FAILURE OF ALLSTATES TRUST BANK PLC

1.0 INTRODUCTION

Allstates Trust Bank was founded in 1988 by a group of investors led by Chief Ebitimi E. Banigo who had served as the Managing Director of International Merchant Bank from 1981 to 1986 as a Federal Government appointee. Before that appointment, he had worked at both Citi Bank and Chase Manhattan Bank. He obtained a Master of Business Administration (MBA) Degree from Harvard University. Given his educational background and working experience in reputable international banks, the banking public looked forward to a professionally managed viable bank. The bank commenced business as a private limited liability company but later converted to a Public Liability Company (PLC).

Apart from the Head Office located at Victoria Island, Lagos, the bank established a network of 64 branches across 18 states of Nigeria. The business model for the bank whereby its financial resources were being deployed to create unmerited benefits for associated companies was one of the major causes of the bank's liquidity problems and its eventual failure. Ever before the new capital requirement of ₦25billion for banks was announced by CBN in July 2004, the bank was already in crisis as reflected by deterioration of various performance indicators as shown in the next Section.

The rest of this case study is organized into five Sections. Section 2 appraises the bank's performance. Section 3 identifies the core reasons for the bank's failure. Section 4 focuses on regulatory intervention in the bank while Section 5 presents the failure resolution mechanism adopted. Section 6 focuses on lessons learnt and concludes the case.

2.0 APPRAISAL OF BANK PERFORMANCE

This appraisal is based on CAMEL (Capital Adequacy, Asset Quality, Management, Earnings and Liquidity) parameters and seeks to show how the bank's financial condition deteriorated over time.

2.1 Capital Adequacy

The capital had been gradually eroded by deterioration in the credit portfolio. As far back as 1994, NDIC Examiners expressed concern about the deterioration of the bank's risk assets and recommended close monitoring and control of unauthorized lending. In recognition of the need to beef up the bank's capital, authorized capital was increased to ₦2.10billion in 2003. The bank did a Right Issue through which paid-up capital was increased. As at 30 June, 2004, the paid-up capital stood at ₦1.53billion and remained unchanged till banking license was revoked on 16 January, 2006, while accumulated losses, as at that date, stood at ₦7.42billion.

Meanwhile, on 6 July, 2004, CBN announced a new capital requirement of ₦25billion for all banks with a compliance date of 31December, 2005. In response to that regulatory requirement, the bank, along with three other banks (namely Hallmark Bank Plc, Lion Bank Plc and Universal Trust Bank Plc) initiated a merger to form a new bank to be known as First Consolidated Bank. That initiative collapsed due to the poor financial conditions of the four banks. The bank also explored the option of securing foreign investors from countries like South Africa and the United States of America to beef up its capital base. That option equally failed on account of its precarious condition.

The final option embraced by the bank was to undertake an Initial Public Offer (IPO) to raise fund from the capital market in 2005 to raise ₦20billion by offering to sell 10billion ordinary shares at N2.00 per share. As at the time the public offer closed, the bank was only able to raise the sum of ₦2,441,593,175.00 or 12.5% of its target. The public offer was unsuccessful as the amount raised fell below the minimum of 25% prescribed by the Securities and Exchange Commission (SEC). Accordingly, the IPO was aborted. SEC had also issued a circular which directed that all proceeds from capital subscription for bank consolidation be warehoused in an escrow account at the CBN. FBN Capital Limited and BGL Securities Limited which served as Issuing Houses to the IPO remitted the sum of ₦45,943,000.00 collected by them to the CBN escrow account.

The sum of ₦2,385,659,175.00 which subscribers paid directly to Allstates Trust Bank as the Receiving Bank was not remitted to the CBN escrow account in violation of SEC's directive. In addition, the bank failed to account for the IPO proceeds in its custody, but instead, ascribed the loss of the amount to the severe liquidity crisis which engulfed the bank at that time. It is equally instructive that the sum of ₦893,135,471.59 being proceeds of another IPO undertaken by Linkage Assurance Company Plc (an associated company) in 2005 got trapped in the bank and was never recovered.

In response to the outcry of aggrieved subscribers to failed IPOs, the House of Representatives mandated its Joint Committee on Capital Market & Institutions and Banking & Currency to investigate trapped investors funds in three failed banks namely, Allstates Trust Bank, Assurance Bank Limited and Trade Bank Plc. At the Investigative Hearing held in May 2008, there was no credible explanation for the non-remittance of the IPO proceeds collected by the bank to the CBN escrow account. Hence, the hope of retrieving innocent subscribers monies trapped in the bank remained dim.

