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INTERROGATING THE LEGAL FRAMEWORK OF LOAN RECOVERY BY NIGERIAN BANKS: CHALLENGES AND SUGGESTED SOLUTIONS

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Abstract

The banking sector is notably significant for the promotion of the development of the economy of any nation including Nigeria. As one of the most crucial sectors of the economy, it determines the financial architecture of Nigeria. Though there are laws that regulates the lending, borrowing and recovery procedures of loans by Nigerian Banks, the difficulty of recovering loans and advances from borrowers has become one of the major challenges of the banking sectors that has plunged several banks in Nigeria to liquidation. Thus, this paper examined the legal framework of loan recovery by Nigerian banks and the challenges of enforcement. The paper adopted a qualitative methodology using a doctrinal method of legal research. The paper found that the current laws on loan recovery by Nigerian banks are fragmented but incapable of ensuring the safety of the banking sector as to guarantee the recovery loans. However, Nigerian banks suffer certain enforcement challenges in recovery of loans from borrowers. These challenges include but not limited to complex and ineffective legal framework, dishonest debtors' practices, and legal procedures amongst others. Thus, to address these challenges, the paper suggested reform of judicial processes for loan recovery, strengthening credit appraisal and due diligence, use of technology and artificial intelligence in loan management and recovery, promotion of alternative dispute resolution mechanism and strengthening institutional coordination. The paper concluded that Nigeria has laws regulating loan recovery by banks. However, recovery remains difficult due to the many challenges identified in this paper. The adequacy and implementation of the suggested recommendations in this paper would make the current laws adequate, potent, and effective for the recovery by Nigeria banks.

Keywords: ***Banking law; Loan Recovery; Bank Loans; Nigerian Banks; Credit Facility***

1.0. INTRODUCTION

One of the major sectors that occupies a key position in the determination of the financial architecture of Nigeria and promoting the development of the economy through credit allocation

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is the banking sector.[1] As a functional and efficient financial intermediary, the banking sector guarantee the increase of the volume of domestic savings thereby boosting the efficiency of monetary policy in the country by making sure that scarce financial resources are made available to the deserving section of the economy in the form of loans and advances.[2] Thus, when financial institutions such as banks ensure the access of individuals and businesses to this loans, it contributes largely to the growth and development of the economy.[3] This intermediation function is generally regarded as efficient once the banks are able to recover these credit facilities in the forms of loans and advances from their customers. Otherwise, any obstruction or impediment to the process of recovery would create a systemic financial crisis for the banks and the economy of the country.[4]

Over the decades, one of the major challenges facing the banking sector in Nigeria and which has become intractable is the recovery of loan from borrowers.[5] Existing studies have shown that the failure or inability of banks to recover loans and advances credited to their customers or creditors (individual or corporate) is one of the factors that gave rise to the liquidation of most banks in Nigeria.[6] There is no gainsaying that the prevalence of non-performing loans (NPLs) in the Nigerian banking system reflects a pervasive dysfunction in credit risk management and loan recovery mechanisms.[7] According to the Central Bank of Nigeria (CBN), the ratio of the Non-Performing Loans in Nigeria climax to 7%, which transcends the initial benchmark at 5%[8] which

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1 Osakpamwan Posper Efionayi, 'Effect of Financial Intermediation on Financial Sector Development in Nigeria' (2023) 3(1) *AFIT Journal of Marketing Research* 137

2 Venessa Tchamyou, 'Education, Lifelong Learning, Inequality and Financial Access: Evidence from African Countries' (2020) 15(1) *Contemporary Social Science* 7–25.

3 Marc Frattaroli and Christoph Herpfer (2023) 'Information Intermediaries: How Commercial Bankers Facilitate Strategic Alliances' (2023) 58(2) *Journal of Financial and Quantitative Analysis* 543–573. https://doi.org/10.1017/S0022109022000485

4 Edith Nkiruka Mazeli, Madubuike Kenneth, Damian Haruna Onehi, and Remigius Chinwoke Ejinkonye, 'Monetary Policy and Financial Intermediation in Nigeria: An Empirical Analysis' (2024) 10(7) *IIARD International Journal of Economics and Business Management* 198-209

5 Samuel Ngozichikanma Nwosu, Obasi Ama Ibiam, and Uduimoh Anthony Akwawa, 'Problem Loans and Working Out the Pinnacle of Bank Failures in Nigeria' (2024) 7(3) *British Journal of Management and Marketing Studies* 70-84

6 AA Owojori, IR Akintoye, and FA Adidu, 'The Challenge of Risk Management in Nigerian Banks in the Post Consolidation Era' (2021) 3(2) *Journal of Accounting and Taxation* 23-31.

7 Nwabuisi Anthony Okorie, Odume Magnus Sunday, and Mgbobi Cyriacus, 'Assessing the Effect of Non-Performing Loans on the Profitability of Listed Financial Firms' (2025) 8(4) *British International Journal of Applied Economics Finance and Accounting* 5-23.

8 Sami Tunji, 'Banks' Bad Loans Spike After CBN withdraws Forbearance' (Punch Newspaper, January 2, 2026). Available at https://punchng.com/banks-bad-loans-spike-after-cbn-withdraws-forbearance/ Accessed 24th May 2026; Ogaga Ariemu, 'Concerns as Nigerian Banks See Increase in Bad Loans After CBN Ends Forbearance' (DailyPost, 2nd January 2026). Available at https://dailypost.ng/2026/01/02/concerns-as-nigerian-banks-see-increase-in-bad-loans-after-cbn-ends-forbearance/. Accessed 24th May 2026

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underscores the severity of the loan recovery problem and the urgent need for robust legal frameworks to address it.

Loan recovery is regulated by several legislation in Nigeria.[9] These laws are in place as weapon in the hands of banks to use to recover loans from customers, implement agreements on credits, attach collateral, and even to seek appropriate remedies before a court of law as the circumstances may demand.

Regrettably, despite the existence of these legal framework, there has been an upsurge in the rate of NPL within the banking sector and recovery of these NPL has been faced with several obstacles. This is an indication that the practical application of these laws has been ineffective and inefficient.[10] Thus, the prevalence and increase of these problems (loan recovery) have generated concerns amongst major stakeholders in the financial sector such as scholars, financial regulators, legal practitioners, policy makers, etc concerning the current legal and institutional frameworks on loan recovery in Nigeria.

Against the above backdrop, this paper explores the legal framework of loan recovery in Nigeria in Nigeria, with specific focus on the enforcement challenges. It examines the effectiveness or otherwise of the current frameworks with the specific intention to appreciate the practical enforcement challenges aimed at finding strategic solutions.

2.0. CONCEPT OF BANKING AND CREDIT FACILITIES

Banking is highly pivotal to commerce, trade and business in any country.[11] It is very important for the distribution of money required for trade development, commerce, and industry.[12] Today, it is the banking sector is extremely vital to the success of businesses.[13] Banking is the life of a modern commerce because the banking system is highly instrumental to the growth and advancement of a country.[14]

Bank on the other hand means

> a financial institution which deals with deposits and advances and other related services. It receives money from those who want to save in the form of deposits and it lends money to those who need it. A bank is a financial institution and a financial intermediary that accepts deposits and channels those deposits into lending activities, either directly by loaning or indirectly through capital markets.[15]

9 For instance, Banks and Other Financial Institutions Act (BOFIA) 2020, the Asset Management Corporation of Nigeria (AMCON) Act 2010 (as amended in 2019), the Recovery of Public Property (Special Military Tribunals) Act, the Mortgage Institutions Act, the Companies and Allied Matters Act (CAMA) 2020, etc.

