Corporate Governance in Nigeria: Evolution, Regulatory Frameworks and Challenges

ABSTRACT

Aims: Undoubtedly, good corporate governance is critical for economic growth and development. In Nigeria,corporate governance has undergone a considerablerevolution, driven by regulatory reforms, global standards as well as the need to strengthen corporate institutions. This review explored the evolution of corporate governance practices in Nigeria and the operating environment of the Nigerian Stock Exchange highlighting the milestones, regulatory frameworksand key challenges inhibiting the corporate sector. The review emphasized the roles of the regulatory agencies includingthe Securities and Exchange Commission (SEC), Financial Reporting Council of Nigeria (FRCN),Central Bank of Nigeria (CBN), National Insurance Commission (NAICOM), Pension Commission (PENCOM) as well as the Nigerian Communications Commission (NCC) in enforcing governance codes and principles.

Study Design: It is a theoretical review that explores developments in the corporate governance landscape in Nigeria.

Place and Duration of Study: The place of study is Nigeria and the duration is 1960 to 2024.

Methodology: The study examined policy documents exploring different codes and mechanisms of corporate governance from inception to date.

Results: While notable progress has been made through the introduction of corporate governancecodes, mechanisms and regulatory oversight, challenges such as corruption, insider abuse and enforcement of governance policies remain prevalent.

Conclusion: The review underscoredthe need for continuous improvement in corporate governance given its role in promoting transparency, accountability, increasing stakeholder awareness as well asstronger enforcementto ensure good governance practicesand sustainable economic growth.

Keywords: Corporate Governance, Developments, Regulatory Frameworks, Nigeria

UNDER PEER REVIEW

1. INTRODUCTION

"Good corporate governance is criticalfor economic growth and development. For a developing country like Nigeria, the need to imbibe corporate best practices assumes a greater significance. It is on this ground that the country's corporate governance regime was built. Characterised by a mixture of statutory framework and subsidiary legislation enacted by the relevant regulatory institutions, the laws are divided into two categories- general and industry-specific. While the former include themain legislation governing mandatory corporate governance standards for all companies- the Company and Allied Matters Act"(CAMA No. 46 of 1990amended in 2020),the Investment and Securities Act No. 45 of 1999 amended in 2007 and the Financial Reporting Council of Nigeria (FRCN) Act of 2011, the latter comprise the CBN Act No. 24 of 1991,the Banks and Other Financial Institutions Act (BOFIA) No. 25 of 1991 amended in 2020,the Insurance Act (IA) No. 2 of 1997, the National Insurance Commission ActNo. 1 of 1997 and the Nigerian Accounting Standards Board Act No. 22 of 2003.

"Although there is evidence of research in developing countries, most discussions on corporate governance in the last four decades have focussed on developed countries predominantly the US, the UK, Canada, France, Germany and Japan. Besides, the less-developed nature of third-world countries, firms indigenous to Nigeria are comparatively smaller with lesser financial strength. This, however, explicates why discussions and scholarly research on the subject have comparatively not generated any substantial academic, practical, political, legal and media attention on a global scale. Nonetheless, this dearth is not an indication that the subject is not a matter of utmost concern in Nigeria as the last decade witnessed an exponential increase in corporate governance discussions in the country evidenced in several corporate governance summits and reforms to tackle specific issues relating to the governance of listed firms"(Ik-Ugwoezuonu&Ezike, 2024).

This paper reviewed the country's corporate governance developments. It discusses the evolution, codes and mechanisms of corporate governance as well as legal arrangements, the operating environment of the Nigerian Stock Exchange and challenges inhibiting corporate governance best practices.

To achieve this, after this brief introduction is section twowhich covers evolution, mechanisms and codes of corporate governance in Nigeria as well as the legal arrangements of the Nigerian companies. Section threedwells on the operating environment of the Nigerian Stock Exchange and the last section summarises and concludes the study.

2. EVOLUTION OF CORPORATE GOVERNANCE IN NIGERIA

The origin of corporate governance system in Nigeria can be traced to the Companies and Allied Matters Act (CAMA), 1990 which replaced the Companies Act (CA) of 1968. The CA of 1968 contained issues relating to the regulation, control and governance of enterprises. This legal framework originated from the British colonial legislation. As argued by Okike (2007),"the Nigerian legal system and corporate governance practices are a replica of the UK pattern. The UK legislations were reviewed when Nigeria attained political independence from Britain in 1960. The Companies Ordinance of 1922 was repealed and replaced with the Companies Act of 1968. The CA of 1968 was, of course, a replica of UK companies Act of 1948. The reason behind this development was that before the introduction of the indigenisation programme of the Nigerian government in 1972, the British nationals controlled the major business enterprises in Nigeria, and to protect their economic interests they had to bring in their company legislation. This mimicking of the UK's Companies Act in Nigeria failed, at that time, to accommodate the economic interests and development aspirations of the country".

