REGULATION OF THE NIGERIA FINANCIAL SYSTEM/MARKET

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Abstract

This paper is expository in nature and it is essentially on the vexed issue of regulation and deregulation of the Nigerian financial system/market. The paper did an overview of Nigeria’s economic romance since the 1950’s and the need to regulate/deregulate. It further dealt extensively with the conceptual foundation on which regulation and deregulation in the Nigerian financial system/market is based. It also presented an overview of the regulatory and legal framework of the Nigeria financial system/market. In the main body proper it attempts to mirror some of the problems and limitations which inhibit the optimal performance of Nigeria system/market. Lastly, the paper concludes that in the face of the conflicting stance of regulation and deregulation of the Nigeria financial system/market is regulation or deregulation the key solution to the problem of optimal performance of the Nigeria Financial system/market? If not what is the way forward?

Introduction

The Nigeria financial system/market is an important segment of the economy. It never witnessed real integrative growth until the 1950s when the Central Bank of Nigeria. (CBN) came into existence and commenced full-scale operation. The late 1950 through the 1960s saw some sign of growth. With the discovery of oil, and Nigerian Civil War in the 1970s, and the structural adjustments of the 1980s, the financial system went through severe structural transformation and growth. The implications of this were that the money market expanded its scope of activities while the capital market underwent severe structural expansion devoid of development and indigenous orientation or expansion. Both activities culminated in the banking and insurance sub-sector consolidation of the 2000s (or 21st century).

The 1980s through the 1990s witnessed the climax in upsurge of National debt, continuous decrease in the growth rate of per capital real income, substantial depreciation of Naira exchange rate, high level of unemployment and poverty, persistent pressures on the balance of payments and increasing incidence on the balance of domestic inflation, collapse of banking institutions and host of other economic ailments, cumulating in the Structural Adjustment Programme (SAP). These call to question the whole issue of the regulatory and deregulatory effectiveness and efficiency of the institutional framework of the financial system/markets Sectoral contribution to the Nigeria economy performance.

The rest of the paper is structured as follows:

1) Conceptual foundation (section 2);
2) Methodology of prudential regulation of financial systems (section 3);
3) Regulatory and legal framework (section 4);
4) Problems/limitations, lost and challenges of regulation and deregulation of the Nigerian financial system (section 5);
5) Conclusion (section 6).

Conceptual Foundation

In the pursuit of economic advancement, the Nigeria nation need to mobilize saving if it is to accumulate and maintain real assets. This, therefore, brings to the fore the need to explicitly make clear the distinction between “savings” and “investments”. In clear economic terms, the economist refers to savings simply as income which is not spent on consumption, including funds which are idle. In contrast investment is an indication of physical items that savings have been used to finance, both in terms of purchase of fixed capital and in the form of buildings and machinery, and also in the purchase of raw materials which are working or circulating capital. As generalization, household make savings decisions and firms make investment decisions, though firms simultaneously save a -invest when they plough back profit into the expansion of the business. More importantly, there are evidence that countries with high rate of savings record high investment levels. This therefore leads to how savings can be effectively and efficiently, mobilized and channeled into productive investments for the economic wellbeing of the Nigeria nation - the optimal reason for the existence of the Nigeria financial system. The solution could simply be by designing/formulating regulatory/free market policy(ies) and implementing an all inclusive policy(ies) which encourage savings and investment, and foster efficient financial system.

