CSCanada
International Business and Management
Vol. 7, No. 2, 2013, pp. 26-31
DOI:10.3968/j.ibm.1923842820130702.1105

ISSN 1923-841X [Print]
ISSN 1923-8428 [Online]
www.cscanada.net
www.cscanada.org

Strategies for Improving Corporate Governance by Organizations in Nigeria

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Received 5 September 2013; accepted 8 November 2013.

Abstract
Global trends in corporate governance have led to series of legislations, regulatory frameworks and codes of conduct by governments, international organizations, professional bodies and other interest/pressure groups. Corporate malfeasance is more common in the third world nations, including Nigeria, than in the advanced countries. We read daily of many corporate malpractices in this country and their negative impact on the economy. Our efforts in this article have been geared towards highlighting major strategies that will improve corporate governance in Nigeria, if religiously implemented, which in turn will enhance corporate and economic development. The quest for Nigeria to be a global economic player by the year 2020 can be attained faster if our indigenous companies operate more professionally, ethically and are in a position to compete internationally.

Key words: Corporate governance; Code of ethics; Board of directors; Management system; Self-Regulation; Strategies

B. Chima Onuoha, Chinedu N. Ogbuji, Abu A. Ameh, Oba, Unoiza Oregwu (2013). Strategies for Improving Corporate Governance by Organizations in Nigeria. *International Business and Management, 7*(2), 26-31. Available from: http://www.cscanada.net/index.php/ibm/article/view/j.ibm.1923842820130702.1105
DOI: http://dx.doi.org/10.3968/j.ibm.1923842820130702.1105

INTRODUCTION

From the tulip mania in Holland in the mid1630s to the ultimately disastrous speculative rush for shares of the Mississippi Company promoted by John Law and his Banque Royale in Paris in the early 1700s, from the South Sea Bubble in London in the same period (to which Sir Isaac Newton lost a princely £20,000) to the great Wall Street Stock Market boom of the 1920s that preceded the Great Depression and on to the global financial crisis of 2008 – 2009, the history of finance over 500 years has been marked by frequent booms and busts (Moghalu, 2013). A discussion of economic management of nations will be in complete without the issue of corporate governance.

The concept of Corporate Governance is attracting increasing attention from investors, regulatory bodies, development agencies and other major stakeholders. It has been observed over the years that corporate failures in the advanced and developing countries have their roots in negligence or deliberate unethical behavior of the boards and top managements of corporations. To avert more corporate failures and the attendant economic consequences, stakeholders are clamouring for improved corporate governance and severe sanctions for 'corporate rogues'. This clamour is needed more in a country like Nigeria.

In recent years, as a result of corporate scandals and extremely generous pay packages; the public's trust in corporate governance has eroded significantly. Some firms, including Enron and WorldCom, went bankrupt as a result of executive or board action or inaction, with enormous hardship on employees, pension holders and investors, (Bateman & Snell, 2011). Halliburton is another case in hand.

Due to poor management practices of entrepreneurs and corporate bodies, which include insider trading and other forms of corporate malpractices leading to loss of jobs, loss of investments and corporate failures in Nigeria

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and globally, corporate governance is attracting greater attention and actions. There are clamours for companies to comply with the codes of corporate governance. The issue of corporate governance has suddenly become a strategic matter for any serious enterprise to neglect. There is no area of organizational management which corporate governance guidelines do not affect. Increased public awareness is even compounding the challenge for organizations (Onuoha & Ogbuji, 2011).

According to the Private Sector Initiative for Corporate Governance of Kenya (1999), Good Corporate Governance seeks to promote:

• Efficient, effective and sustainable corporations that contribute to the welfare of society by creating wealth, employment and solutions to emerging challenges.

• Responsive and accountable corporations.

• Legitimate corporations that are managed with integrity, probity and transparency.

• Recognition and protection of stakeholder rights.

• An inclusive approach based on democratic ideals, legitimate representation and participation.

Corporate Governance is concerned with the processes, systems, practices and procedures, the formal and informal rules that govern institutions, the manner in which these rules and regulations are applied and followed, the relationship that these rules and regulations determine or create, and the nature of those relationships.

1. THEORETICAL FRAMEWORK

The concept of corporate governance is a multi-faceted subject, in that experts, regulatory agencies and development agencies, stakeholders, etc, see it from different perspectives. In other words, it lacks a common definition. In this section, we shall attempt a few definitions.

(1) As a subject, corporate governance is the set of processes, customs, policies, laws and institutions affecting the way a corporation or company is directed, administered and controlled. (Wikipedia, the free encyclopedia).

(2) Corporate governance also includes the relationship among the many stakeholders involved and the goals for which the corporation is governed (Wikipedia, the free encyclopedia).

