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Assessment of Regulatory Framework for Insurance Business in Nigeria

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Abstract

The regulatory framework for insurance business in Nigeria is overseen by the National Insurance Commission (NAICOM). NAICOM is responsible for the regulation and supervision of all insurance companies and intermediaries operating in Nigeria. Overall, the regulatory framework in Nigeria has improved over the years, but there are still areas that need improvement. In order to broaden the scope of the regulatory action by the regulators, the paper selected the questions for research as an analysis of the legal regime and framework for insurance regulation in Nigeria and the challenges consequent thereto. The insurance industry is unquestionably a significant source of revenue for economies all over the world, In Nigeria, the difficulties have had more negative impact than positive impact on the industry's expected growth and development, leading to public apathy and discouragement. The Insurance Act of 2003 neither anticipated nor included these difficulties nor did it make any provisions for addressing them. Aside from them, the Act had good intentions because it led to many significant advancements in the insurance industry. However, a review or analysis of the aforementioned issues revealed opportunities for future development. It also highlighted the main causes of the institution's current setbacks and disinterest. The necessity of regulating the business has been emphasised, as has the value of insurance to society and economic development. With an explanation of the legislation supporting the exercise, the context of regulation was first explored. It was determined that regulation relates to both the institutions and the norms that apply to the industry.

Keywords: Business, Insurance, Insurance business, Insurance law, Regulations

Introduction

The concept of insurance has many facets, making it more challenging to describe through one perspective. Insurance is seen by economists as a means of transferring a portion of economic loss from the insured, who otherwise would have assumed the risk, to the insurer in exchange for a premium.[1] In contrast, lawyers see insurance as a contract whereby a person, referred to as the insurer or assurer, agrees to hold another person, referred to as the insured or the assured, harmless from loss resulting to him on the happening of certain events in exchange for money, referred to as the premium, paid to him by the former.[2] Regardless of how it is understood, insurance implies the presence of risk and a means of reducing that risk. Except for life insurance, it is an indemnity contract which calls for the reinstatement of the insured to the position he held before the loss.[3,4] For several reasons, insurance is crucial as a support for commerce and overall economic stability. It ensures that risks are dispersed. In most situations, the insurance premium paid is minimal in comparison to the size of the overall anticipated loss. However, regardless of the size of the contribution, the small contributions of money into the common pool ensure that those that suffer loss can be reimbursed to the highest extent of the loss sustained. As a result, insurance protects against business failures and functions as a business stimulant by encouraging entrepreneurs to invest the funds they would have otherwise set aside to cover emergencies.[5] Through risk improvement techniques like risk surveys and the sponsorship of research into alarm systems, safes, and fire protection and containment devices, the insurance sector can also be credited with developing advanced and modern ways of loss prevention and control. In the end, society gains from this since disasters like a fire that destroys a factory, may result in the loss of income for several people who depend on them.[6]

Due to its unique nature as a sector of the economy that relies on making future promises in exchange for current payments, the insurance industry is subject to additional regulation in addition to company law, which governs every business in an economy.[7] The purpose of regulation as a type of intervention is to minimise the likelihood of activities that have negative or economic

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[1]J.O. Irukwu *Insurance Management in Africa*. Ibadan: Heinemann Educational BooksPlc, 1977, p. 5.
[2] Ibid.
[3]O. Yerokun, O. *Insurance Law in Nigeria*. Lagos: Emmanuel Centre, 1992 p. 3.
[4]C. Parsons, *Insurance Law*. London: The Chartered Insurance Institute, 2004, p. 11/2.
[5]S. E. Idhiarhi "The Regulation of Insurance Business: The Nigerian Experiencee," LLM Thesis. The University of Jos. Retrieved from 10.13140/RG.2.1.3625.20092012.
[6] Ibid.
[7]R. M. Lawuyi, The Purpose and Structure of Insurance Regulation in Nigeria. (2022) *SSRN Electronic Journal* Retrieved from: https://ssrn.com/abstract=4089220.

consequences, to maintain the safety and soundness of the regulated activity, and to avoid the development of monopolistic power and possibly its misuse.[8]

The relevance of insurance in law, society, and the economy together contribute to the need for regulation of the industry. The need to maintain financial security by ensuring that insurance companies have an appropriate amount of capital to support the business and enable them to absorb shocks or unexpected losses coming out of the business is one basis for regulation.[9] Regulation will guarantee uniform policy coverage, impose minimum coverage requirements, and demand fair claims handling. Along with the aforementioned, insurance regulation ensures that policyholders are protected.[10] The avoidance of excessive and possibly harmful competition is another crucial argument for insurance regulation. The insurance industry is vulnerable to intense price rivalry because an insurance company's true expenses are not known until a contract matures and all claims are paid. Similarly, because the insurance sector is becoming more global and interdependent, some degree of centralisation and uniformity in insurance regulation is necessary.[11]Additionally, regulation might be required as part of government strategy to institutionalise particular types of mandatory insurance or through national insurance. National insurance is a type of social assistance in which the government takes on the obligation of protecting all citizens in areas like health, employment, pensions, etc.

In Nigeria, some of the regulatory measures that apply to insurance are codified in statutes, while others rely on authority granted by legislation. Twenty-five insurance companies existed in Nigeria at the time of independence, twenty-one of them being foreign-owned and four being local.[12] With time, insurance companies started to play other important economic functions, particularly as they promoted trade and commerce in the country. The remaining of the paper discusses the various structures and functions of Nigeria's insurance regulatory system and institution.

