

PERSPECTIVES ON CORPORATE GOVERNANCE CHALLENGES FOR BANKS POST CONSOLIDATION IN NIGERIA.

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Abstract

The purpose of this research is to investigate the barriers and issues hindering effective corporate governance development in Nigeria. A survey research method was used to gather data from 92 respondents from 20 firms listed on the Nigerian Stock Exchange. This study provides vital information on corporate governance barriers/challenges hindering its development and implementation in Nigeria. The findings reveal that challenges hindering the implementation and promotion of effective corporate governance in Nigeria include abuse of minority shareholders' rights, lack of commitment on the part of board of directors, lack of adherence to the regulatory framework, weak enforcement and monitoring systems, and lack of transparency and disclosure. Nigeria has ample laws that are designed to protect shareholders' rights and ensure good corporate governance for post consolidation of banks, but effective enforcement of these laws and regulations constitutes a major challenge for the development and implementation of effective corporate governance system in the country. The paper recommends amongst others, that the existing CBN guidelines on appointment to the board of financial institutions should continue to be observed. Only people of proven integrity and who are knowledgeable in business and financial matters should be on the board. Directors should be able to read and interpret financial statements.

Introduction

Corporate governance, a phrase that not long ago meant little to all but a handful of scholars and shareholders, has now become a mainstream concern a staple of discussion in corporate

boardrooms, academic meetings, and policy circles around the globe. Two events are responsible for the heightened interest in corporate governance. During the wave of financial crises in 1998 in Russia, Asia, and Brazil, the behavior of the corporate sector affected the entire economies, and deficiencies in corporate governance endangered the stability of the global financial system. Just recently confidence in the corporate sector was sapped by corporate governance scandals in the United States and Europe that triggered some of the largest insolvencies in history. In the aftermath, not only has the phrase corporate governance become nearly a household term, but economists, the corporate world, and policymakers everywhere began to recognize the potential macroeconomic consequences of weak corporate governance systems. The scandals and crises, however, are just manifestations of a number of structural reasons why corporate governance has become more important for economic development and well-being (Botha, 2001).

Further, Corporate governance has become an important topic in developing economies because corporate stakeholders such as directors, owners, and managers have started to realize that there are benefits that can accrue from having a good corporate governance structure (McGee, 2009). According to McGee (2009), good corporate governance helps to increase share price and makes it easier to obtain capital, also international investors tend to be reluctant to lend money or buy shares in a corporation that does not subscribe to good corporate governance principles.

For the banking industry, the retention of public

confidence through the enthronement of good corporate governance remains of utmost importance given the role of the industry in the mobilization of funds, the allocation of credit to the needy sectors of the economy, the payment and settlement system and the implementation of monetary policy. Also the need to reassure the investors of the safety of their investments, through the promise of fair returns on equity, all the way to securing minority investors against all forms of alienation. Businesses in emerging economies are increasingly concerned with ensuring that they are run properly and that things work to ensure corporate vitality and stability.

In Nigeria, a survey by the Securities and Exchange Commission (SEC) showed that corporate governance was at a rudimentary stage, as only about 40% of quoted companies, including banks, had recognized codes of corporate governance in place. Specifically for the financial sector, poor corporate governance was identified as one of the major factors in virtually all known instances of a financial institution's distress in the country (CBN, 2006). Yet, the on-going banking industry consolidation is likely to pose additional corporate governance challenges arising from integration of processes, IT and culture. Inability to integrate personnel and systems as well as due to irreconcilable differences in corporate culture and management, resulting in Board and management squabbles cause failures of mergers. In addition, the emergence of mega banks in the Post-consolidation era is bound to task the skills and competencies of boards and managements in improving shareholder values and balance same against other stakeholder interests in a competitive environment (Ajekigbe, 2009).

A great deal of research have been conducted on the topic of corporate governance structure and challenges of developing and implementing good corporate governance systems, however, the bulk of these studies have been conducted on the major economies of the Western industrialized countries such as Canada, France, Germany, United Kingdom, United States, and Japan. However, in Nigeria, the issue of corporate governance gained importance in the post structural adjustment program (SAP) era. This period, witnessed the growth of private ownership of financial institutions. Because of the weak corporate culture in these financial institutions, the country witnessed a very high rate of bank failures. To regain the confidence of the public, the Securities and Exchange Commission set up a committee in 2000 whose report was the first to articulate a

corporate governance code for companies in Nigeria. This was followed by a similar code by the Central Bank of Nigeria in 2000 (CBN, 2006) to address corporate governance practices in Nigerian Banks. Further to this in September, 2008 SEC inaugurated a National Committee to review the 2003 Code of Corporate governance for Public Companies. The objective was to identify and address the weaknesses in the previous code with a view to improving the mechanism for the enforceability of the code and recommend ways of effecting greater compliance. These reviews gave birth to the code of Corporate governance, 2011 which became operational in April, 2011.

