

ASSET-BACKED SECURITIES IN NIGERIA: AN APPRAISAL OF THE LEGAL AND REGULATORY FRAMEWORKS GOVERNING SECURITIES IN NIGERIA

Promise Aaron¹
Pius Olanrewaju²
Dorcas Odunaike³

Abstract

The legal and regulatory framework governing securities in Nigeria is essential for ensuring market efficiency, investor protection, and financial stability. This study critically examines the legal structures that regulate securities transactions in Nigeria, specifically focusing on asset-backed securities (ABS) as an alternative financing mechanism. Despite the growing adoption of ABS in global financial markets, Nigeria lacks a comprehensive securitisation framework, creating legal uncertainties that hinder the sector's development. The paper's objectives include evaluating the existing statutory and regulatory provisions relevant to ABS, assessing their adequacy, and identifying gaps that require legislative or policy reforms. Key legislations analysed include the Companies and Allied Matters Act (CAMA) 2020, the Investment and Securities Act (ISA) 2025, the Banks and Other Financial Institutions Act (BOFIA) 2020, and the Central Bank of Nigeria (CBN) Act 2007. The paper also examines the role of regulatory bodies such as the Securities and Exchange Commission (SEC) and the Central Bank of Nigeria (CBN) in overseeing securities transactions and ensuring compliance. Using a doctrinal legal research approach, this paper explores statutory provisions and international best practices to assess the effectiveness and limitations of Nigeria's legal framework in regulating ABS. The findings indicate that the absence of a dedicated securitization law creates regulatory ambiguity, discouraging financial institutions and investors from participating in ABS transactions. The paper recommends the enactment of a specific Securitisation Act to standardise the definition, regulate SPV operations, ensure credit enhancement mechanisms, and harmonise regulatory oversight by the Securities and Exchange Commission and Central Bank of Nigeria. Also, Legal reform should incorporate investor protection measures, tax clarity, and mechanisms for risk transfer. These reforms would facilitate financial innovation, enhance liquidity, and promote securitisation as a credible vehicle for long-term capital formation in Nigeria.

Keywords: Special Purpose Vehicle (SPV), Securitisation, Asset-backed securities, Financial Innovation, Capital Market

¹ Doctoral Candidate, School of Law and Security Studies, Babcock University. Email: aaronp@babcock.edu.ng Tel: 07030098666

² Professor, School of Law and Security Studies, Babcock University. Email: olanrewajup@babcock.edu.ng

³ Professor, School of Law and Security Studies, Babcock University. Email: odunaiked@babcock.edu.ng

Introduction

The regulation of securities is a critical aspect of any financial system, ensuring stability, transparency, and investor confidence in capital markets. In Nigeria, the legal and regulatory framework governing securities is shaped by various statutes, regulations, and regulatory bodies that oversee market operations. These frameworks are essential for promoting market efficiency, protecting investors, and ensuring compliance with international best practices in securities transactions.

Asset-backed securities (ABS), as an alternative financing mechanism, have gained prominence in various jurisdictions, enabling companies to raise capital through securitisation. However, Nigeria lacks a specific legislative framework dedicated to asset securitisation, leading to uncertainties in its implementation and regulation. The absence of clear legal provisions on securitisation highlights the need for a critical examination of the existing legal frameworks and their applicability to ABS.

This paper explores the existing legal and regulatory structures governing securities in Nigeria, with a focus on their relevance to asset-backed securities. It evaluates key legislation such as the Companies and Allied Matters Act (CAMA) 2020, the Investment and Securities Act (ISA) 2025, the Banks and Other Financial Institutions Act (BOFIA) 2020, the Central Bank of Nigeria (CBN) Act 2007, and other relevant statutes that shape the regulatory environment for securities transactions. Additionally, the role of regulatory bodies such as the Securities and Exchange Commission (SEC) and the Central Bank of Nigeria (CBN) in maintaining market integrity is examined.

By analysing the adequacy of these legal provisions, this paper aims to assess the extent to which they support or hinder the development of asset securitisation in Nigeria. It also highlights potential areas for reform to align Nigeria's legal framework with international standards, thereby fostering growth and innovation in the securities market.

2. Legal Frameworks for Securities in Nigeria

Several legislations form the body of laws regulating securities and asset securitisation in Nigeria. Some of these laws will be discussed below:

2.1 Companies and Allied Matters Act, 2020

The Companies and Allied Matters Act, 2020 (commonly known as CAMA 2020),⁴ is the main piece of legislation that governs company law in Nigeria. The Companies and Allied Matters Act (CAMA) govern the permissible types of business organisations in Nigeria, as well as the process of incorporating and registering companies and other commercial entities. It also covers the requirements for statutory and corporate governance, among other matters. Consequently, the establishment, incorporation, registration, and status of special purpose vehicles (SPVs) or special purpose entities (SPEs) in Nigeria a

⁴ Cap A 24A Laws of the Federation of Nigeria, 2010

governed by CAMA, 2020. SPVs and SPEs are formed into legal entities such as corporations, trusts, or partnerships with distinct and restricted objectives. It is against the rules for the SPV/SPE to do anything that is not specifically allowed in the articles of incorporation that set up and govern the asset securitisation transaction and the SPV/SPE.⁵

Going by the above, it is conclusive that SPVs/SPEs can be formed under CAMA 2020 in compliance with the provisions of CAMA 2020, either as a corporation⁶, trust,⁷ or partnership.⁸ The corporation can either be a public company⁹ or a private company, subject to the provisions of its articles of association restricting the transfer of shares.¹⁰ SPVs/SPEs are formed to purchase securitised assets from the originator and sell such securities backed by those assets to investors in the capital markets. In Nigeria, CAMA controls the relationship between SPVs/SPEs, and the originator determines the relationship between corporate bodies as it relates to group accounting, holding, and subsidiary, respectively. An analysis of the section would provide a clear understanding of the definition of a subsidiary within the framework of the Act. According to CAMA, a company is considered a subsidiary of another company (referred to as the parent company) if the parent company is a member of it and has control over the makeup of its board of directors, or if it holds more than 50% of the nominal value of its share capital.¹¹

According to the aforementioned, this section would imply a connection between them if the sponsor owned more than 50% of the SPV's equity shareholdings. According to CAMA, if someone owns 50% of a business's shares and has additional rights given to them through a contract or other agreements, they would not be considered to have control over the firm. This is because their ownership does not exceed half of the company's equity shares. Hence, the extent of equity ownership plays a crucial role in establishing the connection between an SPV/SPE and its sponsor. Additionally, having a majority of shares typically enables a company to influence the board of directors.¹²

In the context of asset securitisation, CAMA's provisions relate to group accounting, holding, and subsidiary relationships of corporate bodies involved in the asset securitisation process. These provisions help in defining the legal framework for the establishment and operation of SPVs/SPEs and their relationships with the originators.¹³ However, the effectiveness of CAMA in the

⁵Adejorin D Abiona, 'Raising Capital for Companies: Securitization as an Option in Nigeria Securitization and Structured Finance Nigeria' (2020) <<https://www.mondaq.com/nigeria/securitization-amp-structured-finance/944096/raising-capital-for-companies-securitization-as-an-option-in-nigeria>> accessed 23 October 2024.

