The Bank Deposit Security Fund Act, 1996

Be it hereby passed, by the Transitional National Assembly, and assented to, by the President of the Republic, In accordance with the provisions of the 5th. Constitutional Decree, 1991, the following Act:-

Chapter 1
Preliminary Provisions

Title and commencement
1- This Act may be cited as the, “Bank Deposit Security Fund Act, 1996”, and shall come into force, as from the date of its signature.

Interpretation
2- In this Act, unless the context otherwise requires:-

Banking business : means the receipt of money, through the system of current and deposit accounts, payment and collection of cheques, provision and extension of financing to clients and otherwise any banking business, as the Bank of Sudan may specify.

Bank : means the Bank of Sudan, established under the provisions of section 4 of the Bank of Sudan Act, 1959.

bank : means any bank licensed to practice banking business, in the Sudan, upon the coming into force of this Act, or any new bank, to be licensed, after commencement of this Act.

Bank which ceased to pay any bank : (a) against which an order has been issued, to prevent it form the practice of banking business;
(b) which assigns all the obligations of its deposits to any other bank;
(c) to which a liquidator has been appointed, under a decision which has been issued to voluntarily liquidate it, or a plan has been laid down for the settlement, the organization, or re-establishment of the same, or the measures of amalgamating it have been approved by a competent authority, or the application for the liquidation thereof is submitted before a competent court;
(d) which has been granted a current term for the adjournment of the debts due there from;

Board : means the Board of Directors of the Fund, established under the provisions of section 7;

Company : includes any branch of a company registered outside the Sudan, and has been registered in the Sudan, in
accordance with the provisions of the Companies Act, 1925, and operates in the field of banking business;

Deposit : means the total balance in the account of any client, in whatever name, with any bank, and the same shall not include:
(a) any amounts due to a foreign state, a public institution, or corporation, any of the federal or state’s ministries, local government bodies or any other bank;
(b) any amounts due on account of a deposit delivered outside the Sudan;
(c) any amounts due to a banking institution, which does not operate in the Sudan;

Fund : means the Bank Deposit Security Fund, established under the provisions of section 4;
General Manager : means the General Manager of the Fund, appointed in accordance with the provisions of section 13;
Governor : means the Governor of the Bank;
Guaranteed bank : means any bank registered in accordance with the provisions of this Act;
Guaranteed Deposit: means every deposit the restitution of which is guaranteed in accordance with the provisions of this Act;
Minister : means the Federal Minister of Finance.

Provisions of this Act to prevail

3- In case of conflict with any other law, the provisions of this Act shall prevail to the extent necessary to eliminate any conflict.

Chapter 2

Establishment, Objectives and powers of the Fund

Establishment and offices of the Fund

4- (1) There shall be established a fund, to be known as the “Bank Deposit Security Fund”, as an independent association having corporate personality.
(2) The principal office of the Fund shall be at Khartoum. It may establish branches or agencies in the other states of the Sudan.

Objectives of the Fund

5- The fund shall have the following objectives:-
(a) to guarantee the deposits of the guaranteed banks, in accordance with the provisions of section 19;
(b) to protect the rights of depositors, the stability and safety of guaranteed banks and consolidate trust therein;
(c) to remedy losses, upon occurrence thereof, in co-operation and mutual support among the monetary authorities, the banks and the depositors themselves;
(d) to establish and manage the following Mutual Support Funds:-
   (i) the Mutual Support Fund, for the Guarantee of Current and Saving deposits. Assessable amounts thereto shall only be paid by the banks, the Government
and the Bank;
(ii) the Mutual Support Fund. For the Guarantee of Investment Deposits. Assessable amounts thereto shall only paid by the owners of investment deposits;
(iii) the Mutual Support Fund, for the Remedy of the Cases of final financial Insolvency. Assessable amounts thereto shall only be paid by the banks, the Government and the bank.

Powers of the Fund
6- For purpose of achieving the objectives provided for in section 5, the Fund shall have the following powers:-
(a) to register and cancel the registration of guaranteed banks, in accordance with the provisions of this Act;
(b) to obtain secured and unsecured financing, in accordance with Islamic Modes of financing;
(c) to conclude contracts with any body, or person inside and outside the Sudan, as may be stipulated in the regulations;
(d) to invest the surplus or unemployed funds, in accordance with the requirements of financial soundness;
(e) to request the Bank to furnish data and information necessary for the study of the financial status of the guaranteed banks;
(f) to request the Bank to conduct a special audit of any insured bank, in accordance with the provisions of section 28 (1), of the Banking Business (Organization) Act, 1991;
(g) to request the Bank to inspect accounting records of any guaranteed bank;
(h) any such other powers, as may be essential or necessary to achieve the objectives thereof.