This paper therefore examined the challenges and barriers that are hindering the development and implementation of a good corporate governance in Nigeria. The purpose of this research is to bridge the research gap on this issue and uncover the barriers and challenges preventing the development and implementation of good corporate governance system in Nigeria, also provide an understanding and recommendations of these issues so that they can be overcome.

Literature Review: Corporate Governance in Perspective

What is corporate governance?

Definitions of corporate governance vary widely. However, they tend to fall into two main categories. The first set of definitions concerns itself with a set of behavioural patterns: that is, the actual behaviour of corporations, in terms of such measures as performance, efficiency, growth, financial structure, and treatment of shareholders and other stakeholders. The second set concerns itself with the normative framework: that is, the rules under, which firms are operating with the rules coming from such sources as the legal system, the judicial system, financial systems, and factor (labour) markets.

According to Zingales (2003) corporate governance is defined as a complex set of constraints that shape the ex-post bargaining over the quasi-rents generated by a firm. This definition focuses on the division of claims and can be somewhat expanded to define corporate governance as *the complex set of constraints that determine the quasi-rents (profits) generated by the firm in the course of relationships and shape the ex-post bargaining over them.* This definition refers to both the determination of value-added by firms and the allocation of it among stakeholders

that have relationships with the firm. It can be read to refer to a set of rules, as well as to institutions.

Corresponding to this broad definition, the objective of a good corporate governance framework would be to maximize the contribution of firms to the overall economy that is, including all stakeholders. Under this definition, corporate governance would include *the relationship between shareholders, creditors, and corporations; between financial market institutions, and corporations; and between employees and corporations. Corporate governance would also encompass the issue of corporate social responsibility, including such aspects as the dealings of the firm with respect to culture and the environment.*

Okpara (2010), defines corporate governance as the manner in which organizations are managed and the nature of accountability of the managers to the owners. It is the technique by which companies are directed and managed. It means carrying the business as per the stakeholders' desires. It is actually conducted by the board of Directors and the concerned committees for the company's stakeholder's benefit. It is all about balancing individual and societal goals, as well as, economic and social goals. O'Donovan (2003), defines corporate governance as an internal system encompassing policies, processes and people, which serve the needs of shareholders and other stakeholders, by directing and controlling management activities with good business savvy, objectivity and integrity.

The Ultimate Business Dictionary (2003), defines corporate governance as the managerial control of an organization, which can reduce the risk of fraud, improve company performance, leadership, and demonstrate social responsibility. It is the interaction between various participants (shareholders, board of directors, and company's management) in shaping corporation's performance and the way it is proceeding towards. The relationship between the owners and the managers in an organization must be healthy and there should be no conflict between the two. The owners must see that individual's actual performance is according to the standard performance. These dimensions of corporate governance should not be overlooked (Wikipedia).

Based on these definitions, it may be stated that different systems of corporate governance will

embody what are considered to be legitimate lines of accountability by defining the nature of the relationship between the company and key corporate constituencies.

In the following section, the paper discusses a number of corporate governance challenges and issues in general and particularly for Banks post-consolidation in Nigeria. It made efforts to provide reasons why Nigeria is currently ill-equipped to implement corporate governance to the levels which might be accepted in developed economies. In light of the above, the Paper discusses these constraints as those arising from: shareholders' rights, weak regulatory framework, lack of enforcement, weak monitoring, lack of transparency and disclosure, and ineffective boards of directors, and others. However before the discussion of these in detail it is important to know why *corporate governance has received more attention lately In Nigeria?*

The Nigerian Situation

One reason why corporate governance has received more attention lately in Nigeria, is the proliferation of scandals and crises. The scandals and crises are manifestations of a number of structural reasons why corporate governance has become more important for economic development and a more important policy issue for banks post consolidation in Nigeria. In the view of Ekundayo and Atu (2010) the bank consolidation in 2005 created bigger banks but failed to overcome the fundamental weakness in corporate governance in many of these banks; and according to Sanusi (2010), failure in corporate governance at banks was indeed a principal factor contributing to the financial crisis.