History of Insurance Regulation in Nigeria

The advent of British commercial businesses in the area and the resulting rise in interregional trade are key factors in the development of modern insurance. As trade and commerce developed, so did operations in the banking and shipping sectors, and some foreign companies suddenly found themselves required to manage some of their risks locally.[13] As a result, foreign insurance companies issued insurance agency licenses to trading companies. These licenses allowed these

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[8]J. Stiglitz "Regulation and Failure" in Moss, D and Cisterno, J (eds) *New Perspectives on Regulation* First Edition. Cambridge: The Tobin Project, Inc., 2009, p. 11.

[9]O.A. Isimoya "*Fundamentals of Insurance*" Lagos: Malthouse Press Limited, 1999, pp. 15-16.

[10] Ibid.

[11]S. Randall "Insurance Regulation in the United States: Regulatory Federalism and the National Association of Insurance Commissioners". (1999) 26 *Florida State University Law Review* 625.

[12]S. Chukwudeh, "The Bane of Selling General Insurance in Nigeria," (2016) 2 (3) *International Journal for Social Studies*, 130 – 149.

[13]U. Uche& B. Chikeleze "Reinsurance in Nigeria: The Issue of Compulsory Legal Cession," (2001) 26 *Geneva Pap Risk Insurance Issues Practice*, 490-504.

businesses to issue covers and provide claim monitoring assistance. Prior to the development of the contemporary kind of insurance, Nigerian society had some form of social insurance. The existence of the extended family system and social categories like age groups and other unions allowed for the evolution of these social structures.[14]However, the establishment of a branch by the English-based Royal Exchange Assurance Agency, an insurance company, in Lagos in 1918 marked the beginning of proper and organised insurance in Nigeria. Before numerous other businesses opened, it had monopoly for more than 20 years. Other organisations operating at the time included Patterson Zochonis (PZ) Liverpool, the Law Union and Rock, London and Globe, and BEWAC's Legal and General Assurance.[15] Between 1921 and 1949, Nigeria's insurance industry saw early modest development. This was attributed to the detrimental impact of World War II on trading activity in both Nigeria and the United Kingdom. Following the end of the war, commercial activity gradually resumed, and Nigeria's insurance sector started to see a notable improvement in growth. The African Insurance Company Limited, the first indigenous insurance company, was not founded until 1958 (Nigeria Re, 1993). By 1960, up to 25 insurance companies were active in Nigeria, with only three being locally owned while the remainder are foreign.[16]

The Insurance Companies Act of 1961 was the first attempt to provide a regulatory framework for the insurance industry in Nigeria.[17] An unexpected initiative from the United Nations Conference on Trade and Development ((UNCTAD) resulted in the creation of a legal framework for the growth of local and nationalist participation in the insurance sector. The first coordinated declaration of the necessity for the establishment of frameworks for the development of local insurance industries in developing countries came from UNCTAD's inaugural conference in 1964. This followed the increased socio-economic awakening and nationalist consciousness of the 1960s. In subsequent conferences, both developed and developing countries received more specific instructions defining the crucial actions to be performed to promote and enhance local competence in the insurance sector.[18]The creation of a Department of Insurance inside the Ministry of Trade came next.[19] The Insurance Company Act of 1961 established the position of Registrar of Insurance and stipulated minimum capital needs for insurance companies, as well as guidelines for their management and oversight.[20] After independence, the Insurance Act of 1961's provisions quickly became unsustainable due to a surge in economic growth. The Insurance (Miscellaneous Provisions) Act of 1964 and the Insurance Companies Regulations of 1968 both replaced the

[14]O. Osoka, Insurance and the Nigerian Economy, Abiola Press Limited, Lagos1992.
[15]*Ibid.*
[16]Ibid.
[17]R. M. Lawuyi (n7)
[18]UNCTAD 1964-1984 Published at www.unctad.org-osg286_en.pdf page 230.
[19]B. Olumide& K. Nwolisa "Nigeria's New Insurance Business Regime: In Search For Bigger And Better Fortresses," Available at: https://www.mondaq.com/nigeria/insurance-laws-and-products/820184/nigeria39snew-insurance-business-regime-in-search-for-bigger-and-better-fortresses 2019.
[20]M. Oke "Insurance sector development and economic growth in Nigeria," (2012) 2 (23) *African Journal of Business Management* 7016-7023.

Insurance Act of 1961.[21] Several laws and regulations were passed in the decades that followed to control the insurance industry in Nigeria. These include the Insurance Decree No. 59 of 1976 and the regulations that followed, Decree No. 40 of 1988, Decree No. 20 of 1989 establishing the Insurance Special Supervisory Fund, Decree No. 58 of 1991, and Decree No. 62 of 1992, which was later replaced by Decree No. 1 of 1997.[22] The historic National Insurance Decree Number 1 of 1997, which is now known as the National Insurance Commission Act, Cap. N53 Laws of the Federation, 2004, was passed. The Insurance Act, 2003, which is currently codified as Cap. I17, Volume 7, Laws of the Federation 2004, was the significant insurance law that followed.[23] Since the passage of these laws, the insurance industry has seen several additional regulatory interventions and reforms that are intended to promote the way insurance business is conducted and to develop the industry by achieving greater penetration into the market given the potential represented by Nigeria's population of over 200 million. These include insurance requirements for certain businesses, capital requirements, license requirements, insurance business classifications, and necessary premium payments, which are denoted by the phrase "No Premium, No Cover" (NPNC).

