

Extraordinary



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The following is published as supplement to this *Gazette* :

| <i>Act No.</i> | <i>Short Title</i> | <i>Page</i> |
|----------------|-----------------------------------------------------------------|-------------|
| 42 | Financial Reporting Council of Nigeria (Amendment) Act, 2023 .. | A843-854 |

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FINANCIAL REPORTING COUNCIL OF NIGERIA
(AMENDMENT) ACT, 2023



ARRANGEMENT OF SECTIONS

Section :

1. Amendment of Act No. 6, 2011
2. Amendment of section 2
3. Amendment of section 8
4. Amendment of section 11
5. Amendment of section 15
6. Amendment of section 20
7. Amendment of section 28
8. Substitution for section 33
9. Amendment of section 41
10. Amendment of section 42
11. Amendment of section 48
12. Amendment of section 51
13. Amendment of section 53
14. Amendment of section 59
15. Amendment of section 60
16. Insertion of section 61A
17. Amendment of section 63
18. Amendment of section 64
19. Amendment of section 65
20. Substitution for section 68
21. Amendment of section 72
22. Substitution for section 73
23. Substitution for section 77
24. Citation

**FINANCIAL REPORTING COUNCIL OF NIGERIA
(AMENDMENT) ACT, 2023**

ACT No. 42

AN ACT TO AMEND THE FINANCIAL REPORTING COUNCIL OF NIGERIA ACT, NO. 6, 2011 TO, AMONG OTHER THINGS STREAMLINE THE MEMBERSHIP OF THE GOVERNING BOARD AND STRENGTHEN THE COUNCIL TO DISCHARGE EFFECTIVE REGULATORY RESPONSIBILITIES ON FINANCIAL REPORTING AND CORPORATE GOVERNANCE IN NIGERIA ; AND FOR RELATED MATTERS

[3rd Day of May, 2023]

Commencement.

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

1.—(1) The Financial Reporting Council of Nigeria Act, No. 6, 2011 (in this Act referred to as “the Principal Act”) is amended as set out in this Act.

Amendment of Act No. 6, 2011

2. Section 2 of the Principal Act is amended by substituting for subsection (2), a new subsection “(2)” —

Amendment of section 2

“(2) The Board shall consist of—

(a) a Chairman who shall be a professional accountant with cognate experience of at least 10 years ;

(b) one representative from each of the —

- (i) Association of National Accountants of Nigeria,
- (ii) Institute of Chartered Accountants of Nigeria,
- (iii) Office of the Auditor General for the Federation,
- (iv) Chartered Institute of Stockbrokers,
- (v) Chartered Institute of Taxation of Nigeria,
- (vi) Ministry charged with the responsibility of supervising the activities of the Council,
- (vii) Ministry charged with the responsibility for finance,
- (viii) Nigerian Accounting Association,
- (ix) Nigerian Institution of Estate Surveyors and Valuers,
- (x) Institute of Directors of Nigeria, and
- (xi) Office of the Accountant General of the Federation ; and

(c) the Executive Secretary of the Council —

3. Section 8 of the Principal Act is amended —

(a) in subsection (1)(d), by substituting for the word, “Board”, the words, “board of public interest entities” ;

Amendment of section 8

(b) in subsection (1), by substituting for paragraphs (h) and (g), new paragraphs “(h)” and “(q)” —

“(h) promote compliance with the adopted standards issued by the International Federation of Accountants (IFAC), International Financial Reporting Standards Foundation (IFRS), International Public Sector Accounting Standards Board (IPSASB) or any other body that may be designated as such and any other setting body relating to the mandate of the Council ;

(q) develop or adopt and keep up-to-date auditing standards issued by relevant professional bodies and ensure consistency between the standards issued and the auditing standards and pronouncements of the International Auditing and Assurance Standards Board, International Organisation of Supreme Audit Institutions or any other body that may be designated as such and any other international standards setting body relating to the mandate of the Council ;”

(c) by inserting after paragraph “(r)”, a new paragraph “(s)” —

“(s) maintain a national repository for electronic submission of General Purpose Financial Statements by public interest entities” ;
and

(d) in subsection (2), by inserting after the word, “implementing”, the words “financial reporting, corporate governance,”.