"In February 1972, the Nigerian Enterprises Promotion Decree No. 4 of 1972 was promulgatedand took effect in April, 1974.Generallyreferred to as the Indigenisation Decree, the objective of the then government was to promote indigenous ownership of businesses. The Decree restricted foreign ownership by creating three schedules of enterprises: (i) enterprises exclusively reserved for Nigerians; (ii) enterprises in respect of which foreigners cannot hold more than 40% of the shares, and (iii) enterprises in respect of which foreigners cannot hold more than 60%. This classification was based on the perceived financial and managerial needs of the country at that time. The second schedule comprised manufacturing companies where foreign participation was expected to bring foreign capital and managerial expertise. The third schedule comprised capital intensive enterprises" (Ahunwan, 2002).

The Nigerian Enterprises Promotion Decree No. 7 of 1995 was promulgated but was repealed and replaced with the Nigerian Investment Promotion Commission Decree of 1995 and amended in 1998, thus, abolishing any restriction with respect to the limits of shareholding. A

foreigner can now fully own a business in Nigeria outside the production of arms and ammunitions, drugs and psychotropic substances and such a company must be incorporated under CAMA, 1990 as amended.

“The impetus for the development of the corporate governance system in Nigeria also came through the activities of the Nigerian Securities and Exchange Commission (SEC). A Code of Best Practices was adopted in 2003 after the PetersideAtedo Committee was inaugurated by the SEC in 2001 to identify weaknesses in the code of corporate governance at the time and make recommendations on the necessary changes therein. The 2003 code was reviewed and adopted by the SEC in 2008,and 2011”(SEC, 2003, 2008& 2011). To further strengthen corporate governance in Nigeria, the Commission issued a form titled, SEC Corporate Governance Guideline and Revised FORM 01, for reporting compliance by all listed companies in Nigeria in 2020.

“The Financial Institution Training Centre (FITC) established by the Bankers’ Committee comprising the CBN, Nigeria Deposit Insurance Corporation (NDIC), all licensed banks and discount houses in Nigeria in 1981 contributed significantly to the development of corporate governance in the country. One of its objectives is to protect, promote and advance the knowledge of good corporate governance in all sectors of the Nigerian economy (FITC, n.d). It organises series of seminar and roundtable discussions to create the needed awareness and sensitize the stakeholders on the importance of good corporate governance to organisational survival and economic development. Arising from these activities is the publication by FITC- *Issues in Corporate Governance”*(Alo, 2003) which today stands as a major contribution to corporate governance literature and a reference point on corporate governance discourse in Nigeria (Inyang, 2009).

“The Institute of Directors (IoD) Nigeria, was established in 1983 and became full affiliate in 2003. Two years later, 2005, the IoD set up a Centre for Corporate Governance to champion the cause of good corporate practices amongst its members. The Institute carries out the corporate governance responsibility through a framework developed by the African Management Services Company (AMSCO). AMSCO is a joint initiative of the United Nations Development Programme (UNDP), African Development Bank (ADB) and the International Finance Corporation (IFC). However, the objective of AMSCO, *inter alia*, is the promotion of good corporate governance” (Molokwu, 2003).

The Society for Corporate Governance Nigeria (SCGN) established on March 31, 2005 has alsomade important contribution to the evolution of corporate governance system in Nigeria. Its major objective is to promote the practice of good corporate governance by directors and officers of companies with a view to optimizing shareholder value (SCGN, 2005).

Another milestone in the history of corporate governance in Nigeria is the introduction of code of corporate governance by the CBN as a result of the incessant corporate failures experienced in the banking sector due to poor corporate governance practices. Thus, it is in recognition of the critical role of corporate governance in the success or failure of banks that the Bankers’ Sub-Committee proposed in August 2003, a Code of Corporate Governance for Banks and Other Financial Institutions in Nigeria. The Code which considers factors relevant to depositor and investor confidence given their importance to the stability of the financial sector, recommended best practices including but not limited to constituting an effective board and identifying the principal responsibilities of the board, remuneration of directors, board performance assessment and the audit committee.

UNDER PEER REVIEW

“The Code proposed by the Bankers’ Sub-Committee was voluntary, as a result, the CBN issued new corporate governance guidelines to all banks in February 2006 known as CBN Code of Corporate Governance for Banks in Nigeria to again address the issues of poor corporate governance and create a sound banking system in the country” (CBN, 2006). The code introduced more stringent requirements in the areas of industry transparency, equity ownership, criteria for the appointment of directors, board structure and composition, accounting and auditing, risk management and financial reporting. According to the CBN, the new code was developed to complement the existing codes in the country, and compliance to the code was mandatory for all banks.