The insurance market in Nigeria is properly defined as "a sleeping giant with poor penetration and abysmal density" notwithstanding the gains expected and considerable expansion in the industry. The industry is renowned for expanding more quickly than the economy as a whole, and this phenomenon is ascribed to the relationship between rising GDP, rising disposable income, and rising demand for insurance services. Penetration rates, however, remain at 0.3% (measured as the ratio of the total gross premiums issued to the GDP.[24]

Reasons for the Regulation of Insurance

Insurance regulation is the full system of national laws, rules, policies, practices, individuals, and organisations created to supervise and control a sector that has a daily impact on people's lives and the entire economy.[25] The basic principles of consumer protection and externality prevention have evolved into concerns about systemic risks that emerge during national and international financial crises. They have the potential to negatively impact the economy. Examples are the requirements for third-party insurance on motor vehicles.[26] Both regulating and monitoring have a significant impact on how well insurance markets perform domestically and internationally. Due to increasing

[21]B. Olumide & K. Nwolisa (n19).
[22]S. E. Idhiarhi (n5)
[23]B. Olumide & K. Nwolisa (n19)
[24]Afrinvest "The Nigerian Insurance Sector Report 2018: Unlocking the potentials for growth" p.11 from www.businesstrumpet.com/the-nigerian-insurance-sector-report-unlocking-potentials-for-growth-afrinvest.
[25]R. Klein "Principles for Insurance Regulation: An Evaluation of Current Practices and Potential Reforms." (2012) 37 *The Geneva Papers on Risk and Insurance - Issues &Practice*175-199.
[26] Ibid.

interconnectedness of nations, laws and regulations are becoming more similar.[27] Nations cannot function independently of global trends, which is why there is an increasing push, particularly in emerging nations, to model their regulatory structure after internationally recognised standards. Countries occasionally have to make compromises to provide higher living conditions for their inhabitants, even though this may have some unfavourable effects on domestic regulatory autonomy.[28]The development of international standards for insurance services, as well as the trend toward the harmonisation of prudential measures, have been made more difficult by the growing connections between the national and international levels of government regulation. This is particularly true regarding the participation of developing nations in international trade in insurance services.[29]According to the International Association of Insurance Supervisors,[30] the purpose of insurance industry regulation is to create and maintain fair, safe, and stable insurance markets for the benefit and protection of policyholders and contribute to global financial stability. The IAIS further divided the purpose of insurance regulation, regardless of the level of economic complexities, into three categories: protection of policyholders (past, present, and future); promotion of a fair, safe, and stable insurance market; and improvement of financial stability.[31]

One of the main forces behind insurance regulation is the need to safeguard the interests of insurance consumers. The enormous size, resources, and market reach differences between the average insurance company and the average customer all call for government action. The government "keeps a finger on the scale" in favour of the client who has significant challenges in evaluating the financial sustainability of the insurance company and accurately comprehending the terms of the insurance contract.[32] Product design, marketing, and claims adjustment form the basis for regulating market behaviors. In addition, there is power imbalance between the insurer and the customer.[33] To stop collusion or the exploitation of market power that results from one dominating player or a small number of key players in the market, governments are compelled to act in the insurance market.[34] If major entry and exit barriers are discovered, the balance of power for

[27]Y. Oyetayo "Principles-Based Regulations: A Model for Legal Reform in the Nigerian Insurance Industry," (2015) 59 (1) *Journal of African Law*, pp 64 – 84.

[28]J. Wouters & D. Coppens "GATS and domestic regulation: Balancing the right to regulate and trade liberalization" in K. Alexander & M. Andenas (eds) The World Trade Organisation and Trade in Services (2008, Martinus Nijhoff) 207 at 209.

[29]P Lakshmi "Introduction to the trade and development aspects of insurance services and regulatory framework" in Trade and Development Aspects of Insurance Services and Regulatory Framework (UNCTAD/DITC/TNCD/2007/4) 1 at 22, Available at: http://www.unctad.org/en/docs/ditctncd20074_en.pdf.

[30]International Association of Insurance Supervisors (2019). Insurance Core Principles and Common Framework for the Supervision of Internationally Active Insurance Groups. Basel, Retrieved from https://www.iaisweb.org/page/supervisory-material/insurancecore-principles-and-comframe//file/91154/iais-icps-and-comframe-adopted-innovember-2019.

[31] See IAIS 2019.

[32]R. Klein (n25).

[33]Ibid.

[34]Ibid.

competition may also be altered. This can result in anti-trust regulations, pricing controls, or restricted market access.

Lack of consumer choice and unequal negotiating power on both sides of the insurance contract can put consumers at risk for deceptive marketing and claims practices.[35] Preventing the use of taxpayer money to bail out insolvent insurance businesses is another crucial justification for insurance regulation.[36] As a result, insurance regulators are required to get involved in the business activities of active insurance businesses before they go bankrupt. They do this through regulations, supervision, and oversight. A focus is placed on the quantity of capital retained, and regulators closely monitor the insurance company's solvency margin. In the event that the company is unable to achieve the minimum criterion, they are prepared to move in.[37] Reforming the law is a good way to create rules that encourage competition and support a healthy insurance market. Any or all of developing a homegrown system, local adaptation of an existing foreign legal regime, reception of foreign law, adoption of model laws and model clauses, harmonisation and other techniques of regulatory convergence, or adoption of international financial standards could be included.[38] Although the effectiveness of legal reforms is questioned in certain empirical studies, developing nations as Nigeria require these reforms to raise the standards of the institutions in charge of enacting and upholding laws and regulations.[39]

Legal Frameworks for Insurance Regulation in Nigeria

In Nigeria, Insurance is listed as an "exclusive" legislative category under Schedule II, Part I of the 1999 Constitution, making it the sole province of the federal government.[40] The National Insurance Commission Act of 1997 and the Insurance Act 2003 are the two main laws that regulate the insurance industry in Nigeria. The National Insurance Commission was established by the National Insurance Decree Number 1 of 2004, which is now known as the National Insurance Commission Act, Cap. N53 Laws of the Federation, with the purpose of "ensuring the effective administration, supervision, regulation and control of insurance business in Nigeria".[41] The Insurance Act of 2003 and the NAICOM Act provide the organisation with the authority to oversee

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[35]Ibid.