Amendment
of section 11

4. Section 11 of the Principal Act is amended by substituting for paragraph (b), a new paragraph “(b)” —

“(b) give guidance on issues relating to financial reporting and corporate governance to bodies listed in section 2 (2) (b) of this Act ;”

Amendment
of section 15

5. Section 15 of the Principal Act is amended —

(a) by deleting the words, “and oversight” in subsection (1)(a) and wherever it appears within the section ;

(b) in subsection (1)(c), by inserting after the word, “Audit”, the words, “and Risk Management” ;

(c) in subsection (4), by inserting after the word, “Audit”, the words, “and Risk Management” ;

(d) in subsection (3)(a), by substituting for the word, “account” the words, “financial statements” ;

(e) in subsection (5), by substituting for the figure “7”, the figure “5” ;

(f) in subsection (6), by substituting for the words, “at least once a month”, the expression, “once every 3 months” ; and

(g) in subsection (10), by substituting for the word, “confirmed”, the word, “approved”.

6. Section 20 of the Principal Act is amended by substituting for subsection (3), a new subsection (3) —

Amendment
of section 20

“(3) The Board shall be responsible for the appointment, promotion, discipline and welfare of senior management staff from grade level 15 and above for the Council as it may deem necessary and expedient from time-to-time for the proper and efficient performance of the functions of the Council”.

7. Section 28 of the Principal Act is amended in subsection (1), by substituting for paragraph (a), a new paragraph “(a)” —

Amendment
of section 28

“(a) monitor compliance with auditing, accounting, actuarial, corporate governance and valuation standards and guidelines reviewed and adopted by the Council.”

8. Substitute for section 33 of the Principal Act, a new section “33” —

Substitution
for
section 33

“33. (1) The Council shall establish and maintain a Fund into which shall be paid —

(a) all incomes accruing from annual dues from—

(i) all registered professionals,

(ii) all registered firms of professionals,

(iii) public interest entities, and

(iv) other entities as prescribed by the Council and approved by the Minister;

(b) annual dues from every registered professional, not less than ₦10,000;

(c) an amount from every publicly quoted company, based on its market capitalization, annually as follows —

(i) an amount equal to 0.10% of market capitalization or ₦500,000 whichever is higher, where the market capitalization of a company is not more than ₦1 billion,

(ii) an amount equal to 0.04% of market capitalization or ₦2 million whichever is higher, where the market capitalization of a company is greater than ₦1 billion but not more than ₦5 billion,

(iii) an amount equal to 0.004% of market capitalization or ₦3.5 million whichever is higher, where the market capitalization of a company is greater than ₦5 billion but not more than ₦100 billion,

(iv) an amount equal to 0.004% of market capitalization or ₦10 million whichever is lower, where the market capitalization of a company is greater than ₦100 billion but not more than ₦250 billion,

(v) an amount equal to 0.003% of market capitalization or ₦15 million whichever is lower, where the market capitalization of a company is greater than ₦250 billion but not more than ₦500 billion,

(vi) an amount equal to 0.0025% of market capitalization or N20 million whichever is lower, where the market capitalization of a company is greater than N500 billion but not more than N1 trillion, and

(vii) an amount equal to 0.002% of market capitalization or N25 million whichever is lower, where the market capitalization of a company is greater than N1 trillion ;

(d) an amount from every public interest entity other than those covered by paragraph (b), based on its annual turnover as follows —

(i) an amount equal to 0.02% of annual turnover, where the annual turnover of the entity is not more than N25 million,

(ii) an amount equal to 0.025% of annual turnover, where the annual turnover of the entity is greater than N25 million but not more than N50 million,

(iii) an amount equal to 0.03 % of annual turnover, where the annual turnover of the entity is greater than N50 million but not more than N500 million,

(iv) an amount equal to 0.04% of annual turnover, where the annual turnover of the entity is greater than N500million but not more than N1 billion,

(v) an amount equal to 0.045% of annual turnover, where the annual turnover of the entity is greater than N1 billion but not more than N10 billion, and

(vi) an amount equal to 0.05% of annual turnover, where the annual turnover of an entity is greater than N10 billion ;

(e) budgetary allocations and subventions from the Federal Government ;

(f) fines and penalties imposed by the Council ;

(g) fees charged for services rendered by the Council ;

(h) rents, fees and other internally generated revenues from services provided by the Council ;

(i) gift, loans, grant-in-aid from national, bilateral and multilateral organisations and agencies ; and

(j) all other sums accruing to the Council from time-to-time.