10 Dennis Odigie and Okpako Omudhowo, 'Law Enforcement Agents and Debt Recovery in Nigeria: Socio-Legal Considerations' (2025) 1 *Western Delta University Law Journal* 16-28

11 S Selvarani and S Sobitha (eds) *Banking Theory* (Cape Forum Of By and For You Publications, 2021) 1-151, 3

12 Ibid

13 Ibid

14 Ibid

15 Ibid

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The above definition suggests that the nature of banking operation involves the reception of deposits, authorization of withdrawal of money and lending of money. A bank could also be described to be "an institution, of great value in the commercial world, empowered to receive deposits of money, to make loans, and to issue its promissory notes, (designed to circulate as money, and commonly called "bank-notes" or "bank-bills,") or to perform any one or more of these functions".[16]

According to the Black's Law Dictionary, bank is defined as "a financial institution for the deposit, loan, exchange, or issue of money and for the transmission of funds."[17] The meaning of a bank was given judicial interpretation by the apex court in Nigeria in the decided case of *Federal Mortgage Bank of Nigeria vs. Nigeria Deposit Insurance Corporation*[18] to mean an organization or place that provides financial services. This definition offered by the Supreme Court of Nigeria remains extremely germane as the operative definition because the court is the final arbiter on any issue brought before a court of law.[19] While there appears to be no generally acceptable definition of what a bank is, both the Nigerian Constitution and Interpretation Act offer no assistance with clarity having failed to define the concept.[20] However, the interpretation section of the Bank and Other Financial Institution Act, particularly Section 131, defines a bank mean "a bank licensed under this Act".[21] This is a narrowed interpretation which connotes that any institution that receives deposits and grants loans but not licensed under BOFIA is not a bank. Section 131 proceeds further to define what constitutes a *"banking business"*. According to Section 131, *banking business* means

> the business of receiving deposits on current account, savings deposit account or other similar account; paying or collecting cheques drawn by or paid in by customers; provision of finance consultancy and advisory services relating to corporate and investment matters, making or managing investment on behalf of any person whether such businesses are conducted digitally, virtually, or electronically only or such other business as the governor of the Central Bank may by order published in the gazette designate as banking business[22]

The definition of a bank offered by Mathew summarises all the above definitions. According to Mathew, a bank is "an institution, whether public or private, that provides financial services and engages in other activities in compliance with section 61 of the

[16] https://thelawdictionary.org/bank/ Accessed 28th May 2026

[17] B.A. Garner, *Black's Law Dictionary* (9th ed.) (St. Paul, MN: West Publishing Co., 200)

[18] (1999) 2 NWLR (Pt. 59) 333 at 361. This definition has been adopted in subsequent decisions of the Supreme Court such as in Associated Discount House Ltd. Vs. Amalgamated Trustee Ltd. (2009) 26 NSCQR 1240 at 1244 ratio 1 and 10.

[19] Matthew Enya Nwocha, 'Banking Law and Economic Development in Nigeria: Contributions and Constraints of the Banks and Other Financial Institutions Act' (2017) 8 *Beijing Law Review* 451-464. https://www.scirp.org/pdf/BLR_2017121115140764.pdf Accessed 28th May 2026

[20] Ibid 453

[21] Banks and Other Financial Institutions Act, 2020

[22] Ibid

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Banks and Other Financial Institutions Act".[23] While these definitions are very apt in describing the nature of banking operation and what constitutes a bank, this study contributes to existing knowledge on the meaning of a bank by defining a bank as a licensed institution that offers financial services such as reception of deposits, withdrawal of funds, and offering of credit facilities to customers.

Credit facilities, on the other hand, are some kinds of loan made by a business to take out money within an extended period of time.[24] According to Hanan Ahmad Al-Qudah et all, a credit facility is loan that is taken by a business or corporate organisation in terms of completing their operations and satisfying customer needs.[25] The process is identified as a sort of umbrella loan in term of generator capital over an extended time period.[26] According to Usman and Yakub, bank credit facility is the amount of credit available to an enterprise or an individual from a banking institution in form of liquid cash or other facilities.[27] Farjana Salam et al considered that credit facilities and loans are one and the same. According to them, loan is an

> advance that is made in a lamp sum repayable either on fixed installment basis or in lump sum having no subsequent debit except by wa incidental charges, etc is called a loan. After creation of loan, there will be only repayment by borrower.[28]

Credit facilities create opportunity for financial inclusion in that it provides access of individuals and businesses to financial services, especially areas that usually lack access to such opportunity often due to location being rural.[29] Credit facilities are diverse financial tools that support economic activities, facilitate growth, and contribute to financial stability at both individual and business levels.[30] Understanding the types of credit facilities and their importance is essential for borrowers, financial institutions, and policymakers alike.[31]

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23 Matthew Enya Nwocha (n 20) 453

24 MF Haddad, FM Alshannag, B Eneizan, and MH Odeh, 'Impact of the Jordanian Commercial Banks on Financing Small and Medium Enterprises in Jordan' (2023) 9(3) *International journal of academic research in business and social sciences,* 16-26.

25 Hanan Ahmad Al-Qudah, Khawla Kasd Abdo, Laith Akram Al-Qudah, Omar Hani Abdrahem, and Mohammad Zakaria Ahmad, 'The Effect of Credit Facilities Granted by Commercial Banks on the Jordanian Economy' (2023) 24(4) *Academy of Accounting and Financial Studies Journal* 3

26 Ibid

27 Adam Shehu Usman, Musa Yakub and Muhammad Iliyas Abdulsalam, 'Analysis of the Impact of Credit Facilities on Performance of Small and Medium Scale Businesses in Tangaza Local Government' (2024) 4(3) *International Journal of Humanities Social Science and Management* 112

28 Farjana Salam, Fahima Salam, Ashutosh Roy, and MD Halimuzzaaman, 'Loans and Advances of Commercial Banks: A Case Study on Janata Bank Limited" (2013) 4(5) *International Journal of Research in Commerce and Management* 88

29 Sneh Ravesia, Muskan Tiwari, and Jignesh Vidani, 'A Study on Credit Facilities by Private Sector Banks in India' (2024) 6(1) *Journal of Advanced Research in Accounting and Finance Management* 1-11, 3.

30 Divya Aggrawal and A. Anand, 'Analyzing Customer Satisfaction Towards Personal Loans: Evidence from Banking Industry' (2024) 53(42) *Journal of Graphic Era University*,1-22. Available at https://doi.org/10.13052/jgeu0975-1416.12110 Accessed 31st May 2026

31 Ibid

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Thus, it is apt to conclude that credit facilities aid the advancement of economic development, especially in the rural communities or areas.[32]The Small and Medium-sized enterprises (SMEs) have been the most beneficiaries of credit facilities offered by banks and other financial institutions helping their development and growth within the society.[33] However, for efficiency, it is important that both the interest and loan terms be reasonable, fair, and non-excessive.[34]

3.0. CONCEPT OF LOAN RECOVERY

Loan recovery is very significant to all financial institutions and has become a concerning subject amongst financial institutions globally[35] and this is because loans are necessary for the determination of financial health of financial institutions. While loan recovery is a global challenge, the poor and developing countries suffer more from this challenge, especially commercial banks.[36] For instance, in India, there has been a significant upsurge in the debt problems within the banking sector such that the level of non-performing loans has increased to the level that has hurt the banking sector significantly.[37] In Tanzania, Rwanda, Ethiopia, and Kenya, there have been a high volume of defaulting loans by clients which have resulted into the low performance of the banking sectors, liquidity challenges, and staff turnover.[38] Interestingly, in Ethiopia, the NPLs are basically associated with major sectors of the economy such as communication, building and construction, and transport.[39]

Regrettably, these countries like other developing nations including Nigeria lack adequate loan recovery techniques. The recovery of loan remains highly vital to financial institutions such as bank.[40] Every financial institution including banks pay serious attention to loans through regularly monitoring because it enhances the reduction of their capital.[41] However, while monitoring of bank loans are very significant especially to small financial institutions, loan recovery though germane is not mandatory for big institutions because these loans have been secured with equivalent collateral or even collateral with much greater value.[42] Thus, repayment may not be imperative.[43]

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32 Motasem Mohammad Al Dabbas, 'The Role of the Banking Sector in Increasing Investment and Credit Facilities: The Case of Jordan' (2023) 20 *WSEAS Transactions on Business and Economics* 1207-1217, 1207.

33 Ibid.

34 Ibid.

35 VS Kaveri, 'Strategic Debt Restructuring and Loan Recovery' (2024) 7(2) Journal of Commerce and Management Thought, 16-27; R Sah, 'Loan Recovery Monitoring Mechanism' (2015) 6(1*) International Journal of Trade, Economics and Finance*, 31.