Second, the private, market-based investment process underpinned by good corporate governance is now much more important for most economies than it used to be. Privatization has raised corporate governance issues in sectors that were previously in the hands of the state. Firms have gone to public markets to seek capital, and mutual societies and partnerships have converted themselves into listed corporations.

Third, to strengthen and minimize the weakness in corporate governance of banks in Nigeria. According to CBN (2006), these weaknesses include among others: Conflict of interest between Board and management giving rise to Board squabbles; ineffective Board oversight functions; fraudulent and self-serving practices

among members of the board, management and staff, overbearing influence of chairman or MD/CEO especially in family-controlled banks; weak internal controls and non-compliance with laid-down internal controls and operation procedures; ignorance of and non-compliance with rules, laws and regulations guiding banking business; poor risk management practices resulting in large quantum of non-performing credits including insider-related credits as well as abuses in lending including lending in excess of single obligor limit; technical incompetence, poor leadership and administrative ability leading to inability to plan and respond to changing business circumstances.

Fourth, programs of deregulation and reform have reshaped the local and global financial landscape. Long-standing institutional corporate governance arrangements are being replaced with new institutional arrangements, but in the meantime, inconsistencies and gaps have emerged. International financial integration has increased, trade and investment flows are increasing. This has led to many cross-border issues in corporate governance. Cross-border investment has been increasing, for example, resulting in meetings of corporate governance cultures that are at times uneasy.

Role and Responsibilities of the Board

The board has been defined as the relationship between the shareholders of the firm and the management delegated with undertaking the day-to-day operations of the organization. Several researchers have identified the key functions of the board as strategic, controlling (monitoring managers and accountability), institutional (building links with investors and stakeholders), approval of a core philosophy and mission, maintenance of legal and ethical practices and communication with shareholders (Okpara, 2010). The responsibilities of the board of directors of any company are explicitly stated by the statutory framework of the country in which the company operates. The corporation's by-laws and its declaration of board values and charter for the country in which the corporation operates serve as a guiding principle of the role and fiduciary duties of the board.

In Nigeria, the Code of Corporate Governance, 2011 redefines the duties and responsibilities of the Board of Directors of a company. It further affirms the duties of accountability of the Board, emphatically stipulating that the principal

objective of the Board is to ensure that the company is properly managed and that the primary responsibility for ensuring good corporate governance in companies lies with the Board. This accords with the common law requirements of the board and the statutory provisions contained in CAMA (2004). The duties of the board according to the Code ranges from formulation of policies, oversight functions and management of the company, risk management, succession planning, training and remuneration, effective communications system, integrity of financial controls and reports in respect of maintenance of ethical standards, integrity and compliance with laws (Akeredolu and Owoade, 2011). There are issues about the appropriate mix of executive and non-executive directors. The key roles of chairperson and CEO should not be held by the same person (CBN, 2006).

Shareholders' Rights

Shareholders' rights vary from country to country. For example, in North America, shareholders' rights tend to be more developed than other nations and there are standard for the purchase of any common stock (Okpara, 2010). Shareholders rights are included in corporations' laws and stock market rules and regulations. Shareholders rights are crucial for the protection of investors against poor management. Protection of shareholders rights including minority shareholders rights has become a challenge for developing and implementing effective corporate governance system in many developing countries. For instance, one of the major issues of corporate governance in Nigeria is the lack of protection of minority shareholders' rights. Although there are laws in Nigeria that were intended to protect minority shareholders' rights, these laws are not strictly enforced (Nganga, Jain and Artivor, 2003). Nigeria has adequate laws that are designed to protect shareholders' rights and ensure good corporate governance. However, these laws are often ignored because shareholders are generally unaware of the rights that they have as a shareholder. Experts such as Nganga et al. (2003) have argued that the greater the shareholding of an individual, the greater are his/her rights and the greater is his/her power within the company. This is so not only because the larger the shareholding the more likely it is to represent a controlling interest. It is then logical to expect that minority shareholders would be expected to play a lesser role on how the firm is governed.

Regulatory Framework

According to the OECD (2004) corporate governance principles, a corporate governance framework will typically comprise elements such as legislation, regulation, voluntary commitments, and business practices that are based on a country's specific circumstances such as history and tradition. However, as new experiences accrue and business circumstances change, the content and structure of this framework may need to be adjusted.