The CBN (2006) Code of Corporate Governance for Banks in Nigeria Post-Consolidation was again reviewed to align it with current realities and global best practices. This new code which is titled “Code of Corporate Governance for Banks and Discount Houses in Nigeria and Guidelines for Whistle Blowing in the Nigerian Banking Sector” was targeted at eliminating perceived ambiguities and strengthening governance best practices in the sector. TheCode, mandatory and released on May 16, 2014, became effective October 1, 2014. To monitor its full implementation, the CBN required banks and discount houses to submit quarterly reports on their compliance with the provisions of the 2014 Code (CBN, 2014).

To prove that it is the most responsive regulatory authoritytocorporate best practices in Nigeria, and in response to the latest national code- the Nigerian Code of Corporate Governance 2018- issued by the Financial Reporting Council of Nigeria in 2019, the CBN issued a circular to all commercial, merchant, non-interest and payment service banks, and financial holding companies on July 13, 2023, effective August 1, 2023. The Codewhich the CBN adapted from the principles and recommended practices of NCCG 2018 to develop, is to be cited as the “Corporate Governance Guidelines for Commercial, Merchant, Non-Interest and Payment Service Banks in Nigeria” and supersedes earlier codes, circulars and related directives issued on corporate best practices.To provide additional guidance on the NCCG 2018, the Circular aims to outline industry specific guidelines for banks and promote high ethical standards amongst operatorscapable of boosting investor confidence.

The new code which requires more stringent and tougher corporate governance guidelines focuses on board structure, board roles and responsibilities, company secretary, tenure of directors, access to independent professional advice, board meetings, and board committees amongst several others.Departures from the 2014 code are, in part, evident in the board and committee structures, compositions as well as tenure of directors. For instance, whilst the new guidelines require commercial, merchant and non-interest banks to maintain a minimum and maximum of seven (7) and Fifteen (15) Directors, payment service banks are mandated to maintain Seven (7) and Thirteen (13), respectively. The 2014 code, however, stipulated a minimum and maximum of five (5) and twenty (20) directors, respectively. Similarly, against the minimum of two Independent Non-Executive Directors (INEDs) on the board of commercial banks with national as well as international presence, merchant and non-interest banks with national coverage, the 2023 guidelines stipulate a minimum of Three (3) INEDs.However, payment service banks and commercial banks with regional license and non-interest banks with regional license are required to have at least two (2)INEDs. Furthermore, the new code mandates at least, two (2) NEDs of which one must be an INED and must have sufficient knowledge in innovative financial technology, information and communication technology and/or cyber security. The new code also mandates banks to take practical approach to women empowerment in line with Principle 4 of the Nigerian Sustainable Banking Principles in order to have gender inclusive and diverse boards.

Tenure of Directors was not left out as the new code subjects the tenures of MDs/CEOs and DMDs/EDs to a maximum period of Twelve (12) years. The same period applies to their non-executive counterparts (NEDs) comprising Three (3) terms of Four (4) years each. Though, the new guidelines provide a maximum tenure of twelve (12) years for EDs, it practically forbids the extension of such tenure where an ED becomes a DMD. However, where a DMD/ED becomes an MD of the same bank, the new Code allows a cumulative period of Twenty-four (24) years. Furthermore, while the previous codes were silent about the tenure of INEDs, the new guidelines subject them to a maximum of Eight (8) years (2 terms of 4 years each).These developments, however, affected a number of powerful DMDs and EDs.

There have also been developments in the pension industry as evidenced in the enactment of the Pension Reform Act No. 2 of 2004 and the issuance ofthe Code of Corporate Governance for Licensed Pension Fund Operators in 2008. Whereas the Act has been repealed and replaced with the Pension Reform Act, 2014 to govern and regulate the administration of the uniform contributory pension scheme for both the public and private sectors in the country, the Code issued in 2008 was replaced in 2021 with the new code of corporate governance- Guidelines on Corporate Governance for Pension Fund Operators-following the directive of the FRCN to develop and issue industry-specific codes. In order to achieve corporate best practices, the new Guidelines are set of principles intended to guide Pension Fund Administrators (PFAs), Closed Pension Fund Administrators (CPFAs) and Pension Fund Custodians (PFCs). However, the said Guidelines are consistent with the provisions of the Pension Reform Act 2014 and are expected to be used in concurrence with the NCCG 2018.

