

LAWS OF THE NEW SUDAN

THE CENTRAL BANK OF NEW SUDAN

ACT, 2003

(PROVISIONAL ORDER)

THE CENTRAL BANK OF NEW SUDAN

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An act, to establish the Central Bank of New Sudan, to regulate the issue of legal tender, maintain external reserves and promote the stability of the currency, sound financial structures and other related purposes therein.

CHAPTER ONE

PRELIMINARY.

1. Titles and Commencement: -

This Act may be cited as the Central Bank of New Sudan Act, 2003 and shall come into effect on the date of signature.

2. Repeal and Saving: -

- 1) The Central Bank of the New Sudan (Provisional Order) 2000 is hereby repealed.
- 2) All Acts, orders and regulations done or issued under the repealed provisional order shall continue in force till repealed or amended in accordance with the provisions of this Act.

3. Definitions: -

In this Act unless the context otherwise requires the following words and expressions shall carry the meanings assigned to them: -

“The Bank” means the Central Bank of New Sudan established under section 4 of this Act.

“Financial Institution” includes a bank, credit institution, building society and any institution classified as a financial institution by the Bank.

“Board” means the Board of Directors established under section 9(a) of this Act.

“Executive Directors” means a person appointed under section 17 of this Act.

“Pound” means the New Sudan Pound.

“NLC” means the National Liberation Council.

“LC” means the Leadership Council of the SPLM/A.

“Governor” means the Governor of the Central Bank of New Sudan appointed under section 10 (2) of this Act.

“Fund” means the General Reserve Fund of the Bank established under section 20 of this Act.

“Commissioner” means the Commissioner for Finance and Economic Planning.

“Commission for Economy” means the Commission for Economic Production.

“SPLM” means the Sudan People’s Liberation Movement.

“CANS” means Civil Authority of the New Sudan.

“Chairman” means the Chairman of SPLM and CANS.

“Agent” means a person or an institution legally appointed as such by the Bank.

CHAPTER TWO.

ESTABLISHMENT OF THE BANK AND GOVERNANCE STRUCTURES.

4. Establishment of the Bank: -

- (1) There shall be established in the New Sudan, a bank to be known as “ The Central Bank of New Sudan” hereinafter referred to as “The Bank” and abbreviated “CBNS”.
- (2) The Bank shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
- (3) The Bank may, subject to the limitations contained in this Act relating to the business which The Bank may carry out, purchase, manage and dispose of real and movable property, and may enter into contracts that may be expedient.

5. The Seal of the Bank: -

- (1) The seal of The Bank shall be authenticated by the signatures of the Governor and the Secretary of the Board.
- (2) In the absence of the Governor, the Deputy Governor may sign in his place and the acting Secretary may sign in the absence of the Secretary.
- (3) A document issued by The Bank, sealed with the seal of The Bank and authenticated in the manner provided under this section, shall be received and taken to be a true document without further proof unless the contrary is shown.

6. Functions of The Bank: -

- (1) The main function of the CBNS is the maintenance of financial stability through a coherent monetary policy consistent with the strategic principles of the New Sudan financial system.
- (2) Without prejudice to the generality of subsection (1) The Bank shall: -
 - (a) print currency notes and mint coins of the New Sudan Legal tender and provide an elastic currency in the economy.
 - (b) control the money stock in a manner consistent with the fundamentals of the liberation economy.
 - (c) determine reserves requirements and provision of these reserves in the form of balances to be held at the CBNS on behalf of the commercial banks.
 - (d) establish an effective regulatory mechanism for a sustained supervision and regular on-and-off-sight controls of commercial banks, micro-finance and insurance institutions ... etc.
 - (e) determine the means for re-discounting commercial (securities) and CANS (Financial bills) paper, so as to be a lender of last resort.
 - (f) serve as the fiscal agent for CANS.
 - (g) act as financial advisor to CANS.
 - (h) advise CANS on monetary policy as provided under subsection (3) of section 35.
 - (i) Issue licenses to Commercial Banks, micro finance and Insurance institutions, Building Societies etc.

7. Powers of The Bank:-

Subject to the provisions of this Act, The Bank shall have all the powers pertaining to a legal person and may do all things necessary for the better carrying out of its functions.

8. Head Office of The Bank:-

The Bank shall have its head office in Yei or any other place designated by CANS and may establish branches and appoint agents and correspondents in and out side the New Sudan, as the Board may decide.

9. The Governance Structure of the Bank:-

The governance structure of The Bank shall consist of two bodies as follows:-

- (a) Board of Directors.
- (b) Management Team.

CHAPTER THREE

THE BOARD OF DIRECTORS.

10. The Board of Directors.

- (1) The Board of Directors shall consist of 15 members constituted as follows:-
 - (a) Governor of CBNS - Chairperson.
 - (b) (2) Deputies of the Governor - Deputies to the Chairperson.
 - (c) The Under-Secretary of Finance and Economic Planning - Member.
 - (d) (5) Representatives of the Regions - Members.
 - (e) Two experts in the field of Economics. - Member.
 - (f) (3) Representatives of Civil Society - (two women, farmers and Chamber of Commerce) – Members.
- (2) The Governor of The Bank and his two Deputies shall be appointed by the Chairman subject to the approval of the NLC, for a period of three years renewable up to a maximum of three terms of office.
- (3) The other Directors referred to under subsection (1) shall be appointed by the Chairman on the recommendation of the Board.
- (4) A member of the Board may hold office for a period of three years renewable up to a maximum of three terms of office, and one third of the membership of the Board shall be appointed at different times so that the expiry dates of the members fall at different dates.
- (5) A Director may resign his office by writing under his hand addressed to the Chairperson of the Board which resignation shall take effect one month, from the date of receipt of the letter of resignation, by the Chairperson of the Board.
- (6) If a member of the Board dies or resigns or otherwise vacates office before the expiry of his term for which he was appointed, the Chairman of the Commission for Economy may appoint another person in his office, and the person so appointed, shall hold office for the unexpired period of the term of office of the person in whose place he is appointed.

- (7) Whenever and for any reason the offices of the Governor and the Deputies fall vacant at the same time, the Commissioner shall, in consultation with the Board designate one of the Executive Directors to perform the duties of a Deputy Governor and attend meetings of the Board as an ex-officio member pending the appointment of the Governor or Deputy Governor.
- (8) Whenever for any sufficient reason the Governor and Deputies are absent at the same time, the Governor shall designate a senior officer to perform the executive functions of the Deputy Governor and attend the meetings of the Board as an ex-officio member until the resumption of office by the Governor or Deputy and the members of the Board shall appoint from among themselves, a Chairperson for the period of absence of the Governor and Deputies.

11. Qualifications of Directors:-

A person may be appointed as a Director if:-

- (a) is a National of the New Sudan; and
- (b) has a recognised experience and qualifications in economics, financial business management or banking .
- (c) is of personal integrity and has never been convicted by any court of law of an offence related to dishonesty, fraud or moral turpitude.

12. Disqualification of Directors:-

- (1) No member shall be appointed or be a member of The Board if he is or becomes a salaried officer of the bank other than the Governor and his Deputies.
- (2) A member of the Board shall cease to hold office if he:-
 - (a) becomes of unsound mind or incapable of carrying out the duties of his office;
 - (b) becomes bankrupt or suspended payments or compounded with his creditors.
 - (c) is convicted of an offence punishable with more than two months imprisonment or convicted of an offence involving fraud, dishonesty or abuse of office.