⁶ Companies and Allied Matters Act, 2020, chapter 1, part B

⁷ Ibid., chapter 1, part F

⁸ Ibid., chapter 1, part D

⁹ Ibid., s 24

¹⁰ Companies and Allied Matters Act, 2020, s. 22 (1)

¹¹ Ibid., s. 381(1)

¹² Akinyemi A. Abibu and S.B Balogun, 'Securitization in Nigeria: A legal perspective' (2016) 3(12) International journal for innovation and Advance studies (IJIAS) 383, 387

¹³ Companies and Allied Matters Act, 2020, ss. 336 (1) & 338

context of asset securitisation is subject to evaluation and potential reforms to ensure that it aligns with international best practices and adequately addresses the complexities of modern financial transactions, including asset securitisation.

2,2 Investment and Securities Act, 2025

The Investment and Securities Act, 2025, (commonly known as ISA 2025)¹⁴ is the main piece of legislation that establishes the Securities and Exchange Commission (SEC) as the apex regulatory agency for the Nigerian Capital Market as well as the regulation of the capital market to ensure capital formation, protection of investors, maintenance of fair, efficient and transparent market and reduction of systemic risk.¹⁵ The ISA 2025 repealed and replaced the Investment and Securities Act, 2007. The Act was repealed after being in effect for 18 years. The ISA 2025 was enacted in March 2025, a quantum leap to aligning the Nigerian Capital Market with international best practices, market trends, and deepening the legal and regulatory framework of the Nigerian capital market.

The Investment and Securities Act, 2025 (ISA), while it does not explicitly use the term "asset-backed securities" (ABS), the Act sets out several provisions that facilitate the legal structuring, issuance, and governance of ABS-type instruments in practice. The Act recognises project-tied debt securities, which are backed by revenue from specific assets or projects and must be ring-fenced, credit-rated, and sometimes guaranteed by acceptable third parties.¹⁶ These securities, akin to ABS, allow the monetisation of future cash flows, often seen in infrastructure and structured finance deals. This innovative approach enables investors to gain exposure to specific revenue streams while providing issuers with necessary capital for development and operational needs. As such, these financial instruments play a crucial role in enhancing liquidity and fostering investment in vital infrastructure projects.

The Act mandates the appointment of registered financial institutions as custodians and corporate trustees to hold and manage bond proceeds throughout the execution of projects. The registered financial institution appointed as custodian under the Act has the authority to receive and hold funds arising from the issuance of the bond, make payments related to the issuance of the bond, and refuse the execution of any payment that may contravene the terms of the bond's trust deed.¹⁷ These entities play crucial roles in ABS structure by safeguarding the interests of bondholders and enforcing deed terms. The effective management of these responsibilities ensures that the bondholders' investments are protected and that the terms of the trust deed are strictly carried out. As a result, this oversight fosters investor confidence and promotes stability within the ABS market.

Although the Act has not explicitly mentioned ABS in any of its provisions, it provides a framework consistent with securitisation principles. It enables

¹⁴ Cap. T 22, Laws of the Federation, 2004

¹⁵ Investment and Securities Act, 2025, ss. 1 (1) & 3 (1), (2) & (3)

¹⁶ Ibid. ss. 269 (2)(b) & 4

¹⁷ Ibid. s. 270

project-tied securities backed by revenues from a specific infrastructure or development project. The Act provide detailed requirements for issuers such as state government, local government, government agencies, and project developers for the creation of a debt service reserve account or sinking fund. This account must be funded with project revenues, ensuring that repayments to investors are secure and predictable. Also, to enhance investors' confidence, issuers must provide an irrevocable letter of guarantee from a qualified third party, committing to cover principal and interest obligations in the event of default. In addition, a credit rating report from a registered agency is required as part of the application process, which aligns with global ABS market practices.

Importantly, the Act also provides for robust investor protection mechanisms. A registered corporate trustee is required to manage the sinking fund and ensure compliance with the trust deed. If an issuer defaults, the trustee has the authority to take legal action. Bondholders holding 10% of the bond's value may compel the trustee to act, and individual investors also retain the right to initiate legal proceedings independently. The Act further empowers the Securities and Exchange Commission (SEC) to prescribe additional conditions relating to underwriting, project completion and the operation of federal standing payment orders. These measures aim to guarantee repayment and reduce the risk of default. Penalties for non-compliance include reprimands, public blacklisting, and disqualification from future capital market access.

The Act further provide for Collective Investment Schemes (CIS), which include unit trusts, real estate investment trusts (REITs), and other pooled asset structures. These schemes support securitisation by allowing multiple investors to acquire interest in a portfolio of financial or physical assets, administered under strict disclosure, segregation, and compliance.¹⁸ The Act specifies that only registered managers, trustees, and custodians can operate or promote these schemes, emphasising the importance of transparency and professionalism. The Commission has the authority to approve different types of schemes as collective investment schemes.¹⁹ Also, the Act required managers to act honestly, fairly, and diligently, always prioritising investor interests while ensuring the protection and segregation of scheme assets.²⁰ Before entering into transactions with investors, managers must disclose critical information about the scheme's objectives, investment types, risk factors, and charges, allowing investors to make informed decisions.²¹ The Act mandates that managers maintain sufficient financial resources, avoid conflict of interest, and organise their schemes responsibly.