(3) Gabriele O' Donovan in – A Board Culture of Corporate Governance defines it as "an internal system encompassing policies, processes and people, which serve the needs of stakeholders, by directing and controlling management activities with good business savvy, objectivity, accountability and integrity".

(4) Corporate governance is a system or process by which corporate entities, exercising accountability to shareholders and responsibility to stakeholders, are directed and controlled to achieve sustainable improvements in shareholder values (Nzotta, 2010).

(5) Report of SEBI Committee (India) on Corporate Governance defines corporate governance as the acceptance by management of the unalienable rights of shareholders as the true owners of the corporation and their own role as trustees on behalf of the shareholders. It is about commitment to values, about ethical business conduct and about making a distinction between personal and corporate funds in the management of a company.

(6) Bateman and Snell (2011) see corporate governance as "the role of a corporation's executive staff and board of directors in ensuring that the firm's activities meet the goals of the firm's stakeholders".

(7) For Armstrong (2003), corporate governance is a system by which corporations are governed and controlled with a view to increasing shareholder value and meeting the expectations of the other stakeholders.

From these definitions, it is obvious that corporate governance is relevant in strategic management. This is because sound corporate governance is reliant on external market place commitment and legislations, in addition to a healthy board culture which safeguards policies, processes, structure and resources.

In recent years, as a result of corporate scandals and extremely generous pay packages, the public's trust in corporate governance has eroded significantly. Some firms, including Enron and World Com, went bankrupt as a result of executive or board action or inaction, with enormous hardship on employees, pension holders and investors (Bateman & Snell, 2011).

When properly implemented, good corporate governance practice has been found to be of tremendous benefits to companies in many different ways. These, the World Bank (2006) has listed to include:

• Improving access to capital on more favorable terms and attracting premium stock valuations;

• It also improves a company's performance by producing superior leadership;

• Effective oversight strategic direction;

• Efficient information flow, work processes and better compliance;

• Accountability and less conflict.

What are the opinions of investors with regard to good corporate governance? In a study by Dalton and Daily (1998), and Beaver (1999) investors would pay more because, in their opinion:

(1) Good governance leads to better performance overtime.

(2) Good governance reduces the risk of the company getting into trouble, and

(3) Governance is a major strategic issue.

These benefits have been collaborated by similar studies and the works of Marc Lane (1987 and 2005), Standard and Poor (2000), to mention just a few of them.

According to the Private Sector Governance Trust (Kenya, 1994), good Corporate Governance is necessary in order to:

• Attract investors both local and foreign and assured them that their investments will be secured and efficiently managed, and in a transparent and accountable process.

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• Create competitive and efficient companies and business enterprises.

• Enhance the accountability and performance of those entrusted to manage corporations.

• Promote efficient and effective use of limited resources.

• To increase best practices by companies in Nigeria and ensure better corporate governance, efforts must be made by the National Assembly or appropriate Ministry or Agency to have similar laws like the US Foreign Corruption Practices Act (FCPA) and Code of Business Conduct (COBC).

Without efficient companies or business enterprises, this country will not create wealth or employment. Without investment, companies will stagnant and collapse. If business enterprises do not prosper, there will be no economic growth; no employment, no taxes paid and invariably the country will not develop.

This country needs well governed and managed business enterprises that can attract investments, create jobs and wealth and remain viable, sustainable and competitive in the global market place. Good corporate governance, therefore, becomes a prerequisite for national economic development.

2. CORPORATE GOVERNANCE MECHANISMS AND CONTROLS

These refer to all the necessary internal and external measures put in place to encourage motivate and enforce the promotion of accountable, transparent and responsible corporate leadership and reduce conflicts and corporate failures. In other words, they are similar to principles of corporate governance.

Agbonifoh (2010) has done some good work in this area, in addition to those of Maier (2005) from which we shall borrow extensively.

2.1 Internal Mechanisms and Controls

These include:

(1) Board Structure and Performance.

The key issues in board structure which may have far reaching implications for quality corporate leadership are:

• Whether there is a two-tier or one-tier structure. In conglomerates, there may be a two-tier board with one board at the divisional (SBU) level and another at the corporate level;

• The size and composition of the board;

• The diversity of board membership;

• Separation of the position of Chairman and Chief Executive Officer (CEO);

• The presence and role of independent non-executive directors;

• The independence of otherwise of the Audit Committees (The main responsibility of the audit committee is to monitor and review the integrity of the company's financial controls, the external auditor's independence and objectively and the effectiveness of the audit process as a whole) (Maier, 2005).

(2) Management System.

The major issues of interest here include:

• Internal control systems and procedures, including the internal auditing system;

• Employee training;

• Compliance monitoring;

• Whistle-blowing procedures and an effective whistle blowing system;

• Reporting practices (which should include details of breaches and enforcement);

• Corporate culture;

• A regular review of code (Maier, 2005); and

• Remuneration disclosure in order to ensure that remuneration is tied to performance/contribution.