The introduction of a code of business ethics and principles on corporate governance for the insurance industry in 2009 by the National Insurance Commission (NAICOM) is yet another milestone in the country's effort to imbibe global corporate best practices. In line with this objective, the NAICOM Code (2009) sets out and recommends various structures and control systems, designed to ensure effectiveness, efficiency and accountability by both the board and management of insurance companies as well as measures that are capable of eliminating fraudulent and selfish practices among members of staff, the management and boards of insurance institutions in Nigeria. To assist the implementation of the NCCG 2018, the Code issued in 2009 has been replaced with the Corporate Governance Guidelines for Insurance and Reinsurance Companies (CGGRIC) 2021. The new Code which was issued onMarch 17, 2021 became effective June 1, 2021.Importantly, the new Code introduced and clarified areas which were not clearly stated in the NCCG 2018. For instance, while the NAICOM 2021 Code requires at least 75% attendance of board meetings per annum, the NCCG 2018 provides that members must attend all meetings and that attendance forms part of the criteria for the re-election of a director. Furthermore, aside the nomination and governance; remuneration; audit; and risk management committees listed in the NCCG 2018, the CGGRIC 2021 provided finance, investment and general purpose; and compliance committees in addition to the four provided by the National Code. In addition, while the NCCG 2018 provides for induction and continuing education of board members without specific timeframe, CGGRIC 2021 mandates an insurance firm to conduct such trainings for the members of the board at least once annually which must be evaluated and reported to NAICOM before the end of first quarter of the succeeding year.

"The introduction of the Code of Corporate Governance for the Telecommunications Industry 2014 (NCC 2014)is yet another breakthrough in the development of corporate governance in Nigeria. The Code which sought to entrench good corporate governance practices in the Nigerian telecommunications industryis necessary given its peculiarities and strategic contribution to the nation's GDP. However, the Code issued in 2014 has been replaced with the

UNDER REVIEW

Code of Corporate Governance for the Telecommunications Industry 2016 (NCC 2016).Just like other sector-specific codes, the NCC Code 2016 shares some common provisions with the National Code of Corporate Governance 2016" (NCCG 2016). However, the NCC Code 2016 differs from the provisions of the NCCG 2016 in the following ramifications amongst others. First, the Code provides for annual review of the provisions therein. Consequently, we argue that whereas the contemplated annual review is best practice, it is not in the best interest of the NCC and the regulated firms as such effort will amount to waste of resources and difficulties in implementation and regulation. Secondly, the provisions of the Code are advocated as 'principles' and thus, compliance is voluntary. Further, the Code does not limit the size of the board as it does not provide thresholds in form of minimum and maximum sizes as in other sector-specific codes. The NCC as at the time of reviewing these developments has not developed another code in response to the NCCG 2018.

Another monumental achievement in the development of corporate governance in Nigeria is the issuance of the Nigerian Code of Corporate Governance 2018 by the Financial Reporting Council of Nigeria (FRCN) in 2019. The Code which becameeffective January 15, 2019 is general andaims at unifying the various industry-specific codes as well as further institutionalising good corporate governance practices in both the public and private sectors of the economy in order to gain additional public trust and confidence.Aimed at firms of varying sizes and complexities across industries, the Code adopts a principle-based approach in specifying minimum standards of corporate best practice that firms should adopt or adapt in a wide range of circumstances. Specifically, the code requires companies to adopt the 'Apply and Explain' approach which assumes application of all principles and requires the firms to explain how the principles are applied. Put slightly differently, the Code requires Nigerian listed firms to demonstrate how the specific activities they have carried out best achieve the results intended by the corporate governance principles specified in the Code. Although the Code advocates practices on how firms should apply the principles, it recognises that these practices be tailored to meet industry or firm specific needs. Hence, the Code is flexible as well as scalable to suit the type, size and level of growth of each firm while still achieving the intended outcomes of the principles.

2.1Codes of Corporate Governance in Nigeria

Voluntary as well as mandatory codes of best practices have recently become very popular internationally owing to the incessant collapse of high-profile corporate entities around the world. Though codes are not part of legislation in most countries, however, they are largely inspired by them. In Nigeria, five (1 national and 4 sector-specific) codes of corporate governance are currently operational namely; the FRCN 2018; NCC 2016, NAICOM 2021,PENCOM 2021 and CBN 2023 codes of best practices.

The NCCG 2018 which is applicable to all sectors of the economy supersedes all existing industry-specific codes. However, the Code advocates development of industry-specific codes because of the peculiarities of the different sectors. It addresses Seven (7) broad areas and Twenty-eight (28) principles of corporate governance. The latter comprises of the Board of Directors (BOD) and officers of the board; assurance; relationship with shareholders; business conduct and ethics; sustainability; transparency; and the audit committee. Whilst the NCCG 2018 does not stipulate the size of the board in terms of minimum and maximum, it requires implementing entities to havesufficient sizes relative to the scale and complexity of their operations so they can effectively oversee, monitor, direct and control their activities. The code

UNDER PEER REVIEW

prescribes for the separation of the positions of the Chairman and MD/CEO and that none of them or any executive director should serve as the chairman of any committee among several other guidelines.