Failure of a scheme fails to comply with regulations or contravenes specific provisions of the Act, the Commission can refuse authorisation or revoke existing approval, with mechanisms in place for notification and opportunities for managers to make representations. In the event of revocation, a trustee or independent administrator is appointed to realise the scheme's assets, pay

¹⁸ Investment and Securities Act, s. 150

¹⁹ Investment and Securities Act, 2025, s. 151

²⁰ Ibid. s. 152 (1)

²¹ Ibid. s. 153

creditors, and protect unit holders' interests, with certain obligations and penalties designed to ensure accountability.²²

2.3 Banks and Other Financial Institutions Act, 2020

The Banks and Other Financial Institutions Act, 2020 (commonly known as BOFIA, 2020) is a piece of legislation that governs the operations and activities of banks and other financial institutions in Nigeria. The BOFIA 2020 repealed and replaced the Banks and Other Financial Institutions Act 2004.²³ The Act was repealed after being in effect for 16 years and has been criticised for its lenient corporate governance, which permitted insider misconduct and corruption. Additionally, it failed to tackle the intricacies of the international banking industry, resulting in a rise in non-performing loans and public demand for a regulatory examination.²⁴ The primary objective of the BOFIA 2020 is to modernise the current legislation in Nigeria to tackle the difficulties faced by the banking and financial services sectors. The objective is to establish regulations for banking and enterprises, modernise legislation, improve the process of acquiring licenses, specify the regulatory responsibilities of the CBN, oversee microfinance institutions, and impose penalties on financial technology companies.²⁵

Banks and other financial institutions play a pivotal role in asset securitisation and the ABS process. Banks and other financial institutions in asset securitisation and ABS processes act as issuers, underwriters, servicers, and trustees. To fulfil these responsibilities, a company planning to engage in banking activities in Nigeria must be incorporated and possess a valid banking license granted by the CBN. Engaging in banking activities without a valid license from the CBN is a criminal offence. Upon conviction, the offender is subject to a minimum of five years imprisonment or a fine of ₦= 50,000,000, or both.²⁶ According to the Act, the term "any person" encompasses a body corporate, together with its promoters, directors, managers, or officers who are involved in overseeing, directing, or managing the company's business.²⁷

2.4 Central Bank of Nigeria Act, 2007

The Central Bank Act, 2007 (commonly known as the CBN Act, 2007)²⁸ is a piece of legislation that establishes the Central Bank of Nigeria as the apex regulator of the monetary system and financial institutions in Nigeria. The CBN Act, 2007, repealed and replaced the CBN Act, 2004. The Act provides a legal framework for the operations of the Central Bank of Nigeria and defines its objectives, functions, powers, and governance structure. It also sets out the

²² Ibid. s. 160

²³ Cap. B 3 Laws of the Federation of Nigeria, 2004

²⁴ Akorede Folarin, 'An Overview of the Banks and Other Financial Institutions Act 2020' (2020) SSRN Electronic Journal <10.2139/ssrn.3752297> accessed 25 October 2024.

²⁵ Ibrahim Alley, 'BOFIA 2020 and Financial System Stability in Nigeria: Implications for Stakeholders in the African Largest Economy' (2022) 24 Journal of Banking Regulation <10.1057/s41261-022-00192-6> accessed 25 October 2024.

²⁶ Banks and Other Financial Institutions Act, 2020, s. 2(1) & (2)

²⁷ Ibid., s. 2(3)

²⁸ Cap. C4 Laws of the Federation of Nigeria, 2004

regulatory framework for the Nigerian financial system and provides guidelines for the conduct of financial institutions in Nigeria. The CBN Act empowers the Central Bank of Nigeria to formulate and implement monetary policies, regulate and supervise financial institutions, maintain the stability of the Nigerian financial system, and foster the development of the Nigerian economy.²⁹ In furtherance of one of its core mandates of stability and support of the economic policy of the federal government, the CBN Act created the Monetary Policy Committee (MPC) to develop monetary and credit policy.³⁰

One such way of developing monetary and credit policy to stabilise and support the economic policy of the federal government is to direct banks and other financial institutions to provide enough liquidity in the market so that investors and business owners have access to credit for their businesses. In the advancement of the loan or credit facility, the grant must be made by the rules and regulations of the bank, which should ensure that adequate security is provided before the loan or credit facility is obtained.³¹ Additionally, the CBN, through the MPC, regulates the inflation and interest rates that banks and other financial institutions charge. The MPC employs a range of instruments to regulate inflation and interest rates. These actions encompass modifying interest rates, exerting influence on the money supply via open market operations, altering reserve requirements for banks, and manipulating the exchange rate through the purchase or sale of foreign currency. The MPC carefully evaluates a range of economic data before formulating policy choices, ensuring efficient management of inflation and interest rates.³²

2.5 Secured Transaction in Moveable Assets Act, 2017

The Secured Transaction in Moveable Assets Act 2017 (commonly known as the STMA) is the piece of legislation that governs the facilitation of access to credit with moveable security, perfection, and realisation of a security interest in moveable assets.³³ STMA applies to all security interests in movable assets created by an agreement securing payment or the performance of an obligation.³⁴ The Act does not apply to the right of set-off, creation, and transfer of an interest in land created by transfer, assignment, or mortgage in respect of a ship or aircraft.³⁵ Going by these provisions, one of the legal frameworks for auto loans and leases ABS, which is a type of consumer asset-backed is recognised and governed by the STMA.

The Act gave a legislative imprimatur to previous efforts to regulate the use of movable assets as security. Before the STMA, the interest in movable assets was

²⁹ Central Bank of Nigeria Act, 2004, ss. 1(3) and 2(d)

³⁰ Central Bank of Nigeria Act, 2004, s 12(1) and (3)

³¹ Pius O. Olanrewaju, Secured Credit Transactions Imbroglio: The Pathology and the Therapy (Being the 35th Inaugural Lecture of Babcock University, Ilishan Remo, Ogun State on 7th April, 2022)

³² Hope Moses-Ashike, 'What to Know about CBN's MPC and Monetary Policy' *Business day* (Lagos, 29 November 2022) <<https://businessday.ng/business-economy/article/what-to-know-about-cbns-mpc-and-monetary-policy/>> accessed 25 October 2024.

³³ Secured Transaction in Moveable Assets Act, 2017, s. 1 (c), (d) & (e)

³⁴ *Ibid*, s. 2(1)

³⁵ Secured Transaction in Moveable Assets Act, 2017, s. 2 (2)

regulated by the Central Bank of Nigeria's Registration of Security in Moveable Property by Banks and Other Financial Institutions in Nigeria.³⁶ The Regulation and the STMA share similar provisions, but a notable distinction is that the Regulation entirely prohibits company charges, while the STMA grants parties the privilege to utilise charges. Under the STMA, transactions governed by the Regulation will only be considered legitimate for 180 days, unless the financing statements for these transactions are registered and made compatible with the terms of the STMA.³⁷ The criticism of the Regulation stemmed from the pre-existing hierarchy of laws in Nigeria. In contrast to certain jurisdictions where the term 'regulation' refers to primary legislation, in Nigeria, a regulation is considered a secondary legislation that holds a lower rank than an Act of the National Assembly. Therefore, despite its reformative intentions the Regulation cannot override the pre-reform legal framework that had its foundation in various statutes.³⁸