- (d) in the case of a person having professional qualifications if, he is disqualified or suspended from practising his profession by a competent authority or ceases to be a member of that profession otherwise than on his own request.

13. Duties and Powers of the Board:-

- (1) The Board shall be responsible for the overall monetary policy including the setting of interest rates, reserve requirements and safeguards for the functioning and stability of the financial system.
- (2) The Board shall ensure that the following conditions are present and met:-
 - (i) a flexible supply of currency notes and coins on demand.
 - (ii) a regulated and centralised system of reserves.
 - (iii) a mechanism for provisioning and writing off of bad loans and assets by the banking sector.
 - (iv) Maintain public confidence in the monetary system of the New Sudan.
 - (v) a clear system of deposit insurance.
- (3) Without prejudice to the provisions of subsections (1) and (2) the Board shall:-
 - (i) be responsible for the general management of the affairs of The Bank;
 - (ii) ensure the functioning of The Bank and implementation of its functions;
 - (iii) formulate the policies of The Bank;
 - (iv) do anything required to be done by The Bank under this Act; and
 - (v) do anything within, or incidental to the functions of The Bank.

14. Meetings of the Board:-

- (1) The meetings of the Board shall be governed by the following procedure:-
 - (a) The Governor shall preside over all the meetings of the Board and in his absence the most senior Deputy Governor presides.
 - (b) The Board shall meet for the discharge of its functions as often as business requires and in any case the Board shall meet at least once every three months.
 - (c) The Governor may convene an extra-ordinary meeting as he deems necessary or on the written request of at least five members of the Board.

- (d) The quorum at any meeting of the Board shall be simple majority including the Governor or a Deputy Governor, or a person presiding over the meeting.
- (e) Decisions of the Board shall be passed by simple majority of the members present and voting. In case of a tie the chair shall have a casting vote.
- (f) The Board shall cause to be kept, in writing minutes of all the proceedings of its meetings.
- (g) The Board may invite any person(s) to attend any of its meetings as consultant(s) or advisor(s).
- (h) No act or proceedings of the Board shall be invalidated by any vacancy in the membership of the Board.
- (i) All acts done in good faith, by any Director, as a member of the Board, shall be valid notwithstanding any defect in his appointment.

(2) Without prejudice to the provisions of subsection (1) above, the Board may regulate its own procedure, in all other matters not provided for under this Act.

15. Allowances of Members:-

Members of the Board and any other person, not being an employee of The Bank, attending a meeting of the Board, may be paid allowances as the Board may, decide in consultation with the Governor.

16. Conditions of Service of Members:-

(1) The Board shall make by-laws to regulate conditions of service of its members.

CHAPTER FOUR

THE MANAGEMENT TEAM.

17. The Management Team:-

(1) There shall be established a team for the Management of The Bank, to be known as the "Management Team".

(2) The composition of the Management Team shall be as follows-

- (i) Governor Team Leader.
- (ii) Two Deputies of the Governor D/Team Leaders

(iii)	Director of Research in the CBNS	Member
(iv)	Director of Accounts in the CBNS	Member
(v)	Director of Human Resources in the CBNS	Member
(vi)	Treasurer of the CBNS	Member
(vii)	Legal Advisor of the CBNS	Member
(viii)	Representative of CBNS employees	Member

- (3) The Governor and his two Deputies shall be persons of recognized financial and banking qualifications and experience.
- (4) The other members of the Management Team, shall be persons of experience in their respective fields and should be of good behaviour, conduct and integrity. They shall be the Executive Directors of The Bank or status therein.
- (5) The Management Team, while in office shall, not occupy any other position or hold any other office or take other employment whether remunerated or not.
- (6) Notwithstanding the provisions of subsection (5) a member of the Management Team may-
- (i) become a trustee of any staff pension provident or superannuation fund or schemes;
 - (ii) with the consent of the Governor and the approval of the Board, become a Director, Governor or member of the Board, by whatever name that institution might be called, of an international bank or an international monetary authority the CANS shall have become a member of or given support by the same.
- (7) The Team Leader and members of the Management Team shall be appointed on conditions specified in their letters of appointment.
- (8) The Team Leader or any of his Deputies may resign his office in writing addressed to the Chairman and the resignation shall be effective after one month from the date of the receipt of the letter of resignation by the Chairman.
- (9) The Management Team, other than the Team Leader and his two Deputies,

shall be appointed and relieved by the Governor according to the employment procedures and policies of the CBNS.

18. Appointment of Employees:-

- (1) Members of the Management Team shall be the Executives of The Bank. They shall carry on supervisory functions over a number of Departments as may be determined by the Board.
- (2) There shall be heads of Departments of The Bank, appointed by the Governor on the approval of the Board.
- (3) The Bank shall have other officers and employees as the Board may determine.
- (4) Save as may be provided by by-laws of The Bank, all appointments of employees shall be made by the Management Team.
- (5) Employees of the Bank shall be engaged on terms and conditions laid down by the Board.
- (6) No salary, fee, wage or other remuneration or allowance paid by The Bank, shall be computed by reference to the net or other revenues of The Bank.
- (7) No employee of The Bank shall be liable:-
 - (i) for any loss or damages suffered by The Bank, unless that loss or damage was caused by his own default or willful act;
 - (ii) for any legal proceedings for anything which is done in good faith pursuant to the provisions of this Act.

CHAPTER FIVE

CAPITAL, RESERVE AND CURRENCY

19. Authorised Capital:-

- (1) The authorized capital of the Bank shall be fifteen billion pounds, which shall be subscribed by the CANS from time to time.
- (2) The authorized capital may be increased by a resolution of the NLC to ensure adequacy of the operations of the Bank.
- (3) The issued and paid up capital of the Bank shall be a minimum of ten billion pounds.
- (4) Where the capital of the Bank is impaired at any particular time the CANS shall furnish securities to the Bank to make good the impairment.

20. General Reserve Fund:-

- (1) There shall be a General Reserve Fund of the Bank, which shall be determined by the Board from time to time.
- (2) The Bank may, with the approval of the Commission for Economy, on the recommendation of the Commissioner, transfer funds from the General Reserve Fund to the capital of the Bank.

21. Distribution of Revenues and Loss:-

- (1) At the end of each financial year of the bank, and after:-
 - (a) making good the authorized capital and General Reserve Fund balances;
 - (b) allowing for expenses of operation;
 - (c) making provision for bad and doubtful debts;
 - (d) making provision for depreciation of assets;
 - (e) contributing to any scheme or fund established under this Act;
 - (f) taking into consideration any other contingencies;

any net revenues or losses from the bank's operations, shall be shared between the Bank and the CANS in respectively proportions of sixty and forty percent.

- (2) In determining the profits and losses at the end of each financial year, the accounts shall clearly distinguish profits or losses arising from the normal

operations of the Bank and those resulting from profits or losses due to exchange fluctuations.

- (3) The Board may determine that the whole of the net profit of the bank, be paid into the Consolidated Fund, if at the end of the financial year, the amount of money in the General Reserve Fund is twice or more than the amount of the paid up capital of the Bank.
- (4) The Bank may, after consultation with the Commissioner and the approval of the Commission for Economy, retain from the money payable into the Consolidated Fund, under this Section, any amount of money as the Board may determine, in satisfaction or reduction of any amount of money due to the Bank by the CANS.

22. Unit of Currency:-

- (1) The unit of currency shall be the New Sudan Pound (NSP).
- (2) The monetary obligations or transactions shall be expressed, recorded and settled in the Pound unless otherwise provided under any enactment or is lawfully agreed to be between the parties to an agreement under any lawful obligation.