[36]B. Becker, How the Insurance Industry's Asset Portfolio responds to regulation. In: F. Hufeld, R. Koijen & C. Thimann, (Ed.). *The Economics, Regulation, and SystemicRisk of Insurance Markets*, 153 – 164, Oxford: Oxford University Press (2017).

[37]R. M. Lawuyi (n7).

[38]R. M. Lastra "Financial law reform in emerging economies" (2008) 23 *Journal of International Banking Law and Regulation* 413 at 417–18.

[39]K. E. Davis & M. J. Treblicock "Legal reforms and development" (2001) 22 *Third World Quarterly* 21, 32. 11, 33.

[40]Federal Republic of Nigeria (1999). Nigeria's Constitution of 1999 with Amendments through 2011. Retrieved from: https://www.constituteproject.org/constitution/Nigeria_2011.pdf?lang=en.

[41]Federal Republic of Nigeria (2004). National Insurance Commission Decree No. 1 of 1997, Laws of the Federation of Nigeria. Retrieved from: https://www.proshareng.com/report/Regulators/NAICOM-Act-1997/3394.

and regulate the insurance sector.[42] The following paragraphs go in into more detail about these legal frameworks:

1. **The NAICOM ACT 1997**

NAICOM is a legally incorporated autonomous body. The Central Bank of Nigeria, the Chartered Institute of Insurance of Nigeria, the Ministry of Finance, the Ministry of Trade and Commerce, and other organisations make up its governing board. Additionally, the Board has three members who serve as public interest representatives. In contrast to most countries where the insurance regulator is a division of the finance ministry, NAICOM is not governed by the Ministry of Finance. With a mandate to "ensure the proper administration, supervision, regulation and control of insurance business in Nigeria," Section 6 of the Act established the sole regulator in the industry. The Act gives further authority to specify premium rates, commissions, and general guidelines for the operation of the insurance industry.[43] Before anyone can be named the CEO of an insurance company, the Insurance Act of 2003's Section 13 requires the prior approval of NAICOM. Additionally, Section 16 of the same Act mandates that insurance companies obtain the prior approval of NAICOM before introducing any new products in any class or category of insurance.[44]NAICOM has proceeded to take several actions to enhance its supervision to ensure that insurance companies can carry out their responsibilities. These include a voluntary code of corporate governance, periodic increases in the minimum paid-up capital, the establishment of prudential rules, a framework for managing risk, and anti-money laundering regulations.[45]

The NAICOM Act of 1997 assigns the Commission, among other things, the following duties:

a) establish standards for the conduct of insurance business in Nigeria;
b) approve rates of insurance premiums to be paid in respect of all classes of insurance business;
c) approve rates of commissions to be paid in respect of all classes of insurance business;
d) ensure adequate protection of strategic Government assets and other properties;
e) regulate transactions between insurers and reinsurers in Nigeria and those outside Nigeria;
f) act as adviser to the Federal Government on all insurance-related matters;
g) approve standards, conditions and warranties applicable to all classes of insurance business;
h) protect insurance policyholders and beneficiaries and third parties to insurance contracts"

[42]B. Olumide & K. Nwolisa (n 19).
[43]The NAICOM Act of 1997.
[44]A. Elebiju & G. Fatokunbo “Nigeria: Insurance Comparative Guide”. Available at:
[45]International Bank for Reconstruction and Development (2013). LInsurance Core Principles: Detailed Assessment of Observance: May 2013. Financial Sector Assessment Programme Update (Nigeria). Retrieved from: https://openknowledge.worldbank.org/bitstream/handle/10986/15962/807340ESW0Nige00Box379814B00Public0.pdf?sequence=1.

NAICOM is authorised by law to issue directives and rules. While the minister must give his or her consent before issuing rules, this is not the case with guidelines. Significant prudential regulations, including minimum capital, technical provisions, investment limitations, and risk management, have been published by NAICOM as guidelines. Legal assurance regarding the extent of the rules' enforceability is crucial.[46]

2. The Insurance Act 2003

The Nigerian National Assembly passed the Insurance Act of 2003, which went into effect on May 27, 2003. The primary objective was to provide for new insurance, which repealed the Insurance Decree of 1997.[47] It is the subsisting legal framework in Nigeria which governs how insurance is generally conducted and how it is established. Before the 1997 Act was passed and NAICOM was subsequently established, the National Insurance Supervisory Board (NISB) served as the industry's regulator.