The STMA Act provides that security interest is created by a Security Agreement between the Grantor and the Creditor. A security interest in an asset acquired by a Grantor takes effect without further consent or action, provided the asset falls under the collateral description and extends to the Grantor's assets.³⁹ Thus auto loans and leases ABS will be created when the security agreement for the auto loan and leases are packaged and sold as illiquid assets to investors. Notwithstanding the laudable aims of the STMA, it has not significantly impacted the economic well-being of individuals and MSMEs. The STMA's provisions are not appealing to legal practitioners and the business community due to a radical departure from mainstream practices. Multiple unlinked collateral registries in movable assets pose difficulties to affordable credit access and lead to secret liens and ostensible ownership. Insufficient local conditions hinder the STMA's ultimate goal of increasing credit access for individuals and MSMEs.⁴⁰

2.6 Asset Management Corporation of Nigeria (Amendment) Act, 2021

The Asset Management Corporation of Nigeria (Amendment) Act, 2021⁴¹ (commonly known as the AMCON Act) is a piece of legislation enacted primarily

³⁶ Central Bank of Nigeria (Registration of Security in Moveable Property by Banks and Other Financial Institutions in Nigeria), 20215, Regulation, No. 1

³⁷ Merit Okafor, 'Secured Transactions in Movable Assets Act, 2017 - Impact on Finance Transactions' *Business day (Lagos)*, 13 April 2023 <<https://businessday.ng/news/legal-business/article/secured-transactions-in-movable-assets-act-2017-impact-on-finance-transactions/>> accessed 3 December 2024.

³⁸ Williams Chima Iheme, 'The Defects of Nigeria's Secured Transactions in Movable Assets Act 2017 and Their Potential Repercussions on Access to Credit: A Comparative Analysis and Lessons from the Anglo-American Law' (2021) 27 *Comparative Law Review* 9 <<http://dx.doi.org/10.12775/CLR.2021.001>> accessed 3 December 2024.

³⁹ Secured Transaction in Moveable Assets Act, 2017, s. 3 (1) & (2) (a) & (b)

⁴⁰ Williams Chima Iheme, 'The Defects of Nigeria's Secured Transactions in Movable Assets Act 2017 and Their Potential Repercussions on Access to Credit: A Comparative Analysis and Lessons from the Anglo-American Law' (2021) 27 *Comparative Law Review* 9 <<http://dx.doi.org/10.12775/CLR.2021.001>> accessed 3 December 2024.

⁴¹ The Asset Management Corporation of Nigeria (Amendment) Act, 2021 is an amendment to the Asset Management Corporation Act, 2010

to efficiently resolve the problem associated with non-performing loan assets of Nigerian banks. The establishment of the Asset Management Corporation of Nigeria serves as a crucial mechanism for stabilising and rejuvenating the financial system by effectively addressing the non-performing loan assets of banks in the Nigerian economy. This is well encapsulated in the function of the corporation. The functions of the corporation include the acquisition of non-performing loans (toxic assets) from banks, investing in eligible equities, managing, realising, and disposing of these assets, and paying coupons on bonds and debt securities issued as consideration for the acquisition.⁴² The corporation also performs other functions related to NPL management and takes steps to protect, enhance, or realise the value of NPLs. It also performs other activities and functions as directed by the Board of Directors of the AMCON, such as disposing of NPLs, securitising portfolios, and holding collateral securing NPLs.⁴³

Furthermore, the corporation possesses distinct powers such as issuing bonds for the acquisition of non-performing loans (NPLs), managing a collection of assets, offering equity capital, borrowing funds, initiating or participating in negotiations, utilising derivative financial instruments, guaranteeing debt or fulfilling obligations, handling negotiable instruments, entering into insurance contracts, settling claims, managing bank accounts, establishing subsidiaries or holding companies, creating trusts, borrowing or lending debt securities, investing funds, and employing consultants and service providers. It could involve the participation of asset managers and recovery agents.⁴⁴

According to the aforementioned, the Asset Management Corporation of Nigeria (AMCON) has functions that are comparable to those of a normal SPV, making it a possible SPV. AMCON acquires non-performing loans (NPLs) from banks and generates revenue by issuing debt securities to investors. The investors receive the original amount they invested, along with the interest, from the debtor's repayment of the loan to the bank.⁴⁵ The process is comparable to that of a typical SPV, where the SPV acquires receivables from the originator by issuing debt instruments to which the investors subscribe. The investors receive their initial investment amount and interest from funds provided by the borrower as payback for the loan obtained from the borrower. Furthermore, the AMCON is established with the explicit objective of effectively addressing the non-performing loan assets of banks in Nigeria. Nevertheless, while the AMCON exhibits similar characteristics to a traditional Special Purpose Vehicle (SPV), there are significant features of its operations that raise doubts about its classification as a possible SPV.⁴⁶

⁴² Asset Management Corporation of Nigeria Act, 2020, s. 5 (a), (b), (c), (d) and (e)

⁴³ *Ibid.*, s. 5 (f) (i), (ii), (iii) and (g)

⁴⁴ Asset Management Corporation of Nigeria Act, 2020, s. 6

⁴⁵ Osinachi Nwadem, 'Securitization and SPV: A Critical Assessment of the Asset Management Corporation of Nigeria (AMCON)' (2015) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2592924> accessed 3 September 2024.

⁴⁶ *Ibid.*

Going by the objectives and functions of the AMCON setup above, it is without hesitation to conclude that AMCON has the features of an SPV set up purposefully to rehabilitate troubled financial institutions. AMCON, an SPV established with the specific goal of rehabilitating financially troubled institutions, carries out the following tasks: assuming control of distressed assets (rescue); assessing the value of the assets (appraisal); safeguarding and increasing the value of the assets (property management); and selling off the assets (sales and associated activities). Furthermore, the SPV is required to possess specialists in each fundamental operation, as well as specialists in the specific categories of assets that fall under its oversight.⁴⁷

Nevertheless, several authors contend that AMCON does not completely conform to the fundamental attributes of a conventional Special Purpose Vehicle (SPV). They emphasise that the financial impact of the Federal Government and the reliance on capital infusion from the Central Bank of Nigeria undermine AMCON's autonomy, which is a crucial characteristic of Special Purpose Vehicles (SPVs).⁴⁸ Furthermore, it should be highlighted that AMCON's capitalisation and financial structure deviate from the conventional characteristics of a standard Special Purpose Vehicle (SPV). Moreover, it is emphasised that the functions and characteristics of AMCON give rise to issues regarding its designation as a Special Purpose Vehicle (SPV) for securitisation purposes.⁴⁹ On the other hand, it is important to mention that AMCON was created as a mechanism for resolving banking issues and can participate in securitisation as part of its duties. However, this situation raises questions about AMCON's ability to act as its own Special Purpose Vehicle (SPV) in securitisation and its suitability to be considered an SPV by financial institutions, given that SPVs have their unique traits and qualities.⁵⁰

2.7 Pension Reform (Repeal and Re-enactment) Act, 2014

The Pension Reform (Repeal and Re-enactment) Act, 2014 (commonly known as the Pension Reform Act, 2014) is the piece of legislation enacted primarily to reform the pension system in the country. It introduces a system of mandatory retirement savings for employees and provides for the administration of retirement benefits. The Pension Reform Act aims to ensure retirement benefits for individuals in the Public Service, Federal Capital Territory, and Private Sector, reduce old-age poverty, and improve pension administration and payment processes. It also aims to establish uniform rules and regulations and reduce outstanding pension liabilities.⁵¹

⁴⁷ Kunle Aina, 'Asset Management Corporation of Nigeria a Pretentious Special Purpose Vehicle' (2015) 3 SSRN Electronic Journal
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2617500> accessed 8 December 2024.

