

The Impact of Control Fraud on the Banking System: Evidence from a Developing Country

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Recent global financial crisis have awakened the need to regulate corporate governance across the world. The fall of multi-national companies like Enron in the USA and Bank of Credit and Commerce International (BCCI) in the United Kingdom have brought to the fore the impact of fraud in corporate governance regulation. In Nigeria, fraud in the banking sector has reached epidemic levels contributing to the Nation's economic depression. This research tests the hypothesis that the inadequacy of corporate governance regulation in the banking sector creates the opportunity for a web of financial crimes where the company is used as a fraud mechanism. This type of fraud, known as control fraud mainly involves people who are in 'control' of the company, particularly directors using their position as a weapon to defraud. The evidence collected from 5 banks involved in the recent banking crisis in Nigeria in 2008 and 2009 financial years supported this hypothesis. The research adopts a socio-legal methodology to assess the link between corporate governance regulation and control fraud. The research further suggests that control fraud is a peculiar challenge of Nigerian banks and there is therefore the need for regulatory involvement that takes into consideration the peculiarities of the country and addresses the institutional challenges faced in the system, particularly corruption and regulatory enforcement. It is important that corporate governance regulation is specifically designed to meet the needs of a particular jurisdiction as opposed to transplanting western norms.

JEL Codes: G33, G34 and G38

1. Introduction

The problem of fraud remains a universal phenomenon of which the magnitude cannot be known for certain because most frauds are undetected, and not all detected frauds are published (Ajayi, 2011). With the fall of multi-national companies like Enron, and high level of allegations and actual cases of control fraud across the globe, the need to promote corporate governance becomes more important. Many organisations have therefore resorted to developing ethical guidelines and codes of

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conduct aimed at ensuring compliance to minimum standards of corporate ethics targeted at controlling fraud (Bratton, 2002).

In Nigeria, the growth and rate of the occurrence of fraud in recent years is appalling in virtually all spheres of the economy especially in the banking sector. The gravity of control fraud in Nigerian banks can be inferred from its value, volume and loss. The Nigerian Deposit Insurance Corporation (NDIC) (1999) reported that the level of actual fraud in Nigerian banks rose from N804million in 1990 to N3,199 million in 1998, leaving the percentage of amount loss to fraud rising from 3% in 1990 to 22% in 1998. However, the year 2009 saw the highest level of banking fraud, where a total of 1,764 cases of attempted fraud involving over N41.3billion was reported, out of which ten banks with the highest number of cases were responsible for 90.10% (N37billion) (NDIC, 2010). It can therefore, follow that fraud is perhaps the most challenging of all the risks confronted by the Nigerian banking sector and it can be said to be an institutional problem of corruption.

2. Literature Review

2.1 Development of Control Fraud

The notion of control fraud can be said to originate from business crimes, otherwise known as 'white collar crime'. Sutherland (1940) was the first to examine this concept of white collar crime as a term which embodies general corporate crimes relating to fraudulent business activities.

The National White Collar Crime Centre (NWCCC) (1996) defines white collar crime as illegal or unethical acts that violate fiduciary responsibility or public trust, committed by an individual or organisation, usually in the course of legitimate occupational activity, by persons of high or respectable social status for personal or organisational gain.

The NWCCC (1996) further identified four types of white collar crimes, namely:

- Personal crimes committed outside a business for personal gain, for example, credit card fraud
- Crimes committed against an employer such as embezzlement
- Corporate crimes committed by a business
- Those who set up businesses simply to defraud others, for instance selling dubious investments.

From the above, it can be said that white collar crime is a non-violent, criminal activity based on financial mismanagement by people of high education, high social class and respectable character. Sutherland (1940) compares crime in upper or white-collar class which is made up of respectable business men who are also professionals with crime in the lower class, that is, persons of low social and economic status.

In the past, white collar crimes are often seen as non-violent and as such viewed by the judiciary and police as less deviant; therefore, lighter sentencing was given compared to violent crimes such as rape or murder. Crime and indeed fraud is not closely associated with poverty. White collar crime in business usually takes the form of misrepresentation of financial statements and manipulation in the stock exchange, commercial bribery, embezzlement, misapplication of funds or tax frauds to mention a few (Sutherland, 1940).