36 X Chen, G Wang, and X Zhang, 'Modeling Recovery Rate for Leveraged Loans' (2019) Economic Modelling, 81

37 Kamanda Cynicah Nyaboke, Ondabu Ibrahim Tirimba, Teimet Paul, and Matanda Joshua, 'Debt Recovery Practices and Loan Performance of Deposit-Taking Microfinance Banks in Kenya' (2024) 8(4) 1153-1168

38 Cosmus Katana, Rashid Fwamba, and Humphrey Kidiga, 'The Effect of Debt Recovery Techniques on Financial Efficacy of Commercial Banks in Nairobi County, Kenya' (2026) 10(14) *International Journal of Research and Innovation in Social Science* 712-713

39 Ibid

40 GG Pennacchi, 'Loan Sales and the Cost of Bank Capital,' (1988) 10 (2) *Journal of Finance*, 375-396.

41 Ibid

42 K Lee and IG Sharpe, 'Does a Bank's Loan Screening and Monitoring Matter?' (2025) 35(1) *Journal of Financial Services Research*, 33-52.

43 Ibid.

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Buttressing this stance, regarding Microfinance Banks, loan recovery often rest on the survival of the financial institution.[44] Since it is often funded by private individuals, it means it would most often operate with much limited resources unlike commercial banks.[45] Therefore, it becomes expedient for microfinance banks to monitor its loans and design the appropriate method for recovery in order to guarantee its continuous existence.[46]

According to Kaveri[47] and Sah, "loan recovery refers to the totality of efforts initiated by the lender to ensure the borrower repays the borrowed money as per agreed terms and conditions". Loan recovery also often referred to as debt recovery is the process of collecting money owed by individuals or corporations.[48] In another breathe, loan recovery connotes the procedure adopted by banks or financial institutions to collect the total amount of money owed on default loans.[49] This approach is usually taken by the bank when the borrower (individual or corporation) fails to honour terms of the loan contract on scheduled payment.[50] According to Ozili, "debt recovery is the process of pursuing loans which have not been repaid and managing to recover them by convincing the loanees to make attempts to repay their outstanding loans."[51]

Loan recovery is activated once the borrower defaults on the repayment of their loan contrary to the loan agreement. Thus, in order to ensure the maintenance of the financial health of the bank and the stability of the broader financial system the loan recovery mechanisms must be efficient.[52] Similarly, Esezobor states that "debt recovery is an essential aspect of business operations that ensures the stability of financial transactions and maintains the integrity of commercial relationships."[53] According to him, with the dynamism and upsurge evolution of the current Nigerian economy, it is imperative that banks adopts effective debt recovery strategies in order to reduce business risks.[54]

The process of recovering loans is procedurally challenging in that often times, when the banks go out in pursuit of customers who have defaulted and failed to fulfil their obligations under the loan

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44 Rakesh Sah, 'Loan Recovery Monitoring Mechanism' (2015) 6(1) *International Journal of Trade, Economics and Finance,* 62

45 Ibid.

46 Ibid.

47 Vs Kaveri (n 36) 18; R Sah (2015) 31.

48 'Debt Recovery in Nigeria: The Effective Strategies and Stages'. Available at https://www.legal500.com/developments/thought-leadership/debt-recovery-in-nigeria-the-effective-strategies-and-stages/ Accessed 9th June 2026; Isidore Godwin Usendok, Isidore Godwin Usendok, Felicia Olufunmilayo Ajibade, and Nsikan Michael Nkutt, 'Effect of Credit Management Systems on Loan Recovery Efforts of Microfinance Banks in Akwa Ibom State' (2023) 11(9) *International Journal of Business and Management Review* 35-48.

49 'What is Loan Recovery?'. Available at https://www.airtel.in/blog/personal-loan/what-is-loan-recovery/ Accessed 9th June 2026.

50 Ibid

51 PK Ozili, "Non-Performing Loans and Financial Development: New Evidence' (2019) 20(1) *Journal of Risk Finance*, 20(1) 59-81

52 Ibid

53 Ehizogie Esezobor, 'Navigating Debt Recovery in Nigeria: Strategies and Challenges'. Available at https://lic-international.com/wp-content/uploads/2023/09/Navigating-Debt-Recovery-in-Nigeria-Strategies-and-Challenges-2-1.pdf. Accessed 9th June 2026.

54 Ibid

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agreement, these customers/borrowers make themselves in accessible to the bank thereby making it difficult for the banks ensure the repayment of the loans.[55] According to Amoah and Boakye, the recovery process is described as "a collection of appropriate, well-coordinated, and timely activities focused on entire loan recovery from customers in an aim to transform the receivables of a bank into liquidity as efficiently and fast as possible while satisfying generosity of consumers to upcoming transactions"[56]

Most of the times, the banking industry has a unit that is saddled with the responsibility of following up customers who are indebted to the banks to ensure the repayment of the loan before these customers become delinquent.[57] Thus, loan recovery mounts pressure on borrowers to pay up their loan otherwise there would be persistent and relentless phone calls from the bank loan recovery unit to the borrowers for repayment.[58] Therefore, the sole responsibility of the loan recovery unit of the bank remains to ensure that borrowers pay up their loans within the framework of the loan contract with the bank.[59] To achieve this, the recovery unit must compile the list of all loans that are due for repayment and begin to extend invitations to such borrowers for payment of the overdue loan. To further achieve, in the case of stubborn borrowers, they unit may liaise with their lawyer to initiate a letter of demand to such borrowers who are defaulting and have failed to yield the call for repayment.

The techniques adopted by commercial banks and financial institutions to recover loans is significant to how the performances of the banks are rated and it ensures that their primary goal of granting loans to borrowers results into their preferred profit margin more than the loan given.[60] Loan recovery is a sacrosanct aspect of banking in that it responsible for guaranteeing that major goal of the bank (to issue loans) results into the expected outcome which is reasling profit from the loans given out.[61] The implementation of loan recovery requires the need for availability of grounded polices that gives birth to workable procedural guidelines because the success or failure of loan recovery is dependent on this approach.[62] Several banks in Nigeria has suffered terrible financial loss and distress because of the inappropriate use of loan recovery mechanisms and NPL.[63] While several of these banks have been faced out by the regulatory agencies, others have undergone restructuring and merger.[64]

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55 Charles Joseph Odumusor, Ekpenyong Nsa Ekeng, Asuquo Edet Effiong, Paul Boniface Otiala, and Emmanuel Abiji Abiji, 'Effect of Debt Recovery Techniques on the Performance of the Banking Sector (A Study of Selected Deposit Money Banks in Ogoja, Cross River State, Nigeria) (2023) 2(2) *Journal of Contemporary Research* 145.

56 D Amoah and D Boakye, 'Empirical Analysis of Debt Recovery Strategy Effectiveness and Non-Performing Loan Mitigation in Ghanaian Microfinance Institutions: Evidence from the Ashanti Region' (2025) 3(4) *International Journal of Accounting, Management, Economics and Social Sciences* 1105-1115.