This Act is the most fundamental piece of law for defining if and how the majority of insurance activities are carried out in Nigeria. The Act covers a lot of specifics, from license specifications such as minimum capital requirements to supervisory reporting and corrective actions. It offers NAICOM limited freedom to develop supplemental regulation by enshrining such constraints in law. Therefore, NAICOM has only published a relatively small number of guidelines.[48] The Act specifies the types of insurance businesses that can be conducted in Nigeria and sets higher minimum capital requirements for each type of insurance company. It includes provisions for other operators including brokers and commission agents as well as the organisational structure and employees of insurance businesses.[49]

Although Section 34-49 of the Insurance Act 2003 Act discusses and recognises re-insurers under the same umbrella as insurers, it specifically provides for the registration and regulation of insurance agents, brokers, and loss adjusters in terms of their establishment. This is why reinsurers are included as insurance or insurers under Section 9 of the Insurance Act 2003, which stipulates the minimum paid-up share capital requirements for insurance:

> "No Insurer shall carry on insurance business in Nigeria unless the insurer has and maintains while carrying on that business, a paid-up share capital of the following amounts as the case may require, in the case of Life insurance business not less than N150,000,000

[46]The NAICOM Act of 1997.
[47]Federal Republic of Nigeria (2004). Insurance Act 2003, Laws of the Federation of Nigeria. Retrieved from: https://lawsofnigeria.placng.org/laws/I17.pdf.
[48]B. G. Toby & O. C. Collins "Legal Provisions on the Nigerian Insurance Institution - A Survey of Challenges" (2017) 9 (1) *The Journal of Jurisprudence and Contemporary Issues,* 217-230.
[49]E. Okonkwo, "The Use of Regulation in the Development and Enhancement of the Insurance Sector in Nigeria. A Seminar paper at School of Postgraduate Studies, Nasarawa State University Keffi Available at: https://www.academia.edu/40478999/Regulations_and_the_Development_of_the_Insurance_Sector_in_Nigeria2019.

General insurance business, not less than N200,000,000 Re-insurance business, not less than N350,000,000.”

The law above demonstrates that reinsurance is a component of Nigeria's insurance system. When this legal requirement was reconsidered in 2005, the then-minister of finance declared in September of that year that a new minimum capital requirement will take the place of the aforementioned clause under the 2003 Act. That is the second recapitalization offer that NAICOM has enforced. Thus, the new capital base increased as follows:[50]

a. Life insurance business, N2billion (1,233.0% increase)
b. General insurance business, N3billion (lA00.0% increase)
c. Reinsurance business, N10billion (2,757.0% increase)

Following this recapitalisation exercise, the number of current insurance businesses/institutions was also impacted, falling from 160 life and general insurance companies to 69 in 2007, while reinsurance declined from 4 to 2.[51] The structure of this new Act and subsequent revisions is to revolutionise insurance changes targeted at bolstering the financial base and to establish a virulent and robust economy in the insurance sector. This translates to meaningful national development of the economy. The National Insurance Commission is given wide authority by both the New Insurance Act of 2003, the NAICOM Act of 1997, and National Health Insurance Act (NHIA) 2022 to oversee all insurance institutions, including the insurers, reinsurers, agents or insurance brokers, and loss adjusters, as well as to ensure effective administration, supervision, regulation, and control of the insurance business in Nigeria. The agents and brokers are otherwise known as insurance middlemen or intermediates.

Other Statutory Institutions in Insurance Regulation

In Nigeria, several other laws and regulations have a direct and indirect regulatory influence on the insurance business such as National Pension Commission, Corporate Affairs Commission, Securities and Exchange Commission and Other Self-Regulating Insurance Institutions. These among others are discussed below:

National Pension Commission

The Pension Reform Act of 2004 created the National Pension Commission (PENCOM)[52]to govern, oversee, and insure Nigeria's effective administration of pension concerns.[53] The commission shall have the authority to formulate, direct, and monitor Nigeria's comprehensive pension policy,[54] a type of mandatory insurance that NAICOM enforces, which states that

[50]B. G. Toby Unpublished Doctoral Thesis, 2017, 31.
[51]*Ibid.*
[52]Cap. P4 LFN, 2004.
[53]Section 15.
[54]Section 9 (3) of the Insurance Act.

employers must maintain a life insurance policy in the employee's best interests for a minimum of three times the employee's yearly total emolument. Section 4 (1)(b) states that the holder of a retirement savings account upon retirement or attaining the age of 50 years, whichever is later, shall utilise the balance standing to the credit of his retirement savings account by purchasing, among other benefits, an annuity for life purchased from a life insurance company licensed by the National Insurance Commission with monthly or quarterly payments. Although PENCOM does not directly regulate insurance companies, it does license insurers or their subsidiaries that manage pension funds.[55] PENCOM and NAICOM also jointly produced regulations on life annuity under Section 4 (1) (b) of the Pension Reform Act outlining the fundamental standards and practices for managing annuities, investing life annuity funds, returns on transactions, and reviews of the regulations.[56]

It is appropriate to mention that there are a few significant distinctions between insurance companies and pension funds, which support the establishment of PENCOM. Their liabilities are primarily where there are discrepancies. The second set of distinctions is caused by their capital source, and the third group is due to the environment they operate in.

Corporate Affairs Commission

Section 1 of the Companies and Allied Matters Act (CAMA) created the Corporate Affairs Commission (CAC).[57] The Companies Act of 1968 was replaced by the CAMA. Except for Part XVII119 of Part A, which is managed by the Securities and Exchange Commission, the CAC administers the CAMA.[58] According to Section 3 (a) and (b) of the Insurance Act, no person shall commence or carry on any class of insurance business in Nigeria except a company duly incorporated as a limited liability company under the CAMA or a body duly established by or pursuant to any other enactment to transact the business of insurance or reinsurance. Thus, insurance companies must first meet the criteria for incorporation as a company and continue to maintain the requirements for sustenance of the incorporated status while being subject to the continued regulation of the CAC. In this regard, the insurance business is required to have a minimum of two (2) members or shareholders who are not disqualified at all relevant times.[59] At all times, the company must maintain the minimum share capital required by Section 27 and have two directors or more. According to Section 636 (1) of the Act, each insurance company (as well as banking, provident, and benefit societies) must submit a statement to CAC in the manner and on the dates specified in Schedule 14 before beginning operations as well as on the first Monday in February and the first Tuesday in August of each year that it is in operation. If an application is