It is important to mention that the financial amount involved in white collar crime should not be construed to mean wealth as white collar in upper and lower classes merely serve as illustrations of persons of high and low socio-economic status. This is because white collar in this sense is used to mean 'respected', 'socially recognised' and 'dignified' and some persons of this class may not be well dressed or have high incomes. Accordingly, persons of low socio-economic status could be white collar fraudsters to the extent that they are well comported and highly knowledgeable with high incomes.

The most important loss arising from white collar crime is its effect on social relations, loss of trust and honesty. Central to white collar crime is the weakness of their victims. Consumers, investors and stockholders who may be ignorant in protecting themselves usually are the victims of white collar crime and white collar crime usually blossoms where its perpetrators come in contact with persons who are weak as opposed to the many other crimes perpetrated against the wealthy and powerful such as burglary or robbery (Sutherland, 1940). The wide margin of difference in victims accords some sort of relative immunity to perpetrators of white collar crime.

Flowing from the above, the term 'control fraud' can be said to be a form of white collar corporate crime. Control fraud is defined as a wave of frauds led by the people who 'control' large corporations causing massive losses and great systematic damage (Black, 2005a). Control fraud essentially refers to fraud in which those that control (typically the Chief Executive Officers (CEOs)) an entity use it as a 'weapon and shield' to defraud (Black, 2010; Black, 2005a).

Fraud in itself is theft by deception; the perpetrator creates and then exploits trust to cheat others, therefore eroding the trust (Ajayi, 2011; Idolor, 2010; Salehi & Zhila, 2009). Given that trust is therefore vital to any society and it is important for business and market transactions, control fraud therefore destroys trust. In the banking sector, creation of healthy relationship among actors such as shareholders, directors, and other stakeholders requires appropriate level of trust; therefore, deceit and betrayal become pivotal to the perpetration of control fraud.

Black (2005b) identifies the CEO as a financial super-predator who uses accounting fraud as a weapon and shield to perpetrate fraud and avoid prosecution. According to him, control frauds can be seen as viruses that control the body and turn it into a reproductive system for their infections. Just like viruses, control frauds must find a way to overcome the body's immune system, that is, internal controls in place and

corporate governance regulations. Control frauds therefore develop a way to paralyse the immune system so as to be able to infect the virus into their predators (Black, 2010). Control frauds reconstruct the corporate environment to help their frauds. This is done by securing accounting abuses in order to weaken regulatory measures (Black, 2005b).

It is important to mention that control fraud is a particularly serious form of white collar crime, or blue-collar thieves (Black, 2010). This is because the CEO poses the greatest fraud risk, causing systemic corporate failure and ultimate economic injury. He directs the fraud, making it difficult to detect and punish. According to Black (2010), this is achieved using accounting manipulations to make illegitimate practices appear legal and convert company's assets for personal gain.

Pontell (2005) also explains control fraud as a criminogenic environment which aids perpetration of criminal activities, and ultimately lead to proliferation of control fraud. According to him, a number of factors facilitate control fraud:

- Complete insider domination ('The best way to rob a bank is to own one')
- Conversion of corporate assets for personal gain
- Concealment of losses by investing in assets that have no readily ascertainable value which is then overstated and loss hidden
- Ability to evade detection in the perpetration of fraud by fronting fraudulent transactions as 'normal'
- Irrational liquid assets compared to liabilities (the larger the amount, the more that can be looted)
- Ability to create a rapid growth of the corporation
- Minimal ethical standards (where greed is considered a virtue and governmental regulations unnecessary)

A good way to illustrate this is through side mirrors that appear to reflect so normal that the government requires a protective warning on a permanent basis to be attached to them: 'Objects in this mirror are closer than they appear.' Surely, catastrophic insolvency is closer than it appears for control frauds (Pontell, 2005). Therefore, the impact of control fraud is often greater than other types of frauds; in banks, it can cause massive business failures in waves that jeopardize the economy as a whole and expose taxpayers to huge liabilities, either under deposit guarantee schemes or by causing losses to banks in situations where the central bank provided liquidity against assets (loans) of questionable quality.