In Nigeria, there are legal and regulatory systems in place to protect the rights and obligations of shareholders, rules and regulations for conducting business, and penalties for violations of these regulations (Okeahalam and Akinboade, 2003). As previously mentioned, one of the major laws regulating business conduct and operations in Nigeria is the CAMD (2004). However, the problem of supervision and enforcement of such laws and processes still remains a major issue hindering effective implementation of corporate governance. Judicial and administrative means of supervision have not been successful in bringing the type of changes necessary to implement effective corporate governance. Researchers have shown that the regulatory process should consist of setting the rules, creating standards of monitoring compliance, and enforcement of those rules and standards (Otobo, 1997; Okeahalam and Akinboade, 2003).

Transparency and Disclosure

In response to recent corporate governance scandals, governments have adopted a number of regulatory changes. One component of these changes has been increased disclosure requirements which, requires detailed reporting of off-balance-sheet financing and special purpose entities. The issue of transparency and disclosure was highlighted by The Cadbury Report (2000) which argued that a major barrier to the flow of relevant information is the risk of opportunism inherent to the manager's influence in the firm, which is referred to as an incomplete or distorted disclosure of information and calculated efforts to mislead, distort, obfuscate or otherwise confuse the public and shareholders. A credible disclosure is vital for allocation of resources. Investors typically view a well-governed company as one that is responsive to requests from investors for information on governance issues (Okeahalam and Akinboade, 2003). In an African country like Nigeria, an independent board of directors

remains a challenge, not only for the government but also for those with whom such enterprises contract because of shortage of skills and lack of familiarity with board functions and fiduciary responsibilities. **Adequate disclosure of information** are key attributes of good corporate governance which the merged banks must cultivate with new zeal in order to provide stakeholders with the necessary information to judge whether their interests are being taken care of. Currently there are many deficiencies in the information disclosed, particularly in the area of risk management strategies, risk concentration, performance measures etc. These shortcomings will need to be addressed (CBN, 2006).

Monitoring and Enforcement

According to the OECD (2004) report on corporate governance, most developing and transition economies have failed to enforce laws, rules, and regulations regarding corporate governance consistently and evenly. This failure was perhaps not anticipated by the OECD principles, which implicitly assume that countries have an efficient legal and regulatory framework in place and those courts and securities regulators have the means and capabilities to enforce it. Practices such as self-dealing and insider trading are widespread. Such offenses mostly go unpunished, even if stiff penalties apply in theory (OECD, 2004). According to the report, auditing is another major area of weakness in corporate governance enforcement. Most countries delegate the setting of accounting and auditing standards to the accounting association (OECD, 2004). However, professional associations usually lack the means to impose effective sanctions on their members. Auditors have been given unqualified opinions, certifying that the accounts audited provide a true and fair picture despite the many defects noted. The penalties for such behaviour are minor and enforcement is generally lax. In Nigeria, the capacity to support the implementation of good corporate governance is undermined by the existence of weak monitoring and enforcement. Government departments and independent regulators responsible for monitoring corporate governance do not as yet fulfill their roles as overseers. Many are generally weak and subject to external influence by politicians and lawmakers. There is a need for legislative overhaul or decree that establishes a regulatory agency and indicates its functions, including its enforcement powers (Otobo, 1997, Okpara, 2010).

Challenges of Corporate Governance for Banking Industry in Nigeria.

According to CBN (2006), the Challenges of Corporate Governance for Banks post consolidation include:

- a. **Technical Incompetence of Board and Management:** In view of the greatly enhanced resources of the consolidated entities, Board members may lack the requisite skills and competencies to effectively redefine, re-strategize, restructure, expand and/or refocus the enlarged entities in the areas of change of corporate identities, new business acquisitions, branch consolidation, expansion and product development.
- b. **Lack of Harmonious Relationships Among Directors:** Boardroom squabbles could be an issue due to different business cultures and high ownership concentration especially in banks that were formerly family or "one-man" entities. The dominance of a "key man" could also emerge with the attendant problems.
- c. **Lack of Harmonious Relationship Between Management and Staff:** Squabbles arising from knowledge gaps, harmonization of roles and salary structure could also manifest among staff and management of consolidating banks with the potential to create unhealthy competition and a counter-productive working environment.
- d. **Increased Levels of Risks:** Currently, very few banks have a robust risk management system in place. With the huge amount of funds that will be available to them and the significantly increased legal lending limits, banks will be financing more long-term mega projects in the real sectors of the economy as opposed to the existing working capital/trade financing. Given the expected significant increase in the level of operations, the banks will be facing various kinds of risks which, if not well managed, will result in significant losses. The management of risks in a transparent and ethical way will thus present some issues bordering on corporate governance.
- e. **Ineffective Integration of Entities:** Banks that would have completed the process of merging might continue to operate independently rather than as a single entity. For example, an investment bank's merger with a retail bank in which the MD of the investment bank continues to manage his arm of the business and the MD of the retail bank does the same and the operating results of the two entities are then consolidated for reporting purposes.
- f. **Inadequate Management Capacity:**