Chapter III
Management of the Fund

Establishment, constitution and responsibility of the Board
7- (1) There shall be established a board of directors to manage the Fund, and perform on its behalf such duties and exercise such powers, as may be necessary to enable it to achieve the objectives thereof.
(2) the Board shall be constituted as follows:
(a) the Governor, or deputy Governor, Chairman.
(b) the General Manager, member, and Rapporteur;
(c) the first Under-Secretary, Ministry of Finance;
(d) the General Manager, Banking Control & Financial Institutions General Administration at the Bank;
(e) three members for persons of competence and expertise in banking, to be nominated by the Union of Sudanese Banks, and approved by the Bank. In case of nomination from among the branches of foreign banks operating in Sudan, the person selected shall be the Sudanese national occupying the highest post in the branch;
two persons, of competence and experience, to be appointed by the Minister, in consultation with the Governor.

(3) The term of the membership of the members provided for in subsection (2) (e) and (f) shall be two years, subject to renewal once only.

Obligations of the chairman and members of the Board

8- (1) The Chairman or any member of the Board shall not be in such a position, where his personal interest may be in conflict with the interest of the Fund. He shall be prohibited, in particular:
(a) to practice any activity similar to the activity of the Fund, that may involve competing therewith, directly, or indirectly, whether by himself, or through any other person, whether as an agent, or manager of any other body.
(b) to borrow, or obtain any financing against guarantee issued, by the Fund.

(2) Where the chairman of the Board, or any member thereof intends to enter, by himself, or any member of his family, directly, or indirectly in any such dealing with the Fund, as may lead to a special benefit to him, or any member of his family, or where he has a personal interest, in any subject, submitted in a meeting, before the Board, he shall disclose, to the Board, such interest, and the extent thereof, and shall not participate in any deliberation, or decision passed by the Board, in this respect.

Vacancy or relief form Office

9- (1) Any member of the Board shall be relieved from his office, in any of the following cases:
(a) medical non-fitness;
(b) his absence, without permission, or acceptable excuse, from three consecutive meetings;
(c) his contravention of the provisions of section 8;
(d) his conviction of an offence, in contravention of honour or honesty;
(e) his being a representative of any body and the same term of representation terminates.

(2) The office of any member of the Board shall fall vacant, in any of the following cases:
(a) passing a decision relieving him from his office, under the provisions of sub-section (1),
(b) acceptance of his resignation,
(c) his death.

(3) When the office is vacated under the provisions of sub-section (2), it shall be filled in accordance with the provisions of section 7 (2).

Functions and Powers of the Board

10- (1) The Board shall be the supreme authority in the Fund; its aim is generally to enable the Fund to achieve its objectives thereof. Without prejudice to the generality of the foregoing, it shall have the following functions and powers:
(a) to lay down such general policies and plans, as may be necessary for the achievement of the objectives of the Fund, and follow up the execution;
(b) to approve projects, plans and programmes of the Fund, and follow up the same and carry out the necessary co-ordination with the other state bodies;
(c) to supervise proper conduct of the work and performance in the Fund;
(d) to consider the reports submitted thereto by the General Manager, take
decisions and issue the appropriate directions, with respect thereof;
(e) to approve the estimated budget of the Fund and its final audited
accounts;
(f) to approve the organizational and functional charts, and the terms of service
of the employees of the Fund;
(g) to appoint employees, in the higher senior and senior posts, and approve
their promotion and discipline thereof, in accordance with the provisions
of the regulations;
(h) to approve the payment of the guaranteed limit payable to depositors, in
accordance with provisions of this Act;
(i) to approve the appointment of consultancy firms and economic consultants,
at the local, international and individual levels, and determining their
remuneration and privileges thereof;
(j) to constitute any committee, or committees, to assist the Board in executing
the functions thereof, and specify for the same, their terms of reference;
(k) to make internal regulations, to organize the procedure of its meeting, and
the duties and functions of the Rapporteur;

(2) the Board may delegate any of the powers thereof, provided for in paragraphs (c),
(d), (g), (h) and (i), to the chairman, or the General Manager, in accordance with
such conditions and safeguards, as it may deem appropriate.