23. External Value of the Pound:-

The Board shall, in consultation with the Commissioner and on approval by the Commission for Economy, prescribe the framework for determining the external value of the pound.

24. Auctioning of Foreign Currency:-

The Bank may buy and sell foreign currency:-

- (a) at rates determined by market conditions or forces; and
- (b) on terms that may be determined by the Board.

25. Right to Issue Notes and Coins:-

- (1) The Bank shall have the sole right to issue notes and coins and the CANS

or any other person shall not issue currency notes, bank notes, coins, any documents or tokens payable to bearer on demand, being documents or tokens likely to be passed as legal tender.

(2) The Banks shall:-

- (i) arrange for the printing of notes and the minting of coins.
- (ii) determine the denominations to be issued.
- (iii) issue and re-issue and exchange notes and coins at the Bank's offices and at the Bank's agencies, established or appointed by the Bank.
- (iv) arrange for the custody of un-credited stocks of currency and for the preparation of safe custody and destruction of plates and paper for the printing of notes and of dyes for the minting of coins.

26. Design of Bank Notes:-

The Bank shall determine the design of the bank notes issued by it, but no bank notes shall bear in its design a portrait of a living person or any political symbol or word.

27. Denominations and Form of Bank Notes and Coins:-

- (1) The Bank notes and coins issued by the CBNS shall be in the denominations of the pound or fraction of the pound expressed in piasters as shall be determined by the Board on the recommendation of the Commissioner, subject to the approval of the NLC.
- (2) Denominations issued by the Bank shall be in forms and designs bearing devices that shall be determined by the Board.
- (3) The standard weight, composition, size of coins issued by the Bank and their remedy and variation shall be determined by the Board.

28. Legal Tender:-

- (1) Notes issued by the Bank shall be legal tender at their face value.
- (2) Coins issued by the Bank, if not tempered with, shall be legal tender for payments, as may be prescribed by the Board from time to time.
- (3) On giving not less than sixty days notice, in the Gazette, the Bank may call in

any of its bank notes and coins on payment of the face value. Any notes or coins with respect of which the notice may have been given under this subsection shall, on the expiration of the notice, cease to be legal tender.

- (4) For the purpose of this Act, a coin shall be deemed to have been tempered with if it has been:-
- (a) impaired, diminished or lightened, otherwise by fair wear and tear; or
 - (b) defaced by stamping, engraving or piercing, whether the coin shall or not have been diminished or lightened.

29. Refund for Lost or for Imperfect Bank Notes and Coins:-

- (1) No person shall be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect bank note or any coin, which is tempered with.
- (2) Subject to the provisions of subsection (1) the circumstances in, and conditions under and limitations subject, to which the value of any lost, stolen, mutilated or imperfect bank notes or coins tempered with, may be refunded, as of grace, shall be at the absolute discretion of the Board.

30. Evidence of Imitation of Bank Notes:-

Where any proceedings before any court of competent jurisdiction, for determination whether a document purporting to be a bank note is an imitation of a bank note, a certificate under the hand of the Governor or any officer of the bank authorized by him, certifying that he has examined the document which purports to be a bank note or coins and that the document is an imitation of a bank note or coins and not a note or coin issued by the CBNS, shall be received in evidence without further proof, as conclusive evidence of the fact that the document is an imitation of a bank note.

31. Exemption from Stamp Duty:-

The Bank shall be exempted from payment of stamp duty in respect of notes and coins issued by it.

CHAPTER SIX

BANKING.

32. Credit and Other Operations:-

- (1) The Bank may:-
 - (a) Open accounts for and accepts deposit from -
 - (i) The CANS.
 - (ii) Local Administrations.
 - (iii) Funds, corporations and institutions controlled by the CANS;
and
 - (iv) Financial Institutions.
 - (b) Buy, sell, discount and rediscount bills of exchange, promissory notes, Secretariat of Finance and Economic Planning Bills or other instruments.
 - (c) Subject to the provisions of subsection (b), purchase and sale of securities of CANS which have been publicly offered or issued or which is being made to the public at the time of acquisition and such securities are to mature within a period of twenty years.
 - (d) Grant advances to its customers specified under paragraph (a) for fixed period not exceeding three months against publicly issued by Secretariat of Finance and Economic Planning Bills of the CANS maturing within ninety three days.
 - (e) Grant to financial institutions advances for fixed periods not exceeding three months, at a rate of interest not being less than one percent above the Bank's standard rediscount rate against promissory notes secured by the pledge with the Bank:-
 - (i) securities of the CANS which have been publicly offered for sale and are to mature within a period of twenty five years.
However that any advance so secured shall not at anytime exceed seventy five percent of the market value of the security pledged and that the total amount of the securities held by the Bank, whether under the provisions of this sub-paragraph or otherwise, is within the limitations imposed under the provisions of subsection (4) of this section and that where in the

opinion of the Bank there is no established market value for those securities, the value shall be determined by the Bank; the securities referred to exclude such bonds issued for purposes of capitalization of the Bank.

- (ii) bills of exchange and promissory notes as are eligible for purchase, discount or rediscount by the Bank. However that any advance so secured, shall not at anytime exceed seventy five percent of the normal value of the instrument pledged.
 - (iii) warehouse warrants issued by lawfully formed general and bonded warehouses or their equivalent securing possession of goods.
 - (iv) required reserves held at the Bank.
- (f) Subject to subsection (4) grant to financial institutions, medium and long-term loans for periods not exceeding fifteen years upon such securities as the Board may prescribe.
- (g) Guarantee loans by financial institutions not exceeding twenty percent of the core capital or as the Board may determine.

(2) The Bank may:-

- (a) Issue demand drafts and effects other kinds of remittances payable at its own offices or at the offices of its agents or correspondents;
- (b) Purchase and sell gold coins or gold bullions;
- (c) Invest in securities of the CANS for any amount, and to mature at anytime on behalf of staff funds and superannuation funds and other internal funds of the Bank;
- (d) with the approval of the Chairman of the Commission and on the recommendation of the Commissioner and subject to subsection (4) subscribe to hold and sell shares of any corporation or company established for the purpose of facilitating the financing of economic developments;
- (e) Maintain accounts with Central and other Banks and act as correspondent, Banker or Agent of any Central or other Bank or monetary authority outside the New Sudan and for any international monetary authority established under CANS auspices;
- (f) Accept from its customers, for custody, securities and other articles of

value;

- (g) Undertake on behalf of customers specified under paragraph (1) (a) and correspondents the purchase, sale, collection and payment of securities, currencies and credit instruments within and without the New Sudan and the purchase and sale of gold.

(3) Subject to the provisions of this Act, the Bank shall:-

- (a) Engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial or any other undertaking except such interest as the Bank may in any way acquire in the course of the satisfaction of debts due to it, which interest acquired shall be disposed of as soon as may be reasonably practicable;
- (b) Purchase the shares of anybody corporate or incorporate including the shares of any financial institution;
- (c) Grant loans upon the security of any shares;
- (d) Grant unsecured advances or advances secured otherwise than as provided for under the provisions of paragraphs (d) and (e) of subsection (1) of this section, but in the event of any debts due to the Bank becoming, in the opinion of the Bank endangered, may secure such debts on any real or other property of the debtor and may acquire such property which shall be resold as soon as may be reasonably practical.

