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Bad Faith by Delay: Proving Insurer Misconduct and Remedies for Unreasonable Delay in Claims Settlement Under NIIRA 2025.

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Introduction

Insurance contracts are founded on the principle of uberrimae fidei (utmost good faith). This doctrine imposes reciprocal duties of honesty and transparency on both the insurer and the insured. Bad faith on the part of an insurer can arise in several ways, including unreasonable delay in settling claims, unjustified denial of claims, inadequate investigation, lowballing of settlement offers, and failure to defend or settle a claim against a policyholder where reasonable to do so. This article focuses specifically on one strand of that broader landscape: bad faith arising from unreasonable delay in claims settlement, and how the Nigerian Insurance Industry Reform Act 2025 ("NIIRA") has altered the timelines, financial consequences, and remedies available to policyholders in that context.

Statutory Framework

Historically, the Insurance Act 2003 provided the statutory framework for claims handling in Nigeria.[1] Under that regime:

- Payment of premium was a condition precedent to a valid insurance contract.[2]
- Insurers were required to settle accepted claims within 90 days of the issuance of a discharge voucher. Failure to do so or to notify the claimant in writing of a denial and its reasons within the same period, constituted an offence, punishable on conviction by a fine of ₦500,000; the provision did not entitle the insured to compensation for the delay itself.[3]
- Where a claim remained unpaid 90 days after issuance of the discharge voucher, the insured could request NAICOM to effect payment from the insurer's statutory deposit.[4]
- The Act also regulated contracts with foreign insurers to ensure local accountability.[5]

While these provisions recognised the duty of good faith, their principal sanction for non-compliance was a criminal penalty enforceable only upon conviction, and enforcement depended heavily on regulatory follow-through rather than automatic, self-executing consequences.

1. [1]Cap I17, LFN 2004.
2. [2]Section 50 of the Insurance Act 2003.
3. [3]Section 70(2) of the Insurance Act 2003.
4. [4]Section 70(1)(b) of the Insurance Act 2003.
5. [5]Section 72 of the Insurance Act 2003.

Shift in Regime

The Nigerian Insurance Industry Reform Act 2025 ("NIIRA"), which repealed the Insurance Act 2003, retained these foundational principles but significantly tightened and streamlined their enforcement in favour of policyholders:

- The claims settlement timeline is shortened and clarified: admitted claims (except special risks) must now be settled within 60 days of notification, rather than 90 days from issuance of a discharge voucher, eliminating insurer-controlled delays in triggering the clock.[6]
- Mandatory financial consequences are introduced: delayed claims attract monthly compound interest at prevailing bank rates, payable to the insured.[7]
- Statutory compensation is expressly available for unreasonable delay by an insurer, a remedy that did not exist in comparable form under the 2003 Act.[8]
- NAICOM's power to pay claims directly from an insurer's statutory deposit is retained and reinforced; a similar, narrower power already existed under the 2003 Act, so this is best understood as a strengthening of an existing mechanism rather than an entirely new one.[9]
- Non-compliance now also attracts a direct regulatory fine that NAICOM may impose administratively, without the need for a criminal conviction.[10]

Collectively, these developments transform duties that were weakly enforced under the 2003 Act - dependent on criminal prosecution and regulatory initiative - into automatic, policyholder-centric obligations with immediate financial consequences.

Implication of NIIRA on Bad Faith Claims Arising from Delay

The developments above have a real, though narrower, impact than is sometimes suggested. It is pertinent to note that NIIRA does not lower the threshold for establishing insurer misconduct, nor does it create a distinct tort of insurance bad faith. What it does is quicken the timeline within which a policyholder becomes entitled to payment and enhance the compensation available once delay is established. Where a claim has been admitted, the bad faith inquiry becomes comparatively straightforward: the only remaining questions are whether the 60-day period has elapsed and what financial consequence follows. The claimant does not need to prove intent, pattern, or bad motive as default on the statutory timeline is itself sufficient.[11]