Meetings of the Board

11- (1) the Board shall hold an ordinary meeting at least every three months,
on invitation from the Chairman thereof, and in his absence, on invitation from
the General Manager. It may convene an emergency meeting, if the Chairman of
The Board, or half the members deem that necessary.

(2) The Chairman of the Board shall preside over the meeting, and in his absence, for
any reason, the Board shall select, from among its members, a Chairman for such
meeting.

(3) The quorum of the meetings of the Board shall be constituted by the attendance
of the majority of the members.

(4) Decisions of the Board shall be taken by simple majority. In case of equality of
votes, the Chairman shall have a casting vote.

Remuneration of Members of the Board

12- The Minister, in consultation with the Governor, shall specify the remuneration of the
members of the Board.

Appointment and functions of the General Manager

13- (1) The Fund shall have a general manager, to be appointed by a decision
issued by the Minister, after consultation with the Governor, for a period of five
years, subject to renewal. Such decision shall specify the terms of his service;
provided that he shall satisfy the following requirements, that he shall be:-
(a) from among persons of adequate qualifications and experience;
(b) attested to, as highly competent and experienced in banking;
(c) attested to, as honest and trustworthy.
the General Manager shall be the first executive official responsible to the Board, for the administration of the Fund and the management of the affairs thereof. Without prejudice to the generality of the foregoing, the General Manager shall have authority, with respect to the following:

(a) to register and strike off the registration of guaranteed banks, in accordance with the provisions of this Act, and the regulations made thereunder;

(b) to draw-up the elaborate programmes and detailed plans, for the development and improvement of the Fund services, and submit the same to the Board, for approval thereof;

(c) to take any such measures, as he may deem necessary, for the management, organization and daily operation of the Fund;

(d) to prepare the annual budget and final accounts, and submit the same to the Board;

(e) to implement the policies approved by the Board;

(f) to represent the Fund, and speak in its name, before legal and other relevant bodies inside the Sudan, and with the approval of the Board, outside the Sudan.

(g) to draw-up the organizational chart of the Fund, and submit the same, to the Board, to assent to, and approve the same;

(h) to sign, on behalf of the Fund, the agreements, approved by the Board;

(i) to constitute a committee, or committees, to assist him in discharging his duties, and conduct any studies, on any subject he may require form them;

(j) any such other functions or powers, as may be assigned, to him, by the Board.

(3) The General Manager may delegate any of his powers, or functions, to any of his assistants, or any committee constituted thereby, as to such conditions and safeguards, as he may deem appropriate.

Confidentiality

14- The Chairman and members of the Board, the General Manager and employees of the Fund shall maintain strict confidentiality with respect to all matters relating to the Fund.

Chapter IV

Membership and Registration of the Banks, Specifying the Maximum Guaranteed Limit of Deposits and Obligation of the Fund towards the Depositors

Membership and Registration of Banks

15- (1) Membership of banks, in the Fund, shall be mandatory, upon the coming into force of this Act.

(2) The Fund shall register the banks provided for in sub-section (1), and any new bank, licensed to practice banking operations, in the Sudan, after the coming into force of this Act.

Notification of registration
The Fund shall, upon registration of any bank, send to such bank written notification, within thirty days, from the date of registration.

The notification, mentioned in sub-section (1), shall include the method for calculating the annual assessment due from the bank, and specify the subscription to the capital of the Fund, and manner of payment of the same, in accordance with the provisions of this Act, and the regulations made thereunder.

**Determination of the deposits covered by the guarantee**

The Fund shall be bound to guarantee the total of all deposits in local currency, with the exception of:

(a) the deposits attached as a guarantee, or security banking operations;
(b) the deposits of the chairman and members of the board of directors, and the general manager of any guaranteed bank;
(c) the deposits of any such shareholders, as it may transpire, to the Fund, that they bear any responsibility with respect to the non-soundness of the conditions of the bank concerned;
(d) the deposits of the certified accountants appointed to audit the accounts of the bank concerned.
(e) the deposits of spouses and minor children of the persons referred to in paragraphs (b) and (d);
(f) any such deposits, as the Board may decide that they have been obtained by illegal means;
(g) any company in which the bank holds the majority of the shares thereof;
(h) any such other deposits, as the Board may deem fit the exception thereof.

**Maximum guaranteed limit of guaranteed deposits**

The maximum guaranteed limit with respect to current and saving guaranteed deposits shall be as may be specified by the regulations made under the provisions of this Act.

In case of investment deposits, the guaranteed limit shall be specified by a decision to be issued by the Board, after consultation with the Governor.