⁴⁸ Fikayo Benjamin Akintayo, 'Securitization as A Panacea for Non-Performing Loans; a Critique of the Effectiveness of Asset Management Corporation of Nigeria as a Special Purpose Vehicle' (LLM Dissertation Faculty of Law University of Ibadan 2018)

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ Pension Reform Act, 2014, s.1 (a), (b), (c) & (d)

The Pension Reform Act 2014 (PRA 2014) requires Pension Fund Administrators (PFAs) to invest in pension funds with the goals of ensuring safety and generating reasonable returns on the invested amount. These pension funds and assets must be invested in compliance with the regulations and guidelines put forth by the Commission.⁵² The Act lists different ways that pension funds can be invested. These include buying ordinary shares of public limited companies, bonds, debentures, redeemable preference shares, and other debt instruments issued by corporations and listed on a stock exchange registered under the Investment and Securities Act; and these can be backed by the Federal Government, the Central Bank of Nigeria, the State Government, or the Local Government.⁵³ The Act further provides that the commission may approve various financial instruments, including bank deposits, investment certificates, units sold by open-end or specialist funds, real estate development investments, and other approved financial instruments.⁵⁴

Going by the above provisions of the Act, there is a compelling requirement for the investment of pension funds by the PFAs in financial instruments, including ABS. This investment of pension funds is seen as a means to ignite high values and ameliorate the crushing effects of inflation, providing necessary dividends for the final beneficiaries, the worker-investors, and also ensuring the availability of funds to investors for the expansion of their businesses. According to Ezenwa and Obiagwu, more than 73% of the pension funds managed by the Pension Fund Administrators (PFAs) in Nigeria are allocated to investments in Federal Government of Nigeria (FGN) securities. Likewise, 52% of the money was allocated to FGN bonds, while 19% was allocated to treasury bills. The PFAs allocated a paltry 2.7% of pension assets to real estate investments and 7% to bank securities. It is important to acknowledge that Nigeria's pension assets have experienced significant growth. In October 2019, the asset worth of N9.81 trillion increased by 228 billion naira.⁵⁵

Before investing the pension fund of contributors to the pension fund administrators, every pension fund administrator is required, subject to the provisions of the Act, to set up a risk management committee and an investment strategy committee.⁵⁶ The Risk Management Committee is responsible for assessing the risk profile of the Pension Fund Administrator's investment portfolios, developing adjustment programs, determining reserves, advising on internal control measures, and carrying out other risk management functions as needed.⁵⁷ The Investment Strategy Committee, on the other hand, is responsible for formulating investment strategies, determining an optimal investment mix, evaluating market-to-market portfolios, reviewing major securities

⁵² Ibid, s. 85 (1) & (2)

⁵³ Pension Reform Act, 2014, s. 86 (a), (b), (c) & (d)

⁵⁴ Ibid, s. 86 (e), (f), (g), (h) & (i)

⁵⁵ Ezenwa, Chike A., and Obinna Victor Obiagwu, 'Pension reform Act 2014 and challenges of pension administration in Nigeria' (2020) 8(8) Global Journal of Arts, Humanities and Social Sciences 18-2.

⁵⁶ Ibid. s. 78 (1)

⁵⁷ Ibid. s. 78 (2) (a), (b), (c) & (d)

performance, and carrying out other functions as determined by the Pension Fund Administrator board while adhering to Commission guidelines.⁵⁸

3. Regulatory Framework for Securities in Nigeria

Some of the Regulatory frameworks for securities are discussed below:

3.1 Collateral Registry Regulations, 2014

The Central Bank of Nigeria, in its responsibility to promote a sound financial system in Nigeria, regulates banking and financial institutions.⁵⁹ The Governor of the Central Bank of Nigeria is empowered to make regulations to give full effect to the objectives of the Banks and Other Financial Institutions Act, as well as control all institutions under its supervision.⁶⁰ To fully implement the goals of the Banks and Other Financial Institutions Act, the Central Bank of Nigeria, through the Governor, made the Collateral Registry Regulations 2014. These rules set up a way for people to borrow money against their movable property, creating perfect security interests, and realising these interests. The goal is to encourage lending to micro, small, and medium enterprises by facilitating efficient registration and default resolution.⁶¹

To encourage financial inclusion and stimulate responsible lending to micro, small, and medium enterprises, the Secured Transactions in Movable Assets Act, 2017, was enacted. Its main purpose is to deal with loans secured with movable assets like inventory, accounts receivable, machinery, and equipment rather than fixed assets such as land or buildings, which are usually more difficult to secure.⁶² Notwithstanding the intention of the drafter of the Secured Transaction in Moveable Assets Act, movable assets have often been described as "dead capital" by banks in developing countries because of the inadequacies of the legal and regulatory framework for the use of movable asset security for lending.⁶³

To forestall the reluctance of banks and other financial institutions to lend to micro, small, and medium-sized enterprises using movable assets as security for credit, the Central Bank established the National Collateral Registry.⁶⁴ The Collateral Registry is responsible for storing and receiving information about

⁵⁸ Pension Reform Act, 2014, s. 78 (3) (a), (b), (c) & (d)

⁵⁹ Central Bank Act, 2007, s. 1

⁶⁰ Banks and other Financial Institutions Act, 2020, s. 56

⁶¹ Collateral Registry Regulations, 2014, Regulation 1

⁶² Inessa Love, María Soledad Martínez Pería and Sandeep Singh, 'Collateral Registries for Movable Assets: Does Their Introduction Spur Firms' Access to Bank Financing?' (2015) 49 *Journal of Financial Services Research* 1.<<https://link.springer.com/article/10.1007/s10693-015-0213-2>> accessed 19 December 2024.