The question that this strategy raises or beg is should the financial system be left to the dictates of market forces of regulation or forces of deregulation (which is another form of re-regulation)?
David Goland (1990), made a very serious attempt to distinguish between regulation and de-
regulation of financial markets. He argued that until the mid-1980s the regulation of financial markets was
very much a Cinderella topic, that the policy and academic communities were in rare agreement, and sees
it as been of little importance to anyone except a small circle of cognoscenti whose ways were picturesque
but so confusing to everyone else that it was better for them to be ignored. He went further to attribute
the confusion to the meaning of the term regulation, especially in the USA and UK where regulatory
confusion has assumed a frightening proportion, and where regulation has always been enacted in response
to crisis or scandal. This he described was more pragmatic rather than academic. In addition he also
contends that lack of clarity of the objectives of regulation has been one major factor that is responsible
for this regulatory confusion of financial markets. He assent that deregulation are two key elements of
Reganomics in the USA and Thatchenism in the U.K; and that right wing governments usually wish to set
people free by scrapping rule and regulations, especially those that interfere with markets and/or constrain
business. However, deregulation has achieved so much salience and attention as a consequence of this
theory of regulation. He was of the view that there are number of reasons why deregulation should be
called re-regulation since it is not the scrapping of regulations which is the issue but the replacement of
one set of regulations with another - that is the promulgation of a new set of rules to replace the existing
ones. Paradoxically, deregulation necessitates close and detailed attention to ascertain the optimal scope
and form of the new regulatory regime enacted in the name of deregulation. Besides, since financial
regulation or deregulation is a complex matter, even the creation or introduction of a new regulatory
regime does not mean an end to controversy. Also, that the political community is a very important area
in which votes can be lost or gained-that the important point is that regulation of financial market is no longer
just a technical subject but also has to be resolved in the harsh political glare of controversy. In addition, in
recent years, financial markets have inferred massive changes as a result of maladroit regulation - the main
incentive to innovate is the desire to evade regulation. Moreover, often deregulation and regulation are
designed to foster or at least permit innovation.

Goland (1990), stated that regulation is one of the instruments of economic policy and that
economic policy should determine the objectives of regulation. But stated that the objectives of regulation
of financial markets should be to achieve financial and monetary objectives, which are of two categories,
the first being macro-monetary stabilization policy(ies); the ultimate target being unemployment inflation
and balance of payment. The second being structural-monetary policy(ies) which have the twin objectives
of market efficiency and stability (or safety) which are in conflict with each other, which monetary
authorities have had to trade off for macro monetary policy(ies); and that one of the effect of
internationalization and financial innovation of financial markets has been greatly to sharpen this trade-off.
A third objective is the frequently observed instrument of regulation which overlaps the objective and
structural-monetary policy objectives in which the direction of objective (or other sources of financial) is
designed to either ensure that a particular activity receives at least much funding as the government desires
or no more funding as they feels it should have. A possible further objective is industrial policy in which
governments sought to prevent funds being available for property and stock market speculation and
consumer credit - the objective being either market efficiency or macro-monetary policy.

In discussing efficiency goal of regulation-that is, the use of regulation as a financial tool to
promote better functioning of financial markets efficiency two question arises. Firstly, is competition
desirable? Secondly, will it constitute means of trade protectionism? Economist believe that competition
is desirable. However, it has been argued that financial markets should be an exception
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because it is thought that there might be a conflict between efficiency within the financial market and efficiency within the economy as a whole. The natural effect of an efficient market is that investors have a short-term horizon and are chiefly interested in trying to predict what others think.

Nigeria as a country operates a free enterprise system in which the primacy of market, the interplay of supply and demand conditions is supposed to be the core issue in the financial markets and economy. However, in such a system, it is generally accepted that there is need for the government to devise regulatory mechanisms to strengthen the financial system and the allocation of resources and overall economic performance of the Nigeria economy in which financial markets are key players. However the adoption of a policy regime has not led to the desired result; leading to a call for the abandonment of or a policy for deregulatory measures of both the financial system and the economy as a whole.

Financial markets all over the world are believed to have a profound micro and macro economic impact or significance for national development, and have become an accepted custom for it to be regulated by agencies established by statute for the purpose. Besides government regulation of the financial markets have in increased in recent years. The objectives of this increase as noteworthy as their proliferation. The difference being that the objectives of recent legislation differ substantially from previous ones.

Among the financial phenomena of the immediate past and current decades, the explosive expansion of the issue of regulation and deregulation occupies a place near centre-stage. General interest in this expansion has sparked not only by its sheer magnitude of conflicting legislation but by connotations of power play in the financial system, economic downturn occasion by of sharp practices in the financial system, encroachment of local values by foreign value occasion by fall in living standard of the Nigerian nation being the direct result of the financial system being unable to live up to exception; evoking reactions of frustration resentment and anxiety and curiosity. This demands response to a number of elementary questions. Thus how profitable is regulation or deregulation in the financial system? Has regulation or deregulation increase or decrease the chances of an enhanced financial system that can deliver the much-desired result? What are the regulatory/deregulatory issue/challenges that confront the Nigeria financial system? These and other major issues are issues which are addressed in this paper. It may be surprising that the paper offer at least partial answers to all these questions, and some of the answers may be more surprising still, but it will come as no surprise that the answers are put with less insistence than the questions.