(4) At any particular date the total amount:-

- (a) Of long term securities or loans referred to under paragraph (c) and (f) of subsection (1);
- (b) Subscriptions under paragraph (d) of subsection (2); or
- (c) Any other long-term loan other than securities held under paragraph (c) of subsection (2),

shall not exceed twenty percent of the core capital of the Bank or such other percentage as the Board may determine.

(5) Without prejudice to any provision contained in this section, the Bank may do all matters and things that are incidental or subsidiary to its functions under this Act.

(6) Notwithstanding anything contained in this section, the Bank may with the approval of the Commissioner, establish a Credit Guarantee Scheme, a

Development Finance Fund and any other scheme for development purposes not exceeding ten percent of the core capital of the Bank.

- (7) A Scheme or Fund referred to under subsection (6) shall be established by law in which the structure and operations of the Scheme or Fund, and other matters connected thereto shall be spelt out.

33. Publication of Rediscount Rates:-

The Bank shall fix and make public at all times its standard rediscount rate and the Bank may determine different terms, conditions and rates of interest in respect of particular classes of transactions.

34. External Reserves:-

- (1) The Bank shall maintain a reserve of external assets at least equal to four weeks import requirements of the New Sudan, consisting of any or all of the following:-
- (a) Gold coin or gold bullion.
 - (b) Convertible foreign exchange in any of the following forms:-
 - (i) demand or time deposits, money call, notes and coins;
 - (ii) bills of exchange when they bear at least two signatures of which one is that of a Commercial Bank and which have a maturity not exceeding ninety days exclusive of days of grace;
 - (ii) marketable securities of, or guaranteed by foreign governments or international financial institutions.
 - (c) Any external fund, facility or drawing rights inclusive of the reserve tranches purchase from the International Monetary Fund, which the Commissioner, after due consultation with the Board, considers acceptable for inclusion.
- (2) The Bank shall advise the Commissioner whenever the target on reserve is likely to be violated for any reason and suggest remedial measures.

CHAPTER SEVEN

BANK RELATIONS WITH CANS.

35. Relationship with CANS:-

- (1) The Commissioner may direct the Bank to render advice to the CANS on financial and other related matters and the Bank shall advise and inform the CANS through the Commissioner on any matter which is within its functions and powers under this Act.
- (2) The Bank shall render services to the CANS as may be determined by the Commissioner.
- (3) The LC shall seek advice from the Bank on monetary policy and it shall be the duty of the Bank to formulate such monetary policy and advise the LC accordingly.
- (4) The LC shall consult with the Bank from time to time on its domestic or foreign credit requirements or any other relevant matter.

36. Temporary Advances:-

- (1) The Bank may make temporary advances to the CANS and local administrations in respect of temporary deficiencies of current revenue.
- (2) The Secretariat of Finance and Economic Planning shall, at the beginning of each financial year identify and submit to the Bank all its requirements for temporary advances for that year, and the Bank shall subject to subsection (3) operate with in that requirement.
- (3) The total amount of advances made under subsection (1) shall not at any time exceed ten percent of the recurrent revenue of the CANS.
- (4) The Bank shall charge market rates of interest on any advance to the CANS or local administration, unless the Board determines otherwise.

37. Report on Advances:-

- (1) Where-in the opinion of the Bank, the limitations on the Bank credit prescribed under subsection (3) of section 36 or the holding of securities is

exceeded, the Bank shall make a report on the Bank's outstanding advances or holding of securities in terms of those sections and the causes that have led to the breach of the limitations, together with any recommendation or remedy; and the Bank shall make further reports and recommendations to the LC at intervals not exceeding six months until the situation is rectified.

- (2) At any time when the limitations on Bank Credits or the submitted requirement is exceeded, the powers of the Bank to grant additional financing shall cease until the situation is rectified.

38. Development Financing:-

- (1) The Bank may participate in development financing amongst other things, through the following Financial Institutions to be established in the New Sudan:-
 - (a) Agricultural Development Bank.
 - (b) Livestocks Development Bank.
 - (c) Industrial Development Bank.
 - (d) Building and Reconstruction Bank.
 - (e) Cooperative Development Bank.
 - (f) Trade and Commerce Development Bank.
- (2) The Management of loans and grants for development projects through institutions mentioned in (1) above.
- (3) Closely monitor the outcome of the funds dispersed to institutions in subsection (1) and Commercial Banks.
- (4) The Bank shall not directly finance any development projects, with the exception of development funds established under section 32 (6) to be dispersed to financial institutions mentioned in subsection (1) of this section.

CHAPTER EIGHT

BANK RELATIONS WITH FINANCIAL INSTITUTIONS.

39. Clearing House:-

- (1) The Bank may provide facilities for clearing financial instruments generally on terms that may be determined by the Bank.
- (2) The Bank may make regulations prescribing the procedure and other provisions for the participation in the clearing house and for the clearing of cheques and other credit instruments.
- (3) The Bank may allow a Commercial Bank to participate in the activities of the clearing house on the recommendation of the Board.

40. Co-operation with Financial Institutions.

The Bank shall in the discharge of its functions under this Act, seek the co-operation of with financial institutions in order to:-

- (a) Promote and maintain adequate and reasonable banking services for the public;
- (b) Ensure high standards of conduct and efficient management throughout the Banking system;
- (c) Promote such policies not being inconsistent with any provision of this Act;
- (d) Provide facilities for the clearing of financial instruments for financial institutions generally on terms determined by it; and
- (e) Vet Directors of the financial institutions.

41. Minimum Cash Reserve Balances:-

- (1) Subject to the provisions of this section, the Bank may prescribe for each Bank or a group of financial institutions, the minimum cash reserve balances inclusive of the vault cash, which may be required to be maintained in the form of non-interest bearing deposits at the Bank or any other method laid down by the Bank.
- (2) The Bank may prescribe various ratios for different kinds of liabilities and shall prescribe the methods of computing the amount of cash reserve balances.
- (3) The total amount of the cash reserve balances referred to in subsection (1) above, shall not exceed twenty five percent of the financial institution's deposits and other liabilities provided that within this overall limit, the Bank may impose incremental reserves up to one hundred percent on any increase of any kind of liability from a date prescribed by the Bank.

- (4) The Bank may impose on a financial institution which fails to maintain the minimum cash reserve balances required under this Section, a penalty not exceeding one tenth of one percent per day on the amount of deficiency for each day during which the deficiency continues and the amount of any such penalty may be recovered by deduction from any balance of, or moneys owing to the financial institution concerned or as a civil debt.
- (5) For the purposes of this section the liabilities of a financial institution means its liabilities in the New Sudan whether these are payable within or outside the New Sudan.

42. Control of Credit and Interest Rates etc.:-

- (1) The Bank may prescribe:-
 - (a) The maximum amounts of investments, loans, advances and bills and promissory notes discounted whether applied in total or to any specified class or classes of such investments, loans, advances and bills and promissory notes discounted which each financial institution may have outstanding during the period that may be specified by the Bank.
 - (b) The purpose for which loans and advances may be granted and the class of business underlying investments and bill and promissory notes discounted;
 - (c) The maximum period of loans and advances and the type and minimum amount of security, which shall be required; and the maximum tenure of bills and promissory notes discounted;
 - (d) The maximum or minimum rates of interest and other charges which in the transaction of their business financial institutions may pay on any type of deposit or other liability and impose on credit extended in any form;
 - (e) The maximum charges which in the transaction of their business financial institutions may impose on any Banking transaction.
- (2) The prescription made under subsection (1) shall:-
 - (a) Have regard to commitments, which financial institutions may have entered into with their customers at the time of coming into force of the prescription, and shall take effect after the period of the grace as the

Bank may specify;

(b) Not discriminate between one financial institution and another.