2.2 Asset Quality

Various CBN and NDIC Examination reports had highlighted the weaknesses in the bank's credit administration process and deterioration of credit quality. In 2004, non-performing loans (NPL) increased by 114.88% to ₦3.7billion. By 2005, delinquent insider-loans alone amounted to ₦12billion. As at 16 January 2006, when its banking license was revoked loans and advances portfolio which was largely non-performing stood at ₦21.08billion and accounted for 69.96% of total assets which stood at ₦34.68billion.

In October 2005, the CBN removed the Board and Management on account of gross mismanagement and unethical practices in managing the resources of the bank. The CBN also referred the identified malpractices to the Economic and Financial Crimes Commission (EFCC) for investigation. One of the Directors of the Bank was arrested and EFCC's investigations confirmed unethical practices in credit administration as well as money laundering.

Before his release by the EFCC, the Director accepted responsibility for the liquidation of debts owed by companies related to him in the sum of N13 billion. He undertook to enter into a Debt Liquidation Agreement with the failed bank to that effect. Further comments on the utilization of the bank's fund for the benefit of related companies are provided in the next section.

2.3 Management

Right from inception, the management structure conferred enormous powers on the Chairman in view of his multiple roles in the bank. He was the chief promoter of the bank, significant shareholder and Chief Executive Officer. In the course of time, his strong hold on the bank was capped with the assumption of the dual positions of Chairman and Chief Executive Officer. This executive duality enhanced the prospects for compromising corporate governance principles. It is noteworthy that by year 2003 he was the single largest shareholder with 12.11% of the bank's equity base. Apart from the short period (1999/2000) when he served as Honourable Minister of Science and Technology, he was the dominant factor throughout the life of the bank. His status was that of an owner-manager.

The business model adopted was to use the bank as a vehicle for servicing the needs of related companies. Also, virtually all the services required by the bank ranging from information technology infrastructure to security and catering services were provided by associated companies. Under such scenario arms-length relationship could not be maintained between the bank and the associated Companies. For example, in 1997 the failure to maintain arms-length relationship was criticized by Bank Examiners.

Apart from irregularities in related-party transactions, the bank appeared to have entrenched a culture of non-compliance with laws, rules and regulations.

The following examples are cited to buttress that disposition:

- In 1994, Examiners recommended that the Board Committee composition should be in accordance with the provision of Section 359(3) of the Companies and Allied Matters Act (CAMA) 1990, which requires that “the auditor shall in the case of a public company also make a report to an audit committee which shall be established by the public company, but the bank did not comply.

- In 1998, Examiners noted that the Board’s composition was not approved by CBN as required by the provisions of the Banks and Other Financial Institutions Act (BOFIA) 1991.
- CBN’s 2001 Routine Examination report noted that the bank’s Internal Audit Department did not incorporate money laundering review in its audit programme. The report further noted that several reportable transactions such as capital importation and over-the-counter purchases were omitted from returns rendered to the Regulatory Authorities while there was no continuous training programme for employees on money laundering issues as required by the Money Laundering Act.

It was therefore, not a surprise that EFCC’s investigation in 2005 revealed that the bank had assisted a former Governor of Bayelsa State to launder money abroad. Meanwhile, it would be recalled that the bank’s foreign exchange dealership license was suspended in 2002 on account of foreign exchange malpractices. The suspension which lasted 13 months had adverse consequences on the bank’s operations especially with regard to deposit mobilization and liquidity.

Against this backdrop, the bank experienced a major management turn-over. The Managing Director, two Executive Directors and four Management Staff resigned. In response, Mr. Ebibomo Timitimi was appointed the Managing Director/CEO on 5th August, 2003 under a 5-member Board comprising the following.

Ebitimi E. Banigo	-	Chairman
Ebibomo Timitimi	-	Managing Director/CEO
Obi Ayanyo	-	Director
Tom Fabyan	-	Director
Tukur Ahmed	-	Director

Over the years, the management had engaged in the imprudent practice of availing the bank’s fund for property development by associated Companies.