2.2 Corporate Governance Mechanisms in Nigeria

Whereas the government and its institutions are responsible for legislation, regulation and supervision, institutions and individuals are charged with the responsibility for ensuring effective corporate governance in Nigeria. Government plays a key role in corporate governance through the promulgation of laws which affect the ownership, management and control of businesses. The SEC which was established by Decree No. 71 of 1979 as the apex regulatory body of the capital market in Nigeria, regulates the capital market operations under the Investment and Securities Act (ISA) of 1999 and the SEC Rules and Regulations (1999). As a member of the International Organisation of Securities Commissions (IOSCO), it is expected to promote international corporate best practices to maintain an efficient securities market in Nigeria. The key corporate governance carried out by the SEC includes regulations governing the constitution of the Board of Directors and shareholders which covers, inter alia, issues such as board size, board composition, gender diversity, the separation of Board Chair and Chief Executive Officer status, family interlocking directorship, foreign directors as well as auditing and disclosure. On the other hand, shareholders are responsible for monitoring resolutions at annual general and extraordinary meetings.

2.2.1 The Board of Directors and Shareholders

The members of a board are elected by the shareholders to monitor the management on their behalf. The fact that corporate boards are responsible for major decisions like changing corporation bylaws, issuing of shares, and declaration of dividends amongst others explains to a large extent, why most discussions on corporate governance usually focus on boards. It is in line with this that Blair (1995) argued that the corporate board is regarded as the single most important corporate governance mechanism. Monks and Minow (2001) added that the board acts as the fulcrum between the owners and controllers of the corporation.

Section 269 to 288 of CAMA, 2020 makes provision for the appointment, number, re-election, composition, qualification, disqualification, retirement, resignation and removal of directors for every company in Nigeria. Section 269 (1) empowers the Board to direct and manage the business of a company. The first directors are usually named in the articles of association or determined in writing by the subscribers to the memorandum. Members elect subsequent directors at the Annual General Meeting (AGM) of the company. To avoid entrenchment, sections 3, 273, and 288 of CAMA, 2020 make provisions for tenure, subsequent appointment and removal of directors as part of the control that shareholders can exercise to layoff unproductive directors. Part of the problem, however, is that shareholders are not able to assess the performance of a director in order to decide whether to elect him or not. Section 284 (2) of CAMA, 2020 merely provides that "when a director presents himself for re-election, his record of attendance at the meetings of the board during the preceding year shall be made available to members of the general meeting".

Section 283 of the Act disqualifies certain persons from being directors. These include minors below the age of eighteen years; a lunatic or person of unsound mind; a corporation other than its representatives; an insolvent person and a person convicted of an offence involving mismanagement. Furthermore, persons who are Seventy (70) years and above wishing to be appointed as directors must disclose this at the general meeting (S. 282 of CAMA, 2020).

UNN PEER REVIEW

In line with the common law legal system, sections 305 and 307 of the CAMA specify fiduciary duties of the directors, while section 308 defines the common law duty of care and skill. Section 287 forbids a director from taking a bribe, secret profit, commission or gift in the discharge of his duty as a director. He is also required to disclose his interest in any contract with the company to other directors. Section 762 forbids a director from competing with the company. Paradoxically, Section 307 allows him to hold multiple directorships with the burden that he owes fiduciary duties to each of the companies.

As an organ of a company, shareholders can exercise corporate governance through the instrumentality of meetings. There are three types of meetings, namely; the statutory, the annual and the extraordinary. The statutory meeting (S. 235) applies to public companies and is normally held six months from the date of incorporation to assess the statutory report required by section 149 of the CAMA on shares allotted, description and particulars of directors and pre-incorporation contracts among others. Section 237 of the CAMA provides that a company shall hold AGM annually, and not more than Fifteen (15) months shall elapse between the holdings of Two (2) AGMs. The AGM enables members to discuss mandatory matters which include declaration of dividend, presentation of financial statements, the report of the directors and auditors, election of directors, appointment and fixing of auditors' remuneration and appointment of the members of the audit committee.

The AGM must hold in Nigeria to guarantee the attendance of members. Extraordinary meetings are sanctioned under section 239 of the CAMA. The BOD may convene extraordinary meetings as they deem fit. Members who hold not less than one-tenth of the paid-up capital/voting right can also call for such meetings as enshrined in Section 237(2). While meetings serve as corporate governance mechanisms to monitor insiders, they can only be effective if members can afford to attend and contribute meaningfully. The proxy voting machinery in Nigeria entrenches the control of directors as default doneness of members' powers.