Directors and Managers will be running a much larger organization and controlling a significantly higher level of resources. Adequate management capacity is needed to efficiently and profitably run a larger organization.

g. **Resurgence of High Level Malpractices:** To boost income as a result of intense competition and lack of enough viable projects, malpractices may resurface post consolidation. Such sharp practices could include round-tripping of forex, excessive customer charges, falsification of records etc., and adoption of unethical methods to poach customers.

h. **Insider-Related Lending:** If consolidation should fail to achieve transparency through diversification in bank ownership, the pervasive influence of family and related party affiliations may continue, resulting in huge levels of insider abuses and connected lendings.

i. **Ineffective Board/Statutory Audit Committee:** The audit committee, which comprises both directors and shareholders who are not board directors, may be composed of people who are not knowledgeable in accounting and financial matters thus rendering the committee less effective. This leads to **Inadequate Operational and Financial Controls** to cater for the increased size and complexity of operations.

j. **Absence of a Robust Risk Management System:** The huge amount of funds that would be available to banks post consolidation would significantly increase their legal lending limits and make them engage in financing long term mega projects. The management of the attendant risks in a transparent and ethical manner would require, as part of sound practices, the institutionalization of a robust risk management system.

k. **Disposal of Surplus Assets:** After consolidation, some branches of banks that are closely located may be sold to insiders at below market price. Other surplus assets may also be similarly sold. Fixed assets may also be sold indiscriminately and the profit from the sale used to boost profits with the intention of covering operational losses and inefficiencies.

Research Questions

The research questions were developed base on corporate governance literature. Our purpose of asking research questions is to gain deeper insight into the problem we intend to investigate. Research questions according to Peach and Buchkley (2002) sustains the curiosity of the research to dig deep. As a matter of fact, research

questions are the language in which the researcher expresses his perspective. To enable us assume clear perspective on the subject matter the paper intends to seek answers to the under listed fundamental questions:

- (i) *To what extent do boards of directors effectively fulfill their functions?*
- (ii) *To what extent are minority shareholders' rights protected?*
- (iii) *How are listed companies in Nigeria regulated?*
- (iv) *To what extent are company laws and regulations effectively enforced?*
- (v) *To what extent do all shareholders have equal access to information?*

Methodology

A survey research method was employed to gather data for this research. Specifically, data was collected from 120 respondents from 20 firms listed on the Nigerian Stock Exchange. A survey was conducted to assess corporate governance issues and challenges facing Nigerian corporations from the perspectives of employees, managers, and shareholders of listed companies.

Sample and survey administration

The sample for this study consists of 120 employees of listed corporations on the Nigerian Stock Exchange. The research questionnaire was administered to a random sample of 120 employees. The companies were chosen at random from 20 listed companies on Nigerian Stock exchange Market. Twenty firms were identified from the list and contacted by telephone. The firms who agreed to take part formed the research sample. To enhance the response rate, the questionnaires were delivered by hand to the addresses of the companies identified for the study and collected by hand on a scheduled pick-up date. Ten NYSC assistants were responsible for the questionnaire distribution and collection. The distribution was done in this way to avoid problems with our telecommunications system and to fit with our local cultural issues, such as the background of the researcher and purpose of the research. A total of 120 questionnaires were distributed and 92 respondents returned complete and valid questionnaire, representing a 76.7% response rate. Hence the final sample size of 92 was used to test the hypotheses.

Instruments

A modified version of the Organization for

Economic Co-operation and Development's (OECD) corporate governance assessment instrument was used for this research. The questionnaire consisted of 20 items related to the common problems in developing and implementing a corporate governance program. The questions were phrased with a possible response continuum based on a Likert-style five-point scale (1 = strongly agree to 5 = strongly disagree). The instrument was submitted to a panel of experts in their fields, in the universities and other tertiary Institutions in Nigeria for validation. They were asked to review the items in the instrument and determine whether these items were suitable and within the capabilities and understanding of Nigerian managers, and to eliminate items they found to be irrelevant to the Nigerian cultural environment, as well as to make suggestions on how to simplify items that were irrelevant or too complicated. After some minor revisions and modifications were made, the experts recommended the use of the modified instrument for the study.