The scheme entailed acquisition of land by an associated Company, provision of loan by the bank for construction and long-term lease (of ten or more years) by the bank and advance payment of rent for the lease period which was used to liquidate facility granted to an associated Company. The bank made a loan and was made to repay the loan with advance payment of rent. The scheme resulted in huge prepayments and over-bloated operating expenses. Also, negotiations of the deals could not be on competitive terms or at arm's-length. Why would a bank be making loans and immediately is repaying its own loans with advance rent payment? Was the scheme borne out of ingenuity, greed or fraudulent intent? Why was the scheme restricted to associated Companies and not to other parties? These are questions that the authors of the scheme need to answer. Meanwhile, the associated Companies that participated in the scheme include the following:

- Global Communications Network Limited
- Stemford Resources Limited
- OGS Trading Company Limited
- Carinade Nigeria Limited
- International Property & Investment Limited
- Ise Hanson Company Limited
- Combined Heritage Services Limited
- Ionas Properties Limited
- Asei Properties Limited

The scheme, which involved locking up depositors fund in property development , contributed significantly to the bank's liquidity crisis. In some cases, the leasehold properties were tagged "subject to property development and agreement to revert to the bank". The bank even acquired a property in London for management's comfort. The scheme could be described as the sure way to kill a bank.

Following sustained deterioration of the bank's condition, the CBN on 6th October 2005 removed the Board and Management of the bank from office and appointed an Interim Management Board (IMB) to superintend over the bank. One of the early observations of the IMB was that the bank's financial record was unreliable because certain entries did not reflect the underlying transactions. A case in point was the cash withdrawal of ₦55.3million in two tranches of ₦15million on 13th September 2005 and ₦40.3million on 29th September 2005 purported as payment for Nissan cars not yet delivered. In the course of investigation by the IMB, explanation was demanded from one of the Directors of the bank. In his response dated 25th November 2005, the Director stated that "the amounts totaling ₦55.3million for purchase of cars were another set of Business Development Payment. They were so classified because of the sums involved and the prevailing circumstances. Most importantly, this transaction was duly approved by the Chairman of the bank which the supporting documents would attest to". Given the lack of transparency in the recording of financial transactions, how much reliance could be placed on the bank's financial record? A bank is as good as its financial record.

2.4 Earnings

The business model adopted by the Management denied the bank part of its legitimate earnings. Some of the associated Companies were the beneficiaries of earnings lost by the bank. The suspension from the Foreign Exchange Market in 2002 impaired the bank's earnings. For example, earnings declined to ₦8.91billion in March 2004 and by a further ₦2.37billion in June 2004. Given the lack of transparency in the recording of transactions, an analysis of its Income and Expenditure is unlikely to reflect the true financial condition of the bank.

2.5 Deposit and Liquidity

The bank experienced liquidity problems from time to time. For example, it consistently failed to meet the prescribed liquidity ratio between June and December 1999. The persistent liquidity crisis was attributable to three major factors namely, large quantum of delinquent credit facilities, locking up of deposits in long-term property lease payment to associated companies and suspension from foreign exchange market. Hence, it was not a surprise that its account with CBN was being overdrawn since 2003 and attracting penal charges. It was also exposed to flight to safety as some major depositors withdrew their funds. For instance, the Federal Ministry of Works withdrew

₦4billion while the Police Service Commission withdrew ₦2 billion. Its deposit liability of ₦31.18billion as at 30 June 2004 reduced to ₦28.83billion as at 16 January 2006 when banking license was revoked. As earlier noted the bank was unable to remit its IPO proceeds to CBN escrow account and unable to refund the IPO proceeds of Linkage Assurance Plc as a result of its illiquidity.

3.0 CORE REASONS FOR FAILURE

3.1 Weak credit administration resulted in a large volume of non-performing loans which warranted provisioning that eroded capital.

3.2 The utilization of bank's funds for property development by associated companies which were later leased by the bank denied the bank of its legitimate earnings and capacity to generate reserves to absorb operational losses.

3.3 Willful violation of laws, rules and regulations attracted various sanctions including suspension from foreign exchange market which led to erosion of deposit, illiquidity and loss of valued customers.

3.4 The dominant role of the Chairman who, apart from being a significant shareholder was also the Chief Executive Officer conferred enormous power on him which was used to subvert corporate governance principles while the Board was passive. Delegation of authority was minimal. That power structure created an enabling environment for insider dealings that were detrimental to the bank's survival.