(3) Code of Ethics.

This covers the following important matters:

• Obeying laws and regulations;

• Prohibition of giving and receiving brides;

• Restrictions on giving and receiving gifts;

• Prohibitions of facilitation payments;

• Prohibitions of donations to political parties;

• Conflicts of interest;

• Ethical competition;

• Anti-competitive practices;

• Use of company resources.

2.2 Internal Mechanisms and control

These are externally induced pressures on corporations for better corporation governance. Some of them include:

• Government regulations including those imposed by regulatory agencies;

• Competitions;

• Media pressure;

• Criteria for listing companies on the Stock Exchange;

• Strong regulatory legislations that promote good governance; and

• Shareholders activism.

3. WEAKNESSES IN THE CORPORATE GOVERNANCE PRACTICES BY NIGERIAN ORGANIZATIONS

Some of the major weaknesses of corporate governance in banks, as stated in the code of corporate governance by the Central Bank of Nigeria (2006) include:

• Disagreement between Board and Management giving rise to board squabbles.

• Ineffective Board oversight functions.

• Fraudulent and self-serving practices among members of the board, management and staff.

• Overbearing influence of Chairman or MD/CEO, especially in family controlled businesses.

• Weak internal controls.

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• Non compliance with laid-down internal controls and operational procedures.

• Ignorance of and non-compliance with laid down rules, laws and regulations guiding business enterprises.

• Passive shareholders.

• Poor risk management practices resulting in large quantum of non-performing credits including insider-related credits.

• Abuses in relation to firms' source of funds in terms of overdrawing them.

• Sit tight Directors even where such directors fail to make meaningful contributions to the growth and development of the firm.

• Succumbing to pressure from other stakeholders e.g. shareholder's appetite for high dividend and management quest for higher remunerations.

• Technical incompetence, poor leadership and weak administrative ability.

• Inability to plan and respond to changing business circumstances.

• Ineffective management information system and external government influences.

The above weaknesses are also, found to a large extent in many other corporations in the country.

Few examples here will suffice. The failed bank syndrome of the 1980s and the financial crisis of 2008 – 2009 which necessitated Sanusi's banking reforms, were all aftermaths of poor corporate governance. Between 2004 and 2006, the British airways (BA) and Virgin Atlantic Airways (VAA) colluded and started a conspiracy to fix periodically, increase and maintain a passenger fuel surcharges (PFS) list as a component of the fare passengers pay to travel. Over that period, the surcharges rose from £5 to £60 per ticket for a typical BA or virgin Atlantic long haul return flight. Thousands of Nigerians were ripped off in the process. This corporation malpractice came to the knowledge of the United Kingdom's Office of Fair Trade (OFT) and the United States Department of Justice (DOJ). For this, BA and VAA were sanctioned. BA paid a criminal penalty of $300 million in the United States and £121.5 million in the United Kingdom. Virgin Atlantic was exempted from this time, because, under the principle of full immunity of OFT's leniency policy, on its volition, VAA reported itself to OFT (The Nation, 2011).

In 2008/2009, Cabury and Dunlop, subsidiaries of foreign MNCs operating in Nigeria had a lot of corporate governance problems occasioned by the greed of their directors and top management. The Halliburton, Siemens and Sagem scandals are still fresh in the corporate history of this country.

For Adepoju (2010), some of the systemic problems of corporate governance in Nigeria include:

(1) Demand for information: In order to influence the directors, the shareholders must combine with others to form a significant voting group which can pose a real threat of carrying resolutions or appointing directors at a general meeting.

(2) Monitoring costs: A barrier to shareholders using good information is the cost of processing it especially to a small shareholder.

(3) Supply of Accounting Information: Financial accounts form a crucial link in enabling providers of finance to monitor directors. Imperfections in the process will cause imperfection in the effectiveness of corporate governance.

4. STRATEGIES FOR IMPROVING CORPORATE GOVERNANCE

A number of scholars and researchers have been able to link up a direct relationship between good corporate governance and economic development; poor corporate governance and poverty and under development. Some of these researchers include: Ishak, *et al.* (2011); Litai, *et al.* (2011); Moruku and Obeleaguo – Nzelibe (2011); Onuoha and Ogbuji (2012); and Onuoha (2013). It is against this backdrop that this article will recommend a number of strategies that will assist improving corporate governance by Nigerian organization.

(1) It is important that the reviewed Code of Corporate Governance initiated by the Corporate Affairs Commission (CAC) and the Securities and Exchange Commission (SEC) are rigidly enforced and defaulters, no matter how highly placed brought to book.

(2) The Corporate Affairs Commission should put in place effective monitoring unit to ensure that all the relevant sections of the Companies and Allied Matters Act (CAMA) are complied with by all registered public companies.