3. Methodology

The research adopts socio-legal methodology. Socio-legal methodology is an approach to analysing law, legal phenomena and its relationship with the wider society in order to produce findings that were not determined in advance. The aim is to gain insight into a given research problem from the perspective of the local population it involves (Abel, 1980). Socio-legal research is usually effective in obtaining culturally specific information. Data is collected from theoretical and

empirical works drawn from a socio-scientific point of view involving critical legal studies directed towards the concerns, theories and informants of external perspectives (Abel, 1980). The selected method helps to contribute to the understanding of the field of enquiry, which is control fraud. Furthermore, owing to the fact that control fraud and corruption as a whole is a reflection of a combination of underlying issues not covered only by the lack of effective regulation, socio-legal methodology helps to understand the links between Nigeria's legal, cultural and social arrangements and the facilitation of fraud. In investigating this, the socio-legal approach helped to strategically examine why Nigerian banks are confronted with the major challenge of control fraud. The methodology will allow for materials to be drawn from fields such as Social Sciences, including Economics and Sociology towards regulating corporate governance in Nigerian banks.

The purpose of adopting this method is to achieve an expository research which allows for flexibility of researcher to explore the causal link between corporate governance regulations and control fraud and also examine the peculiarity of the problem of a legal phenomenon with the particular people it involves. The research adopted data from five banks, namely, Oceanic Bank, Intercontinental Bank, Fin Bank, Afribank and Union Bank. The selection of these banks stems from the fact that they were the first banks declared by the Central Bank of Nigeria (CBN) to be in financial distress. Data analysed from these banks include Annual Reports, CBN publications, Economic and Financial Crimes Commission (EFCC) reports and Audited financial statements of the banks between 2006-2009.

These were then reviewed together with corporate governance regulations to provide an exploratory report of the relationship between weak regulation and the perpetuation of control fraud.

4. Findings

In 2009, the CBN Governor, Mallam Sanusi Lamido Sanusi, shortly after appointment, realised that a total of N256.571billion was outstanding due to the use of the Expanded Discount Window (EDW), majority of which was owed by five banks: Oceanic Bank, Intercontinental Bank, Fin Bank, Afribank and Union Bank (Sanusi, 2009; CBN, 2009). Although the five banks were not the only banks in use of the EDW, it is their persistent use that points to a more in-depth problem, which the CBN identified as financial instability due to huge amounts of non-performing loans (Sanusi, 2009).

The problem in the said banks certainly had a negative effect on the financial market due to the problems in their balance sheet and led to a destabilization of the inter-bank market. The CBN had to guarantee the inter-bank market and stopped access to the EDW. By so doing, the CBN could then conduct a thorough investigation of the banks. At the end of their investigation, it was discovered that the banks were struggling to meet their commitments to depositors and were in grave financial difficulty.

Following the investigation, on the 14th of August 2009, the Central Bank Governor, fired and replaced the CEOs and Board of Directors (BoD) of the five banks in accordance with Sections 33 and 35 of the Banks and Other Financial Institutions Act (BOFIA) 1991 (CBN, 2004).

The investigation further revealed that the non-performing loans that were granted by these banks amounted to 39.9 per cent of total loans in the banking sector (Sanusi, 2009).

The table below lists the five banks and their respective loans.

Table 1: Non-performing loans of five distressed banks

S/N	Bank	Size of Loan (N)
1.	Oceanic Bank Plc	278.2 billion
2.	Intercontinental Bank Plc	210.9 billion
3.	AfriBank Plc	141.9 billion
4.	Union Bank Plc	73.6 billion
5.	FinBank Plc	42.5 billion
Total		747.0 billion

Source: Newswatch, 24 August 2009, *This Day*, 27 August 2009.

The CBN then declared intervention in the distressed banks in order to prevent their collapse by injecting a total of about N400billion (\$1.9billion) in form of Tier 2 Capital which is to be repaid from future capitalization (Sanusi, 2009). In the investigations conducted by the CBN, it was discovered that the CEOs and BoD of the five banks were allegedly guilty of a number of corporate frauds, particularly in the granting of unsecured loans to both themselves and their friends which later became 'bad loans' and mismanaged bank funds with unexplainable transfers and withdrawals from the banks.