Where the underlying dispute is instead about whether a claim should have been admitted at all, that is, an allegation of unreasonable denial, NIIRA's delay provisions do not assist. The claimant must still prove that the claim ought to have been admitted and that the denial was made in bad faith.[12]

[6]Section 210(3)
[7]Section 210(7)
[8]Section 210(8)
[9]Section 210(2); cf. section 70(1)(b) of the Insurance Act 2003, which conferred a similar, narrower power on the Commission.
[10]Section 210(7). Unlike the criminal fine under section 70 of the 2003 Act, which required conviction, this fine may be imposed by NAICOM administratively.
[11]See sections 210(1), (3) and (7), which together mandate that admitted claims be settled within 60 days of notification and impose interest and penalties for non-compliance, rendering default presumptively wrongful without further proof of intent.
[12]The claimant bears the ordinary burden of proving both that the claim should have been admitted and that the denial was made in bad faith.

Delay, once tolerated as a regulatory infraction addressed (if at all) through criminal prosecution, now carries immediate and largely self-executing financial consequences. This shifts Nigerian insurance practice toward **policyholder protection and proportional accountability**, at least in respect of admitted but unpaid claims. The Act does not create a distinct tort of insurance bad faith; rather, its statutory architecture embeds these outcomes within the existing contractual and regulatory framework.

Standards of Proof

For bad faith claims founded on delay specifically, NIIRA has streamlined the elements that must be established. Proof remains documentary and direct rather than circumstantial: the claimant establishes (i) that the claim was admitted or ought to have been treated as admitted, (ii) the date of notification, and (iii) that 60 days elapsed without payment or a compliant denial notice. Default on this timeline supports an inference of misconduct without more.[13]

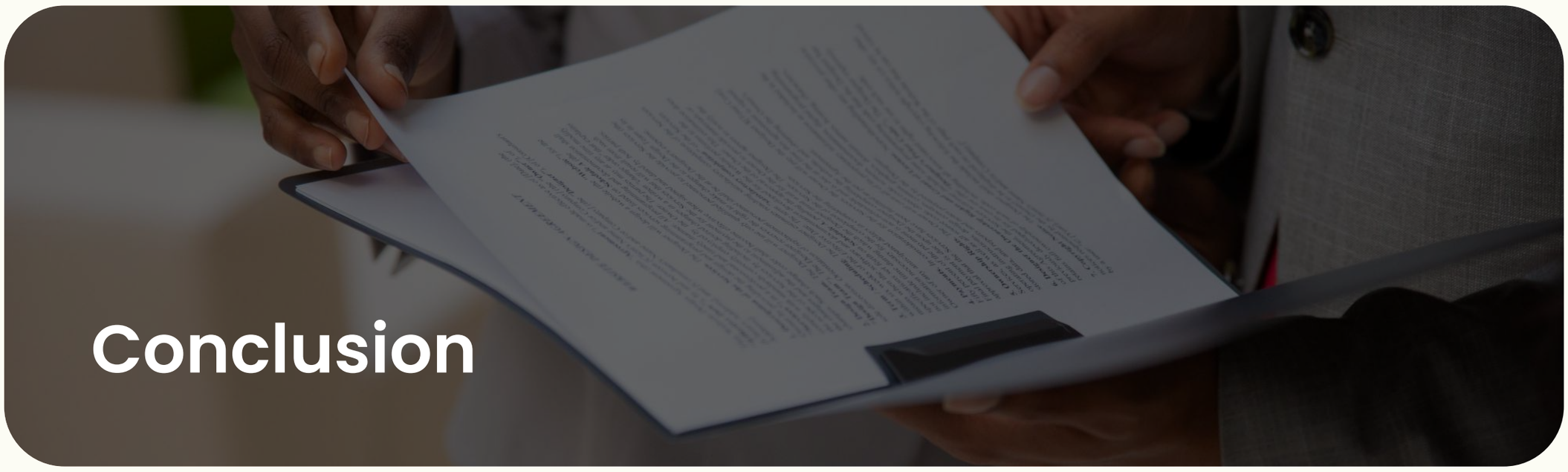
Two evidentiary tools assist this proof, though neither is novel to NIIRA. Insurers have long been required to maintain a claims register recording the receipt and handling of claims;[14] NIIRA's innovation is to pair the existing written-denial-notice requirement with the shortened, strictly enforced timeline, so that the absence of a timely notice becomes itself an evidentiary fact rather than merely a procedural lapse.[15]