57 Charles Joseph Odumusor, Ekpenyong Nsa Ekeng, Asuquo Edet Effiong, Paul Boniface Otiala, and Emmanuel Abiji Abiji (n 53) 145

58 Ibid

59 Emanuele Bajo, Massimiliano Barbi, and Marco Bigelli, 'Back from the Brink: State-Guaranteed Loans and Financial Recovery' (2025) 32(1) *European Financial Management* 140-155

60 Ibid 144.

61 Ibid 145

62 Ibid 142

63 Ibid.

64 Ibid

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3.1. Non-Performing Loans and Bad Debts

Non-Performing Loans (NPL) and bad debts are major challenges to several banks and financial institutions. Several banks have liquidated on account of failure of customers to repay their loans. For context, any loan which the borrower has failed or defaulted in paying back both the principal and interest within the time scheduled which is mostly between 90 or 180 days is called Non-Performing Loan.[65] To define the concept more explicitly, NPL, otherwise called bad debts

> Is a condition in which the debtor is unable or unwilling to fulfill his obligation to pay installments according to the agreement.[66] This situation arises when debtors experience financial difficulties or choose not to pay debts, so that installment payments are more than 90days overdue according to the rules.[67]

Usually, not all banks are concerned with NPL. Only banks that take deposit and lend funds are mostly affected by NPLs.[68] A lending bank would normally grant loans or credit facilities to borrowers that are considered deserving after all necessary background checks have been conducted on the customers to guarantee their loan worthiness with the expectation that the borrower would make refund of both the principal sum and the accrued interest.[69] Sometimes borrowers default in the repayment of this loan and when they do, such loan is generally referred to as NPL.[70] Today, the issue of NPL in the banking sector remains highly discussed and debated amongst bankers, bank managers, economists, financial regulators etc because the increased level of NPL often affect the contribution of banks to economic growth and development due to the reduction in the capacity of banks to release credit facilities to the real economy to promote growth and development.[71]

It is trite that the bank regulators regulate the threshold of the NPL of banks in order to ensure financial stability.[72] In Nigeria, the Central Bank of Nigeria (CBN) by virtue of the power conferred on it under the Act[73] via its Prudential Guidelines for Deposit Money Banks sets the threshold of NPL to not exceed 5%.[74] Despite this threshold, NPLs has posed serious challenge to

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65 Mattero Ferne and Angelos Vouldis, 'Do retail-oriented banks have less non-performing loans?' (2024) 29 *The Journal of Economics Asymmetries* 256. Available at https://doi.org/10.1016/j.jeca.2024.e00358 Accessed 30th May 2026

66 Hety Devita, Irsyad Kamal, Lukman Hakim, 'Bad Debts in Banking: Management and Prevention Strategies' (2025) 3(4) *International Journal of Economic Literature* 21-32

67 Ibid

68 Peterson K. Ozili, 'Bank Non-Performing Loans Research Around the World' (2025) 9(3) *Asian Journal of Economics and Banking* 437

69 E. Tole and and M. Viren, 'How Much Do Non-Performing Loans Hinder Loan Growth in Europe?' (2021) 136 *European Economic Review*, 131.

70 Peterson K. Ozili (n 37) 437

71 Ibid

72 J Kanoujiya, VM Bhimavarapu, and S Rastogi, 'Banks in India: A Balancing Act Between Profitability, Regulation and NPA" (2023) 27(5) *Vision* 650-660.

73 Central Bank of Nigeria (Establishment) Act, 2007 (Act No. 7) Cap A66, LFN 2007.

74 Nike Popoola, 'CBN Sets Limits for Banks on Non-Performing Loans' (Punch Newspaper, 26th August, 2019). Available at https://punchng.com/cbn-sets-limits-for-banks-on-non-performing-loans/ Accessed 30th May 2026

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the banking sector, hovering around 5% to 10% in recent years thereby becoming a significant threat to financial stability having surpassed the global average.[75]

Scholars have argued the relationship between NPLs and economic downturns. According to Osondu-Ekekwe, Musa, and Alao, the lack of capacity or the deliberate refusal of the borrowers to service the debts coupled with the increased economic downturns alongside weakness in credit evaluation and monitoring are the factors that birth Non-Performing Loans.[76] Thus, the increased rate of NPLs affects the ability of the bank to make profit because the bank's capital is held down, reduce lending capacity, and amplify systemic risk through potential bank runs or bailouts.[77] Furthermore, apart from the disruption of the financial performance of the bank, bad debts impact negatively on the liquidity of the bank and exacerbate the cost of loan collection or restructuring which overall lead to the lack of confidence of investors and customers on the soundness of the bank.[78]

It is imperative to mention that the Covid-19 pandemic was highly instrumental to the upsurge in the rate of NPL leading to loan moratorium and forbearance measures thereby affecting the banking sector significantly.[79] According to scholars, this experience demonstrate a higher concern that includes inadequate risk management practices, legal hurdles in loan recovery and overreliance on collateral-based lending in a volatile economy.[80] However, the upsurge of NPLs in Nigeria has been credited to several factors including but not limited to inadequate credit risk management, inefficient regulatory oversight, and weak macroeconomic conditions.

4.0. LEGAL FRAMEWORK GOVERNING LOAN RECOVERY IN NIGERIA

As examined earlier, under the Nigerian jurisprudence, there have been various legislation to guard the securement of loan activities, from the procurement to the recovery. Loan transaction is sacrosanct in any country's financial system, playing a vital role in facilitating business expansion, infrastructure development, and personal finance. In Nigeria, these transactions are regulated by a series of legal and regulatory framework designed to promote fairness, transparency, and

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75 S. Magaji, I. Musa, and S.S. Dogo, 'Analysis of the Impact of Banking Sector Credits on the Real Sector in Nigeria' (2023) 2(1) *International Journal of Management and Business Applied* 12-20.

76 Miriam Osondu-Ekekwe, Ibrahim Musa, and Rasheed Alao, 'Regulatory Reforms, Non-Performing Loans, and Financial Stability in Nigeria' (2026) 3(2) *MSI Journal of Multidisciplinary Research* 3

77 AI Abdullahi, S Magaji, and I Musa, 'Navigating Technological Shifts: The Role of Digital Strategies in Modern Banking' (2024) 11(2) *International Journal of Novel Research in Marketing Management and Economics*, 13-28.

78 S Naupada and RK Sahu, 'Bad Loans: A Hypothetical Examination of Govt Owned Banks in India' (2023)10(3) *Splint International Journal Of Professionals*, 268-274. Available at https://doi.org/10.5958/2583-3561.2023.00026.7 Accessed 31st May 2026

79 S Magaji, I Musa, and AT Yusuf, 'Impact of Covid-19 Lockdown on Savings Mobilisations in Nigeria' (2022) 10(2) *Abuja Journal of Economics and Allied Fields*, 17-25.

80 Y Ismail, I Musa, and S Magaji, 'Analysis of the Impact of Financial Inclusion on Small and Medium Enterprises (SMEs) in Nigeria' (2025) 2(2) *MSI Journal of Economics and Business Management* 10-20; Mercy Torres, Janice Cucio, Vivien Amor Viloria, and Noel Agustin, 'Risk Management Practices of Lending Institutions: Basis for Enhancement of Risk Management Plan' (2025) 10(7) *International Journal of Research and Innovation in Applied Science* 1221-1234; C Oko-Odion and O Angela, 'Risk management Frameworks for Financial Institutions in a Rapidly Changing Economic Landscape' (2025) 14(1) *International Journal of Science Research Archive*, 14(1), 1182–1204.

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enforceability. This chapter will examine the core regulatory and legal framework that regulate the procedures of loan recovery in Nigeria.[81]

4.1. Central Bank of Nigeria Act

The Central Bank of Nigeria is the apex bank of the country, regulating all the financial transaction, providing regulatory threshold, and enacting policies in advancement of the country's monetary goal. The Central Bank of Nigeria was originally established as the apex monetary authority of Nigeria established by the CBN Ordinance of 1958 and commenced operations on 1 July 1959. The major regulatory objectives of the bank as stated in the CBN Act which is to "maintain the external reserves of the country; promote monetary stability and a sound financial environment, and act as a banker of last resort and financial adviser to the federal government".[82] While the historical mandate of the Central Bank of Nigeria originally originated from the Central Bank of Nigeria Ordinance of 1958, its current statutory powers are governed by the Central Bank of Nigeria Act 2007, which underwent series of legislative turnovers, amendment, repeal and re-enactment, notably in 1991, 1993, 1997, 1998, and 1999, before culminating in the total repeal and re-enactment of the current 2007 Act.[83]

The Central Bank Act establishes the Central Bank as the banker's bank, and clothes the CBN with authority to regulate financial transaction including loan recovery. More noticeably, Section 2(d) provides that one of the principal objectives of the Bank shall be to ensure a financial system that is sound in the country and this include the regulation of loan transaction in the country.[84] By virtue of this provision, and in pursuance of regulating and promoting a purposeful financial economy the 2020 Operational Guidelines on Global Standing Instruction (GSI) was established, which let a creditor bank set off a defaulting borrower's accounts across the entire banking system.[85] Furthermore, the Act allows the bank to also operate business as a bank.[86]

This incidental clause, as it is so called, grants the Bank the power to do all such things as are incidental to or consequential upon the exercise of its power or the discharge of its duties under this Act. This provision is instrumental in establishing the Central Bank as an institutional mechanism capable of advancing its policies through machineries necessary. Consequently, Section 33(1)(b) empowers the Central Bank the power to issue guidelines to any person and any institution under its supervision, with Section 33(5) attaching real punitive figures with fines up to ₦10,000,000 for institutions charged for non-compliance. This is legal backing turns the policy

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81 Aluko & Oyebode, 'Legal and Regulatory Considerations in Loan Transactions and Debt Recovery in Nigeria' https://abe-lp.com/legal-and-regulatory-considerations-in-loan-transactions-and-debt-recovery-in-nigeria/ accessed 23 June 2026.