The Board may, whenever it deems it necessary, increase the maximum guaranteed limit of deposits after consultation with Governor.

**Obligations of the Fund towards the depositors**

Upon dissolution, or liquidation of any guaranteed bank, the Fund shall pay, to every depositor in such bank, an amount equal to the guaranteed limit, under section 18; provided that the payment made to the depositor shall not exceed the total value of his deposits outstanding with the bank concerned, as at the date of issue of the order of dissolution, or liquidation.

In case of any guaranteed bank, with respect to which a scheme for settlement, re-constitution or amalgamation has been drawn up, and such scheme has been approved by the competent authority, in such a way that the scheme provides that every depositor shall receive, at the date of commencement of the scheme, an amount which is less than the guaranteed amount, under the provisions of section 18, the Fund shall disburse the lesser of the difference between the amount specified by the scheme, and the original deposit, or the difference between the guaranteed amount and the amount specified in the scheme.

For the purposes of this section, the amount of the deposit shall be specified, after
deduction of any such amounts, as the guaranteed bank may be legally entitled to. The Bank shall deduct such amounts, from the account of the depositor by way of set-off.

**Manner of payment by the Fund, upon liquidation of the guaranteed bank**

20- (1) Upon dissolution, or liquidation of any guaranteed bank, the liquidator shall, within thirty days from the date of taking over his duties, provide the Fund with a list in such form and manner, as the Fund may specify, setting forth therein, in detail, the deposits of every depositor and the amounts subject to the set-off referred to in section 19 (3).

(2) The Fund shall pay, to the liquidator, within sixty days of receipt thereof of such list, all the amounts prescribed under the provisions of section 18.

(3) The liquidator shall disburse the amounts prescribed under the provisions of sub-section (2), to the owners of the deposits to each one of them separately.

(4) Upon consolidation, or merger of any guaranteed bank, in accordance with the provisions of the Banking Business (Organization) Act, 1991 such bank shall be deemed as has ceased payment, and the Fund, in this case, shall be responsible for payment, to depositors in such bank, in accordance with the provisions of section 19, hereof, The bank to which transference has been made in case of consolidation, or merger, or the guaranteed bank, in other cases, shall present, to the Fund, within thirty days, from the date of commencement of operations in the scheme, a list in such form and manner, as may be specified thereby, setting forth, in detail, the deposits of each depositor, separately, the amounts paid or credited, or such as may be paid under such scheme.

(5) The Fund shall pay, to the bank to which transference has been made, or that which has been liquidated, as the case may be, within sixty days from the date of receipt thereof of the list referred to in sub-section 1, the amount payable to depositors, under the provisions of section 18.

**Payment to the Fund**

21- (1) The liquidator shall pay, to the Fund, out of the amount payable to depositors thereby, is any, an amount not exceeding the amount which has been paid by the Fund, in relation to every deposit, in addition to any costs the Fund may have incurred to collect such an amount.

(2) The guaranteed bank or the bank to which transference has been made, as the case may be, shall pay, to the Fund, the amount which is payable thereto, in relation to any deposit, if any, in accordance with the provisions to this Act, as to such an amount, as may not exceed the amount paid by the Fund, in addition to any such costs, as the Fund may have incurred, to collect such an amount.
Chapter V

Financial Provisions

Capital of the Fund

22 - (1) The capital of the Fund shall consist of the following:-
(a) subscription of the Government, paid by the Ministry of Finance, amounting to 25 (twenty five) million Sudanese Dinars;
(b) subscription of the Bank, amounting to 40 (forty) million Sudanese Dinars;
(b) subscription of the Banks, amounting to 1.000.000 (one million) Sudanese Dinars; for each bank registered in the membership of the Fund, irrespective of the size of the deposits thereof; provided that this subscription shall be paid upon notification of the bank of its registration, in accordance with the provisions of this Act.
(2) The subscriptions provided for in sub-section (1) shall be paid in full.
(3) Notwithstanding the provisions of sub-section (1), the Board may, upon the approval of the Minister, and the Bank, increase the subscriptions, to the capital of the Fund, as to such an amount, as may be deemed necessary thereby.

Financial Resources of the Fund

23 - The Financial Resources of the Fund shall consist of:-
(a) the capital provided for in section 22 (1).
(b) the annual assessment provided for in section 24;
(c) the return on the investment of the resources of the Fund;
(d) any such other resources, as may be approved by the Board.

