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Implications of Pre and Post Pension Reform on the Economic Growth of Nigeria (2000-2013)



- Talent Management in Banks: The Nigerian Experience
- The Bank Employees, Etc (declaration of Assets) Act: Need for Enforcement
- The Role of Customer Due Diligence in Combating Financial Crimes and Terrorism in Nigerian Banks



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From the EDITOR'S DESK



The Nigerian Pension Reforms Act of 2004 came as a watershed statute bringing with it far-reaching positive developments in pension administration in the country. The Act made it mandatory for specified category

of employers both in the public and private sectors of the economy to contribute a minimum of 7.5 percent equivalent of the employee's emolument. The employee on the other hand would contribute 7.5 percent of his emolument. These contributions would be saved in a Retirement Savings Account, (RSA), to be accessed by the staff when he eventually disengages from the services of the organisation and he is up to 50 years of age. Before the emergence of Act, pension was regarded as an exclusive preserve of those that worked in the government sector and only an insignificant number of the private sector operators think of such welfare package for their staff especially after sapping their energy during their active working life.

A number of loopholes were soon discovered in the process of implementation of the Pension Reforms Act 2004 as is usual with most statutes and policies. That indeed necessitated the re-enactment of the Act to plug observed loopholes and foster seamless implementation. The new Pension Reforms Act of 2014 was therefore signed into law on July 1, 2014, thereby setting a new stage for the regulation of the administration of contributory pension scheme in the Nigerian economy. With the new Act, a number of improvements were introduced to ensure that the helpless retiree is not overburdened.

Under the new Pension Reform Act 2014, all employers with up to fifteen employees will mandatorily join the pension scheme and employers are now to contribute ten percent to the RSA of the employee while the employee will contribute eight percent of his emolument to the Account.

In effect, the new Act provides for a total of eighteen percent of each employee's emolument to be saved for his or her retirement life as against the fifteen percent provided for in the Pension Reform Act of 2004. Besides, the Act provides for imposition of

finances and penalties on Pension Fund Administrators who fail to meet their obligations to the contributors or who violate any of the provision of the Act.

There is no doubt that these developments will have salutary effects not only to the retirees, who until recently were used and dumped especially by most private sectors operators, but also to the economy as a whole. For the retiree, there will be that hope that something is kept aside for the rainy day no matter how small, after all life thrives on hope. For the economy at large, there is a pool of investible funds which can assist in stimulating economic.

However, the greatest implementation challenge is that of getting specified corporate entities to register with the scheme as provided in the law. There are today so many organisations employing fifteen staff and above which are yet to register including some tiers of government. Even some state governments who have registered find it difficult to remit their own portion of the contribution to the Account. The implication is that many employees retire without having full complement of the contributions. Making a law is not just enough, the enforcement of such law and imposing appropriate sanctions on violators are crucial to the effectiveness of any law.

The Pension Commission, (PENCOM), therefore has the primary duty of ensuring that the new Pension Act enjoys optimal compliance. Non-compliance means that somebody's right under the law is being abused. An average employer in Nigeria will usually not bother about his or her employees' retirement life. After getting the best of the worker during his active life, most employers usually care less about what becomes of him when he retires. This underscores the need for PENCOM to drive hard and compel all qualified establishments to implement the provisions of the Act. That will help to create a bigger pool of investible funds that will stimulate growth in the economy and also provide soft landing for the worker on retirement.

Beside, effective pension administration is key to the success of the Pension Reform Act 2014. Given that all stakeholders in the service delivery line play their roles, retirees should be able to collect whatever is saved for the on retirement. That will cushion the effects of harsh realities of life at one's retirement.

Alex C. Anameje, HCIB



Implications of Pre and Post Pension Reform on the Economic Growth of Nigeria (2000-2013)

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Abstract

It is generally assumed that the pension reform in Nigeria helps in developing economic growth wherever the reform is adopted. However, this is not a clear-cut assertion, especially in developing countries like Nigeria which are faced with problems of underdevelopment characterised by fraudulent and corrupt practices in the public sector of the economy. This study on “Implications of Pre- and Post-Pension Reform on the Economic Growth of Nigeria (2000-2013)” is aimed at comparing the pre- and post-pension scheme eras. A cross-sectional survey research design was adopted. Applying convenience sampling, the methodology used the questionnaire and this was distributed to auditors and some quoted firms in Nigeria because they are knowledgeable in pension reform. The data collected were analysed from respondents using questionnaires with the necessary statistical tool used. The researcher

found that the observation is normally distributed. Hence, most values for the observations fell within the mid-points of the distribution. Also, when firms comply with pension reform, they enjoy good labour relationship, competitive advantage, high liquidity, and increased productivity in the long run. The study recommends that firms should comply with pension reform so as to aid the economic growth of Nigeria. It argues also that PENCOR should adopt uniform compliance and disclosure standards of pensionable issues for the purpose of better economic growth in Nigeria. The pension managers should create more awareness for the general public and strict laws and regulations should be adopted by the government to reduce fraud and corruption in fund management.

Keywords: Pension, pension scheme, retirement benefits, pension fund administrators

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1.0 Introduction

THE HISTORY of Nigerian Pensions administration dates back to the 1950s. The Pension Reform Act of 2004 brought into limelight the new pension scheme in Nigeria which is a defined contributory scheme unlike the pre-pension scheme which was largely defined benefits. Although the present scheme is being adjudged to be better than the former scheme in that it is expected to help remedy the deficiencies and inadequacies prevalent in the former scheme. It is advocated that only proper coordination, supervision and regulation of the pension industry in Nigeria will contribute to the country's economic growth. The issue of pension has received much attention in many countries over the past decades. In fact, in recent times, pension has increasingly attracted the attention of policy makers in many countries as a means of facilitating privately funded retirement income savings by an ageing workforce (World Bank, 1994). Many countries have opted for various forms of contributory pension scheme where employers and their employees are regarded to pay a certain percentage of the employee's monthly earnings to a retirement savings accounts from which they would be drawing their pension benefits after retirement. Besides, pension funds are now among the most important institutional investments in the world capital markets (Klumpes and Mason, 2012). Nigeria adopted the contributory pension scheme following her pension reform in 2004.

Pension is the amount paid by government or a company to an employee after working for a specific period of time, considered too old or ill to work, or having reached the statutory age of retirement. It is a monthly sum paid to a retired officer until death because the officer has worked with the organisation paying the monies (Adam, 2011:468). Pension is also the method whereby a person pays into a pension scheme a proportion of his earnings during his working life. The contributions provide an income (or pension) on retirement that is treated as earned income. This is taxed at the investors' marginal rate of income tax. On the other hand, gratuity is a lump sum of money payable to a retiring officer who has served for a minimum period of ten years. A great importance has been attached to pension and gratuity by employers because of the belief that

if employees' future needs are guaranteed, their fears ameliorated and properly taken care of, they will be more motivated to contribute positively to organisation's output. Similarly, various governmental organisations as well as labour unions have emphasised the need for a sound, good and workable pension scheme (Adebayo, 2010, Rabelo, 2007).

The second part of the paper is the literature review which gives a brief history the pension system in Nigeria. Thereafter, the problems and characteristics of the former pension scheme were examined. Also in this section, the Pension Reform Act of 2004 is explored in greater detail, the pre- and the post-pension reform scheme are also compared as most studies on pension in Nigeria are usually on the determinants of **pension reform** disclosure. This gap is what the study attempts to fill.

In the light of the above research problems, the following questions were raised

- i. What is the relationship between **pre- and post-pension reform** to the economic growth of Nigeria?
- ii. What is the relationship between **pre- and post-pension reform** and its engagement by Nigerian firms?
- iii. What is the relationship between firms that comply with the **pension reform** and those that do not?

The main objective of this study is to examine the **implications of pre- and post-pension reform on the economic growth of Nigeria, (2000-2013)**. Specifically, the study is aimed at:

- i. Finding out if there is any relationship between **pre- and post-pension reform** and **economic growth in Nigeria**;
- ii. Ascertaining if there is any significant relationship between **pre- and post-pension reform** and its engagement by Nigerian firms;
- iii. Finding out if there is any relationship between firms in Nigeria that do comply with the provisions of **pre- and post-pension reform** and those that do not.

The paper attempts to test the following Null hypotheses:

Ho1: There is no relationship between **pension reform** and economic growth

Ho2: There is no significant relationship between **pension reform** and its engagement by Nigerian firms.

Ho3: There is no relationship between firms' compliance with the provisions of **pension reform** and those that do not.

Section five concludes the paper and gave some recommendations.

2.0 Literature Review

2.1 History of the Nigerian Pension Industry

One of the oldest documents to discuss social support was the Code of Hammurability by King Hammurabus of Babylon in the 18th century (Momoh and Idomeh, 2008). The code defined the rights of evildoers and orphans to the estates of their relations. Bloom (2011) stated that one of the first publicly financed social security systems was developed in the late 16th century in England from series of legislative acts known as "poor laws". Under these laws, local governments built large alms-house facilities that housed the people too old or unfit for work. Poor laws also established work houses and facilitated public housing for the employed. Moreover, these laws gave rise to social insurance in Europe and social security in the United States (Momoh and Idomeh, 2013)

The pension system was introduced in Nigeria by the colonial administrators. The first legislative document on pension in Nigeria was the 1951 Pension Ordinance which had retroactive effect from January 1, 1946. The Ordinance provided public servants with both pension and gratuity (Ahmad, 2011). The National Provident Fund (NPF) scheme established in 1961 was the first legislation to address the pension matters of private organisations in Nigeria. This was the first social protection scheme for non-pensionable private sector employees in Nigeria. It was mainly a savings scheme to which both employees and employers contributed the sum of N4 each on a monthly basis. The scheme provided for only one-off lump sum benefit (Ahmad, 2009).

The NPF was followed by the Armed Forces Pension Acts No 103 (also of 1972) and by the Pension Act No. 102 of 1979, eighteen years later. The Pension Act No. 102 of 1976 which commenced on 1st April, 1974 encompassed the recommendation of Udoji Commission which included all consolidated enactments and

circulars on pension and also repealed the 113 pension laws hitherto in force. Other Pension Acts included: Pension Rights of Judges Act No 5 of 1985, the Police and other Government Agencies Pension Scheme enacted under Pension Act No.75 of 1987 and the Local Government Pension Edict which culminated in the setting up of the Local Government Staff Pension Board of 1987. In 1993, the National Social Insurance Trust Fund (NSITF) scheme was set up by Decree No. 73 of 1993 to replace the defunct NPF scheme with effect from 1st July, 1994. Its purpose was to cater for employees in the private sector of the economy in old age, invalidity or death (Balogun, 2009). In 1997, parastatals were allowed to have Individual pension arrangements for their staff and appoint Boards of Trustees (BOTs) to administer their pension plans as specified in the Standard Trust Deed and Rules prepared by the Office of the Head of Service of the Federation. Each BOT was free to decide on whether to have an insured scheme or a self-administered arrangement. It would be recalled that the first private sector pension scheme in Nigeria was set up for the employees of the Nigerian Breweries in 1954. The United African Company (UAC) scheme followed in 1957 (Balogun, 2009).

2.2 The Chilean Model – the wrong Imitation by Nigeria

Dostal and Cassey (2007) argued that the Nigerian authorities saw the Chilean reforms (Chilean model) as worthy to be emulated and copied. But the country has failed to learn the lessons of Chile. In fact, at the time Nigeria was adopting this model, Chile was already preparing for an alternative social pension scheme. Again, while the Nigerian government was beginning to give serious attention to pension reform (using the Chilean model) in early 2005 the Chilean model was being criticised by supporters of the scheme and the World Bank had concurred with the observation that the Chilean reform model had not delivered the intended benefits because of the too many assumptions made. Therefore, it was advocated that, in order to realise the claims, other reforms would be required to complement or precede pension reforms (Gill, Packard and Yermo, 2005; Holzmann and Hinz, 2005; World Bank, 2005).

Similarly, the Chilean government has announced wide-ranging changes to the pension

provision since 2006, placing greater emphasis on solidarity and tax financing, and higher controls on the operations of the individual accounts to which employees are subscribed (Gobierno de Chile, 2000). Again, the World Bank has claimed that it advised against the establishment of a “multi-pillar system” in Nigeria on the grounds that the financial sector was insufficiently developed (World Bank, 2005).

2.3 Divisions of the Pension Scheme

Pension scheme is broadly divided into the defined contribution plan and the defined benefits plan. In defined contribution plan, a contribution rate is fixed. For instance, in Nigeria an employee contributes 7.5% of his monthly emolument while the employer also contributes the same amount or more, depending on the category of the employee. The retirement benefit is variable, depending on the performance of the investment selected. In the defined benefit plan, the retirement benefit is stipulated usually as a percentage of average salary, but the contribution will vary according to the percentage of the average compensation a participant receives during his or her three earning years under the plan (Owojori, 2008).

Basically, the two pension plans create very different investment problems for the plan sponsors. While the defined benefit plan creates a liability pattern that must be anticipated and funded, the defined contribution plan creates a liability only as long as there is investment at any point in time. Investment is often left to the people who benefit from the decision or suffer from the consequences (Anthony and Bubble, 1997).