Findings

Base on the above literature review and the research questions formulated the following findings were made:

Table 1 (One) / Appendix 1 shows the mean and standard deviation scores of selected barriers as follows: shareholders' rights are not protected (mean 1.68 and SD 0.81), minority shareholders' rights are not entirely protected (mean 1.40 and SD 0.64), aggrieved shareholders often have no recourse (mean 1.58 and SD 0.65), preferential treatment is often given to large shareholders (mean 1.25 and SD 0.46), weak monitoring and enforcement of corporate governance laws (mean 1.72 SD 0.69), board members are not effectively committed to their responsibilities (mean 2.03 and SD 0.81), rules and regulations regarding independent composition of board members are not followed (mean 1.40 and SD 0.71), laws, and rules on stock market listing, stock market regulations and corporate codes of conduct are very often violated (mean 1.30 and SD 0.61), lack of investigation on non-compliance with statutory requirements (mean 1.61 and SD 0.99), lack of investigation about oppression of minority shareholders (mean 2.04 and SD 1.29).

Table 1: (See Appendix 1)

Duties and responsibilities of the board of

directors

The first research question was asked in order to determine how the board members are fulfilling their responsibilities in terms of board-of-directors' responsibilities. As shown in Table 2 below, more than 90% of our respondents stated that board of directors are not effectively fulfilling their responsibilities in terms of the strategic guidance of the company, the effective monitoring of management by the board, and the board's accountability to the company and the shareholders. An overwhelming majority over 90% of the respondents who responded to the items regarding board of directors' duties and responsibilities stated that board members often demonstrate a lack of concern as to the integrity of the corporation's financial reporting system and are ignorant of and non-compliance with rules, laws, and regulations guiding banking business. Over 95% of the respondents stated that board members do not adequately supervise the process of disclosure and that they showed lack of concern in ensuring a formal and transparent board nomination and election process.

Table 2:(see appendix 2)

The research question two was posed to find out if minority shareholder rights are protected. The survey contained six questions on this topic as reflected on table 3 below. An overwhelming majority of the respondents 97% indicated that the basic shareholder rights such as secure methods of ownership, registration, conveyance of or transfer of shares, participation and voting in general shareholder meetings, election and removal of members of the board, and a share in the profits of the corporation are protected in Nigeria. Results also show that 98% of the respondents stated that minority shareholders are often not allowed to express their views at general meetings. More than 98% of all those surveyed indicated that special treatment is often given to large shareholders. Over 95% indicated that minority shareholders are on occasion ignored at general meetings, aggrieved shareholders seldom have recourse, and that shareholders who wish to speak at company general meetings are often allowed to speak only if they are known to side with the board of directors.

Table 3: (See Appendix)

The third research question was posed in order to find out the legal and regulatory requirements that affect corporate governance practices in Nigeria. Table 4 shows that over 97% of the respondents indicated that there are laws for corporate

governance. However, they also indicated that the regulatory framework is ineffective because of weak monitoring and enforcement. For instance, over 95% of the respondents agreed that there are rules and regulations governing board members' independent composition, but these rules are often violated. Pertaining to laws for appointing and removing auditors, 95% agreed that the rules and results exist but are frequently ignored. More than 90% indicated that there is a lack of commitment on the part of government agencies responsible for the enforcement of corporate laws.

Table 4: See Appendix

The fourth and fifth research questions were asked in order to ascertain the impact of enforcement and level of transparency/disclosure on corporate governance development. The data on Table 5 show that the majority of the respondents indicated that lack of enforcement is a major obstacle hampering development and implementation of corporate governance in Nigeria. As shown in Table 5, over 95% of the respondents agreed that the items on the questions monitoring and enforcement are weak. With regard to disclosure and transparency, 92% agreed that transparency/disclosure is a major obstacle for successful implementation of corporate governance. According to the respondents, all shareholders do not have equal access to information, and this is agreed upon by more than 96%. For prohibition of insider trading, 95% of the respondents agreed that insider trading is effectively prohibited, however most of the respondents stated that there are laws banning insider trading, but these have not prevented insider trading. With regard to independent auditors, 94% disagreed with the statement that auditors are independent. Some respondents commented that the majority of the auditors are cronies of the board members and top management. For equity ownership requirements, 93% indicated that there is a requirement for equity ownership disclosure enshrined in the law. However, most corporations and their board members do not fully disclose equity ownership.