Regulation literally means the laying down of rules. In economic theory the role of regulation is non-existent because it is conventional to the price in a purely abstract fashion, that is without any explicit reference to the institutional arrangement within which markets must function and transactions take place. In the real world, transactions can only take place within some sort of institutional framework, and critically, the form that this framework take may have a significant influence on how economic agents behave. The role of regulation is of special importance in the financial system, and may be promulgated by both government agencies and/or private institutions. However, normally, government will be involved indirectly or directly, and some form of regulation by government is likely to be necessary condition for the successful operation of the financial system.

Regulation may take another form which involves the replacement of existing rules with another set of rules, which is today referred to as deregulation. It is also necessary to note that essentially, regulation is designed to eliminate system failure and re-enforce system survival; but experience have prove that it might infact be a major contributing factor to system collapse.

 Expo H. (1996) in a paper on economics of deregulation suggests that regulation creates problem(s) for an economic system. In other words, the forces of demand and supply will results in correct prices in any market and invariably for the economy. Therefore, governments intervention with the market system could result in distortions which could take severe restructuring to correct. More often the economics of deregulation re-echoes the question as to what constitute the appropriate role of the state in development process. Does intervention by the state negate deregulation? Or can state intervention assist in moving an economy towards arriving at correct prices? The debate is open. He went further on to suggest that the theoretical basis for deregulation is that if all economic agent have perfect information markets will clear. This he said is anchored on the assumption that economic agents seek to optimize their behaviour - focusing the economy as a whole with the usual postulation

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of the consistency of sectoral considerations. That is the total economy is analyzed from the point of view of micro-foundations of the relevant markets.

David Goland (1991), define regulation to comprise all the rules (both explicit and implicit) which significantly effect the way in which financial markets and firms operate, irrespective of who lays them down, so long as they have at least the implicit imprimatur of government or international organization, contrast to the primary purpose of regulating the financial market which is to protect unwary investors, depositors and unsuspecting members of the local and international community from fraud and manipulation, and to make the market more competitive, forcing co-operations. He is also of the opinion that (1) financial market like every other market is not perfect and this imperfection in the market have led to a wide array of financial legislation which usually deals with restructuring the market, (2) market and investors protection and (3) market development/growth.

Until the 1990’s when deregulation increasingly crept into the Nigerian economic policy formulation the Nigerian financial system was highly regulated. Indeed the financial system was probably the most regulated sector; and its regulators(s) have always collaborated in regulating it through formal and informal institutions.

Regulation in the financial market may be defined as a body of agreed behaviour either imposed by explicit or implicit government rules within the market that contains activities or business of the market to achieve a defined objective and/or act prudently. The rules are agreed behaviour and the monitoring and scrutiny to ensure compliance by the actors of the system is of vital importance (Akongbowa Amadasun 1998). This is to say that Regulation in its plain meaning refers to the rules which have been laid down. It could be equally referred to laws set out by government or quasi-regulatory agencies to make sure that the financial system works, referred to as authoritative direction. In economic theory the role of regulation is non-existent because it is conventional to look at things from an abstract angle without marking reference to institutional arrangements within which the system functions. In the real word, transaction can only take place within some sorts of institutional framework and it is this form that this framework takes that will determine the behaviour of the financial agent, hence, the importance of regulation as a means whereby institutional framework is fashioned.

It is possible that institutional arrangements may evolve naturally; besides, competing institutional arrangement may exist simultaneously. However, it is much more common that a single regulatory environment is in existence and have been promulgated by private institution, either explicitly or implicit. The Nigerian Government is and always involved in regulation either directly or indirectly. Indirect involvement may involve a quasi-government agency such as the Central Bank of Nigeria. More often than not and until recently, the Nigerian government do not always leave the regulation of its financial markets to private institution(s) body(ies) but readily intervene when ever the financial markets fail to work satisfactorily.