2.4 Problems with the Pre- Pension Scheme

The major problem of pre-reform pension fund administration in Nigeria was the non-payment or delay in the payment of pension and gratuity by the federal and state governments. For instance, the pension backlog was put at about N2.56 trillion as at December 2005. In fact, pension fund administration became a thorny issue with millions of retired Nigerian workers living in abject poverty and often neglected and not properly cared for after retirement (Orifowomo, 2006). Sadly, retirees went through tough times and rigorous processes before they were eventually paid their pension, gratuity and other retirement benefits. At one

time, the money to pay their benefits was not available; and at another time, the Pension Fund Administrators were not there to meet the retirees' needs. Basically, the old scheme had been beset with a lot of challenges and problems. Besides the aforementioned; other problems were: demographic challenges and funding of outstanding pensions and gratuities, merging of service for the purpose of computing retirement benefits. These problems, coupled with the administrative bottlenecks, bureaucracies, corrupt tendencies and inefficiencies of the civil service, and the economic downturn have resulted in either erratic payment or outright non-payment of terminal benefits as at when due (Orifowomo, 2006; Ezeala, 2007, Abade, 2004). Other problems were: gross abuse of pensioners and pension fund benefits which were politically motivated in some cases, breakdown in extended family and other traditional ways due to urbanisation and increased labour and human mobility. Moreover, considering Statement of Accounting Standard (SAS) No. 8 “on accounting for employees' retirement benefits,” the problems of the old pension scheme which led to the pensions reforms of 2004 included: wrong investment decision; wrong assessment of pension liabilities; arbitrary increases in pension without corresponding funding arrangements, non-preservation of benefits (some were mere savings schemes and not pension schemes); and serious structural problems of non- payment and non-coverage. There was no adequate safeguard of the funds to guarantee prompt pension and other benefits' payments to retirees.

The pre-scheme was characteristically defined benefits, unfunded mostly pay-as-you-go, discriminatory and not portable. The employee was not entitled to pension benefits if he was dismissed from service. Also, there was no adequate provision to secure the pension fund. Due to the shortcomings of the old scheme, particularly the unpleasant experiences faced by retirees and pensioners and the huge pension liabilities, it became apparent that there was need for reform and change. Therefore, the need for the Federal Government to guarantee workers' contributions and accruing interest in the event of failure of the Pension Fund Administrator (PFA) was advocated.

2.5 The Post-Pensions Reform Act of 2004

The Pension Reform Act (PRA) of 2004 is the most recent legislation of the Federal Government of Nigeria aimed at reforming the pensions system in the country.

It encompasses employees in both the public and private sectors. The PRA of 2004 came into being with a view to reducing the difficulties encountered by retirees in Nigeria under the old pension scheme. It is believed that the new scheme will: guarantee the prompt payment of pensions to retirees, eliminate queues of aged pensioners standing hours and days in the sun to collect their pensions, and also increase their standard of living. Nevertheless, before the enactment of the PRA of 2004, the three regulations in the Nigerian pension industry were: The Securities and Exchange Commission (SEC), the National Insurance Commission (NAICOM) and the Joint Tax Board (JTB). The new scheme is regulated and supervised by the National Pension Commission (PENCOM). The Commission has the power to formulate, direct and oversee the overall policy on pension matters in Nigeria. It has also established standards, rules and regulations for the management of the pension funds and has power to approve, license, sanction and promote capacity building and institutional strengthening of the PFAs and Pension Fund Custodians (PFCs)

2.6 Objectives of the Post-Pension Reform Scheme

The objectives of the Scheme, according to Section 2, Part 1 of the PRA of 2004, are to, among other things:

- i. Ensure that every person who worked in either the public service of the Federation, Federal Capital Territory or the private sector receives his retirement benefits as and when due;
- ii. Assist improvident individuals by ensuring that they save in order to cater for their livelihood during old age;
- iii. Establish a uniform set of rules, regulations and standards for the administration and payment of retirement benefits for the public service of the Federation, the Federal Capital Territory or the private sector;
- iv. Stem the growth of outstanding pension liabilities, secure compliance and promote

wider coverage.

It is envisaged that the various reform measures put in place, which are also clearly spelt out in the objectives of the new PRA of 2004, would be able to remedy the situation by adequately tackling the difficulties in the old scheme, i.e. being adequate, affordable, sustainable and robust (Balogun, 2006). It must also prevent old-age poverty and be able to smoothen life-time consumption for the vast majority of the population. It must be able to withstand major shocks, including economic, demographic and political volatility.

2.7 Types of Pension Reform Options

There are two broad types: parametric and systematic pension reforms. Parametric reform involves adjustments to the parameters of the pension system such as retirement age, contribution rate etc. These adjustments, which may be ad hoc or discretionary tend to create uncertainty and problems in the system (Rabolin, 2005). On the other hand, systematic reform involves a complete shift in the pension systems by a country, for example from, say, a defined benefit system to the defined contributory system or social pension or voluntary pension scheme. Systematic reform could be single-pillar or multi-pillar depending on the contribution of the various systems, e.g. Nigeria (2004), Chile (1980), Argentina (1994), but it was reversed later in 2007 in Nigeria

Basically, Nigeria embarked on a multi-pillar, systematic pension reform, changing completely from the defined benefit to the defined contributory scheme. It has an individual Retirement Savings Account (RSA), valued arrangement taking various forms (individuals, employer-sponsored, defined benefit and defined contributory) which are flexible and discretionary in nature and informed intra-family or inter-generational sources of both financial and non-financial support to the elderly, including adequate health care (Holzmnnann and Hinz, 2005).

2.8 Other Key Options in the Post Pension Reform Scheme

1. Nature of the Scheme: The new pension scheme is a contributory one (Section 1 of PRA 2004). The payment of retirement benefits of employees who are eligible under the scheme is outlined in this section.

2. **Rate of Contribution:** Section 9 (1) specifies the contribution by the individual and the employer as follows:

- (a) In the case of public service of the Federation and the Federal Capital Territory, a minimum of 7.5% by the employer and a minimum of 7.5% by the employee.
- (b) In the case of the military, a minimum of 12.5% by the employer and a minimum of 2.5% by the employee.
- (c) In other cases, a minimum of 7.5% by the employer and a minimum of 7.5% by the employee.

However, an employer could bear the full burden of the scheme provided. Section 11(5) empowers the employer to deduct at source the monthly contribution of the employee in his employment and remit the said amount not later than 7 working days from the day the employee's salary is paid to the custodian specified by the Pension Fund Administrator (PFA). The Pension Fund Custodian (PFC) is to notify the PFA to credit the employee's revenue savings account. There is a 2% of total contribution fine on any employer who defaults for each month. The government contribution to the pension fund of public service employees of the Federation and the FCT shall be a charge of the Consolidated Revenue Fund (CRF) of the Federation - Section 11(8). The revision of the rate of contribution shall be based on an agreement between the employer and the employee.

3. *To Encourage the Employee:* The contribution to the new scheme is to be part of tax deductible expense in the computation of the tax payable by the employee.
4. *Retirement Bond Redemption Fund (RBRF):* Section 29 (1) of the Act

empowers the CBN to establish, invest and manage the RBRF for the Federal Public Service and the FCT. The Federal Government is required to pay into the fund an equal amount of 5% of the total monthly wage bill payable to the employee and the Public Service of the Federation and the FCT. The Redemption Fund Account is to be used by the CBN to redeem any bond issue in respect of accrued retirement benefit (Section 29 (3)).

5. *Management and Custodian of Pension Assets:* Unlike the old scheme, the Act specifies an institutional framework for the proper management and custodian of the pension assets –mainly based on the key principle of “ring fencing” to ensure effectiveness and efficiency in the administration by all those concerned. First, the Pension Fund Administrator (PFA) opens and administers the Retirement Savings Account (RSA) for the employee in liaison with PENCOM and appoints the Pension Fund Custodian (PFC). They manage the pension fund assets and administer
6. *Retirement Benefits.* On the other hand, the Pension Fund Custodians (PFCs) receive the total contributions and hold pension fund assets in safe custody in trust for the employees and beneficiaries of the retirement benefits. They also execute transactions and undertake other related activities on behalf of PFAs (Sections 44-47, 59). Both of them are to keep proper books of accounts and submit audited financial accounts not later than four months (120 days) from the end of the financial year (Sections 56 & 57) to PENCOM. Allowance was also given for closed pension fund administration whereby organisations manage existing schemes for employees in their outfits. There are heavy sanctions for default (Section 64) by them. Only the Pension Commission is

empowered to regulate and suspend the scheme; direct overall pension policy matters, approve, license and supervise the PFAs, PFCs and other Institutions relevant to pension matters for maximum compliance. It has been argued that a two-tier system of the PFA and PFC was adopted to safeguard the fund, and their functions interlock to act as a guard against financial impropriety. Nevertheless, since both parties assume joint trust positions, incidents of financial impudence are reduced but cannot be totally ruled out. Other checks include: (i) PFC guarantee, (ii) strict intense supervision, (iii) rigorous licensing procedures, and (iv) auditor report to PENCOM.

2.9 Investment of Pension Fund

The main concern of the new pension scheme is safety of the fund and the maintenance of fair returns on the amount invested (Section 72). The need for safety is emphasised in determining the quality of the instrument to invest in and a PFA is expected to adopt a risk management profile in making investment decisions with due regard to the credit rating of companies registered under the Investment and Securities Acts of 1999. PFAs were expected to appoint risk management and investment strategy committees. These committees determine the risk profile of an investment portfolio and ensure adequate internal control measures and procedures. The investment strategy committee determines the portfolio mix consistent with the risk profile, evaluates and reviews the performance of investment on a periodic basis.

Against the guaranteed structure, the PFA is to invest in any of the following as specified by Section 73(1):

- (a) Bonds, bills and securities issued by the Federal Government or the Central Bank of Nigeria;
- (b) Bonds, debentures, redeemable preference shares and other debt instruments issued by listed corporate entities in Nigeria;
- (c) Ordinary shares of public limited companies listed on the Nigerian Stock Exchange;
- (d) Bank deposits and securities;

- (e) Investment certificates of closed-end investment fund or hybrid investment fund;
- (f) Quoted unitised investment;
 - (i) Bond and other debt securities issued by listed companies;
 - (ii) Real estate investment;
 - (iii) Other investments prescribed by the Pension Commission.

However, the PFA shall not:

- (a) Sell pension fund asset to: (i) itself, (ii) any shareholders' director or affiliate of the PFA, (iii) any employee of the PFA, (iv) either of 1-3 or those related to them, (v) affiliates of any shareholders of the PFA, (vi) the PFC;
- (b) Purchase any pension fund assets; and
- (c) Apply pension fund assets under its management by ways of loans or credits as collaterals for any loan taken by any PFA.

However, due to the impact of the global financial crisis on the Nigerian capital market in 2008, there were fears on how to invest over N700 billion pension funds on equity shares in the Nigerian capital market because of the effects of institutional shareholdings and the global meltdown eroding such investments overnight (Daleng, 2006; Ahmad, 2008).

2.10 Transitional Challenges in the Post-Pension Reform Scheme

According to Ahmad (2008a), the transitional challenges in the new pension scheme include:

1. Knowledge gap and general misconceptions;
2. Widening the coverage in the informed and private sector, many of the SMEs, private, small businesses are yet to buy the idea;
3. Securing system-wide buy-in and initial reluctance from employees to register with PFAs;
4. Capacity building in the new pension industry;
5. Quantifying and transferring legacy funds and assets managed by employees, insurance companies and pension managers.

Balogun (2006) suggested other areas which require further strengthening in order to make the new pension scheme effective and efficient.

This include:

1. Durability pension for employees who sustain minor or permanent injury/disability in the course of their duties;
2. In respect of section 71 (1) of the PRA, relevant guideline stipulated in the number of years an RSA holder is expected to contribute to be qualified for the Minimum Guarantee Pension (MGP);
3. The full involvement of state and local governments in the new contributory pension scheme to include the large number of public sector employees currently not within the PRA of 2004;
4. Enrichment and adequate funding of the database by PENCOM.

2.11 Prospects of the Defined Contribution Scheme

Ahmad (2008a) lists some of the prospects of the defined contributory scheme as:

- i. Intensified public education and enlightenment;
- ii. Strong support from, and collaboration with, stakeholders, especially social;
- iii. Consistent support and strong political will from the executive and legislative arms of government;
- iv. Federal Government of Nigeria had consistently and religiously met her obligation to the pensions fund contribution;
- v. Gradual adoption of the new scheme by other tiers of government, especially state

governments;

- vi. Major corporations and institutions have embraced the new scheme;
- vii. Consistent macroeconomic stability to downtrend in inflation;
- viii. Relatively strong enforcement power of PENCOM;
- ix. PENCOM's effort to build capacity in the areas of risk management, supervision, corporate governance and information technology.

However, Ahmad (2008b) argues that corporate governance in the pension industry in Nigeria is still being faced with a lot of challenges notwithstanding the efforts of the Commission. These challenges include: history of bad corporate governance by people in many organisations; inappropriate and inadequate sanctions for breaches; the “tyranny and impunity” of management; re-defining the roles of the external auditor and Self-Regulatory Organisations (SROs) under the PRA of 2004 to make them culpable on concealing breaches; possible conflicts of interest arising from PFA participation in companies' boards following fears that they might become major investors and be elected to boards; and disclosure of confidential information. However, necessary economic, political and institutional frameworks must be put in place to support and enforce good corporate governance.

Development of a comprehensive accounting standard for retirement benefits

Table 1: COMPARISON OF PRE- AND POST-PENSION REFORM SCHEME

Characteristics	Pre Pension Reform	Post Pension Reform
1. Type	Largely defined benefit	Defined contribution
2. Funding	Mostly unfunded and Pay-As-You-Go (PAYG)	Contributory and fully funded
3. Membership	Voluntary in the private sector	Mandatory for all employees in both the public and private sector s except pensioners and those with 3 years to retire
4. Pension Portability	Not portable	Personalised and very profitable
5. Management	Largely state and management union	Private sector and individual choice
6. Retirement Benefit	Discriminatory	Uniform application
7. Supervision	Fragmented and unregulated (SEC, NAICOM and JTB)	Strictly regulated by PENCOM

8. Pension liability	Implicit and not transparent	Explicit through retirement bond and capped
9. Tax exemption	Limited	Contribution and retirement Benefits
10. Insurance Policy	Voluntary and mostly in the private sector	i) Mandatory for all employers ii) Three times the employee's emolument
11. Dismissal from service	No pension benefits	Full pension rights
12. Collateral for loans	Benefits could be used as collaterals	Benefits cannot be used as collaterals
13. Deductions from benefits	Benefits can be subjected to deductions, especially employers in any financial obligations to the employee.	Contents of RSA can be used for payment of retirement benefits only.
14. Timing retirement benefits	Cumbersome	Straightforward
15. Minimum service years	Generally 5 years for gratuity and 10 years for pensions	Month of employment for all benefits subjects to minimum age
16. Gratuity	Provided to those qualified	Provision for lump sum withdrawal
17. Risk Management	No provision	Adequate provision

Source: Field Survey (2014)

2.12 Comparison of Pre- and Post-Pension Reform Schemes

A comparison of pre- and post-pension reform schemes shows some remarkable differences between the two as shown in Table 1 above. For instance, starting from the type of scheme, funding, membership to risk management of the pension fund, the new scheme seems to be broader, more inclusive and more adequately provided for. Whereas, the old pension scheme was largely defined benefits and unfunded, the new scheme is defined contributory and fully funded. The post-reform scheme is very portable and enjoys uniform application unlike the pre pension reform. In fact, employees who leave one employment to another or are even dismissed from service have no fear of losing their pensions or other retirement benefits under the post-pension reform scheme. The regulation and supervision of the new scheme is by PENCOM whereas SEC, NAICOM and JTB were jointly responsible for the pre-pension reform scheme.