(3) All professional bodies and trade associations such as National Association of Chamber of Commerce, Industries, Mines and Agriculture (NACCIMA), Nigerian Employers Consultative Association (NECA), Manufacturers Association of Nigeria (MAN), National Association of Small Scale Industrialists (NASSI), National Association of Small and Medium Enterprises (NASME), etc, should put in place effective code of conduct/corporate governance for their member.

Folajimi and Adenike (2010) have these two recommendations, with regard to CBN and NDIC thus:

• The Central Bank of Nigeria, as regards the regulation of banking ethics, should deemphasize the focus on the application of codes and standards by banks and concentrate more on stricter supervisory measures, introducing the use of penalties and enforcing any such code in existence more strictly. It is only when codes and standards have the capacity to serve as deterrents that they would become effective.

• The Nigerian Deposit Insurance Corporation (NDIC) and the Central Bank of Nigeria (CBN) should focus less on the development of codes, and increase their level and degree of supervision and surveillance, such that

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relevant departments such as BSD (Banking Supervision Department) would do one-on-one surveillance of banks.

(5) For Knight (2010), part of improving governance structures is enhancing stakeholders' confidence. As a result, Knight emphasizes the high caliber of members of the board of directors and management and what he calls 'self-regulation'. To ensure this 'self-regulation' which enhances corporate governance, Xiaoyan (2013) recommends thus: optimize the ownership structure and introduce institutional investors; improve board of directors and strengthen the construction of balances and incentive mechanisms.

Knight's views are further highlighted below.

(a) The clear starting point is to look at who is on the Board of Directors.

• To be effective, one must determine whether the members of the board have the right skills.

• There should also be a broad base of skills and experiences between the members so as to better equip the board to deal with a wide variety of issues that might surface.

• Are the members credible, independent and experienced?

• Do they have the desire and time to devote to the role which, over the last 3 years, has become much more demanding and challenging?

(b) Management, on its part, must put in place the right risk management processes to identify and manage all present and future risks. Change in the global macro environment is happening today much more rapidly and therefore it is critical for all organizations, and banks in particular, to be much more forward looking and anticipatory than before.

(c) If there is one thing that this crisis has taught us, it is that self-regulation, is crucial. This means that companies should bear absolute responsibility for robust self-governance, vigilance, discipline and adherence to their strategies within the frameworks set by national regulators.

(6) The CBN, NDIC and other regulatory agencies should intensify their risk management campaigns and mechanisms not only to banks and insurance companies but all the multinational corporations in Nigeria. SMEs should be encouraged to adopt best practices in their own enterprises.

(7) The issue of the separation of the positions of Chairman and that of Managing Director should not end at that. Care should be taken to ensure that the Chairman should not also have an overriding influence in the appointment of the MD, hence appointing his stooge. This should be so irrespective of whether the chairman is a majority shareholder or not.

(8) In addition to board of directors, management, share-holders and auditors being the major parties to corporate governance, other stakeholders include: suppliers, employees, creditors, customers, the community and the society at large. In view of this, regulatory agencies in the country including, Standards Organizations of Nigeria (SON), National Agency for Foods, Drugs Administration and Control (NAFDAC), Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices and Other Related Offences Commission (ICPC), The Code of Conduct Tribunal (CCT), to mention just a few, should be up and doing, and must bring all erring entrepreneurs and companies to book. The rampant use of plea bargain by the EFCC on matters concerning corporate rogues should be discouraged. All corporate offenders should be made to face the full wrath of the law. This will serve as deterrents to potential ones. That one stole from shareholders' funds and eventually returned part or all of it does not make him less a corporate thief.

(9) In January 2013, the Minister of Industry. Trade and Investments, Mr. Olusegun Aganga, inaugurated the Committee on National Code of Corporate Governance. The Committee's functions include: Is responsible for all matters pertaining to corporate governance in both private and public sectors of the Nigeria economy; to promote the highest standard of corporate governance principles and practices; encourage sound systems of internal control and information systems control to safeguard stakeholders' investment and assets of public interest entities, among others. Given wide range of corporate abuses by many organizations in this country, it is hoped that this committee will discharge its responsibilities, without fear or favour and bring all erring personalities no matter how highly placed or connected to book (Onuoha, 2013).

(10) Finally, this country needs a similar commission or organization like the UK's Office or Fair Trade (OFT) or the USA's Department of Justice (DOJ). This agency should empowered and committed to ensuring that there is effective competition, especially in relation to price fixing and other hardcore infringements. We do not have anti – trust laws in this country which most companies, particularly in the oligopoly market to do whatever they like, to the detriment of the unsuspecting consumers. The compliance in this direction is to be led by boards and senior management and supported by effective risk management systems and corporate governance. Given the harsh economic environments under which business enterprises operate in the country, and these usually lead to unethical practices, the need for effective risk management mechanisms cannot be underscored.

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