[55]Section 44 of the Pension Reform Act
[56]Section 4 (1)(b).
[57]Cap. C20 Laws of the Federation of Nigeria, 2004, originally Decree Number 1 of 1990.
[58]J. O. Orojo “Company Law and Practice in Nigeria Third Edition. Lagos: Mbeyi and Associates (Nig.) Ltd,1992, pp. 16-21.
[59]Section 20 of the Insurance Act

made by the company or members owning at least one-quarter of the issued shares and is supported by evidence demonstrating good reasons, the CAC is empowered to appoint investigators to look into the activities of an insurance company[60]or if a judge orders that an investigation into the company's operations be conducted.[61] An insurance business that disregards the various CAMA rules could face penalties. If a company conducts business for more than six months without having at least two members, every director or officer of the company during that time who knows that it is conducting business without at least one member is liable jointly and severally with the company for the debts the company incurred during that time.

Securities and Exchange Commission

The Securities and Exchange Commission (often known as the "Commission" or "SEC") was created as a body corporate with perpetual succession and a common seal under the Investment and Securities Act of 1999.[62] The Commission (Investments Regulation) may buy, hold or dispose of any property, moveable or immovable, to carry out any of its powers under the Act. The commission may also be sued under its corporate name. The commission's primary responsibility is to control investments and securities in Nigeria that fall within the Act's definition. The commission maintains effective communication with the supervisors and regulators of other financial institutions, domestically and abroad. In this way, insurance plays a significant part in examining, sanctioning, and regulating mergers, acquisitions, and other types of company combinations. This essentially agrees with the provisions of Section 30 of the Insurance Act,[63] which requires the approval of NAICOM for all insurance business mergers, transfers, and acquisitions, with an additional requirement that any such merger, transfer, or acquisition involving an insurer conducting life business or workmen's compensation insurance business be sanctioned by the court.[64]

Other Self-Regulating Insurance Institutions

Several associations in the Nigerian insurance sector voluntarily control how the insurance business is conducted in Nigeria. These could be thought of as tools for establishing moral norms.[65] Their presence satisfies the insurance core principle of personal suitability. These organisations include the Nigerian Insurers Association (NIA), the Nigerian Council of Registered Insurance Brokers (NCRIB), the Institute of Loss Adjusters of Nigeria (ILAN), and the Chartered Insurance Institute of Nigeria (CIIN).

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[60]Section 314 (1)(3) CAMA.
[61]Section 315 (1) CAMA.
[62]Cap. I24 LFN, 2004.
[63]Cap. I17 Laws of the Federation of Nigeria, 2004.
[64] Ibid.
[65]E.M.Ome& W. Amam "Philosophy and Logic for Everybody". Enugu: Institute for Development Studies, University of Nigeria, 2004, p.200.

Impediments of Insurance Institutional Frameworks in Nigeria

In Nigeria, the insurance industry faces formidable obstacles. Low-interest rates, growing acquisition costs, shaky financial markets, shifting regulations, and tragic losses brought on by ongoing natural catastrophes, the economic downturn, terrorist attacks, and violent behaviours, among other things, are some of these factors. Other elements are also working against the insurance institution. Some of the major factors that pose major obstacles for the insurance industry and have the power to push or pull the institution are discussed below:

Poor Insurance Distribution Process: Since the Insurance Act of 2003 only grants intermediary rights to brokers, agents, and loss adjusters, this restriction is no longer appropriate and needs to be changed. Nigeria has to rethink its face-to-face sales strategy for insurance products and services. An opportunity to increase the reach of insurance in the nation is provided by the emergence of digital technology, which includes cellphones, web technology, social media platforms, etc. However, many employees of the organisation are still having trouble comprehending how to apply these technologies. In addition, this endeavour requires the training and recruitment of manpower, capital, and skill. These are drivers of sector growth.[66]

Market Globalization: Undoubtedly, the federal government of Nigeria, through its regulatory body (NAICOM), is tasked with creating a better organised and trustworthy compliance-friendly framework. This is achieved through legislation overseeing efficiency and inadequacy in claim issues, pricing, market monitoring, and similar matters. Additionally, the sector's digitization to meet internal global standards is pleading for help and support.[67]

Technology Advancement: The global adoption of digital technology in this century is fundamentally changing the industry and will do so for the foreseeable future. The government and the institution have established an environment that makes insurance services more appealing to the general people. However, this is a significant difficulty in Nigeria due to a lack of funding and the high costs of building up the necessary infrastructure, technology, electricity, etc. On the positive side, people in rural areas will start to comprehend and use insurance services for essential growth.

Diverse Cultures and Religion: The rich and diverse culture of Nigerians makes it difficult for insurers to gain a foothold in the market. Many ancient faiths do not use insurance because they think their ancestors or gods will protect them. Christians and Muslims have different ideas on what constitutes appropriate insurance. In Nigeria, the proportion of people who invest in insurance is minuscule. According to data published by the World Bank in 2013, 100 million Nigerians live in extreme poverty and there is a significant income difference. In addition, 86.6

[66]B. G. Toby & O. C. Collins (n48).

[67]E.M. Ome& W. Amam "Philosophy and Logic for Everybody". Enugu: Institute for Development Studies, University of Nigeria, 2004, p.200.

million of the more than 182 million people are without any type of insurance.[68] To put things in perspective, the culture of having no insurance and relying solely on God has all but been institutionalized. There should be interventions in this regard.