Remedies Available to Policyholders

Unlike the **Insurance Act 2003**, whose principal sanction for delay was a criminal penalty payable to the state upon conviction rather than compensation to the insured,[16] the **NIIRA 2025** directly benefits policyholders through:

- **Statutory interest on delayed claims:** making delay financially costly to insurers as it accrues;[17]
- **Court- or tribunal-awarded compensation or damages for unreasonable delay:** recognising losses beyond the policy sum; and[18]
- **Access to the statutory deposit of an insurer** (a mechanism that also existed, in narrower form, under the 2003 Act) **and to the Insurance Policyholders Protection Fund**, which provides a further safety net where admitted claims remain unpaid due to an insurer's insolvency or license cancellation.[19]

[13]See sections 210(1), (3) and (7) of NIIRA 2025.
[14]Section 17(1)(e) of the Insurance Act 2003.
[15]Section 210(6) of NIIRA 2025
[16]Section 70 of the Insurance Act 2003.
[17]Section 210(7) of NIIRA 2025.
[18]Section 210(8) of NIIRA 2025.
[19]Sections 210(2) and 212 of NIIRA 2025.



Conclusion

Bad faith arising from delay is one strand, though a significant one, of insurer misconduct in Nigerian insurance law. While the Insurance Act 2003 recognised the duty to settle claims promptly, its enforcement mechanism was a criminal penalty dependent on conviction, with no automatic compensation for the insured. The Nigerian Insurance Industry Reform Act 2025 meaningfully strengthens this position by shortening timelines, attaching automatic financial consequences to delay, and giving NAICOM more direct administrative enforcement tools.

For litigators and scholars, this evolution reflects a narrower but real gain for policyholders in delay-based disputes. Broader questions of insurer bad faith - unreasonable denial, inadequate investigation, lowballing, and failure to defend - remain governed by the ordinary, more demanding standards of proof, and merit separate treatment.

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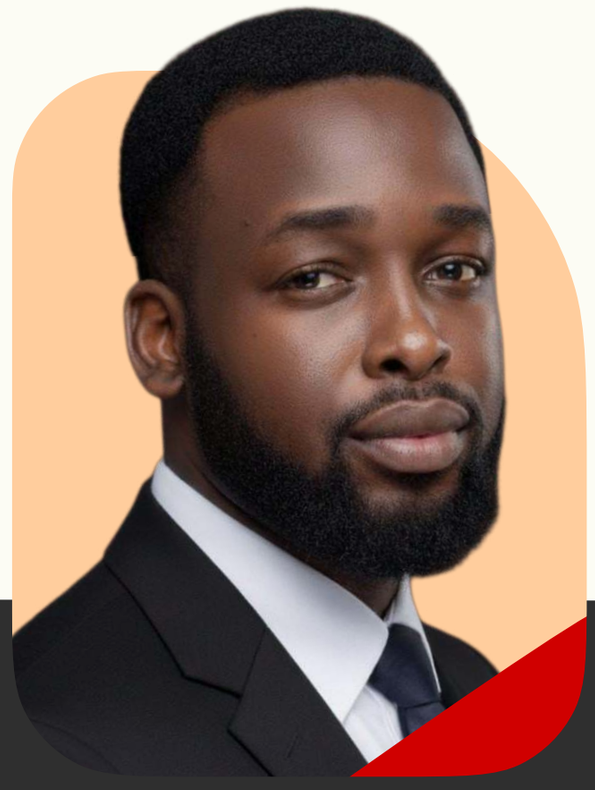

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