Sunday A. Idehai (1996), citing Ojo (1994), said that regulation refers to both direct and indirect controls imposed by government for economic activities. This he said includes the decision by government to participate partially or fully in specific economic activities. The ultimate goals of economic regulation he said is to achieve efficiency, stability and fairness in economic resource allocation. He went on to state that Noll (1989) cited public interest and market failures as the reasons for state intervention in an economy or financial system. In the same view Ojo M.O. (1994), defines deregulation as the deliberate and systematic removal of regulatory controls and structures and complex operational guidelines in the administration and pricing system in the economy it involves the rationalization of government participation in the economy such that it does not constitute a hindrance to the growth of the economy. It however does not imply removal of all regulation. He went on to state that generally deregulation is expected to have influences on the aggregate output in the economy, the rate of growth of inflation, the external sector and social cost such that all of them will be moving towards the desired growth path.

Sunday A. Idehai (1996), citing Vitas (1992), identified six types of regulation which can be applied to economy at large. These are:

i) Marco-economic control (i.e. use of allocative ceilings).
ii) Allocative controls (i.e. sectoral allocations)
iii) Structural controls (i.e. types of activities not permitted in the system/market)
iv) Prudential controls (i.e. reduction of risk of systematic failure)
v) Organizational controls (i.e. setting out rights and obligations of market participants)
vi) Protective controls (i.e. directives to cover the interest of investors and depositors)
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According to Oloyede (1994) the reasons for regulation of a financial system include among others the following:

i) Macro-economic stability
ii) Resource allocation
iii) Competition and efficiency - makes them more innovative and reduces cost.
iv) Safety and soundness - to ensure that they maintain public confidence.
v) Development - to support the country’s economic development programmes.

Economic regulation may be essential to direct and guide the activities and behaviour of economic agents, but beyond a point it becomes excessive if it affects and becomes manifestly injurious and counter productive to the growth and development of the economy.

In a resounding note, the issue that is critical to the issue of regulation of the Nigerian Financial system is not whether government should regulate or should not regulate or should deregulate, but to what extent should government intervention go when it intervene if the financial system is to be kept efficient and effective in operation? Equally of importance is that no major country could ignore formal regulation of its financial system and that such regulation of its financial system should not longer be of national but of prime international co-operation. The nature, role and form regulation takes vary between countries. The most relevant/important, centering around the core issue of prudential regulation. This therefore lead’s us to the issue or prudential regulation:

Methodology of Prudential Regulation of Financial Systems

In the prudential regulation of financial systems, the imparities of socio-political evolution compel a variety of approaches in various countries towards the attainment of the fundamental objectives of confidence, transparently and the protection of the financial system. Dele (1992), classifies the approaches into preventative, supportive, and protective. In this, preventive regulation seeks to limit risk incurred; supportive render assistance; and protective render protection in the event of failure. Llewellyn (1986), went further and identified six approaches. Regulation can under this classification be geographical as in the United State of America; functional when it limits or specifies types of activities that institutions should engage in, or it can relate to ownership, that is who can own or mange. The classification offered by Marco Onado (1986), seems more comprehensive. One is structural, which incorporates Llewellyn’s six topographies, and prudential regulation proper, concerned with balance sheet control to ensure liquidity and solvency - although many structural regulation also have prudential aspects. There is finally the fair play regulation aimed at ensuring diffusion of information in the financial system so as to put every participant on an equal basis.

Nothing is immutable with the above classification, nor is there any standard classification applicable to all countries at all times even within the same country. It is important to note that there can be as many varieties of methodology of prudential regulation as there are differences in sociopolitical evolution of countries.

Based on the above, four dimension classifications should be adopted as more suitable to the Nigerian situation; viz:

i) Structural regulation, which deals with entry, expansion/mergers and exit.
ii) Prudential regulation which deals with scope of permissible business; limits to risk concentration, capital and liquidity adequacy and statutory returns for disclosures to regulatory authority.
iii) Fair play regulation. This is designed to provide level playing field to put every participant on an equal footing. It is typically an area of disclosure of information on financial markets protection and it includes insider dealings; and
iv) Monetary and securities control.