Upon special investigation by the CBN, a number of problems were identified:

1. Excessive high level of non-performing loans in the five banks which was attributable to poor corporate governance practices, lax credit administration process and non-adherence to the banks' credit risk management practices. The investigation revealed that total amount of non-performing loans was therefore between 19 – 48%, meaning that the banks will need to provide additional N539.09 billion. Granting of non-performing loans is contrary to Section 20 of BOFIA (CBN, 2004)

2. 'The total loan portfolio of these five banks was N2,801.92 billion. Margin loans amounted to N456.28billion. Exposure to the Oil and Gas Sector was N487.02billion, while aggregate non-performing loans stood at N1, 143billion representing 40.81%'.
3. From the above two points, it is quite clear that the five banks had superfluous exposure to both the Capital Market and the Oil and Gas Industry with high risk areas for other banks in the industry.
4. Due to undercapitalization, the CBN will have to inject capital into the banks to enable it meet its minimum capital adequacy ratio of 10%.
5. The five banks had become over dependent on the CBN and inter-bank market and were unable to meet their obligations to depositors without liquidity support from the CBN or inter-bank market (CBN, 2009; Sanusi, 2009).

The CBN also stated that as at the end of July 2009, the total amount of EDW of the five banks was N127.85billion, a value which represented 89.81% of the total industry exposure to the CBN on its discount window and their aggregate inter-bank loan stood at N253.30billion. This means that their liquidity ratio was ranging between 17.655 to 24% when the minimum liquidity ratio stood at 25% (Sanusi, 2009).

5. Discussion

5.1 Weak Corporate Governance Regulation and Control Fraud

A closer look at the cases above suggests that the banks fraudulently and persistently took advantage of weak regulation as an opportunity for perpetrating control fraud.

The Nigerian Banking System is largely regulated by the Central Bank of Nigeria (CBN). As the apex regulatory body, the CBN (2004) is responsible for the administration of the Banks and Other Financial Institutions Act (BOFIA) and in promoting adequate banking standards in the country and ensuring efficient payment system.

As a regulator, and in performance of its functions under Section 30 of the CBN Act 2007 regarding liquidity management, the CBN, notwithstanding its recognition of Open Market Operations (this a process whereby the CBN buys or sells government bonds in the Open market as a means of enforcing monetary policy in order to manipulate short term interest rate and supply base money in an economy) has in place a Discount Window (DW) operation, which applies to Deposit Money Banks and Discount Houses. The DW is to serve as a complementary scheme for institutions facing liquidity problems (CBN Act, 2007). The DW became the Expanded Discount Window (EDW) upon introduction of the CBN Guidelines on the EDW in October 2008 in order to allow a more sound process of absorbing more liquidity in the money market. The EDW is to be utilised as a last resort facility and

only on a secured basis with adequate collateral; furthermore, credits by way of outright or advanced borrowing must be secured by eligible instruments (CBN, 2008).

It is important to mention vital provisions relating to access to the EDW. Paragraph 5 gives all deposit money banks and discount houses access to the discount window at the discretion of the CBN. Access may however be denied in the following circumstances:

- (i) If the Bank observes an act of undue rate arbitrage in the operations of the institution's dealings;
- (ii) If an institution is found to have contravened the provisions of the Bank's monetary and credit policy guidelines;
- (iii) If the Bank discovers that the institution is over-trading or engaged in undue mismatch of its assets and liabilities

Furthermore, BOFIA provides that the financial statements of banks should give a true and fair state of affairs of the bank as at the end of the report period and should comply with necessary requirements that have been issued (CBN, 2004).

Going by the above findings, a control fraud on the CBN would be a contravention of the CBN statutes, which include the BOFIA as well as CBN corporate governance regulations, carefully conceived and utilised to fraudulently take advantage of the EDW.

The CEOs involved had failed to give a true and fair report of the state of affairs of the banks to the CBN, producing false accounting records that conceal the financial position of the bank (Otusanya, Lauwo & Ajibolade, 2013). For instance, the CEOs of FinBank and Intercontinental Bank were alleged to have failed to provide a true and fair report of the state of affairs of the banks to the CBN, leading the CBN to grant credit facilities to them under the EDW. As earlier mentioned, in the case of FinBank, the CEO, Okey Nwosu, was accused of failing to produce a true and fair report of the financial state of the bank to the CBN by incorrectly importing N47.6billion of commercial papers in its statement of assets and liabilities thereby obtaining credit facilities under the EDW. This also contravenes Section 2 of the Annexure to the CBN Guidelines which lays down eligibility criteria to qualify for the EDW, including sound management statutory minimum capital and specified cash reserve.

In the case of Intercontinental Bank, the bank contravened Section 24-29 of BOFIA with regards to maintenance of minimum capital adequacy and liquidity ratios, treatment and use of commercial papers, and keeping of books of accounts which reflect a true and fair view of the financial position of the bank and the fact that the bank had insufficient assets to cover his liabilities (Otusanya et al., 2013).

