the Minister of Finance acting on the recommendation of the CBN. Also, AMCON has the power to undertake debt-for-equity swaps and debt-for-asset-swaps and the said power is rooted in the overarching provisions of Section 4(b) and (c) of the AMCON Act. Thus, AMCON can validly take equity in a debtor company or accept a transfer of asset from a debtor in full or partial satisfaction of a debt owed to it in respect of acquired EBAs as part of debt restructuring and as a means of effectively managing and disposing of, or obtaining the best achievable returns on EBA. Inferentially, the guiding mantra for whether the power to restructure may be validly exercised by AMCON must be whether such service is geared towards the attainment of AMCON's stated resolution object.

THE COMPARISON OF AMCON WITH THE US TROUBLED ASSET RELIEF PROGRAM

The global crisis of 2007 demonstrated that no industry, regardless of its economic status, is immune to failure. The cause of the crisis could be traced back to poor regulation of the banking sector that is based on market efficiency contrary to the proposition of John Keynes and Hyman Minsky for tight financial regulation.⁶⁷ The financial sector believes that the economy can be regulated by the forces of demand and supply and as such there is no need

⁶⁷ James Crotty, Structural causes of the global financial crisis: a critical assessment of the new financial Architecture”, 33 (4), Cambridge Journal of Economics, (2009), 563-580, at 564.

to regulate its activities with strict laws. It can be contended that this belief is wrong as it has been shown that deregulation promotes opportunism and greed.⁶⁸

As a result of the misconceived belief on efficiency of the market, a crisis that started in the US subprime market crippled the whole world as a result of interconnectedness⁶⁹ and the concept of TBTF.⁷⁰ Externalities from the crisis also led to a decline in housing and equity prices, thus worsening the plight of the common man.⁷¹

Accordingly, TARP was established in October 2008 under the Emergency Economic Stabilization Act, 2008 (EESA) to ameliorate the effects of the 2007 global financial crisis on the US.⁷² The main purpose of TARP is “to restore the liquidity and stability of the financial system” by purchasing troubled assets from financial institutions.⁷³ It is worth noting that the EESA is modelled to provide succor to the most affected US citizens after the global financial crisis while at the same time put the US economy back on track for prosperity.⁷⁴ While it is TARP’s mandate to focus on its citizens, it does not appear to correlate with AMCON’s focus. Although AMCON took over N300 billion non-performing loans of distressed airlines in Nigeria,⁷⁵ its main focus is banks.⁷⁶ Nevertheless, the disparity between the focus of these two legislation justifies the need for statutes to be modelled according to the specific needs and antecedents of every economy. Arguably, this will discount the need for a “one-size-fits-all” type of legislation that may end up doing more harm to some economies than good since it did not factor inherent peculiarities in the country into consideration.

Consequently, to achieve the onerous task of stabilising the US economy, the EESA Act⁷⁷ provides for \$700 billion to enhance the implementation of TARP. The Secretary of the Treasury (the Secretary) gained access to \$250 billion immediately after the establishment of TARP while he could have access to an additional \$100 billion or \$350 billion upon Presidential transmission of a written report to the Congress or upon submission of a written certification to Congress by the President respectively, requesting for such authority to be given to the Secretary.⁷⁸

⁶⁸ Mark A Covalleski, Mark W Dirsmith and Sajay Samuel, “Changes in the Institutional Environment and the Institutions of Governance: Extending the contributions of the Transaction Cost Economics within the Management Control Literature”, 28, *Journal of Accounting, Organizations and Society*, (2003), 417-441, at 431.

⁶⁹ Crotty (n 61)

⁷⁰ The concept of ‘Too Big Too Fail’ is based on institutions having such a heavy presence within a financial system, or any system as the case may be, that it becomes so systemically important. In the case of banking, the failure of this institution would be so damaging to the remainder of the system. See also, Gary Gorton, *Slapped by the Invisible Hand: The Panic of 2007* (Oxford University Press, 2010)

⁷¹ Carmen M Reinhart and Kenneth S Rogoff, “The aftermath of financial crises” (2009), 1-13, at 4 & 6, online: <<http://www.nber.org/papers/w14656.pdf>>, accessed on September 4 2022

⁷² EESA s. 101

⁷³ United State Department of Treasury, “Agency Financial Report”, (2009), 3-117, at 3 <http://www.treasury.gov/initiatives/financial-stability/briefing-room/reports/agency_reports/Documents/OFS%20AFR%2009.pdf> accessed 28 September 2022

⁷⁴ The parties include home owners, tax payers and workers, s.2 of the EESA 2008.