(2) The dues referred to in subsection (1) shall be payable by —

(a) individual professionals and professional firms, not later than 60 days from 1st January of every year ;

(b) public interest entities, not later than 120 days of the financial year ; and

(c) other entities, not later than 120 days of the financial year.

(3) Where a person or an entity fails to pay the dues as prescribed in subsection (1) as and when due, the person or entity shall —

(a) pay a penalty equivalent to 10% of the amount due for every month of default cumulatively until payment is made ;

(b) be liable to sanctions as may be prescribed by the Council for any default of its agents, officers or personnel engaged in the financial reporting process for failure to comply with the provisions of this Act ;

(c) be prosecuted by the Council, for default in payment as prescribed in this section ; or

(d) be liable, in the case of the chief executive officer, to a penalty as may be prescribed by the Council, or on conviction to imprisonment for a term not exceeding 6 months.”

9. Section 41 of the Principal Act is amended by substituting for subsection (6), a new subsection “(6)” —

Amendment
of section 41

“(6) A person who contravenes subsection (2) of this section shall be liable to a fine of ₦5,000,000 or any other amount as may be prescribed by the Council through regulation from time to time or imprisonment for a term not exceeding 6 months on conviction”.

10. Section 42 of the Principal Act is amended —

Amendment
of section 42

(a) in subsection (1) by substituting for the expression “valid for a period of 2 years”, the words “shall be renewed annually” ; and

(b) by deleting subsection (2).

11. Section 48(1) of the Principal Act is amended by inserting after the word “may”, the words, “suspend or”.

Amendment
of section 48

12. Section 51(a) of the Principal Act is amended by substituting for the word “asses”, the word “assess”.

Amendment
of section 51

13. Section 53 of the Principal Act is amended by substituting for subsection (1), a new subsection “(1)” —

Amendment
of section 53

“(1) The Council shall develop or adopt and keep up-to-date auditing standards issued by relevant professional bodies and ensure consistency between the standards issued and the auditing standards and pronouncements of the International Auditing and Assurance Standards Board or any other body that may be designated as such and any other international standard setting body relating to the mandate of the Council.”

14. Section 59 (1) of the Principal Act is amended by substituting for paragraphs (a)-(g), new paragraphs “(a)”-“(j)” —

Amendment
of section 59

- “(a) Banks and other Financial Institutions Act, No. 5, 2020 ;
 (b) Companies and Allied Matters Act, No. 3, 2020 ;
 (c) Investments and Securities Act, No. 29, 2007 ;
 (d) Nigerian Investment Promotion Commission Act, Cap. N117, LFN, 2004 ;
 (e) Insurance Act, Cap 117, LFN, 2004 ;
 (f) Pension Reforms Act, No. 4, 2014 ;
 (g) Federal Mortgage Bank of Nigeria Act, Cap. F16, LFN, 2004 ;
 (h) Finance Act, No. 3, 2021 ;
 (i) Fiscal Responsibility Act, No. 31, 2007 ; and
 (j) Finance Control and Management Act, No. 33, 1958.

Amendment
of section 60

15. Section 60 of the Principal Act is amended in paragraph (a), by deleting after the word “investigation”, the words “subject to the consent of the public interest entity”.

Insertion of
section 61A

16. Insert after section 61 of the Principal Act, a new section “61A” —
“Execution of warrant of distraint

61A (1) The Council may co-opt the assistance and co-operation of any of the law enforcement agencies in the discharge of its duties under this Act.

(2) The law enforcement officers shall aid and assist an authorised officer in the execution of any warrant of distraint and the levying of distraint.

(3) Any official of the Council armed with the warrant issued by a judicial officer and accompanied by a number of law enforcement officers as may be determined by the Executive Secretary shall —

(a) enter any premises covered by such warrant and seal off the premises, search for, seize and take possession of any book, document or other article used or suspected to have been used in the commission of an offence ;

(b) inspect, make copies of, or take extracts including digital copies from any book, record, document or computer, regardless of the medium used for their storage or maintenance ;

(c) search any person who is in or on such premises ;

(d) open, examine and search any article, container or receptacle ;

(e) open any outer or inner door or window of any premises and enter or otherwise forcibly enter the premises and every part of it ; or

(f) remove by reasonable force any obstruction to such entry, search, seizure or removal as he is empowered to effect.