(3) Any financial institution which contravenes any prescription made under subsection (1) of this section shall be liable to pay, on being called upon to do so by the Bank, a fine not exceeding one million pounds.

43. Financial Institutions to Furnish Information:-

(1) Every financial institution shall furnish to the Bank, in a manner prescribed by law, all the information that may be required by the Bank for the proper discharge of its functions.

(2) The Bank may publish in whole or in part, any information furnished to it under subsection (1) as the Board may determine.

(3) The Bank shall not publish or disclose any information regarding the affairs of a financial institution or of a customer of a financial institution unless the consent of the institution or the customer has been obtained.

44. Financial Institutions as Agents of the Bank:-

The Bank may appoint any financial institution as its agent for the issue, re-issue, exchange and withdrawal of notes and coins for any other purpose on terms and conditions that may be agreed upon by the Bank and the institution appointed as agent.

CHAPTER NINE

ACCOUNTS AND STATEMENTS

45. Bank's Financial Year:-

The financial year of the Bank shall be the same as the financial year of the CANS.

46. Audit:-

The Accounts of the Bank shall be audited, at least, once every financial year, by the Auditor General or an auditor appointed by him to act on his behalf.

47. Returns:-

- (1) The Bank shall as soon as may be practicable, at the end of every three (3) months, make a quarterly return of its assets and liabilities and the return shall be published in the Gazette and a copy of it submitted to the Commissioner.
- (2) The Bank may submit to the appropriate authorities, from time to time, information on the exercise and performance of its duties or on its assets and liabilities in a form that may be determined by the Board.

CHAPTER TEN

MISCELLANEOUS PROVISIONS.

48. Declaration of Confidentiality:-

- (1) The members of the Boar, officers and employees of the Bank shall be bound by the declaration of confidentiality and shall not, except as may reasonably be in the performance of their functions called upon to testify before a committee of the NLC or, to give evidence in a court of competent jurisdiction or to fulfill other obligations imposed by law.
- (2) Every former member of the Board, officer or employee of the Bank shall continue to be bound by the declaration of confidentiality after the termination of service and shall not, except with a prior written permission from the Bank, disclose any material information acquired by him in that capacity, or he is called upon to give evidence in a court of competent jurisdiction or in fulfillment of other obligations imposed by law.
- (3) Where the Bank unreasonably withholds permission under this section, the aggrieved party may appeal to the High Court whose decision shall be final.
- (4) Any person who contravenes the provisions of this section, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand pounds or both.

49. Exemption from Tax:-

The Bank shall be exempted from the payment of income tax and business profits or capital gains tax in respect to its functions under this Act.

50. Prohibited Names:-

Unless a written consent from the Registrar of Companies has been obtained, no financial institution shall register or be registered under any law in force by a name, which includes the following words:-

- (a) Central;
- (b) Central Bank;
- (c) Central Bank of New Sudan;
- (d) Any other equivalent words in any language.

51. SPLM's (CANS) LC's Powers of Direction:-

- (1) SPLM (CANS) LC may, subject to the provisions of this Act, give directions of general nature in writing, relating to the financial and monetary policy of the Bank.
- (2) If, after consultation with the Governor, the Commissioner is of the opinion that the policies being pursued by the Bank are not adequate for, or conducive to, the achievement of the functions and objectives of the Bank, the LC may, on the recommendation of the Commission for Economy determine the specific policy to be adopted by the Bank, and the Bank shall effect such policy while the directives remain in force.
- (3) The directives issued under subsection (2) above, shall be laid before the NLC within fifteen sitting days after issuing those directives to the Bank.

52. Annual Report:-

- (1) The Bank shall within three months after the end of each financial year, present to the LC a general report on the activities and operations of the Bank during the proceeding financial year and in particular:-
 - (a) With regard to the procedures and policy of the Bank as the Bank considers may properly be given without detriment to the interests and activities of the Bank.
 - (b) A copy of audited accounts report.
- (2)
 - (a) The Governor shall lay the above report before the Chairman of the Commission for Economy for endorsement.
 - (b) The Chairman of the Commission for Economy shall thereafter present

the same report to the LC and finally to the NLC.

- (c) The process as stated above under paragraphs (a) and (b) of subsection (2) shall be accomplished within three months from the end of the financial year.

53. By-Laws:-

The Board may with the approval from Commission for Finance and Economic Planning make by-laws not consistent with the provisions of this Act regulating:-

- (a) The terms and conditions of service;
- (b) Structural establishment of the Bank;
- (c) The terms and conditions of service for officers and employees of the Bank;
- (d) Retirement and other service benefits of the employees and officers of the Bank; or
- (e) The Financial institutions through which the Bank shall participate in development financing as stated in section 38 of this Act.
- (f) Any other matter falling within the scope of its functions.

54. Offences:-

- (1) Any person who:-
 - (a) Contravenes any provision of this Act;
 - (b) Knowingly makes an incorrect statement in a document submitted by him; or
 - (c) Knowingly makes a false reply to a question asked of him for the purposes of this Act;

commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding four hundred thousand pounds or with both.

- (2) Where an offence is committed by a body of person, every body who at the time of its commission was a director, manager or partner of that body shall be deemed to have committed the offence unless he proves:-
 - (a) That the offence was committed without his knowledge; and
 - (b) That he took all reasonable steps to ensure compliance with the provisions of this Act.

- (c) That the officers had given information regarding the offence committed but no action was taken by the appropriate authorities at the time.

55. Regulations:-

The Governor may, after consultation with the Board, make regulations generally for better implementation of the provisions of this Act.

.....
Dr. John Garang de Mabior
Chairman SPLM/CANS
New Sudan.

Management of the Bank, to be known as the “Management Team”.

- (2) The composition of the Management Team shall be as follows-
 - (i) Governor - Team leader;
 - (ii) Two Deputies of the Governor -D/team leaders;
 - (iii) Director of Research in the CBNS, - Member;
 - (iv) Director of Accounts in the CBNS, - Member;
 - (v) Director of human Resources in the CBNS, - Member;
 - (vi) Treasurer of the CBNS, - Member;
 - (vii) Legal Advisor of the CBNS, - Member
 - (viii) Representative of CBNS employees, - Member;

- (3) The Governor and his/her two Deputies shall be persons of recognised financial and banking qualification and experience.

- (4) The other members of the Management Team, shall be persons of experience in their respective fields and should be of good behaviour, conduct and integrity. They shall be the Executive Directors of the Bank or status therein.

- (5) The Management Team, while in office, shall not occupy any other office or employment whether remunerated or not.

- (6) Notwithstanding the provisions of subsection (5) a member of the Management Team may-
 - (i) become a trustee of any staff, pension, provident or superannuation fund or schemes;
 - (ii) with the consent of the Governor and the approval of the Board, become a Director, governor or member of the board, by whatever name called, of any international bank or an international monetary authority to which the CANS shall have adhered or given support or approval.

- (7) The Team Leader and members of the Management Team shall be appointed on conditions specified in their letters of appointment.

- (8) The Team Leader or any of his deputies may resign his office in writing addressed to the Chairman of and the resignation shall be effective after one month from the date of the receipt of the letter of resignation by the Chairman..
- (9) The Management Team, other than the team leader and his two deputies, shall be appointed and relieved by the Governor according to the employment procedures and policies of the CBNS.