⁷⁵ Onyedi Ojiabor and Sanni Onogu, “Distressed Airlines owe AMCON N135b, says Chike-Obi” *The Nation* (4 July 2012)

⁷⁶ AMCON, “Mission & Vision”, (2012) <http://amcon.com.ng/about_us/mission_vision.aspx> accessed September 5 2022.

⁷⁷ S.115

⁷⁸ EESA, s.115 (a)

The enforcement powers of the Secretary are wide, and this allows him to exercise any right over purchased troubled assets, manage and sell troubled assets and ensure that revenues from sale of troubled assets are transferred to the US Treasury.⁷⁹ Furthermore, section 113 (a)(2)(A) of EESA provides for the Secretary to hold assets to maturity and sell anytime he thinks such assets will maximise the interest of tax payers.

With regards to AMCON, the provision of funds to purchase toxic assets from banks is shared between the CBN and capitalised banks and not purely on tax payers as is obtainable under TARP.⁸⁰ As discussed previously, in the case of AMCON, the sharing of funding responsibilities between the CBN and capitalised banks can be said to be macro-prudential in nature since it compels capitalised banks to contribute to the soundness of distressed banks in order to achieve system wide stability. This method of funding ensures that banks act prudently since they know that they will contribute to their bailout if things go wrong.

Taking the above into consideration, mandating sound banks to bailout distressed banks encourages a further financial hazard.⁸¹ Bank managers may, in a bid to satisfy this mandate, take excessive risks that may jeopardise the soundness of banks under their management due to the belief that the sound ones will not allow the weak ones to fail. The implementation of the provisions of TARP is done through the Secretary, through the Office of Financial Stability established within the Office of Domestic Finance of the Department of the Treasury.⁸² Unlike in AMCON where the CBN issues guidelines under which it operates,⁸³ the Secretary issues guidelines under which TARP operates.⁸⁴ This approach gives the Secretary a plethora of power that it may be subject to abuse. This is particularly so, since the EESA also provides him with the power to establish TARP, appoint an interim Assistant Secretary for TARP⁸⁵ and other employees that maybe necessary to facilitate the objectives of TARP.⁸⁶ However, it is appropriate to examine the checks and balances put in place by the EESA to counterbalance the excessive powers given to the Secretary.

The Financial Stability Oversight Board (FSOB) was established to review and make recommendations to the Secretary on the exercise of his authority under the EESA.⁸⁷ Also, the FSOB ensures that the policies implemented by the Secretary are in the overall interest of US taxpayers and the economic interest of the US.⁸⁸ However, this article argues that although the FSOB may be able to counter the excesses of the Secretary, the fact that the Secretary is also a member of this board, may undermine the power the board has over him even though he is not the chairperson of the board. Nevertheless, the Secretary is required to write a report of the financial statements and other activities of TARP to Congress monthly

⁷⁹ EESA, s.106.

⁸⁰ John Nwokpoku, 'AMCON: Stakeholders Bicker Over Lifespan, Performance', Vanguard Newspaper, May 26, 2014, available at www.vanguardngr.com/2014/04/amcon-stakeholders-bicker-lifespan-performance/,> accessed 18 September 2022.

⁸¹ This is similar to the Joseph Sausi regime – lifeboat arrangement.

⁸² The Office of Financial Stability is headed by an Assistant Secretary of the Treasury, s.101 (a) (3) (A) of the EESA

⁸³ AMCON Act, s. 8

⁸⁴ EESA, s.101 (d)

⁸⁵ EESA, s.101 (a) (1) & (3) (A). However, the Secretary is given power under s.108 EESA to issue rules and guidelines to address any conflict of interest that may arise from the exercise of the provisions of EESA.