Discussion

This exploratory study investigated issues, and challenges inhibiting the development and implementation of effective corporate governance in Nigeria. The common barriers and challenges identified from the survey are as follows: shareholders' rights, responsibilities of boards of directors, regulatory framework, enforcement and

monitoring, and transparency and disclosure. With regard to shareholders' rights, the majority of the respondents indicated that the basic rights of shareholders are protected. This is consistent with previous studies (Oyejide and Soyibo, 2001; Nganga, Jain, and Artivor, 2003; Okpara, 2010). The majority of those surveyed for this study indicated that minority shareholders are often not protected. For instance, minority shareholders are often not allowed to express their views or are ignored by the chairperson at general meetings. They are often allowed to speak only if they are known to side with the board of directors. Special treatment is often accorded to large shareholders, while, aggrieved shareholders seldom have recourse. Based on these findings, one may say, that while there are laws that protect shareholders' rights, minority shareholders' rights tend to be frequently violated and not respected. Over 95% of all respondents reported that board members are not fulfilling their responsibilities to the companies and shareholders. This is consistent with the findings of Oyejide and Soyibo (2001), Okpara, (2010), who learned that most respondents in Nigeria believe that the idea of an independent board is gaining acceptance, but there is little evidence of this in practice, meaning that there is little evidence that these independent boards are discharging their functions adequately. The reason for this could be that most board members do not have the necessary qualifications to be on the board. Lack of commitment on the part of board members was also reported as a key challenge for corporate governance development post banks consolidation. The reason for this may be that they do not want to be involved in the day-to-day management of the banks. In terms of regulatory framework, the respondents stated that there are laws and regulations for corporate governance. They also indicated that the regulatory framework is ineffective because of weak monitoring and enforcement. As a result, laws designed to protect shareholders' rights are often violated. These results are also consistent with Oyejide and Soyibo's (2001) findings which indicated that there seems to be evidence of abuse of laws, rules, and regulations by a number of corporations.

Effective enforcement of existing laws and regulations constitutes a major challenge for the development and implementation of corporate governance. As indicated by the respondents, Nigeria has adequate laws that are designed to ensure good corporate governance. However,

these laws are frequently disobeyed and rejected with impunity. More than 90% indicated that lack of disclosure and enforcement are impediments to the development and effective implementation of corporate governance. Respondents indicated that there is a lack of investigations or actions taken on non-compliance with statutory requirements, complaints by shareholders about mismanagement, oppression of minority shareholders, and auditors' failure to report improper accounting and financial records. It appears that the regulatory agencies are ineffective.

Conclusions and Recommendations:

Conclusions

The challenges identified in this study that hinder the implementation and promotion of corporate governance in Nigeria include weak or non-existent law enforcement mechanisms, abuse of shareholders' rights, lack of commitment on the part of boards of directors to their responsibilities, lack of adherence to the regulatory framework guiding banking business, weak enforcement and monitoring systems, and lack of transparency and disclosure.

Other challenges include: conflict of interest between Board and management giving rise to Board squabbles; ineffective Board oversight functions; fraudulent and self-serving practices among members of the board, management and staff, overbearing influence of chairman or MD/CEO, especially in family-controlled banks; weak internal controls and non-compliance with laid-down internal controls and operation procedures; poor risk management practices resulting in large quantum of non-performing credits including insider-related credits as well as abuses in lending including lending in excess of single obligor limit; technical incompetence, poor leadership and administrative ability leading to inability to plan and respond to changing business circumstances. Nigeria has ample laws that are designed to protect shareholders' rights and ensure good corporate governance, but effective enforcement of existing laws and regulations constitutes a major challenge for the development and implementation of corporate governance.

Recommendations

This study shows that there are number of challenges facing the development and effective implementation of corporate governance in

Nigeria. Based on these, the paper recommends the following:

The existing CBN guidelines on appointment to the board of financial institutions should continue to be observed. Only people of proven integrity and who are knowledgeable in business and financial matters should be on the board. Directors should be able to read and interpret financial statements. There should be strict adherence to the Code of Conduct for bank directors and the tenor for directors should be defined. No director should remain on the board of a bank continuously for more than 3 terms of 4 years each that is 12 years.

Overhaul of the enforcement machinery and composition of audit committees, whose members should be more observant to their responsibilities. Auditors must ensure strict compliance with codes of conduct, commitment and vigilance of directors, see to the need for high level of disclosure and transparency, improve regulatory framework by making the laws available to all shareholders and the public, the role of the courts as an enforcement mechanism of regulatory bodies should be strengthened in order to restore the confidence of the average shareholder in the capacity of the judicial system to help him enforce his rights through the rule of law; adopt alternative dispute resolution mechanisms, create an enabling environment by maintaining the political will to implement policies, and create an independent and courageous judiciary.