The FRCN Code of 2018 promotes board diversity such that it shall comprise of members of different sexes, ages, expertise among others. It encourages a board size relative to the scale and complexities of the implementing firms consisting of higher proportion of non-executive directors in relation to their executive counterparts. Board members' shareholding is recommended not to be more than 20% of issued capital. The code requires at least one director to represent minority shareholders against expropriation by the majority.

2.2.2 External Auditors

Section 401(1) of CAMA, 2020 requires the appointment of an auditor(s) to conduct an independent examination of the books of a company and express an opinion thereof. Schedule 6 specifies three significant matters where the auditor is expected to express an opinion, whether the company has kept proper books of account, or the accounts being examined show a true and fair view of the state of affairs of the company; and/or the company has complied with statutory and other disclosure requirements as stipulated under the Act.

Prior to promulgation of the CAMA, the Institute of Chartered Accountants of Nigeria (ICAN) was the sole professional accounting body recognised to determine professional standards and skills to be attained by those seeking to practice as auditors. Section 403 of the CAMA, 2020 lists the qualifications of auditors: the person must be "a chartered accountant recognised to practice in Nigeria; not an officer or servant of the company; partner or in employment of an officer or servant of the company; a person or firm who offers to the company professional advice in consultancy capacity in respect of secretarial, taxation or financial management; and a body

corporate". Section 401 of the CAMA, 2020 sanctions the annual appointment of an auditor and once appointed the auditor can be reappointed without any resolution unless he is not eligible for reappointment or the auditor gives notice in writing of his unwillingness to be reappointed. An auditor can be removed by an ordinary resolution before the expiration of his tenure (S. 409).

Section 11(4) of the NCCG 2018 recommends among others the establishment of an audit committee which is saddled with the responsibility of assisting in the oversight functions of the integrity of the company's financial statements, compliance with legal and other regulatory issues, assessment of qualification and independence of external auditors and performance of internal audit functions. It is also the responsibility of the committee to obtain and review all reports prepared by internal auditors. As stipulated by Section 9(3) of the FRCN Audit Regulations 2020, an audit firm shall be disengaged after continuous service to a firm for Ten (10) years.

2.3 Legal Arrangements of Nigerian Companies

Issues relating to the regulation, control and governance of business enterprises in Nigeria are largely covered within the scope of company legislation. Nigeria, like most other British colonies inherited the British Commercial law jurisprudence after independence. As a result of Nigeria's colonial background and the subsequent mimicking of UK's companies Act, the corporate governance system in Nigeria is essentially Anglo-Saxon or outsider control system.

The CAMA, 2020 is the principal law regulating the incorporation of businesses. Its major functions include: the regulation and supervision of the formation, incorporation, registration, management and winding up of companies; the maintenance of a company's registry; and the conduct of investigation into the affairs of any company in the interest of shareholders and the public. It requires that any business undertaking in Nigeria as either private or public limited liability company, unlimited liability company, company limited by guarantee, foreign company (branch or subsidiary of foreign company), partnership, sole proprietorship, incorporated trustees or representative office must be registered with the Registrar-General of the CAC (Registrar of Companies).

Regarding minimum share capital and disclosures in the memorandum of association, the law requires a minimum authorised share capital of not less than ₦100,000:00 in the case of a private company or ₦2000,000:00 in the case of a public company with which the company proposed to be registered. Amongst other issues, the subscribers to the memorandum shall take amongst them a total number of shares of a value of not less than 25 per cent of the authorised capital and that each subscriber shall write opposite his name the number of shares he takes. The law permits and acknowledges the roles of attorneys and other relevant professionals in facilitating business transactions provided that the agency arrangement is disclosed. In addition, the law requires every company to disclose on its letterhead papers used in correspondence, the following particulars: name of the company/enterprise; address; registration/incorporation number; names of directors and alternate directors (if any).

Chapter three of the CAMA, 2020 covers operations of foreign companies in Nigeria. It states amongst others that a foreign company wishing to set up business operation in Nigeria should take all steps necessary to obtain local incorporation of the Nigerian branch or subsidiary as a separate entity in Nigeria for that purpose. Until so incorporated, the foreign company may not carry on business in Nigeria or exercise any of the powers of a registered company. But where exemption from this rule is required, a foreign company may apply in accordance with Section

UNILAG PREVIEW

80 of the CAMA, 2020, to the Minister for exemption from the provisions of Section 78 of this Act if that foreign company belongs to one of the following categories:

(a) Foreign companies invited to Nigeria by or with the approval of the Federal Government of Nigeria to execute any specified individual project;
(b) Foreign companies which are in Nigeria for the execution of a specific individual loan project on behalf of a donor country or international organisation;
(c) Foreign government-owned companies engaged solely in export promotion activities, and
(d) Engineering consultants and technical experts engaged on any individual specialist project under contract with any of the governments in the Federation or any of their agencies or with any other body or person, where such contract has been approved by the Federal Government.