⁸⁶ EESA, s.101 (c)

⁸⁷ EESA, s.104 (a)

⁸⁸ EESA, s.104 (e)

and this gives the Congress the opportunity to monitor the activities of TARP and limit the excesses of the Secretary if need be.⁸⁹

A Congressional Oversight Panel established under section 125 of the EESA is responsible for the review of the financial markets and regulatory system and submits reports on the activities of the Secretary and the effectiveness of TARP to the Secretary. Another oversight established by the EESA to limit the excesses of the Secretary is the requirement for the Comptroller General of the US to oversee the activities and performance of TARP and of any agent or representative of TARP.⁹⁰ In fact, the Comptroller General “conducts annual audits and makes reports to relevant Congressional committees and office of the Special Inspector General every 60 days”.⁹¹

Arguably, annual auditing by the Comptroller General may give the Secretary the incentive to manage TARP’s finances appropriately. Furthermore, the provision for judicial review under section 119 (a)(1)⁹² and the appointment of a Special Inspector General under section 121 to “conduct, supervise and coordinate audits and investigations of the purchase, management, and sale of assets by the Secretary of the Treasury”⁹³ may also go a long way to address the arbitrary tendencies of the Secretary. This article contends that the EESA through the provisions for judicial review and Special Inspector General ensure that TARP is more effective by removing it from the control of politicians.

In the case of AMCON, there is a requirement that it submits its annual report to the CBN and the Ministry of Finance and its quarterly report to the relevant standing committees of the Nigerian National Assembly. This requirement to submit quarterly report to the Nigerian National Assembly may, reduce the power of the CBN over AMCON.⁹⁴ However, the absence of a specific provision to address the matter of judicial review over AMCON’s activities, or the creation of an independent body to monitor the activities of the CBN may give the CBN or even the management of AMCON the incentive to abuse their powers.⁹⁵

Another novel step taken by TARP to rescue the US economy from the effects of the 2007 crisis is the authority given to the Securities and Exchange Commission (SEC) to suspend mark-to-market accounting standard where it is held to be in the public interest to do so.⁹⁶ It

⁸⁹ EESA, s.105. Another instance where Congress oversees and monitors the activities of the Secretary is under s. 201 of EESA where the Secretary makes available information on his activities to congressional support agencies. It should be noted that AMCON Act, made provision for AMCON to report its activities to both the House of Representative and the Senate through the relevant Standing Committees even though it did not specifically mention a financial statement. Further, the Ministry of Finance or the CBN may require AMCON to report to it any matter at any time or format, AMCON Act, s. 22 (1)(2)

⁹⁰ EESA, s.116. It should be noted that under this section, the Secretary is mandated by EESA to provide the Comptroller General with the necessary space and facilities, and grant him access to any record that will enable him carryout his responsibilities under the Act.

⁹¹ Saptarshi Ghosh and Sajid Mohamed, “The Troubled Assets Relief Program (TARP) and its Limitations: An analysis”, 52 (2), International Journal of Law and Management, (2010), 124-143, at 129. See also s.116 (a)(3) of EESA

⁹² EESA.

⁹³ EESA, s.121 (a), (b)(1) & (c)

⁹⁴ AMCON Act, s.21 & 22 of

⁹⁵ It is argued that the CBN has immunity by virtue of s.53(1) BOFIA but, the courts have ruled that while there is respect for this provisions, this does not mean that the actions of the CBN cannot be subject to judicial review. See the cases of: Savannah Bank of Nigeria v CBN & Ors (2012) 1 BFLR; Associated Provincial Picture Houses Ltd v Wednesbury Corpn [1948] 1. K.B.223.

⁹⁶ EESA, s.132 (a). It should be noted that this is not provided for under AMCON.

should be noted that mark-to-market accounting standard under Basel II values assets based on current market price and this resulted to the reduction in the value of all mortgages and mortgage related securities when rate of default became higher, thus dragging the US economy into more crisis.⁹⁷ This method of accounting measures counterparty credit risk by concentrating only on terms of default and credit migration without considering the risk associated with deterioration of credit quality.⁹⁸

This made the EESA consider it worthwhile to mandate the SEC, in consultation with the Federal Reserve and the Secretary, to undertake study of the impacts of mark-to-market on banks' balance sheet, financial information available to investors and the role it played in the 2007 crisis.⁹⁹ SEC concluded that “none of the firms that collapsed or nearly collapsed was done in by reporting poor accounting results in its financial statements”.¹⁰⁰ To clarify further, it was clear that, mark-to-market played little or no role in the 2007 crisis.¹⁰¹ Having examined the provisions of the EESA, the next step is to make a critical analysis to the extent which TARP has impacted on the US economy.