82 Central Bank of Nigeria Act 2007, S. 2; Central Bank of Nigeria, 'History of CBN' https://www.cbn.gov.ng/AboutCBN/History.html accessed 23 June 2026

83 Central Bank of Nigeria, 'About CBN' https://www.cbn.gov.ng/AboutCBN/ accessed 23 June 2026.

84 Central Bank of Nigeria Act 2007, S. 2(d),

85 Central Bank of Nigeria, 'Operational Guidelines on Global Standing Instruction (GSI) - Individuals' (2020) https://www.cbn.gov.ng/Out/2020/CCD/CBN%20-%20Operational%20Guidelines%20on%20Global%20Standing%20Instructions%20GSI%20-%20Individuals.pdf accessed 24 June 2026.

86 Central Bank of Nigeria Act, S.32(1)

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preference into a policy backed by the force of law. [87] Furthermore, Section 42 provides that the Bank shall cooperate with banks to ensure high standards of conduct and management throughout the banking system, which is the hook for regulating how recovery is conducted, not just whether it happens. [88]

However, they have multiple questions raised to questioned whether guideline-making power under Section 33(1)(b) can stretch far enough to reshape what is fundamentally a private contractual relationship between a bank and a customer, and whether the CBN's reliance on a generously read Section 2(d) risks being challenged as ultra vires. [89] In essence, the principal financial act of the banking sector remains the Central Bank Act 2007, as it establishes the CBN as the apex monetary institution, the Act also similarly establishes the CBN as an institutional mechanism for carrying out its monetary policies. Although, the CBN Act rarely acts in isolation as the legal background on loan transactions in Nigeria, it works in collaboration with other legal and institutional structure which would be examined below.

4.2. Banks and Other Financial Institutions Act (BOFIA)

As earlier aforementioned, that the Central Bank of Nigeria Act 2007 does not operate as a sole instrument of financial regulation, and this proposition finds its most validation in the existence of the Banks and Other Financial Institutions Act 2020. The CBN Act establishes the Central Bank as an entity and arms it with monetary policy and supervisory competences, while BOFIA 2020 governs the operational conduct of individual banks and financial institutions, including the specific conditions under which they may originate, manage, operate and recover credit from customers. The Act is responsible for issuing license, regulate, and supervise all commercial banks and financial operators in the country, it is the operational financial legislation of the country. [90]

The Act was signed into law by late President Muhammadu Buhari on 13 November 2020 and repeals the extant BOFIA 1991 (as-amended in 1997,1998, 1999 and 2002). The BOFIA 2020 introduces and amends major provisions that govern the activities of banks, specialized banks and other financial institutions, reflecting the evolution of the Nigerian financial sector over the last three decades. It is pertinent to note at this juncture that the Act, similar to CBN Act, empowers the CBN to carry out these financial regulations exclusively. [91] In *NDIC v. Okem Enterprises Ltd.*,[92] the Supreme Court underscored the critical role of banking regulators in safeguarding the financial system and recognized the necessity of robust statutory frameworks designed to preserve

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87 Ibid S. 33(1)(b) and S. 33(5)

88 Ibid S. 42

89 Kemi Pinheiro, 'GSI Directives: Did the CBN Get it Right?' (Pinheiro LP, 2020) https://www.pinheirolp.com/news-detail.php?read=75e66e92eefed00db2ccbe9db88c1776_df05138753854e22d5b2bd146514a513 accessed 24 June 2026.

90 Central Bank of Nigeria, 'About CBN' https://www.cbn.gov.ng/AboutCBN/ accessed 24 June 2026; Olisa Agbakoba Legal, 'Constitutionality of the BOFIA Act and CBN Recapitalization Policy: Legal and Practical Implications for Financial Institutions and the Banking Sector' (OAL, 2024) https://oal.law/constitutionality-of-the-bofia-act-and-cbn-recapitalization-policy-legal-and-practical-implications-for-financial-institutions-and-the-banking-sector/ accessed 24 June 2026.

91 Agusto & Co., 'The Review of the BOFIA 2020' (2020) https://www.agusto.com/publications/the-review-of-the-bofia-2020/ accessed 24 June 2026.

92 (2004) 10 NWLR (Pt. 880) 107

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public confidence and systemic stability. The decision reflects judicial acknowledgment that banking regulation occupies a unique position in public law because of its direct impact on the economy.[93]

Notable amongst these provisions in loan recovery is Section 130 which defines "banking business" as:

> the business of receiving deposits on current account, savings deposit account or other similar account, paying or collecting cheques, drawn by or paid in by customers; provision of finance consultancy and advisory services relating to corporate and investment matters, making or managing investments on behalf of any person whether such businesses are conducted digitally, virtually or electronically only or such other business as the Governor may, by order published in the Gazette, designate as banking business.

The core provision concerning loan recovery in this act is contained in Chapter E of the Act, which contains Sections 102 to 112 and establishes the Special Tribunal for the Enforcement and Recovery of Eligible Loans, which is popularly referred to as the Credit Tribunal, this is a special tribunal for the enforcement and recovery of eligible loans. [94] The definition of eligible loans in this provision is enshrined in Section 131 of the Act to mean

> any credit facility, overdraft, loan, risk asset to the tune of at least N25,000,000.00 (Twenty-Five Million Naira) or such other amount as may be prescribed by the Bank which repayment obligations have become due for not less than 90 days and has been designated by an instrument under the hand of the Governor as being eligible for enforcement and recovery before the Tribunal[95]

Pursuant to the establishment in Section 102, Section 115 dictates the exclusive jurisdiction of the Tribunal to include any matter that relates to the implementation or recovery of loans by banks and other financial institutions amongst others.[96]

This provision explicitly clothes the Tribunal with the power to hear and determine all civil actions relating to the recovery and enforcement of eligible loans, including the enforcement of securities, guarantees, or the attachment of assets mortgaged to banks and other financial institutions. Section 116 restricts regular courts from granting orders that frustrate the recovery process. It limits the

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93 Olisa Agbakoba Legal, 'Constitutionality of the BOFIA Act and CBN Recapitalization Policy: Legal and Practical Implications for Financial Institutions and the Banking Sector' (OAL Publications, 15 June 2026) https://oal.law/constitutionality-of-the-bofia-act-and-cbn-recapitalization-policy-legal-and-practical-implications-for-financial-institutions-and-the-banking-sector/ accessed 24 June 2026.

94 Agusto & Co., 'The Review of the BOFIA 2020' (2020) https://www.agusto.com/publications/the-review-of-the-bofia-2020/ accessed 24 June 2026.