3.5 Failure to take proactive measures to manage its liquidity crisis aggravated the precarious condition and set the bank on the path of failure.

4.0 REGULATORY INTERVENTION

The gross mismanagement and unethical practices uncovered by CBN Examiners in September 2005 warranted regulatory intervention. The CBN removed the Board and Management of the bank on 6th October 2005 and constituted an Interim Management Board (IMB). The IMB prepared a situation report which confirmed various unethical practices ranging from manipulation of accounting records to misapplication of depositors fund and abusive practices in property development. The identified malpractices were referred to the EFCC by the CBN for further investigation. EFCC's intervention made the Promoter of the bank to enter into Debt Liquidity Agreement with Allstates Trust Bank. Under the agreement, he acknowledged and assumed "responsibility for the debts owed by Companies related to him to the Closed Bank in the sum of ₦13billion (Thirteen Billion Naira). In pursuance of the agreement, he surrendered forty (40) assets comprising 37 landed properties, shares held in Linkage Assurance Plc, telecommunications equipment and agricultural equipment "to be sold by the liquidator and the proceeds applied to liquidate the debt in his capacity as the beneficial owner or duly authorized representative of the beneficial owners of the properties". The referral to the EFCC was in keeping with promotion of accountability by bank Management and to ensure that parties found to have engaged in wrongdoing are made to face the law.

5.0 FAILURE RESOLUTION

Given the bank's illiquidity, insolvency and failure to attain the new minimum capital requirement of ₦25billion, its banking license was revoked on 16 January 2006 by the CBN. In keeping with the legal requirements, NDIC applied to the Federal High Court for a winding-up order which was granted on 24th February 2006. Thereafter, NDIC (as Liquidator) commenced the liquidation processes which included preparation of Statement of Assets and Liabilities, preparation of deposit, debtors and fixed asset registers as well as professional valuation of fixed assets. The exercise revealed that about 93% of the bank' depositors had balances of ₦50,000 and below as at the date of closure, which was the insurance cut-off limit as at the date of closure.

Based on the policy decision to adopt Purchase and Assumption (P & A) for the resolution of 14 banks that failed post-consolidation, Allstates Trust Bank was offered to the healthy banks in operation. Ecobank Plc emerged as the preferred bidder. It assumed ₦22billion private-sector deposit liability and acquired all the branch premises and Head Office of the defunct bank, while the un-acquired risk assets were left for the liquidator to recover.

The bank was handed over to the successful bidder on 16 October, 2006. The Liquidator thereafter embarked on recovery of risk assets not acquired under the P&A. According to NDIC's 2012 Annual Report and Statement of Accounts, only ₦3.012billion had been recovered as at 31 December 2012 which was indicative of the hardcore nature of the bank's credit portfolio before the revocation of its banking license. By and large, the resolution of the failure of Allstates Trust Bank can be described as successful. A summary of the liquidator's activities as at 31st December 2012 (NDIC Annual Report) is provided below:

Total deposits at closure	-	₦32.86billion
Total deposits paid	-	₦20.35billion
Total credit portfolio at closure	-	₦25.41billion
Cumulative debt recovery	-	₦3.01billion

6.0 LESSONS LEARNT AND CONCLUSION

Some of the lessons that can be drawn from the bank's failure include:

6.1 Misapplication of a bank's financial resources for the benefit of related parties is a recipe for failure

6.2 Sustained liquidity crisis would eventually lead to bank failure.

6.3 Regulators (especially the Securities and Exchange Commission) should stipulate stringent conditions under which banks would be allowed to receive the proceeds of their own IPOs.

6.4 Sound Corporate Governance and effective risk management are critical to a bank's long-term viability and survival. The enormous powers wielded by a single person who was not only a major shareholder but also combined the positions of Chairman of the Board with that of the Chief Executive Officer enabled him to undermine Corporate Governance and override controls. He, more or less, operated like an Emperor.

In conclusion, the bank’s failure was attributable to a combination of endogenous and exogenous factors. The endogenous factors include abusive insider dealings, willful violation of banking laws, rules and regulations that attracted severe sanctions and self-inflicted liquidity crisis. The major exogenous factor was the mandatory new capital requirement of ₦25billion. Given the gross mismanagement of the bank’s resources, its failure was inevitable.

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