The core concern after the implementation of TARP was that it is susceptible to fraud, and that this may cause US taxpayers billions of dollars.¹⁰² It is also contended that US tax payers will lose about \$66 billion from the bailout of financial institutions.¹⁰³ It is also said that TARP gave banks the incentive to pay more bonuses to their executives instead of punishing them for the role they played in the global financial crisis.¹⁰⁴

In addition to this, it was argued that TARP bailed out automobile companies like General Motors and Chrysler through Automotive Industry Financing Program even though they did not qualify as financial institutions.¹⁰⁵ However, one of the reasons given for the bailout of automobile companies was that it prevents them from being taken over by foreign automakers as well as prevents increment in unemployment rate.¹⁰⁶ Also, TARP deviated from the purpose for which it was set up by purchasing non-voting preferred stock from banks and

⁹⁷ Gingrich Newt, “Suspend Mark-To-Market Now: The one regulatory action that will calm our markets”, *Forbes.com*, 29th September, 2008, 1-3, at 1.

⁹⁸ Hannoun Herve, “The Basel III Capital Framework: a decisive breakthrough”, (2010), 1-16, at 8, online <<http://www.bis.org/speeches/sp101125a.pdf>>, accessed 9 September 2022

⁹⁹ EESA, s.133

¹⁰⁰ John Patrick Hum, “One Cheer for Credit Rating Agencies: How the Mark-to-Market Accounting Debate highlights the Case for Rating-Dependent Capital Regulation”, 2009, 1-27, at 2, online <http://ssrn.com/abstract=1331633> September 13 2016.

¹⁰¹ Mark Jickling, “Causes of Financial Crisis”, 2009, 1-12, at 7, <http://digitalcommons.ilr.cornell.edu/key_workplace/600> accessed 16 September 2022.

¹⁰² This concern is based on US experience from previous programs like hurricane-relief program and the 1990s savings and loan bailout, Michael Crittenden, “TARP said to be ripe for fraud”, *The Wall Street Journal*, February 25, 2009, 1-2, at 1.

¹⁰³ Daniel Wagner and Pallavi Gogoi “AIG deal might not repay all TARP money: US Treasury will swap the debt that it holds for common stock”, Associated Press, 30th September, 2010, 1-2, at 1.(AIG, 2010)

¹⁰⁴ *ibid*

¹⁰⁵ Here, it is said that Obama’s administration used TARP as a political tool to award more money to United Auto Workers, a trade union that is a close political ally of his administration.

¹⁰⁶ Timothy Massad, “Citizens’ Report on the Troubled Asset Relief Program (TARP)”, (2010), 1 at 6, online: <http://www.treasury.20CR_2010_Feb11_last.pdf> , accessed 28 September 2022; J Robert Samuelson, “Why TARP has been a success story”, (2011), 1 at 2 <http://www.washingtonpost.com/opinions/why-tarp-has-been-a-success-story/2011/03/25/AFEe6jKB_story.html> accessed 12 September 2022.

other financial institutions instead of buying toxic assets off their balance sheets.¹⁰⁷ The US Treasury is of the view that: “In order to achieve the objective of providing capital support, and meet bank regulatory requirements for Tier I capital, TARP could not require that a bank repay Treasury at a fixed date, as one would with a loan.”¹⁰⁸

It is also contended that TARP gave loans to credit markets through Term Asset-Backed Securities Loan Facility (TALF) and the Public Private Investment Program (PPIP).¹⁰⁹ The originating factor of the global crisis being the connection with subprime mortgages, poor regulation and the matter of interconnectedness, not only affected a significant portion of the US economy, but has had significant impacts on the position of regulation. This paper argues that, it would have been wrong to single out financial institutions for bailout without bailing out other institutions, because the interconnectedness itself with other systemically important institutions may have caused further problems as a result of illiquidity or even jeopardise the stability of the bailed out financial institutions.

