

Impact of the Revocation of the License of Heritage Bank on the Customers and Deposits.

A TRANSADVISORY LEGAL ARTICLE



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CONTENTS

INTRODUCTION	3
THE STATUS OF HERITAGE BANK AS A FAILED INSURED INSTITUTION	4
ROLE OF THE NIGERIAN DEPOSIT INSURANCE CORPORATION (NDIC)	4
PROCESS OF COMPENSATING INSURED DEPOSITORS	5
INSURANCE COVERAGE AND UNINSURED DEPOSITS	6
LIQUIDATION DIVIDEND FOR UNINSURED DEPOSITS	6
LEGAL FRAMEWORK FOR DEPOSITORS' RETRIEVAL OF FUNDS	7
CONCLUSION	7

1.0 INTRODUCTION



On Monday, June 3, 2024, the Central Bank of Nigeria (CBN) announced the revocation of Heritage Bank's banking license, citing violations of Section 12(1) of the Banks and Other Financial Institutions Act (BOFIA) 2020. Following this, the Nigerian Deposit Insurance Corporation (NDIC) was appointed as the liquidator for the bank in accordance with Section 12(2) of BOFIA, 2020 and Section 55 (1) of the NDIC Act 2023.

Since the announcement, there has been widespread speculation about the future of Heritage Bank's customers, especially those with substantial deposits. This decisive action has sent shockwaves through the financial community, leaving many uncertain about the safety of their funds and the stability of their banking relationships.

Understanding the impact of Heritage Bank's license revocation on its customers and their deposits is crucial. This situation affects not only individual account holders but also has broader implications for the stability and integrity of Nigeria's financial system. By exploring the consequences of this event, customers can better navigate the challenges they may face and understand the protections and remedies available to them.

The purpose of this article is to provide a comprehensive analysis of what Heritage Bank's license revocation means for its customers. We will examine the immediate effects on account holders, the role of the Nigerian Deposit Insurance Corporation (NDIC) in safeguarding deposits, the asset liquidation process, and the steps customers can take to secure their fund.

2.0 THE STATUS OF HERITAGE BANK AS A FAILED INSURED INSTITUTION

Following the revocation of Heritage Bank's license, the bank is now classified as a "failed insured institution" as defined by Section 99 of the NDIC Act. This term refers to an insured institution whose license has been revoked or is critically undercapitalized, meaning its capital-to-risk-weighted assets ratio is between 2 percent and 5 percent, or one that has been declared a failed insured institution by either the Corporation or the Central Bank of Nigeria, in accordance with the Prudential Guidelines for licensed insured institutions.

The implication of Heritage Bank's new status is significant. The revocation of its license and its designation as a "failed insured institution" initiate a series of regulatory, legal, compensate insured depositors, liquidate the bank's assets, and ensure compliance with banking regulations, addressing any violations appropriately.

3.0 ROLE OF THE NIGERIAN DEPOSIT INSURANCE CORPORATION (NDIC)

NDIC'S Mandate and Responsibilities

The Nigerian Deposit Insurance Corporation (NDIC) plays a crucial role in safeguarding depositors' funds and maintaining stability in the banking sector. Established under the NDIC Act, its primary responsibilities include:

1. **Deposit Insurance:** Providing deposit insurance to guarantee the repayment of insured deposits in the event of a bank failure.
2. **Bank Liquidation:** Acting as the liquidator for failed banks, ensuring an orderly wind-down of operations.
3. **Resolution of Claims:** Facilitating the payment of insured deposits and handling creditors' claims in accordance with legal and regulatory frameworks.
4. **Asset Management:** Managing and disposing of assets recovered from failed banks to maximize recovery for depositors and creditors.

4.0 PROCESS OF COMPENSATING INSURED DEPOSITORS

Following the revocation of Heritage Bank Plc's banking license by the Central Bank of Nigeria (CBN) and the subsequent appointment of NDIC as the Liquidator, the Corporation has initiated the following steps to compensate insured depositors¹:

1. Verification of Deposits:

Insured depositors with alternate accounts within the banking industry (up to N5 million per depositor) are being identified using their Bank Verification Number (BVN). They will be paid directly into these alternate accounts.