Akeni (2009) made a comparison of nine items in the old and new schemes by conducting a survey of the pension fund administrators, pension fund custodians and the beneficiaries in the public and private sectors. He found that the new scheme was better than the old one in terms

of: accountability, accessibility, ease of payment of pension and gratuity, funding, management of pension fund, transparency, and stakeholders' confidence in the scheme, auditor's control and corporate governance. He further discovered, however, that the new scheme may not address the difficulties currently encountered in the pension industry in Nigeria nor impact positively on the standard of living of retirees and pensioners. Again, he stated that unless there were proper coordination and supervision by the Nigerian Pension Commission of the pension fund administrators and pension fund custodians, the post-pension reform scheme may go the same way of the old.

Therefore, he concluded that PENCOM, as the regulatory body, must undertake periodic review of the investment guidelines of the pension fund and create a conducive environment for smooth operations by the pension fund administrators and custodians. It must ensure that the administrators and custodians play by the rules of the game in order to guarantee their efficient and effective performance. The public must be regularly enlightened and adequately kept abreast of development in the pension industry by the commission and the administrators.

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3.0 Methodology

The study adopted a cross sectional survey research design. The data used in the study were obtained through the administration of questionnaires. Using convenience sampling methodology, the questionnaires were distributed to auditors and some quoted firms in Nigeria because they were knowledgeable about the pension reform scheme.

4.0 Data Analyses and Discussion of Results

The data collected were analysed from respondents using 130 questionnaires with the necessary statistical tool used. In all, 85 questionnaires which were administered to accountants and auditors were returned.

A critical evaluation of the table above reveals that an average of 83% of the observation were engaged in pension reform practices. That is, 83% engage in pension reform; however, 70% went the extra mile by engaging an auditor on pension reform. The implication is that while companies subscribe to the policy of being pension reform-friendly, only a few actually engage in pension reform. This might be a fallout from the voluntary nature of pension reform. Furthermore, based on the Jarque-Bera statistics of the observation, we discovered that the observation is normal distribution. Hence, most values for our observations fall within the mid-points of the distribution. (Pension Fund; EG - Economic Growth, PRE - Pension Reform; PPPR – Pre- and Post-Pension reform)

Descriptive Statistics

	PE	EG	PRE	PPPR
Mean	0.682352941176	0.576470588235	0.835294117647	0.894117647059
Median	1	1	1	1
Maximum	1	1	1	1
Minimum	0	0	0	0
Std. Dev.	0.468324386609	0.497050121748	0.373116183346	0.309513035796
Skewness	-0.783367978365	-0.309523809524	-1.80793021713	-2.56180902822
Kurtosis	1.61366538953	1.09580498866	4.26861167002	7.56286549708
Jarque-Bera	15.5004059532	14.1991741936	52.0052037999	166.710512512
Probability	0.00043065518801	0.000825445682056	5.09581266073e-12	0
Observations	85	85	85	85

Pearson Correlation Matrix - Correlation Statistics

	PE	EG	PRE	PPPR
PE	1	-0.124544678588	-0.234843502712	-0.15266277669
EG	-0.124544678588	1	0.325487854463	0.2467129519
PRE	-0.234843502712	0.325487854463	1	0.362618490139
PPPR	-0.15266277669	0.2467129519	0.362618490139	1

The table above shows that a negative relationship exists between the observed variable, although this relationship is weak. This result is quite distorting, disturbing as it implies that the more pension reform carried out the less the effect on economic growth.

voluntary nature of pension reform. When firms comply with pension reform, they enjoy competitive advantage, high liquidity, and increased economic growth in the long run. The study therefore recommends as follows:

Binary Logit Regression Result - Binary Logit

Variable	Coefficient	Std. Error	z-Statistic	Prob.
C	3.223645	1.388774	2.321216	0.0203
PRE	-1.745711	1.101076	-1.585458	0.1129
PPPR	-0.836311	1.146503	-0.729445	0.4657
EG	-0.203778	0.512081	-0.397941	0.6907
Mean dependent var	0.682353	S.D. dependent var		0.468324
S.E. of regression	0.462022	Akaike info criterion		1.266453
Sum squared resid	17.29064	Schwarz criterion		1.381402
Log likelihood	-49.82426	Hannan-Quinn criter.		1.312689
Restr. log likelihood	-53.13207	Avg. log likelihood		-0.586168
LR statistic (3 df)	6.615607	McFadden R-squared		0.062256
Probability(LR stat)	0.085213			
Obs with Dep=0	27	Total obs		85
Obs with Dep=1	58			

From the above table, a few observations have been made based on the following parameters. The McFadden R.Squared of approximately 6% indicates that only 6% of the systematic variations in the dependent variable are explained by the independent variables leaving 94% unexplained. The LR statistics and probability of 6.62 (0.09) shows that the explanatory power of the model is weak as the independent variables taken together do not significantly explain the dependent variable. The sign of the Z-statistic reveals that all the independent variables have a negative relationship with pension reform. Furthermore, the probabilities as observed are greater than 0.05, hence they all insignificantly affect pension reform.

5.0 Conclusion and Recommendations

This study has empirically examined pension reform and economic growth. The implication is that while PENCOM subscribes to the policy of complying fully with pension reform, only corporate organisations are engaged in pension reform services. This might be a fallout from the

- (1) Firms should comply with pension reform so as to enjoy the benefit of high increase in gross domestic products.
- (2) Firms should adopt uniform compliance and disclosure standards of pension reforms for the purpose of control and measurement of performance.
- (3) There should be continuous enlightenment to the general public to create further awareness of pension reform and confidence in the system.
- (4) Fraudulent and corrupt managers should be severely punished to deter others.

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Talent Management in Banks: The Nigerian Experience

BigBen Chukwuma Ogbonna, Ph.D*

Abstract

Financial services organisations around the world face a growing number of challenges with regards to their ability to manage their talents, risks and reward programs. To this extent, this study has used discursive approach to review the concept of talent management in Nigerian banks. The descriptive analysis reveals that the concept the concept of target setting scenario for bank staff makes for high labor turnover in the sector. Target setting in the Nigerian banking sector has made it possible for the employees to abandon the corporate objective for individual achievements of retaining their jobs through meeting the set target. To this extent, an employee adopts any strategy, damming whatever consequence, to achieve the volume of deposit benchmark. This makes the employee not accountable to the institution, morally, culturally etc, except to the extent the employee achieves the set target. Likewise the bank on its part does not guarantee the retention of the employee beyond the extent to which he/she meets the set target. For the other vital banking activities such as tellering, security and other

ancillary services, the banks contract them out to consultancy firms which have very strong link with the chief executives of the banks and this has very negative implications for the banks. All these make for low employee retention rate in the industry, thus making talent management very challenging in the sector. On the above note, this study recommends that a body such as the Institute of Banking Personnel Selection (IBPS) of India should be set up in Nigeria and charged with the responsibility to develop the regulations and guidelines for recruitment, selection talent management in the Nigerian banking sector. Finally, we suggest that Chartered Institute of Bankers of Nigerian (CIBN) can effectively play this role rather than leaving Hr at the mercy of the parochial interests of individual bank chief executives.

1. Introduction

Background to the Study

FINANCIAL services organizations around the world face a growing number of challenges with regards to their ability to manage their talents, risks and reward

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programs. Sweeping developments in the roles and activities of banks and financial institutions in recent years have put a premium on appropriate manpower planning and personnel development, indeed the human resource function generally. Ensuring that the banks can recruit and retain appropriately qualified and experienced staff is at the heart of this challenge. This is made increasingly difficult by developments outside the financial sector and competition for key personnel even from international agencies. In Nigeria too, banks and banking have changed substantially over the years. As we view matters in retrospect, one of the major landmark events which constituted strategic inflexion points in the history of Nigerian financial sector has been the reforms process that gained momentum of recent. These reforms have heralded a dramatic shift in the way banks functioned and operated in Nigeria.

The changed overall environment and the internal compulsions to generate and sustain faster policy responses have given rise to the quest for greater efficiency and the need to reorient the banking practices. To this extent, the urgent need to realign our organizational resources has indeed altered the way we view the whole gamut of key issues relating to our human resources. The banks to this extent should in both short and medium terms be concerned, with issues relating to how to attract talented people, how to nurture them, how to develop them and give them the necessary space

“Today, these new industries are competing with the old for talent in what could be termed “War for Talents” and have triggered the need for banks to look afresh not only at their recruitment strategies but also how to develop and retain their talent.”

in the institutions. There have been broadly three catalytic forces that have brought about this changed perception of human resources:

- The widespread use of the personal computer and the advent of the internet in the 1990s has attained a critical mass and marked a specific game-changing point which ushered in the Information Age. In this age, the intangible assets such as intellectual capital and talent have in a sense supplanted hard assets of the Industrial Age such as capital, factories and inventories. The new reality is that people are increasingly the principal assets of any organisation, and institutions are dependent not just on the sum total of their individual human capital, but also on how effectively they are able to draw out the best from their talent bank.
- Secondly, in Nigeria amongst others, a lot of new industries, some sector-specific like new generation banks and other sector-neutral like companies in the fields of information technology and media have given rise to a supply demand imbalance. Today, these new industries are competing with the old for talent in what could be termed “War for Talents” and have triggered the need for banks to look afresh not only at their recruitment strategies but also how to develop and retain their talent.
- The issue of ownership. While organizations own physical and financial assets, their ownership rights, however, do not extend to people. In Nigeria financial sector, in the pre-reforms days, employment bonding, especially in the public sector, worked on what was termed the “psychological contract” or the “loyalty contract” wherein long-term employment was co-terminus with employee loyalty. Presently, this has been seriously undermined, prompted mostly by a burst in job opportunities. The old values of loyalty have eroded and greater demand for talent has changed the playing field for the search and retention of personnel.

This is the new reality that the banks in Nigeria, among others, have to contend with. Importantly, effective recruiting is the beginning of effective retention. Matching between tasks and talents is a challenging problem and it is essential for allocation

efficiency that people get allocated to right occupations. Refashioning the recruitment process may well therefore be the prelude to effective talent management strategy. This may include identification of key positions and turnover risks associated with these positions, and competency/behavioral-based selection criteria that support the retention strategy and business drivers.

The central element of talent management is a carefully designed and integrated set of plans that allow the employee to align himself with the organisational goals and objectives, map competencies for diverse work areas, build up capacities through a well-crafted and sustained strategy and draw out latent possibilities optimally, would ensure emergence of leadership talent that is critical to any organisation's prosperity. and is therefore a central element of talent management. The aim is to align the current and future talents of individuals with the strategic challenges of our business. So while employees need to understand how to be more effective in their current roles, deliver specific business challenges, and pull together a personal development plan for shaping future careers, organisations too have to strategise how best to utilize the people's talents and identify areas for internal development necessary for ensuring future success.

1.2 Problem Identification

The importance of the banking sector in any economy stems from its role of financial intermediation, provision of an efficient payment system and facilitation of the implementation of monetary policies. In intermediation, banks mobilise savings from the surplus units of the economy and channel these funds to the deficit unit, particularly private business enterprises, for the purpose of expanding their productive capacity (Adeyemo, 2012).

Furthermore, the banking sector has become one of the most critical sectors commanding heights of the economy with wide implications on the level and direction of economic growth, transformation, employment and inflation which directly affect the lives of our people (olisabu, 1991). Currently, the very integrity and survival of these laudable functions of Nigerian banks have become questionable and

characterised by myriads of unwholesome practices such as unethical practices and behaviors considered unbecoming of professionals in any area of specialisation. These have resulted in massive frauds in banks which in some instances beget bank failures. The level, frequency and multiplicity of frauds and financial crimes in Nigerian banks have created crises of trust and confidence in the entire banking system among stakeholders in the industry. This ugly scenario was corroborated by Idolo (2010), when he stressed that the spate of fraud in Nigerian banking sector has lately become a source of embarrassment to the nation as evident in the seeming attempts of the law enforcement agencies to successfully track down culprits. The Central Bank of Nigeria exclusively charged with the responsibility of regulating the operations of deposit money banks has introduced and implemented radical prudential regulation and supervision reforms since the late 1980s. These reforms from the above scenario appear not to be effective in prevention of fraud and financial crime in the financial system to ensure growth and stability of the sector.

Worthy of note, should be the fact that quality of the workforce present a clear reflection of the status of the institution it works for. A weak workforce suggests weak institution and strong workforce indicates strong institution. Therefore the unwholesome practices bedevilling our financial banks are evidence of a weak workforce in the system. To this effect, it becomes important for talent management to become an integral part of the business strategy. From available literature, it appears obvious that regulatory framework for banks, from inception, is bereaved of any form of talent management regulation which the banks must adhere strictly to in the development and implementation of their respective Human Resource policies.