THE OBSTACLES TO EFFECTIVE REALISATION OF AMCON’S OBJECTIVES

The CBN contributes immensely to the appointment of AMCON board¹¹⁰ and in consultation with the Federal Ministry of Finance, it is also responsible for issuing guidelines under which AMCON operates.¹¹¹ From the analysis of the powers of the CBN governor, it has been conveyed that the scope of the CBN’s powers is without limit.¹¹² This in itself is a cause for public policy concerns, but this paper does not dwell into this aspect. Arguably, this has been further demonstrated with the management and operation of AMCON. This can be seen vis-à-vis AMCON’s takeover and management of the nationalised banks despite the fact that this is the prerogative of the NDIC.¹¹³ This latter act further demonstrates that Nigeria does not have a clear and concise banking resolution system in place. The stages of the nationalisation of the three rescued banks have been summed up in the following words: “The NDIC set up bridge banks on Friday, 5th August, 2011, and sold them to AMCOM on Saturday, 6th August, 2011.”

On 7th August, 2011, AMCON announced new management teams and even released the new bank logos.¹¹⁴ Thus, it is contended that the action of the NDIC and AMCON in the nationalisation of the rescued banks is *ultra vires* the powers of AMCON and the NDIC as it goes beyond the objectives and functions of AMCON.¹¹⁵

¹⁰⁷ Saptarshi Ghosh and Sajid Mohamed, “The Troubled Assets Relief Program (TARP) and its Limitations: An analysis”, 52 (2), International Journal of Law and Management, (2010), 124-143, at 129. See also s.116 (a)(3) of EESA

¹⁰⁸ Non-voting preferred stock means that the Treasury is not entitled to board seat, although it can elect two directors to the board if dividends are not paid for six quarters, United State Department of Treasury, “Troubled Asset Relief Program: Two Year Retrospective”, (2010), 1-93, at 25 <http://www.treasury.gov/initiatives/financial-stability/briefing-room/reports/agency_reports/Documents/TARP%20Two%20Year%20Retrospective_10%2005%2010_transmittal%20letter.pdf>, accessed 19 September 2022.

¹⁰⁹ Here, the essence of TALF is “to restart asset-backed securitisation markets” while PPIP “matched TARP fund with private capital to purchase legacy mortgage-related securities”, United State Department of Treasury, *ibid*, at 11.

¹¹⁰ AMCON Act, s.9

¹¹¹ *Ibid* s 8

¹¹² Chinenyeze Amaechi, “Regulatory Proposal to Address Financial Crisis in Nigeria”, 2015, Vol.5, Journal of Commercial and Contemporary Law, 138-152, at 142-146.

¹¹³ Nigerian Deposit Insurance Act, 2006, s.38 and s.39.

¹¹⁴ Eghes Eyieyien, “CBN, Failed Bank Resolution, and Corporate Governance”, Daily Independent Newspaper, (23 August 2011), 1 at 2.

¹¹⁵ AMCON Act, s.4 and s.5

Furthermore, the controversy surrounding the withdrawal of the licences of Afribank, Spring Bank and Bank PHB and the transfer of their assets and liabilities to the following bridge banks; Mainstreet Bank Limited, Enterprise Bank Limited and Keystone Bank Limited respectively have caused confusion on what the intent of AMCON actually is.¹¹⁶ The licences of these three banks were withdrawn by the CBN, the NDIC and the AMCON without following the due process of the law.¹¹⁷

Also, in response to the actions of the CBN Governor in the banking sector, it was commented that the Governor is “stampeding (rescued banks) into taking hasty actions so that cronies of government, political patrons will buy them at peanuts”.¹¹⁸ All these may point to the view that the CBN Governor, the NDIC and AMCON are merely acting the script written by corrupt politicians.

Government policies may affect the stability of banks and in turn, undermine AMCON’s objective of recapitalising banks. The foreign exchange restriction placed on some items by the CBN led to the closure of two hundred and seventy-two firms and fifty of these firms are manufacturing companies.¹¹⁹ The Treasury Single Account (TSA) initiated by President Jonathan’s Administration but executed by President Buhari administration’s mandates banks to remit deposits from all ministries, departments and agencies to the Consolidation Revenue Fund Account with the CBN.¹²⁰ In furtherance of the TSA policy, the CBN barred nine banks from all foreign exchange transactions for failing to remit \$2.33 billion belonging to the Nigerian National Petroleum Corporation (NNPC) to the TSA.¹²¹ As at August 2016, the inflation rate of Nigeria was 17.20%,¹²² which means that Nigeria is experiencing a hyper-inflation.