95 Banks and Other Financial Institutions Act 2020, SS 102 – 112 & 131

96 Ibid S. 115(1)

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power of regular courts to stay proceedings or grant interlocutory injunctions against matters pending before or decided by the Special Tribunal, minimizing the usual procedural delay tactics employed by defaulting debtors. Consequently, Section 127 outlines the appellate procedure, establishing that any party aggrieved by a final decision of the Tribunal has the right to appeal directly to the Court of Appeal. [97]

In essence, the establishment of the Special Tribunal remains the most consequential statutory mechanism introduced by the Act for fast-tracking debt enforcement. Although BOFIA 2020 does not contain specific operational instructions for daily loan transactions and routine recovery, it functions as the primary regulatory framework anchoring specialized financial debt recovery and judicial enforcement in Nigeria.[98]

4.3. Companies and Allied Matters Act

The Companies and Allied Matters Act (CAMA) 2020, is a landmark piece of legislation instrumental to Nigeria's business and company landscape, it repealed and replaced the extant 1990 legislation, with so many agitations that the latter hindered and hampered the growth of the economy by impeding foreign investment and business development. With the Buhari's administration committed to "Ease-of-Doing-Business" mantra, the CAMA 2020 seeks to promote reforms of the legal and regulatory framework as well as eliminating administrative bottlenecks which have made doing business a tedious activity in Nigeria, and the economy less attractive to foreign portfolio and direct investments. [99]

Notable amongst the provisions of CAMA on loan transaction and recovery is Section 203 and Section 204, which define the fixed and floating charge a company creates over its assets to secure borrowing, and settle the priority between the two where both exist over the same property, since it is this charge that gives a lending bank any real claim on the company's assets once the facility turns delinquent. Where the company defaults, Section 232 specifies the events upon which a debenture holder becomes entitled to realize the security, and Section 233 sets out what the debenture holder may then do which include appointing a receiver, suing the company in a representative capacity for the debt, commence a foreclosure action, or petition for the winding up of the company. [100]

Chapter 19 provides receivership of the Act, spanning from Section 550 to Section 563, it remains the recovery tool of choice for secured lending in Nigeria, since it requires no prior court action once the loan instrument confers the power to appoint. Section 553 deems a receiver appointed out

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97 Ibid Ss 116 and 127

98 AOM Murtadha 'An assessment of constitutionality of the establishment and jurisdictional competence of Special Tribunal established under BOFIA, 2020' (2024) 2(1) *Fountain University Law Journal*, *2*(1).

99 Ngozi Chisom Uzoka, 'An Overview of the Companies and Allied Matters Act 2020: Prospects and Challenges' (2020) 7(2) *Nnamdi Azikiwe University Journal of Commercial and Property Law* 72-81; Connected Development, 'CODE's Position: Nigeria's 2020 Companies and Allied Matters Act (CAMA)' (CODE Policy Publications, 4 October 2020) https://www.connecteddevelopment.org/codes-position-nigerias-2020-companies-and-allied-matters-act-cama/ both accessed 25 June 2026.

100 Companies and Allied Matters Act 2020, Ss. 203 and 204. Companies and Allied Matters Act 2020, Ss. 232 and 233. See LawGlobalHub, 'Section 233 Companies and Allied Matters Act (CAMA) 2020' (LawGlobalHub) https://www.lawglobalhub.com/section-233-companies-and-allied-matters-act-cama-2020/ accessed 25 June 2026.

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of court to be the agent of the appointing bank rather than of the company, and Section 556 provides that his core duty shall be taking possession of the charged property and realizing it for the benefit of the bank on whose behalf he was appointed. This is how debt is recovered in Nigeria under company law, and it does not require a full-blown trial. [101]

Furthermore, Section 572 lays down the statutory test for when a company is deemed unable to pay its debts namely where it is indebted in a sum exceeding two hundred thousand naira, and has been served a demand notice in respect of that sum, and also fails within three weeks to pay, secure, or compound the debt to the creditor's reasonable satisfaction, or where execution issued on a judgment in the creditor's favor returns wholly or partly unsatisfied. [102] CAMA 2020 also introduced Company Voluntary Arrangement and Administration as business rescue alternatives to outright receivership or liquidation, both of which allow a distressed company to negotiate a compromise with its creditors or to operate under a court appointed administrator, with Administration in particular imposing a moratorium that suspends a bank's enforcement action for its duration. [103]

In essence, while banks retain potent recovery instruments through Receivership and Winding-Up under CAMA, their enforcement capabilities are not absolute. Lenders must now formulate recovery strategies that account for statutory rescue mechanisms like Administration Moratoriums. Consequently, successful debt recovery in Nigeria requires banks to rely less on instant foreclosure and more on active participation in corporate restructurings and specialized judicial settlements.

4.4. Asset Management Corporation of Nigeria Act

The Asset Management Corporation of Nigeria Act (AMCON) was signed into law on the 19th of July, 2010 as an Act to establish the Asset Management Corporation of Nigeria for the purpose of efficiently resolving the non-performing loan assets of Banks in Nigeria and for related matters. Following the 2008 to 2009 banking crisis, when the Central Bank Governor in person of, Governor Sanusi Lamido Sanusi, who sacked the management of eight distressed banks carrying an aggregate toxic asset portfolio in excess of two trillion naira.[104] Its objective as stated in S.4 of the Act which involves "*to assist eligible financial institutions dispose of eligible bank assets, manage and dispose of the assets it acquires, and obtain the best achievable financial return on them*". [105]

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[101] Companies and Allied Matters Act 2020, Ss. 553 and 556. See Moroom Africa Legal Consults, 'The Concept of Receivership Under the Companies and Allied Matters Act 2020' (Mondaq, 12 August 2022) https://www.mondaq.com/nigeria/contracts-and-commercial-law/1220774/the-concept-of-receivership-under-the-companies-and-allied-matters-act-2020 accessed 25 June 2026.

[102] Companies and Allied Matters Act 2020, S. 572. See Lexology, 'In Brief, Liquidation and Reorganisation Processes in Nigeria' (Lexology, 10 November 2020) https://www.lexology.com/library/detail.aspx?g=e1435d3d-12da-4bbd-b1e8-11f69eabdfc3 accessed 25 June 2026.

[103] Omaplex Law Firm, 'Modes of Winding Up a Company in Nigeria' (Omaplex Law Firm, 9 July 2024) https://omaplex.com.ng/modes-of-winding-up-a-company-in-nigeria/ accessed 25 June 2026.

[104] Tope Adebayo LP, 'An Appraisal of the Asset Management Corporation of Nigeria (AMCON) Act, 2010' (Tope Adebayo LP) accessed 26 June 2026.

[105] Asset Management Corporation of Nigeria Act 2010, Section 4.

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Section 1(1) establishes the Corporation as a body corporate with a valid legal entity in subsection 2, Section 2(1) fixes its authorized share capital at ten billion naira held in equal proportion by the Federal Ministry of Finance and the Central Bank, and Section 5 sets out its functions which includes the acquisition of assets of eligible bank assets, management, disposal of eligible bank assets, etc. [106] The recovery mechanism as enshrined in Section 24 clothes the CBN Governor with the power to designate a non-performing credit facility as an eligible bank asset making the Corporation able to acquire it from the selling bank. [107] Section 36 is the operative provision for recovery purposes.

Furthermore, Section 36 vests the acquired asset, and every right and power the selling bank held over the debtor, any guarantor, surety, receiver or liquidator in the Corporation, while the bank simultaneously ceases to hold those rights. [108] Accordingly, Section 37 provides that where an asset is classified as tainted, no forbearance, waiver or debt forgiveness shall be granted to the debtor, and the Corporation is required to pursue all available civil and criminal remedies to the fullest extent. [109] Section 45 dispenses with the requirement that the Corporation register itself as owner of the underlying security, deeming it to hold the rights of a registered owner notwithstanding.[110] Interestingly, Section 49 empowers the court to grant an interim order for possession of the debtor's property while Section 50 empowers the court to grant an order freezing funds in any account linked to the debtor, both administered by Federal High Court judges assigned to AMCON matters under the rules made for that purpose. [111]

The Federal High Court, the Court of Appeal, and the Supreme Court have each issued dedicated Practice Directions to fast-track AMCON appeals and trials. At the trial level, the Federal High Court has formally constituted a specialized Insolvency Unit to expedite debt recovery and corporate liquidation proceedings. Complementing these judicial frameworks, the House of Representatives Committee on Banking and Other Ancillary Institutions has proposed a Special Judicial Taskforce aimed at the elite class of obligors holding the bulk of the unrecovered debt. To counter cross-border asset flight, the Corporation has engaged foreign asset tracers to locate and attach hidden properties moved outside the jurisdiction. [112]

4.5. Secured Transactions in Movable Assets Act

The Secured Transactions in Movable Assets Act 2017, also known as the Collateral Registry Act, came into force on 30 May 2017 and was enacted to provide a legal framework for secured transactions and for the registration and regulation of security interests in movable assets. As provided by Part I of the Act, the objective of the Act involves thus the enhancement of financial inclusion in Nigeria, stimulation of responsible lending to small, medium, and micro enterprises and the facilitation of access to credit secured with movable assets amongst others.