Currently, personnel policies of individual banks in Nigeria are mainly guided by the parochial interest of the chief executive officers of the banks. This has made it impossible for banks to get the right Persons in the right Jobs, develop and retain the top talents. To this extent, banking is of no professional consequence in Nigeria but rather characterised by all comer affair syndrome. This

must have accounted for the gross inefficiency, fraud and financial crimes that have bedeviled this subsector of the financial system.

It is on this note that this paper intends to discuss talent management as a variable tool for staff development in Nigerian banks, knowing that they must have the best talent in order to succeed in the hypercompetitive and increasingly complex global economy. With organizations aware that they must manage talent as a critical resource to achieve the best possible results, the need to hire, develop, and retain talented people cannot be overemphasised. The paper is intended to be discursive along the following course outline: section 2 is to discuss the concepts of workforce planning and recruitment, section 3 puts into perspective the concepts of on-boarding, performance management and, training and performance support, section 4 discusses succession planning, compensation and benefits

2.0 Workforce Planning and Recruitment

The whole lot of talent management starts with workforce planning. Workforce Planning is a continual process used to align the needs and priorities of the organisation with those of its workforce to ensure it can meet its legislative, regulatory, service and production requirements and organisational objectives (Sloan, 2010). It enables evidence based workforce development strategies. Workforce planning may be seen as a business process for ensuring that an organisation has suitable access to talent, potential candidates that have the ability to undertake required activities including decisions making, to ensure future business success. Access to talent includes considering all potential resources such as employment, contracting out, partnerships, changing business activities to modify the types of talent required, amongst others.

The cycle of workforce planning includes filling resource requests, analysing resource utilization, forecasting capacity, managing and identifying the resources (human) to fill that capacity, and then restarting the cycle (Rudoff, 2010). Workforce planning involves the following activities as (1) Environment Scan which is a form of business intelligence. In the context of Workforce Planning it is used to identify the set of facts or circumstances that

surround a workforce situation or event.(2) Current Workforce Profile which refers the current state of the profile of the demand and supply factors both internally and externally of the workforce the organisation has today.(3) Future Workforce View which implies determining the organisation's needs considering the emerging trends and issues identified during the Environment Scanning.(4) Analysis and Targeted Future: Once critical elements are identified through quantitative and qualitative analysis, the future targets that are the best fit in terms of business strategy and is achievable given the surrounding factors are determined and (5) Closing the Gaps is the process which is about determining appropriate actions to close the gaps in order to deliver the targeted future. Workforce planning is grounded in its contribution to organisational performance. It provides management with a way to align the workforce with the business plan, and address current and future workforce issues.

2.1 Talent Crunch

The need for talent planning is founded on the prevailing scarcity of the required talent in the labor market especially in developing countries like Nigeria. This I feel has afflicted the banking subsector badly in Nigeria. The problem presently being faced in the job market is not scarcity of jobs but scarcity of talent. It is a problem of unemployability not unemployment. In the past, we had unemployment scenario where applicants had the eligibility, suitability and capability towards jobs but unfortunately there were not enough employment opportunities to accommodate them. With the liberation, privatisation and the attendant globalisation, the industrial climate in Nigeria has substantially changed for better and fortunately there are ample employment opportunities in Nigeria. But the problem currently trending is that of unemployability, where people have eligibility not having suitability and capability despite availability of employment opportunities.

Education Vs Training Vs Development:

Training can be referred to as a planned process to modify attitude, knowledge or skill behavior through a learning experience to achieve effective performance in any activity or range of activities. Its purpose, in the work situation, is to develop the abilities of the individual and to satisfy current and future manpower needs of

the organisation' (Manpower Services Commission (MSC), U.K., 1981: 62); Once a professional has received the basic education and training of a bachelor's degree and begins a career path in the world of work, the knowledge acquired begins to lose currency. To keep up and to advance, it is imperative that professionals engage in some form of continuing education or they will soon find themselves less in demand (Fortino, 2014). Education is a broader concept and it provides all round knowledge, skills, aptitudes etc., Training is the narrow area, functional area and is more or less related to job. We see training as the act of increasing the knowledge and skills of an employee for doing a particular job. On the other hand, development is career oriented which helps in the growth of the individual as well as the institution. Talent crunch occurs if there is no synergy amongst education, training and development. To put it precisely, talent crunch can be addressed if there is synchronization and coordination in the three areas of education, training and development. Research has revealed that 2 out of every 10 of the recruited employees really possess the skills related to job and the rest do not possess but still are being absorbed because of the parochial interests of company chief executives and major stakeholders in the subsector. This can be adduced as the reason that despite the resources spent on training in the banking sector, talent crunch is still apparent.

3. Onboarding and Performance Management

After recruitment and selection exercises have been concluded in staffing process, the next step is to integrate the new employees with the institution in such a proper manner to ensure efficient and effective performance of the assigned schedule of duty. This is the exclusive function of ONBOARDING in the concept of talent management. Onboarding is the process of helping new employees become full contributors to the institution. During onboarding, new employees evolve from institutional outsiders to institutional insiders. The process of onboarding and engaging new employees is important because it helps create connections with the institution which can result in higher productivity, satisfaction, and retention. The first six months on the job are critical, because new employees are forming impressions that will have a lasting impact on whether they stay with the institution. New

employees want to confirm they made the right decision in joining the organization, but often experience anxiety and discomfort when they find things are different from the expected. To address new employees' concerns, we can take steps to help them learn about their job, manager, team and college. This document describes four opportunities for onboarding and engaging employees which include orientation, conversations with new Employees, coaching/mentoring/tutoring and new leader integration. The onboarding process begins when initial contact is made between a prospective new employee and the institution.

3.1 Onboarding Challenges

The Common Onboarding Challenges include Lack of Role Clarity, Challenges with Expectations and Results, Managing Change, Issues of Time Management, Issues with the Manager, Navigating the Culture and Handling Personal Transition and Relocation.

1. *Lack of Role Clarity*

Not having a clear understanding of one's role is a pervasive problem for new employees and can lead to onboarding derailment. When reality hits at about the 30-day mark, the employee may realize that her expectations of her role are conflicting with the role she thought she accepted a month ago. Use these phrases when an employee is struggling with understanding her duties in your organization.

2. *Challenges with Expectations and Results*

Some new employees simply try to take on too much too quickly. Whether it's to impress their managers, their new coworkers or that they thought they were expected to complete an insurmountable amount of work from the get-go, not understanding how much work is expected of her can lead the employee to unnecessary work overload (or the opposite).

3. *Managing Change*

Frequently a new employee, usually someone in a leadership role, is brought into an organisation with the hope that she will evoke and drive "change." But the pressure of following through with the "change" the

employee had promised during the interview process can be stressful and downright difficult. Help the new leader understand how she can follow through with her plans for the organisation.

4. *Issues of Time Management*

A new employee wants her manager, the HR partners and her coworkers to have a favorable impression of her and the way she manages her time. But, the way employee managed time in his/ her previous role may have been different from the way she needs to manage the time in his/her new role. Maybe she is keeping her schedule too full and having to cancel or neglect other activities when something more important comes up.

5. *Issues with the Manager*

When a new employee has problems forming a positive relationship with her manager, onboarding can be seriously affected. As soon as signs of an issue show up, an HR partner or onboarding coach may approach the new employee with these phrases to get to the root of the problem and offer advice to smooth the relationship.

6. *Navigating the Culture*

Similarly to a rocky relationship with his/ her manager, if an employee is showing signs of not fitting into the company culture, don't waste time before approaching the problem. There is no easy-fix to make someone "fit-in", , but acknowledging that a new employee is having issues with the culture and letting him/her know that you are offering assistance will certainly make it an easier transition for her.

In Nigeria, effort to mobilise deposits (marketing) constitutes greater proportion of the banking activities. Target setting in the Nigerian banking sector has made it possible for the employees to abandon the corporate objective for individual achievements of retaining their jobs through meeting the set target. To this extent, an employee adopts any strategy, damming whatever consequence, to achieve the volume of deposit benchmark. This makes the

employee not accountable to the institution, morally, culturally etc, except to the extent the employee achieves the set target. Likewise the bank on its part does not guarantee the retention of the employee beyond the extent to which he/she meets the set target.

For the other vital banking activities such as tellering, security and other ancillary services, the banks contract them out to consultancy firms which have very strong link with the chief executives of the banks. This has very negative implications to the banks as follows:

- The firm collect very huge amount of money from the banks, but only pay peanuts to those directly providing the services in the banks. This leaves them in great need of the basics of life as they are left in terrible working condition. This will force them to resort to all sorts unwholesome practices for economic survival and sustainability.
- The employment of the staff of the consulting firms follows the recruitment policy of the firms rather than that of the banks. This leaves the banks with the high risk of sleeping with their enemies.
- For the fact that their appointment papers don't read the banks of their primary assignments, suggesting that their services no matter how long, shall never be recognized as banking experience, for this reason, the employees feel alienated and thus never committed on the duty post. The employee may never be committed to objectives of the institution they have no stake nor developing their talents and experience that shall never count. To this extent the employees owe their responsibility to their employers rather than the banks they service and as such do not protect the interest of the banks.

All these as identified above may not provide a veritable platform for talent development and

management in Nigerian banks. For the fact that the employees are not sure of their job security they may have no motivation for talent development.

4. Employee Retention and Attrition

In a nutshell, by Kristen R. Price, describes retention rate as the percentage of employees your business has retained during a certain time period. For example, if you started 2012 with 20 employees and ended 2012 with 15 employees, your retention rate would be 75 percent, meaning that you retained three quarters of your workforce. Attrition, however, measures the exact opposite. The attrition rate shows the percentage of employees you lost for one reason or another and did not replace. If you started the year with 20 employees and finished it with 15, your attrition rate would be 25 percent.

In the context of Nigerian bank the concept of target setting makes for high labor turnover in the sector. This makes for low employee retention rate in the industry, which has made talent management challenging in the banking sector. In general terms, reasons for employee retention and attrition are as adduced as bellow:

4.1 Reasons for Employee Retention

Company employee retention rate can tell you many things about the establishment. For instance, a high retention rate usually indicates that your employees are satisfied in their work and that your company is providing competitive compensation and benefit packages to employees. A particularly low retention rate may be a red flag indicating the need for some changes to policies and procedures that affect employees welfare. A good way to determine what your company is doing right is to survey your employees on a yearly basis. Through a survey, you can help identify what particular benefits, policies or procedures are helping to boost your retention rate.

4.2 Reasons for Employee Attrition

Attrition rate in any establishment simply signifies a reduction in workforce for one reason or another. This reduction could be due to retirement, death or resignation. Since the attrition rate is the overall reduction of workforce, it usually does not include situations where a job vacancy is created and then filled. A high attrition rate could be a red flag for your

HR department and indicate the need for policy changes – or it could be a result of dwindling business or product demand. Many companies conduct exit interviews when an employee voluntarily resigns in order to help understand what aspects of the business made it undesirable for employment. Your attrition rate is somewhat different than your turnover rate, because it indicates the overall reduction of workforce and does not account for the positions vacated and then filled with new employees.

5. Succession Planning

The need for succession planning in any organisation, banks inclusive, cannot be over emphasised bearing in mind that no employee stay in a work ever be permanent. In the course of employment, an employee may one day leave the establishment may be in the incidence of death, retirement or resignation. Therefore, if any firm fails to implement successful succession plan, this may create lacuna which may not be able to be filled from within. This results in external advertisement for the vacancy, recruitment and finally training new personnel for the position.

Succession planning is a process for identifying and developing internal people with the potential to fill key business leadership positions in the company. Succession planning increases the availability of experienced and capable employees that are prepared to assume these roles as they become available. Taken narrowly, "replacement planning" for key roles is the heart of succession planning. According to Charan et al (2001), effective succession or talent-pool management concerns itself with building a series of feeder groups up and down the entire leadership pipeline or progression. In contrast, replacement planning is focused narrowly on identifying specific back-up candidates for given senior management positions. For the most part position-driven replacement planning (often referred to as the "truck scenario") is a forecast, which research indicates does not have substantial impact on outcomes.

Fundamental to the succession-management process is an underlying philosophy that argues that top talent in the corporation must be managed for the greater good of the enterprise. Merck and other companies argue that a "talent mindset" must be part of the leadership culture for these practices to be effective.

Succession planning is a process whereby an organisation ensures that employees are recruited and developed to fill each key role within the company. Through your succession planning process, you recruit superior employees, develop their knowledge, skills, and abilities, and prepare them for advancement or promotion into ever more challenging roles. Actively pursuing succession planning ensures that employees are constantly developed to fill each needed role. As your organization expands, loses key employees, provides promotional opportunities, and increases sales, your succession planning guarantees that you have employees on hand ready and waiting to fill new roles.

6. Knowledge Management

While Davenport (1994) sees Knowledge management (KM) as a process of capturing, distributing, and effectively using knowledge, Knowledge management is viewed by Duhon (1998) as a discipline that promotes an integrated approach to identifying, capturing, evaluating, retrieving, and sharing all of an enterprise's information assets. These assets may include databases, documents, policies, procedures, and previously un-captured expertise and experience in individual workers. The above definitions amongst others, are indications that many different disciplines and professions are trying to get a grip of the concept of Knowledge Management (KM) and to this extent, it has been littered with different definitions reflecting the many diverse and varied opinions. Some of the schools of thought on Knowledge Management (KM) may include knowledge economy, knowledge building, intellectual capital, information management, and so on.

Knowledge Management programs are typically tied to organizational objectives such as improved performance, competitive advantage innovation, lessons learnt transfer (for example between projects) and the general development of collaborative practices. Knowledge Management is frequently linked to the idea of the learning organization although neither practice encompasses the other. Knowledge Management may be distinguished from

Organizational Learning by a greater focus on specific knowledge assets and the development and cultivation of the channels through which knowledge flows.