Other legal issues concern labour, health, trade and environmental standards and include: Factories Act, Workmen Compensation Act, National Minimum Wage, Regulatory Bodies (Standards Organisation of Nigeria, SON, National Agency for Food And Drug Administration and Control, NAFDAC and Federal Environmental Protection Agency, FEPA), Trade Malpractices Decree 1992, Consumer Protection Council, Principal Laws on Foreign Investments, Deregulation of Equity Structure in Nigerian Enterprises and the Nigerian Investment Promotion Commission Decree No. 16, 1995 amended in 1998 (NIPC Decree).

3. THE OPERATING ENVIRONMENT OF THE NIGERIAN STOCK EXCHANGE

The Nigerian Stock Exchange (NSE) was incorporated on September 15, 1960 as the Lagos Stock Exchange (LSE) and started operations with eight stocks (3 equities and 5 debt stocks) on June 5, 1961. However, ithadNineteen (19) securities officially on August 25 same year. It became the NSE in December 1977.

The regulator of the Exchange, the SEC, began operations in 1979 and two decades later, the comprehensive legal document providing rules and regulations for the conduct of operators in the Exchange- the Securities and Investment Act which came into being in 1999. However, the Commission has the mandate of surveillance over the Exchange to forestall breaches of market rules and to deter and detect unfair manipulations and trading practices. The Exchange has an automated trading system and data on listed companies' performances are published daily, weekly, monthly, quarterly and annually.

Despite these challenges, the Exchange has witnessed a number of significant developments over the years as demonstrated below.

Since inception, the Exchange hasopened 13 branches nationwide. However, only 12 are operational. It started with a new trading floor in Kaduna in June 1978 followed by Port Harcourt in April 1979, Customs Street, Lagos in November 1986, Kano, May 1989, Onitsha, February 1990 and Ibadan, August 1990 amongst others.

In a bid to nationalise the Nigerian capital market and open it to the international community, the federal government in January 1995 abrogated the Exchange Control Act 1962 and the Nigerian Enterprises Promotion Decree 1989 and in July 1995, the Nigerian Investment Promotion Commission Decree No. 16 and Foreign Exchange (Monitoring and Miscellaneous Provisions Decree No. 17) were promulgated. In furtherance to the foregoing, the NSE issued through the Nigerian stock market, Administrative Guidelines for Foreign Investment in September 1995 and by November same year, it inaugurated the Board of Trustees of the Investors' Protection Fund for the market.

UNDER REVIEW

By 1984 and 1985, the All-Share Index and the Second Tier Securities Market (SSM) were launched respectively and by September 1992, the All-Share Index reached the 1,000 mark. The deregulation of the capital market in February 1993 is yet another milestone in the development of the Exchange. By May 1996, the Exchange introduced the percentage pricing system with a threshold of 5% of the daily fluctuation band and by July same year, the Exchange abolished the T+14 settlement period and introduced the weekly delivery period.

The commissioning of the Central Securities Clearing System Ltd which provided, among others, automated clearing, settlement, delivery and custodian services in April 1997 marked another milestone at the Exchange. By June 1998, the Exchange released guidelines and procedures of trading in rights and by July, the trading had started.

The NSE launched an Automated Trading System (ATS) on April 27, 1999 which enables dealers to buy and sale online and by May the Investment and Securities Decree No. 45 1999 was promulgated by the federal government. The ATS was commissioned in August and by October, the Abuja Area Office was opened to commence remote trading on it.In order to promote global corporate best practices, the Exchange commenced the T+3 settlement cycle in March 2000 and by October, it hosted the African Securities Exchange Association(ASEA) conference and AGMto among others, develop its members, enhance global competitiveness of member exchanges as well as provide a platform for networking, business opportunities and exchange of information. In February 2004, the Exchange admitted the ₦150 billion first federal government bond to its official list. Similarly, the Exchange launched its next-generation trading platform (X-Gen) in 2013, a platform that allows electronic trading for the retail and institutional segments of the market.

In addition, the NSE was demutualised in 2021 and now operates as a profit-oriented entity. This gave birth to a new structure - the Nigerian Exchange Group Plc (NGX Group) with three (3) subsidiaries; the Nigerian Exchange Ltd (NGX Exchange), the operation arm of the Group, the NGX Regulation Ltd (NGX RegCo), an independent company in charge of regulation and NGX Real Estate Ltd (NGX RelCo), undertaking the business of acquiring, leasing, hiring, or part-exchanging any property. Today, the Group is a member of the World Federation of Exchanges (FIBV), a member of the Sustainable Stock Exchanges Initiative (SSE), an observer at meetings of the International Organization of Securities Commissions (IOSCO) and a founding member of the African Stock Exchanges Association (ASEA).