18. Appointment of Employees:-

- (1) Members of the Management Team shall be the Executives of the Bank. They shall carry on supervisory functions over a number of Departments as may be determined by the Board.
- (2) There shall be heads of Departments of the Bank, appointed by the Governor on the approval of the Board.
- (3) The Bank shall have other officers and employees as the Board may determine.
- (4) Save as may be provided by by-laws of the Bank, all appointments of employees shall be made by the Management Team.
- (5) Employees of the Bank, shall be engaged on terms and conditions laid down by the Board.
- (6) No salary, fee, wage or other remuneration or allowance paid by the Bank, shall be computed by reference to the net or other revenues of the Bank.
- (7) No employee of the Bank shall be liable:-
 - (i) for any loss or damages suffered by the Bank, unless that loss or damage was caused by his own default or willful act;
 - (ii) to any legal proceedings for anything which is done in good faith pursuant to the provisions of this Act..

CHAPTER FIVE

CAPITAL, RESERVE AND CURRENCY.

19. Authorised Capital:-

- (1) The authorised capital of the Bank shall be fifteen billion Pounds, which shall be subscribed by the CANS from time to time.
- (2) The authorised capital may be increased by a resolution of the NLC to ensure adequacy of the operations of the Bank.
- (3) The issued and paid up capital of the Bank shall be a minimum of ten billion Pounds.
- (4) Where the capital of the Bank impaired at any particular time the CANS shall furnish securities to the Bank to make good the impairment.

20. General Reserve Fund:-

- (1) There shall be a General Reserve Fund of the Bank, which shall be determined by the Board from time to time.
- (2) The bank may, with the approval of the Chairman of the Commission for Economy, on the recommendation of the Commissioner, transfer funds from the General Reserve Fund to the capital of the bank.

21. Distribution of Revenues and Loss:-

- (1) At the end of each financial year of the bank, and after:-
 - (a) making good the authorised capital and General Reserve Fund balance;
 - (b) allowing for expenses of operation;
 - (c) making provision for bad and doubtful debts;
 - (d) making provision for depreciation of assets;
 - (e) contributing to any scheme or fund established under this Act;
 - (f) taking into consideration any other contingencies;

any net revenues or losses from the bank's operations, shall be shared between the bank and the CANS in respective proportions of sixty and forty percent.

- (2) In determining the profits and loss at the end of each financial year, the accounts shall clearly distinguish profits or loss arising from the normal operations of the Bank and those resulting from profits or loss due to exchange fluctuations.

- (3) The Board may determine that the whole of the net profit of the bank, be paid into the Consolidated Fund, if at the end of the financial year, the amount of money in the General Reserve Fund is twice or more than the amount of the paid up capital of the bank.
- (4) The bank may, after consultation with the Commissioner and the approval of the Chairman of Commission of Economy, retain from the money payable into the Consolidated Fund, under this Section, any amount of money as the Board may determine, in satisfaction or reduction of any amount of money due to the bank by the CANS.

22. Unit of Currency:-

- (1) The unit of currency shall be the New Sudan Pound (NSP).
- (2) The monetary obligations or transactions shall be expressed, recorded and settled in the Pound unless otherwise provided under any enactment or is lawfully agreed to be between the parties to an agreement under any lawful obligation.

23. External Value of the Pound:-

The Board shall, in consultation with the Commissioner and on approval by the Chairman of the Commission for Economy, prescribe the framework for determining the external value of the pound.

24. Auctioning of Foreign Currency:-

The Bank may buy and sell foreign currency:-

- (a) at rates determined by market conditions or forces; and
- (b) on terms that may be determined by the Board.

25. Right to Issue Notes and Coins:-

- (1) The bank shall have the sole right to issue notes and coins and the CANS or any other person shall not issue currency notes, bank notes, coins, any documents or tokens payable to bearer on demand, being documents or tokens likely to be passed as legal tender.
- (2) The Bank shall:-
 - (i) arrange for the printing of notes and the minting of coins;
 - (ii) determine the denominations to be issued.

- (iii) issue and re-issue and exchange notes and coins at the Bank's offices and at the Bank's agencies, established or appointed by the Bank.
- (iv) arrange for the custody of un-credited stocks of currency and for the preparation of safe custody and destruction of plates and paper for the printing of notes and of dyes for the minting of coins.

26. Design of Bank Notes:-

The Bank shall determine the design of the bank notes issued by it, but no bank notes shall bear in its design a portrait of a living person or any political symbol or word.

27. Denominations and Form of Bank Notes and Coins:-

- (1) The bank notes and coins issued by the CBNS shall be in the denominations of the pound or fraction of the pound expressed in piasters as shall be determined by the Board on the recommendation of the Commissioner, subject to the approval of the NLC.
- (2) Denominations issued by the Bank shall be in forms and designs and bear devices that shall be determined by the Board.
- (3) The standard weight composition size of coins issued by the Bank and the remedy and variation shall be determined by the Board.

28. Legal Tender:-

- (1) Notes issued by the Bank shall be legal tender at their face value.
- (2) Coins issued by the Bank, if not tempered with, shall be legal tender for payments, as may be prescribed by the Board from time to time.
- (3) On giving not less than sixty days notice in the Gazette, the Bank may call in any of its bank notes and coins on payment of the face value. Any notes or coins with respect of which the notice may have been given under this subsection shall, on the expiration of the notice, cease to be legal tender.
- (4) For the purpose of this Act, a coin shall be deemed to have been tempered with if it has been:-
 - (a) impaired, diminished or lightened otherwise by fair wear and tear; or
 - (b) defaced by stamping, engraving or piercing, whether the coin shall or not have been diminished or lightened.

- 29. Refund of Lost or Imperfect Bank Notes and Coins:-**
- (1) No person shall be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect bank note or any coin, which is tempered with.
- (2) Subject to the provisions of subsection (1) the circumstances in which and the conditions and limitations subject to which the value of any lost, stolen, mutilated or imperfect bank notes or coins tempered with may be refunded, as of grace, shall be the absolute discretion of the Board.
- 30. Evidence of Imitation of Bank Notes:-**
- Where in any proceedings before any court of competent jurisdiction, for determination whether a document purporting to be a bank note is an imitation of a bank note, a certificate under the hand of the Governor or any officer of the bank authorised by him, certifying that he has examined the document which purports to be a bank note, and that the document is an imitation of a bank note and not a note issued by the CBNS, shall be received in evidence without further proof, as conclusive evidence of the fact that the document is an imitation of a bank note.
- 31. Exemption from Stamp Duty:-**
- The bank shall be exempted from payment of stamp duty in respect of notes issued by it.

CHAPTER SIX

BANKING.

- 32. Credit and Other Operations:-**
- (1) The Bank may:-
- (a) Open accounts for and accepts deposits from-
- (i) The CANS.
- (ii) Local administrations.
- (iii) Funds, corporations and institutions controlled by the CANS;
and
- (iv) Financial institutions.
- (b) Buy, sell, discount and rediscount bills of exchange, promissory notes, Secretariat of Finance and Economic Planning Bills or other instruments.