Terrorism and Political Instability: For the past 30 years, the problem of terrorism and its activities have reached unprecedented global proportions. Although the increasing interconnectedness of commercial links would seem to have brought the world closer, it has been argued that if anything, globalisation has highlighted the possibility of conflict, bloodshed, and terrorist threats. Instability is terrorist threats, inter-tribal wars, and protests from oil-rich regions of the nation. On the downside, this exposes insurers to frequent significant attacks and claims brought on by business interruptions, increasing potential losses. In addition to well-known terrorist organisations like ISIS and Baka Haram, various newer terrorist organisations are involved in the revolt.[69] The definition of terrorism has been enlarged to include those members of society who, as a result of being bored or angry with the situation, have vented their resentment and wrath against society through violent acts.[70]

Lack of Capital: The costs associated with implementing new technology and infrastructure are significant and worrisome for the Nigerian insurance industry. It will take strong cooperation with the government and other service providers to get capital for investment in a cost-effective manner.

Infrastructure Deficiency: Rural residents cannot make use of the insurance organisation because they lack the necessary basic infrastructure, like roads, water, power, banks, internet, and digital capabilities, etc.

Economic Recession: Nigeria is not exempt from the effects of the global economic recession, which constitute a genuine challenge and seriously impede the growth of the insurance industry. Low investment interest rates, high unemployment rates, and the slow pace of the economy's recovery are having a negative impact on family wealth and disposable income. This may make it more difficult to increase sales of discretionary financial products like individual life insurance or retirement annuities.

Leadership Problems: Research has demonstrated that successful leadership can be an important differentiator.[71]Insurance institutions need strong executive support, vision, and leadership in order to prosper in Nigeria. Leading player incentives can be used as a kind of compensation for devoted and adaptable management teams' hard work. This can help to a great extent in preventing them from engaging in corruption and stealing from their employers. The teams and executive boards must work together to promote creativity and go beyond holding particular people

[68]E. Odonkor "Ghana is the Most Attractive Country for Insurance Growth" - Ey study. Available at: www.cohenbusiness.news.com/2016/0l/092016.
[69]I. Okoronye "Terrorism in Internotional Law" 1st Ed. Owerri: Whytem Publishers, 2013, 11.
[70]*Ibid*.
[71]H. Steran "The GlobaI Head of Innovations", KPMG International.

accountable to creating friendly working relationships, allowing for the collection of ideas for the future from all line workers. Leaders should also acknowledge new suggestions from workers, clients, investors, and partners to advance leadership at the top. Due to a lack of infrastructure, Nigerian insurance companies seem ill-equipped to deal with all of these problems. Instead of utilising underdeveloped local capacity and incurring a loss of profit, many regional and multinational enterprises have turned directly to the international markets to acquire adequate insurance.[72]

New Trends in Insurance Regulation

The insurance industry is constantly evolving, and regulators are struggling to keep pace with the emergence of new technologies and business models. Here are some key trends in insurance regulation:[73]

Cryptocurrency and Blockchain:
The rise of cryptocurrencies poses challenges for regulators. How insurance companies will be able to assess risk and underwrite policies call for answers. Regulators are exploring frameworks for classifying and regulating crypto assets, which could in turn impact how insurance companies can approach them.[74]

Insurtech and Online Businesses:
The rise of online insurance platforms and insurtech startups have disrupted traditional insurance models. Regulators are concerned about ensuring consumer protection, data security, and financial stability in this rapidly growing sector. New regulations may focus on areas like licensing requirements, data privacy, and capital adequacy for insurtech companies[75].

Cybersecurity and Data Privacy:
As insurance companies rely more on online data collection and processing, cybersecurity becomes a critical issue. Regulations may mandate stricter data security measures to protect against breaches and ensure consumer privacy[76].

Big Data and Risk Assessment:

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[72]R. Onuolia "Nigerian Insurers Unprepared to cover Terrorism Risks". Available at: http://www.vanguardngr.com/2015/06/nigerianinsurers-unprepared-to-cover-terrorism-risks/2015.
[73] The National Association of Insurance Commissioners (NAIC) - Innovation Hub: https://content.naic.org/committees/h/innovation-cybersecurity-technology-cmte.2024.
[74] Ibid.
[75] Financial Conduct Authority (FCA) – Innovation Hub: Market insights https://www.fca.org.uk/data/innovation-market-insights. 2023.
[76] Ibid.

Advancements in big data analytics allow insurance companies to personalize policies and risk assessments. Regulators are concerned about potential biases and discrimination in automated risk assessment algorithms. Regulations may require fair and transparent practices in data-driven insurance models.[77]

Sharing Economy and On-Demand Services:

The sharing economy and on-demand services present unique insurance challenges. Regulations may need to address liability coverage for platforms and users participating in these models (e.g., peer-to-peer car rentals, home-sharing services).[78]

Overlapping Regulatory Roles in Insurance: Challenges and Solutions: The insurance industry faces a complex web of regulations due to its multifaceted nature.

There are challenges and potential solutions for overlapping regulatory roles in insurance:[79]

Multiple Regulators: Insurance companies may be subject to oversight by various entities depending on the type of insurance offered, the location they operate in, and the products they sell. This can include bodies like[80]:

National or State Level Insurance Commissioners: They typically focus on solvency, consumer protection, and fair pricing within the insurance sector.

Federal Agencies: Depending on the specific insurance product (e.g. health or food insurance), federal agencies like the Department of Health and Human Services (HHS) or the Federal Emergency Management Agency (FEMA) may also have a role to play.