Philosophy of Prudential Regulation in Nigeria

As Onado (1986), pointed out, more important from a practical point of view, the actual function of the regulatory mechanism depends on the kind of power system through which the
authorities activated the tools and then process; in other words, the supervisory style. In this connection three styles can be identified.

**Styles of Intervention**

The first style is the authorities do not even intervene at all, but leaving everything to the full play of market forces. Experience of history rules out this option, because non-regulation breeds greater instability, not higher efficiency (Onado 1986). As Maisal (1981), puts it, “without regulation an undue percentage of financial institutions are likely to take excessive risks. Because of the large amount of leverage, the difficulty of depositors/investors policing risks levels, the high level of information and the small number informed... an institution can profit by raising its raising its risk ratio. Moral hazards are also high; it is hard to protect against conflict of interest and self-dealing. The political reality is that no government would ever allow its financial system a complete free rein to engage in an all out competition-the law of the jungle.

The second style is the reference model, where the supervisory body/agency has little discretionary power; and ensure that players follow the rules of the game (Onado 1986). In this supervisory style, the supervisory agency executives maximize the use of impersonal tools and minimize regulatory control.

The third supervisory style is where the regulatory tools are activated with more discretion. In this model, the supervisory agencies exercising policies, does not limit itself to the supply side but also attempts to mode the structure of the financial system; hence its functioning; the ambition being to direct the performance of the financial system.

Gardner identified the last two models as “government by law” and government, the latter being the discretionary approach and the former favouring legal prescriptions of mandatory levels of regulation for all institutions (Gardner 1978 and 1986) called the approaches models F (Discretionary) and L (Mandatory).

Both Gardner and Onado indicated that model L approaches the practice in Continental Europe and is favoured because of its transparency. It is clear in its prescriptions and therefore revolves considerable certainty. Besides it is personal, participative, progressive and flexible.

Model F, the discretionary model, on the other hand, has advantage that it is responsive to change and innovation. It is favoured by the market economist and it is more market oriented. This is based on the principle of interactive give and take between the supervisors and supervised, and on the view that the whole of the supervisors is to guide, not to take over the system management. In other words, supervisors act as “management consultants with clout” (Garnder 1986).

In practice the three models are extreme positions, no country practices any of them in its entirety. What obtains is a mix of the three modes - government by men, government by law, and government by market, with deregulation of recent years emphasizing more room for the operation of free market forces. In either case however, regulation or deregulation, whatever form it takes has cost. As pointed out above the free market model is not an option because of its proneness to instability and failure model L is subject to considerable cost. Mandatory prescription applied unequivocally to all the market segments and differences in riskiness of their operations involve hidden cost. Supervisory techniques in the Nigerian financial system should therefore, be assessed in terms of their efficiency in cost benefit terms and effectiveness in achieving the objectives of regulation. Beside, how does the supervisory philosophy in the Nigerian financial system fit into the above models? And how effective has supervision of the Nigerian Financial System been in the regulatory objective in economic development/growth of the Nigerian nation?

In relation to regulation and deregulation, a few more observations are appropriate; first the mere fact that the Nigerian Financial System supervisory philosophy approximates the mandatory government by law model L should not be construed to imply that activity is limited to scrutiny and checking on the observance of laws, rules and regulation. It entails much more than these. Regulatory responsibility is to evaluate the capacities of the market with a view to seek to strengthen or replace it with those situations where it is determined that it is inadequate. The processor supervision is only a means to an end and has to be adapted in charting times and technology and also with respect to problems affecting the financial market as a whole.

It is important to note that deregulation was introduced to stimulate competition. It is also important that financial systems authorities should not repeat the mistakes in Europe and America, where deregulation was introduced in the 1970s and 1980s to stimulate competition but mistaken as a
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substitute for regulation. In view of the foregoing a comprehensive look at the Nigerian financial system becomes an obvious necessity.