6.1 Dimensions of Knowledge Management

Different frameworks for distinguishing between different 'types' of knowledge exist. One proposed framework for categorizing the dimensions of knowledge distinguishes between tacit knowledge and explicit knowledge. Tacit knowledge represents internalized knowledge that an individual may not be consciously aware of, such as how he or she accomplishes particular tasks. At the opposite end of the spectrum, explicit knowledge represents knowledge that the individual holds consciously in mental focus, in a form that can easily be communicated to others. (Alavi & Leidner 2001). Similarly, Hayes and Walsham (2003) describe content and relational perspectives of

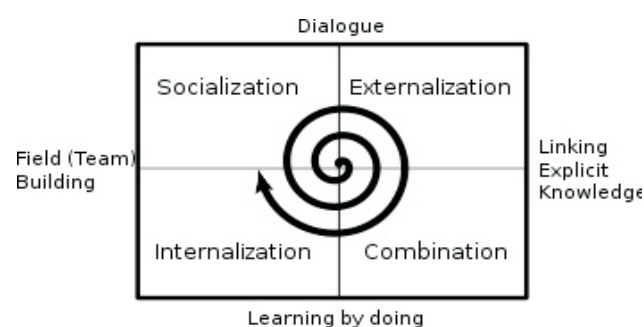


Figure1: The Knowledge Spiral as described by Nonaka & Takeuchi.

knowledge and knowledge management as two fundamentally different epistemological perspectives. The content perspective suggest that knowledge is easily stored because it may be codified, while the relational perspective



recognises the contextual and relational aspects of knowledge which can make knowledge difficult to share outside of the specific location where the knowledge is developed.

Early research suggested that a successful KM effort needs to convert internalized tacit knowledge into explicit knowledge to share it, and the same effort must permit individuals to internalise and make personally meaningful any codified knowledge retrieved from the KM effort. Subsequent research into KM suggested that a distinction between tacit knowledge and explicit knowledge represented an oversimplification and that the notion of explicit knowledge is self-contradictory. Specifically, for knowledge to be made explicit, it must be translated into information (i.e., [symbols outside of our heads](#)) ([Serenko & Bontis 2004](#)).

Later on, Ikujiro Nonaka proposed a model (SECI for Socialisation, Externalization, Combination, Internalisation) which considers a spiraling knowledge process interaction between [explicit knowledge](#) and tacit knowledge ([Nonaka & Takeuchi 1995](#)). In this model, knowledge follows a cycle in which implicit knowledge is 'extracted' to become explicit knowledge, and explicit knowledge is 're-internalised' into implicit knowledge. More recently, together with Georg von Krogh and Sven Voelpel, Nonaka returned to his earlier work in an attempt to move the debate about knowledge conversion forwards ([Nonaka, von Krogh & Voelpel 2006](#)); ([Nonaka, von Krogh & 2009](#)).

7. Conclusion

Financial services organisations around the world face a growing number of challenges with regard to their ability to manage their talent, risks and reward programs. To this extent, this study has used discursive approach to review the concept of talent management in Nigerian banks. The descriptive analysis reveals that the concept the concept of target setting scenario for bank staff, makes for high labor turnover in the sector. Target setting in the Nigerian banking sector has made it possible for the employees to abandon the corporate objective for individual achievements of retaining their jobs through meeting the set target. To this extent, an employee adopts any strategy, damming whatever consequence, to achieve the volume of deposit benchmark.

This makes the employee not accountable to the institution, morally, culturally etc, except to the extent the employee achieves the set target. Likewise the bank on its part does not guarantee the retention of the employee beyond the extent to which he/she meets the set target. For the other vital banking activities such as tellering, security and other ancillary services, the banks contract them out to consultancy firms which have very strong link with the chief executives of the banks and this has very negative implications for the banks. All these make for low employee retention rate in the industry, thus making talent management very challenging in the sector. On the above note, this study recommends that a body such as the Institute of Banking Personnel Selection (IBPS) of India should be set up in Nigeria and charged with the responsibility to develop the regulations and guidelines for recruitment, selection talent management in the Nigerian banking sector. Finally, we suggest that Chartered Institute of Bankers of Nigerian (CIBN) can effectively play this role rather than leaving Hr at the mercy of the parochial interests of individual bank chief executives.

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The Bank Employees, Etc (declaration of Assets) Act: Need for Enforcement

*Dr. Uwem Udok

Abstract

The Bank Employees, etc (Declaration of Assets) Act is a piece of legislation designed to, among others, check the excesses of bank staff in terms of their life style and wealth acquisition. Since its enactment in 1986 by the then Military Government headed by President Ibrahim Babangida up to the present democratic dispensation, there has never been any single prosecution of bank staff by the Police for violation of the provisions of the Act despite glaring cases of violation of the Act by bank staff. Besides, some of the provisions of the Act require amendments to meet the present exigencies. The Act has been mostly kept in the breach and it appears there is no political will by the relevant authorities to enforce the provisions of the Act.

It is therefore intended in this paper to assess the provisions of the Act and make a case for the enforcement of the provision of the Act by the relevant authorities.

1.1 Introduction

IN 1986, the then Military Government headed by President Ibrahim Babangida promulgated the Bank Employees, etc. (Declaration of Assets) Act¹. At that time there was high incidence of economic crimes, more particularly banking frauds and other malpractices,² thus, the need to promulgate the Act to deal with these fraudulent practices at that time. The need also arose from the recognition by government of the magnitude of bank employees' functional role in the implementation of the fiscal and economic policies of government under the Structural Adjustment Programme, especially the introduction at that time of the Second-tier Foreign Exchange Market³.

The philosophy underlying this law is to ensure that bank staff live within their means. Thus, whosoever is found to indulge in a life style or in possession of wealth over and above what may

1. Cap B1 Laws of the Federation of Nigeria. 2004.
2. Goldface-Irokalibe, "Eradication of Banking Malpractice in Nigeria: Will Law Alone Succeed"? In CBN Economic and Financial Review Vol. 33 No.1 March 1995:P.70.
3. Osanakpo, T. C., "A Critical Review of Banking-related Legislation in the Structural Adjustment Era" Ajibola, B. and Awa, U. K. (ed). Banking and Other Financial Malpractices in Nigeria (Lagos and Oxford. Malthouse Press, 1990) P. 35.

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legitimately be ascribed to him should be investigated for possible involvement in fraudulent practices. It is therefore intended here to examine the provisions of the Bank employees, etc. (Declaration of Assets) Act with emphasis on the obligations, offences and penalties provided therein with a view to making suggestions for effective implementation of the Act.

1.2 Obligations under the Act

Every employee of a bank shall, within 14 days of assuming duty with the bank, make a full disclosure of all his assets⁴. A new employee shall, within 14 days of assuming duty with the bank make a full disclosure of all his assets at the time of his assuming duty⁵. The full disclosure of assets required under the above section shall be made in the manner prescribed in the Declaration of Assets Form contained in Form A and the Registrar of a High Court, the Court of Appeal or the Supreme Court shall attest to it after being executed by the person disclosing the same⁶. Thereafter, the form shall be submitted to the Chief Executive of his bank by the employee within the time prescribed in the Act⁷. The Chief Executive shall, within 7 days after the expiration of the time prescribed for submission of the form by the employee, submit the forms to the appropriate authority together with the list of employees compiled in the manner prescribed in Form B⁸.

Under the law a new employee of the bank, within 14 days of assuming duty with the bank, is to make a full disclosure of all his assets in a prescribed form and submit same to the Chief Executive of the bank. The issue is whether a new employee can submit such form to any other officer than the Chief.

Executive in the event that the Chief Executive is either indisposed or not available at the time of assumption of office by the new employee. It is the writer's view that, under such circumstances, a new employee may submit the form to any of his superior officers in the bank or any person authorised by him who will now

forward it to the appropriate authority. There is therefore the need to amend section 3 (1) of the Act to accommodate such situation. It may also be necessary to extend the period within which the new employee is to make full disclosure of all his assets from 14 days to 30 days. This is because a person who has just resumed duty needs time to settle down, especially these days when a person newly recruited may be posted to a very remote place. He may have to look for accommodation to settle down for work. Consequently, he requires sufficient time to be mentally and physically ready to undergo the intricacies and complexities of filing the various forms. In this era of information communication technology, it will not be out of place if a review of the Act is made to accommodate on-line declaration and submission of the various forms. Problem may, however, arise since such declaration shall be executed and attested to before the court. It is submitted that only the section dealing with statutory declaration may be submitted physically. There is further need to amend the schedule to Form A to accommodate more banks, though there is a provision that the person making the declaration should name other banks where he owns an account.

The reference to the Secretary to the Federal Government as the appropriate authority whom the duly completed form is to be submitted to by the Chief Executive calls for comments. Is the Secretary to the Federal Government the proper authority to receive such duly completed forms? It is the writer's view that he is not the proper authority for reasons that will be given subsequently in this work.

There is also a provision for Annual Declaration Form contained in Form C and submitted to the Chief Executive who shall, within seven days of the receipt thereof, submit the duly completed and executed form to the appropriate authority⁹. The Act further provides for the submission of a list of all employees who joined or left the employment of the bank to the appropriate authority. Such list, according to section 4 of the Act, should be submitted twice every year to

4. Section 1 (1) of the Bank Employees, etc. (Declaration of Assets) Act, Cap. B1 L.F.N. 2004.

5. Ibid. Section 1 (2).

6. Ibid. Section 2 (1).

7. Ibid. Section 3 (1).

8. Ibid. Section 3 (2).

9. Section 4 of the Act.

the appropriate authority in the manner prescribed in the Bi-annual Returns of Employee movements contained in Form D¹⁰. Again, the writer does not see the necessity of submitting such list to the Secretary to the Federal Government who is the appropriate authority. The Central Bank of Nigeria (CBN) or the Nigeria Deposit Insurance Corporation (NDIC), in the writer's view, should be the proper authority to have custody of such list since they regulate the activities of all banks in the country. The CBN or NDIC may, on request, forward such list to the Secretary to the Federal Government.

The Secretary to the Federal Government is charged with the responsibility of initiating a thorough investigation into the activities of the bank¹¹. Again, the question is whether he is the proper person to undertake such responsibility in the face of the current fight against bank malpractices in the country. This issue will be examined subsequently in the course of this work.

Furthermore, the full declaration to be made by the bank employee should be executed before and attested to by the Registrar of a High Court or the Court of Appeal or the Supreme Court. It is suggested that the use of notaries public should be provided for to avoid further congestion in those courts.

The number of Forms to be filled (Forms A – D) and the frequency of declaration and filing of the forms call for comments. Indeed, the number of bank staff has increased tremendously over the years, including the number of branches of the banks. It may be practically difficult to embark on such exercise now. At the time the Act was promulgated, there were few bank staff and their branches.

1.3 Offences and Punishments

The following offences and punishments are

created by the Act.

(i) *Unjust Enrichment*

It is an offence for a bank employee to own assets in excess of his legitimate known and provable income and assets¹². On conviction he shall be liable to 10 years' imprisonment and shall, in addition, forfeit the excess assets or its equivalent in money to the Federal Government¹³. For the purpose of computation of assets, or in determining the assets of an employee, any gift, bequest, donation or fraudulent, fictitious or artificial transaction made by the employee during the relevant period shall be treated as forming part of this asset¹⁴.

The employee's income and assets shall include salaries, allowances, returns on investment, gifts, donation and bequest received by him¹⁵. It is common knowledge that criminals, crooks and several other individuals of shady character are wearing silk ties, Italian suits and shoes, driving expensive cars, living in mansions and parading themselves as bankers¹⁶.

Against this background, the law is necessary to be able to determine the legitimate earnings of a bank official and thereby place an onus on him to establish how he came about any excess income that cannot be accounted for from his legitimate sources. It does appear easy to determine the income of bank staff since banks normally require their employees to open an account in the bank where they are employed¹⁷. But there are obvious cases where bank staff, in addition to opening an account in the bank where they are Employed, also open and maintain accounts in several other banks where substantial parts of their income are kept away from the eagle eye of their

10. Ibid. Section 5.

11. Ibid. Section 6.

12. Section 7(1) of the Act.

13. Ibid. Section 7(2).

14. Ibid. Section 7(4).

15. Ibid. Section 7(5).

16. Nwaze, C. Bank Fraud Exposed with Cases and Preventive Measures (Lagos: Control and Surveillance Ltd. 2006). P. 45.

17. Eze, O. "Asset Declaration by Bankers' An effective check against Criminally". Ajibola B and Awa, U. K. (eds). Banks and other Financial Malpractices in Nigeria, (Lagos and Oxford: Malthouse Press. 1990). P. 100.

employers. Obviously, section 7 of the Act appears not to cover this situation. Section 7(5) provides that the income and assets of an employee shall include salaries, allowances, returns on investment, etc.

The issue therefore is whether, in determining the legitimate income of the employee, the investigation can be extended to cover other accounts opened by the employee in other banks other than the bank where the person is employed. This question is relevant because, in these days of electronic transfer of funds, a bank staff can always transfer money in his account to another account held by him in another bank. It becomes difficult to rely on the proceeds in the account held by him in the bank where he is working for the purpose of determining his legitimate income.

In addition, bank employees nowadays buy shares of banks other than the banks where they are working, returns on those investments in the form of dividends are usually paid into these other accounts held by them in other banks so as not to attract suspicion from their employers.

Furthermore, there is need to make a distinction between assets owned by bank staff before being employed in the bank and the assets owned by him during the period of his employment with the bank. Therefore, in determining the assets of the employee, assets owned by the employee before being employed should not form part of the assets to be verified in determining his entire assets. Under Section 287(2) of CAMA,¹⁸ a director (including a bank director) shall not accept bribe, gift or commission either in cash or kind from any person or a share in the profit of that person in respect of any transaction involving his company in order to introduce his company to a deal with such a person. However, still under the section, a director is allowed such gift where it was unsolicited as a sign of

gratitude provided he declares it before the board and also that it appears in the minute book.