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- (c) Subject to the provisions of subsection (4) of this section, purchase and sell securities of the CANS which have been publicly offered on issue which is being made to the public at the time of acquisition and such securities are to mature within a period of twenty years.
 - (d) Grant advances to its customers specified under paragraph (a) for fixed periods not exceeding three months against publicly issued Secretariat Finance and Economic Planning Bills of the CANS maturing within ninety three days.
 - (e) Grant to financial institutions advances for fixed periods not exceeding three months, at a rate of interest not being less than one percent above the Bank's standard rediscount rate against promissory notes secured by the pledge with the Bank:-
 - (i) securities of the CANS which have been publicly offered for sale and are to mature within a period of twenty five years, so however that any advance so secured shall not at anytime exceed seventy five percent of the market value of the security pledged and that the total amount of the securities held by the Bank, whether under the provisions of this sub-paragraph or otherwise, is within the limitations imposed under the provisions of subsection (4) of this section and that where in the opinion of the bank there is no established market value for those securities, the value shall be determined by the bank; the securities referred to exclude such bonds issued for purposes of capitalisation of the bank.
 - (ii) bills of exchange and promissory notes as are eligible for purchase, discount or rediscount by the bank, so however that any advance so secured, shall not at anytime exceed seventy five percent of the normal value of the instrument pledged.
 - (iii) warehouse warrants issued by lawfully formed general and bonded warehouses or their equivalent securing possession of goods.
 - (iv) required reserves held at the bank.

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- (f) Subject to subsection (4) grant to financial institutions, medium and long-term loans for periods not exceeding fifteen years upon such securities as the Board may prescribe;
 - (g) Guarantee loans by financial institutions not exceeding twenty percent the core capital or as the Board may determine.

(2) The Bank may:-

- (a) issue demand drafts and effects other kinds of remittances payable at its own offices or at the offices of its agents or correspondents;
- (b) purchase and sell gold coins or gold bullions;
- (c) invest in securities of the CANS for any amount, and to mature at anytime on behalf of staff funds and superannuation funds and other internal funds of the Bank.
- (d) with the approval of the Chairman of the Commission and on the recommendation of the Commissioner and subject to subsection (4) subscribe to hold and sell shares of any corporation or company established for the purpose of facilitating the financing of economic developments;
- (e) maintain accounts with central and other banks and act as
correspondent, banker or agent of any central or other bank or monetary
authority outside the New Sudan and for any international
monetary authority established under CANS auspices;
- (f) accept from its customers, for custody, securities and other articles of value;
- (g) undertake on behalf of customers specified under paragraph (1) (a) and correspondents the purchase, sale, collection and payment of securities, currencies and credit instruments within and without the New Sudan and the purchase and sale of gold.

(3) Subject to the provisions of this Act, the bank shall not:-

- (a) engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial or any other undertaking except such interest as the bank may in any way acquire in the course of the satisfaction of debts due to it, which interest acquired shall be disposed of as soon as may be reasonably practicable;

- (b) purchase the shares of anybody corporate or incorporate including the shares of any financial institution;
- (c) grant loans upon the security of any shares;
- (d) grant unsecured advances or advances secured otherwise than as provided for under the provisions of paragraphs (d) and (e) of subsection (1) of this section, but in the event of any debts due to the bank becoming, in the opinion of the bank endangered, may secure such debts on any real or other property of the debtor and may acquire such property which shall be resold as soon as may be reasonably practical.

(4) At any particular date the total amount:-

- (a) of long term securities or loans referred to under paragraphs (c) and (f) of subsection (1);
- (b) subscriptions under paragraph (d) of subsection (2); or
- (c) any other long-term loan other than securities held under paragraph (c) of subsection (2),

shall not exceed twenty percent of the core capital of the bank or such other percentage as the Board may determine.

(5) Without prejudice to any provision contained in this section, the bank may do all matters and things that are incidental or subsidiary to its functions under this Act.

(6) Notwithstanding anything contained in this section, the bank may with the approval of the Commissioner, establish a Credit Guarantee Scheme, a Development Finance Fund and any other scheme for development purposes not exceeding ten percent of the core capital of the bank.

(7) A Scheme or Fund referred to under subsection (6) shall be established by a law in which the structure and operations of the Scheme or Fund, and other matters connected thereto shall be spelt out.

33. Publication of Rediscount Rates:-

The bank shall fix and make public at all times its standard rediscount rate and the bank may determine different terms, conditions and rates of interest in respect of particular classes of transactions.

34. External Reserves:-

- (1) The Bank shall maintain a reserve of external assets at least equal to four weeks import requirements of the New Sudan, consisting of any or all of the following:-
 - (a) gold coin or gold bullion.
 - (b) convertible foreign exchange in any of the following forms:-
 - (i) demand or time deposits, money call, notes and coins;
 - (ii) bills of exchange when they bear at least two signatures of which one is that of a commercial bank and which have a maturity not exceeding ninety days exclusive of days of grace;
 - (iii) marketable securities of, or guaranteed by foreign governments or international financial institutions.
 - (c) any external fund, facility or drawing rights inclusive of the reserve tranches purchase from the International Monetary Fund, which the Commissioner, after due consultation with the Board, considers acceptable for inclusion.

- (2) The bank shall advise the Commissioner whenever the target on reserves is likely to be violated for any reason and suggest remedial measures.

CHAPTER SEVEN

BANK RELATIONS WITH CANS.

35. Relationship with CANS:-

- (1) The Commissioner may direct the bank to render advice to the CANS on financial and other related matters and the bank shall advise and inform the CANS through the Commissioner on any matter which is within its functions and powers under this Act.

- (2) The bank shall render services to the CANS as may be determined by the Commissioner.

- (3) The LC shall seek advice from the bank on monetary matters.

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6. The total amount of advances made under subsection (1) shall not at any time exceed ten percent of the recurrent revenue of the CANS.

7. The bank shall charge market rates of interest on any advance to the CANS or local administration, unless the Board determines otherwise.

37. **Report on Advances:-**

(1) Where in the opinion of the Bank, the limitations on the Bank credit prescribed under subsection (3) of section 36 or the holding of securities is exceeded, the Bank shall make a report on the Bank's outstanding advances or holding of securities in terms of those sections and the causes that have led to the breach of the limitations, together with any recommendation or remedy; and the Bank shall make further reports and recommendations to the LC at intervals not exceeding six months until the situation is rectified.

(2) At any time when the limitations on Bank Credits or the submitted requirement is exceeded, the powers of the Bank to grant additional financing shall cease until the situation is rectified.

38. **Development Financing:-**

(1) The Bank may participate in development financing through:-

- (a) the refinancing facilities to financial institutions.
- (b) the management of loans and grants for development projects through commercial banks.
- (c) closely monitor the outcome of the funds dispersed to commercial banks.

(2) To avoid doubts, the Bank shall not directly finance any development project with the exception of development funds established under section 32 (6).

CHAPTER EIGHT

BANK RELATIONS WITH FINANCIAL INSTITUTIONS.

39. Clearing House:-

- (1) The bank may provide facilities for clearing financial instruments generally on terms that may be determined by the bank.
- (2) The bank may make regulations prescribing the procedure and other provisions for the participation in the clearinghouse and for the clearing of cheques and other credit instruments.
- (3) The bank may allow a commercial bank to participate in the activities of the clearinghouse on the recommendation of the Board.

40. Co-operation with Financial Institutions:-

The bank shall in the discharge of its functions under this Act, seek the co-operation of and co-operate with financial institutions in order to:-

- (a) Promote and maintain adequate and reasonable banking services for the public;
- (b) Ensure high standards of conduct and efficient management throughout the banking system;
- (c) Promote such policies not being inconsistent with any provision of this Act;
- (d) Provide facilities for the clearing of financial instruments for financial institutions generally on terms determined by it; and
- (e) Vet Directors of the financial institutions.