The excessive use of the EDW made the banking crisis much worse. Control fraud using this means is apparent from its persistence. As enumerated above, according to the CBN, by the end of July 2009, the total outstanding balance on the EDW of the

five banks amounted to N127.85billion, where the total access on the window for all the banks was N256.571billion, amounting to 89.81%. The banks therefore were insufficiently illiquid with, having an average liquidity ratio of 24% where the regulatory minimum was 25% (Sanusi, 2009). It is however important to stress that although these banks were not the only banks to have taken advantage of the EDW, the problem lay in their frequent and persistent use which no doubt pointed to a bigger problem of financial instability due to non-performing loans. The banks in question were heavily dependent on the discount window. They used the availability of the window to their advantage, flaunting unsecured loans and causing the CBN to continually grant access to them.

Furthermore, during the periods leading to the crisis, unlawful share purchases in the form of share buy-back scheme were devised by the CEOs in order to deceive the public into believing in the future of these banks, thereby investing in them. It was seen that the CEOs approved loans for companies under false pretence, and then used the money to buy back their own shares. This is used to artificially raise the price of their shares and flaunt a liquid and fast growing bank which prospective investors and shareholders are encouraged to buy into. The whole point here is deception under false pretence, a clear contravention of the Investment Security Act (ISA). This is another major attribute of control fraud as it involves calculation and collaboration. It therefore becomes necessary to examine the legal provision regarding share buy-backs in order to understand the extent of the control fraud.

Prohibition of any form of activities created with the intention of creating false or misleading forms of active trading is provided for in Section 105 of the Investment and Securities Act (ISA) 2007 (Securities and Exchange Commission, 2008). The ISA identifies this as 'False Trading and Market Rigging Transactions.' Fraud on shareholders as in the case of the five banks took the form of unlawful share purchase whereby the CEOs had indirectly purchased shares in the banks, mostly through other banks. This then led to artificial rise in the market value of the shares, thereby misleading the investing public, including existing and potential investors to invest in the bank.

Companies and Allied Matters Act (CAMA) (2004) defines financial assistance to include 'a gift, guarantee, security or indemnity, loan or any form of credit and any financial assistance given by a company, the net assets of which are thereby reduced to a material extent, or which has no net assets' (CAMA, 2004). The section goes further to limit cases where it is lawful for financial assistance to be provided, for instance, where a person is intending to purchase shares in a company and /or liability has been incurred.

Also, CAMA (2004) generally prohibits a company from buying back its own shares grants except in certain circumstances which are provided for in Section 160(2) to include when the company is settling or compromising a debt, eliminating fractional sales, fulfilling terms of a non-assignable agreement under employee stock programmes, satisfying the claims of a dissenting shareholder or complying with a court order. However, such repurchases may only be made out of profits that would

otherwise have been dividends or proceeds from a fresh issue of shares made for the purpose of the purchase (CAMA, 2004). Therefore, if a CEO is party to an unlawful share purchase scheme that results in unlawful expenditure of the banks funds, this is in clear breach of directors' duties under Section 283(1) of CAMA (2004) (discussed above).

Why then did the fraud go undetected? One way of looking at it is through the web of people involved, such as members of the boards and employees could have been afraid to expose these activities in fear that they will lose their share of the money or even their job. In Nigeria, the peculiarities of the country would mean that prohibition of share buyback scheme is well founded. The institutional problem of corruption that has become endemic in the country will lead control fraud to manipulate share buyback schemes to their advantage. As the cases above revealed, the CEOs were very well into devising means to buy back their own shares, notwithstanding the provisions of CAMA (2004) to the contrary. Another important issue that must be identified is lack of adequate regulatory enforcement. This is the premise to which control fraud is based, that is, the use of weak regulation as a means and opportunity to perpetrate fraud. The provisions of the corporate governance regulations will be displaced without adequate corresponding enforcement. The persistent use of the discount window without appropriate monitoring from the CBN justifies the lack of adequate enforcement mechanisms. In 2010, the CBN, in an address on the impact of the global financial crisis in Nigeria which was presented to the House Financial Services Committee of the US Congress Hearing on the global financial crisis, addressed major reasons attributed to the CBN in the periods leading to the crisis; one of the reasons stated by the CBN was the absence of co-ordination among regulatory institutions in the banking sector, including the CBN (Sanusi, 2010).