This article argues that these government policies may cause confusion in the economy and mop up the little fund available to banks. The fact that these policies are initiated when the Nigerian economy is unstable may make banks to stop giving loans to the few SMEs still in existence due to insufficient fund and thus, drag the economy into more crises. To reiterate further, while AMCON is mopping up non-performing loans of banks and trying to recapitalize banks, there are no favourable government policies to enhance the realisation of AMCON’s objectives. In fact, what the government policies are doing from the analysis above is to increase non-performing loans of banks and undercapitalise banks. Little wonder banks in Nigeria have resorted to laying-off of workers in order to remain a going concern.¹²³

¹¹⁶ Omankhanlen, Subair and Ekeoba (n 35)

¹¹⁷ AMCON Act, s. 4 and s.5

¹¹⁸ Gabriel Omoh, “Sanusi will ruin Economy if allowed to carry out Liquidation of Eight Rescued Banks”, Vanguard Newspaper, (27 June 2011) 1 at 1.

¹¹⁹ “272 Firms Shut Down in One Year Under President Buhari” Tory News (25 August 2016) <<https://www.tori.ng/news/38619/272-firms-shut-down-in-one-year-under-presentent-bu.html>> accessed 18 September 2022.

¹²⁰ Isaac Anumihe, “How Treasury Single Account (TSA) may effect Economy”, September 9, 2016, <<http://www.newsheadines.com.ng/latest-sun-newspapers/2015/09/09/how-treasury-single-account-tsa-may-effect-economy/>> accessed 27 September 2022.

¹²¹ “No Nonsense CBN Bars Nine Banks from all Forex Transactions for not Returning \$2.334bn NNPC Fund” This Day Newspaper (29 August) <<http://www.thisdaylive.com/index.php/2016/08/23/no-nonsense-cbn-bars-eight-banks-from-all-forex-transactions-for-concealing-2-125bn-nnpc-fund>> accessed 20 September 2022

¹²² Trading Economics, “Nigeria Core Inflation Rate”, 2016, <<http://www.tradingeconomics.com/nigeria/core-inflation-rate>> accessed 26 September 2022.

¹²³ The Nation, “NLC Set to Shut Six Banks for Sacking Workers”, 16 June, 2016, <<http://www.google.com/ng/amp/thenationonline.net/nlc-set-shut-six-banks-sacking-workers/amp>> accessed 17 September 2022.

CONCLUSION

It is beyond quibble that AMCON is indeed saddled with the responsibility to obtain the best achievable financial returns on acquired EBAs and has wide powers under the AMCON Act. It is therefore incontrovertible that the fundamental principle underlying the establishment of AMCON is the exercise of its resolution mandate in relation to the requirement for efficiency in resolving the assets acquired with a view to achieving the most economic return. This philosophy is more underscored when one carefully studies the construct of Section 4(b) and 4(c) of the AMCON Act 2010. Specifically, AMCON is under an obligation to efficiently manage and dispose of acquired eligible bank assets (EBAs) and obtain the best achievable financial returns on acquired EBAs having regard *inter alia* to: “the need to protect or otherwise enhance the long term economic value of those assets”.

Whilst AMCON is imbued with the power to enter into a compromise with the aim of restructuring, Section 6(5) of the AMCON Act expressly precludes AMCON from entering into a compromise where such a compromise will result in a failure of AMCON to recover the price paid for the acquisition of the EBA. Worth noting is that such power can only be exercised by AMCON with the approval of the Minister of Finance acting on the recommendation of the CBN.

RECOMMENDATIONS

Grant that, the choice of an ‘optimal’ asset resolution method will continue to surface as a topic of considerable debate, it is suggested that the “best” approach would be to adopt a mix of resolution options and treat each case as it arises.

In the case of disposal of eligible bank assets or portfolios, AMCON should ensure compliance with AMCON Act to dispose in the market at the best achievable price. This adherence will protect the right of the obligor and can guarantee return to him of any amount in excess of the debt.

Proceedings initiated against the Obligor vice versa by AMCON should be fast tracked better with special fixtures and timelines for conclusion just like election matters. This will ensure timely conclusion of cases and faster implementation of the objects of AMCON.