Essentially, financial system of any nation is the total framework within which capital formulation takes place. It is the framework in which idle funds are made available to the funds deficit sector of the economy or nation for the purpose of investment. Osa Asemota (1998), in his mimeograph on selected topics in Public finance and Budgeting defined financial system as “a conglomorate of various institutions, market instruments and operators that interact within an economy to provide financial services” He went on further to state that such services might include resources mobilization and allocation of foreign exchange transactions to enhance international trade. The Central bank in its own words describe financial system as referring to “a set of rules and regulations and the aggregation of financial arrangement, institutions, and agent that interact with each other and the rest of the world to foster economic growth and development of a nation. It went further to state that financial system “does this by providing a medium of savings from the surplus units and channeling them into deficit units of the economy for product investment which would enhance the productive capacity and overall output and employment. From these definitions, the most important point that they are attempting to put across is that a financial system is a process of financial intermediation.

Over the past few decades, dating from the Colonial era to the present day, the Nigerian Financial System has undergone remarkable transformation both in terms of structure, operational character, the regulatory framework, depth and breadth of instruments employed, and economic environment under which it operates. Arising from the foregoing, there is the need to examine the regulatory structure and operation of the Nigerian Financial System.

Regulatory and Legal Framework

The Regulatory Structure of the Nigerian Financial System

The CBN in its brief on July 1992 series No. 92/01 states that the Nigerian Financial System comprises of several institutions, instrument and operators. In addition Osa Asemota (1998), in his mimeograph on “Selected Topics in Public Finance and Budgeting” went further to classify these institutions into the following:

1) Statutory Regulator/Supervisory Institutions

These include:

i) The Central Bank of Nigeria (CBN): This is the apex regulatory body of the Nigerian Financial System. It has responsibility for fostering monetary stability and soundness in the system. It was established by the Central Bank of Nigeria Act of 1958 and commenced operations on 1st July, 1959. Its powers and action within the system derive from Central bank of Nigeria (CBN) Act 24 and other Financial Institutions ActNo.25 of 1991.

ii) The Federal Ministry of Finance (FMF): The Central Bank of Nigeria (CBN) briefs refer to FMF as the Ministry that advice the Federal Government of Nigeria on its fiscal operations; handles Federal Government of Nigeria budgeting and planning activities; and interacts with the CBN on monetary matters. Other functions include licensing of Bureau De Change.

iii) The Securities and Exchange Commission (SEC):- It is the apex regulatory organ of the Nigerian Capital Market. It was established by the SEC Act of 27th September, 1979; and was reenacted by the SEC Act of 1988 and the Investment and Securities Act 45 of 1999. The role of SEC is further enlarged by Companies and Allied Matters Act of 1990.

iv) The Nigerian Deposit Insurance Corporation (NDIC):- The NDIC compliments the regulatory and supervisory role of the Central bank of Nigeria. It was established by Act 22 of 1988, it was set up to provide insurance and related services for banks in order to promote confidence in the banking industry. It is empowered to examine the books of banks and other deposit taking Financial Institutions.

v) Nigerian Insurance Supervisory Board (NISB):- It was established by NISB Act 20 of 1992 and charges it with the effective administration supervision, regulation and control.
of the business of Insurance in Nigeria. This decree was amended by Decree 182 of 1997 and renamed (NAIC).

a) Establishment of standards for the conduct of insurance business;
b) The protection of Insurance Policy holders;
c) To establish a bureau to which complaints may be submitted by members of the public; its establishment effectively took over the regulation and supervision of insurance business from the Federal Ministry of Finance.

vi) The Federal Mortgage Bank (FMBN): The FMBN which was established by Act 7 of 1977 took over the asset and liabilities of Nigerian Building Society.

a) Provision of banking advisory services
b) Research activities pertaining to housing.

In 1991 it was empowered to regulate mortgage institution. In 1993, the financing function was transferred to the Federal Mortgage Finance which was carved out of the FBN.

2) Non-Statutory (Self regulating) Agencies of Bodies
The self regulatory (non-statutory) agencies assist apex regulatory bodies as subsidiary regulators in the financial market. The Nigeria Stock Exchange, The Abuja Stock Exchange, Associations of Security Dealers, Committee of bankers, to name but a few are currently acting in this capacity.

