

Debt Recovery Techniques in the Banking Industry



What is Debt Recovery?

Debt Recovery is a means of any loan, advances, credit, accommodation guarantees, or any other facility together with the interest thereon which is outstanding and unpaid against clients of a bank in favor of the bank

- Failed Bank Recovery Debt and Financial Malpractices



Statutory Frameworks

- ▶ **Companies and Allied Matters Act 2020**
- ▶ **Central Bank of Nigeria Act 2007**
- ▶ **Investment and Securities Act (ISA) 2007**
- ▶ **Securities and Exchange Commission Rules 2013**
- ▶ **Banks and Other Financial Institutions Act (BOFIA) 2020**
- ▶ **Nigerian Deposit Insurance Corporation Act (NDIC) 2006**
- ▶ **Asset Management Corporation of Nigeria Act (AMCON) 2015**
- ▶ **Failed Bank Recovery Debt and Financial Malpractices Act 2004**
- ▶ **Secure Movable Assets Act 2017**

Debt Recovery Techniques



Negotiation

Open friendly initial discussion with debtor



Mediation/Arbitration

Formal step towards settlement



Law Suit

Final resort



Enforcement

Key area

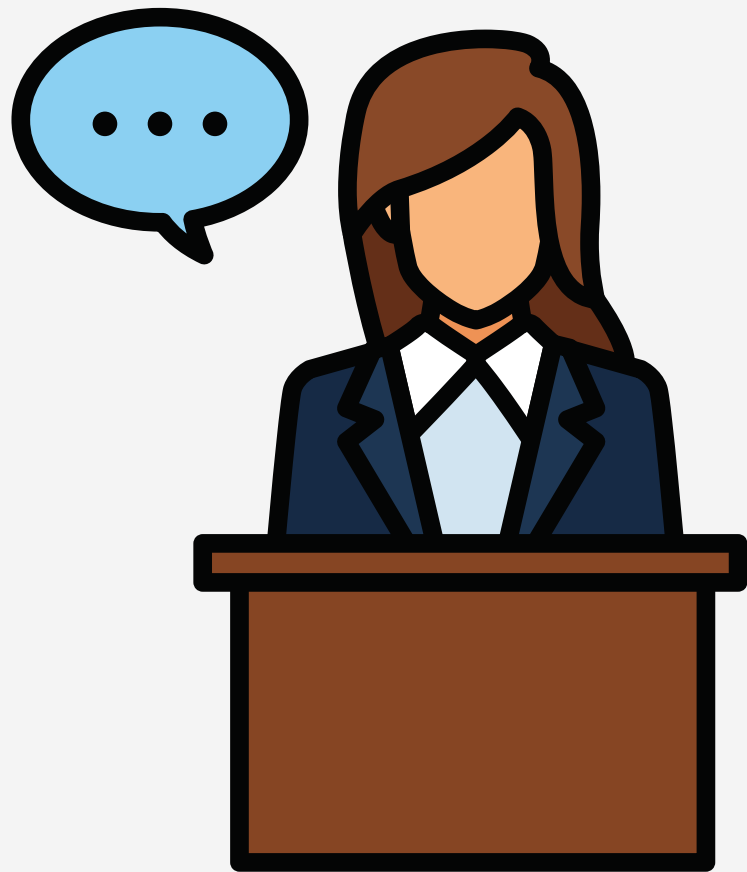
Negotiation

- ▶ Investigate the debtor thoroughly and obtain all necessary information.
- ▶ Initiate contact with debtor, send letter of demand/reminders. Communicate (use all channels) effectively and decisively as to what you wish to achieve.
- ▶ Be friendly but, firm!
- ▶ Reach an agreement if possible, in writing. Some might even sign new terms of settlement at this stage.



Mediation/Arbitration

- ▶ Mediation is less formal and the parties can reach an amicable decision in writing.
- ▶ Arbitration; This is more suitable where the parties are corporate organisations. In this procedure, parties submit voluntarily and the arbitrator(s) makes a binding decision on the debt recovery. Note unless parties have by their own agreement or contract previously agreed to submit to arbitration in the event of dispute, no party can be compelled to submit to an arbitration.



Law Suit

- ▶ A law suit may be commenced as the final resort against the following:
 1. Individual debtor
 2. company debtor (which may include directors where there is fraud element)
 3. Guarantors of the loan (usually join them in the suit).
- ▶ The appropriate court to institute a legal action depends on the total amount owed. A debt recovery action may be instituted in the Magistrate Court, the State High Court or the Federal High Court (AMCON)



Law Suit Cont.

- ▶ It is advisable to immediately apply for the preservation of the moveable and immoveable property of the debtor pending the final determination of the Court process.
- ▶ Where the debtor is a company, a winding-up proceedings may be commenced along with the action for Summary Judgment against the debtor.
- ▶ A criminal petition (EFCC) may need to be constituted as well where there is a fraud element while the obligor was obtaining the loan. This could be due to fake documentations etc.
- ▶ Order 12 FHCR 'undefended list' provides that a claimant may apply summarily to Court for issuance of a writ of summons to recover a liquidated sum that the defendant has no defense on the merit to the claim.

Law Suit Cont.

- ▶ Recovering a debt from an insolvent company; 7 days notice of demand within which to liquidate sum owed failure of which will be institution of action against the company in court and its directors to recover the debt owed. Winding up process may commence.
- ▶ Winding up Proceedings
- ▶ Do not forget statutory limitation
- ▶ Liens - these are easily enforceable

Enforcement

- ▶ **Writ of Fisa** - where the debtor has refused to pay the money ordered to be paid in a judgment. Writ of fisa is issued to ensure that the judgment debt is realised by the seizure and subsequent sale of the judgment debtor's properties (movable and immovable) and the proceeds of such a sale is used to satisfy the judgment debt.

- ▶ **Garnishee Proceedings** - Where a judgment debtor fails/refuses to pay its judgment debt, and it is discovered that the judgment debtor has money standing to its credit in the hands of a third party, the law views the money in the hands of that third party as a debt owing to the judgment debtor.



Enforcement Cont.

- ▶ **Order nisi** - The process is initiated by an application at an ex parte hearing where an interim order (order nisi or temporary order) is sought. The application seeks an order to attach monies standing to the credit of the debtor in the hands of the garnishee(s) named in the application.



Debt Recovery Strategies

▶ **Asset Tracing**

This is a thorough research into the location, assets and information of the debtor. It assists in knowing who your debtor and best tactic to use.

▶ **Up to date Statement**

A debtor should always have their up to statement and an easy self service method of repaying the loan. Make it easy for them.

▶ **Followup and Deadline**

Constant follow up promptly and do not miss a deadline given.

▶ **Multi-channel contact**

Contact a borrower through the most effective means i.e. text, emails, calls, social media and through 3rd parties

▶ **Monitoring of Client**

Make sure every contact with debtor is recordable. If you have a phone call send a memo of the call afterwrds.

▶ **Communication with Bank**

Communicate effectively with the bank. Keep up to date information and know of any changes and payments by debtor.

Thank you.



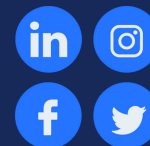
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