According to the CBN, the lack of co-ordination prevented the CBN from having a comprehensive consolidated bank view of the activities of these banks. Sanusi (2010) went on to state that lack of adequate corporate regime also contributed to the crisis, For instance, there was no legal and regulatory framework governing the margin lending activity (Sanusi, 2010).

Another important contributory factor was uneven supervision and inadequate enforcement (Sanusi, 2010). Sanusi identified enforcement failure as the biggest problem of the crisis. According to Sanusi, regulators were ineffective in foreseeing, anticipating and supervising the changing phase in the industry or addressing the prevalent corporate governance failures such as granting of unsecured loans. For example, the Supervision Department within the CBN was not structured to supervise effectively and to enforce regulation; therefore, no one could be held accountable for failure to address issues such as risk management, corporate governance, fraud, cross-regulatory co-ordination, money laundering, enforcement and the likes (Sanusi, 2010).

The CBN also identified the fact that financial penalties available at the time were not adequate measures of compliance. Because banks could get away simply with the

payment of fines, they practically annulled relevant aspects of examination reports (Sanusi, 2010).

Also, records on compliance of banks were poor. There was inadequate discipline in committing banks to respond to examination reports and recommendations were frequently ignored, despite the gravity of issues specified (Sanusi, 2010). This is due to the fact that the penalty prescribed for non-compliance was not enough to change their behaviours as directors faced no personal liabilities for non-compliance (Sanusi, 2010).

The policies of CBN have also impacted on the bank crisis in Nigeria. It is true that the banking consolidation was initiated during Joseph Sanusi's era as CBN Governor, which was to be done in phases. But the Chukwuma Soludo-led board of the CBN decided to alter this approach, insisting on a one-time share capital increase to N25billion. Although the CBN did a verification exercise for the first round of capital-raising, the time-consuming exercise was criticised by foreign investors, and it was later discontinued. This led to unintended consequences, which negatively affected the financial sector, and unfortunately the CBN turned around to accuse the banks of buying their own shares with depositors' money and that the resultant decrease in share price has led to a serious impairment on the banks' shareholders fund (Oke et al., 2010).

5.2 The Problem of regulatory multiplicity in Nigerian banks.

The Nigerian corporate governance regulatory terrain can be said to be a trail of conflicting laws where discrepancies occur both in compliance and in principle. Generally, corporate governance regulation in Nigeria suffered from a weak system of regulation as explored throughout the thesis.

The major company law in the country governing both listed and non-listed companies is Companies and Allied Matters Act (1990). The Nigerian banking sector is also regulated by the Banks and Other Financial Institutions Act (BOFIA), which complements CAMA and makes provisions for specific disclosure and reporting requirements for banks (BOFIA, 2004). The CBN and Securities and Exchange Commission (SEC) have also developed corporate governance codes for banks and public companies in the country. Regulatory multiplicity is a very grave issue in Nigeria. It is important that this problem is addressed in order to prevent an avenue for future control frauds. In this regard, a good suggestion would be that regulators work together to co-ordinate their Codes in order to create a unified system of corporate governance in the country so that corporate participants are clear on the rules in place. This would also provide for a more feasible possibility of working together to promote efficiency within the system.

In a 2014 survey investigating the growing dissatisfaction with regards to the conflicts among the Codes, it was discovered that there is a general belief that the CBN Codes are more effective than the SEC Code because of their mandatory provisions. The survey further revealed that the conflicts in the Codes can be likened to the regulators' quest for power and relevance. The constant irregularity and

conflict with the Codes are due to the fact that they were copied from developed countries, particularly the UK and USA

As emphasized by one of the participants:

‘.....the CBN Code is copied from the US while the SEC Code is copied from the UK. Is it possible for Nigeria to develop their regulatory standard that suits our culture of togetherness and inclusiveness and suits our environment and society? ...our people should not be subjected to copying; otherwise, they should expect conflicts in implementation and practice. This is why we as managers are confused as to what to do. Most times, we ignore the Codes but for record purposes, we tick the boxes as a signal for compliance to the Codes and for auditing purposes... we just do it to avoid pressures from the regulators’ (Osemeke & Adegbite, 2016).