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[106] Ibid Ss. 1(1), 2(1) and 5.
[107] Ibid S. 24.
[108] Ibid S. 36.
[109] Ibid 37.
[110] Ibid S. 45.
[111] Ibid Ss. 49, 50.
[112] Economic Confidential, 'AMCON Clears N3.6trn Debt to CBN, Targets N215bn Recovery for 2025' (Economi Confidential, 5 December 2025) accessed 26 June 2026.

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The Act was created as a Nigerian law designed to boost access to credit for Micro, Small, and Medium Enterprises (MSMEs). It allows borrowers to use movable properties (such as inventory, equipment, accounts receivable, and vehicles) as collateral for loans without needing to surrender physical possessions.[113] A security interest is created by a security agreement between a grantor and creditor under Section 3, and such interest is perfected by virtue of Section 8(1). [114]

However, on the loan recovery mechanism, while Section 39(1) provides that on default, the creditor may exercise its rights under the Act and the security agreement without going to court, or may instead pursue a judicial remedy, the choice being the creditor's, Section 39(5) gives the Act a broader force, as it states that the remedies under this Part are additional to those available under the Companies and Allied Matters Act, including the right to appoint a receiver. [115] Once Section 39 is triggered, Section 40 supplies the actual mechanics of taking the collateral. Section 40(1) requires the creditor to give the borrower and the grantor notice of the default and of the creditor's intention to repossess, and Section 40(3) permits the creditor ten days after that notice to take possession of the collateral, or without taking possession, to render it inoperative where the asset is unsuitable for removal.

Furthermore, Section 40(4) allows repossession to proceed either pursuant to judicial process, or, without judicial process, where the grantor had consented in the security agreement to relinquish possession without a court order. Where the grantor gave that prior consent, Sections 40(5) and (6) entitle the creditor to the assistance of the Nigeria Police for the peaceable repossession of the collateral, and the Police are obliged to provide that assistance once the creditor produces the security agreement and a duly certified confirmation statement. [116]

Furthermore, Section 44 provides the transition of the seized asset into liquid money. Section 44(1) permits the creditor to dispose of the collateral by sale, lease, licence or other form of disposal, in its present condition or following commercially reasonable preparation, and Section 44(2) allows this to be done by auction, public tender, private sale, or any other method the security agreement provides for. Section 44(3) imposes the only real constraint on this power, the creditor must obtain a reasonable price available at the time of sale, which is the safeguard against a creditor dumping the asset at an undervalue to manufacture an artificial shortfall.

The law also takes the perspective of the debtor against his/her dumped arbitrarily, therefore, Section 48(1) requires the creditor to apply the proceeds first to the reasonable costs and expenses of the sale, before applying the balance to the secured debt. Section 48(2) directs payment of any surplus, in order, to creditors holding a subordinate perfected security interest, and thereafter to the grantor, while Section 48(3) allows the creditor to pay a disputed surplus into court rather than resolve competing claims itself. [117]

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[113] Olaniwun Ajayi LP, 'Understanding the Secured Transactions in Movable Assets Act 2017' (Olaniwun Ajayi Insights, November 2017) https://www.olaniwunajayi.net/wp-content/uploads/2017/11/Understanding-the-Secured-Transactions-in-Movable-Assets-Act-6.pdf accessed 27 June 2026.

[114] Secured Transactions in Movable Assets Act 2017, Ss. 3 and 8.

[115] Ibid S. 39(1), S. 39(5

[116] Ibid S. 40

[117] Secured Transactions in Movable Assets Act 2017, S. 44, S. 48

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5.0. CHALLENGES OF LOAN RECOVERY BY NIGERIAN BANKS

Many challenges impede the effective collection, recovery and disposal of loan transactions in Nigeria. These challenges are complex and may be described as multi-dimensional because they cut across the legal, institutional, procedural and even socio-economic associated factors.[118] A few of the most significant challenges are discussed in this study. However, the list is not exhaustive.

1. Complex and Ineffective Legal Framework

So far, this study has examined the existing legal framework on loan recovery in Nigeria. Unfortunately, some scholars have argued that the current regulatory framework on loan recovery is grossly ineffective and inefficient.[119] According to Olayinka and Abdulrasheed, the procedural requirements for the recovery of loan in Nigeria is complex.[120] Currently, there are multiple laws regulating loan recovery practices in Nigeria and these laws appear to be overlapping. As discussed in chapter three of this study, laws such as BOFIA 2020, CAMA, 2020, CBN Act, the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act have overlapping operations rather than complementary.

Besides these laws, each state in Nigeria has its court rules that regulates proceedings before the court. These rules regulate the procedures of conducting trials before the court, from commencement to enforcement of judgment.[121] Thus, an attempt to offer banks and creditors several options to recover loans has occasioned multiplicity of these legal instruments. Unfortunately, rather than providing solutions, it regulating loan recover in Nigeria, while intended to provide creditors with a range of recovery options, has in practice generated a fragmented and inconsistent recovery landscape across the thirty-six states and the Federal Capital Territory, a theme developed further in the sections that follow.

2. Judicial Bottlenecks and Court Congestion

In Nigeria, the justice delivery process is often delayed such that it has become a cankerworm eating deep into the fabric of the Nigerian judicial system.[122] Oftentimes, cases litigated before Nigerian courts span several years due to backlogs of cases, complex litigation procedures, and deliberate acts of the lawyers representing the parties before the court. Thus, the process of securing the judgment of the court and even enforcing same becomes unreasonably cumbersome,

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118 A Sadiq Abdullahi, Mohammed Hamza, and Mustapha Badeggi Usman, 'Challenges on Loan Recovery and Performance of Money Deposit in Nigeria' (2026) 12(7) *International Journal of Financial Research and Management Science* 125-137 https://doi.org/10.70382/tijfrms.v12i7.064 Accessed 23rd August 2026

119 MA Olayinka and AA Abdulrasheed, 'Credit Risk Management and Bank Performance in Nigeria' (2024) 10(11) *International Journal of Scientific and Research Publications* 508-515.

120 Ibid

121 Legal 500, 'Debt Recovery in Nigeria: The Effective Strategies and Stages' (Legal 500 Thought Leadership, 27 January 2025) https://www.legal500.com/developments/thought-leadership/debt-recovery-in-nigeria-the-effective-strategies-and-stages/ accessed 20 August 2026.

122 Omoniyi Bukola Akinola and Chibuzo Mercy Onwuzuruoha, 'Justice Delayed in Courts in Nigeria: Causes, Effects and Wayforward' (2025) 8(5) *African Journal of Law, Ethics, & Education* 128-152

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time-consuming, and lengthy.[123] This is why scholars believe that the delay in administration of justice system is the one of the major challenges of the Nigerian courts, impacting on its credibility, efficiency, and integrity.[124]

In Nigeria, like in all jurisdictions globally, litigation remains the last resort for any bank who desires to recover loan from borrowers. However, the efficiency of the court is questioned by several factors such as adjournments, congested dockets, and several layers of appeal. Therefore, an action that is predicated on loan recovery which ordinarily ought to be resolved within months may be unnecessarily protracted for years. This is because during the trial, lawyers may deploy different kinds of delay tactics such as filing of preliminary objections, frivolous interlocutory applications, interlocutory appeals or appeals after the delivery of judgment with the sole aim of delaying justice of the case. Sometimes, the money may never be recovered due to burn out by the bank having wasted too much time and money on litigation. Other times, if at all the loan was successfully recovered, the value of the loan would have drastically reduced by reason of inflation. Unfortunately, claims predicated on loan recovery being simple contracts are generally subject to a six-year limitation period, making delayed legal action detrimental. [125]

3. Volatile Market Health

The Nigerian economy is undeniably criticized for its highly unpredictable operations. The implication of this is that, the health of a country's economy largely affects the purchasing power. High inflation rates and rapid currency depreciation present a unique challenge where the real value of the recovered debt, when finally secured after several years of pursuit, is significantly lower than the purchasing power of the capital originally advanced. [126]