(4) A person shall not carry out a bodily search on another person under this section except by a person of the same gender.”

17. Section 63 of the Principal Act is amended by substituting for subsection (2), a new subsection (2)— Amendment of section 63

“(2) A person who obstructs an inspector in the execution of his powers or duties under the provisions of this Act commits an offence and is liable to a fine or penalty not exceeding N5,000,000 as the Council shall prescribe by regulation or on conviction to imprisonment for a term not exceeding 6 months or both.”

18. Section 64 of the Principal Act is amended by substituting for subsections (1) and (3), new subsections “(1)” and “(3)” — Amendment of section 64

“(1) Any person who fails to comply with the prescribed statement of accounting and financial reporting standards developed or adopted by the Council or any decision of the Council to the effect that a public interest entity has failed to comply with any of its pronouncements under this Act, and with such other accounting and financial reporting standards as may be specified under the relevant enactments, shall be liable to a fine or penalty of ₦10,000,000 or any amount as may be prescribed by the Council by regulations or on conviction to imprisonment for a term not exceeding 2 years, provided that the Council shall bring such non-compliance to the notice of the preparers of such financial statements.

(3) Any public interest entity which fails to comply with the notice referred to in subsection (2) of this section shall be liable to a fine or penalty of ₦25,000,000 or any other amount as may be prescribed by the Council by regulations, and shall restate the said financial statements within 30 days.”

19. Section 65 of the Principal Act is amended by substituting for subsection (3), a new subsection “(3)” — Amendment of section 65

“(3) Any public interest entity which fails to comply with the notice referred to in subsection (2) of this section, commits an offence and is liable to a fine of ₦50,000,000 or any other amount as may be prescribed by the Council through regulations from time to time and be required to restate the said financial statements within 30 days thereafter and the Council shall require such entity to disclose same in the following year’s financial statements.”

20. Substitute for section 68 of the Principal Act, a new section “68” — Substitution for section 68

“68. (1) Subject to the provisions of this Act, the provision of the Public Officers Protection Act, Cap. P41, LFN, 2004 shall apply in relation to any suit instituted against an officer or employee of the Council.

(2) No suit shall be commenced against the Council before the expiration of 30 days after a written notice of intention to commence the suit is served on the Council by the intending plaintiff or his agent.

(3) The notice referred to, in subsection (2) of this section shall clearly and explicitly state the —

- (a) cause of action ;
- (b) particulars of the claim ;
- (c) name and place of abode of the intending plaintiff ; and
- (d) relief sought.

Amendment
of
section 72

21. Section 72 of the Principal Act is amended by substituting for subsection (2), a new subsection (2) —

“(2) The Council may cause to be published in the Federal Government Gazette, national daily newspapers and electronic media its findings or decisions under any relevant provisions of this Act.”

Substitution
for section 73

23. Substitute for section 73 of the Principal Act, a new section “73” —

“73. The Council may, subject to the approval of the Minister, make regulations to give effect to the provisions of this Act”.

Substitution
for
section 77

24. Substitute for section 77 of the Principal Act a new section “77” —

“77. In this Act —

“*Annual report*” means the documents that an entity issues on an annual basis on its affairs, including its financial statements together with the audit report on it, and the report from the Board of Directors ;

“*Audit*” has the same meaning as in the International Federation of Accountants (IFAC) Code of Ethics for Professional Accountants ;

“*Audit firm*” means a firm which provides audit services ;

“*Auditor*” means a professionally qualified Accountant or firm of Accountants appointed to conduct an examination of the records of an enterprise and to form an opinion as to whether the accounts have been prepared in accordance with generally accepted accounting principles ;

“*Board*” means the governing body of the Financial Reporting Council of Nigeria established under section 2 (1) of this Act ;

“*Code of Corporate Governance*” means the Code of Corporate Governance issued by the Directorate of Corporate Governance in this Act ;