The subsequent implication of this conflict therefore sends mixed signals to regulators and investors where friction exists between stakeholders which may lead to bad corporate governance practices (Osemeke & Adegbite, 2016). The totality of communication between companies, individuals and regulatory agencies become more evident in corporate reporting and financial disclosures whereby managers may use their position and access to information for their own benefit rather than that of other stakeholders. This may create an avenue for control fraud whereby executives decide to comply with the Codes that can easily be manoeuvred for their own benefit. They use the Codes to their advantage by making sure they comply only in principle but not in action.

6. Recommendations and Conclusion

Since the global banking crisis of the last decade, considerable attention has been drawn to regulating corporate governance across the world. Nigeria is therefore not left behind in the need to promote good practices of corporate governance in Sub-Saharan Africa.

As the most populated country in Africa, the country still remains largely underdeveloped and is therefore devoid of standardised economic and political development. The level of corruption in the country is also a hindrance to the corporate environment which impacts on international investment and financial performance in the country.

In terms of control fraud, the challenge is to develop a corporate culture of trust, integrity and intellectual honesty while also promoting the common law duties of good faith, diligence, care and skill. Companies tend to rebel against a rigid set of rules but are more attracted to a wider system that embraces the socio-economic needs of the company. Promoting effective corporate governance therefore becomes necessary in the battle against control fraud.

Berenbeim (2004) considers that effective corporate governance is a question of recognising human and institutional limitations as well as vigilance. In Nigeria, this will mean first tackling the problem of corruption in the country. As noted by Adegbite (2012), corruption has traditionally been at the centre of corporate governance regulation in Nigeria (and Nigerian banks) and became a way of life since the country's independence from Britain.

Furthermore, according to Yakasai (2001):

'The complexity and trouble with most banks in Nigeria is that the directors work to the answer, mark their own examination scripts, score themselves distinctions and initiate the applause. But to the stakeholders (especially the equity owners), the excellent report sheets are openly fudged or at best engineered and indeed the activities of the board are so varied and deceptively intractable that the more critically you look, the less you see.'

The institutional nature of corruption is endemic in the country. From day-to-day activities to big financial transactions, every sector of the economy has been badly polluted with corrupt practices and the banking sector is not left out.

Also, given that the problem of regulatory multiplicity of corporate governance regulation creates opportunity for the perpetration of control fraud, it is recommended that regulatory bodies such as the CBN and SEC work together in the co-ordination of corporate governance codes to the effect that it gives one voice of unity and promotes teamwork in order to prevent future control frauds in Nigeria.

Furthermore, the CBN should draw more focus on its own internal control, particularly its licensing and scrutinizing regime. Banks should be thoroughly scrutinized as part of their registration process. Proper and stricter background checks and due processes should be followed before registration of banks. Furthermore, it is very important to reiterate that the CBN admitted during its presentations to the committee that part of the problems during the crisis was that the banks were in the habit of producing inaccurate (but audited) financial statements to the CBN of which it was ignorant (Nigerian National Assembly, 2012). This creates some possibilities: corruption or incompetence due to lack of adequate resources. If the CBN was unaware of this, then it can be said that perhaps it lacks adequate mechanisms to detect the fraud. As a way forward, it is therefore proposed that the CBN should be adequately resourced, first with strict scrutinizing regime to license banks, and second, with appropriate mechanisms to scrutinize financial statements presented by banks and in the case of EDW, there should be more clarity regarding what is accepted as collateral for the discount window and the CBN should be required to verify the legality or otherwise of these collaterals. The whole essence is to prevent future control frauds in banks. It is therefore recommended that the CBN should develop adequate enforcement mechanisms for compliance to the rules in place regarding the EDW.

Another recommendation is that CEOs should be adequately educated and empowered as main agents in both corporate governance and control fraud. It is important that CEOs are provided with adequate resources and trainings, particularly on fraud prevention and effective corporate governance that would be useful in their role as CEO. Constant training and conferences aimed at CEO developments should therefore be encouraged in Nigeria. It is important that the results of training and educational programmes are also provided and applied in practice.

It is suggested that the above recommendations will be a bold step towards a fraud-free environment for Nigerian banks. Nigeria itself is a country with its own specific culture in terms of development and socio-economic advancement. It is therefore important that the country strives to attain international best standards of corporate governance if it is to promote investments and retain confidence to its financial sector. Eradicating or at least reducing control fraud through enforcement of corporate governance regulation will certainly go a long way in this and it is important that investors are convinced that the country is financially stable.

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