This persistent inflationary increase, exchange-rates volatility and elevated benchmark interest rates have combined to depress the mechanism of proper loan recovery in Nigeria. However, the Central Bank of Nigeria's decision to terminate, with effect from 30 June 2025, all COVID-19-era forbearance measures, including waivers on Single Obligor Limits, has compelled several banks to realign impacted credit exposures with existing limits.[127] Similarly, the Cash Reserve Requirement framework introduced by the Central Bank of Nigeria in February 2024, which imposes a punitive levy on banks that fail to meet minimum Loan to Deposit Ratio thresholds, was

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123 Paul Andrew Bourne, 'Judicial Delays and Crime Dynamics: An Empirical Analysis of the Criminogenic Effects of Procedural Inefficiency' (2026) 10(1) *Global Journal of Transformation in Law, Human Rights, and Social Justice 16-30, 17* https://eurekajournals.com/GJTLHRSJ.html Accessed 24th August 2026

124 Matthew Izuchukwu Anushiem, 'Delay in Justice Delivery in Nigeria: Causes and Reform Strategies' (2026) 13(1) *Nnamdi Azikiwe University Journal of Commercial and Property Law* 41.

125 See Section 8(1)(a) of the Limitation Law of Lagos State (Cap L67, Laws of Lagos State 2015) and equivalent State Limitation Statutes; see also *Nigeria Postal Services v Insight Engineering Company Limited* (2006) 8 NWLR (Pt 983) 438.

126 Central Bank of Nigeria, 'Economic Report for the First Half of 2025' (CBN Publications 2025) 45-48; see also Financial Stability Report (CBN 2024).

127 'The Nigerian Banking & Finance Sector in Review: Regulatory Developments in 2025 and Outlook for 2026' (Mondaq, 4 February 2026) https://www.mondaq.com/nigeria/financial-services/1740604 accessed 20 August 2026.

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designed in such a way to discourage the kind of disdainful lending that ultimately becomes catalyst for non-performing loan portfolios and recovery litigation.[128]

4. **Dishonest Debtors' Practices**

Many debtors routinely engage in bad-faith tactics by presenting falsefully the material health of their financial status claiming insolvency and bankruptcy. Debtors frequently conceal assets behind related corporate entities, and the absence of a fully integrated national identification and asset-registry infrastructure makes it difficult for creditors to trace and attach a defaulter's property. The implication of this is that when a debtor declares insolvency or lacks the resources to repay their obligations, creditors may struggle to retrieve owing payments through legal procedures. [129]

Although, the Bank Verification Number (BVN) has recorded significant traceability of individual bank accounts, they still remain hindrances associated with the BVN system, such as the freezing of unconnected debtors' account to recover defaulted loans, and by the very fact that the system is well still limited to individuals and not to corporative entities where these dishonest practices are prevalent makes it difficult for any.[130]

5. **Legal Procedures**

Loan recovery cut across a multiple web of legal and regulatory procedures, with complex process regulated by various statue and statutory bodies. Creditors often mistakenly resort to law enforcement agents like the Police to pursue debtors. Nigerian courts strictly view debt recovery as a civil matter and condemn such extra-judicial enforcement. This gives the debtors a soft protection against loan recovery.[131]

6.0. RECOMMENDATIONS

Based on the challenges identified so far, this paper recommends the following strategic solutions:

1. **Reform of Judicial Processes for Loan Recovery**

Judicial delays and administrative bottlenecks remain one of the challenges of loan recovery in Nigeria. There is a need for more effective and efficient judicial approach that will guarantee a quick recovery approach. To this end, there must be the necessary judicial and procedural reforms that will enhance speedy commercial loan recovery proceedings. For instance, specialize commercial courts may be created to handle banking and commercial disputes including loan recovery. Furthermore, there is the need for the adoption of a procedural approach that will

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[128] 'An Overview of the Regulatory Changes in the Nigerian Banking & Finance Sector in 2024 and Outlook for 2025' (Mondaq, 8 April 2025) https://www.mondaq.com/nigeria/fund-finance/1608274 accessed 20 August 2026.

[129] Sections 1(1) & 3 of the Bankruptcy Act (Cap B2, Laws of the Federation of Nigeria 2004) regarding the strict conditions for acts of bankruptcy; see also Companies and Allied Matters Act 2020, Part XIV on Insolvency.

[130] CAC Register, 'Why Your Company Name May Not Match Bank BVN Records' (*CAC Register Nigeria*, 30 August 2026) https://cacregister.com.ng/blog/why-your-company-name-may-not-match-bank-bvn-records accessed 6 September 2026.

[131] *Kure v Commissioner of Police* (2020) LPELR-49378 (SC); Section 8(2) of the Administration of Criminal Justice Act (ACJA) 2015, which explicitly prohibits the arrest of persons for civil wrongs or breach of contract.

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discourage unnecessary adjournments and frivolous applications that are capable of delaying the progress of loan recovery proceedings.

2. **Strengthening Credit Appraisal and Due Diligence**

Before the grant of any credit facility to borrowers, it is imperative for Nigerian banks to strengthen their credit appraisal and due diligence. The decision to offer credit facility to a borrower must be founded strongly on the overall assessment of such borrower's financial capacity, loan records, business model, existing debts, and adequacy of the security proposed. As a matter of practice, Nigerian banks must desist from relying on collateral as the alternative to ascertaining the capacity of the borrower to repay the loan before grant. This is because the most fundamental consideration for banks before lending should be the capacity of the borrower to repay the loan from source of income that is sustainable or business activity.

3. **Use of Technology and Artificial Intelligence in Loan Management and Recovery**

Today, technology has become an integral part of banking and business activities around the world. Banks and other financial institutions in Nigeria must adopt the appropriate technological tools for the purpose of credit assessment, monitoring of borrowers, documentation, tracking of payment and early detection of default. It is no doubt that technology has the capacity to improve the availability and analysis of credit information. Furthermore, it can help with the facilitation of a quicker communication with borrowers. However, the use of technology has the tendency of violating the data protection and privacy laws regarding the borrowers. Thus, it is advised that the use of technology must be without disregard for the appropriate protection concerning privacy of information, cybersecurity and data protection in compliance with the existing laws.

4. Promotion of Alternative Dispute Resolution Mechanism

Rather adopting litigation as a mechanism for loan recovery which has often proved to be less productive, banks in Nigeria must begin to put to greater use the alternative dispute resolution mechanism, especially negotiation, mediation and arbitration where it is circumstantially appropriate both commercially and legally. ADR has the capacity to provide a cheaper or financially friendly, quicker and friendly resolution of disputes between borrower and the bank while preserving their future commercial relationships. However, where the circumstances demand for the immediate implementation or enforcement, the procedure adopted of the ADR types must not hindered the bank.

5. **Strengthening Institutional Coordination**

The study revealed that there are several institutions responsible for the regulation of loan recovery practices concerning Nigerian banks. There is the need for an improved information sharing and coordination among these institutions. These regulation agencies or bodies such as courts, AMCON, CBN, registries, insolvency practitioners, and other relevant enforcement institutions must operate with their responsibilities clearly defined and effective communication channels. The existence of multiple regulatory bodies for loan recovery should not make the enforcement of legitimate credit rights difficult or impossible.

7.0. CONCLUSION

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The Nigerian banking sector remains one of the most crucial sectors of the economy. It takes a vantage position in the determination of the growth and development of the nation. This is notable through offering credit facilities or loans for the advancement of individual businesses, small and medium business, and big businesses. Unfortunately, the recovery of these loans remains of the most crucial challenges of banks today. This has plunged several banks into debt while others have liquidated. The Nigerian banking sector have proven over the years to be one of the most progressive in area of regulation. Though fragmented, there are several laws that regulate banking activities, including lending, borrowing, and recovering of loans. However, the implementation of the suggested strategic solutions in this paper will surely give the banking sector an operational facelift. Unless implemented, the banking sector will remain threatened. More banks will go into liquidation and this will in turn impact negatively on businesses and the overall economy on Nigeria.