This is a study to identify the challenges of corporate governance in Nigeria, so the findings do not apply to any other countries. Also, the sample does not represent all the organizations in Nigeria, hence the results cannot be generalized to include organizations that were not part of this study. Future research may be strengthened by using a sample comprising a more diverse set of businesses and collection of data done on a longitudinal basis to help draw causal inferences and to validate the findings of this research.

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APPENDIX 1

Table 1: Selected barriers for corporate governance in Nigeria

Items	n	Min	Max	Mean	SD
Shareholders' rights are not often protected	92	0	5	1.68	0.81
Minority shareholders' rights are often violated	92	0	5	1.40	0.64
Preferential treatment is given to large Shareholders	92	1	4	1.58	0.65
Aggrieved shareholders often have no recourse	92	1	4	1.25	0.46
Weak monitoring and enforcement of corporate Laws	92	1	4	1.72	0.69
Boards are not fully committed to responsibilities	92	0	5	2.03	0.81
Rules on independent boards are not followed	92	1	4	1.40	0.71
Laws and rules on stock market listing are violated	92	1	4	1.30	0.61
Lack of investigation on non-compliance with laws	92	0	5	1.61	0.99
Lack of investigation about oppression of minority shareholders	92	0	5	2.04	1.29

Table 2: Responses regarding duties and Board of Directors

Items	n	Min	Max	Mean	SD	%
Board members are not fully committed to reviewing and guiding corporate strategy	92	0	5	1.68	0.81	90
Board members do not pay adequate attention to executive compensation	92	0	5	1.40	0.65	92
Conflict of interest between Board members and Management giving rise to board squabbles	92	0	5	2.04	1.29	94
Board members do not show concern about proper monitoring and enforcement of laws, rules, and regulations of corporate governance practices	92	1	4	1.30	0.61	93
Ignorance of and non-compliance with rules, laws,						

and regulations guiding banking business	92	1	4	1.72	0.69	98
Board members do not adequately supervise the process of disclosure and communications	92	1	4	1.40	0.71	96
Board members are not effectively committed to their responsibilities	92	0	5	1.61	0.99	95

Table 3: Responses regarding Shareholders' rights

Items	n	Min	Max	Mean	SD	%
Basic shareholders' rights are not protected	92	1	4	1.58	0.65	97
Minority shareholders' rights are often violated	92	1	4	1.25	0.46	93
Minority shareholders are often not allowed to express their views at general meetings	92	1	4	1.72	0.69	98
Preferential treatment is often given to large shareholders	92	1	4	1.40	0.71	98
Aggrieved shareholders often do not have a recourse	92	1	4	1.30	0.61	97
Shareholders who wish to speak at company general meetings are often allowed to speak only if they are known to side with the board of directors	92	1	4	1.25	0.46	93

Table 4: Responses regarding regulatory framework for corporate governance

Items	n	Min	Max	Mean	SD	%
Stock market listing rules and corporate codes of conduct are abused and often ignored	92	1	4	1.30	0.61	98
Rules and procedures for transactions are in place	92	0	5	1.40	0.65	97
Laws, rules, and regulations for appointing and removing auditors are frequently violated	92	0	5	2.03	0.81	95
Lack of commitment on the part of government agencies responsible for enforcement of corporate laws, rules and regulations	92	0	5	1.68	0.81	91
Rules and regulations for a formal and transparent board nomination and election process are often ignored.	92	1	4	1.40	0.71	93
Rules and regulations for disclosure and communications are not often followed	92	0	5	2.04	1.29	90

Table 5: Responses Regarding Enforcement, Monitoring, Disclosure, and Transparency

Items	n	Min	Max	Mean	SD	%
Enforcement and Monitoring						
Lack of investigation on non-compliance with laws/regulations	92	1	4	1.72	0.69	95
Lack of investigation on complaints by shareholders about mismanagement	92	0	5	2.03	0.81	97
Lack of investigation on the oppression of minority Shareholders	92	0	5	2.04	1.29	99
Lack of actions against corrupt auditors.	92	0	5	1.61	0.99	96
Transparency and disclosure						
Lack of equal access to information for all Shareholders	92	1	4	1.40	0.71	95
Insider trading laws, rules, and regulations are often not followed	92	1	4	1.30	0.61	98
Rules requiring equity ownership Disclosure are not followed	92	0	5	1.68	0.81	93
Lack of autonomy on the part of auditors	92	1	4	1.30	0.61	94