The annual Assessments paid to the Fund

24 - (1) The annual assessments paid to the Fund shall be as follows:-
(a) the guaranteed banks shall pay assessments at the assessment rate of two per thousand (0.002) annually on the average of total current and saving deposits thereof, and this amount shall be credited to the account of the Mutual Support Fund, for the Guarantee of Current and Saving Deposits,
(b) the guaranteed banks shall pay assessments at assessment rate of two per thousand (0.002) annually on the average of total investment accounts, and this amount shall be credited to the account of the Investments Mutual Support Fund, to Remedy Cases of Final Financial insolvency,
(c) owners of the investment accounts shall pay assessment equal to two per thousand (0.002) annually on the average total of the investment deposits to the Fund, and shall be credited to the account of the Mutual Support Fund, for the Guarantee of investment deposits;
(d) each of the government and the Bank shall pay the equivalent of 10% of the total assessments, provided for in paragraphs (a) and (b).
(2) (a) The Assessment mentioned in sub-section (1), shall be calculated, by the end of the last month of the Gregorian calendar year, provided that such assessments shall be paid in full, during the month of January every year;
(b) the Assessment mentioned in sub-section (1) (a), (b) and (c), shall be assessed on total deposits after deduction, out of such total deposits, of the
legal reserve maintained with the Bank,

(3) Every bank shall present, to the Fund, a declaration attested to by the certified accountant, to the effect that the assessments provided for in subsection (2) has been correctly assessed.

(4) Where any bank fails to pay the annual assessment provided for in this section, on the specified date, the Fund shall be entitled to require from the Bank, to debit the delayed amount, from the account of such bank therewith, plus an additional fee, as to such amount and such manner, as may be specified by the Fund and have such amounts credited to the account of the Fund with the Bank, and notify the bank concerned of the same.

(5) The Board, upon the approval of the Bank, may amend the annual assessments, provided for in this section, as to such amount, as they may deem necessary.

**Budget of the Fund**

25- The Fund shall have an annual budget and final accounts, to be prepared in accordance with such sound principles, as may be followed in preparing budgets, and the same shall be submitted, to the Board for approval.

**Keeping accounts, books and records, and depositing of funds**

26- (1) The Fund shall keep accurate and comprehensive accounts, that correctly reflect the activities thereof, in accordance with sound accounting principles and keeping the books and records relating thereto.

(2) The Fund shall deposit the funds thereof, with the Bank, or any other bank, upon approval of the Bank, in current, or deposit accounts, provided that the operation of such accounts, and withdrawal therefrom shall be as to such manner, as may be determined by the Board.

**Auditing**

27- The Auditor-General, or whoever he may authorize, shall audit the accounts of the Fund, after the end of every financial year.

**Chapter VI**

**General Provisions**

**Liquidation of the Fund**

28- The Fund shall not be liquidated, save under an Act.

**Submission of reports and date to the Fund**

29- (1) Every guaranteed bank shall furnish, the Fund, with such periodical reports and data, as it may issue, and any such studies and statistics, as may be relevant to the activities of the Fund.

(2) Every guaranteed bank shall inform, the Fund, of any expected risks, that by their nature, may impair the rights of the depositors.

(3) The Fund shall, upon request of the Bank, furnish the same with any such data, or information, as may be required thereby, about any guaranteed bank, as the Bank may deem necessary.

(4) The Fund may request the Bank to provide it with any such data, or information,
as may be related to any guaranteed bank, and available therewith.

(5) Notwithstanding any provision to the contrary in any other law, the Fund may, at any time, direct any guaranteed bank, through the Bank, to furnish it, within a period specified thereby, with any such data, or information, as may concern the affairs of such bank, in achievement of the objectives of this Act.

Settlement of Disputes

30- Notwithstanding the provisions of any other law, the Bank shall settle any such dispute, as may arise between the Fund and any guaranteed bank, about the annual assessments thereof, and the decision of the Bank in this regard, shall be final and binding.

Capital ineligible for restitution

31- The paid up capital and annual assessments shall be ineligible of restitution, for any reason whatsoever.

Penalties

32- Without prejudice to any severer penalty, in any other law, every person who knowingly prepares a false statement, or omits to disclose information, with bad intention, in connection with any balance sheet or any other document or information required or prepared in accordance with the provisions of this Act, or fails to submit any document or statement or information he is bound to submit or prepare, shall be considered to have committed an offence punishable, upon conviction, with imprisonment for a term, not exceeding three years, or with fine, or with both.

Power to make regulations

33- The Board, upon approval of the Minister, may make such regulations, as may be necessary for the implementation of the provisions of this Act.