Therefore, it is the writer's view that in determining the assets and income of the bank employee such gift of the director where it is proven to have been given without solicitation should not form part of the assets of the employee in the course of investigation of the assets and activities of the employee so far as he has disclosed the same to the relevant authority.

Furthermore, there is need to amend section 7(2) of the Act to make provision for an option of fine, in addition to forfeiture of the excess assets. No doubt, the Act was promulgated by the military regime which is undemocratic and dictatorial in nature. Almost all or most of the laws passed by the National Assembly in this present dispensation which are intended to curb financial malpractices make provisions for option of fine as part of the punishment for offences created therein¹⁹. It does not augur well in our criminal justice system to impose penalties or punishments that are difficult to enforce. The above punishment appears to be over-excessive and therefore enforcement may be difficult. The cost/benefit effect of the punishment on the offender should be seriously taken into consideration. In this respect, consideration should be given to the imposition of fines which could be a multiplier of the amount involved in the malpractice with a guaranteed minimum. Thus, a potential criminal will undertake a cost/benefit analysis of his proposed action in the event of being caught.

(ii) Asset Declaration-Related Offences

In relation to assets declaration, it is an offence for any bank employee to knowingly fail to make full disclosure of his assets and liabilities as required under that Act²⁰, knowingly makes a declaration that is false, knowing same to be false in part or in whole²¹; or fails to answer any

18. Cap C20 L.F.N 2004

19. Cap C20 L.F.N. 2004

20. See Economic and Financial Crimes (Establishment) Act Commission, Money Laundering (Prohibition) Act 2004 and Advance Fee Fraud and Other Related Fraud Offences Act, 2006.

21. Cap C20 L.F.N. 2004

question contained in the assets declaration²² or finish; or fails, neglects or refuses to make a declaration or furnish information as required by the provision of the Act²³. Any bank employee who commits an offence under this Act shall be liable on conviction to imprisonment for a term of ten years. In addition where it is found that the assets were not disclosed, such assets shall be forfeited to the Federal Government²⁴.

The issue is whether a bank employee in a financial institution where the Federal or State Government has controlling interest is precluded from declaring his asset under section 8 of the Act, but rather can make such declaration under the Fifth Schedule, Part 1, par.2 of the 1999 Constitution (as amended). Under the latter provision, every public officer shall, within 3 months after the coming into force of this Code of Conduct every four years and at the end of his term of office, submit to the Code of Conduct Bureau a written declaration of all his properties, assets and liabilities and those of his unnamed child under the age of 18 years.

A public officer means a person holding any of the offices specified in part 2 of this schedule²⁵. Under Part 2 of the Fifth Schedule, Paragraph 14 of the 1999 Constitution (as amended), a public officer includes chairman and members of boards or other governing bodies and staff of statutory corporations and of companies in which the Federal or a State Governments has controlling interest.

Before the consolidation exercise, some of the banks were owned by State Governments. At present, there are still financial situations where the Federal Government has controlling interest²⁶. It is therefore the writer's view that bank employees of these government-owned financial institutions are public officers

within the meaning of Par. 19, Part 1 Fifth Schedule of the 1999 Constitution (as amended) and therefore are precluded from declaring their assets under the Bank Employees, etc (Declaration of Assets) Act but under the Code of Conduct of public officers. These financial institutions are Federal Government parastatals and are under various ministries of the Federal Government. They receive subventions from the Federal Government and their directors are government appointees. Under section 14 of the Act, a bank includes the CBN, commercial banks, merchants banks, acceptance houses, discount houses, financial institutions or any other authorised dealer appointed under the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act. It follows therefore that apart from the CBN in which the Federal Government has controlling interest, employees of other financial institutions in which the Federal or State Government has controlling interest are not covered by the provisions of the Bank Employees, etc (Declaration of Assets) Act.

It may be argued that since section 14 of the Act defines employee of a bank to include any other category of workers of the Central Bank, a bank or other financial institution of whatever title or designation; (emphasis mine) then, employees of financial institutions owned by government are covered. It is the writer's view that this will be inconsistent with the provisions of the constitution. This is because employees of these financial institutions are public officers within the meaning of Part 2, Fifth Schedule, Par. 14 of the 1999 Constitution (as amended). It is further submitted that even the inclusion of employees of the CBN is against the provision of the constitution since they are public officers.

It is trite law that the constitution is

22. See Economic and Financial Crimes (Establishment) Act Commission, Money Laundering (Prohibition) Act 2004 and Advance Fee Fraud and Other Related Fraud Offences Act, 2006.

23. Section 8 (1) of the Act.

24. Ibid. Section 8 (I) b

25. Ibid. Section 8 (I) c

26. Ibid. Section 8 (I) d

supreme. Any law that is inconsistent with its provisions is null and void and of no effect. However, section 12 of the Act empowers the president by way of instrument to direct that the provisions of this Act be applied to any other person, class of persons, institution, bodies either in private or public sector of the economy. It is the writer's view that this amounts to delegated legislation which is subject to both judicial and legislative control. Furthermore, workers in the public sector of the economy are covered under the provision of the Code of Conduct for public officers under the 1999 constitution (as amended). It is submitted that such subsidiary legislation may be inconsistent with the provisions of the constitution and therefore null and void. It is therefore recommended that sections 12 & 14 of the Act is inconsistent with the provisions of the Fifth Schedule, Part 1 & Par.2 of the 1999 Constitution (as amended). Under section 3 of the 1999 Constitution (as amended), if any other law is inconsistent with the provisions of this constitution, the constitution shall prevail and that other law shall to the extent of the inconsistency, be void²⁷. It is therefore recommended that section 14 of the Act be amended to exclude employees of financial institutions in which the Federal Government has controlling interest, including the CBN.

Furthermore, it is the writer's view that the term, "knowingly" in section 8(i) (a) of the Act should cover actual knowledge on the part of the bank employee, deliberately, shutting one's eye to the obvious or refraining to make enquiries, the result of which he might not care to have²⁸.

(iii) Offences Relating of Fronting

Fronting is yet another offence created by the Act. Any person who acts as a front for an employee of a bank or does or omits to

do anything, or acts in a manner likely to defeat the objects of the Act commits an offence²⁹.

Furthermore, it is an offence for any one to unlawfully acquire, dispose, operate, own or retain any assets for or on behalf of any employee of a bank³⁰. On conviction he shall be liable to imprisonment for 7 years and in addition made to forfeit the assets to the Federal Government³¹.

It is common knowledge that bank staff are known to have purchased expensive cars, built mansions and owned lands. In respect of the cars, such bank staff don't usually drive them. These assets are given out to their friends or relatives to keep for them in their homes so as not to attract suspicion from their employers.

Some of them also build mansions and own lands with title documents some of which do not bear their names but the names of their friends or relatives'.

Some years back the Group Managing Director and Chief Executive of Wema Bank was suspended by the CBN for collecting N450 million housing grant without approval from the Apex Bank³².

A person acts as a front if: (a) he accepts a gift, donation or bequest from an employee of a bank on the understanding or in circumstances in which it could be inferred that such a gift, donation or bequest was intended to be held on behalf of, or in trust for, or the use of the employee, his spouse, children, parents, relatives, associates or privies, or (b) he knowingly enters into a fraudulent, fictitious or artificial transaction with the employee³³.

There is no problem with the second leg of the section. But the first leg appears to raise some issues for consideration.

27. Ibid. Section 9 (I) d & (2)

28. A. G. Federation V Abubakar (2007) 8 NWLR pt 103 5 AT Pp. 143-144

29. City Council V Crayal Grauge (1986) 2 All ER 353

30. Section 9(1) A of the Act

31. Ibid. Section 9(1) b

32. The Guardian, Tuesday Jan. 29, 2008 p.47

33. Section 9(3) a & b of the Act.

Supposing a person accepts a gift, donation or bequest which was unlawfully procured in circumstances that constitute an offence under this act. Will the person be liable under the above section? The submission here is that it must be established that the person knowingly accepts the gift, donation or bequest from the employee of a bank, the same having been unlawfully procured with the intention to have custody of it on behalf of the employee. The phrase “in circumstances in which it could be inferred” appears to be a subjective one as anyone could draw such inference even when the facts are otherwise.

It is suggested that section 9 (3) of the Act should be amended to include the word “knowingly” to read if “he knowingly”. In that case, the phrase “in circumstances in which it could be inferred” may become irrelevant and therefore deleted from the section.

(iv) Offences Relating to Importation and Exportation of Goods and Services

It is an offence for any person to forge, falsify or alter any banking, customs or

shipping documents, including but not limited to letters of credit, whether confirmed or unconfirmed, bill of lading and invoices relating to the importation or exportation of goods, product or any article whatsoever³⁴. The punishment imposed on conviction of any person under this section is imprisonment for 10 years and any assets found to have been illegitimately acquired shall be forfeited to the Federal Government³⁵.

Forgery is defined in section 365 of the criminal code³⁶. A person who makes a false document or writing knowing it to be false with intent that it may in any way be used or acted upon as genuine to the prejudice of any person, or with intent that any person may in the belief that it is genuine, be induced to do or refrain from doing any act, is said to forge the document or writing. The above definition has been held by the Supreme Court to be different from the English situation as it includes not only a document which tells a lie but also one which tells a lie about itself and that it further includes documents made with intent to defraud³⁷.

The elements of forgery are:

- (1) That there is a document in writing;
- (2) That the document or writing is forged;
- (3) That the forgery is by the accused person;
- (4) That the accused person knows that the document or writing is false;
- (5) That the accused intends that the forged document be acted upon to the prejudice of the victim in the belief that it is genuine³⁸.

The necessity of Section 10 of the Act is called to question. The offence of forgery is already contained in the Criminal Code and punishment provided therein. A person who forges a bill of lading or letter of credit or bill of exchange or cheque can be prosecuted under the Criminal Code, except that, on conviction, he may be sentenced to a term of a year lower than the one provided under Section 10 of the Act. In

“ A person who makes a false document or writing knowing it to be false with intent that it may in any way be used or acted upon as genuine to the prejudice of any person, or with intent that any person may in the belief that it is genuine, be induced to do or refrain from doing any act, is said to forge the document or writing. ”

34. Section 10 (1) & (2) of the Act

35. Ibid.

36. Cap C 38, LFN 2004

37. Federal Republic of Nigeria Vs Ikpe (2006) 2 EFCLR P. 1 at pp. 75-76 Par. 45-15

38. Ibid. P.76 Paras 20-35. See also Alake vs State (1991) 7 NWLR (Pt. 205) 567

Bank of America National Trust and Savings Nigeria Travel Agencies³⁹ involving the forgery of a bill of exchange, the court stated thus:

“In our view, the cheques were false documents within the meaning of section 454(b) of the Criminal Code... as the action of Cockram, in passing the cheques to the Bank of America and using them to obtain travellers' cheques for himself, clearly showed his intent that they should be acted upon as genuine.”

It is the writer's view that Section 10 of the Act amounts to duplication of statutory provisions and, accordingly, it is superfluous and should be expunged from the provision of the Bank Employees, etc (Declaration of Assets) Act. However, if it is to be retained, the absence of fine as a punishment option should be reviewed so that fines could be applicable in certain circumstances.

Other provisions of the Bank Employees, etc (Declaration of Assets) Act that may require amendments include Section 14 of the Act. This Section gives a limited interpretation of the meaning of bank. Under the said section a bank includes the Central Bank of Nigeria, commercial banks, merchant banks, acceptance houses, discount houses, financial institutions or any other authorised dealer appointed under the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act. Going by this definition, employees of some banks like microfinance banks may be excluded. It cannot be said that employees of these omitted banks cannot indulge in banking malpractice. Section 14 should therefore be amended to reflect these new banks.

Indeed, the Bank Employees, etc (Declaration of Assets) Act is a fine legislation intended to check cases of unjust enrichment and excess acquisition of wealth through illegitimate sources by bank employees. In the course of the research carried out by the writer, there is not a single case of prosecution of any bank staff by the Police. The Act has been kept mostly in the breach.

Goldface has argued that two interpretations

may suffice for this non-prosecution by the Police⁴⁰. According to him, it may be that the law is faithfully obeyed by the bank employees and secondly that the Secretary to the Federal Government, as the appropriate authority charged with the responsibility of investigating or initiating investigation of declaration of asset under the Act, as well as checking the commission of any act prejudicial to the Foreign Exchange market under the Act, has failed to discharge his statutory functions. The writer is unable to agree with the learned author on the first point in view of the fact that there is abundant evidence to show that bank employees in Nigeria indulge in malpractices that result in dishonest enrichment of themselves or others such as their relatives, associates and privies⁴¹. Therefore, it cannot be said that the law is faithfully obeyed by them. The problem lies in the political will by the relevant authority to prosecute bank employees or their agents for unjustly enriching themselves.

On the second point, the writer agrees with the learned author in that the Secretary to the Federal Government who is the appropriate authority for initiating investigation and monitor the activities of the bank employees, has not lived up to his statutory responsibility. It may be that the Secretary is already fully engaged in other state appointments or duties and may hardly have time to investigate and monitor the activities of the bank employees. The issue, therefore, is who should step into the shoes of the Secretary to the Federal Government as the “appropriate authority” to initiate investigation and monitor the activities of the bank employees.

Indeed, the philosophy underlying the Act is to ensure that bank staff live within their means. Thus, whosoever is found to indulge in a life style or in possession of wealth over and above what may legitimately be ascribed to him should be investigated for possible involvement in malpractices. Therefore, it means the Act is intended to check embezzlement, corrupt enrichment and misappropriation by bank staff as well as malpractices involving forgery of bank, custom and other shipping documents. If

39. (1967 – 1975) 2 NBLR P. 57.