“*Corporate Governance*” means the role of persons entrusted with the supervision, control and direction of an entity ;

“*Director*” has the same meaning given to it under the Companies and Allied Matters Act, No. 3, 2020 ;

“*Entity*” means any person or body of persons, whether incorporated or unincorporated ;

“*Financial reporting standards*” mean accounting, auditing, actuarial and valuation standards issued by the Council under this Act ;

“*Financial statements*” means the Statement of Financial Position or balance sheet, income statements or profit or loss account, statement of changes in equity, statement of cash flows, notes, statements and explanatory materials thereon and other documents, as may be prescribed by the Council under this Act ;

“*Functions*” include powers and duties ;

“*IASB*” means the International Accounting Standards Board or its successor body ;

“*IFRS*” means the International Financial Reporting Standards ;

“*IFRSF*” means the International Financial Reporting Standards Foundation ;

“*IFAC*” means the International Federation of Accountants or its successor body ;

“*IPSASB*” means the International Public Sector Accounting Standards Board” ;

“*Material irregularity*” includes fraud, deliberate misstatements of financial statements, falsification and defalcations ;

“*Minister*” means the Minister charged with responsibility of supervising the activities of the Council ;

“*Offence*” includes default in payment of annual dues, submission of returns and other infractions, irregularities committed by entity or individual against the provisions of this Act ;

Regulations.

“*Official bulletin*” means the official journal of the Council ;

“*Practice*” in relation to an auditor, means the practice of the auditor or the audit firm ;

“*President*” means the President of the Federal Republic of Nigeria ;

“*Professional accountants*” means a person who is a member of a body of professional accountancy body established by an Act of the National Assembly and registered with the Council ;

“*Public interest entities*” means —

- (a) governments and government organizations;
- (b) listed entities on any recognized exchange in Nigeria ;
- (c) non-listed entities that are regulated ;
- (d) public limited companies;
- (e) private companies that are holding companies of public or regulated entities ;
- (f) concession entities ;
- (g) privatized entities in which government retains an interest ;

A 854

2023 No. 42

*Financial Reporting Council of Nigeria of Nigeria
(Amendment) Act, 2023*

(h) entities engaged by any tier of government in public works with annual contract sum of ₦1 billion and above, and settled from public funds ;

(i) licensees of government ; and

(j) all other entities with an annual turnover of ₦30 billion and above ; and

“*Qualified report*” has the same meaning given to it by IFAC.

24. This Act may be cited as Financial Reporting Council of Nigeria (Amendment) Act, 2023.

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I, certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

SANI MAGAJI TAMBAWAL, *fnca*
Clerk to the National Assembly
5th Day of April, 2023.

EXPLANATORY MEMORANDUM

This Act amends the Financial Reporting Council of Nigeria Act, No. 6, 2011 to, among other things, streamline the membership of the Governing Board and strengthen the Council to discharge effective regulatory responsibilities on financial reporting and corporate governance in Nigeria.

SCHEDULE TO THE FINANCIAL REPORTING COUNCIL OF NIGERIA (AMENDMENT) BILL, 2023

| (1) <i>Short Title of the Bill</i> | (2) <i>Long Title of the Bill</i> | (3) <i>Summary of the Contents of the Bill</i> | (4) <i>Date Passed by the Senate</i> | (5) <i>Date Passed by the House of Representatives</i> |
|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------------------------------------------|
| Financial Reporting Council of Nigeria (Amendment) Bill, 2023. | An Act to amend the Financial Reporting Council of Nigeria Act, No. 6, 2011 to, among other things streamline the membership of the Governing Board and strengthen the Council to discharge effective regulatory responsibilities on financial reporting and corporate governance in Nigeria ; and for related matters. | This Bill amends the Financial Reporting Council of Nigeria Act, No. 6, 2011 to, among other things streamline the membership of the Governing Board and strengthen the Council to discharge effective regulatory responsibilities on financial reporting and corporate governance in Nigeria. | 30th November, 2022. | 6th February, 2022. |

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

I ASSENT



SANI MAGAJI TAMBAWAL, fncan
Clerk to the National Assembly
5th Day of April, 2023.

MUHAMMADU BUHARI, GCFR
President of the Federal Republic of Nigeria
3rd Day of May, 2023.