3) Principally, there are two segments of financial markets, which are broadly differentiated by the tenure of funds, in each market. These two segments are:- The Money Market; and The Capital Market.

i) The Money Market: This is the shorter end of the financial market, providing funds to those with cash demand for a period not exceeding one year. It is often difficult to distinguish between the money and capital market. The money market does not have an exact location. Locations/institutions which are peculiar to these segments of the financial market include commercial banks, discount and finance houses, and the merchant banks (in Nigeria). It is a framework of financial claims of less than one year to perhaps five years or less of maturity. In Nigeria, the main money market instruments are treasury bills, commercial papers, acceptances, certificates of deposits, banker’s unit funds and time deposit and call money. The money market is thus essentially a framework for trading short-term financial instruments.

Capital Market: The Nigerian Capital Market is the long-term arm of the Nigerian Financial System. It is a market for long term borrowing and lending. For effective functioning of the market, certain financial institutional structures have been established. The Nigerian Capital Market is not really a market in the traditional sense. It is a network of institutions that perform functions that are described as capital market activities. It is the second segment of the financial market, and it is responsible for monitoring and channeling long-term funds into productive investments such as fixed assets. The market brings together economic units (customers) requiring funds with economic units (savers) desirous of parting with their monies for relatively long term period. Typically, long-term funds are held for a minimum of five years to perpetuity. However, corporate bodies, and government sometimes hold funds having a maturity of more than one year but less than five years. These are usually regarded as medium term funds.

Legal Framework

The legal environment in which the Nigerian Financial System operates or thrives is prescribed by a large number of laws. It has become customary to refer to these laws as acts whereas the bulk of the legislation affecting the capital market originated as decrees by past military government of Nigeria. The most relevant laws include:-

iii) The Investment and Securities Act 45 of 1999
iv) Failed Banks (Recovery of Debts) and Financial Practices in Banks Act 1994
v) Companies and Allied Matters Act of 1990
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x) The Investment Act of 1957 and 1962


xii) Banks and Other Financial Institutions Act 1991.


Problems/Limitations, Cost and Challenges of Regulation and Deregulation in the Nigerian Financial System

The problems/limitations cost and challenges of the Nigerian Financial System are multifarious and cannot be exhaustively dealt with in a paper of this nature. Amongst them are:-

i) Perhaps the greatest factor which is inimical to development of the Nigerian Financial System is the lack of sound and consistent macro-economic policies which promote savings and investment, low inflation and good tax regime - in essence there is high level of policy infidelity.

ii) As a result of the lack of adequate, appropriate and/or effective legal and regulatory framework, unscrupulous elements, driven by greed have taken undue advantages of innocent market participants to perpetuate unethical activities which have not only eroded investors and/or depositors confidence in the financial markets but have also jeopardized the market's integrity. It is obvious therefore that the objective of financial market development ought basically to be that of protecting investors and/or depositors. Regulation should therefore be adequate to attain or strike a balance between market development and investor/depositors protection.

iii) No matter how well designed or appropriate a statute may be, if non-enforcement would frustrate its objective-an issue which is like a recurring decimal in the Nigerian Financial Markets. It is therefore, necessary that regulators are adequately empowered to ensure the implementation and enforcement of financial markets laws. This not only call for vesting of necessary powers on regulators but also the provision of adequate financial resources and personnel to enable them carry out their functions effectively and efficiently.

iv) One problem that tends to bedevil the Nigerian financial system is the non-dynamic nature of the laws, rules and regulation that guides the operation of the financial system. The laws are supposed to be dynamic, responding promptly and appropriately to developments in the financial markets and the economy as a whole. There is no use keeping obsolete legislation which the market/system is noted for and which tends to affect the market negatively, stifling the growth of the financial market/system. The financial market laws need to be reviewed from time to time for continued relevance.

v) The government is the creator of the financial markets. However the financial system/markets will perform better, and the whole economy will be the beneficiary if the government retains its regulatory and supervisory posture while its direct participation should reinforce rather than contradict the objectives of the financial market policy, whatever that policy happen to be, while the government uses a broad range of policy instrument to regulate and effect resources allocation directly through public investments. Government intervention has become extensive, and some measures have been ineffective and conflictive. Besides, the circle range of policy instruments and the large number of government agencies involved in executing and implementing policies seems to have resulted in serious problems that have often tend to deficit set objectives.

vi) A major problem which tends to be facing financial markets in Nigeria, which requires officials attention is the complex and excessively time consuming administrative procedures. There is a high degree of fragmentation or overlapping of administrative authority between government agencies. In such a situation, there is always the danger of conflicting advice and mutually contradicting decisions.