⁶³ Inessa Love, María Soledad Martínez Pería and Sandeep Singh, 'Collateral Registries for Movable Assets: Does Their Introduction Spur Firms' Access to Bank Financing?' (2015) 49 *Journal of Financial Services Research* 1.<<https://link.springer.com/article/10.1007/s10693-015-0213-2>> accessed 19 December 2024.

⁶⁴ Secured Transactions in Movable Assets Act, 2017, s. 10 (1)

security interests in movable assets, providing access to such information, and performing other functions.⁶⁵ The collateral registry serves as a database of interests in or ownership of movable assets, notifying parties about the existence of a security interest in movable assets and establishing the priority of creditors vis-à-vis third parties. The registry is crucial for improving access to financing for firms, particularly in underdeveloped financial markets, by allowing movable assets to be used as collateral and reducing asymmetric information problems associated with extending credit.⁶⁶

The Regulations apply to all security interests in movable property, regardless of transaction type or nature. Subject to a third party's created priority, individuals or entities can be secured, creditors. Financing leases after these regulations become effective are subject to registration in the Collateral Registry. They do not apply to set-off rights, charges required under the Companies and Allied Matters Act, land interests, payment transfers, or movable property transfers.⁶⁷ To create a security interest in a property, a security agreement creates a security interest between parties, and a security interest in acquired property becomes effective when the debtor acquires the property without written consent or further action, provided it falls under the collateral description in the registered financing statement.⁶⁸

The debtor's rights to collateral are considered when creating a security interest. This transfer is effective between the debtor and secured creditor, regardless of any agreement limiting the debtor's right to assign receivables.⁶⁹ The security agreement must reflect the parties' intent to create a security interest, identify the secured creditor and debtor, describe the secured obligation, and adequately describe the collateral.⁷⁰ The tenor of the obligation must be indicated. A security interest is created if the collateral is described by item, kind, type, or category, and continues in identifiable or traceable proceeds.⁷¹ The Regulation made perfection of the security interest a mandatory requirement. Perfection of a security interest requires registration of a financing statement in the Collateral Registry, and the secured creditor must not possess collateral in the debtor's possession or control. A security interest is perfected when a financing statement in respect of that security interest has been registered in the Collateral Registry.⁷²

The financial statement is registered by the collateral registry after a unique registration number, date, and time have been assigned, which is then promptly

⁶⁵ Ibid. s. 11 (a), (b) & (c)

⁶⁶ Inessa Love, María Soledad Martínez Pería and Sandeep Singh, 'Collateral Registries for Movable Assets: Does Their Introduction Spur Firms' Access to Bank Financing?' (2015) 49 *Journal of Financial Services Research* 1.<<https://link.springer.com/article/10.1007/s10693-015-0213-2>> accessed 19 December 2024.

⁶⁷ Collateral Registry Regulations, 2014, Regulation 3

⁶⁸ Ibid. Regulation 4

⁶⁹ Collateral Registry Regulations, 2014, Regulation 5

⁷⁰ Ibid. Regulation 6

⁷¹ Ibid. Regulation 7

⁷² Ibid. Regulation 8

provided with a confirmation statement to the secured creditor.⁷³ The registration of a financing statement is effective until the term expires or it's canceled. Before they expire, registrations are subject to amendment. Information remains in the Collateral Registry, and expired registrations are searchable for six months after expiration.⁷⁴ The registration can be amended by the secured creditor through an amendment financing statement. Amendments that add collateral, add a new debtor, or modify the maximum amount of the secured obligation are effective from the date and time of registration.

The secured creditor must provide the initial financing statement registration number, specify the purpose of the amendment, add or change information, and identify the creditor authorising the amendment.⁷⁵ The secured creditor can cancel a registration after receiving a demand from the debtor, within 15 working days, provided all obligations under the security agreement have been fulfilled and no future advances are made. The cancellation statement must include the initial financing statement registration number and the secured creditor's identification. If the creditor fails to comply, the debtor can appeal to the Registrar, who will make a final decision.⁷⁶

A perfected security interest has priority over an unperfected security interest. The priority of perfected security interests in the same collateral created by the same debtor is determined by the order of registration or possession, subject to special priority rules.⁷⁷ The priority of a security interest in original collateral, proceeds, and advances is the same, regardless of whether the interest is existing or future.⁷⁸ The transfer of a security interest maintains its priority and is effective without registering an amendment financing statement in the Collateral Registry.⁷⁹ The secured creditor can subordinate its priority to another claimant without registering an amendment financing statement in the Collateral Registry, and this agreement cannot adversely affect non-party rights.⁸⁰ The purchase money security interest in collateral and its proceeds will have priority over a non-purchase money security interest if perfected upon collateral receipt by the debtor.⁸¹

The transferee of funds from a deposit account takes the money free of security interest, unless they violate the secured creditor's rights, and the bank's set-off right has priority.⁸² The holder of a negotiable instrument or document of title has priority over a perfected security interest, provided the holder gave value, acquired the instrument or document without knowing it breached the security agreement, or took possession of it.⁸³ The holder of a negotiable instrument or

⁷³ Ibid. Regulation 14

⁷⁴ Ibid., Regulation 17

⁷⁵ Ibid. Regulations 18

⁷⁶ Collateral Registry Regulations, 2014, Regulation 19

⁷⁷ Ibid. Regulation 23

⁷⁸ Ibid. Regulation 24

⁷⁹ Ibid. Regulation 25

⁸⁰ Ibid. Regulation 26

⁸¹ Ibid. Regulation 27

⁸² Ibid., Regulation 29

⁸³ Ibid. Regulation 30

document of title has priority over a perfected security interest, provided the holder gave value, acquired the instrument or document without knowing it breached the security agreement, or took possession of it.⁸⁴ The buyer or lessee of goods who acquires goods for value and receives their possession takes it free from an unperfected security interest. The Buyer and lessee of goods sold or leased in the ordinary course of business take the goods free of a security interest created by the seller or lessor unless the seller or lessor is aware that the sale or lease breaches the security agreement which created the security interest.⁸⁵

The Collateral Registry Regulations, 2014, have been criticised by authors for several defects. First, the absence of the requirement for a secured party to give "value" to a debtor in exchange for encumbering their assets. This lack of value is fundamentally incongruous with the basic principle of contract validity in Nigeria and promises to be a seedbed for litigation.⁸⁶ The Regulations have restricted natural persons from being a secured party under a security agreement, making banks and financial institutions the only parties that can become a secured party. This restriction prevents Nigerians in equally good positions from exploiting the Regulations and their collateral registry, and increases the possibility of debtors being grossly exploited by banks whose bargaining position is far stronger than a natural debtor.⁸⁷