Securities and Exchange Commission (SEC): If an insurance company offers investment products (e.g., variable annuities), the SEC may oversee aspects of those offerings.

Conflicting Regulations: With multiple regulators involved, conflicting requirements and reporting standards can arise, creating confusion and increasing compliance costs for insurers.

Inefficient Resource Allocation: Duplication of efforts by various regulators can lead to inefficient use of resources and slower response times to emerging issues.

Regulatory Capture: The risk of a regulator becoming overly influenced by the insurance industry it oversees can lead to regulations that prioritize industry interests over consumer protection or broader economic goals.

Memoranda of Understanding (MOUs): Insurance commissioners and other relevant regulatory bodies can develop MOUs outlining clear roles and responsibilities for each entity. This can help streamline information sharing, conflict resolution procedures, and collaborative investigations.

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[77] Ibid.

[78] International Association of Insurance Supervisors (IAIS): https://www.iaisweb.org/.

[79] National Association of Insurance Commissioners (NAIC): White Paper: "The Future of Insurance Regulation: A Discussion Paper on Innovation and Efficiency": https://content.naic.org/.

[80] Briefs on Regulatory Modernization and Innovation: https://content.naic.org/.

Joint Task Forces: Establishing temporary or permanent task forces can address specific issues requiring collaboration across different regulators. For example, a task force could focus on the regulatory framework for cyber insurance or insurtech innovation.

National Association of Insurance Commissioners (NAIC) Model Laws: The NAIC develops model laws that states can adopt to create more uniformity in insurance regulations across jurisdictions. This helps reduce compliance burdens for insurers operating in multiple states[81].

International Association of Insurance Supervisors (IAIS) Principles: The IAIS promotes globally consistent insurance regulation through its core principles. Harmonization efforts at the international level can also benefit multinational insurance companies[82].

Standardized Reporting Formats: Implementing standardized electronic reporting formats can reduce the time and effort required for insurers to comply with regulations across multiple entities.

Centralized Data Repositories: Creating a centralized database accessible by authorized regulators can improve information sharing and expedite regulatory oversight.

Public Consultation: Regulatory bodies should involve industry stakeholders and consumer groups in the rule-making process to ensure regulations are effective and address real concerns.

Regulatory Impact Assessments: Evaluating the potential impact of proposed regulations on insurance companies, consumers, and the broader economy can help ensure a balanced approach.

Independent Reviews: Periodic independent reviews of regulatory bodies can help identify potential inefficiencies, biases, or areas for improvement.

Technological Solutions: Utilizing secure online portals for regulatory filings and communication between insurers and regulators can improve efficiency and transparency. Employing data analytics tools can help regulators identify trends, potential risks, and areas requiring closer scrutiny.[83]

By implementing these solutions, the insurance industry can benefit from a more streamlined and coordinated regulatory environment. This fosters innovation, promotes fair competition, and ultimately protects consumers.

Conclusion

In order to broaden the scope of the regulatory action by the regulators, the study selected the questions for research as an analysis of the legal regime and framework for insurance regulation in Nigeria and the challenges consequent thereto. The insurance industry is unquestionably a significant source of revenue for economies all over the world, and in Nigeria, the difficulties listed above had a greater negative than positive impact on the industry's expected growth and development, leading to public apathy and discouragement. The Insurance Act of 2003 neither

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[81]Regulatory Approaches to InsurTech (https://content.naic.org/cipr-topics/international-insurance-supervisioniais).

[82] Core Principles for Insurance Supervision: https://www.iaisweb.org/uploads/2022/01/191115-IAIS-ICPs-and-ComFrame-adopted-in-November-2019.pdf.

[83] Core Principles for Insurance Supervision: https://www.iaisweb.org/uploads/2022/01/191115-IAIS-ICPs-and ComFrame-adopted-in-November-2019.pdf.

anticipated nor included these difficulties nor did it make any provisions for addressing them. The Act had good intentions because it led to many significant advancements in the insurance industry. However, a review or analysis of the aforementioned issues revealed opportunities for future development and the main causes of the institution's current setbacks and disinterest. The necessity of regulating the business has been emphasised, as has the value of insurance to society and economic development. With an explanation of the legislation supporting the exercise, the context of regulation was first explored. It was determined that regulation relates to both the institutions and the norms that apply to the industry. Legislation, court rulings, regulations and decisions made by the insurance regulatory authorities are the three sources of regulations for insurance companies. The Insurance Act 2003, the NAICOM Act, and other like Acts are lawful since they are based on the constitutional justification for a centralised insurance regulatory system. Like many nations, Nigeria's insurance business is regulated by a governmental authority called NAICOM. It supervises the sector and guarantees adherence to legal requirements and industry standards. The Insurance Act of 2003 in Nigeria contains detailed requirements for information and documents to be provided prior to the grant of an insurance license, as well as minimum capital requirements for all insurance companies, tests for owners and managers of insurance companies, and categories of insurance business that must be conducted, among other things.

The roles of the Corporate Affairs Commission (CAC), the Securities and Exchange Commission (SEC), and the National Pensions Commission were also examined as part of the institutions involved in the regulation of insurance. It was determined that they collaborate with NAICOM to regulate the sector. The roles of the Nigerian Insurers Association (NIA), the Nigerian Council of Registered Insurance Brokers (NCRIB), the Institute of Loss Adjusters of Nigeria (ILAN), and the Chartered Insurance Institute of Nigeria (CIIN) in ensuring discipline in the industry, particularly among practitioners, are undeniable.