vii) Another factor affecting the climate of saving and investments and the Nigerian Financial System performance and the Nigerian economy as a whole is the maze of regulations involving a great deal of controls and permits. The regulatory framework is built around a body of laws, administrative regulations and procedures governing investment processes and procedures and their administration. Admittedly, these administrative regulations and requirements are essential
ingredients for orderly economic environment. However, the method and style of administering them have created many problems among which are lack of ready access to the relevant legislation, lack of access to the regulations issued by agencies and ministries, and conflicts or inconsistencies in the laws and regulations.

viii) The proliferation of institutional controls and decision making entities have offended to red-tape and considerably delay in the design, processing implementation and monitoring of economic projects all of which have made investments a frustrating process. Furthermore coordinating mechanisms are too weak to resolve conflicts and inconsistencies among decisionmaking organs.

ix) A serious problem affecting the overall economic environment in Nigeria is the lack of concerted effort to monitor on a regular and on-going basis, the overall impact of regulations on the implementation programmes and projects of public and private sector and institutions with the aim to modify them to suit changing circumstances. Although there exist an institutional mechanism for co-ordination and consultation in the setting of policies, rules and regulation and its administration, it is generally reactive and not a leading mechanism.

tax) Equally of importance is the lack of public awareness of financial regulations and the right of deposits and investors that the regulations seek to protect. The large majority of investors and depositors, sometimes those who can be thought to be well informed demonstrate ignorance of existing financial regulation of the Nigerian Financial System/markets and the purpose for which the system was set to secure. To eliminate this shortcoming, it is advisable that the regulatory institutions embark on an aggressive marketing communication and public enlightenment campaign that will assist Nigerian and foreign Investors and depositors (potential and prospective), and operators about the financial and statutory responsibilities of the financial system (regulatory agencies inclusive).

Requirements for Successful Deregulation

For there to deregulation of the financial sector to be successful the underlisted conditions must exist (Obadan with modification):

❖ There should be the creation of a regulatory framework/regime that would promote contestable markets and public interest.
❖ This regulatory framework should be in the form of rules, regulations or policies, including competitive policy, towards the sector, and agency(ies) or mechanism(s) for monitoring and enforcing compliance with the rules or polices in a competent and impartial manner.

The Implications are

1) It acts as a safeguard to public interest;
2) It prevent abuse of market power by incumbent financial enterprises;
3) It prevent a public monopoly from becoming a private monopoly through price or unbundling;
4) It can steer newly privatized enterprises to deliver quality and competitive goods;
5) It provides a level playing field for new entrants and deals with information asymmetry; and
6) It ensures that owners of privatized financial enterprises do no trample upon the rights of workers.
7) Work for consumers by trying to provide an open and fair financial market that is independent of any dominant operator
8) Exist to ensure fair play between the operators and end users
9) Arbitrate inter-operator disputes.
10) Punish operators trying to circumvent or take undue advantage of the market
11) Interfere as little as possible in the running of services to avoid red tape and delay;
12) Define measures of output, for example service quality and access ratios.
13) Enforce policy objectives that are for the general good of the country and not necessarily of the owners, for example, standards enforcement and universal service obligations.

Conclusion

In taking a look at the general contribution of various scholars to the vexed issue of regulation and deregulation of the Nigerian Financial System, the conclusion, is that, the Nigerian Financial System vividly mirrors a case of both regulation and deregulation within a market driven philosophy. That the
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reason why state intervenes in both a mix grill of market failure and regulatory regime (government) failure. Therefore, deregulating an economy may or may not result in the desired sustainable growth and development of the economy (financial system inclusive). The key question left to be answered is which way forward for the Nigerian Financial System?

References


David Gowland, (1990). **The regulation of financial markets in the 1990s.** Edward Edgar, Vermont,

Osa Asemota: Mimeograph on selected topics in public finance and budgeting. Institute of Public Administration and Extension Services, University of Benin, Benin City.

Olashore Oladele, (1988). **Perspective of finance, banking and economic policies in Nigeria.** Heinemann Educational Books: Ibadan,