40. Eradication of Banking Malpractices in Nigeria: Will law alone succeed? Op. cit at 76

41. See NDIC Annual Report for 2007



the above is the correct position, it is therefore submitted that the aforesaid malpractices fall within the meaning of Economic and Financial Crime. Economic and Financial Crime is defined in Section 46 of the EFCC Act⁴² to include, inter alia, any form of fraud, embezzlement and any form of corrupt practices. The above definition was adopted by the Court in the case of *Federal Republic of Nigeria v Ikpe*⁴³ where the Court stated as follows:

...defines "economic and financial crimes as meaning the non-violent criminal and illicit activity committed with the objectives of earning wealth illegally either individually or in a group or organised manner thereby violating existing legislation and includes any form of fraud, narcotic drug trafficking money laundering embezzlement and...any form of corrupt practices.

Thus, a bank employee who forges any bank, shipping and custom documents or corruptly enriches himself by owning assets in excess of his legitimate known and provable income will definitely commit a fraudulent act which comes under the ambit of economic and financial crime. To make the Economic and Financial Crimes Commission (EFCC) as the appropriate authority to initiate investigation into the activities of the bank employees with a view to finding out or ascertaining whether they have violated the provisions of the Bank Employees, etc (Declaration of Assets) Act, will further necessitate the amendment of Section 7 (2) of the EFCC Act, 2004 to include the provisions of

the Bank Employees, etc (Declaration of Assets) Act.

The direct implication of the amendments to grant powers of enforcement of financial crimes in Section 46 of the EFCC Act, 2004 to the EFCC, and by definition of Financial Crime in the said section, is that it includes any form of fraud⁴⁴. Already, the EFCC is the main organ or agency of government that enforces the provisions of the Advance Fee Fraud and Other Related Offences Act, the Failed

Banks (Recovery of Debts) and Financial Malpractices Act, the Money-Laundering (Prohibition) Act, the Banks and Other Financial Institutions Act, and the Miscellaneous Offences Act.

1.4 Application of the Act to Other Persons

The Bank Employees, etc (Declaration of Assets) Act was promulgated during the era of Structural Adjustment Programme (SAP) when the then Second-Tier Foreign Exchange Degree was in Operation. There was therefore the need to extend its operations to other classes of persons like customs and excise employees and any persons connected with foreign exchange transactions at that time. With the repeal of the Second-Tier Foreign Exchange Market Decree and the non-existence of the Second-Tier Foreign Exchange Market, it is submitted that the application of the provisions of this Act to these other classes of persons who have no connection with banking operations should be dispensed with and the Act should be made to apply exclusively to bank employees.

1.5 Problem of Burden of Proof

Our criminal justice system, which is predicated on the common law system or tradition, recognises the doctrine of presumption of innocence. This means that an accused person is presumed innocent until his guilt is proven beyond all reasonable doubt by the prosecution.⁴⁵

This doctrine finds its root in the Privy Council's decision in *Woollmington V DPP*⁴⁶. The court in

42. 2004

43. (2006) 2 E.F.C.L.R.P.I at P. 57. Par.5-20.

44. See *Federal Republic of Nigeria v Ikpe* [Supra]

45. Section 36(5) of the 1999 Constitution (as amended) see also Section 45 of the Evidence Act 2011.

46. (1955) Act 462

that case held that it is not the duty of the accused to prove the defence of accident in a criminal case. The Privy Council said

“While the prosecution must prove the guilt of the prisoner, there is no burden on the prisoner to prove his innocence and it is sufficient for him to raise a doubt as to his guilt.

The need to safeguard the accused person from being oppressed by the prosecuting machinery is the underlying factor in the presumption of innocence. Most of the offences contained in the penal provisions against bank malpractices still place a heavy burden of proof on the



prosecution. This is in consonance with the common law tradition and the need to comply with the provisions of the Evidence Act and the constitution. But financial malpractices and frauds have been shown to create special and demonstrable complex problem of proof. It has been submitted with respect that it is time that the burden of proof in fraud and financial malpractices is placed on those accused on these offences.⁴⁷

Under the Bank Employees, etc (Declaration of Assets) Act it is an offence for an employee of a bank to own assets in excess of his legitimate known or provable income and assets. Thus, an employee faced with a charge of owning assets

in excess of his known or provable income must have to prove the acquisition of those assets by other lawful means. All what the prosecution needs to do is to adduce facts to show that the accused owns assets in excess of his known and provable income⁴⁸. It is then left to the accused to adduce evidence to rebut the presumption. But this means the burden of proving an actual malpractice or fraud by the prosecution in order to establish an offence against a bank employee who clearly has unjustly enriched himself has been removed.⁴⁹ This appears to shift the burden of proof to the accused person. Is this not an infringement of the constitutional rule of presumption of innocence as well as violation of the rule of evidence?

However, the constitutional provision on the presumption of innocence to some extent, recognises the validity of placing the burden of proof of certain facts on the accused⁵⁰. To some extent, this attitude has been adopted in the provision of the Bank Employees, etc (Declaration of Assets) Act⁵¹.

In conclusion, no doubt the Bank Employees etc (Declaration of Assets) Act is a fine piece of legislation with underlying intention to rid the banking industry on corrupt and unjust enrichment. Long jail terms ranging from seven years to 10 years are prescribed for convicts and orders to forfeiture of assets illegitimately acquired are provided to deter real and potential fraudsters from engaging in such futile ventures.

However, the efficacy of this Act will depend largely on the relevant authorities involved in its implementation. This therefore calls for the political will on the part of the relevant agency to ensure that cases involving corrupt enrichment and undeclaration of assets by bank employees are investigated and prosecuted where there is convincing or abundant evidence to warrant prosecution.

47. Osibanjo, Y. “Some problems of proof in Bank frauds and other financial malpractices” Ajibola B. and Awa, U. K. (eds) Banking and other Financial malpractices in Nigeria (Lagos and Oxford, Mallhouse Press, 1990) at P.127

48. Ibid at P.128

49. Ibid.

50. Section 36 (5) of the 1999 Constitution (as amended)

51. See Section 1,2,4 & 7

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The Role of Customer Due Diligence in Combating Financial Crimes and Terrorism in Nigerian Banks

Mike Ihezuo*

Abstract

Crime is universal and is as old as man. It is dynamic and self-reinventing; of particular concern in the crime world is financial crime. It poses one of the greatest challenges to businesses, especially financial institutions globally today. It seems, perhaps that the greatest incentive to crimes is the desire to make more financial gain. Although it may be difficult to quantify how much is being lost to financial crimes globally, it is generally believed to be in billions of dollars. Globalisation or advancement in technology has opened up many possibilities for criminals to carry out financial crimes in new ways, thereby complicating the dimensions of financial crimes. Besides taking advantage of technology, weak controls in the financial system and minimal enforcement activity for financial crimes allow criminals to exploit the global financial system. The collaborative effort (et working or alliance) among criminals also aids the perpetration of the crime. In light of the above, efforts to curb financial crimes must be holistic. This paper, however, concentrates on the Role of Customer Due Diligence in combating such crimes.

1.0 Introduction

Section 6 of the CBN (Reviewed) Prudential Guidelines of 1st May, 2010 looked at the Know Your Customer [KYC] principle. But before getting fully into that; let us consider this paper from the following sub-topics:

- What is crime?
- What is due diligence?
- What is a financial crime?
- What is corruption?
- Why financial crimes?
- Who are customers?
- What are avenues for combating financial crimes?

Crime

Merraim-Webster Dictionary and Thesaurus separately define crime as, “an act or the commission of an act that is forbidden; or the omission of a duty that is commanded by a public law, and that makes the offender liable to punishment by that law; especially a gross violation of law.” Crime is a grave offence, especially against morality.

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Due Diligence

The same authorities cited above define due diligence as the care that a reasonable person exercises under normal circumstances to avoid harm to other persons or their property.

Financial Crime

Section 46 of the EFCC Act defines Economic and Financial Crime as “non-violent criminal and illicit activity committed with the objective of earning wealth illegally either individually or in a group or in an organised manner, thereby violating existing legislation governing the economic activities of government and its administration...”

Corruption

According to Section 2 of the Corrupt Practices and Other Related Offences Act, corruption includes bribery, fraud and other related offences.”

2.0 Offences that Constitute Financial Crimes

It is generally accepted and agreed that financial crime is a non-violent offence committed by or against an individual or corporation which results in a financial loss. It is a planned illegal or unethical act of deception committed, usually in the course of legitimate occupational activity by persons of high or respectable social status, for personal or organisational gain, which violates accepted accounting practices/fiduciary responsibility or public trust. The hallmarks of financial crimes are conspiracy, deception and concealment. These make financial crimes sophisticated (hard to detect) and complex (hard to prosecute and convict the offender).

The goal of financial criminals is usually to achieve personal financial gain. Specifically, the following are some financial crimes typically committed against banks and financial institutions which directly and indirectly impact the society:

Money Laundering - Money that is made through illegal activities needs to be placed into the banking system so that it can be integrated into the economy and be made legitimate. Criminals have developed an endless array of schemes in the process of converting ill-gotten wealth from “dirty” to “clean” funds, and the banks are always used as conduit. The major risk to a bank is in the potential for complicity

and violation of Money Laundering Prohibition requirements.

Counterfeiting - Counterfeiting can either mean wholly fabricating a cheque or simply duplicating a cheque using advanced technology.

Forgery - For a business, forgery typically takes place when an employee issues a cheque without proper authorisation. Criminals will also steal a cheque leaf, endorse it and present for payment at the bank, probably using bogus personal identification. If this sails through and the criminal escapes, the bank incurs losses.

Stolen Cheques - One way to attack another person's current account is to steal the person's cheque. Sometimes a few stolen cheques are used as the basis for counterfeiting. Without appropriate detection methods, stolen cheques often go undiscovered until the account holder detects the activity in an end-of-month statement.

Kiting - This type of cheque fraud uses a combination of the time between a cheque deposit and its presentment to the paying bank and the willingness of the receiving bank to advance funds against the uncollected balance. In many kiting schemes several accounts at different banks are carefully manipulated to make it appear that the behaviour of the account is predictable and low risk thereby enticing the bank into advancing withdrawals against uncollected fund. Since many honest business accounts operate on overdrawn account balances, it is often difficult to detect the true kiting scheme. Left to run undetected, kiting can result in major losses to the bank.

Paperhanging - This problem primarily has to do with people purposely writing cheques on closed accounts (their own or others'), as well as reordering cheques on closed accounts (their own or others').

Embezzlement - Anyone with ready access to financial accounts has the potential of conducting embezzlement. Accounts within the bank, or accounts of bank customers may be attacked. The methods used for embezzlement are very diverse and may include forgery, stolen cheques, counterfeiting, misuse of debit/credit/ATM cards, wire transfers and

many other schemes.

Others - Other forms of financial crime are: identity theft; mail fraud; bankruptcy fraud; wire fraud; advance fee schemes; computer fraud; health care and insurance fraud; pension and trust fund fraud; securities and investment fraud (including commodities); cellular phone fraud; antitrust fraud; telemarketing fraud, etc. We will dwell more on Money Laundering later.

- Annexure 9 gives Examples of Suspicious Transactions.
- Annexure 9 gives Characteristics of Financial Transactions that may be a cause for increased scrutiny.

3.0 Effects of Financial Crimes

Doubtless, financial crimes have a hydra-headed significant impact on economies with relatively small or fragile financial system that are particularly susceptible to disruption as a result of criminal activities.

i. On Economy

Financial crimes are detrimental in a number of ways. They:

- increase the profitability of crime,
- damage critical financial sector institutions, and
- scare away foreign investors.

ii. On Banks

- Banking institutions in particular are vulnerable to the adverse consequences of financial crimes. Financial crimes expose financial institutions to:
- reputational,
- regulatory,
- compliance, and
- financial risks.

iii. On Customers the Public

In fact, once financial crime is uncovered in a bank (especially large-scale), it;

- can erode public confidence,
- undermine investor trust and hence the bank's stability, and
- can equally affect the bank's business relationship with other banks.

Bank Roles in Financial Crimes

Banks can be involved in financial crimes in three categories:

- As a victim – category 1,
- As a perpetrator – category 2,
- As an instrumentality – category 3.

Under the first category, banks can be subject or victims to the different forms of financial crimes earlier enumerated.

Under category two (less common), banks can commit different types of fraud on others, including misappropriation of clients' funds, while

Under the third category, banks are used to keep or transfer funds that are themselves proceeds or profits of crime either wittingly or unwittingly.

4.0 Fighting Financial Crime?

Financial crimes may be traceable to some of the enumerated aspects of corruption, e.g. embezzlement, theft from public funds, abuse of discretion and abuse of public power for extortion. Usually, huge amounts stolen from these sources, which cannot be legitimately explained as earnings, are siphoned and hidden across the borders to foreign banks regarded as safe haven. The correct term for moving money in this manner is money laundering. In other words, money laundering is defined as “the conversion of criminally obtained money into apparently lawfully obtained money by recycling the tainted money through banks and other legitimate financial institutions” (NEPAD, 2003).

Fighting financial crimes is not an optional action, given the grave implications of these crimes on the banking sector. The fight against financial crime is vital to the stability of both domestic and international financial systems. It is a fight that calls for unwavering commitment and constant re-assessment of threats and counter-measures in order to stay one step ahead of the criminals. It is like the fight against fake products or forgery of documents. In the light of the fact that financial crime is dynamic, sophisticated and complex, the criminals are increasingly going into alliances; financial players within the Nigerian financial system must be creative and up to date as well as make concerted efforts to put in place appropriate measures to close all the loopholes which financial criminals have taken advantage of.

Also, to counter financial crimes, operators in the banking sector must engage in partnership or strategic alliances with regulatory and law enforcement agencies for effective result.

This is what the CBN came strongly with in its Reviewed Prudential Guidelines (RPG) of May 1, 2010.

Besides the foregoing, banks have specific roles to play to effectively contain financial crimes within their system and respective domains. But let us consider the role of Customer Due Diligence.

5.0 Customer Due Diligence

RPG stipulates the following in the respective sections;

5.1 Know Your Customer (KYC)

All banks shall be required to comply with the principles and procedures of Know Your Customer and relevant circulars as issued by the CBN ...