Moreover, the Regulations allow a secured party to file a financing statement in the collateral registry without any monetary advance to the debtor, which prevents them from seeking alternative funds elsewhere using the same collateral. This negative implication is that prospective lenders would likely search the collateral registry to discover the existing security interest of the first creditor and refuse to grant credit to the debtor if they do not want to be second-ranking concerning the presented collateral.⁸⁸

Second, the Companies and Allied Matters Act, 2024 (CAMA) includes a floating charge as a security device that can encumber a debtor's property until it crystallises.⁸⁹ This is necessary for economic growth, as most companies' assets are locked up in inventories and personal property. However, the floating charge can only be created and enforced by corporate persons in Nigeria. Comparatively, many common law countries have transformed the floating charge into a floating lien due to weaknesses in the device, such as delayed attachment of security interest and potential conflict with retained title financing.⁹⁰ Despite this, the Regulations introduce a floating lien, a fixed charge that allows the debtor to use and dispose of encumbered assets in the ordinary

⁸⁴ Ibid. Regulation 31

⁸⁵ Collateral Registry Regulations, 2014, Regulation 32

⁸⁶ Williams C Iheme and Sanford U Mba, 'Towards Reforming Nigeria's Secured Transactions Law: The Central Bank of Nigeria's Attempt through the Back Door' (2017) 61 *Journal of African Law* 131.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Companies and Allied Matters Act, 2020, s. 205 (2)

⁹⁰ Williams C Iheme and Sanford U Mba, 'Towards Reforming Nigeria's Secured Transactions Law: The Central Bank of Nigeria's Attempt through the Back Door' (2017) 61 *Journal of African Law* 131.

course of business.⁹¹ This eliminates interference with title financing devices and ensures a uniform set of rules for security interests in debtors' personal property or fixtures.

The coexistence of a floating charge and floating lien in one legal system is a misnomer, leading to unpleasant consequences. The floating charge contained in CAMA, 2024, will supersede the floating lien in the Regulations according to the hierarchy of laws in Nigerian jurisprudence. This could lead to conflicts of priority rights between banks and financial institutions. The existence of two unlinked collateral registries for incorporated entities increases registration and transaction costs and engenders ostensible ownership problems for dubious debtors. This could lead to a disaster in the Nigerian lending industry, as a collateral registry restricted to a class of creditors can only intensify the problem of ostensible ownership.⁹²

The Regulations introduce a one-legged self-help repossession remedy to help secured parties realise debt owed quickly after a debtor's default.⁹³ This is commercially sensible as perishable collateral is only meaningfully utilised to offset debt if sold as fast as possible after default. The absence of a self-help repossession right in respect of a debtor's collateral after default would result in outdated and low-priced collateral after prolonged litigation. Without a developed self-help enforcement mechanism, credit lenders would be unlikely to accept personal property as collateral. A well-regulated self-help remedy reduces litigation costs, making modern commerce more efficient. This would lead to secured creditors providing sufficient and affordable credit to debtors, reducing lending rates and affecting Micro, Small and Medium Enterprises (MSMEs).⁹⁴

The Collateral Registry Regulations require secured creditors to give ten days' notice before repossession of a debtor's collateral after default, which is deemed inappropriate as it destroys the element of surprise essential for successful repossession of personal property collateral.⁹⁵ This would discourage lenders from providing sufficient and affordable credit to debtors. The debtor could easily transfer the collateral out of a court's jurisdiction or sell it to unsuspecting buyers in the market. Tracing personal property is difficult in Nigeria, and if law enforcement agents find it difficult to trace stolen items, secured creditors could suffer losses. This could lead lenders to abandon the Regulation and demand real property collateral that can be easily monitored and cannot be hidden or transferred out of the jurisdiction.⁹⁶

⁹¹ Collateral Registry Regulations, 2014, Regulation 33

⁹² Ibid.

⁹³ Ibid. Regulation 35 (1) & (5)

⁹⁴ Williams C Iheme and Sanford U Mba, 'Towards Reforming Nigeria's Secured Transactions Law: The Central Bank of Nigeria's Attempt through the Back Door' (2017) 61 *Journal of African Law* 131.

⁹⁵ Collateral Registry Regulations, 2014, Regulation 35 (3)

⁹⁶ Williams C Iheme and Sanford U Mba, 'Towards Reforming Nigeria's Secured Transactions Law: The Central Bank of Nigeria's Attempt through the Back Door' (2017) 61 *Journal of African Law* 131.

3.2 Regulation on Investment of Pension Fund Assets, 2019

The Regulation on Investment of Pension Fund Assets, 2019 was made in sequel to the provisions of the Pension Reform Act, 2014, empowering the Commission to make regulations and rules as it deemed necessary or expedient to bring the intendment or the realisation of the provisions of the Act.⁹⁷ The overall investment objectives of the pension funds are to ensure safe and fair investment returns. Also, the regulation was made to provide uniform rules and standards for the investment of pension fund assets. These objectives of ensuring safe and fair returns on investment of pension funds are carried out by PFAs who act as fiduciaries to the pension fund assets under their management and are expected to abide by the dictates of the Investment Regulation in their investment activities.⁹⁸

By the provisions of the Regulation, Pension Fund Custodians (PFCs) are required to accept only written instructions from licensed Pension Fund Administrators (PFAs) for the investment and management of pension fund assets held by the PFCs on behalf of contributors. PFCs cannot contract out the custody of the pension fund assets to third parties except for allowable investments outside Nigeria and must obtain Commission approval before engaging a global custodian for allowable foreign investments.⁹⁹ Subject to the provisions of the Act and other requirements of other guidelines issued by the Commission, each PFA is required to establish an Investment Strategy Committee and a Risk Management Committee.

The Investment Strategy Committee is tasked with developing internal investment strategies that adhere to Regulations, taking into account the macroeconomic landscape, investment objectives, and risk profile of PFA Funds. The PFA must formally approve these strategies during a Board Meeting, which should occur at least once a year or more frequently if changes in the macroeconomic environment impact pension fund assets.¹⁰⁰ On the other hand, the Risk Management Committee is responsible for determining the risk profile of investment portfolios, creating risk assessment systems, monitoring portfolios against risk tolerance limits, and performing other risk management functions as specified in the Act and as determined by the PFA's Board and Commission. The committee must report its activities to the PFA's Board and Commission at least once a quarter.¹⁰¹

By the provisions of the Act and Regulations, Pension fund assets can be invested in non-interest-bearing debt instruments such as bonds, debentures, and preference shares issued by eligible corporate entities, as well as Asset Backed Securities, including mortgage bonds, and infrastructure bonds,

⁹⁷ Pension Reform Act, 2014, s. 115 (1)

⁹⁸ Aisha Dahir-Umar 'Q & A: Why PenCom issued Regulation on Investment of Pension Fund Assets' The Cable (Lagos, 26 January 2023) <<https://www.thecable.ng/qa-why-pencom-issued-regulation-on-investment-of-pension-fund-assets-by-aisha-dahir-umar>> accessed 24 December 2024.