41. Minimum Cash Reserve Balances:-

- (1) Subject to the provisions of this section, the bank may prescribe for each bank or a group of financial institutions, the minimum cash reserve balances inclusive of the vault cash, which may be required to be maintained in the form of non-interest bearing deposits at the bank or any other method laid down by the bank.
- (2) The bank may prescribe various ratios for different kinds of liabilities and shall prescribe the methods of computing the amount of cash reserve balances.
- (3) The total amount of the cash reserve balances referred to in subsection (1) above, shall not exceed twenty five percent of the financial institution's deposits and

other liabilities provided that with in this overall limit, the bank may impose incremental reserves up to one hundred percent on any increase of any kind of liability from a date prescribed by the bank.

- (4) The bank may impose on a financial institution which fails to maintain the minimum cash reserve balances required under this section, a penalty not exceeding one tenth of one percent per day on the amount of deficiency for each day during which the deficiency continues and the amount of any such penalty may be recovered by deduction from any balance of, or moneys owing to the financial institution concerned or as a civil debt.
- (5) For the purposes of this section the liabilities of a financial institution means its liabilities in the New Sudan whether these are payable within or outside the New Sudan.

42. Control of Credit and Interest Rates --- etc.:-

- (1) The bank may prescribe:-
 - (a) the maximum amounts of investments, loans, advances and bills and promissory notes discounted whether applied in total or to any specified class or classes of such investments, loans, advances and bills and promissory notes discounted which each financial institution may have outstanding during the period that may be specified by the bank.
 - (b) the purpose for which loans and advances may be granted and the class of business underlying investments and bill and promissory notes discounted;
 - (c) the maximum period of loans and advances and the type and minimum amount of security, which shall be required; and the maximum tenure of bills and promissory notes discounted;
 - (d) the maximum or minimum rates of interest and other charges which in the transaction of their business financial institutions may pay on any type of deposit or other liability and impose on credit extended in any form;
 - (e) the maximum charges which in the transaction of their business financial institutions may impose on any banking transaction.
- (2) The prescription made under subsection (1) shall:-

- (a) have regard to commitments, which financial institutions may have entered into with their customers at the time of coming into force of the prescription, and shall take effect after the period of grace as the bank may specify;
 - (b) not discriminate between one financial institution and another.
- (3) Any financial institution which contravenes any prescription made under subsection (1) of this section shall be liable to pay, on being called upon to do so by the bank, a fine not exceeding one million pounds.

43. Financial Institutions to Furnish Information:-

- (1) Every financial institution shall furnish to the bank, in a manner prescribed by law, all the information that may be required by the bank for the proper discharge of its functions.
- (2) The bank may publish in whole or in part, any information furnished to it under subsection (1) as the Board may determine.
- (3) The bank shall not publish or disclose any information regarding the affairs of a financial institution or of a customer of a financial institution unless the consent of the institution or the customer has been obtained.

44. Financial Institutions as Agents of the Bank:-

The bank may appoint any financial institution as its agent for the issue, re-issue, exchange and withdrawal of notes and coins for any other purpose on terms and conditions that may be agreed upon by the bank and the institution appointed agent.

CHAPTER NINE

ACCOUNTS AND STATEMENTS.

45. Bank's Financial Year:-

The financial year of the Bank shall be the same as the financial year of the CANS.

46. Audit:-

The Accounts of the bank shall be audited, at least, once every financial year, by the Auditor General or an auditor appointed by him to act on his behalf.

47. Returns:-

- (1) The bank shall as soon as may be practicable, after the end of each quarter, make a quarterly return of its assets and the liabilities and the return shall be published in the Gazette and a copy submitted to the Commissioner.
- (2) The bank may submit to the LC, from time to time, information on the exercise and performance of its duties or on its assets and liabilities in a form that may be determined by the Board.

CHAPTER TEN

MISCELLANEOUS PROVISIONS.

48. Declaration of Secrecy:-

- (1) The members of the Board, officers and employees of the bank shall be bound by a declaration of secrecy and shall not, except as may reasonably be in the performance of their functions unless called upon to testify before a committee of the NLC or, to give evidence in a court of competent jurisdiction or to fulfill other obligations imposed by law.
- (2) Every former member of the Board, officer or employee of the bank shall continue to be bound by the declaration of secrecy after the termination of service and shall not, except with the prior written permission of the bank, disclose any material information acquired by him in that capacity, unless he is called upon to give evidence in a court of competent jurisdiction or to fulfill other obligations imposed by law.
- (3) Where the bank unreasonably withholds permission under this section, the aggrieved party may appeal to the High court whose decision shall be final.
- (4) Any person who contravenes the provisions of this section, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand pounds or both.

49. Exemption from Tax:-

The bank shall be exempted from the payment of income tax and profits or capital gains tax in respect to its functions under this Act.

50. Prohibited Names:-

Unless a written consent from the Registrar of Companies has been obtained, no financial institution shall register or be registered under any law in force by a name, which includes the following words:-

- (a) Central;
- (b) Central Bank;
- (c) Central Bank of New Sudan;
- (d) any other equivalent words in any language.

51. LC's Powers of Direction:-

- (1) LC may, subject to the provisions of this Act, give directions of general nature in writing, relating to the financial and monetary policy of the Bank.
- (2) If, after consultation with the Governor, the Commissioner is of the opinion that the policies being pursued by the bank are not adequate for, or conducive to, the achievement of the functions and objectives of the bank, the LC may, on the recommendation of the Chairman of the Commission for Economy determine the specific policy to be adopted by the bank, and the bank shall effect such policy while the directives remain in force.
- (3) The directives issued under subsection (2) above, shall be laid before the NLC within fifteen sitting days after issuing those directives to the bank.

52. Annual Report:-

- (1) The bank shall within three months after the end of each financial year, present to the LC a general report on the activities and operations of the Bank during the proceeding financial year and in particular:-
 - (a) with regard to the procedures and policy of the bank as the bank considers may properly be given without detriment to the interests and activities of the bank.
 - (b) a copy of audited accounts report.

- (2) (a) The Governor shall lay the above report before the Chairman of the Commission for Economy for endorsement.
- (b) The Chairman of the Commission for Economy shall thereafter present the same report to the LC and finally to the NLC.
- (c) The process as stated above under paragraphs (a) and (b) of subsection (2) shall be accomplished within three months from the end of the financial year.

53. By-Laws:-

The Board may with the approval from Commission for Finance and Economic Planning make byelaws not inconsistent with the provisions of this Act regulating:-

- (a) the terms and conditions of service;
- (b) structural establishment of the Bank;
- (c) the terms and conditions of service for officers and employees of the Bank;
- (d) retirement and other service benefits of the employees and officers of the Bank;
- or
- (e) any other matter falling within the scope of its functions.

54. Offences:-

- (1) Any person who:-
 - (a) contravenes any provision of this Act;
 - (b) knowingly makes an incorrect statement in a document submitted by him; or
 - (c) knowingly makes a false reply to a question asked of him for the purposes of this Act;

commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding four hundred thousand pounds or with both.

- (2) Where an offence is committed by a body of persons, every body who at the time of its commission was a director, manager or partner of that body shall be deemed to have committed the offence unless he proves:-
 - (a) that the offence was committed without his knowledge; and
 - (b) that he took all reasonable steps to ensure compliance with the provisions of this Act.

55. Regulations:-

The Governor may, after consultation with the Board, make regulations generally for better implementation of the provisions of this Act.

Dr. John Garang de Mabior
Chairman of SPLM and CANS
New Sudan.