5.2 Anti-Money Laundering Measures:

All banks shall be required to comply with the Anti-Money Laundering [AML] Act 2004 and relevant circulars as issued by the CBN ...

5.3 Customer and AML

A customer, for the purpose of the stipulated policy, is defined as:

- a person or an entity that maintains an account and/or has a business relationship with the bank;
- one on whose behalf the account is maintained (i.e. the beneficial owner);
- A beneficiary of a transaction conducted by a professional intermediary, such as a stockbrokers, chartered accountant, solicitors, etc., as permitted under the law; and
- any person or entity connected with a financial transaction.

The “offence of money laundering” has been defined as:

“Whosoever directly or indirectly attempts to indulge in, or knowingly assists or knowingly is a party to, or is actually involved in, any process or activity connected with the proceeds of crime and projecting it as untainted property, shall be guilty of the offence of money laundering.”

Money launderers use the banking system for cleansing 'dirty money' obtained from criminal activities with the objective of hiding/disguising its source. The process of money laundering involves creating a web of financial transactions

so as to hide the origin and true nature of these funds.

For the purpose of this paper, the term 'money laundering' would also cover financial transactions where the end use of funds goes for terrorism financing irrespective of the source of the funds.

5.4 Key Elements of the KYC Policy

The KYC Policy of the bank has the following key elements:

- Customer Acceptance Policy [CAP]
- Customer Identification Procedures [CIP]
- Monitoring and Reporting of Transactions [MoT] and
- Risk Management [RM].

The CBN normally issues from time to time, the detailed operating guidelines separately which should be referred to for effective implementation of the policy, but what the RPG does is to give a policy direction. Lets move further ... let's take CAP ...

5.5 Customer Acceptance Policy (CAP)

Bank's CAP lays down the criteria for acceptance of customers. The guidelines in respect of customer relationship in the bank broadly are:

- No account is to be opened in anonymous or fictitious name(s) / entity (ies)
- Accept customers only after verifying their identity, as laid down in Customer Identification Procedures (discussed later).
- Classify customers into various risk categories and, based on risk perception, apply the acceptance criteria for each category of customers. Also, a profile of each customer will be prepared based on risk categorisation.
- Documentation requirements and other information to be collected, as per PMLA and CBN guidelines/instructions, to be complied with.
- Not to open an account or close an existing account (except as provided in Account Closure Policy), where identity of the account holder cannot be verified and/or documents/information required could not be obtained/confirmed due to non-cooperation of the customer.
- Identity of a new customer to be checked so as to ensure that it does not match that of any person with known criminal

background or banned entities such as individual terrorists or terrorist organisations, etc.

- Implementation of CAP should not become too restrictive and result in denial of banking services to the general public, especially those who are financially or socially disadvantaged.
- The decision to open an account for a Politically Exposed Person (PEP) should be taken at a senior level.

5.4 Customer Identification Procedures (CIP)

Customer identification requires identifying the customer and verifying his/her identity by using reliable, independent source documents, data or information.

Thus, the first requirement of CIP is to be satisfied that a prospective customer is actually who he/she claims to be.

The second requirement of CIP is to ensure that sufficient information is obtained on the identity and the purpose of the intended nature of the banking relationship. This would enable risk profiling of the customer and also help to determine the expected or predictable pattern of transactions.

Identification data, as under, would be required to be obtained in respect of different classes of customers:

1. For customers that are natural persons:
 - a. Address/location details, and
 - b. Recent photograph.
2. For customers that are legal persons:
 - a. Legal status of the legal person/entity through proper and relevant documents;
 - b. Verification that any person purporting to act on behalf of the legal person/entity is so authorised and the identity of that person is established and verified;
 - c. Ownership and control structure of the customer and the natural persons who ultimately control the legal person.

Wherever applicable, information on the nature of business activity, location, mode of payments, volume of turnover, social and financial status, etc., will be collected for completing the profile of the customer.

Customers will be classified into three risk categories, namely High, Medium and Low, based on the risk perception. The risk categorisation will be reviewed periodically.

The Customer Identification Procedures are to be carried out at the following stages:

- While establishing a banking relationship;
- When the bank feels it is necessary to obtain additional information from the existing customers based on the conduct or behaviour of the account;
- Customer identification data (including photograph/s) should be periodically updated after the account is opened. Such verification should be done at least once in five years in case of low-risk category customers and not less than once in two years in case of high- and medium-risk customers.
- Customer Identification will also be carried out in respect of non-account holders approaching a bank for a high-value one-off transaction as well as any person or entity connected with a financial transaction which can pose significant reputational or other risks to the bank.

5.5 Small Deposit (No Add-ons/Frills) Accounts

With a view to ensuring financial inclusion such that persons, especially those belonging to the low income group both in urban and rural areas, who are not able to produce such documents required by the bank to satisfy about their identity and address, are not denied banking services, branches may open Small Deposit (No Frills) accounts, for natural persons only, with relaxed KYC standards, as detailed in the respective banks' operating guidelines or RPG. Persons desirous of opening such accounts can keep aggregate balances not exceeding N100,000 in all their accounts taken together and the total credit, again in all accounts taken together, should not exceed N1m in a year OR as the bank may reasonably affix.

If, at any point, the balances in all his/her accounts with the bank (taken together) exceed the N0.1m or N1m bound, no further transactions will be permitted until full KYC procedure is completed. Bank would notify the customers when the balances are approaching the ceilings so that appropriate documents for complying with full KYC requirements are



submitted well in time to avoid blocking of transactions in the account.

5.6 Monitoring and Reporting of Transactions

Monitoring of transactions will be conducted taking into consideration the risk profile of the account. Special attention will be paid to all complex, unusually large transactions and all unusual patterns, which have no apparent economic or visible lawful purpose. Transactions that involve large amounts of cash inconsistent with the normal and expected activity of the customer will be subjected to detailed scrutiny.

Annexure 9 and Annexure 10 of the Reviewed Prudential Guidelines contain Examples of Suspicious Transactions AND Characteristics of Financial Transactions that may be a Cause for Increased Scrutiny respectively. Refer!

System-supported monitoring of transactions will be done by the AML team under the principal officer, based on alerts thrown up by the AML software acquired by the bank and on the basis of feedback/inputs from area offices, zonal offices, administrative offices, and respective relationship points. Simultaneously, however, relationship points will maintain oversight over the transactions with a view to identifying suspicious transactions and bringing them to the notice of the principal officer.

After due diligence at the appropriate level in the bank, transactions of suspicious nature and/or any other type of transaction notified under PMLA will be reported by the principal officer to appropriate quarters – EFCC or the

CBN. A record of such transactions will be preserved and maintained for the period as prescribed in PMLA.

Transactions in the accounts will also be monitored, with a view to timely submitting the Cash Transaction Report (CTR) in respect of cash transactions undertaken in an account either singly or in an integrally connected manner.

All cash transactions, where forged or counterfeit currency notes have been used, shall also be reported immediately by the branches, by way of Counterfeit Currency Unit (CCU) to the Principal Officer, through the proper channel, for onward reporting to EFCC.

5.7 Closure of Accounts

Where the appropriate KYC measures could not be applied due to non-furnishing of information and/or non-cooperation by the customer, the account can be considered for closure or terminating the banking/business relationship. Before exercising this option, all efforts will be made to obtain the desired information and, in the event of failure, due notice will be given to the customer explaining the reasons for taking such a decision. In all cases, the controlling authority at the respective zonal/regional/head office shall be the competent authority to permit closure of such accounts.

5.8 Weakness in KYC

Banks seem to be in a hurry to open accounts because of the drive for customers. They are believed to waive some of these requirements because of the following:

- Primarily, the thought that seeking to know customers will frustrate and lead them to seeking for other banks that won't make such demands.
- The poor addressable nature of our locales;
- The knowledge of the terrain;
- The security nature/issue of bank staff failing victim of kidnappers, ritualists, or similar evil people;
- The time factor for this – what if there are many prospective customers?
- Sometimes one wonders whether banks trace or verify addresses vis-à-vis other information supplied in the account opening forms.
- Bank staff are poorly motivated NOW,

hence there is a poor attitude to work among them;

- Overdemanding pressure of work, including weekly target to meet up with.

5.9 Making It Work: Enhancers to KYC Policy

1. Risk Management

While the Bank has adopted a risk-based approach to the implementation of this policy, it is necessary to establish an appropriate framework covering proper management oversight, systems, controls and other related matters. Bank's Internal Audit of compliance with KYC/AML Policy will provide an independent evaluation of the same, including legal and regulatory requirements. Concurrent/Internal Auditors shall specifically check and verify the application of KYC/AML procedures at the branches and comment on the lapses observed in this regard. The compliance will be placed before the Audit Committee of the Board at quarterly intervals.

The principal officer designated by the bank in this regard will have overall responsibility for maintaining oversight and co-ordinating with various functionaries in the implementation of KYC/AML/CFT policy. However, the primary responsibility of ensuring implementation of KYC/AML/CFT Policy and related guidelines will be vested in the respective Zonal Office. Suitable checks and balances in this regard will be put in place at the time of introducing new products/procedures and also at the time of review of existing products/procedures for overall risk and compliance management. For this purpose, each Zonal Office will designate an official as Money Laundering Reporting Officer (MLRO) who would ensure proper implementation and reporting, as per provisions of this policy, to the principal officer.

2. Employee Training

All employee training programmes, of 6 days' duration or more, will have a module on KYC standards/AML/CFT measures so that members of staff are adequately trained in KYC/AML/CFT procedures.

3. Recruitment/Hiring of Employees

KYC norms/AML standards/CFT measures have been prescribed to ensure that criminals are not allowed to misuse channels of the bank. Banks will put in place necessary and adequate screening mechanism as an integral part of

their recruitment/hiring process of personnel.

4. Customer Education

The Bank recognises the need to spread awareness on KYC, Anti Money Laundering measures and the rationale behind these policies amongst the customers and shall take suitable steps towards compliance.

5. Introduction of New Technologies

Banks will pay special attention to the money laundering threats arising from new or developing technologies and take necessary steps to prevent misuse for money laundering activities. Banks will ensure that appropriate KYC procedures are duly applied to customers using new technology driven products.

6. KYC for the Existing Accounts

While the KYC guidelines will apply to all new customers, the same would be applied to existing customers on the basis of materiality and risk. However, transactions in existing accounts would be continuously monitored for any unusual pattern in the operation of the accounts. On the basis of materiality and risk, the existing accounts of companies, firms, trusts, charities, religious organisations and other institutions are subjected to minimum KYC standards which would establish the identity of the natural/legal person and those of the 'beneficial owners'. Similarly, the banks will also ensure that term/recurring deposit accounts are subject to revised KYC procedures at the time of renewal of the deposits on the basis of materiality and risk.

7. Correspondent Banking

This policy will apply to dealings with correspondent banks. For correspondent banking relationship, an appropriate due diligence procedure will be laid down keeping in view KYC standards existing in the country where the correspondent bank is located and the track record of the correspondent bank in the fight against money laundering and terrorist financing.

8. Miscellaneous

- Information collected from the customers for KYC compliance should be relevant to the perceived risk, not intrusive, and should be treated as confidential. The same is not to be used/divulged for cross-selling or any other such purpose.
- Any remittance of funds by way of demand

drafts, mail/telegraphic transfer or any other mode like RTGS/ NEFT is effected only by debit to customer's account or against cheques/drafts and not against cash.

- Provisions of Foreign Contribution (Regulation) Act, 1976, as amended from time to time, wherever applicable, should be strictly adhered to.

9. Principal Officer

The Principal Officer for KYC/AML/CFT matters who shall be responsible for implementation of and compliance with this policy. His illustrative duties, in this regard, will be as follows:

- Overall monitoring of the implementation of the bank's KYC/AML/CFT policy;
- Monitoring and reporting of transactions, and sharing of information, as required under the law;
- Interaction with MLROs at zonal offices for ensuring full compliance with the policy;
- Timely submission of Cash Transaction Reports (CTRs), Suspicious Transaction Reports (STRs) and Counterfeit Currency Reports (CCRs) to the EFCC;
- Maintaining liaison with the law enforcement agencies, banks and other institutions, which are involved in the fight against money laundering and combating financing of terrorism;
- Ensuring submission of periodical reports to the top management/board.

10. Review of the Policy

The policy will be reviewed as and when considered necessary by the board.

Conclusion

Financial crimes have devastating effects not only on the financial system but on the general economic and political facets of every country. To effectively address the menace of financial crimes and engender development, banks and all stakeholders must collaborate as well as make concerted efforts aimed at fighting these crimes.

Glossary

CBN -	Central Bank of Nigeria
KYC -	Know Your Customer
EFCC-	Economic and Financial Crimes Commission
ATM -	Automatic Teller Machine

CDD -	Customer Due Diligence
RPG -	Reviewed Prudential Guidelines
AML-	Anti-Money Laundering
CAP -	Customer Acceptance Policy
CIP -	Customer Identification Procedures
RM -	Risk Management
PMLA -	Prevention for Money Laundering Act
CTR -	Cash Transaction Report
CCU -	Counterfeit Currency Unit
MLRO-	Money Laundering Returning Officer.

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Examination Malpractice: CIBN Sanctions Offenders

In line with its Zero tolerance for examination malpractices and disciplinary procedures, the Institute has sanctioned (2) students caught in examination misconducts during the April, 2014 diet examinations in accordance with the Governing Council directive of June 9, 2009.

	Name	Offence	Exam Centre	Sanction
1	Mrs. Ossai, Mabel Ngozika	Caught copying from a prepared material during the examination.	Onitsha	<ul style="list-style-type: none">• All their papers at the April, 2014 examinations have been cancelled.
2	Mr. Idam Felix Egwu	Caught with a prepared document relating to the exam. He was also found with his mobile phone during the examination.	Onitsha	<ul style="list-style-type: none">• They have been banned from taking the examinations for a minimum of two years, ie. four consecutive examinations effective October, 2014.• Their names would be published in the Institute's journal and website.• Their employers have been informed.

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