⁹⁹ Regulation on Investment of Pension Fund Assets, 2019, s. 1.0 (1.1), (1.2) & (1.3)

¹⁰⁰ Regulation on Investment of Pension Fund Assets, 2019, s. 1.0 (1.6)

¹⁰¹ Ibid. s. 1.0 (1.7)

guaranteed by federal/state governments.¹⁰² Going by the provisions of the Act and Regulations, ABS are one of the instruments that Pension fund assets can be invested in, subject to conditions provided by the Act and Regulations. One of such requirements as provided by the Regulations is that all allowable instruments to be traded with pension fund assets are to be rated by reputable rating agencies incorporated in Nigeria and registered with the Securities and Exchange Commission (SEC) or by foreign rating agencies recognised by the SEC.¹⁰³

The minimum credit rating for such allowable instruments, including ABS, which are used to invest pension fund assets, must be 'A' from at least two rating agencies, one of which must be incorporated in Nigeria and registered with the SEC.¹⁰⁴ However, PFAs can invest up to 20% of their pension assets in ABS with a credit rating of 'BBB' from at least two rating agencies, one of which must be incorporated in Nigeria and registered with the SEC.¹⁰⁵ The minimum rating for investments must be maintained throughout their tenor, and if two rating agencies give different grades, the lower rating grade will determine the maximum investment limit. Pension funds can retain investments for up to six months after expiration. If an investment is no longer authorised due to a credit rating downgrade, the pension fund must forward its exit strategy to the Commission within 10 working days.¹⁰⁶

The Pension Fund Administrators can invest Pension Fund Assets in ABS (ABS) upon meeting certain criteria. Subject to the provisions of the Act, these criteria include but are not limited to meeting the 'AAA' or 'BBB' rating requirements, respectively, having a face value of ₦1 billion, and maintaining a market value of the assets securitising the issued ABS. The Federal Government Securities will have to make up for any collateral shortfall with a face value of not exceeding 25% of the ABS. The securities are tradable only on a securities exchange registered by the SEC, and Promoters/Originators must retain a minimum percentage of the issue. The promoters/originators will have to make full disclosure of information on the ABS, including corporate governance standards, annual valuation reports, and inherent risks, as required.¹⁰⁷

The Investment Regulation includes measures that establish restrictions on portfolio diversification to prevent concentration and market risks. These limits apply globally, as well as on a single issuer and issue basis. The purpose of Per Issuer Limits is to restrict the amount of money that a pension fund can invest in a single issuer, by the main goals of pension fund investments. In addition, providing evaluations of firms and securities and performing thorough research on their investing endeavours. Furthermore, the Investment Regulations contain strict provisions that guarantee the isolation of assets and permit

¹⁰² Ibid. s. 4.0 (4.3)

¹⁰³ Ibid. s. 5.0 (5.1.1)

¹⁰⁴ Ibid. s. 5.0 (5.1.2)

¹⁰⁵ Regulation on Investment of Pension Fund Assets, 2019, s. 5.0 (5.1.3)

¹⁰⁶ Ibid. s. 5.0 (5.1.8), (5.1.9), (5.1.10), (5.1.11) & (5.1.12)

¹⁰⁷ Regulation on Investment of Pension Fund Assets, 2019, s. 5.0 (5.2.9)

investments solely in instruments with negligible risks. The Investment Regulation establishes rules to manage and mitigate counterparty risks.¹⁰⁸

4. Conclusion

The legal and regulatory framework for securities in Nigeria plays a fundamental role in ensuring market efficiency, investor protection, and financial stability. Various legislations, including the Companies and Allied Matters Act (CAMA) 2020, the Investment and Securities Act (ISA) 2025, the Banks and Other Financial Institutions Act (BOFIA) 2020, and the Central Bank of Nigeria (CBN) Act 2007, collectively form the foundation of securities regulation in the country. These laws provide guidelines for corporate governance, securities issuance, financial transactions, and market oversight.

A significant gap in Nigeria's securities regulation is the absence of a comprehensive framework specifically addressing asset-backed securities (ABS) and securitisation. While the existing legal structures provide general guidance, their provisions do not sufficiently accommodate the complexities of modern securitisation practices. This creates uncertainties for financial institutions and investors, potentially limiting the growth of ABS as an alternative financing mechanism in Nigeria.

Despite these challenges, regulatory bodies such as the Securities and Exchange Commission (SEC) and the Central Bank of Nigeria (CBN) continue to play a crucial role in overseeing securities transactions and maintaining market integrity. However, reforms are necessary to align Nigeria's legal framework with international best practices, ensuring a more robust and transparent capital market.

In conclusion, while Nigeria has made significant strides in securities regulation, further legislative improvements are required to address emerging financial instruments like securitisation. Strengthening the regulatory environment will enhance investor confidence, promote financial innovation, and support economic growth.

5. Recommendations

- i. **Enactment of a Specific Legal Framework for Securitisation**
The lack of a dedicated securitisation law is one of the biggest gaps in Nigeria's securities market. A well-defined legal framework will provide clarity, investor protection, and legal certainty for asset-backed securities (ABS) transactions, making Nigeria more attractive to local and foreign investors.
- ii. **Strengthening Regulatory Oversight**
The Securities and Exchange Commission (SEC) and the Central Bank of Nigeria (CBN) must play a proactive role in enforcing compliance, preventing market

¹⁰⁸ Aisha Dahir-Umar 'Q & A: Why PenCom issued Regulation on Investment of Pension Fund Assets' The Cable (Lagos, 26 January 2023) <<https://www.thecable.ng/qa-why-pencom-issued-regulation-on-investment-of-pension-fund-assets-by-aisha-dahir-umar>> accessed 24 December 2024.

abuse, and ensuring transparency in ABS transactions. A strong regulatory framework is essential for building trust and ensuring market stability.

iii. Harmonisation of Regulatory Frameworks

Multiple financial regulators, including the SEC, CBN, and National Pension Commission (PenCom), currently operate in a fragmented manner. A unified regulatory approach will eliminate inconsistencies, reduce compliance burdens, and create a more predictable investment environment.

iv. Improvement of Investor Protection Measures

Investor confidence is key to market growth. Enhancing transparency, disclosure requirements, and standardised credit rating mechanisms for ABS will protect investors and prevent fraudulent securitisation transactions.

v. Tax and Incentive Reforms

A tax-friendly environment for ABS transactions will encourage more financial institutions to participate in the market. Addressing double taxation issues and providing tax incentives for SPVs can significantly boost the securitisation market.