As at June 11, 2024, the operating exchange (NGX), a multi-asset exchange, had 151 listed firms comprising 393 securities under 11 industry sectors and had a market capitalisation computed at ₦56.45 trillion. It is noteworthy thatthe performance of the capital market is determined by a number of criteria such as the volume or number of securities listed, market capitalisation or size of the market, all share price index as well as how efficient the regulations and controls at the Exchange are, efficiency of the operational procedure *vis-a-vis* the rate at which transactions are concluded at the floor of the Exchange. Other yardsticks are information dissemination efficiency, efficiency of allocation in respect of how resources are channelled to the most efficient users, pricing efficiency, the number of new issues and the size of new issues to gross fixed capital formation of the Exchange.

3.1 Challenges Facing Corporate Governance in Nigeria

The challenges facing corporate governance in Nigeria date back to the early 1960s. The NSE was incorporated in 1960 and its regulator **-** the SEC **-** began operations in 1979. Two decades later, the comprehensive legal document providing rules and regulations for the conduct of operators in the Exchange - the Securities and Investment Act (1999) which came into being.

This implies that the Exchange operated for Nineteen (19) years without a regulatory body and Twenty (20) years with a regulatory body weakened by the absence of a comprehensive legal framework for the discharge of its regulatory duties. In addition, performance of the Exchange is characterized and hindered by low liquidity, low demand for securities, low trading volume, insider abuse, use of the market to launder funds abroad, inadequate regulation and supervision, multiple taxation and levies, exorbitant cost of raising funds arising from high fees and undue government interference(Sanda et al., 2010; Obademi&Adeyanju, 2010;Olaleye, 2011). These problems which are capable of impeding corporate governance and by extension firm performance can be linked to a weak regulatory environment.

Other challenges facing corporate governance in Nigeria are quite enormous especially considering the level of corruption in all facets of Nigerian life, unreliable and weak legal institutions that protect investments and policy instability. Further challenges inhibiting best corporate practices in Nigeria include low technical knowhow of corporate boards and management, ineffectiveness of board/statutory committees, rendering false returns and concealment of information from examiners, inadequate operational and financial controlsand sharp practices (Inyang, 2009).

Furthermore, "giant efforts in entrenching corporate best practices in Nigeria have not been directed at state-owned enterprises (SOEs) and small and medium enterprises (SMEs) despite their contribution to nation development. Evidence has shown that SOEs have poor corporate governance practices all over the world (Wong, 2004) and that there is abundant evidence that they are the worst abusers of corporate governance principles" (Inyang, 2009). Ahmed (2007) notes that there is the general weakness of public institutions, high level of corruption, poor managerial capacity and total absence of market discipline for transparency and accountability, which combine to create a seeming lack of demand for corporate governance in state-owned enterprises in Nigeria.

However, the regulatory agencies as well as independent researchers have attempted to address these challenges and have suggested various measures that reflect corporate best practices. For instance, Oyejide and Soyibo (2001) suggest that for "Nigeria to reap the benefits of good corporate governance, the enforcement mechanisms of the regulatory institutions need to be toughened. The judicial system must play its role by restoring the confidence of the investor and help to enforce his rights. The authors added that thecapacity to offer regulatory oversight of the corporate sector needs to be strengthened".

"In a bid to shore up public participation in the ownership of corporations, the Nigerian government encouraged and facilitated the establishment of a network of Shareholder Associations. The different shareholder associations are registered with the CAC and they serve the interest of the investing public as shareholders who have the opportunity to contribute to the formulation of corporate broad policies do so to improve management accountability. The challenge therefore is for the corporate governance institutions to strengthen shareholder activism as a prerequisite for effective corporate governance and management accountability" (Etukudo, 2000).

4. SUMMARY AND CONCLUSIONS

This paper explored corporate governance practices in Nigeria, highlighting major developments, regulatory frameworks and challenges. Nigeria's corporate governance regime has evolved significantly, driven by both local reforms and global standards. While progress has been made with the introduction of governance codes and stronger regulatory oversight, challenges such as corruption, insider abuse, and unreliable and weak legal and regulatory

UNDER PEER REVIEW

institutions amongst several others persist. This review concludes with recommendations for the future, emphasizing the need for continued reforms, technological advancements, increasing stakeholder awareness and stronger enforcement to ensure good governance practices.

Disclaimer (Artificial intelligence)

Option 1:

We hereby declare that NO generative AI technologies such as Large Language Models (ChatGPT, COPILOT, etc.) and text-to-image generators have been used during the writing or editing of this manuscript.

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