2. Depositors Without Alternate Bank Account:

Depositors without alternate bank accounts are advised to visit the nearest branch of Heritage Bank with proof of account ownership and verifiable identification documents (e.g., driver's license, voter's card, National Identity Card). They should also provide their alternate account details and BVN for verification and subsequent payment of insured sums.

Alternatively, they can file an online claim through the NDIC website (www.ndic.gov.ng/claims). They need to download and fill out the claims forms and upload the required documentation for verification.

3. Payment Process:

Payment to depositors is being conducted in phases, starting with those with alternate bank accounts. Once insured deposits are verified, payments are made promptly.

4. Timeline and Procedure for Claims:

NDIC has commenced the verification and payment process for insured deposits immediately following the commencement of the liquidation of Heritage Bank Plc.

¹ NDIC. (2024). NDIC Commences Liquidation of Heritage Bank. Retrieved from <https://ndic.gov.ng/ndic-commences-liquidation-of-heritage-bank/>

5. Claim Filing:

Creditors and depositors without alternate bank accounts are encouraged to file their claims either by visiting a branch of Heritage Bank or through the NDIC's online claims platform.

Payments to creditors will commence after all insured depositors have been paid.

6. Debtors Repayment of Loans:

Debtors of Heritage Bank who have outstanding loans are advised to contact NDIC's Asset Management Department for guidance on completing loan repayments.

5.0 INSURANCE COVERAGE AND UNINSURED DEPOSITS

Section 75, Nigeria Deposit Insurance Corporation Act, 2023

On May 3, 2024, the NDIC announced an upward review of the maximum deposit insurance coverage for various categories of deposit-taking financial institutions licensed by the CBN. For Deposit Money Banks (DMB), such as Heritage Bank, the maximum deposit insurance coverage was increased from N500,000 to N5,000,000. This means that depositors with amounts exceeding N5,000,000 will have the excess deemed uninsured.

6.0 LIQUIDATION DIVIDEND FOR UNINSURED DEPOSITS

Uninsured deposits, which constitute about 74.36% of deposits with Deposit Money Banks (DMBs), will be paid as liquidation dividends upon realizing the bank's assets and recovering debts owed to the bank. The term "liquidation dividend" refers to payments made to creditors and depositors from the proceeds obtained through the liquidation of the bank's assets. This high percentage indicates that a significant portion of depositor funds in DMBs exceeds the insurance coverage limit provided by the NDIC.

The Section 55 of BOFIA provides some relief to depositors with funds exceeding the insurable limit within the bank. It stipulates that where a bank's license has been revoked, the bank's assets shall be available to meet all deposit liabilities,

which shall have priority over other liabilities. This ensures that uninsured balances are paid to depositors before other payments, such as administrative costs and payments to creditors and shareholders.

7.0 LEGAL FRAMEWORK FOR DEPOSITORS' RETRIEVAL OF FUNDS

To recover their funds, depositors must file a claim with the NDIC using the method specified in the Corporation's official notice. Upon verifying the claim, the NDIC is empowered to make payments to depositors either in cash, via negotiable instruments, or by transferring deposits into another insured institution.

However, entitlement to insured funds is not guaranteed upon claim submission. The NDIC may delay or withhold payments if it requires further proof of validity or if there are circumstances suggesting the depositor's involvement in criminal activities related to the bank's failure². In such cases, final determination by a court of competent jurisdiction may be required before payment is made.

The NDIC Act also grants the Corporation authority to set off a loan owed by an obligor to a failed institution against the deposits the same obligor holds. This ensures that loans owed by obligors are repaid using their deposits, mitigating risks and aiding in efficient recovery during the liquidation process.

8.0 CONCLUSION

The revocation of Heritage Bank's license has significant implications for its customers and the broader financial system. While the NDIC's involvement provides a safety net for insured deposits, a substantial portion of depositor funds remains uninsured. The NDIC's measures to safeguard depositors' interests and ensure the orderly liquidation of Heritage Bank's assets are crucial steps in maintaining confidence in Nigeria's banking sector. By understanding the legal frameworks and procedures in place, depositors can better navigate the challenges posed by this situation and secure their funds effectively.

² Section 28 (2) (c) Nigeria Deposit Insurance Corporation Act, 2023.